ACCC Investigative Stages and Timeframes

Reports

- A report is made to the ACCC. This includes:
  - Matters arising in the media, from parliamentary inquiries or referred by parliamentarians
  - External referrals (i.e. from reports and enquiries to the Infocentre, competitors, other regulators etc.)
  - Internal referrals (from monitoring and intelligence gathering, mergers, market studies, etc.)

Assessment

- The matter is assessed having regard to the issues and in the context of the priority areas and factors outlined in the ACCC Compliance and Enforcement Policy. A decision is made to close the matter or escalate it to an Initial Investigation, although cartel matters often proceed directly to an In-Depth Investigation. This can take the form of a desktop assessment for competition matters (known as Initial Assessments).
- If a contact initially reported the matter via a letter or webform, the ACCC will aim to respond to that contact within 15 business days of receipt. If a contact simply provides information, the ACCC will record that information but may not provide a response.

Initial investigation

- This is the preliminary investigation and assessment stage. Initial Investigations will usually be commenced and completed within a 3 month period, after which the investigation will either be closed or escalated to an In-Depth Investigation.

In-depth investigation

- An In-Depth Investigation is conducted in accordance with an investigation plan that is endorsed by decision-makers. The plan works toward possibly obtaining an enforcement outcome. There are a range of evidence-gathering powers and tools that the ACCC can use in conducting investigations i.e. s155 powers and search warrants. In-Depth Investigations will usually be commenced and completed within a 12 month period.

Enforcement outcome

- An In-Depth Investigation may establish a contravention of the law and result in an enforcement outcome i.e:
  - Administrative resolution (settlement)
  - Infringement notice (for breaches of the Australian Consumer Law only)
  - s 87B undertaking (can also include infringement notice where matter involves a breach of Australian consumer law)
  - Public warning notice (for breaches of the Australian Consumer Law only)
  - Litigation where warranted, e.g.:
    - egregious conduct (having regard to priority factors)
    - concern about future conduct
    - trader response (if any) unsatisfactory.
  - If the ACCC is successful in litigation, the court may impose a range of orders on the respondent(s). These orders vary depending on the nature and severity of the breach and can include declarations, injunctions, corrective advertising, findings of fact, financial redress, community service or probation, compliance program or training, disqualification, significant pecuniary penalties (up to 10% of annual turnover for certain breaches).
  - Cartel investigations can result in criminal prosecution with criminal sanctions attached i.e. criminal conviction, fines, custodial sentences or imprisonment.

Advise stakeholders

- Relevant stakeholders are advised of the final enforcement outcome. A media release is usually issued, subject to the ACCC’s Media Code of Conduct.