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Dear Committee Secretariat

ACCC submission to Select Committee on Productivity in Australia

The Australian Competition and Consumer Commission (ACCC) welcomes the opportunity to provide a submission to the Senate Select Committee on Productivity in Australia.

The ACCC is an independent Commonwealth statutory agency that promotes competition and protects consumers across Australia. The ACCC's primary responsibilities are to enforce compliance with the competition, consumer protection, fair trading and product safety provisions of the *Competition and Consumer Act 2010* (Cth) (CCA) and regulate national infrastructure. In carrying out these functions, the ACCC's work is guided by its strategic objectives of protecting Australians from harmful products and practices, championing stronger competition across the economy, and delivering benefits through right-sized regulation.

Introduction

The ACCC believes competition is essential to productivity, innovation and long-term growth. Well-functioning markets encourage firms to improve efficiency, invest in innovation and respond to consumer needs through lower prices, higher quality goods and services, and greater choice.

The Organisation for Economic Co-operation and Development's (OECD) 2026 Economic Survey of Australia makes clear that strong competition policy, vigorous enforcement, and sustained market oversight are central to lifting Australia's medium-term economic prospects. The OECD has found that productivity is around 50 per cent higher in countries with the most competition-friendly regulatory settings than in those with the weakest.¹

Australia's competition laws are designed to ensure that markets operate effectively by preventing conduct that substantially lessens competition, including anti-competitive acquisitions, coordinated behaviour and misuse of market power. Effective competition law enforcement helps to ensure that barriers to entry and expansion are not created or entrenched, and that competitive pressures are maintained over time.

Competition policy is also fundamentally connected to consumer protection. Strong competition and effective consumer protection work together to build trust, participation, and confidence in markets. They are vital to the proper functioning of markets and to the strength of the economy as a whole.

¹ OECD (2026), *OECD Economic Surveys: Australia 2026*, OECD Publishing, Paris, <https://doi.org/10.1787/d22a1efd-en>

The ACCC exists to ensure that competition and consumer law operates as intended, through clear standards, active oversight, and enforcement where conduct causes harm. This includes the use of a range of regulatory and enforcement tools, applied with a focus on conduct that poses the greatest risk to competition and consumers.

Right size regulation

Our approach to this responsibility is grounded in right-sized regulation. Specifically, rules that are rigorous where harm is greatest, proportionate where regulatory burdens risk stifling progress, and always directed to the same end – protecting consumers, promoting competition, and enabling innovation and productivity.

This includes advocating for both the introduction of new legislation where it is needed, and the removal or updating of regulation that is no longer fit for purpose. This principle is in action at the ACCC across our broad range of work in merger reform, digital platforms, telecommunications, product safety and scams prevention.

As an example, the ACCC has commenced a three-year program reviewing mandatory product safety standards. The reviews will consider whether international or overseas voluntary standards offer an equivalent or better level of consumer safety, compared to existing mandatory standard requirements. Where this is the case, we will recommend the Minister amend the mandatory standard to allow products to comply by meeting the requirements in the international or overseas standard. These reforms will reduce regulatory costs for suppliers, expand consumer choice and competition, and are expected to put downward pressure on prices.

Regulatory reform

We welcome the updated National Competition Principles agreed by the States and Territories in 2024. These principles, if implemented, have the potential to meaningfully improve the regulation and productivity of infrastructure across Australia.

Infrastructure

Our infrastructure sectors are the backbone of our economy and provide essential inputs and logistics into goods and services produced across Australia. Providing robust market information and promoting efficient access and pricing in these sectors, to address monopoly power and high concentration, is crucial to Australia's overall economic productivity.

At the same time, regulation must be right-sized, strong where market power is entrenched, and light where competition is working. The CCA provides important tools, however parts of the framework are inflexible, fragmented and not fully suited to modern infrastructure and economies. Recent markets studies' findings and recommendations highlight where current regulation falls short. Reform is needed to make the system fit for purpose.

