



ACCC and AER Corporate Plan

2018–19

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

Australian Competition and Consumer Commission

23 Marcus Clarke Street, Canberra, Australian Capital Territory, 2601

© Commonwealth of Australia 2018

ISBN 978-1-920702-31-1

This work is copyright. In addition to any use permitted under the Copyright Act 1968, all material contained within this work is provided under a Creative Commons Attribution 3.0 Australia licence, with the exception of the Commonwealth Coat of Arms, the ACCC logo, and any illustration, diagram, photograph or graphic over which the Australian Competition and Consumer Commission does not hold copyright, but which may be part of or contained within this publication.

The details of the relevant licence conditions are available on the Creative Commons website, as is the full legal code for the CC BY 3.0 AU licence.

Requests and inquiries concerning reproduction and rights should be addressed to the Director, Content and Digital Services, ACCC, GPO Box 3131, Canberra ACT 2601, or publishing.unit@accc.gov.au.

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 lead to lower prices, better quality products and services, and more choice, all of which increase the prosperity and welfare of Australian consumers. Such markets also 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 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, and will continue to adopt a risk-based, strategic approach to our compliance and enforcement actions, focusing on the priorities identified in our annual *Compliance and Enforcement Policy*. These include cartel conduct, anti-competitive agreements and practices, and the misuse of market power; competition issues in the financial services, agriculture and commercial construction sectors; as well as consumer issues in new car retailing, the compulsory recall of Takata airbags, achieving better product safety outcomes for consumers in the online marketplace, and ensuring small business receives the protections of industry codes and the unfair contract terms law.

In 2018-19 we will also prioritise competition and consumer issues in the provision of energy as an essential service, including matters identified in the ACCC's retail electricity pricing inquiry report and wholesale gas inquiry; as well as competition and consumer issues concerning the use of digital platforms, algorithms and consumer data, with a focus on emerging markets and matters identified by the ACCC's digital platforms inquiry.

We have taken on additional roles and responsibilities, notably in relation to the national Consumer Data Right, which will allow consumers, including small and medium enterprises, to access and transfer data between service providers, enhancing competition and consumer choice.

The way we undertake our responsibilities has adapted to changes in the Australian competition law framework as a result of the adoption and implementation of recommendations of the Competition Policy Review. We will continue to work constructively with the Government and key stakeholders as laws are amended, such as the possible inclusion of a general product safety provision in the Australian Consumer Law (ACL).

The ACCC will also continue to undertake our other core responsibilities, including:

- Reviewing mergers to prevent structural changes that substantially lessen competition and considering applications for authorisation and notifications.
- Assessing consumer product safety issues that have the potential to cause serious harm to consumers.
- Assisting small businesses and consumers to understand their fair trading rights and obligations.
- Regulating natural monopoly infrastructure services in communication, bulk water, and transport industries.

The ACCC collaborates and cooperates with a wide range of stakeholders to achieve our purpose, including other Australian and international regulatory agencies; business, industry, and consumer advocacy groups; the Treasury and various other government departments and agencies. Our international and regional engagement and collaboration with our peers is becoming increasingly important, reflecting the need to understand and respond to emerging issues in global markets for goods and services.

To remain a high performing and effective agency the ACCC must continually improve how we use our finite resources and develop our core capabilities. We will continue to concentrate on our governance, risk management and financial performance, and we have developed a three year strategic workforce plan to make the best use of our expert staff and to address skill gaps and our longer-term business needs. By developing our people and improving our processes we will remain an efficient and highly effective agency delivering benefits for all Australians.

Message from the AER Chair, Paula Conboy

The Australian Energy Regulator (AER) works to make all Australian energy consumers better off, now and in the future. This is best delivered through competition, with regulation advancing the long-term interests of consumers where necessary.

The AER's functions have grown alongside the expansion of national energy rules as the energy market has evolved. This has increased stakeholder expectations in relation to the AER's performance. In 2017-18 the AER received significant additional funding to ensure that we are equipped to meet the challenges of our growing role and expanding functions.

The Australian energy market remains in transition and the next 12 months will be critical to shaping its future. A key part of this transition has been the creation—at the recommendation of the Finkel Review—of the Energy Security Board (ESB), which includes the heads of all markets bodies, the AER, AEMC and AEMO, as members.

The ESB, at the request of the Commonwealth Government, developed the National Energy Guarantee (NEG), which at the time of writing is under consideration by jurisdictions ahead of approval by the Council of Australian Governments' Energy Council. This is very much work in progress. It is not just the policy framework that is changing. The whole energy system is undergoing significant technological and behavioural change. The AER's work places consumers at the heart of this change, as we play our part in delivering a secure, reliable and affordable energy future for Australia.

In 2018-19 the AER will be implementing our Strategic Transformation Project (STP), which will enable the agency to deliver on community and industry expectations following our recently increased funding and expanded role and functions. The STP will add capacity in areas that have been under-resourced and build new capability in areas of strategic importance, most notably external engagement, policy development and enforcement.

The AER's independent www.EnergyMadeEasy.gov.au site is undergoing a significant transformation as part of a funding boost from the Commonwealth Government.

Energy Made Easy has an important role in building customer confidence by helping people compare their options and make the best choice for their circumstances.

