

# STATEMENT OF EXPECTATIONS — AUSTRALIAN COMPETITION AND CONSUMER COMMISSION

This Statement outlines the Government's expectations about the role and responsibilities of the Australian Competition and Consumer Commission (ACCC), its relationship with the Government, issues of transparency and accountability and operational matters. It forms part of the Government's commitment to good corporate governance of agencies and reducing the regulatory burden on business and the community.

The ACCC plays a key role in achieving sound and effective competition and consumer regulatory frameworks. Its role includes promoting competition by taking action to stop anti-competitive conduct, protecting the interests and safety of consumers and supporting fair trading in markets, and promoting the economically efficient operation of, use of and investment in monopoly infrastructure.

It is imperative that the ACCC act independently and objectively in performing its functions and exercising its powers as set out in the *Competition and Consumer Act 2010*. Nevertheless, the Government expects that the ACCC take into account the Government's broad policy framework, including its deregulation agenda, in performing its role and meeting its responsibilities.

## THE GOVERNMENT'S DEREGULATION AGENDA

The Government is committed to reducing red tape and compliance costs for business and the community as a critical step towards improving Australia's productivity.

The Government is overhauling the process for creating, implementing and reviewing new regulation. This includes a process within Government whereby the costs and benefits of additional regulation are carefully balanced, and the costs of new regulations are offset.

The Government expects that the ACCC will look for opportunities to reduce compliance costs for business and the community and contribute to the Government's \$1 billion red and green tape reduction target.

The Government also expects that the ACCC will comply with the Government's enhanced Regulatory Impact Analysis requirements for all regulatory proposals, including considering the impacts of regulation on business and the community and costing proposals before they are introduced using the Regulatory Burden Measurement framework.

Enhancing the effectiveness and efficiency of key economic regulators including the ACCC will make a major contribution to the deregulation agenda and help to boost productivity.

The Government expects that the ACCC will act in accordance with regulatory best practice in its decision-making, policies, processes and communication practices to maximise effectiveness, efficiency and transparency, and minimise compliance costs. The ACCC should regularly review its policies and procedures to achieve these goals.

The Government's preference is for principles-based regulation that identifies the desired outcomes, rather than prescribing how to achieve them. An outcomes-based approach is more likely to accommodate change within the economy, allow for innovation and enterprise and reduce compliance costs by allowing regulated entities to determine the best way of meeting regulatory objectives.

The Government considers that regulators should adopt a risk-based approach to compliance obligations, engagement and enforcement, allowing for proportionate approaches suited to the size, nature, complexity and risk of regulated entities. This allows regulators to achieve their objectives more efficiently and reduce the overall regulatory burden, particularly for small businesses. This approach

also recognises that it is not possible or efficient to eliminate all risks and that trade-offs in risk reductions are necessary.

The Government will provide the ACCC with further detail about a whole-of-government risk management framework and expectations for the ACCC's performance against specific performance indicators in the second half of 2014.

## **RELATIONSHIP BETWEEN THE ACCC AND THE GOVERNMENT**

The Government recognises and respects the statutory independence of the ACCC and its responsibility for competition and consumer regulation as provided by statute. Confidence in the regulatory framework requires that the ACCC is, and is seen to be, exercising independent judgment about the application of the regulatory framework to individual circumstances.

Nevertheless, the ACCC was established to administer regulatory frameworks that implement government policies and priorities for competition and consumer regulation. Therefore, the ACCC should take into account the Government's broad policy framework and have due regard to minimising costs to business without compromising commercial certainty. Where the ACCC has powers to make orders or rules or make exemptions, and the exercise of that power would have significant implications for the market or regulated population, the Government expects that the ACCC will consult as appropriate with stakeholders and the Government. The ACCC should also consider the outcomes or recommendations of relevant Government-established panels, reviews or inquiries.

## **RELATIONSHIP WITH THE RESPONSIBLE MINISTER**

The ACCC plays an essential role in ensuring that the Government is well placed to respond promptly to issues that may arise in competition and consumer regulatory policy.

The ACCC should therefore provide Treasury portfolio Ministers with accurate and timely advice on significant issues in its core area of business. Significant issues might include: matters for which the Government is likely to be accountable in Parliament; important ACCC operational or budgetary issues; and the ACCC's decisions regarding the appropriate action for it to take following substantial problems or disruption in the market, including substantial breaches of competition and consumer regulatory frameworks.

## **RELATIONSHIP WITH TREASURY**

Treasury's key role is to support and advise me and other Treasury Ministers in our responsibilities by being the principal source of advice on a wide range of issues, including policy development and the performance of the regulatory system.

The Government expects that Treasury and the ACCC will maintain a close relationship. Treasury takes into account the views and experience of the ACCC when considering and advising on changes to competition and consumer policy and legislation to facilitate consistency between the objectives of legislation and its practical implementation. By advising Treasury on the operational implications of Government policy initiatives, the ACCC contributes to policy development.

Therefore, all information, briefing, press releases and correspondence being provided to Ministers by the ACCC should be provided to the Secretary to the Treasury. The ACCC should keep the Secretary to the Treasury appropriately informed of significant high level meetings between the ACCC and Government Ministers and other key policy figures. The ACCC should also advise Treasury about changes to legislation that, in the ACCC's opinion, would improve the regulatory framework or minimise compliance costs for business and the community.

## **REGULATORY COOPERATION**

The Government expects that the ACCC will maintain robust, effective and collaborative working partnerships with other Commonwealth and State and Territory agencies, as well as the ACCC's counterpart regulators in overseas jurisdictions, to ensure the proper functioning of Australia's regulatory framework. The ACCC should avoid the duplication of the supervisory activities of other regulators, and should consider whether outcomes could be achieved by using existing regulation administered by another regulator, in order to ensure an integrated regulatory framework and minimise compliance costs.

## **TRANSPARENCY AND ACCOUNTABILITY**

The ACCC was established as an independent body to administer the competition and consumer regulatory frameworks. Nevertheless, the ACCC operates as part of the Australian Government and is accountable to the Parliament, and ultimately to the public, through the Treasury Ministers, the Parliamentary Committee process and the tabling of its annual report.

The Government expects the ACCC to have an open and sound working relationship with the entities that it supervises. It is important that the ACCC encourages industry participants to communicate considered and candid views to the ACCC, in order to enhance the regulatory framework and outcomes, and minimise compliance costs.

## **ORGANISATIONAL GOVERNANCE AND FINANCIAL MANAGEMENT**

The ACCC employs staff under the *Public Service Act 1999* (PSA). Under the PSA, agencies are required to uphold and promote the APS Values. All APS employees are required to adhere to the APS Code of Conduct. The ACCC is also required to comply with the APS Bargaining Framework in relation to APS employees.

The requirements for the ACCC's financial management are set out in the relevant legislation and the Finance Minister's Orders. In this regard, I note that the ACCC must comply with the Government's recent requirements in relation to approval for overseas travel. The Government expects that the ACCC will continue efforts to secure improved efficiency in their operations and demonstrate value for money for the services that it delivers.

## **CONCLUSION**

The Government's vision is for the ACCC to be a high performing and responsive agency that administers a principles-based regulatory framework in a way that minimises compliance costs for business and the community, provides stability, is efficient and effective, and that balances the objectives of the ACCC's statutory objectives set out in the *Competition and Consumer Act 2010*.