Where competition is not feasible, or is susceptible to the exercise of market power, regulation must drive efficiency. Infrastructure such as airports, ports, rail, energy networks and communications systems underpins almost every part of the economy. When these assets face little or no competition, their owners can raise prices, impose unfair terms, reduce service quality or delay investment. Even where there is not a pure monopoly, highly concentrated markets can weaken competitive pressure and allow firms to earn returns above efficient levels or drive poor customer service or quality. Over time, this raises costs across supply chains, discourages entry and slows innovation. That directly harms productivity.

For example, some major Australian infrastructure assets operate in markets with very limited competitive alternatives but are not subject to binding price regulation. For example, Australia's 4 largest airports, Sydney, Melbourne, Brisbane and Perth, are only subject to price monitoring. Similarly, major ports such as the Port of Newcastle are not subject to comprehensive economic regulation. In these cases, geography and market structure limit competitive discipline.

Part IIIA of the CCA allows third parties to seek access to nationally significant infrastructure. While it should be an important safeguard, its operation is complex, legalistic and slow and it would need to be modified to be more effective. The test focuses on whether access would promote competition in another market. This can be difficult to prove where the main problem is monopoly pricing rather than outright refusal of access. The regime was designed decades ago and is not well adapted to digital infrastructure, where control over data or interoperability can act as a bottleneck.

Part VIIA provides for price monitoring, including for airports and stevedores, as noted above. Monitoring improves transparency and can drive more productive and efficient market decisions and outcomes, by providing accurate and reliable market information for investors, consumers and policy makers. However, on its own it does not impose any safeguards for users and ultimately end-users. If high returns are identified, there is no automatic pathway to stronger action. The system is largely backward-looking and focused on price, even though access problems often arise through non-price terms.

Part VIIA also contains a price notification regime that requires certain declared businesses to notify proposed price increases and allows only 21 days for assessment. These provisions have not been substantially updated since 2011 and reflect an earlier regulatory model. To work within these constraints, we have released a Statement of Regulatory Approach to price notifications. This provides upfront guidance on cost allocation, financial modelling, rate of return principles and information requirements, enabling more structured and transparent assessment despite the limited statutory timeframe. In practice, this approach has been applied to notifications from Australia Post and Airservices Australia, helping to promote predictability and reduce the risk of inefficient pricing outcomes. However, the underlying legislative framework remains narrow, binary in nature and procedural, limiting flexibility where deeper structural issues arise and limiting the ability to target the regulatory decision to the harm in question.

The regulatory toolkit within the CCA is currently insufficient and does not always provide clear, flexible options to address persistent market power in either physical or digital infrastructure.

A right-sized system would be more graduated. Where there is enduring monopoly or extreme concentration, stronger and clearer access mechanisms should be available. Where some competition or countervailing power is present, lighter-touch approaches should apply. The framework should be simpler, faster and able to deal with both price and non-price barriers. It should also be technology-neutral so it can respond to digital bottlenecks and proportionate to make the scale of the intervention to the extent of market failure.

Modernising and better integrating the regulatory toolkit will help lower economy-wide costs, support entry and innovation, and lift long-term productivity.

ACCC competition enforcement program

As the national competition regulator, a central part of the ACCC's role is taking enforcement action to address competition concerns in Australian markets and to achieve proportionate

and effective outcomes. Enforcement action demonstrates, case-by-case, that business is accountable for anti-competitive behaviour and that harm will be addressed.

The ACCC has a strong record of enforcement. We strategically manage our competition enforcement program through the application of our [Compliance and Enforcement Policy and Priorities](#) to ensure that our actions address conduct that does the greatest harm to consumers and competitive processes.

We use the full suite of our regulatory tools to investigate suspected breaches of the competition law and act on non-compliance. The ACCC has the power to take civil court action, refer alleged serious cartel conduct to the Commonwealth Director of Public Prosecutions (CDPP), accept court enforceable undertakings and resolve matters administratively.

Competition enforcement is complex and takes time to investigate and litigate. Where appropriate, we use non-litigated measures to resolve serious competition concerns more quickly, allowing competition in markets to be restored earlier.

Our recent action against Google demonstrates our ability to combine enforcement tools to achieve an outcome that most benefits competition and consumers in a timely way.