The new funding will ensure *Energy Made Easy* remains useful and relevant in an energy market where 'smart' meters are increasingly widespread, millions of households have solar systems, and retailers offer a greater range of innovative tariffs and services. Changes to the website will happen throughout 2018-19 with some early improvements to provide the most immediate help to customers trying find a better energy deal.

The AER has a series of projects due to report in 2018-19 that help us in our goal of ensuring the Australian energy consumers pay no more than they need for safe and reliable energy. Our review into the tax paid by regulated energy networks is due to report – along with any recommendations – in December 2018. An initial report was published in June.

We are also undertaking a review of how the rate of return – which comprises the return on debt and return on equity – is calculated for network businesses during their revenue determinations. After a lengthy and wide-ranging consultation process, the new guideline will be released during 2018/19.

The AER will also continue with our regular reporting schedule. Our *State of the Energy Market* report will be published in October 2018, and our first wholesale energy market performance report in December 2018. Our annual Retail Compliance and Performance Monitoring Report will also be tabled during this period.

The AER has 21 revenue determination processes to undertake in 2018-19, which will focus on efficient spending to deliver reliable energy to consumers at a time of concern about energy affordability. Key amongst these determinations will be draft determinations for Evoenergy and Power & Water and the resolution of the remittal of the 2014-19 determinations for NSW businesses.

The AER will continue to enhance its reputation as an expert, independent and trustworthy regulator that instils public confidence at a time of great volatility in the energy sector throughout the coming financial year.

1. Introduction

The *ACCC and AER Corporate Plan 2018-19* 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 2018-19 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 2018-19 through 2021-22.¹

2. Achieving our purpose

Purpose

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

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, 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. The AER Board is supported by staff engaged exclusively on energy matters and also has access to specialist legal and economic staff shared with the ACCC.

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 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 consumers. 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 fulfills 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 of this plan.

Detailed information on each program's budget, resourcing and priorities 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 national 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, including concerted practices
- misuse of market power
- mergers which substantially lessen competition.

The CCA allows the ACCC to consider applications for authorisation and notifications, which provide an exemption for arrangements that may otherwise breach the competition law but are not harmful to competition or are likely to result in overall public benefit.

The ACCC's regulation of natural monopoly infrastructure services and monitoring of certain industries also promotes 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 ACL. This function also includes actions taken to encourage the safe supply of consumer products to Australian consumers.

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 services in communication, bulk water, bulk wheat export, postal services 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 ACCC also monitors and reports on the price and quality of goods and services available in some highly concentrated, newly deregulated or emerging markets so as to identify market failure and promote competition.

Strategy 4 Undertaking market studies and inquiries to support competition, consumer and regulatory outcomes

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

Key activities under ACCC program and strategies

The ACCC publishes 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; consumer product safety; conduct impacting vulnerable and disadvantaged consumers; and conduct impacting indigenous consumers, particularly in relation to challenges associated with living in remote areas.

The ACCC's priorities in 2018 include:

- consumer issues in new car retailing, including responses by retailers and manufacturers to consumer guarantee claims, and other matters identified in the ACCC's 2017 New car Retailing Report
- systemic issues involving large or national traders avoiding or misrepresenting consumer guarantee rights
- competition issues in the financial services sector
- competition and consumer issues in the provision of energy as an essential service, including matters identified in the ACCC's retail electricity pricing inquiry report and the ACCC's wholesale gas inquiry
- competition and consumer issues concerning the use of digital platforms, algorithms and consumer data, with a focus on emerging markets and matters identified by the ACCC's digital platforms inquiry
- ensuring small business receives the protections of industry codes and the unfair contract terms law, with a focus on Franchising Code of Conduct issues involving large or national franchisors

- conduct that may contravene the new misuse of market power provisions and concerted practice provisions of the Act
- competition and consumer issues in the agriculture sector, with a focus on Horticulture Code of Conduct enforcement, analysis of the viticulture industry, and advocating for improved transparency in the cattle and beef and dairy industries, following our market study and inquiry of those industries respectively
- competition issues in the commercial construction sector.

In 2018 we released our first stand-alone product safety policy, setting out the principles we adopt to prioritise and address product safety risks. The policy included a statement about our priorities for 2018, including:

- the compulsory recall of Takata airbags
- improving the safety of quad bikes
- ensuring better product safety outcomes for consumers in the online marketplace
- progressing reforms to the product safety provisions of the Australian Consumer Law.

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

The ACCC will also continue to assess applications for authorisation and notification of certain anti-competitive conduct. Additionally, the ACCC has resumed the role of first instance decision maker for merger authorisation applications. In doing so the ACCC will evaluate whether the proposed merger, arrangements or conduct may result in a net public benefit or, where relevant, may be unlikely to substantially lessen competition, and therefore warrant exemption from the CCA.

The ACCC's economic regulation priorities for 2018-19 include:

- undertaking access, pricing and regulatory coverage assessments across key infrastructure sectors
- promoting competition and efficiency in sectors undergoing major reform and/or transitioning to new market structures, including communications and water markets
- enforcing and promoting compliance with industry-specific compliance regimes in telecommunications and water
- advocating for appropriate regulation of monopoly infrastructure, including in areas where there are efficiency concerns independent of competition concerns.

The ACCC will also undertake **market studies and inquiries covering a broad range of sectors, including digital platforms, gas and** financial services.

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.

