



Australian
Competition &
Consumer
Commission

THE AUSTRALIAN COMPETITION & CONSUMER COMMISSION
INCORPORATING THE AUSTRALIAN ENERGY REGULATOR
WHO WE ARE—WHAT WE DO—HOW WE WORK



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WHO WE ARE

THE AUSTRALIAN COMPETITION AND CONSUMER COMMISSION CONSISTS OF A CHAIRPERSON, TWO DEPUTY CHAIRPERSONS, FULL-TIME MEMBERS (COMMISSIONERS) AND ASSOCIATE MEMBERS.

THE AUSTRALIAN ENERGY REGULATOR IS AN INDEPENDENT STATUTORY AUTHORITY AND A CONSTITUENT PART OF THE ACCC.

ACCC

Members are appointed by the Governor-General for terms of up to five years. An appointment is made after the majority of state and territory jurisdictions support the selection. Commission members are collectively referred to as 'the commission' and they usually meet weekly to make decisions on matters of importance, just like the board of directors of an ordinary public company.

The Treasurer may appoint associate members, with the support of a majority of state and territory jurisdictions. AER state/territory members are associate members of the ACCC. The chairperson of ACMA is also an associate member of the ACCC.

ACCC MEMBERS

Graeme Samuel, AO (chair)

Louise Sylvan (deputy chair)

John Martin

Edward Willett

David Smith

Stephen King

Associate members

Steve Edwell, AER chair

Geoff Swier, AER state/territory member

Chris Chapman, ACMA, chair

AER

The Australian Energy Regulator is an independent statutory authority and a constituent part of the ACCC. It is made up of one Commonwealth member and two state/territory members. They are appointed by the Governor-General for terms of up to five years, and one of them is appointed as chair of the AER.

AER members

Steve Edwell, chair

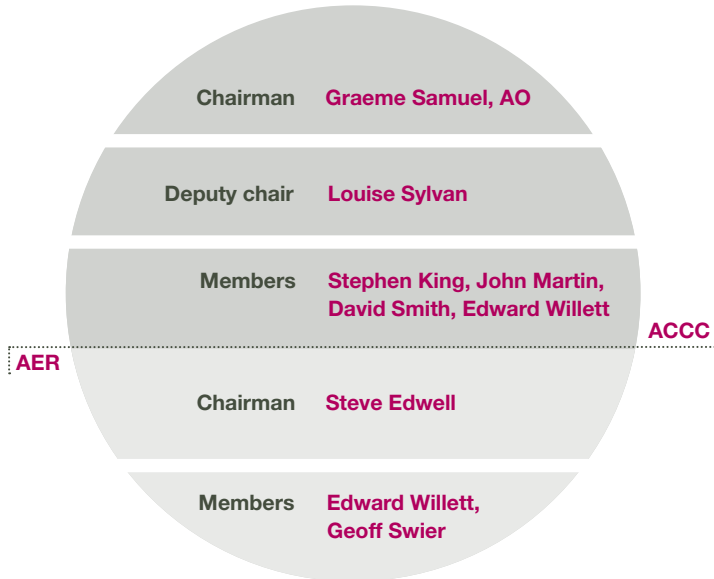
Geoff Swier, (part-time member)

Edward Willett, (full-time Commonwealth member)

Staff

The ACCC employs about 660 staff. There are offices in all capital cities and in Townsville. The head office of the ACCC is in Canberra. The head office of the AER is in Melbourne.