The Federal Court ordered Google Asia Pacific to pay a penalty of \$55 million after it admitted to breaching Australia's competition laws in relation to understandings it reached in the past with each of Telstra and Optus for pre-installation and placement of Google Search on Android devices. Importantly, this outcome is coupled with a court-enforceable undertaking containing forward-looking commitments to modify the way it distributes Google Search in Australia. It also builds on previous undertakings provided by each of Telstra, Optus and TPG. These commitments provide for immediate and meaningful change for millions of Australian consumers.

The ACCC also achieves outcomes that strengthen competition without litigation. For example, the ACCC recently accepted a court-enforceable undertaking from Equifax to address exclusive agreements. These agreements prevented Equifax's competitors from accessing important sources of electronic payroll and superannuation data used to supply automated income verification services. The ACCC was concerned these agreements risked hindering existing competition and innovation in a developing market where access to data is critical. Promoting competition in this crucial part of the lending process boosts productivity by replacing slow and costly manual verification practices with quick and efficient automated methods, lowering the cost of providing loans. As a result of the ACCC's investigation, Equifax removed the exclusivity provisions in its key data supply agreement and agreed not to enter into similar exclusive agreements in future. The ACCC's intervention restored supply of electronic data to one of Equifax's closest competitors. Additionally, this outcome paves the way for other providers to access the data needed to supply competing services and innovate.

Litigation continues to play a critical role in our action against cartel conduct. The ACCC will always prioritise cartel conduct causing detriment in Australia and our actions against cartels make it clear that collusion, in any sector and at any scale, is incompatible with competition and will be met with serious consequences.

The ACCC currently has four cartel matters before the Federal Court, in sectors ranging from mobile cranes, fresh vegetables, the oil and gas industry, and the supply of facility management services to the Department of Defence. Cartel proceedings are typically highly contested and, in 2025, the Full Federal Court upheld decisions in favour of the ACCC in our cartel cases against Delta Building Automation and BlueScope Steel.

Moving away from cartels, the ACCC has a case before the Federal Court alleging misuse of market power against Mastercard which will go to trial in March 2026.

We also have a robust pipeline of matters under investigation, spanning both the competition provisions and cartel conduct.

The ACCC remains committed to protecting competition, and to enforcing compliance with Australia's competition law.

Consumer protection enforcement

Consumer law investigations often concern conduct that distorts consumers' ability to make fully informed decisions about their options. In some circumstances, distorting consumer choice can have an anti-competitive effect by impacting decisions about what goods or services to buy, and which businesses to purchase from and when. This can have consequences for the ability of businesses to compete or enter new markets.

The ACCC regularly takes compliance and enforcement action concerning conduct that we allege contravenes the ACL and which we consider had the purpose or effect of distorting consumer choice.

In October 2025, the ACCC instituted proceedings against Microsoft Corporation and Microsoft Pty Ltd for allegedly misleading approximately 2.7 million of Microsoft's existing Australian customers about the subscription options available to them. The case concerns the integration of Microsoft's generative AI product, Copilot, into its Microsoft 365 Personal and Family subscriptions. The development and supply of generative AI products is a rapidly proliferating market in which various established and new entrants are competing. In our current proceedings, the ACCC alleges that, as a result of Microsoft's conduct, consumers may have permitted auto-renewal of their subscriptions at a higher price, with AI integration, based on false or misleading information, believing that it was their only option to maintain access to the features of their existing plan.

As Australia's competition and consumer protection regulator, the ACCC has increasingly prioritised environmental and sustainability issues where they intersect with the effective functioning of markets. Our focus is not on determining environmental outcomes themselves, but on ensuring markets operate competitively, transparently and free from distortion. This includes safeguarding the competitive process and preventing market outcomes from being undermined by deceptive or misleading conduct.

In the environment and sustainability context, this means protecting consumers during the green transition by addressing misleading or unsubstantiated claims about the environmental benefits of goods and services. A growing number of consumers wish to make environmentally conscious purchasing decisions and, in some cases, are willing to pay a premium for products and services that reflect genuine sustainability commitments.

This demand has the potential to drive innovation, reward efficient businesses, and accelerate the transition to a lower-emissions economy—supporting long-term productivity growth. However, these benefits can only be realised where the claims consumers rely on are credible, accurate and easy to understand.

