



Australian
Competition &
Consumer
Commission



AUSTRALIAN
ENERGY
REGULATOR

ACCC and AER Corporate Plan

2016-17

Making markets work for consumers, now and in the future.

Message from the ACCC Chair, Rod Sims

The Australian Competition and Consumer Commission (ACCC) has a fundamental role in our market economy to make markets work for all Australians. Competitive, informed and, when necessary, well-regulated markets increase the prosperity and welfare of Australian consumers. Such markets bring innovation, efficiency and dynamic ways to meet consumers' needs when operating within the boundaries on commercial behaviour provided by well-defined competition and consumer laws.

As the national regulator responsible for competition law, consumer protection and economic regulation, the ACCC protects, strengthens and supplements Australian markets to make them work for the benefit of consumers and identifies when they fail to do so. The ACCC will continue to focus our capabilities and resources on action that promotes the proper functioning of Australian markets, protects competition, improves consumer welfare and stops conduct that is anti-competitive or harmful to consumers.

We are responsive to the dynamic environment in which we operate, pursuing innovative strategies and taking on additional roles and responsibilities in the agriculture sector, petrol price monitoring, credit card excessive surcharging, reformed country of origin food labelling, and the extension of unfair contract term provisions to business-to-business contracts.

The ACCC will continue to use its legal, economic, investigative and regulatory expertise to conduct in-depth market, sector and industry reviews to produce market studies. Reviews and market studies will continue to have a meaningful impact for consumers and markets, in areas such as regional petrol markets, the east coast gas market, the private health insurance industry, the new car retailing industry, cattle and beef markets and the communications industry.

The Australian competition and consumer law framework continues to evolve. The adoption of many of the pro-competitive reforms recommended by the Harper Competition Policy Review could significantly enhance economic productivity over the years ahead. This year, the Australian Consumer Law Review is expected to deliver similarly constructive reform proposals for the benefit of consumers.

To remain a high performing and effective agency the ACCC must continually improve how it uses its finite resources and develops its core capabilities. We will continue to concentrate on our efficiency, governance, risk management, financial performance and making the best use of our expert staff. By developing our people and improving our processes we will remain an effective agency delivering benefits for all Australians.

Message from the AER Chair, Paula Conboy

The Australian Energy Regulator (AER) promotes efficient investment in, and efficient operation and use of, energy services for the long term interests of energy consumers with respect to price, quality, safety, reliability and security of supply as directed by the objectives of national energy legislation. The work of the AER encompasses oversight of wholesale and retail electricity and gas markets and regulation of energy network infrastructure.

In 2016-17, our areas of focus will reflect the challenges posed by our operating environment and market conditions. A key issue is the emergence of new energy technologies and selling models, in particular how we ensure the regulatory framework allows consumers to benefit from these services but maintain appropriate protections. In the retail market, this means considering consumer protection and other regulatory issues around solar photovoltaics and battery storage products, load management and subscription pricing. These – and other new products and services – will play an increasing role in the market but were not explicitly contemplated when the National Energy Retail Law was introduced.

We will also continue our work to implement the Australian Energy Market Commission's (AEMC) Power of Choice reforms that promote efficient use of energy networks and empower consumers to make informed choices about their energy use.

The year will also see a ramping up of our network determination workload, to finalise reviews of four network businesses, receive nine regulatory proposals and commence framework and approach processes for a further seven networks. This will include our first reviews of the Northern Territory and, subject to the passage of legislation, Western Australian electricity networks under the national framework.

Increasing volatility in wholesale energy markets has led us to focusing additional resources in this area. A key focus for the year will be introducing new processes and guidance on recent rule changes relating to false or misleading rebids by generators and generator ramp rates. Refining our monitoring systems related to enhancements to the National Gas Bulletin Board and identifying instances of market manipulation at Wallumbilla and Moomba gas supply hubs will be a priority in gas.

Our annual *State of the energy market* report will be published in April 2017, providing an explanation of important market developments, factors impacting energy prices and regulatory and policy issues. This is just one of the many market reports provided through the year, along with performance and compliance reports and other updates on the AER website to keep stakeholders informed on energy market activity.

1. Introduction

The *ACCC and AER Corporate Plan 2016-17* outlines the key strategies, risk management, activities and capabilities we use to achieve our purpose and describes our operating environment and our performance measures. It has been prepared for the 2016-17 reporting period by the accountable authority for the purposes of paragraph 35(1)(b) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and covers the next four annual reporting periods from 2016-17 through 2019-20.

The ACCC is an independent Commonwealth statutory authority whose role is to enforce the *Competition and Consumer Act 2010* (the CCA) and a range of additional legislation, promoting competition, fair trading and regulating national infrastructure for the benefit of all Australians.

The AER is an independent decision making body responsible for regulating energy markets and networks under national legislation and rules. The AER has its own Board, supported by staff engaged exclusively on energy matters and also has access to specialist legal and economic staff, shared with the ACCC.

2. Achieving our purpose

Purpose

The ACCC and the AER work in close coordination to achieve our common purpose:¹ making markets work for consumers, now and in the future.

The ACCC is an independent Commonwealth statutory authority whose role is to enforce the CCA and a range of additional legislation, promoting competition, fair trading and regulating national infrastructure for the benefit of all Australians.

¹ The ACCC and AER are a single listed entity for the purposes of the finance law (within the meaning of the *Public Governance, Performance and Accountability Act 2013*) under s.44AAL of the *Competition and Consumer Act 2010*.

The ACCC is the national regulator of natural monopoly infrastructure facilities in communication, bulk water, post and transport industries (energy sector regulation is undertaken by the AER). Fostering efficient infrastructure provision through industry-specific regulation and access conditions — under the umbrella of the long term interest of end users — is the major focus of the economic regulatory role. Access conditions that promote competition in upstream and downstream markets can increase the efficiency and productivity of the overall economy.

The AER's role is to regulate energy markets and networks under national legislation and rules, which aim to promote efficient investment in, and operation and use of, energy services for the long term interests of energy consumers with respect to price, quality, safety, reliability and security of supply.

The roles of the ACCC and AER should be seen in the context of the thinking that underpins National Competition Policy — that competition provides the best incentive for businesses to become more efficient, innovative and flexible and to operate in the long term interests of end users. Together the ACCC and AER champion strong, efficient and effective markets.

Outcome

Our purpose is captured in a single outcome for the ACCC and AER: Lawful competition, consumer protection, and regulated national infrastructure markets and services through regulation, including enforcement, education, price monitoring and determining the terms of access to infrastructure services.

Programs and strategies

The ACCC and AER each pursue a program employing specific strategies to ensure our agency fulfils its purpose and achieves its outcome. Each strategy in turn has specific deliverables for which the agency has developed a set of performance measures, as set out in the tables in section 4.2 of this plan.