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

Strategy 5 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 priorities in support of that strategy:

- contributing our expertise and insight to inform energy policy development processes and working in partnership with the Council of Australian Governments Energy Council, Energy Security Board and other market institutions to advance energy market reforms
- delivering network regulation to promote efficient investment in energy network services that customers value
- building consumer confidence in retail energy markets
- promoting 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 electricity and gas markets to ensure energy businesses comply with the legislation and rules, and taking enforcement action where necessary
- setting the amount of revenue that network businesses can recover from customers for using these networks and promoting efficient pricing structures
- regulating retail energy markets in Queensland, New South Wales, South Australia, Tasmania (electricity only) and the Australian Capital Territory
- operating the Energy Made Easy, a price comparator website and providing other information for energy consumers, and
- publishing information on energy markets, including the annual *State of the energy market* report, and reports on effective competition to assist stakeholders 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

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

Maintaining and promoting competition

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

Undertake new Consumer Data Right functions

Protecting the interests and safety of consumers, and supporting 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

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

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

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

Undertaking market studies and inquiries to support competition, consumer and regulatory outcomes

Delivering network regulation to promote efficient investment in energy network services that customers value

Building consumer confidence in retail energy markets

Promoting efficient wholesale energy markets

Contributing our expertise and insight to inform energy policy development processes

3. Environment

Our agencies operate 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 and consumer law frameworks

The way we undertake our responsibilities will continue to be adaptable to changes in the Australian competition law framework as a result of the adoption and implementation of recommendations of the Competition Policy Review. New legislation has been passed which, among other things:

- amends section 46 to prohibit a corporation with a substantial degree of market power from engaging in conduct that has the 'purpose, effect or likely effect' of substantially lessening competition
- repeals price signalling provisions, which previously only applied to the banking sector, replacing them with a prohibition on concerted practices that substantially lessen competition
- provides the ACCC with a new power to issue class exemptions to exempt categories of conduct from the competition law if the conduct is unlikely to raise competition concerns or is likely to generate net public benefit
- changes the collective bargaining notification process to make it more flexible for small businesses
- changes the national access regime in Part IIIA in a number of ways, including clarifying that the criteria for declaration are whether the facility is of national significance, whether access would promote a material increase in competition in at least one market for the service, and whether access to the service would promote the public interest.

The ACCC and the AER will continue to work constructively with the Government and key stakeholders during the commencement of these new laws.

The ACL, which commenced on 1 January 2011, has been reviewed by Consumer Affairs Australia and New Zealand (CAANZ). This review was complemented by a Productivity Commission Inquiry into Consumer Law Enforcement and Administration. The recommendations were considered by responsible Ministers in August 2017. Ministers:

- Agreed to a number of proposals to make amendments to the ACL to improve its operation. Legislation giving effect to straightforward amendments to the ACL has been introduced to Parliament, including a bill to increase the penalties available for breaches of the ACL.
- Supported public regulatory impact assessment of several other proposals to amend the consumer law, including significant changes to the consumer guarantees regime and introducing a general safety provision into the ACL.

Public consultation on proposals relating to the consumer guarantee regime was completed in March and April 2018, with consultation on the proposed general safety provision expected to take place shortly.

CAANZ will report back on the progress of these proposals to Ministers in August 2018. The ACCC will continue to work constructively with CAANZ to implement the outcomes of the ACL Review and continuously improve the operation and effectiveness of the consumer law framework.

Implementing new roles in respect of the new Consumer Data Right

The Australian Government decided in November 2017 that it would establish a national Consumer Data Right (CDR), in response to recommendations from the Productivity Commission inquiry into data availability and use. In May 2018 the Government released its response to the Open Banking review confirming the framework and regulatory arrangements for the CDR.

The CDR will allow consumers, including small and medium enterprises (SMEs), to access and transfer data between service providers, enhancing competition and consumer choice. The CDR will apply initially to the banking, energy and telecommunications sectors, with provision for other sectors to follow.

The CDR framework will entail new roles and functions for the ACCC, specifically:

- Providing advice to the Treasurer, following public consultation and regulatory impact assessment, on the cost-benefit of designating sectors that will be subject to the CDR.
- Making rules to govern the implementation and administration of the CDR both generally and in relation to particular sectors.
- Assessing transfer, security, and data standards that govern the implementation of the CDR for a designated sector to certify that they are compliant with the CDR rules.
- Developing and administering processes and mechanisms for the accreditation of data recipients.
- Investigating and taking enforcement action in relation to breaches of the CDR or a sector data standard.
- Undertaking educational activities to ensure consumers, and participants in designated sectors are aware of their rights and responsibilities under the CDR.

The ACCC will also work closely with other agencies that have been given roles under the CDR regime, particularly the Office of the Australian Information Commissioner and the Data Standards Body.

Responding to changing industries

In April 2018 the ACCC released its final report for the market study on the Australian communications sector. The market study examined current and emerging trends and issues that were considered likely to affect the efficiency and level of competition over the next five years. The market study found strong competition in the supply of retail voice and broadband services and observed that current regulatory frameworks remain fit for purpose. However, we identified issues that warrant ongoing examination to ensure markets operate competitively and efficiently. To this end we made 28 recommendations and actions for government, industry and the ACCC to further support competition and benefit consumers.