Greenwashing undermines this process. By creating a false equivalence between substantiated and misleading claims, greenwashing distorts consumer decision-making, disadvantages businesses making genuine investments in sustainability, and weakens incentives to innovate. Over time, this erodes consumer trust, reduces competitive pressure,

and dampens the productivity-enhancing benefits of well-functioning markets. Greenwashing also impedes the innovation required to meet long-term decarbonisation objectives, slowing the economy-wide reallocation of capital, skills and resources needed for more sustainable growth.

Reflecting these risks, the ACCC has prioritised consumer and fair-trading concerns relating to environmental and sustainability claims since 2022. In recognition of the significant impact of greenwashing on consumer trust and market integrity, this remains a specific enforcement and compliance focus.

Our work includes enforcement investigations into potentially false or misleading environmental claims, with matters currently under investigation and before the courts. This activity is directed at maintaining confidence in markets and ensuring competition occurs on the merits, rather than through misleading representations.

Consistent with this approach, the ACCC has pursued a number of investigations and enforcement actions, including Federal Court proceedings against Clorox Australia concerning representations that certain GLAD garbage bags were made from “50% ocean plastic”. The Court subsequently ordered Clorox to pay \$8.25 million in penalties after finding the claims were misleading because the plastic was sourced from waste collected near shorelines rather than from the ocean itself. Misleading sustainability claims such as these can distort consumer choice and undermine fair competition by allowing businesses to obtain an advantage through unsubstantiated environmental representations.

Genuine environmental and sustainability claims can benefit consumers, support efficient market outcomes, and facilitate a more productive green transition. A well-functioning market in this context requires transparency, including accurate communication and, where appropriate, proactive disclosure of environmental performance.

To support this, the ACCC published *Making environmental claims: a guide for business* in 2023. The guidance is intended to promote compliance and transparency, and to support businesses in communicating confidently and accurately about genuine sustainability initiatives—thereby reinforcing trust, competition and productivity in the green transition.

Mergers

While most mergers are not anti-competitive and can have economic benefits, some mergers can cause long-term economic harm as a result of changes to the structure of markets. It is widely recognised that concentrated markets are generally not good for consumers – or for economic growth and productivity. Companies operating in concentrated markets tend to charge higher price markups above costs for their goods and services. They also often have less incentive to compete by innovating in ways that benefit consumers.

A strong and effective merger regime is fundamental to competitive, dynamic and resilient markets that support consumer confidence, and drive innovation and productivity.

Our experience under the previous informal voluntary system was that there were some significant acquisitions not coming to the ACCC for review, allowing firms to consolidate and build market power unchecked. This was consistent with the Competition Taskforce’s data analysis² which indicated that between 1,000 – 1,500 mergers took place each year

² Competition Review Taskforce, [‘Tracking mergers in Australia using worker flows’](#); see also Andrew Leigh, [‘Game Changer Harnessing Microdata for a Fairer Competition Landscape – Speech’](#), 30 January 2024.

between 2003 – 2018 with the ACCC notified of around 330 each year on average under the voluntary regime. About half of the 1000-1500 mergers are made by the largest one per cent of businesses.

This is why the ACCC advocated for reforms to the way mergers were considered in Australia. On 1 January 2026, we welcomed the commencement of Australia's new merger control regime.

The new regime modernises Australia's approach to merger review and provides the ACCC with the necessary tools to detect and prevent anti-competitive mergers for the benefit of consumers and the economy.

The new regime establishes an administrative approval system that is balanced and targeted. Approvals will be faster for acquisitions that do not have a material impact on competition. The ACCC has committed to making a determination for around 80% of acquisitions within 20 business days via either an early Phase 1 approval or the notification waiver process. Our early experience is that we are meeting this target with approximately 90% of acquisitions decided in under 20 business days.

At the same time, the small number of complex and contentious acquisitions which raise potential competition issues can be identified with mandatory notification and subject to careful scrutiny through a predictable and timely process – delivering better outcomes for consumers and businesses.