How we are organised



Chief executive officer | Brian Cassidy

Enforcement and compliance division

Executive general manager | Mark Pearson

General managers

Compliance strategies, Nigel Ridgway

Enforcement and coordination, Rose Webb

Information research and analysis,

Michael Carnahan

Regional directors

New South Wales, Geoff Williams

Victoria, Bob Weymouth

Queensland, Alan Ducret

North Queensland, Kim McBey

Western Australia, Sam Di Scerni

South Australia, George Kamencak

Tasmania, Peter Clemes

Northern Territory, Derek Farrell

Regulatory affairs division

Executive general manager | Joe Dimasi

Communications group

Group general manager | Michael Cosgrave

General managers

Compliance and regulatory operations,
Robert Wright

Strategic analysis and development,
Richard Home

Regulatory development branch

General manager | Anne Plympton

Transport and prices oversight branch

General manager | Margaret Arblaster

Office of the AER

Group general manager | Michelle Groves

General managers

Markets, Sebastian Roberts

Network regulation north, Mike Buckley

Network regulation south, Chris Pattas

Adjudication branch

General manager | Scott Gregson

Mergers and asset sales branch

General manager | Tim Grimwade

Corporate branch

General manager | Helen Lu

Finance and services branch

General manager | Adrian Brocklehurst

Legal group

Executive general manager | Margaret Micallef

General counsel

Trade practices and litigation unit,

Robert Alexander

General manager

Corporate and regulatory law unit, Bruce Cooper

Media relations unit

Lin Enright

WHAT WE DO

THE AUSTRALIAN COMPETITION AND CONSUMER COMMISSION ENCOURAGES VIGOROUS COMPETITION IN THE MARKETPLACE AND ENFORCES CONSUMER PROTECTION AND FAIR TRADING LAW, IN PARTICULAR THE TRADE PRACTICES ACT.

THE AUSTRALIAN ENERGY REGULATOR IS RESPONSIBLE FOR THE ECONOMIC REGULATION OF AUSTRALIAN ENERGY MARKETS AND COMPLIANCE WITH THE ELECTRICITY AND GAS RULES AT A NATIONAL LEVEL.

The Australian Competition and Consumer Commission is a national law enforcement agency and was set up in 1995 by the Australian Parliament to protect the rights of consumers and business. It does this by encouraging vigorous competition in the marketplace and enforcing consumer protection and fair trading laws, in particular the *Trade Practices Act 1974*.

The ACCC also regulates markets where competition is less effective, for example, in the energy and telecommunications markets. As well as enforcing the law, the ACCC provides information and education to businesses and consumers about the laws it administers.

The ACCC is an independent statutory authority, which means that while it is essentially a government organisation, it acts independently of government.

The objective of the Trade Practices Act is to enhance the welfare of Australians through the promotion of competition and fair trading and provision for consumer protection.

The ACCC applies this law without fear or favour, to achieve universal compliance.

The Australian Energy Regulator is responsible for the economic regulation of Australian energy markets and compliance with the electricity and gas rules at a national level.

PROTECTING CONSUMERS

One of the principle aims of the Trade Practices Act administered by the ACCC is to protect consumers in the following ways:

- prohibiting conduct by business that is misleading or deceptive, or that is likely to mislead or deceive—for example, it prohibits businesses misrepresenting a consumer’s right to warranties and refunds, misleading advertising, bait advertising, pyramid selling, inaccurate labelling and misrepresenting a good’s country of origin
- ensuring businesses comply with product safety standards
- making manufacturers and importers liable for defective goods
- prohibiting unconscionable conduct by businesses in their dealings with consumers.

For more detail about the consumer protection provisions of the Act, refer to the *Summary of the Trade Practices Act*, available on the ACCC website (www.accc.gov.au) or call 1300 302 502.

Preventing misleading and deceptive conduct and advertising

Businesses cannot engage in any conduct likely to mislead or deceive the consumer. They are required to tell the truth and not give a misleading impression. Even failing to disclose important material information may amount to a breach of the law.

Protecting consumers when they buy goods or services

Various conditions and warranties are mandatory. Consumers must be given outright ownership of any goods they buy; they must be of merchantable quality—that is, fit for sale—they must be fit for the purpose for which they are sold; and they must match the description or sample, as advertised. Any services bought must be carried out with due care and skill. The ACCC cannot bring an action for breach of any of these statutory conditions or warranties, although a consumer can bring a private action for damages. Retailers and manufacturers must also stand by any voluntary warranties they offer.

Ensuring products comply with mandatory safety standards

Businesses must comply with product safety bans and mandatory product safety standards.

Stopping inaccurate labelling

It is illegal to make false claims about the origin, standard, quality, value, grade, composition, style or model of goods or services.

Monitoring business on the internet

With more electronic business on the internet there has been an increase in pyramid selling, other get-rich-quick schemes and misleading advertising for many products including miracle cures and weight loss. More than 30 countries, including Australia, New Zealand, Canada, the United States of America, the United Kingdom, Ireland, Japan, Korea, Mexico and many European countries are involved in regular internet sweep days to identify such schemes.