Key actions from the market study that are currently underway include our inquiry into NBN wholesale service standards and our work with government and the Australian

Communications and Media Authority to improve the consumer experience on the NBN. This complements the range of measures the ACCC is already pursuing to improve consumer information on NBN speeds, including the Measuring Broadband Australia program which tests and reports on key broadband speed metrics.

In December 2017 the ACCC released the final report from its self-initiated market study into the new car retailing industry, which detailed the ACCC's findings from almost 18 months of investigation, consultation and research. Consumer issues in new car retailing, including responses by retailers and manufacturers to consumer guarantee claims, and other matters identified in the final report, are a priority area in the ACCC's 2018 Compliance and Enforcement Policy. Pursuant to the final report's actions and recommendations, the ACCC will continue to:

- work with manufacturers and dealers to develop a concise and simple explanation of consumer guarantees and their interaction with warranties, which should, as industry best practice, be provided to consumers at the point of sale of a new car
- work with other ACL regulators to publish an updated version of the Motor vehicle sales and repair guide, to ensure this publication addresses the issues identified in the market study
- engage with stakeholders where appropriate about the final report's recommendations, including recommendations related to access to technical information and consumer guarantees and warranties
- actively monitor complaints and emerging issues in the sector, and will take further compliance and enforcement action where necessary.

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. 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.

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.

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 commitment 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 in our policy development and advisory roles, decision making and 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 undertakes an annual self-assessment that demonstrates our performance against the framework's six key performance indicators.

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 consumer product safety and information standards.

International and regional economic engagement and cooperation

International and regional engagement and collaboration 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 has benefited from close cooperation with key international competition agencies, including the New Zealand Commerce Commission, the Competition and Consumer Commission of Singapore, the Japan Fair Trade Commission, the Canadian Competition Bureau, the U.S Federal Trade Commission, U.S Department of Justice and the European Commission. These relationships are mutual beneficially to the ACCC and the overseas agencies and assist greatly to ensure that multi-jurisdictional merger reviews and competition enforcement matters are conducted efficiently and effectively. Another consequence of these close ties is the willingness of the agencies to share ideas and intelligence and exchange views on best practice compliance and enforcement and relevant policies. We also work closely together in the International Competition Network and its working groups as well as the OECD competition committee. In our consumer protection work we also work extensively with our counterpart agencies through the International Consumer Protection Enforcement Network.

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 economic regulatory frameworks. The ACCC will continue to participate in the International Institute of Communications and international transport events to contribute to international regulatory thinking in those sectors. The AER will continue to maintain close working relationships with overseas regulatory and energy market monitoring organisations which will be bolstered by staff exchanges. The AER will also continue to attend and participate in international energy events such as the World Forum on Energy Regulation and the Energy Intermarket Surveillance Group. Indeed, in October 2018, the AER will be hosting the 34th Energy Intermarket Surveillance Group forum in Melbourne.

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.

In August 2018, the ACCC will host the East Asian Top Officials Meeting (EATOP) and East Asian Conference. EATOP is an annual event that is sponsored by the Japan Fair Trade Commission and Asian Development Bank Institute. It is hosted in a different country each year and bring heads of the East Asian competition authorities together.

Consumer product safety needs to be considered at every stage in the life cycle of a product from design, through manufacture and supply, use and recycling. In a globalised market regulators should act locally and internationally to achieve good safety outcomes. The ACCC will continue to participate in the Committee for Consumer Policy and as an active participant and a vice-chair of the OECD Working Party on Consumer Product Safety. The Working Party has an annual work plan and develops global campaigns. This year the ACCC and the European Commission are leading the development of a global campaign regarding consumer product safety in the online market. The campaign will be launched in November 2018 during International Product Safety Week. The campaign consists of tailored messages to empower consumers in the digital economy and specific messages for suppliers to help them understand good business practices that help them comply with relevant product safety laws around the world.

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 unsafe products where there could be widespread or serious injury, or death. We will continue to work with stakeholders to encourage the supply of safe consumer products, communicate serious risk, and where necessary develop evidence based interventions. In the online market, the ACCC will continue to proactively engage with online platforms and develop resources and tools to support online suppliers with their product safety compliance obligations. Additionally, the ACCC will explore effective tools to empower online consumers, as well as build on international collaborations with regulators and retailers.

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 affects all our work program areas.

The AER is working with the COAG Energy Council, Energy Security Board and market bodies to address the challenge of ensuring regulatory frameworks 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. We have finalised 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.

Amendments to the National Electricity Law introduced an explicit wholesale electricity market monitoring function for the AER which commenced in December 2016. The AER is required to monitor the performance of the wholesale electricity market and report at least every two years on the performance including identifying and analysing whether there is

effective competition. After public consultation, the AER has developed and published a 'statement of approach' which sets out our proposed analytical framework and provides high level commentary on the key issues. The first monitoring report will be released in December 2018.

4. Performance

4.1. Performance measurement

Performance indicators

Each ACCC and AER strategy has defined priorities and the agency has developed a suite of performance indicators that are directly linked to the priorities, 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 and AER Annual Report. A more complete picture of our performance will emerge as results are reported for subsequent years of the rolling four year reporting period.

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

ACCC stakeholder surveys

In 2017-18 the ACCC conducted its second brand study, a companion report to its biennial Consumer and Business Perceptions Survey. The reports provide insights into the expectations and perceptions of the ACCC among a consumer audience, and provide insights and recommendations about ways to better assist and communicate with consumers. The results will be used during 2018-19 for the continued development of a longer term strategy focused on building stronger communication capabilities across the agency and taking a more tailored approach to targeting audiences.