Only mergers that meet the thresholds are required to be notified, with the monetary thresholds set to target acquisitions by larger businesses, including where they are part of a series of acquisitions involving same or similar goods or services over a three-year period. The thresholds will be reviewed after 12 months to ensure they are working as intended.

The new regime is more transparent, with all acquisitions considered by the ACCC published on the ACCC's website, with limited exceptions. The ACCC's reasons for decisions and key steps in the notification process are also published. Over time this will provide predictability for businesses, advisors, and the broader community as they can better understand the reasoning applied in merger assessments.

The design of the new regime – and the ACCC's committed approach to its delivery - reflects a right-size, risk-based approach incorporating regulatory timeliness, transparency, predictability and proportionality. It gives businesses greater clarity, consumers greater confidence and aligns Australia with best practice in merger control across OECD economies.

Market studies, inquiries and monitoring

Targeted market studies and price monitoring play an important role in advancing competition policy. They can help foster a better understanding of market dynamics and the key factors driving firm behaviour, including in relation to price, and can assist in clarifying the nature and extent of any market failures.

The ACCC has been tasked by current and previous governments to conduct several detailed price inquiries and market studies into critical Australian markets. These roles generally follow a formal Direction from the government, activating the ACCC's information gathering powers within the Direction's terms of reference. This allows the ACCC to provide detailed and considered insights and recommendations regarding how to improve competition, consumer outcomes and market efficiency.

ACCC market studies and inquiries have a particular competition and consumer lens. This means ACCC market studies and price inquiries have a different focus than other

government reviews and inquiries with clear focus on what is happening in markets, factors impacting costs, profits and pricing, and demand side choice and behaviour. They can provide unique observations and areas for action that will not necessarily emerge in other industry reviews.

The ACCC currently has work underway into gas, retail electricity, stevedoring, airports, airlines, insurance, and petrol. Since 2017, the ACCC has completed inquiries into supermarkets, childcare, retail deposit markets, dairy, digital advertising, digital platform services, foreign currency conversion services, home loans, water markets in the Murray-Darling Basin, Northern Australia insurance, markets for perishable agricultural goods, and residential mortgages.

The ACCC has outlined key recommendations from a select number of these inquiries below. The ACCC considers that these are particularly important in the current regulatory and cost of living environment.

Digital Platform Services Inquiry 2020-25 (DPSI)

In February 2020, the Treasurer directed the ACCC to conduct a 5-year inquiry into markets for the supply of digital platform services.³ The ACCC was required to deliver interim reports to the Treasurer every 6 months, with the tenth and final report delivered in March 2025.

Throughout the DPSI, the ACCC found a significant risk of competition harms across a range of digital platform services that Australia's current competition laws cannot adequately address. The dynamic nature and economic characteristics of digital platform services means that the harm from anti-competitive conduct can be significant. Enforcement of existing laws through litigation may take a long time, and available remedies may have a limited ability to address the effects of the conduct. The fast-moving, opaque, and complex nature of digital platform markets also makes it difficult to address systemic competition issues through enforcement of economy-wide competition law alone. Even when enforcement action is successful, it may not be able to adequately address systemic and widespread harmful conduct. This can be a particular challenge where digital platforms change their conduct to achieve a similar outcome by a different means.

The ACCC found that a lack of competition in Australia's digital markets can stifle productivity and innovation, reduce choices, and lead to higher prices for Australian consumers and businesses. For example:

In 2022, Australians spent over \$3.4 billion on apps and in-app purchases.⁴ Apple and Google collect commissions of 15-30% on many in-app purchases for digital goods and services. The ACCC has found that these commission fees are highly likely to be inflated by Apple and Google's market power in the provision of app stores.⁵

- Apple and Google's significant market power in mobile operating systems and app distribution also creates risks of anti-competitive tying of in-app payment systems

³ Further information can be found at <https://www.accc.gov.au/inquiries-and-consultations/finalised-inquiries/digital-platform-services-inquiry-2020-25>.

⁴ ACCC, [DPSI September 2023 interim report](#), p 17; S Kemp, 'We are Social: Digital 2023 Australia', Data Reportal, 9 February 2023, accessed 14 September 2023, slide 80. This statistic (USD2.39bn) has been converted to AUD from USD using an annual average exchange rate (1.44245576) sourced from the Reserve Bank of Australia for 2022 (historical data).

