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The Parliament of the Commonwealth of Australia

# **Competing Interests: is there balance?**

## **Review of the Australian Competition and Consumer Commission Annual Report 1999-2000**

House of Representatives  
Standing Committee on Economics, Finance and Public Administration

September 2001  
Canberra

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## Foreword

The Australian Competition and Consumer Commission (ACCC) is at the centre of Australia's competition policy regulation and also has a leading role in consumer protection issues. The importance of these responsibilities makes it essential that it is seen to be accountable for its actions and that its operations and decision making are as transparent as possible.

The ACCC has now been functioning in its present form for six years, and its periodic appearances before the House Economics Committee provide an important avenue through which the public can see whether those requirements are being met, and assess the ACCC's performance.

The ACCC has shown itself to be an effective regulator. Nevertheless, this review highlights a number of areas including:

- concerns with some of the ACCC's tactics, approach and attitudes to business as well as the way in which, on occasions, the ACCC uses the media;
- the need for, or otherwise, of amendments to the *Trade Practices Act 1974* (TPA) to include powers such as a penalty for imprisonment for participants in hard core cartels, an 'effects' test to strengthen section 46, and 'cease and desist' orders to enhance the ACCC's enforcement capability; and
- questions about whether the ACCC has too many roles and whether competition might be better served by separating some parts into another body.

The committee sees its report as preliminary as further investigation of some of these issues is required and there are a number of other reviews on aspects of the ACCC's operations and its legislation that are not yet finalised or publicly available (such as the Productivity Commission's reviews of the *Prices Surveillance Act 1983*, the national access regime and telecommunications competition regulation).

The committee believes that there is a need for public debate on many of these matters. It hopes that this report opens up that process. There are many in the community who will have a view on the issues raised. The committee hopes that those individuals and organisations will not only read the report but also respond.

The committee appreciates the assistance it received during this inquiry from the ACCC, especially its Chairman, Chief Executive Officer and their staff. It also appreciates the contributions made by several industry associations and by Professor Warren Pengilley.

Finally, I thank the members of the House Economics Committee for their contributions throughout this inquiry and to this report.

**David Hawker MP**  
**Chair**





## **Membership of the Committee**

**Chair** Mr D P M Hawker MP

**Deputy Chair** Ms A E Burke MP

**Members** Mr A N Albanese MP

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Ms T Gambaro MP

Mr C M Pyne MP

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## **Committee Secretariat**

**Secretary** Ms B Forbes

**Inquiry Secretary** Mr T Luttrell

**Principal Research Officer** Mr M Tapley (from 20/08/01)

**Administrative Officer** Ms S Ristevski





## **Terms of reference**

Under House of Representatives Standing Order 324 (b), the Standing Committee on Economics, Finance and Public Administration is empowered to inquire into and report on any matter referred to it by either the House or a Minister, including any pre-legislation proposal, bill, motion, petition, vote on expenditure, other financial matter, report or paper.

Annual reports of government departments and authorities tabled in the House stand referred to the relevant committee for any inquiry the committee may wish to make. Reports stand referred to committees in accordance with a schedule tabled by the Speaker to record the areas of responsibility of each committee.

The annual report of the Australian Competition and Consumer Commission for 1999-2000 was tabled in the House of Representatives on 31 October 2000. On 1 March 2001, the committee agreed to carry out a review of that annual report.





## List of abbreviations

ACCC	Australian Competition and Consumer Commission
ACCI	Australian Chamber of Commerce and Industry
ALRC	Australian Law Reform Commission
ARA	Australian Retailers Association
ASIC	Australian Securities and Investment Commission
BCA	Business Council of Australia
COAG	Council of Australian Governments
GST	Goods and Services Tax
NTS	New Tax System
NRMA	National Roads and Motorists Association
PS Act	<i>Prices Surveillance Act 1983</i>
PSB	Payment Systems Board
PC	Productivity Commission
RACS	Royal Australasian College of Surgeons

RACV	Royal Automobile Club of Victoria
RBA	Reserve Bank of Australia
TPA	<i>Trade Practices Act 1974</i>