The ACCC also conducts an annual survey of business stakeholders. 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. The survey results are published in conjunction with the ACCC's annual self-assessment report.

AER stakeholder survey

The AER will continue to conduct regular stakeholder surveys to seek feedback on its performance. Since 2008, the AER has completed 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 fifth survey took place in early 2018.

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.

Results from the survey are publicly available and inform our approach to stakeholder engagement. As a result of feedback from the last stakeholder survey completed in May 2016, the AER reviewed its Stakeholder Engagement Framework, which was first implemented in 2013. The AER published the Revised Stakeholder Engagement Framework in September 2017 which sets out the principles that guide its public engagement with consumers, energy businesses and other stakeholders affected by our activities. Informed by the revised Framework and the 2018 survey results, a stakeholder engagement strategy has been developed.

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:

- regulators do not unnecessarily impede the efficient operation of regulated entities
- communication with regulated entities is clear, targeted and effective
- actions undertaken by regulators are proportionate to the regulatory risk being managed
- compliance and monitoring approaches are streamlined and coordinated
- regulators are open and transparent in their dealings with regulated entities
- regulators actively contribute to the continuous improvement of regulatory frameworks.

Under the framework, the ACCC prepares an annual self-assessment report that outlines results from a range of evidence collected against each KPI across four core functional areas.

The 2016-17 self-assessment identified various areas where our performance could be improved and we have implemented a range of strategies to enhance how we engage with regulated businesses and other stakeholders. This will contribute to minimising the burden imposed on businesses from regulation whilst still achieving our purpose of improving the welfare of all Australians by making markets work for consumers.

The ACCC's 2017-18 self-assessment report will be reviewed and externally validated by the ACCC Performance Consultative Committee prior to it being provided to the responsible Minister and published on the ACCC website.

4.2. ACCC performance indicators

Each performance indicator has a quantitative annual target which is applicable for each reporting period covered by this plan, with the exception of those indicators for which the result 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 (court proceeding commenced, section 87B undertakings accepted)	6
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
Number of merger matters considered (externally driven)	N/A
Percentage of merger matters considered (under the informal merger review process) 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

Performance indicators	Annual target
Number of authorisation applications assessed (externally driven)	N/A
Percentage of authorisation applications assessed within statutory timeframe(s) (excluding time periods where information is outstanding) ¹	100%
Number of exclusive dealing notifications assessed (externally driven)	N/A
Number of collective bargaining notifications assessed (externally driven)	N/A
Number of resale price maintenance notifications assessed (externally driven)	N/A
Number of Certification Trade Marks assessed (externally driven)	N/A

¹ The ACCC is required to assess the validity of an authorisation application within 5 business days of lodgement and to issue a final determination about a new authorisation application within 6 months (unless extended).

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 harm to consumers 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 (court proceeding commenced, section 87B undertakings accepted, infringement notices issued)	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 new or revised business compliance resources (published guidance)	10
Number of times online business education resources have been accessed	1 million
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, the Australian Securities and Investments 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	5

(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)

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.

Performance indicators	Annual target
Percentage of product safety mandatory reports made by businesses of serious injury or death preliminary assessed by the ACCC within 7 days	100%
Number of initial in depth investigations of emerging product safety hazards	10
Number of reviews of mandatory product safety standards completed	6
Number of new or updated published business compliance resources relating to the safety 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	10

business sector.

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	2 million
Number of Infocentre contacts served (includes webforms received)	200,000
Number of 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	4
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 2017, the ACCC produces at least quarterly reports on the prices, costs and profits relating to the supply of petroleum products and related services in the petroleum industry for a period two years.

Performance indicators	Annual target
-------------------------------	----------------------

Number of annual monitoring reports	7
Number of reports on monitoring of unleaded petroleum products	6
Number of reports on broadband markets	8

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	14

Strategy 4 Undertaking market studies and inquiries to support competition, consumer and regulatory outcomes

Responsible ministers may direct the ACCC to undertake certain activities, including market monitoring, inquiries and studies. The ACCC is also able to undertake self-initiated market studies.

Performance indicators	Annual target
Number of completed markets studies and inquiries	4

4.3. AER performance indicators

Strategy 5 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 network regulation to promote efficient investment in energy network services that customers value

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	7 ²
Percentage of revenue reset determinations for electricity networks and gas pipelines and distribution networks completed within statutory timeframes.	100%
Number of annual benchmarking reports on electricity networks	1

² The target is 5 in 2019-20, and 8 in 2020-21.

Percentage of disputes resolved within legislated timeframes, including on network access and connections, and regulatory investment tests	100%
Number of electricity distribution annual pricing (tariff) proposals and annual gas tariff variations approved	22

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 new and amended retailer hardship policies assessed within 12 weeks of receiving all relevant information	100%
Number of retail authorisations and exemptions assessed (externally driven)	N/A
Percentage of retail authorisation and exemptions applications to sell energy 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
Number of formal energy retail enforcement interventions (court proceeding commenced, section 288 (NERL) undertakings accepted, infringement notices issued) (externally driven)	N/A
Percentage of offers published on the AER's Energy Made Easy price comparator website within two business days of receipt from retailers	100%

Promote 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, specifically the National Electricity Market, which is a spot market in eastern and southern Australia; and spot markets for gas in Adelaide, Sydney, Brisbane and Victoria, and gas supply hubs at Wallumbilla (Queensland) and Moomba (South Australia).

