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Review of the Australian Competition and Consumer Commission Annual Reports 2019 and 2020

House of Representatives
Standing Committee on Economics

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Chair's foreword

Our review of the Australian Competition and Consumer Commission (ACCC) was conducted during the COVID-19 pandemic, which continues to be a time of great uncertainty for Australian consumers and businesses. The pandemic's profound impact on the economy has prompted significant changes to the regulatory work and priorities of the ACCC, which, at its core, continues to advocate for and protect consumer rights while addressing issues of competition.

In examining the ACCC's pandemic management, the committee focused on the ACCC's implementation of temporary market authorisations, its guidance for the travel industry relating to refunds and securing ACCC sanction that travel agents were able to recoup costs for refund services, and the ACCC's response to pandemic-linked scams taking advantage of Australians.

The ACCC has had to authorise what would normally be considered anti-competitive behaviour in response to the economic challenges presented by the COVID-19 pandemic. Temporary market authorisations have allowed companies to cooperate and coordinate their responses to the pandemic, such as banks being able to coordinate on deferring lending repayments and on joint-hardship policies, in the interests of consumers and the broader economy. While the committee commends the ACCC for its necessarily agile response to the COVID crisis, it will continue to examine the ACCC's role in monitoring, and adjusting the settings for, temporary authorisations to ensure that competition is protected in the longer term.

Australia's international borders have been closed since March 2020 and we are still facing domestic lockdowns and border restrictions. Consequently, the travel industry has faced the complexities of issuing refunds at a large scale, despite the upfront labour costs of its work. The committee has heard from the ACCC about the difficulties of navigating contractual disputes in the travel sector relating to travel terms and conditions, a problem that nobody had anticipated. Given these challenges, the ACCC has done well to work with the travel industry to develop

best practice guidance for the future, to ensure that consumers are more aware of how COVID-19 related interruptions will affect them.

During the pandemic there has been an increase in scams targeting Australians, such as those relating to the early release of superannuation scheme. The committee noted the ACCC's continuing work in raising consumer scam awareness, and its work with inter-agency taskforces and working groups to investigate and prevent fraud against Australians throughout the pandemic. The pandemic is not over, and the ACCC will continue to play a role in educating consumers and working with enforcement partners to build greater resilience against fraud.

Some ACCC priorities had to be put on hold due to the pandemic. However, the ACCC maintained substantial compliance and enforcement responsibilities across the competition and consumer law sector, in relation to market concentration and competition, product safety, unconscionable and unfair conduct, and the new car retailing industry.

In particular, the committee acknowledged the ACCC's important work on developing a code of conduct to address bargaining power imbalances between Australian news media businesses and digital platforms. Despite the initial threats of Facebook and Google to alter their services to bully the Australian Government in response to the introduction of the code, the ACCC has led the way internationally in developing a code that has brought about successful agreements between these big technology companies and Australian news media businesses. The code, which has now passed Parliament, will be a focus of the committee's future scrutiny of the ACCC as the ACCC's enforcement role in this area begins.

Another world-leading achievement has been the ACCC's development of regulation for button battery safety. Button batteries are incredibly dangerous to children, creating the risk of death, hospitalisation, or serious long-term injury. There had been no specific mandatory regulation in Australia or overseas to address the hazard of button batteries across the wide range of consumer products that use them – until now. The committee will examine the ACCC's implementation of the new mandatory regulation, acknowledging the complexities of such a world-first regulatory standard from an enforcement perspective.

On other matters, the committee notes the view of Professor Ian Harper AO that consumer protection on financial products should be moved from the Australian Securities and Investments Commission (ASIC) to the ACCC.

Additionally, the ACCC has been slow to recognise the emergence of considerable concentration in Australia's capital markets. This is an important area of

competition policy analysis. Much greater attention needs to be given to it, especially in this nation.

On behalf of the committee, I thank the Chair of the ACCC, Mr Rod Sims, and other ACCC and Australian Energy Regulator (AER) representatives for appearing at public hearings on 23 October 2020 and 24 February 2021.

Jason Falinski MP

Chair



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Membership of the Committee

Chair

Mr Jason Falinski MP (from 25 October 2021)

Mr Tim Wilson MP (to 8 October 2021)

Deputy Chair

Hon Dr Andrew Leigh MP

Members

Mr Adam Bandt MP

Mr Jason Falinski MP (until appointed Chair on 25 October 2021)

Mr Garth Hamilton MP (from 25 October 2021)

Ms Celia Hammond MP

Mr Craig Kelly MP (to 23 February 2021)

Mr Andrew Laming MP

Dr Daniel Mulino MP

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Mr Julian Simmonds MP

Committee Secretariat

Secretary Mr Lachlan Wilson

Research Officer Ms Nicolette Cilia

Office Manager Ms Jazmine Rakic



Terms of reference

The House of Representatives Standing Committee on Economics is empowered to inquire into, and report on, the annual reports of government departments and authorities tabled in the House that stand referred to the committee for any inquiry the committee may wish to make. The reports stand referred in accordance with the schedule tabled by the Speaker to record the areas of responsibility of the committee.



List of abbreviations

ABC	Australian Broadcasting Corporation
ACCC	Australian Competition and Consumer Commission
ACL	Australian Consumer Law
ACMA	Australian Communications and Media Authority
AER	Australian Energy Regulator
ANZ	Australia and New Zealand Banking Group
APRA	Australian Prudential Regulation Authority
ASIC	Australian Securities and Investments Commission
ATO	Australian Taxation Office
NAB	National Australia Bank
SBS	Special Broadcasting Service