

**Senate Economics Legislation Committee**

**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Additional Estimates

2016 - 2017

**Division/Agency:** Australian Competition and Consumer Commission

**Question No:** 113

**Topic:** ACCC Resourcing

**Reference:** Written

**Senator:** Ketter, Chris

**Question:**

1. How many contacts has the ACCC received from consumers in the past 12 months?
  - a. How does this figure compare for the last 5 years?
  - b. What is the ACCC's approach to dealing with complaints from consumers? What do you do with the information provided by complainants? What feedback do you give to complainants?
  - c. What proportion of these complaints are by telephone? What is the average waiting time for consumers making a complaint by telephone?
  - d. What proportion of these complaints are by email? What is the average waiting period for consumers to receive an email response from the ACCC?
  - e. What data analytics are done with information received through the contact centre?
    - i. Has the ACCC used these analytics to identify particular demographics that are more likely to have lodged a complaint with the ACCC?
    - ii. What other insights has the ACCC gained?
    - iii. How do these insights impact where the ACCC prioritises its resources?
    - iv. Which ten companies or organisations have received the most complaints through the contact centre in the last twelve months?
2. How many staff members does the ACCC have and at what classifications are they employed? How does this compare with the last 5 years?
3. How many consumer cases has the ACCC pursued through the legal system in the last 12 months?
  - a. Of these, how many have been successful?
  - b. Are you able to provide a schedule of penalties awarded through these actions?
    - i. What happens to moneys paid as penalties? Are they returned to the ACCC to run further cases? If not, how many more consumer cases would the ACCC be able to run annually if they were?
  - c. How much of the ACCC's legal costs are awarded in each of the cases it has run?
    - i. What happens to moneys paid as legal costs? Are they returned to the ACCC? If not, how many more consumer cases would the ACCC be able to run annually if they were?
  - d. How does these figures compare for the last 5 years?
4. Overall, how much would you say the ACCC spends on enforcement and compliance? Is this increasing or decreasing from the last few years? Provide a break down, year by year on ACCC spend on enforcement and compliance.

**Answer:**

1. The ACCC received 207 090 contacts from businesses and consumers in the financial year 2015-16. For more detailed information please refer to the ACCC's Annual Report for 2015-16, which is available online:

[http://www.accc.gov.au/system/files/1086\\_Annual%20Report\\_2015-16\\_FA\\_FINAL.pdf](http://www.accc.gov.au/system/files/1086_Annual%20Report_2015-16_FA_FINAL.pdf).

Figures for 2016-17 reporting period are expected to be made available in September 2017.

a. Both contacts received in writing and by phone have increased year on year. See below for a summary of the number of contacts received (by phone, email and letter):

Period	2011-12	2012-13	2013-14	2014-15	2015-16
Contacts recorded in database	148 098	163 796	160 039	165 544	207 090

b. The ACCC encourages consumers and small business to report any behaviour or business practice that is concerning to them, as relevant to our role in enforcing the *Competition and Consumer Act 2010* and the Australian Consumer Law.

As well as capturing such information and triaging these reports, we also guide consumers and small businesses to find:

- information about their rights and obligations, and what to do when something goes wrong,
- services or agencies who can assist them more directly.

We do not act on behalf of consumers or businesses to resolve their individual disputes with businesses or organisations.

This is detailed in the ACCC service charter <https://www.accc.gov.au/about-us/australian-competition-consumer-commission/service-charter>, with the expectations given to consumers and small business about what action the ACCC is likely to take, relying on the annually published Compliance and Enforcement Policy <http://www.accc.gov.au/about-us/australian-competition-consumer-commission/compliance-enforcement-policy>.

c. Of a total 207 090 contacts recorded in the ACCC's database for 2015-16, approximately half (100 260) of these reports were made by telephone, with an average waiting time of 14 minutes.

d. Email volumes are reported along with web forms, as the main source of electronic contacts. The ACCC served 38 816 web forms and emails in 2015-16 and received another 67 000+ web form reports predominantly through Scamwatch not requiring a response.

Of electronic contacts, 43 per cent of written responses were sent within 15 business days during this period. This result has improved considerably in 2016-17 and the year to date result is 98 per cent.

e. i-iv. The ACCC reviews all individual contacts made to the ACCC's Infocentre to identify matters requiring initial investigation. The ACCC also regularly analyses the totality of contact data to identify themes, emerging issues or issues that may involve widespread consumer detriment for further consideration by the ACCC. Demographic (including age and postcode) analysis is undertaken on an as needs basis. Consumers contacting the ACCC are

also asked if they consider themselves to be disabled or vulnerable. The value of demographic analysis can be limited as it relies on non-mandatory self-reported information.

The ACCC conducts an annual strategic review to set compliance and enforcement priorities. Inputs to this review include a detailed analysis of contacts to the ACCC's Infocentre. The strategic review also has regard to inputs from state and territory consumer law regulators, international consumer regulators and key industry bodies. The 2017 compliance and enforcement policy is available <https://www.accc.gov.au/about-us/australian-competition-consumer-commission/compliance-enforcement-policy>.