⁵ ACCC, [Digital Platform Services Inquiry Second Interim Report](#), 28 April 2021, p 63; ACCC, [Digital Platform Services Inquiry Final Report](#), 23 June 2025, p 134.

and denying interoperability to key device hardware and software that payment providers need to innovate and effectively compete.

- In 2020, Australian businesses spent \$2.8 billion on advertising to reach consumers on the open web,⁶ with 75% of these businesses being small-to-medium enterprises.⁷ In 2021, the ACCC found that ad tech providers retained at least 27% of this advertising spend in fees.⁸

Several law reform recommendations made by the ACCC throughout the DPSI (and the ACCC's prior digital platform inquiry work) to improve competition and consumer outcomes have been accepted and implemented by government. The most critical of these is the recommendation for a new digital competition regime, which would include service specific codes of conduct with targeted obligations to address anti-competitive conduct, which would only apply to a small number of firms.

In December 2024, Treasury began consulting on a proposed digital competition regime.⁹ If enacted, this regime is expected to improve productivity. It would enable interoperability and contestability for global and local businesses who provide services on the critical intermediary global digital platforms (including those who compete directly with the platforms), by removing barriers to entry and expansion and requiring fairer treatment of business users. Examples of benefits to Australian businesses include:

- Fairer competition, as gatekeeper platforms will no longer be able to use businesses' own data to compete against them.
- Increased transparency about how products or services (such as ads and apps) are presented.
- More direct access to consumers, as 'gatekeeper' platforms will no longer be able to unfairly preference their own products and services over rivals, including small businesses and start-ups.
- Prohibitions on dominant ad tech providers from engaging in anti-competitive self-preferencing and tying conduct that favours their own services; and obligations to give advertisers and publishers more transparent information about the price and quality of ad tech services. This may reduce ad tech fees, providing advertisers with savings that they can pass on to consumers or use to invest/innovate in their own products; and providing Australian publishers with more revenue for their advertising space which means they can produce more, or higher quality, online content.

The proposed regime is also expected to drive greater competition between the global digital platforms themselves, leading to higher quality services at more competitive prices.

Importantly, the proposed regime would likely only apply to a handful of large, global digital platforms (1-2 providers per the targeted services, mobile operating systems and ad tech services).

ACCC container stevedoring monitoring report

A productive and efficient container freight supply chain is crucial to the Australian economy. The distance of Australia from other markets means that the productivity and

⁶ ACCC, [Ad Tech Inquiry final report](#), August 2021, p. 3.

⁷ PwC Australia, [Examination of the value created by the advertising technology industry in Australia](#), September 2021.

⁸ ACCC, [Ad Tech Inquiry final report](#), August 2021, p. 9

⁹ Treasury, [Digital platforms – a proposed new digital competition regime](#), 2 December 2024.

efficiency of the container freight supply chain has a large bearing on the cost of imported goods and our competitiveness in overseas markets. Strong competition, in every segment of the supply chain, can improve supply chain efficiency and facilitate the faster movement of goods, reduce the frequency and length of delays and lower costs.

In recent years, global shipping has been disrupted by a number of significant events including the COVID-19 pandemic and militant attacks on vessels in the Red Sea and Gulf of Aden. These events contributed to poorer supply chain reliability, increased congestion and delays and higher costs. While the ACCC broadly monitors the impact of global disruptions on the container freight supply chain in Australia, the ACCC's monitoring role is focused on the Australian container stevedoring industry.

Pursuant to a government direction, the ACCC monitors the prices, costs and profits of Australian stevedores operating at the ports of Adelaide, Brisbane, Fremantle, Melbourne and Sydney.¹⁰ In performing this role, the ACCC publishes an annual Container stevedoring monitoring report, with the latest [2024-25 report](#) published on 12 December 2025.