Detailed information on each program's budget, resourcing and deliverables is published annually in The Treasury's Portfolio Budget Statement.

2.1. ACCC program and strategies

The ACCC program is to achieve compliance with the CCA and other legislation to protect, strengthen and supplement the way competition works in Australian markets and industries to improve the efficiency of the economy and to increase the welfare of Australians.

The ACCC employs the following strategies as part of its program:

Strategy 1 Maintaining and promoting competition

Competitive markets lead to lower prices, better quality products and services, greater efficiency and more choice, all of which benefit consumers. As Australia's only competition regulator, the ACCC works to enhance the welfare of Australians by maintaining and promoting competition.

The ACCC does so by enforcing Part IV of the CCA in relation to:

- cartel conduct
- anti-competitive agreements and practices
- misuse of market power, and
- mergers which substantially lessen competition.

The CCA allows the ACCC to consider applications for authorisation and notifications, which enables some anti-competitive conduct to go ahead where the public benefit outweighs the public harm, including harm from reduced competition.

Strategy 2 Protecting the interests and safety of consumers, and supporting fair trading in markets affecting consumers and small business

A key role of the ACCC is to inform businesses and consumers of their rights and obligations under the CCA through engagement, education and the provision of specialised information and to take appropriate action to address alleged breaches of the Australian Consumer Law (ACL). This function also includes actions taken to ensure Australian consumers are not harmed by unsafe products.

Strategy 3 Promoting the economically efficient operation of, use of, and investment in infrastructure; and identifying market failure

The ACCC is the national regulator of natural monopoly infrastructure facilities in communication, bulk water, post and transport industries (energy sector regulation is undertaken by the AER). Fostering efficient infrastructure provision through industry-specific regulation and access conditions — under the umbrella of the long term interest of end users — is the major focus of the economic regulatory role. Access conditions that promote competition in upstream and downstream markets can increase the efficiency and productivity of the overall economy.

Key activities under ACCC program and strategies

The ACCC will continue to publish its *Compliance and Enforcement Policy* annually, which outlines its key priorities, priority factors and strategies to achieve compliance with competition and consumer law. As Australia's peak consumer protection and competition agency, the ACCC has a number of enduring compliance and enforcement priorities:

- cartel conduct
- anti-competitive agreements and practices, and
- the misuse of market power.

The ACCC will also always prioritise the assessment of product safety issues which have the potential to cause serious harm to consumers.

The ACCC also recognises that Indigenous consumers living in remote areas face particular challenges in relation to asserting their consumer rights, and the ACCC will always prioritise its work in these areas while these challenges remain.

The ACCC will continue to assess and review mergers to prevent structural changes that substantially lessen competition with a particular focus on concentrated markets and in the near term proposed acquisitions arising through privatisation of public sector assets.

The ACCC will also continue to assess and make decisions about applications for authorisation and notification of certain anti-competitive conduct evaluating if such arrangements or conduct may result in a net public benefit and warrant exemption from the CCA.

Competition and fair trading issues in agriculture markets are a priority area for the ACCC. The ACCC has established an Agriculture Unit to increase its engagement with the sector and to investigate competition and fair trading issues in agriculture markets. In addition to a number of investigations, the ACCC will continue to increase its agricultural engagement, as it has already by:

- establishing an Agriculture Consultative Committee
- commencing a market study into the cattle and beef industry
- holding regional workshops across Australia focusing on the horticulture and viticulture industries, and
- enhancing the ACCC's presence in regional Australia, including through visits to farms and saleyards.

2.2. AER program and strategy

The AER's program and priorities are guided by the objectives of the national energy legislation. The common objective through the legislation is to promote efficient investment in, and efficient operation and use of, energy services for the long term interests of end users of energy with respect to price, quality, safety, reliability and security of supply.

To deliver the AER program, the agency employs the following delivery strategy:

Strategy 4 Promote efficient investment in, and efficient operation and use of, energy services for the long term interests of consumers with respect to price, quality, safety, reliability and security

The AER has identified the following specific deliverables in support of that strategy:

- Providing effective network regulation
- Building consumer confidence in retail energy markets
- Supporting efficient wholesale energy markets

Key activities under AER program and strategy

The AER regulates energy markets and networks under national energy market legislation and rules, which similarly are focused on efficient markets and infrastructure provision. The AER's functions include:

- monitoring wholesale electricity and gas markets to ensure energy businesses comply with the legislation and rules, and taking enforcement action where necessary
- setting the prices charged for using energy networks (electricity poles and wires and gas pipelines) to transport energy to customers
- regulating retail energy markets in Queensland, the Australian Capital Territory, South Australia, Tasmania (electricity only) and New South Wales,
- operating the Energy Made Easy website, which provides a retail price comparator and other information for energy consumers and
- publishing information on energy markets, including the annual *State of the energy market* report, to assist participants and the wider community.

The AER also assists the ACCC with energy-related issues arising under the CCA, including enforcement, mergers and authorisations.

Purpose: making markets work for consumers, now and in the future.

Outcome: Lawful competition, consumer protection, and regulated national infrastructure markets and services through regulation, including enforcement, education, price monitoring and determining the terms of access to infrastructure services.

Program 1.1: ACCC to achieve compliance with the *Competition and Consumer Act 2010* and other legislation to protect, strengthen and supplement the way competition works in Australian markets and industries to improve the efficiency of the economy and to increase the welfare of Australians.

Program 1.2: AER The AER's program and priorities are guided by the objectives of the national energy legislation. The common objective through the legislation is to promote efficient investment in, and efficient operation and use of, energy services for the long term interests of end users of energy with respect to price, quality, safety, reliability and security of supply.

Strategy 1: Maintaining and promoting competition

Strategy 2: Protecting the interests and safety of consumers, and supporting fair trading in markets affecting consumers and small business

Strategy 3: Promoting the economically efficient operation of, use of, and investment in infrastructure; and identifying market failure

Strategy 4: Promote efficient investment in, and efficient operation and use of, energy services for the long term interests of consumers with respect to price, quality, safety, reliability and security

Deliver outcomes to address harm to consumers and businesses resulting from anti-competitive conduct

Assess mergers to prevent structural changes that substantially lessen competition

Make decisions on authorisation, notification and certification trademark applications in the public interest

Deliver outcomes to address harm to consumers and small businesses resulting from non-compliance with the Australian Consumer Law

Enhance the effectiveness of the ACCC's compliance and enforcement initiatives through partnerships

Identify and address the risk of serious injury and death from safety hazards in consumer products

Support a vibrant small business sector

Empower consumers by increasing their awareness of their rights under the Australian Consumer Law

Deliver network regulation that promotes competition in the long-term interests of end-users

Provide industry monitoring reports to government in relation to highly concentrated, newly deregulated or emerging markets

Improve the efficient operation of markets by enforcing industry-specific competition and market rules

Providing effective network regulation

Building consumer confidence in retail energy markets

Supporting efficient wholesale energy markets

3. Environment

Our agency operates in a complex and constantly evolving economy-wide environment. This requires us to remain abreast of best international practice in regulation, and the associated legal and economic fields. We also maintain close ties with Commonwealth and state and territory agencies and our overseas counterparts to ensure we understand the local, national and international contexts we are operating in. Further information on how we approach the risk associated with our operating environment is provided in the Capabilities section.