The ACCC's scamwatch website (www.scamwatch.gov.au) is available for consumers to lodge complaints about online scams.

Protecting consumers from unscrupulous business

When dealing with consumers, businesses cannot take advantage of their stronger position by behaving in a harsh or oppressive way. If they do, their conduct may be unconscionable.

Further information is available at www.accc.gov.au or 1300 302 502.

Improving consumers' understanding of their rights

The ACCC publishes various booklets and flyers, both in hard copy and on its website. Its range of publications includes *Understanding petrol pricing in Australia*, *Warranties and refunds* and *Your online rights*.

The ACCC also publishes a unique website with up-to-date information on the latest scams, how to identify them, steps to take to protect yourself and how to report them.

See www.scamwatch.gov.au.

The ACCC consults with consumer organisations and the community at its quarterly consumer consultative forum and, through international cooperation, keeps up-to-date with law enforcement strategies worldwide.

Enforcement

The ACCC advocates consultation and negotiation as the first and best option to settle disputes, but once the ACCC pursues legal action any sort of mediation becomes less likely. To enforce the consumer protection provisions of the Trade Practices Act the ACCC can take court action seeking:

- declarations that particular conduct breaches the Act
- injunctions (court orders) to prevent the prohibited conduct continuing, or to require some action be taken
- damages
- rescission, setting aside or variation of contracts
- community service orders
- probation orders
- adverse publicity orders (only for an offence under Part VC)
- corrective advertising, public notices and disclosure.

Companies breaching certain consumer protection provisions of the Trade Practices Act can also be fined up to \$1.1 million and individuals, \$220 000.

State and territory fair trading legislation mirrors the consumer protection provisions of the Trade Practices Act and they have separate penalty regimes.

BUSINESS TO BUSINESS DEALINGS

The Trade Practices Act prohibits anti-competitive practices (also referred to as restrictive trade practices in the Act) by business. This type of conduct includes:

- agreements that substantially lessen competition, market sharing or price fixing agreements, and agreements that give rise to primary or secondary boycotts
- misuse of market power
- exclusive dealing
- resale price maintenance
- mergers or acquisitions substantially lessening competition.

The Act also prohibits unconscionable conduct (taking unfair advantage) in commercial and consumer transactions.

Preventing price fixing and market sharing (s. 45)

Businesses cannot agree to share markets between themselves or restrict the supply of goods. Businesses also cannot agree on the prices they will charge. Such arrangements are often referred to as cartels.

Misusing market power (s. 46)

A corporation cannot use its substantial market power, or substantial share of a market to supply goods or services for a sustained period at less than cost to eliminate or damage a competitor, prevent entry into the market or deter competitive conduct. However, acquiring or possessing substantial market power is not, of itself, prohibited.

Exclusive dealing (s. 47)

Businesses cannot impose restrictions on another business' freedom to choose with whom, or in what, it deals. However, some exclusive dealing arrangements may be protected through either the authorisation or notification process.

Resale price maintenance (ss. 48, 96–100)

Suppliers, manufacturers and wholesalers cannot specify a minimum price for the sale of their goods and services. They can also only suggest a recommended retail price.

Assessing mergers, asset sales, joint ventures (s. 50)

The Trade Practices Act prohibits mergers, acquisitions and joint ventures that would substantially lessen competition. The ACCC opposes about 3 to 4 per cent of proposed mergers per year. A further 2 to 3 per cent of proposed mergers are resolved by way of undertakings offered by the parties to resolve competition concerns.

Unconscionable conduct in commercial transactions (ss. 51AA, 51AC)

Businesses are not allowed to use their superior bargaining power in a harsh or oppressive way when dealing with other businesses. This may be unconscionable conduct.

Further information is available at www.accc.gov.au or 1300 302 502.

Improving compliance through education and information

The ACCC produces a lot of material to help businesses comply with the law, including sector guides for small business, franchising, health, rural producers, travel and tourism, telecommunications standards, as well as guides on exports, access to utilities' infrastructure, country of origin, advertising and selling, retail tenancy, warranties and refunds.

