

November 2024 – Senate Estimates – ACCC Opening Statement

Good evening, Chair and Senators

I would like to start by acknowledging the Ngunnawal people, the traditional owners and custodians of the land on which the Australian Parliament sits. I would also like to recognise any other people or families with connection to the lands of the ACT and this region. I pay my respects to them, their culture and Elders past, present and emerging.

The ACCC's senior executive management team and I are pleased to be here before the Committee.

Enforcement

With rising cost of living front of mind for many Australians, the ACCC is maintaining a strong focus on competition and consumer protection enforcement, particularly in respect of essential products and services.

Last month, the ACCC instituted proceedings against Optus for allegedly engaging in unconscionable conduct when selling telecommunications goods and services to hundreds of vulnerable consumers, that we allege they often did not want or need.

Since we last appeared before you the ACCC has also instituted proceedings against Coles and Woolworths. The ACCC alleges that both Woolworths and Coles breached the Australian Consumer Law by making misleading claims about discounts, when the discounts were, in fact, illusory.

The ACCC is not only instituting new proceedings but we have also seen results from our previous enforcement actions.

In October the Federal Court ordered Qantas pay \$100 million in penalties for misleading consumers by offering and selling tickets for flights it had already decided to cancel. This is in addition to \$20 million in remediation to customers.

In September EnergyAustralia was ordered to pay \$14 million for making misleading statements about electricity prices and for breaching the Electricity retail code by failing to state the lowest possible price in their pricing communication.

These cases are the result of the careful application of our enforcement priorities and triaging system to the hundreds of thousands of contacts and intelligence data points we collect each year.

The ACCC's enforcement model prioritises cases with the greatest harm or potential for harm.

The ACCC received 397,225 contacts through our Infocentre last financial year. Over 288 thousand of these were Scam related contacts. Scam related contacts and reports play an important role in identifying the nature of recent scams to allow both immediate alerts to the Australian public and to inform longer term trends in scam risks to support prevention and disruption.

While we do not pursue all matters that come to our attention, we provide guidance to consumers and work with our Consumer Law partners in state and territory fair trading agencies to best direct limited resources to achieve the greatest benefit to consumers.

Contacts are assessed and triaged against our published enforcement and compliance priorities for the year.

Throughout the year we continuously analyse the information provided by the public and small businesses.

The ACCC uses intelligence received in reports to identify conduct that has the potential to cause the greatest harm. We aim to take enforcement action against those that will have a big impact and then use the outcomes to deter similar poor conduct and raise the standards of corporate behaviour. The contacts from consumers and small businesses are also important contributors to our annual setting of our compliance and enforcement priorities for the coming year.

New functions

The Treasurer recently announced \$30 million over 3.5 years in additional funding that will go towards our investigation and enforcement relating to the supermarket and retail sector.

This will enable us to escalate a range of investigations in this sector, including in relation to: potential misleading pricing claims or practices; claims about delivery timeframes and costs; and businesses misrepresenting consumers' rights under the Australian Consumer Law.

Competition

The ACCC also has a role in enforcing competition and cartel cases, which is an enduring priority for the ACCC. Cartels drive up costs for businesses and consumers.

Last financial year the total fines and penalties awarded in the ACCC's competition enforcement program exceeded \$100 million.

This includes the case against Bingo Industries who were ordered to pay \$30 million and Aussie Skips who were ordered to pay \$3.5 million after both pleading guilty to having engaged in cartel conduct for waste disposal in Sydney.

That amount also includes the case against BlueScope Steel who was ordered to pay a \$57.5 million penalty for attempting to fix prices for flat steel products supplied in Australia.

The combined over \$100 million is the highest total ever achieved by the ACCC in a financial year for competition law breaches and sends a strong message to businesses that they cannot collude to drive up prices.

Mergers

Beyond the ACCC's enforcement work, I would like to draw attention to the ACCC's anticipated stewardship of Australia's proposed new merger regime.

The ACCC welcomes the introduction of the merger law reform bill. As stated before the Senate Inquiry earlier this month, the ACCC is committed to the successful implementation of these reforms, if passed by parliament. We will ensure that transactions that may adversely affect competition are subject to adequate scrutiny based on the risks raised, and provide a more efficient and transparent process for businesses and for the wider community.

The ACCC is working hard with Treasury and internally to be ready if Parliament does pass the bill.

Supermarkets

The ACCC's Inquiry work is also relevant to cost of living. The ACCC has recently published its interim Supermarket Inquiry report, which outlines what the ACCC has heard at the halfway point of the year-long Inquiry.

This month, the ACCC has been conducting public hearings involving senior executives of Aldi, Coles, Metcash, Woolworths, and representatives of consumers and suppliers. These hearings will help the ACCC gain a more complete understanding of the key issues in the retail grocery sector and its associated supply chains, before providing the final report to the Treasurer in February 2025.

The ACCC monitoring roles in sectors such as telecommunications, retail electricity and aviation also report on areas that are key drivers of household costs. Our roles in preventing and disrupting scams through the National Anti Scam Centre and contribution to the Digital Identity initiative as the regulator of the Digital Identity regime, are also important contributions to consumer protection in the context of cost of living pressures.

I thank the Committee for the opportunity to provide this opening statement and welcome your questions.