Below are some of the key environmental factors that we anticipate will influence the way we operate over the next four years.

Adapting to changes to the competition law framework

The way we undertake our responsibilities will continue to be adaptable to changes anticipated in the Australian competition law framework over the next four years, as a result of the adoption and implementation of recommendations of the Competition Policy Review.

The Competition Policy Review Panel's final report sets out many pro-competitive reforms which, as and when they are adopted, could significantly enhance economic productivity over the years ahead.

The ACCC and the AER continue to work constructively with the Government and key stakeholders during the implementation of adopted recommendations.

Engagement with the Australian Consumer Law review

The ACL, which commenced on 1 January 2011, applies nationally, in all States and Territories, and to all Australian businesses. It has taken consumer protection to new levels in terms of the laws that underpin it, awareness and recognition among consumers and businesses, and the way in which regulators act to deliver compliance.

A review of the ACL will be conducted by Consumer Affairs Australia and New Zealand (CAANZ) with a final report to be provided to responsible ministers by March 2017. The review commenced with the release of an issues paper in March 2016 and will consider: (a) the effectiveness of specific provisions of the ACL; (b) the effectiveness and efficiency of the enforcement and administration and arrangements of the national consumer framework, including the 'multiple regulator model' and (c) the operation and terms of the Inter-Governmental Agreement for the ACL.

The ACCC will continue to work constructively with CAANZ in reviewing the operation of the ACL and developing constructive reform proposals that can be considered in the context of the ACL review.

Contributing to the regulatory reform agenda

The Government has strengthened the focus of its Regulatory Reform Agenda to embrace more complex reforms, building on the ongoing commitments to cut red tape, improve regulator performance, and strengthen regulatory impact analysis processes.

The agency is fully engaged with the Government's regulatory reform agenda and committed to acting in accordance with regulatory best practice in our decision making, policy development and advisory roles, operational practices, and communications to ensure our effectiveness and efficiency is enhanced.

The Australian Government's Regulator Performance Framework is an important element of the agenda. As outlined in section 4.1 below, the ACCC's self-assessment for 2015-16 will demonstrate our performance against the framework's six key performance indicators.

The agency is committed to demonstrating through our actions that we are operating as an efficient and effective regulator. At the international level, we have worked closely with the Organisation for Economic Co-operation and Development in the development of their best practice principles for the governance of regulators. We are now utilising that knowledge at the operational level.

The ACCC is also contributing to the Australian Government's Industry Innovation and Competitiveness Agenda, which is a policy of regulators actively considering international standards to reduce duplicative regulation. The Government has adopted the principle that, if a system, service or product has been approved under a trusted international standard or risk assessment, then Australian regulators should not impose any additional requirements for approval in Australia, unless there is a good and demonstrable reason to do so. The implications of this policy for the ACCC are predominantly in relation to the role in the setting of product safety and information standards. Fellow regulators, such as the Australian Communications and Media Authority, may also make contributions to reducing duplicative regulation in relation to sectors of the economy that the ACCC regulates such as communications.

Review of Commonwealth legal services

In 2015, the Australian Government asked the Secretary of the Attorney-General's Department to conduct a review of Commonwealth legal services. The terms of reference for the Review included examining the size of the Commonwealth legal spend, the diversity of the Commonwealth's legal needs, the Efficiency through Contestability Program and the need for an efficient and proportionate framework for the sustainable delivery of effective legal services to and by the Commonwealth and its entities.

The ACCC actively participated in the Review, including meeting with the Review team and making submissions in response to each of the Issues Papers released by the Review team.

The Review is considering issues that intersect with how legal services are provided to the ACCC, including how in-house legal work is and should be organised and what elements of Commonwealth legal work should be competitively sourced, and mechanisms for procurement for external legal services. The ACCC await the recommendations of the Review with interest. The Review is expected to report in late 2016.

International and regional economic engagement and cooperation

International and regional engagement with our peers is becoming increasingly important, reflecting the need to understand and respond to emerging issues in global markets for goods and services. The growth of these markets is being facilitated by the diffusion of modern communications and trading platforms.

The ACCC will continue to participate actively in groups facilitating investigative and enforcement cooperation, such as the International Competition Network, International Consumer Protection and Enforcement Network, Organisation for Economic Co-operation and Development (OECD) and International Consumer Product Health and Safety Organisation.

The ACCC and AER will, through the OECD Regulatory Policy Committee and Network of Economic Regulators seek to influence and leverage international thinking on best practice regulatory frameworks.

The ACCC also recognises the benefits that efficient markets in our region deliver to Australian consumers and businesses. This requires the ACCC to be active in the Asia-Pacific region engaging with both established and newly emerging competition and consumer protection regimes.

One aspect of this engagement is the Competition Law Implementation Program. Under this program, the ACCC will, in partnership with the Department of Foreign Affairs and Trade and Association of South East Asian Nations, continue to deliver a multi-year, demand-driven program of capacity building activities for our newer competition law enforcement counterparts in the ASEAN. The ACCC will work with counterparts to build their capacity to enforce competition laws through projects that factor in local economic, political, legal, and social conditions. Projects will aim to develop individual and organisational capability among competition authorities by delivering skills and transferring knowledge.

The developing digital economy

The digital economy has much to offer consumers. It can deliver increased choice, improved services and provides people with the convenience to shop whenever and wherever they like. The high-tech consumer world, however, also provides us with many consumer protection challenges. The ACCC will continue to concentrate on emerging systemic consumer issues in the online marketplace.

The ACCC will also monitor developments in the sharing economy. This economy is built around individuals sharing their personal assets in exchange for payment. Technology platforms operate as markets where service providers and consumers can connect with each other. The appropriate level of regulation of these emerging business models is being considered by governments and regulators around the world.

The ACCC supports the views of the Competition Policy Review panel that it would be desirable for a new market to develop in that allows consumers to reuse the information big businesses collect on them to make better purchasing decisions. This has already occurred in United Kingdom, where a policy has been implemented to encourage a market in 'innovative technologies', such as online comparator tools that will aid consumers to analyse their own purchasing habits, and use this information to tailor recommendations for goods and services to each user.

Ongoing changes in consumer markets

Globalisation, the rise in internet shopping and other changes in the Australian economy mean the ACCC needs to be adaptable and flexible in its product safety work. Irrespective of these changes, consumer expectations of safety remain high, even as price reduces.