The ACCC's rural and regional network includes representatives of local government, small business and consumer associations, as well as regional outreach managers who organise regular seminars and local visits. The ACCC's competing fairly forum keeps regional businesses informed about trade practices issues.

The ACCC also supports industry self-regulation, codes of conduct and standards.

Enforcement

The Trade Practices Act makes certain anti-competitive conduct illegal in Australia. To enforce the anti-competitive provisions of the Act the ACCC can take court action seeking:

- declarations that particular conduct breaches the Act
- injunctions (court orders) to prevent the prohibited conduct continuing, or to require some action be taken
- damages
- findings of fact
- community service orders
- probation orders
- banning orders
- adverse publicity orders
- corrective advertising, public notices and disclosure for breaches of anti-competitive conduct
- pecuniary penalties of up to \$10 million, three times the value of the illegal benefit, or 10 per cent of corporate group annual

turnover (whichever is the greater) for companies and \$500 000 for individuals.

Immunity for cartel conduct

The ACCC can grant a corporation or an individual immunity from legal proceedings and penalty if the corporation or individual involved in a cartel is the first person to disclose its existence and does so at a time when the ACCC is not already equipped with sufficient evidence to commence proceedings against those alleged to be involved in the cartel.

To qualify for immunity, the person or corporation must also admit that their conduct may constitute a contravention of the Act, cooperate fully with the ACCC, must not have coerced others to participate in the cartel or have been the clear leader of the cartel. They must also stop, or indicate their intention to stop, their involvement in the cartel.

More detailed information on the ACCC's immunity policy for cartel conduct can be found on the ACCC's website at www.accc.gov.au.

Leniency for other illegal conduct

The ACCC also has a policy that may operate when individuals and corporations cooperate in other enforcement matters. Leniency, up to immunity from prosecution, is more likely to be considered if individuals or corporations:

- provide important evidence of a breach the ACCC is unaware of
- provide full and frank disclosure
- cooperate fully with the ACCC
- have not coerced any other person or corporation to take part in the conduct.

More detailed information on the ACCC's cooperation policy for enforcement matters can be found on the ACCC website at www.accc.gov.au.

Allowing anti-competitive conduct in the public interest

The ACCC can also provide immunity from court action under the Trade Practices Act for certain anti-competitive conduct if it is in the public interest to do so. This adjudication process is a fundamental and unique feature of the ACCC's work.

Businesses can obtain immunity through two different transparent and public processes known as 'authorisation' and 'notification'.

Authorisation gives businesses protection from legal action for potential breaches of the anti-competitive conduct provisions of the Act (except for misusing market power or mergers under s. 50). The ACCC may 'authorise' businesses to engage in anti-competitive conduct if it is satisfied that either the public benefit from the conduct outweighs any public detriment or is likely to result in such a benefit that the conduct should be permitted. The onus is on the person wanting to engage in the anti-competitive conduct to satisfy the ACCC that authorisation should be granted.

Notification protects businesses from legal action for potential breaches of the exclusive dealing provisions of the Act and for certain small business collective bargaining arrangements.

Exclusive dealing involves one business imposing restrictions on another business' freedom to choose with whom, or in what, it deals. When a business 'notifies' the ACCC of its exclusive dealing conduct (other than third line forcing), immunity comes into effect automatically and remains in place unless revoked by the ACCC.

For third line forcing applications, immunity commences 14 days after it is lodged unless the ACCC objects.

For mergers, the ACCC may also grant formal clearance and the Australian Competition Tribunal may authorise mergers.

REGULATED INDUSTRIES

Parts of the Trade Practices Act deal with regulated industries and prices surveillance. They include:

- IIIA access to the services of essential national infrastructure facilities, such as access to transmission wires networks, natural gas pipelines, rail tracks and airport facilities
- VIIA price monitoring and surveillance in relation to industries or businesses declared by the Australian Government
- X establishes limited exemptions in relation to international liner cargo shipping
- XIB anti-competitive conduct in telecommunications
- XIC access to services for telecommunications

The regulatory functions of the ACCC and the AER include regulating the electricity, gas, telecommunications and transport sectors to ensure quality of access to infrastructure; and monitoring of services and prices. The ACCC also has a new role under Part 4 of the *Water Act 2007* (see the section on 'Water', p. 18).