Chapter 5 of the 2024-25 report presented a range of aggregated (port level) stevedoring productivity indicators from the Bureau of Infrastructure and Transport Research Economics' upcoming *Waterline* publication. The ACCC considers that reporting on container stevedoring productivity is part of its role of reporting on the prices, costs and profits of Australian stevedores, and intends to include *Waterline* productivity data as a regular feature in its monitoring reports. The ACCC is seeking to enhance its productivity reporting in future reports, including by consulting with the stevedores and the Bureau of Infrastructure and Transport Research Economics on the potential for publishing more disaggregated (container terminal level) stevedoring productivity data.

In its past two reports, the ACCC has identified a likely market failure in relation to charges levied by container stevedores on transport operators. The 2024-25 report shows that in recent years stevedores have used charges to transport operators to significantly increase their overall prices and profitability in a way that is inconsistent with the underlying market dynamics. During this period, the stevedoring industry's unit costs and productivity have been stable. In the 2023-24 report, the ACCC also raised concerns about the charges levied by empty container parks.

The Productivity Commission also raised concerns about stevedores' landside charges in its 2023 report into the long-term productivity of the Australian maritime logistics system.¹¹ In that report, the Productivity Commission found that stevedores had exercised their market power by increasing fees and charges to transport operators and recommended a regulatory solution.

The ACCC considers that a policy or regulatory response from the Australian Government may be required to address the market failure relating to stevedores' landside charges. A similar response may be needed to address the apparent market failure relating to empty container parks' notification fees. The ACCC will continue to engage with stakeholders across the container freight supply chain in 2026, including on what measures would be appropriate to address these apparent market failures.

¹⁰ The government direction also requires the ACCC to monitor Burnie in Tasmania but it does not currently have an operational container terminal.

¹¹ Productivity Commission, [Lifting productivity at Australia's ports: between water, wharf and warehouse: Inquiry report](#), Productivity Commission, Australian Government, 2023, pp 210-220.

Airport monitoring regime

The major airports in Sydney, Melbourne, Brisbane and Perth are foundational to Australia's economic performance, acting as hubs that connect businesses to global markets, support high-value industries, and enhance productivity through faster, more reliable movement of people and freight.

However, it is generally accepted that the four major airports are geographic monopolies that have the potential ability and incentive to exercise market power. An airport not constrained by competition or regulation can be expected to exercise its market power to earn monopoly profit to the detriment of airport users and the broader Australian economy. Higher airport charges are likely to flow through into higher airfares for travellers, and in some cases, may impact the ability of an airline to continue to operate certain routes, or introduce new ones.

Pursuant to a government direction, the ACCC has monitored the prices, costs, profits, and quality of aeronautical, car parking and landside access services at the four major airports for over two decades. Each year the ACCC publishes a report outlining its findings on our website.

Excluding pandemic years, the ACCC has typically reported rising aeronautical revenues and high profits at major airports. In 2024-25, aeronautical revenue per passenger over the past decade increased by 38% at Brisbane, 36% at Melbourne, 35% at Sydney, and 13% at Perth (in real terms).¹² Sydney Airport saw a record 20.8% EBITA return on aeronautical assets, followed by Perth at 12%.¹³ All four airports had profit margins of at least 32%, with Sydney highest at 47.5%.¹⁴

Australia's four major airports are investing about \$19 billion over the next decade, which will likely lead to higher airline charges and airfares as costs are passed on. These charges could be excessive if investments are unnecessary, overspent, or if airports seek disproportionate risk compensation.

For some years, the ACCC has highlighted that stronger regulatory oversight of the major airports is needed to prevent them exercising their market power and imposing higher charges on airlines. The existing framework, based on ACCC monitoring and reporting, no longer acts as a constraint on behaviour.

Given this and the time since the last Productivity Commission inquiry, and both the scale of planned investment and growth in aeronautical profits at the major airports, it would be timely for the government to consider directing the Productivity Commission to commence a new inquiry into whether the regulatory settings for airports are appropriate.¹⁵

Data, consumers and productivity

Data sits at the heart of today's economy. The use of data by business and government has significant implications for consumer protection and competition, as well as privacy, data protection and broader issues such as national security.

¹² ACCC, Airport monitoring report 2024-25, March 2026, page 33.

¹³ ACCC, Airport monitoring report 2024-25, March 2026, page 37.

¹⁴ ACCC, Airport monitoring report 2024-25, March 2026, pages 37-38.