The growing trend in consumer markets is toward suppliers sourcing more globally when seeking less expensive Fast Moving Consumer Goods (FMCG). As this has been occurring we have seen an upwards trend in consumer injuries and a sharp increase in the number of recalls of FMCG products.

When safety issues arise, they can be complex and require the ACCC to develop national solutions in consultation with a range of agencies, including with specialist safety regulators. The ACCC is required to carefully analyse the costs and benefits of regulatory intervention.

The ACCC is concerned about all forms of consumer detriment, and will continue to focus resources to the risk of serious injury or death associated with unsafe products. Work will continue to ensure suppliers understand their responsibilities to buy products from a supply chain that guarantees the safety of the consumer product. The ACCC will also provide input

to the ACL review, so that its experience with the responsiveness of the product safety system informs that process.

Increasingly dynamic and decentralised energy markets

Energy markets today are more dynamic and decentralised than ever before and are continuing to evolve as consumers look for new products and services to meet their energy needs. This is an issue that impacts all our work program areas.

The AER is working with the COAG Energy Council and other market bodies to address the challenge of modernising regulatory frameworks that enable consumers to benefit from new energy technologies and selling models while maintaining appropriate protection frameworks. This work will also look to determine whether the existing framework will continue to drive efficient investment and operational decisions, and to identify technical challenges to maintaining system security. More broadly, we are finalising assessment of new tariff structures and ring fencing guidelines for electricity network businesses to support the development of competitive markets and innovative technologies and services.

4. Performance

4.1. Performance measurement

Performance indicators

Each ACCC and AER strategy has defined deliverables and the agency has developed a suite of performance indicators that are directly linked to the deliverables, as outlined in the tables in the following sections. The performance indicators provide stakeholders with a quantitative indication of the significant outputs from our programs and help guide our efficiency in delivering them.

Measurement of results for the performance indicators is reported in the agency's annual performance statement, which is included in the ACCC/AER Annual Report and Portfolio Budget Statement. A more complete picture of our performance will emerge as results are reported for subsequent years of the rolling four year reporting period. This will allow us to conduct analysis, report on the reasons for changes in results over time and plan for and communicate our effectiveness on a longer timeframe.

In the annual performance statement, we will complement the performance indicators with additional context and specific examples of actions and outcomes that can provide stakeholders with a detailed and fuller understanding of what we achieved during the financial year.

ACCC consumer and business surveys

The ACCC currently conducts a biennial consumer and small business survey that seeks to gauge the level of understanding of its roles and functions by consumers and small businesses. The survey is also interested in how stakeholders engage with the ACCC's communication through various media channels. The results of this survey are used to enhance communication capabilities and target media strategies.

The ACCC also conducts the business stakeholder surveys. The primary objective of the survey is to collect the views of a cross-section of business regarding the ACCC's performance, with reference to the Regulator Performance Framework's six key performance indicators (KPIs), which are outlined below.

AER stakeholder survey

The AER will continue to conduct regular stakeholder surveys to seek feedback on its performance. Since 2008, the AER has undertaken four surveys to empirically measure how it is meeting certain key performance indicators. These indicators go to the capabilities of a good regulatory agency, such as impartiality, transparency, engagement and timeliness of decisions.

The AER invites a broad range of organisations to participate in its stakeholder surveys including network businesses, retailers, generators, ombudsman schemes, state regulators, industry and consumer representatives and associations, consultants, government departments, and energy ministers. The surveys gather both quantitative and qualitative feedback with all stakeholders being asked to complete an on-line survey and a cross section from key stakeholder groups participating in one-on-one qualitative interviews.

The AER's most recent stakeholder survey was completed in May 2016. Results from the survey will be publicly available and inform our approach in areas such as stakeholder engagement going forward.

Regulator Performance Framework

The Australian Government's Regulator Performance Framework applies to all major Commonwealth regulators, including the ACCC.

The framework requires regulators to assess their performance against six KPIs relating to the administration of regulation, specifically:

1. Regulators do not unnecessarily impede the efficient operation of regulated entities
2. Communication with regulated entities is clear, targeted and effective
3. Actions undertaken by regulators are proportionate to the regulatory risk being managed
4. Compliance and monitoring approaches are streamlined and coordinated
5. Regulators are open and transparent in their dealings with regulated entities
6. Regulators actively contribute to the continuous improvement of regulatory frameworks

The ACCC is required to prepare an annual self-assessment report that outlines results from a range of evidence collected against each KPI across four core functional areas.

The results of the ACCC's 2015-16 self-assessment will be reviewed and externally validated by the ACCC Performance Consultative Committee in October 2016. Following this consultation process, the self-assessment report will be provided to the responsible Minister and published on the ACCC website.

4.2. ACCC deliverables and performance indicators

Each performance indicator has a quantitative annual target which is applicable for each reporting period covered by this plan, unless the target is externally driven.

Strategy 1 Maintaining and promoting competition

Deliver outcomes to address harm to consumers and businesses resulting from anti-competitive conduct

Performance indicators	Annual target
Number of in-depth competition investigations completed	40
Percentage of initial competition investigations completed within 3 months	60%
Percentage of in-depth competition investigations completed within 12 months	60%
Number of competition enforcement interventions or market studies (court proceeding commenced, section 87B undertakings accepted, publication of studies relating to competition in markets)	8
Percentage of competition enforcement interventions in the priority areas outlined in the Compliance and Enforcement Policy	80%
Percentage of competition enforcement interventions in the priority areas, or demonstrate the priority factors, outlined in the Compliance and Enforcement Policy	100%

Assess mergers to prevent structural changes that substantially lessen competition

Performance indicators	Annual target
Percentage of merger matters considered that were finalised by pre-assessment	80%
Percentage of merger matters subject to Phase 1 only of public review that were finalised within 8 weeks (excluding time periods where information is outstanding)	50%
Percentage of merger matters subject to Phase 2 of public review that were finalised within 20 weeks (excluding time periods where information is outstanding)	90%

Make decisions on authorisation, notification and certification trademark applications in the public interest

The ACCC will continue to assess and make decisions about applications for authorisation and notification of certain anti-competitive conduct evaluating if such arrangements or conduct may result in a net public benefit and warrant exemption from the CCA.

Performance indicators	Annual target
Percentage of authorisation applications assessed within statutory timeframe(s) (excluding time periods where information is outstanding)	100%

Strategy 2 Protect the interests and safety of consumers, and support fair trading in markets affecting consumers and small business

Deliver outcomes to address harm to consumers and small businesses resulting from non-compliance with the Australian Consumer Law

Each year the ACCC reviews its compliance and enforcement priorities to determine where to focus its efforts to maximise impact on preventing and redressing consumer harm and small businesses. The ACCC consults with ACL regulators, consumer advocacy groups, external dispute resolution and ombudsman schemes and other government departments on current and emerging issues; and also analyses data from thousands of people who contact the ACCC Infocentre.