The ACCC does not publish a list of the most complained about traders. Such a list will invariably include large national traders who have a higher volume of customer interaction and may not reflect the most important consumer issues.

2. Below is a list of ACCC staffing numbers, broken down by classification (substantive) over the last five years:

Headcount Classification (substantive)	Year				
	28/02/2017	29/02/2016	28/02/2015	28/02/2014	28/02/2013
APS1	5	2	0	1	2
APS2	3	0	1	1	2
APS3	33	31	37	32	35
APS4	73	54	56	77	81
APS5	161	166	178	175	157
APS6	192	172	140	179	179
EL1	187	195	179	196	198
EL2	153	160	150	160	147
GRAD	27	32	9	13	20
POH	9	9	9	8	9
SESB1	30	30	29	29	34
SESB2	10	10	9	10	8
SESB3	1	1	2	3	3
<b>Total</b>	<b>884</b>	<b>862</b>	<b>799</b>	<b>884</b>	<b>875</b>

3. In the period 1 April 2016 to 31 March 2017, the ACCC instituted 17 consumer protection cases in the Federal Court. In the period, the ACCC was involved in 39 consumer protection cases in the Federal Court.

a. Of the 39 cases, the ACCC has received judgment in 20 cases, in which we were successful in 18 of the matters.

b. The table below notes the 18 matters in which the ACCC was successful and where a pecuniary penalty was ordered by the Court, it is included.

	Case name	Pecuniary penalty*
1.	Derodi Pty Ltd and Holland Farms Pty Ltd	\$300,000
2.	CLA Trading Pty Ltd t/as Europcar	\$100,000

3.	Reckitt Benckiser (Australia) Pty Ltd	\$1.7 million, however was later overturned on appeal
4.	Multimedia International Services Pty Ltd	\$230,000
5.	Sensaslim Pty Ltd & Ors	\$4,340,000
6.	Hillside (Australia New Media) Pty Ltd t/as Bet365	\$2,750,000
7.	Online Dealz Pty Ltd	\$120,000
8.	NRM Corporation Pty Ltd & Ors (appeal)	Nil
9.	Ozsale Pty Ltd	\$500,000
10.	DuluxGroup (Australia) Pty Ltd	\$400,000
11.	Sensaslim Pty Ltd & Ors (appeal by Mr Foster)	Mr Foster's appeal was dismissed by the Court.
12.	NRM Corporation Pty Ltd & Ors (contempt matter)	\$350,000
13.	Reckitt Benckiser (Australia) Pty Ltd (appeal)	\$6,000,000
14.	Lifestyle Photographers Pty Ltd & Anor	\$1,100,000
15.	Valve Corporation	\$3,000,000 (note has been appealed by the respondent)
16.	James Lee Harrison & Ors	\$250,000
17.	Jetstar Airways Pty Ltd	\$545,000
18.	Virgin Australia Airlines Pty Ltd	\$200,000

\*These amounts include the total pecuniary penalties that were ordered against one or a number of respondents.

i. Moneys paid as penalties to the ACCC are returned to the Commonwealth consolidated revenue. The ACCC is necessarily selective in the matters it pursues and seeks to direct investigation and legal resources to matters that deliver the greatest benefit. Resourcing of the ACCC is a matter for the Government.

c. The amount of ACCC's legal costs ordered by the Court varies depending on the cases. For example, the ACCC receives judgments from nil costs, a fixed amount of our costs or costs as taxed.

i. Monies paid as legal costs are returned to the Commonwealth consolidated revenue.

d. The table below notes the pecuniary penalties ordered by the Court over the past 5 years for ACCC pursued consumer protection cases.

	1 April 2012 – 31 March 2013	1 April 2013 – 31 March 2014	1 April 2014 – 31 March 2015	1 April 2015 – 31 March 2016	1 April 2016 – 31 March 2017
Penalties awarded	\$12.745m	\$10.9625m	\$19.434m	\$9.887m	\$20.185m

4. In providing a breakdown of the ACCC's enforcement and compliance costs, operational activities are intertwined with elements of enforcement and compliance across various activities of regulation, adjudication, product safety, investigation, promotion and awareness of consumer and small business rights, etc.

The ACCC's Enforcement Division and the Consumer, Small Business & Product Safety Division incurred the following combined costs annually:

	<b>2012-13 \$'000</b>	<b>2013-14 \$'000</b>	<b>2014-15 \$'000</b>	<b>2015-16 \$'000</b>	<b>2016-17* \$'000</b>
Enforcement and Compliance Costs	58,792	60,293	60,593	62,358	34,259

\* Includes costs from 1 July 2016 to 28 February 2017. Does not include costs relating to internal or external legal or economic advice obtained in the course of investigations and legal proceedings.