Prices oversight and regulatory arrangements to secure third-party access to essential services are necessary to curb the market power of monopoly infrastructure owners. Administering access regimes for monopoly infrastructure assets is a major area of regulation.

Since 1 July 2005 the AER has had direct responsibility for the regulation of revenues in the electricity transmission networks. Responsibility for regulating gas transmission networks will also be transferred from the ACCC to the AER in 2007–08.

The AER will eventually have responsibility for the retail and distribution networks in the energy sector. The AER was established under the Trade Practices Act as a separate legal entity within the ACCC.

Energy

The AER is Australia's national energy market regulator. Responsibility for regulation of electricity and gas transmission businesses is shared between the AER and the ACCC.

The ACCC retains responsibility for regulatory decisions under the National Third Party Access Code for Natural Gas Pipeline Systems (the gas code) pending the introduction of the new National Gas Law (NGL) and National Gas Rules (NGR) after which the role will be undertaken by the AER.

Administration of Part VII provisions (authorisations and notifications) in respect of energy businesses is the function of the ACCC. The AER assists the ACCC in this function.

The AER functions include or will include:

- monitoring compliance with the National Electricity Law, National Electricity Rules and the regulations by registered participants and other persons
- investigating breaches or possible breaches of provisions of the NEL and NER and instituting and conducting enforcement proceedings against registered participants and other persons

- monitoring the wholesale electricity market
- economic regulation of electricity transmission and distribution service providers (except in Western Australia and the Northern Territory)
- economic regulation of gas transmission and distribution service providers (except in Western Australia)
- regulation of the non-price aspects of retail markets in the energy sector, to the extent determined by the Ministerial Council on Energy.

Communications

The telecommunications sector includes telecommunications carriage services, the facilities over which they are provided and the content and applications they deliver.

The ACCC administers the competition notice and access regimes in the Trade Practices Act that apply to the telecommunications industry, as well as other legislative provisions in the *Telecommunications Act 1997* and related legislation.

The ACCC monitors and reports on competition in the telecommunications industry using particular powers in the Act to seek information from the industry. If the ACCC identifies anti-competitive conduct, it can issue competition notices requiring the recipient to stop the conduct, and it can seek substantial penalties in the court for a breach of the notice.

The ACCC's role in communications (telecommunications carriage services and their content and applications) include:

- examine the competition implications of converging technologies
- maintain competitive and consumer safeguards across the industry
- determine which services should be subject to access regulations
- consider access undertakings and arbitrate disputes between industry members.

The ACCC also has responsibilities for administering access regimes for other communications services, such as certain digital television and digital radio services, as well as access to

broadcasting transmission towers under the *Radiocommunications Act 1992*.

Content and application services are also subject to the restrictive trade practices provisions in Part IV of the Act.

Water

The ACCC has a new role under Part 4 of the *Water Act 2007* to develop and monitor compliance with water charge rules and water market rules in the Murray Darling Basin (MDB), undertake price determinations for bulk water charges and MDB Authority fees, and provide advice to the MDB Authority on water and trading rules. The ACCC is also responsible for enforcing water charge and market rules.

Aviation and airports

The ACCC publishes regulatory reports for the seven major airports—Sydney, Melbourne, Brisbane, Perth, Adelaide, Canberra and Darwin. Under Part VIIA of the Trade Practices Act, the ACCC monitors the prices, costs and profits relating to aeronautical

services and aeronautical-related services; and under the Airports Act, it reports on financial accounts and quality of service.

Monitoring involves collecting information and reporting on prices, quality and financial accounts. The ACCC has no power to prevent price increases, except for aeronautical services for regional airline services at Sydney airport. These prices are subject to a price cap.

The ACCC is also responsible for assessing proposals by Airservices Australia to increase charges for en route and terminal navigation services and rescue and fire fighting services.

The ACCC publishes airports price monitoring and financial reporting reports that provide information on the prices, costs and profitability performance of the seven major airports.

The ACCC monitors the quality of service by collecting information from airport operators, the Australian Customs Service, Airservices Australia and airlines.

There are no competition regulations specifically for airlines, although the ACCC may address anti-competitive conduct, mergers, notifications or authorisations through the general provisions of the Trade Practices Act.