Performance indicators	Annual target
Number of in-depth ACL investigations completed	80
Percentage of in-depth ACL investigation that are in the priority areas outlined in the Compliance and Enforcement Policy	60%
Percentage of initial ACL investigations completed within 3 months	80%
Percentage of in-depth ACL investigations completed within 12 months	80%
Number of ACL enforcement interventions or market studies (court proceeding commenced, section 87B undertakings accepted, infringement notices issued, publication of studies relating to consumer or small business issues in markets)	40
Percentage of ACL enforcement interventions in the priority areas outlined in the Compliance and Enforcement Policy	60%
Percentage of ACL enforcement interventions in the priority areas, or demonstrate the priority factors, outlined in the Compliance and Enforcement Policy	100%
Number of emerging CCA market issues affecting consumers and small business that are identified, considered and advice developed	2
Number of new or revised business compliance resources (published guidance)	10
Number of times online business education resources have been accessed	600,000
Number of surveys and audits for CCA compliance, including in relation to product safety regulations	20
Percentage of business compliance projects that are in priority areas identified in the Compliance & Enforcement Policy	60%

Enhance the effectiveness of the ACCC's compliance and enforcement initiatives through partnerships

The Australian Consumer Law gives consumer regulators a single set of provisions to respond to fair trading and consumer protection issues. The ACL also allows regulators to collectively work on broader issues and take proactive and timely compliance and enforcement action.

The ACCC works closely with the Treasury, Australian Securities and Investment Commission, and state and territory consumer protection agencies on national compliance and enforcement projects.

The ACCC also works with businesses, industry associations and consumer groups to promote awareness of the ACL.

Performance indicators	Annual target
Percentage of business compliance resources developed or updated in consultation with business, stakeholder groups and peak bodies	80%
Number of business compliance projects that are delivered jointly with ACL regulators (Business compliance projects may include one or more of the following to address an identified sector-based compliance risk: monitoring, surveillance, audits, research, stakeholder engagement, business compliance resources, consumer education resources)	5
Number of business compliance and consumer education projects that involve partnership or joint delivery with businesses, peak bodies, industry or consumer groups.	5

Identify and address the risk of serious injury and death from safety hazards in consumer products

The ACCC uses an intelligence-led approach to assess current and emerging safety risks. The ACCC reviews a range of data sources to identify issues that may present a safety concern. Data sources include mandatory reports of serious illness, injury or death, recalls that have taken place internationally, and information received from the community. The ACCC assesses information received and, where warranted, takes action including:

- negotiating the recall of goods
- educating industry and consumers
- negotiating voluntary changes to packaging labelling or product design
- working to introduce changes to voluntary or mandatory requirements, and
- introducing and/or working to implement changes to product safety mandatory standards and bans.

The ACCC is also developing criteria for accepting international product safety standards and risk assessments. This is in line with the Australian Government's Industry Innovation and Competitiveness Agenda.

Performance indicators	Annual target
Percentage of product safety mandatory reports made by businesses of serious injury	100%

or death preliminary assessed by the ACCC within 7 days	
Percentage of recall notifications by businesses to the ACCC that, after assessment and engagement, can be published within 48 hours	80%
Number of detailed assessments of emerging product safety hazards	40
Number of reviews of mandatory product safety standards completed	6
Number of new or updated published business compliance resources about responsible sourcing of consumer products	2

Support a vibrant small business sector

The ACCC helps to ensure small businesses understand and comply with their obligations and encourages them to exercise their rights under the CCA as the customers of larger suppliers. The ACCC's aim is to promote a competitive and fair operating environment for small business and, importantly, ensure small businesses understand how the legislation can help them.

Performance indicators	Annual target
Number of small business Infocentre contacts served (Small business contacts are contacts through separate small business phone line and webforms)	12,000
Number of new or revised business compliance resources (published guidance) to empower small business	5
Number of CCA and ACL enforcement interventions with substantial benefits to small business sector.	10

Empower consumers by increasing their awareness of their rights under the Australian Consumer Law

Empowering and educating consumers about their consumer rights is central to the ACCC protecting the interests and safety of consumers. The ACCC's educational campaigns also support consumers to navigate complex or difficult consumer choices to help them make smart choices.

Performance indicators	Annual target
Number of new or revised consumer education resources (published guidance)	10
Number of times online consumer education resources have been accessed	1.5 million
Number of Infocentre contacts served	150,000
Number of unique visits to the SCAMwatch website	1.5 million

Strategy 3 Promote the economically efficient operation of, use of, and investment in infrastructure; and identify market failure

Deliver network regulation that promotes competition in the long-term interests of end-users

The ACCC regulates access to bottleneck infrastructure and the price for that access. Effective regulation of infrastructure services supports effective competition in upstream and downstream markets, enhancing community welfare and encouraging efficient use of resources. Regulation also promotes the economically efficient operation and use of, and investment in, Australia's key infrastructure, thereby promoting the long-term interests of Australian consumers.

Performance indicators	Annual target
Number of major regulatory decisions	3
Percentage of regulatory decisions completed within statutory timeframes (including 'stop the clock' and timeframe extension provisions in the CCA)	100%

Provide industry monitoring reports to government in relation to highly concentrated, newly deregulated or emerging markets

The ACCC monitors and reports on the price and quality of goods and services available in some highly concentrated, newly deregulated or emerging markets.

The ACCC produces annual monitoring reports for stevedoring, airports, telecommunications and water. Following a new ministerial direction received in December 2014, the ACCC produces at least quarterly reports on the prices, costs and profits relating to the supply of unleaded petroleum products.

Performance indicators	Annual target
Number of annual monitoring reports	4
Number of reports on monitoring of unleaded petroleum products	4

Improve the efficient operation of markets by enforcing industry-specific competition and market rules

The ACCC has a role in enforcing industry-specific competition and market rules in some infrastructure-based markets.

Performance indicators	Annual target
Number of investigations into potential breaches of rules	5

4.3. AER deliverables and performance indicators

Strategy 4 Promote efficient investment in, and efficient operation and use of, energy services for the long term interests of consumers with respect to price, quality, safety, reliability and security

Provide effective network regulation

The electricity and gas rules require that network businesses periodically (usually every five years) submit regulatory proposals (electricity) and proposed access arrangements (gas) to the AER for approval. We must assess the compliance of network businesses' regulatory proposals with the legislative criteria.