Performance indicators	Annual target
Number of quarterly reports on compliance in wholesale electricity and gas markets.	4
Percentage of quarterly compliance reports published within 6 weeks of the end of the quarter	100%

Number of audits completed of systems for energy businesses that are critical to market efficiency and energy security	1
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 wholesale electricity market high price events and significant price variations in spot gas markets activity published within statutory timeframes	100%
Number of targeted reviews of compliance with the national energy rules	4
Number of reports on effective competition in the wholesale electricity market	1

Contribute our expertise and insight and support energy market reforms

The AER will also contribute its expertise and insight to inform energy policy development processes and work with COAG Energy Council, Energy Security Board and other market institutions to advance energy market reforms.

Performance indicators	Annual target
Publish the <i>State of the Energy Market</i> 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 and Chair, 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. The AER produces *Energy Dispatch* on a bimonthly basis, which details our activities in the energy sector and highlights our milestones and decisions.

5. Cooperation and collaboration

The ACCC and AER collaborate and cooperate with a wide range of stakeholders to achieve our purpose, including other Australian and international regulatory agencies; other government departments and agencies; and business, industry, and consumer advocacy groups.

The ACCC engages and collaborates extensively with state and territory fair trading and consumer affairs agencies as part of the administration and enforcement of the ACL. The

Legislative and Governance Forum on Consumer Affairs (CAF) is responsible for the administration of the ACL and for other specific issues under the Intergovernmental Agreement for the Australian Consumer Law (IGA) and the Trans-Tasman Mutual Recognition Agreement.

To achieve outcomes under a one law, multi-regulator model, Australian and New Zealand Consumer Affairs Agencies have established a number of committees to achieve its outcomes and facilitate cooperation and collaboration. There are three main committees: the Policy and Research Advisory Committee (PRAC), the Education and Information Advisory Committee (EIAC) and the Compliance and Dispute Resolution Advisory Committee (CDRAC). Separately, CDRAC has two sub-groups to provide support at an operational level: the Fair Trading Operations Groups (FTOG) and the Product Safety Operations Group (PSOG).

In undertaking our consumer product safety functions, in addition to collaboration with state and territory fair trading agencies through PSOG, we work in partnership with other federal agencies to deliver and coordinate actions that ensure better safety outcomes. We also work with many organisations including the Department of Home Affairs, the Asbestos Safety and Eradication Agency, the Department of Health, the Department of Infrastructure, Regional Development and Cities, Kidsafe, the Royal Life Saving Society, various industry associations, Standards Australia and state and territory fire safety agencies.

To assist with the enforcement and administration of the CCA and the ACL the ACCC works collaboratively with a number of key regulators. The ACCC and the Australian Securities and Investments Commission have quarterly liaison meetings and have agreed on a number of cross delegations to each agencies to deal with consumer protection concerns. In addition, the ACCC regularly engages with a number of industry specific regulators, including the Therapeutic Goods Administration, Australian Health Practitioner Regulation Agency, and the Fair Work Ombudsman.

The ACCC works closely with the Commonwealth Director of Public Prosecutions (CDPP) in relation to investigations and criminal prosecutions concerning serious cartel conduct and the operation of the *ACCC immunity and cooperation policy for serious cartel conduct*. Under the CCA, the ACCC is responsible for investigating allegations of cartel conduct, including serious cartels. The CDPP is responsible for the prosecution of offences under Commonwealth law, which includes serious cartels. The ACCC and the CDPP consult regularly throughout cartel investigations at a case officer and executive level. The agencies also have regular engagement to ensure case processes and procedures are working efficiently and effectively.

The ACCC routinely consults with overseas regulators and Australian agencies and industry bodies on merger reviews and in relation to applications for authorisation of conduct otherwise prohibited under the CCA.. The ACCC contributes extensively to both the International Consumer Protection Enforcement Network (ICPEN) and the International Competition Network (ICN). This collaboration provides the ACCC with valuable information and insight about regulatory practices and emerging issues overseas.

In engaging with and educating consumers and small business, we regularly collaborate with business, industry, consumer advocacy groups and other government agencies at committees to identify potential areas of concern and to develop targeted ACCC responses. These committees include the Consumer Consultative Committee, the Small Business and Franchising Consultative Committee, the Education and Information Advisory Committee and the Scams Awareness Network.

In undertaking the various regulatory functions in relation to national infrastructure industries, the ACCC engages closely with a diverse range of industry and government stakeholders, including:

- Commonwealth and state/territory government departments and regulators including the Department of Communications and the Arts, the Department of Agriculture and Water Resources, the Treasury, the Australian Communications and Media Authority, the Australian Energy Market Commission and the Australian Energy Market Operator.
- Industry and consumer representatives including the Communications Alliance, fuel suppliers, port and shipping bodies, the Australian Communications Consumer Action Network, motoring organisations and insurance consumers in Northern Australia.