Rail

The ACCC ensures access to interstate rail track and caps freight rail prices.

The ACCC administers the terms and conditions of access to rail tracks owned or leased by the Australian Rail Track Corporation. The tracks are part of the interstate mainline standard gauge track linking Kalgoorlie (in Western Australia), Adelaide, Wolseley and Crystal Brook (in South Australia), Broken Hill (in New South Wales), and Melbourne and Wodonga (in Victoria).

Waterfront and shipping

The ACCC administers international liner cargo shipping arrangements and assesses stevedoring prices in the ports of Melbourne, Sydney, Brisbane, Fremantle, Adelaide and Burnie.

Post

The ACCC must approve changes to prices for postal services operated exclusively by Australia Post.

Australia Post has an exclusive right to carry certain letters within Australia, and to issue postage stamps. However, letters weighing more than 250 g or costing four times the basic postage rate of 50 cents are open to competition from other firms.

Petrol prices

The ACCC monitors petrol, diesel and liquefied petroleum gas prices in the eight capital cities and around 110 country towns. Data on petrol price cycles in Sydney, Melbourne, Brisbane, Adelaide and Perth is available on the ACCC website (www.accc.gov.au), along with information on the determinants of petrol prices in metropolitan and country areas.

Insurance

The ACCC monitors medical indemnity premiums and bank fees and charges.

Utility Regulators Forum

The ACCC, with state and territory regulatory agencies, set up a public Utility Regulators Forum to share information and develop understanding of the activities of various regulators and industries as they implement reform. All regulators are involved. The aim of the forum is to exchange information, to encourage consistency in the application of regulatory functions and to review new ideas about regulatory practices. The forum publishes a newsletter with updates on regulatory activities as well as articles on common challenges.

RELATED LEGISLATION

The ACCC has responsibilities under the following legislation, in addition to the Trade Practices Act:

Airports Act 1996—focusing on access, prices and the quality of service at Australia’s privatised airports.

Australian Postal Corporation Act 1989—defining access to the postal network.

Broadcasting Services Act 1992—covering the payment of TV licenses.

Gas Pipelines Access Law

National Electricity Law

Telecommunications (Consumer Protection and Service Standards) Act 1999—provides a range of safeguards to consumers of telecommunication services.

Telecommunications Act 1997—implements a regulatory framework for the telecommunications industry.

Trade Marks Act 1995—governing the approval of a trademark that certifies that goods or services are of a particular standard of quality, origin, material or mode of manufacture.

Copyright Act 1968—Schedule 11 of the *Copyright Amendment Act 2006* commenced on 11 December 2006 and enables the ACCC to be made party to certain copyright licensing proceedings before the Copyright Tribunal and requires the tribunal to consider any relevant ACCC guidelines.

WHAT THE ACCC CANNOT DO

The ACCC deals with competition and consumer protection matters of national and international significance and therefore does not:

- pursue issues such as the pricing of particular goods or services, warranties and refunds that are more effectively dealt with at local or state level
- mediate disputes between individuals and the suppliers of goods and services
- advise whether a company or individual is honest
- approve individual business conduct
- disclose the number or nature of complaints received about a company or individual
- give legal advice
- settle employment disputes
- register business names.

The ACCC also does not handle complaints about misleading or deceptive conduct in relation to financial services.

The Australian Securities and Investments Commission (ASIC) has this responsibility.

HOW WE WORK

ACCC BUSINESS IS CONDUCTED THROUGH FORMAL MEETINGS OF THE COMMISSIONERS WHO MAKE DECISIONS IN KEEPING WITH THEIR STATUTORY POWERS UNDER THE TRADE PRACTICES ACT.

AER BUSINESS IS CONDUCTED THROUGH FORMAL MEETINGS OF MEMBERS WHO MAKE DECISIONS IN RELATION TO THEIR FUNCTION UNDER THE NATIONAL ELECTRICITY LAW AND THE NATIONAL ELECTRICITY RULES.

ACCC MEETINGS

The ACCC's business is conducted through formal meetings of the commissioners—a minimum of three (including the chair or deputy chair) must attend. Senior staff also attend, although they have no voting powers. Associate commissioners also attend as required. Decisions are made by all commissioners present. Usually decisions are made by consensus but on the few occasions when this is not possible, decisions are made by majority vote of the commissioners present. A major part of the meeting agenda deals with matters that have been investigated by staff.