Performance indicators	Annual target
Number of completed revenue decisions for electricity networks and gas pipelines	3 ²
Percentage of revenue reset determinations for electricity networks and gas pipelines and distribution networks completed within statutory timeframes.	100%
Number of annual benchmarking and performance reports for electricity networks	2
Number of annual tariff approval applications assessed	26

Build consumer confidence in retail energy markets

Under the National Energy Retail Law, the AER regulates retail markets in Queensland, New South Wales, South Australia, Tasmania (electricity only) and the Australian Capital Territory. The Retail Law sets out the obligations of energy retailers and key consumer protections. These include requirements for how retailers market their offers and retailer responsibilities to help customers in financial hardship.

Performance indicators	Annual target
Number of annual reports on compliance in, and performance of, retail energy markets	2
Number of retailers' hardship policies and proposed amendments assessed (externally driven)	N/A
Percentage of retailers' hardship policies and proposed amendments assessed within 12 weeks of receiving all relevant information	100%
Number of retail authorisations/exemptions assessed (externally driven)	N/A
Percentage of retail authorisations/exemptions applications assessed within 12 weeks of receiving all relevant information	100%
Support the timely transfer of affected customers in the event of a retailer failure (externally driven)	N/A

² The target is 10 in 2017-18, 9 in 2018-19 and 7 in 2019-20.

Number of formal energy retail enforcement interventions (court proceeding commenced, section 288 (NERL) undertakings accepted, infringement notices issued) (externally driven)	N/A
Percentage of new/replacement offers published on Energy Made Easy website within 48 hours of receipt from retailers	100%

Support efficient wholesale energy markets

The AER is responsible for monitoring and enforcement in wholesale electricity and gas markets in all jurisdictions except Western Australia and the Northern Territory, namely:

- the National Electricity Market—a spot market in eastern and southern Australia, with 336 generators competing to deliver electricity and \$8.2 billion turnover
- spot markets for gas, in Adelaide, Sydney, Brisbane and Victoria, in which 359 petajoules are traded each year; and gas supply hubs at Wallumbilla (Queensland) and Moomba (South Australia).

Performance indicators	Annual target
Number of quarterly compliance reports on wholesale markets and networks	4
Percentage of quarterly compliance reports published within 6 weeks of the end of the quarter	100%
Audit the compliance systems of selected energy businesses , and report on outcomes	2
Number of weekly electricity and gas monitoring reports	104
Percentage of weekly reports published within 12 business days of the end of the relevant week	75%
Number of reports on extreme price events in wholesale electricity and gas markets (externally driven)	N/A
Percentage of reports on extreme price events in wholesale electricity and gas markets published within statutory timeframes	100%
Number of targeted reviews of compliance with the national energy rules (as measured by number of reports)	4
Publish the State of the energy market report	Yes

4.4. Performance reporting

We are committed to being transparent and accountable in how, and for what purposes, we undertake our functions. To achieve this, we frequently provide up to date and clear performance information to our stakeholders. The ACCC and AER will continue to use a number of different avenues to report on our performance in addition to reporting in our annual performance statement and annual report against the targets in our corporate plan.

The ACCC and AER publicise important outcomes from our work through media engagement and an active program of speaking engagements for our Chairman, Commissioners and the AER Board members. We have a strong and growing engagement

with the community through social media. The ACCC also produces *ACCCount* on a quarterly basis, which details our activities in enforcement, merger reviews, compliance actions, adjudication, economic regulation and international engagement.

5. Capability

5.1. Governance

The agency's internal corporate governance framework equips us as an organisation to achieve our strategic goals while complying with legislation and policies, maintaining performance standards and making the most cost-effective use of resources. The agency's external corporate governance is aided by our compliance with the performance regimes put in place by the Australian Government: the PGPA Act and the Regulator Performance Framework.

The ACCC makes statutory decisions through formal meetings of its Commission, assisted by subject matter committees such as the Enforcement Committee and the Mergers Review Committee. The AER makes its decisions through its Board. ACCC Commissioners and AER Board members are full time statutory office holders. The agency has a strong corporate governance framework which was implemented in 2014 and reviewed in 2016. ACCC Commissioners and AER Board members collectively have a clear view of the connection between their statutory decision-making on particular matters and the overall staffing resources and legal expenditure implications of those decisions.

The Corporate Governance Board sits at the apex of the governance structure. ACCC Commissioners and AER Board members form the Corporate Governance Board. The Board is assisted by the Audit Committee and the Legal Committee. The board, assisted by these committees, is well equipped to oversee our corporate and financial performance.

5.2. People

Our people

Our investigators, analysts, economists, lawyers, project officers and support staff are dedicated and passionate about delivering the best outcomes for the Australian people through our work to protect, strengthen and supplement competitive market processes.

Our affordable average staffing level for 2016-17 is 739 full-time equivalent employees. Our projected staffing levels are expected to remain flat over the out years to 2019-20. Our levels fluctuate depending on the nature of any new responsibilities given to us by government.

Workforce planning

The agency has developed a three year Strategic Workforce Plan (SWP) 2015-18 addressing our longer-term business needs and the capability and resources we need to meet them. It also provides an instrument to analyse our workforce projections and skill gaps, set out our strategies to develop our people and fill critical skill shortages and details our action plan to deliver the strategies.

Current and future workforce capability requirements and gaps

Whilst the SWP process reinforced the need for strong levels of technical expertise and business knowledge, it also highlighted the emerging need for generalist skills and personal attributes required to strengthen our workforce and improve our results.

The agency continues to place a high value on employees who possess relevant levels of technical expertise or industry knowledge in fields such as regulation, economics, economic analysis and merger analysis, competition and consumer law, regulatory/legal frameworks and public policy, and physical and chemical hazard exposure. From a corporate services perspective, skills required include accounting and ICT, contracts and procurement, strategic HR including workforce planning, website management and media liaison.

It is important that our employees and leaders possess broad knowledge and an understanding of the agency's role within government and industry frameworks, as well as the ability to perform environmental analysis to develop the strategic direction for the agency.

Key initiatives under our SWP over the life of the plan to address our workforce risks are to:

- Develop and implement a 3-year recruitment strategy.
- Improve our approach to managing priorities and workload peaks across the agency to enable flexible resource allocation.
- Implement a change management framework and embed into our project management framework.
- Develop and implement an organisational rotation program to facilitate systematic movement of employees across the agency.
- Implement an integrated approach to knowledge management.
- Develop and implement an organisational succession planning framework to improve talent retention.

As the agency focuses on improving its span of control, the ability to lead, supervise, develop and manage teams is becoming imperative. With offices in all states, this includes managing remotely and across multiple locations.

Culture

The agency prides itself on its positive workplace culture based on APS wide values and particular organisation values. We are people who are independent, expert, strategic and trustworthy. These values are underpinned by a culture of respect and valuing diversity.