The ACCC convenes regular meetings of consultative committees, including the Fuel Consultative Committee and the Infrastructure Consultative Committee to explore topical matters with stakeholders. The ACCC also participates in meetings of the Council of Financial Regulators on issues relating to contestability and competitiveness. To continue to develop best practice approaches to regulation the ACCC attends the Utility Regulators Forum which promotes cooperation between Commonwealth, state and territory economic regulators. The ACCC also contributes to the work of the OECD Network of Economic Regulators.

The Legal and Economic Division engages with other government departments and agencies, academia and the private sector on a regular basis to exchange learnings and enhance expertise in competition, consumer protection and regulatory law and economics. We participate in a number of government, professional and academic networks including a competition economists' network, the Law Council of Australia and the Commonwealth General Counsel Working Group, and have built strong relationships with the private legal firms who provide services to us. We organise two key forums each year, the ACCC and AER Regulatory Conference and the ACCC-University of South Australia Competition Law and Economics Workshop (co-hosted with UniSA) which bring together both Australian and international experts to discuss key and emerging competition and regulatory issues.

The ACCC provides monthly reports to the Law Council of Australia—as part of the Business Law section's Competition and Consumer Committee meetings. The reports cover enforcement outcomes, merger and authorisation decisions and updates on regulatory affairs.

The ACCC also engages extensively with the Treasury, including regular meetings, updates and briefings between officers. The ACCC liaises with Treasury on policy issues, including the review and development of product safety regulations and changes to the regulatory or legislative framework that the ACCC believes would improve outcomes or reduce compliance costs for business and the community. The ACCC also engages with a range of other government departments, including providing input, briefings and liaising in relation to education and compliance initiatives.

In line with the Government's Statement of Expectations and the ACCC's Statement of Intent, the ACCC provides timely and accurate information to Treasury Portfolio Ministers, subject to the ACCC's obligations regarding the protection of investigative information. Details about the agency's extensive international and regional engagement is covered in section 3.

In performing its functions, the AER engages closely with a range of government, industry and consumer stakeholders including:

- the Council of Australian Governments Energy Council and its Senior Committee of Officials as well as the Energy Security Board in delivering its work program.
- other market bodies – the Australian Energy Market Commission (rule maker and market developer) and the Australian Energy Market Operator (the energy system and market operator) to oversee the energy sector.

- other government stakeholders such as commonwealth and state/territory energy departments, the Clean Energy Regulator, the Australian Securities and Investment Commission, state-based energy regulators and commonwealth and state ombudsmen.
- industry stakeholders such as electricity and gas generators, networks business and retailers as well as industry representative groups such as the Energy Networks Association, Energy Users Association of Australia, the Australian Energy Council, Australian Gas Association, Australian Petroleum Production and Exploration Association.
- consumer stakeholders including consumer advocacy groups such as the Consumer Action Law Centre, Energy Consumers Australia, the Public Interest Advocacy Centre, UnitingCare Australia and St Vincent de Paul Society amongst others as well as individual consumers.

A core part of the AER's strategy is to work for the long term interests of consumers, and as such we have established a Consumer Challenge Panel of experts who assist the AER to make better regulatory determinations by providing input on issues of importance to consumers. The AER has also established a Customer Consultative Group which provides advice to the AER in relation to our functions under the energy laws affecting energy consumers.

The AER has developed strong links with international organisations such as the Council of European Energy Regulators, the New Zealand Commerce Commission and Ministry of Business, Innovation and Employment, Ofgem, Ontario Independent Electricity System Operator, and the United States Department of Energy and Federal Energy Regulatory Commission. The AER has staff exchange agreements with overseas energy regulators to share knowledge and experience with our international counterparts. The AER is a member of the Energy Intermarket Surveillance Group which is the peak international group for coordination between energy market surveillance and enforcement bodies and participates in international regulators forums such as the World Forum on Energy Regulation.

6. Capability

6.1. 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) and various specific project boards. 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, and is well equipped to oversee our corporate and financial performance. The Executive Management Board

consists of the agency's senior executives and the ACCC Chair, and meets weekly to consider whole-of-agency operational matters.

6.2. 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 will increase to 909 during 2018-19.

The agency has developed a three year Strategic Workforce Plan (SWP) 2018-21 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.

The SWP has a focus on building on our core capability with the support of a more inclusive culture. This will better align the organisation with community standards, best practices in other organisations and changes to employment preferences of new employees. The research on building a more inclusive culture shows that employee productivity and engagement increases if they embrace more diversity in the workplace.

Outcomes from the APS Census, EL2 conference 2017 and the Senior Manager Conference 2018 indicate that inclusive behaviours are highly valued and help drive higher levels of innovation and engagement.

In building a more inclusive culture, the SWP is structured around three key strategies:

- Mobility; ability to attract and retain talent and organisational capability and mobilise the workforce.
- Flexibility; ability to respond to career aspirations and changes in work volumes and the ability for employees to work flexibly while organisational capability is sustained.
- Capability; which means the ability to:
 - effectively manage workloads and maintain engagement, teams skills and technical capability
 - leaders who demonstrate inclusive behaviours and practices and are stewards for the organisation
 - grow employee resilience and wellbeing
 - ability to work anywhere, any time
 - sustaining team skills and technical capacity and building expertise for the future.

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, data analysis, regulatory/legal frameworks and public policy, engineering, 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.