¹⁵ ACCC, Airport monitoring report 2024-25, March 2026, page 2.

Harnessing opportunities to improve safe, transparent and reasonable data access by government and business has the potential to build consumer confidence and trust in the digital economy, foster innovation, enhance consumer protection and drive further productivity gains.

Secure, consent-based and consumer-focused data access frameworks, such as the Consumer Data Right (CDR), are helping to realise these benefits. The strong privacy and security protections that underpin the CDR are essential to build consumer trust, which is essential to achieve the productivity benefits of improved data access.

In addition to consumer trust and protection, to fully see the productivity and innovation benefits of the CDR, it is essential that the CDR framework is easy to interact with and right sized in terms of the compliance burden for participants. In August 2024, the Australian Government announced a CDR reset to address concerns about high compliance costs and the limited uptake of use cases by consumers. Changes have already been made to the CDR rules since this reset and Treasury is actively considering further improvements a part of a future rules change package.

In its recent *Harnessing data and digital technology* inquiry report, the Productivity Commission said it is critical that efforts to minimise compliance costs do not inadvertently dilute the productivity benefits that could be achieved through use of the CDR. The ACCC's submission to this inquiry also noted any changes to facilitate simpler data sharing should ensure regulatory settings are proportionate and appropriately balance operational ease with sufficient consumer protections. We are working closely with Treasury and other regulatory bodies to identify and action opportunities for improvement and to get this balance right.

Integrating the CDR with other parts of Australia's digital public infrastructure, such as Australia's Digital ID System and the New Payments Platform, can drive benefits even further. Well designed and integrated digital public infrastructure – with its core elements of secure data exchange, digital identity and payment platforms – is foundational to consumer confidence and a strong economy in our digital world, and a precursor to realising economy-wide productivity gains. A connected approach to Australia's digital public infrastructure can deliver greater benefits than any of the initiatives individually.

Valuing data as an economic asset

As the economy becomes increasingly data-intensive, the absence of clear and consistent standards to define and value data presents a growing challenge for productivity, competition and regulatory policy.

Data is now a critical input into productivity and innovation, yet it remains largely unpriced and is rarely recognised on company balance sheets or in economic statistics. This reflects both the lack of an agreed definition of data and the absence of observable market prices, which together limit transparency and comparability across businesses and sectors. The economic characteristics of data – including non-rivalry, externalities, uncertain asset lives and high upfront but low marginal costs – further complicate valuation and make future revenue-based approaches highly uncertain.¹⁶ In this context, the development of robust, economy-wide standards for valuing data would improve economic measurement, support

¹⁶ Smedes, M., Nguyen, T. and Tenburren, B., 2022: [Valuing data as an asset, implications for economic measurement](#), presented at Economic Implications of the Digital Economy Conference, Sydney, NSW. Australian Bureau of Statistics, March 2022.

more informed investment and policy decisions, and strengthen the ability of regulators to assess competition and market power in data-driven markets. Such standards are an increasingly important foundation for productivity-enhancing, right-sized regulation in a digital economy.

Conclusion

Australia's productivity challenge is complex and important. The ACCC recognises its role within the Australian Government and alongside other regulators in promoting competition, encouraging efficient markets, and supporting long-term productivity growth. In 2026, we are well positioned to focus on agile, effective and right-sized regulation.

A competitive and transparent economy is critical to ensuring productivity is maximised and allowed to grow. Competition law is a key part of the solution. Competitive markets drive efficiency, innovation and lower costs, while unchecked concentration and market power undermine productivity. The ACCC therefore applies its compliance and enforcement tools judiciously, with a clear focus on conduct that causes the greatest harm to competition and consumers.

Where competition is limited or not feasible, particularly in essential infrastructure, better regulatory settings are necessary to promote efficiency and constrain the exercise of market power. The ACCC will continue to engage with regulatory reform agendas and advocate for positive change that supports competition, improves regulatory outcomes, and contributes to sustainable productivity growth across the Australian economy.

If you have any questions regarding this submission, please contact Imogen Hartcher-O'Brien on (03) 9290 1491.

Yours sincerely



Sarah Proudfoot

Chief Executive Officer