In order to maintain and enhance our culture and to remain an employer of choice, the agency will implement a number of culture oriented strategies in its Strategic Workforce Plan over the next three years. These include:

- effectively completing and implementing a new Enterprise Agreement
- adopting strategies that will help us to support and retain our existing workforce such as through innovative reward and recognition, providing good learning and development opportunities including training, secondments, mentoring programs, and through our performance management and feedback mechanisms
- incorporating into our recruitment strategy a focus on attracting talented employees through our graduate, intern and work experience programs

- implementing enhancements to our flexible working arrangements and support for employees accessing these
- reflecting and supporting the diversity of our community and promoting inclusiveness within our workforce by implementing our Diversity Strategy, and
- conducting initiatives that support the betterment of the health and wellbeing of our people, particularly in relation to mental health.

5.3. Financial management and capital investment

Financial management

The ACCC and AER have a coordinated Strategic Financial Plan and a five year budget model that models the current financial year and three out-years. This provides an outlook as to the future capacity of the agency. The model is only an indicator at a point in time, as additional functions can be assigned to the ACCC and AER with varying levels of funding attached.

Financial management is a key area that the agency needs to continue to grow capacity and improve skills. The past 2 years has seen a significant increase in the financial maturity of the agency and our executive managers. This is filtering down to lower levels of management to:

- ensure a thorough understanding of the importance of financial management, and
- provide experience for future senior managers.

Four-year budget estimates for the ACCC and AER are published annually in The Treasury's Portfolio Budget Statements. The following tables set out the ACCC's and AER's funding for 2016-17 and forward years of the budget estimates.

Program 1 ACCC 2016-17 to 2019-20 (\$millions)

	2016-17	2017-18	2018-19	2019-20
Revenue	131.60	131.29	133.16	130.72

Program 2 AER 2016-17 to 2019-20 (\$millions)

	2016-17	2017-18	2018-19	2019-20
Revenue	40.77	33.03	33.23	33.46

Capital investment

We have a revised capital investment management plan that provides an affordable, forward looking strategy that integrates capital asset replacement within the sustainable budgeting and planning framework.

Capital investment falls into four discrete categories, property, ICT investment, ICT refresh, and office equipment. Across these categories, strategic decisions will be made regarding the:

- nature and composition of asset replacement (for example, relocation of the Melbourne office , or the replacement of a major ICT systems)
- prioritisation and scheduling of asset replacements within capital budget constraints

- method of acquisition – capital constraints within a tight operating environment may predispose a lease option as opposed to a capital purchase
- funding source and budget context, particularly for projects identified as potential candidates for new policy proposal funding.

In 2017–18, we have a number of major property refurbishments which will be funded from the property lease incentive. Favourable property market conditions are expected to fund office refurbishments over the next few years and this should enable all other capital requirements to be funded from within the capital budget.

The property refurbishments are highlighted as major decision points and planning will be undertaken to assess the agency's ability to fund capital works from landlord lease incentives and reserves (if required).

ICT capability

The ICT Strategy underpins the goals and strategies of the ACCC and AER. To fulfil its role within the agency, the ICT group must keep its costs to a minimum while delivering the full extent of the ICT needs of the organisation. This will be achieved by being a service broker rather than a service provider and will require establishing of procurement systems that provide ready access to the required skills in the market.

Service delivery will be focused in the following areas:

- Information and knowledge management – deliver integrated management of all information and digital assets
- Business process automation (workflow and case management) – deliver configurable, flexible and integrated workflow management solutions to automate critical and repeatable business processes
- Online communications – provide easy access to sophisticated, interactive online communication tools to support the delivery of online customer services and information
- Collaboration and connectivity – to enable flexibility in how, where and when staff work by providing reliable, seamless and secure access to ICT services from anywhere and at any time
- Office productivity – provide ready access to contemporary office productivity tools that employees need to communicate and execute everyday tasks

5.4. Legal and economic

The Legal and Economic Division is the in-house provider of legal and economic services to the ACCC and the AER. It consists of two Groups – the Legal Group and the Economic Group. The Legal Group aims to assist the ACCC and AER in making legally informed decisions, and adopt processes for decision-making that are appropriate for a statutory agency. It assists in managing the agency's litigation including through facilitating, as an informed purchaser, external legal services which are engaged to provide assistance in matters approaching litigation. It also assists in managing the agency's corporate legal obligations. The Economic Group aims to facilitate the consistent and robust use of economic principles in decision making, increase the quality of economic analysis and contribute to economics-related learning and development initiatives. The Economic Group is committed to strengthening the quality of economic analysis in the organisation and to maximising the influence of economic principles.

The Division's objectives are directed at increasing ACCC and AER effectiveness, and providing expert advisory services and assistance to help the agency achieve its strategies

and deliverables. The Division aims to provide its legal and economic services efficiently, and assists the agency in obtaining value for money from its external legal and economic service providers. It also invests in projects to improve organisational effectiveness and improve the capability of the agency in making high quality decisions, through its contributions to legal and economic discussion, guidance and training.

5.5. International

The International Unit supports the effective performance of the functions of the ACCC and AER by:

- fostering cooperation with international counterparts to improve outcomes in matters involving extra-territorial evidence or conduct
- encouraging an international regulatory environment that enhances the welfare of Australians
- promoting the ACCC and AER in international fora to influence action supporting agency aims, and
- educating employees on international practices and developments to assist them in their daily work.

The International Unit also supports the welfare of Australians more broadly by advising Treasury and the Department of Foreign Affairs and Trade on international competition issues for policy development and free trade negotiations and delivers technical assistance and capacity building to developing agencies in the region.

5.6. Communication

The ACCC and the AER engage with a broad range of audiences and stakeholders. This year, we will undergo a cross-functional communications mapping process to identify if there are any improvements that can be made across the ACCC and the AER.

The ACCC has a strong media profile. An important part of our ACCC media engagement is to reach audiences with targeted messages about consumer education, e.g. scams, product safety and their rights under the CCA, in particular the Australian Consumer Law.

Media exposure helps multiply the deterrence effect of our enforcement activities where businesses may be acting in contravention of the CCA. The ACCC will this year also formalise its Media Code of Conduct that outlines how and when the public is informed about our work.

Social media is becoming an increasingly important way to reach audiences, with particular regard to consumer education. We are also exploring ways in which we can deepen our engagement and consumer feedback into other areas of our work at the ACCC.

We will continue to build the AER's profile among media and other stakeholders. Our challenge is to communicate as clearly as possible what can often be highly technical information. It is our goal to explain the rules that the AER operate under and its role in energy markets and we will continue to find ways to make this clear to audiences and stakeholders.

5.7. Market monitoring and studies

Responsible ministers may direct the ACCC to undertake certain activities, including market monitoring and market studies. These studies enable the ACCC to develop a sophisticated understanding of how well competition and markets are working in particular sectors.