The SWP will support the building of skills and expertise by:

- policies that attract and retain key staff; this means having policies that better meets their needs such as more flexible work practices and the ability to move around the organisation
- more targeted recruitment of specific skills
- continuation of the graduate program
- removal of recruitment blockages.

6.3. 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 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.

Over the past 4 years we have grown financial management capacity and skills to achieve 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 to 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 (in nominal \$s) for 2018-19 and forward years of the budget estimates. The tables also include the funding for the 2018-19 budget measures consisting of the Takata Airbags Compulsory Recall, National Consumer Data Right and the extension of the Commercial Construction Unit.

Program 1 ACCC 2018-19 to 2021-22 (\$millions)

	2018-19	2019-20	2020-21	2021-22
Revenue	152.66	144.37	139.23	134.85

Program 2 AER 2018-19 to 2021-22 (\$millions)

	2018-19	2019-20	2020-21	2021-22
Revenue	57.32	54.75	52.34	52.78

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 Perth and Adelaide offices, 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 2018-19, 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 2017-20 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 procurement systems that provide ready access to the required skills in the market.

Service delivery will be focused in the following areas:

- data management to allow intelligent data analysis to support informed and more nimble decision making
- a coordinated approach to information management that will provide scope for improving business value and additional organisational efficiencies
- provide for access to sensitive information and data, primarily from other government agencies and which carries a Protected classification
- the ability to work seamlessly from anywhere and at any time. Connectivity and mobility needs to be simple but secure
- a digital innovation framework that describes how an idea can progress from inception through to the creation of a business case; to the development and implementation stages; and to the harvesting and measurement of the benefits created.
- enhancing or delivering additional collaborative technologies that will assist staff to work more effectively
- providing efficient user interfaces, reducing the number of times information or data is stored, and ensuring the same information is only entered once
- focus on adhering to Government cyber security guidelines and monitoring malevolent activity; and increasing ICT Security awareness across the ACCC and AER.

6.4. 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 the Legal Group, the Economic Group and the Strategic Data Analysis Unit.

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.

The Legal Group assists 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 facilitates 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 Strategic Data Analysis Unit (SDAU) provides expert quantitative advice and support to line areas of the agency. Members of the unit work on key inquiries and matters where the use of data and analysis can assist. Members of the unit assist with framing analysis, determining data sources, performing analysis and communication of analytical results. The SDAU complements the work of the Economic Group and assists it where appropriate.

6.5. International Engagement

The ACCC has adopted an International Engagement Strategy to target, prioritise and evaluate its engagement in international related activities, so that we can ensure markets are working better for Australians and their businesses. The objectives of the International Engagement Strategy are as follows:

- (a) Engage in relevant international fora to address existing and emerging competition and consumer protection challenges and promote ACCC priorities, including:
 - fostering multi-lateral mutual assistance and cooperation with international counterparts, to progress mutual assistance and progress international harmonisation of laws and practices where of benefit to Australia and Australian consumers
 - encouraging an international regulatory environment that enhances the welfare of Australians through advocacy, education, and sharing of expertise; including through strategic leadership and participation in certain international events
 - participating in select international survey and rating exercises
 - working with other Australian Government agencies to ensure ACCC expertise, analysis and perspectives are provided to key international negotiation and agreement processes.
- (b) Support existing, and grow emerging, relationships with international counterpart agencies in order to:
 - have beneficial informal and formal collaboration with international partners, including cross-border collaboration between staff on investigations and mutual assistance in relation to matters affecting Australians originating off-shore
 - facilitate incoming and outgoing secondments/staff exchanges in order to improve the depth of expertise
 - progress cooperation activities within existing Memoranda of Understanding (MOU) and to develop new MOUs and/or other bi/tri/multilateral agreements.
- (c) Enhance ACCC capability by engaging employees or informing them about international practices and developments to assist them in their daily work, including:

- keeping abreast of ACCC investigations to identify where similar work has been/is being undertaken internationally and updating staff as required
- facilitating access to existing international tools and material to improve practice
- facilitating the effective dissemination of learning from international engagement activities
- targeted engagement with relevant international academic, business, academic events.

Some examples of how this strategy is applied in practice, including through the Competition Law Implementation Program, are detailed in section 3.

6.6. Communication

The ACCC and the AER seek to communicate with a broad range of audiences and stakeholders across a range of different channels, including traditional media and social media channels, and via its ACCC, AER, Energy Made Easy, Scamwatch and Product Safety Australia websites.

The purpose of the ACCC's media engagement is to reach consumers, small business people, corporates, government stakeholders and others with information about the ACCC's decisions, enforcement actions, and general awareness of issues like consumer guarantees and fuel pricing information.

Similarly, the AER uses multiple channels to deliver clear and targeted messaging to its stakeholders in government, industry and the community. Combined with the agency's Stakeholder Engagement Framework, this approach allows the AER to communicate complex and technical issues in ways that are more easily understood by stakeholders and consumers.

7. 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 and AER, through its corporate governance framework, 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 *ACCC and AER Enterprise Risk Management 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.

Both the ACCC and AER continue to improve approaches to achieve a higher level of 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 continue to be the education and training of managers and employees in risk management, improved tools and analysis, and further enhancing the agency's systems of monitoring and reporting risks through the business planning and quarterly report processes. The Audit Committee also plays an active role in these areas by engaging with divisions around risk management.

The diagram below sets out at a high level our approach to risk oversight and management.