In December 2014, the ACCC received a direction from the Minister for Small Business to monitor the petroleum industry more closely. This direction provides for the ACCC to target specific aspects of concern for closer examination. The ACCC will conduct at least four investigations a year into specific geographic markets, specific products or other issues of concern.

The ACCC conducted a 12 month public inquiry into the competitiveness of wholesale gas prices in eastern and southern Australia. The ACCC considered competition levels in the East Coast upstream gas market - the producer, processor, pipeline, and wholesale levels of the market. The ACCC's report, which was released by the Government in April 2016, made a number of recommendations that the COAG Energy Council and state and territory governments can consider to alleviate gas market issues.

In August 2016, the ACCC announced that the ACCC's next market study will focus on the Australian communications sector. The market study will examine a wide range of issues concerning competition and efficiency in communications markets and will involve consultation with industry participants and consumers.

These add to continuing roles where the ACCC monitors competition and wider performance issues in stevedoring, our four largest airports, the broader petrol market, and the rural water market.

The ACCC is also continuing to undertake a program of industry analysis focusing on consumer issues. This analysis will further develop the ACCC's understanding of market practices that impact industry or consumer behaviour, in particular those that result in harm to consumers. The ACCC will undertake at least two broad industry reviews each year into particular industries, or that explore particular consumer issues. This analysis will support the ACCC's broader enforcement objectives by also identifying and developing strategies to address breaches of the law where they are identified.

6. Risk oversight and management

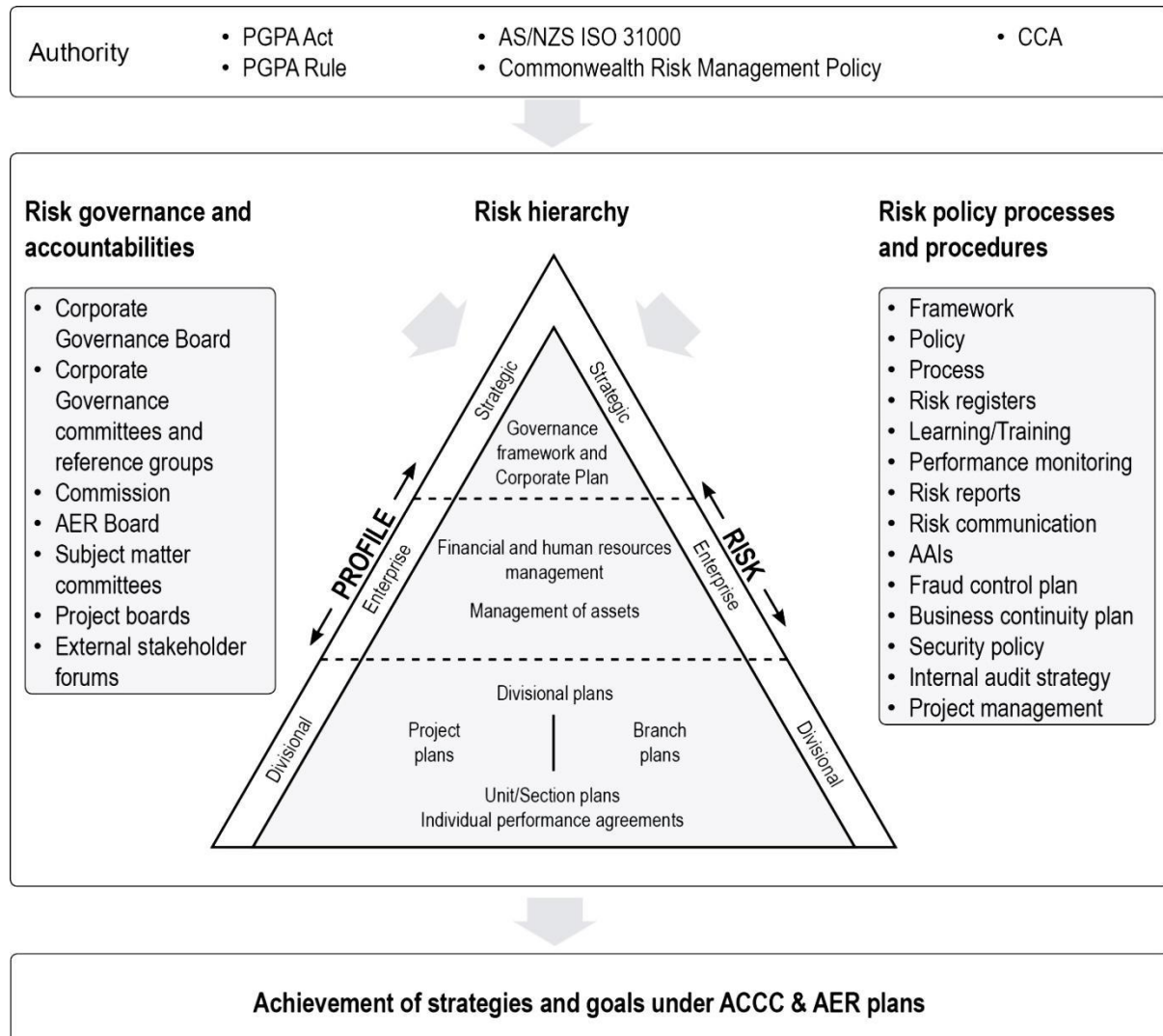
Risk management is an integral part of ensuring the agency's success in achieving our goals and priorities. The ACCC and the AER are committed to the management of risk and have integrated effective risk management priorities into our strategic planning, decision-making and business operations. This commitment is underpinned by the *ACCC and AER Enterprise Risk Management Framework* modelled on best practice requirements of the Commonwealth Risk Management Policy.

The ACCC through the Commission and the AER through its Board also consider the key strategic risks that the organisation needs to proactively manage. These strategic risks then form part of the agency's overall risk management plan, which covers agency-wide risks as well as risks at the divisional or functional level.

The framework includes risk management policies and guidelines which communicate accountabilities, responsibilities and expectations of all employees in ensuring the management of risk across the agency. Risks are managed by regular risk assessments and implementing practical and cost-effective risk treatments commensurate with business need. We aim for best practice in controlling all risks by identifying priority exposures, addressing them through improvement strategies and contingency planning, and monitoring and reviewing ongoing risk.

The link between risk and strategic objectives is reinforced through the maintenance of organisational and divisional risk profiles and the updating of an operational risk management register. This is further supported by the ACCC and AER internal audit

program which provides assurance on our business processes and performance as well as our compliance with relevant statutory requirements, including those under the PGPA Act.



The agency continues to improve its risk maturity. This is being achieved through the continued integration of effective risk management throughout the business activities of the ACCC and AER. Other areas of focus will be the ongoing education and training of managers and employees in risk management, and further enhancing the agency's systems of monitoring and reporting risks through the business planning and quarterly report process.