Decisions to start court action, to approve or reject a major merger proposal or to authorise anti-competitive behaviour if it is shown to be in the public interest are made by the commission only.

Staff present submissions, papers or oral reports. They can relate to such matters as draft decisions about electricity access, a submission about an industry code, a recommendation to start court proceedings, a mergers recommendation or an application to vary court orders. Commissioners can either accept the recommendations in a staff paper or ask for further investigation or work to be done—or decide on a course of action different to that recommended.

ACCC COMMITTEES

There are 5 subject matter committees to streamline the commission's decision-making processes. They are:

Committee	Function
Adjudication Louise Sylvan (chair) Stephen King John Martin Edward Willett	Considers authorisations and notifications. Meets weekly.
Communications Edward Willett (chair) Graeme Samuel Louise Sylvan David Smith	Coordinates the ACCC's media and telecommunications regulatory functions, including enforcement of competition notices with the enforcement committee. Meets as required.

Committee	Function
Enforcement David Smith (chair) Graeme Samuel Louise Sylvan John Martin	Oversees the ACCC's enforcement program. Recommendations are referred to the full commission for decision. Meets weekly.
Mergers Stephen King (chair) Graeme Samuel Louise Sylvan	Considers most merger matters and reports to the full commission. Meets weekly.

Committee	Function
<p data-bbox="126 308 425 401">Regulated Access, Pricing and Monitoring Committee</p> <p data-bbox="126 429 388 461">John Martin (chair)</p> <p data-bbox="126 474 316 505">Stephen King</p> <p data-bbox="126 533 331 564">Edward Willett</p>	<p data-bbox="526 308 978 419">Oversees pricing and regulatory issues in transport and other industries.</p> <p data-bbox="526 429 790 461">Meets as required.</p>

AER MEETINGS

AER business is conducted through formal meetings of the members who make decisions in relation to its functions under the National Electricity Law and National Electricity Rules. The chair of the AER must preside over all meetings of the regulator and a quorum is the chair and the Commonwealth member (if they are not also the chair).

INVESTIGATING POSSIBLE BREACHES

The ACCC may investigate allegations of breaches of the Trade Practices Act. Possible breaches come to the ACCC's attention by people complaining about business conduct and people informing if they have been involved in or see a possible offence happen.

Matters are also referred to us by the media, the ACCC's own staff and other agencies such as the Telecommunications Industry Ombudsman, or state or territory fair trading authorities.

The ACCC receives more than 60 000 complaints and inquiries each year. Of those, we actually resolve about 50 per cent during the initial contact, usually by sending out a brochure or letter or making a quick telephone call. Less than 2 per cent of complaints are escalated to investigation and generally less than 0.1 per cent proceed to litigation.

How the ACCC deals with a complaint

The Infocentre is the initial response centre for all telephone, email inquiries and complaints to the ACCC on competition and consumer issues in Australia. (ACCC Infocentre: 1300 302 502).

The Infocentre officer assesses the matter and:

→ refers the caller to the more appropriate government agency (e.g. Telecommunications Industry Ombudsman, Australian Securities and Investment Commission, a state/territory office of fair trading), or

How the ACCC deals with a complaint

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- refers the caller to the more appropriate government agency (e.g. Telecommunications Industry Ombudsman, Australian Securities and Investment Commission, a state/territory office of fair trading), or
- informs the caller of their rights or how to settle a dispute, and sends out information, or
- refers the caller to an ACCC enforcement officer or state office of the ACCC if the complaint is more serious.

If the matter is sufficiently serious, the case may ultimately be discussed at an ACCC commission meeting or committee meeting, which may support court action or the acceptance of a court enforceable undertaking from the company involved.

ACCOUNTABILITY AND TRANSPARENCY

The ACCC adheres to a service charter that sets out the standards of service the public may expect from the ACCC and the steps they may take if these standards are not met.

The ACCC publishes a corporate plan outlining its values, commitments, responsibilities and priorities for the next 12 months.

The ACCC is also held accountable for its activities through the courts, tribunals, the media, parliaments and the Commonwealth Ombudsman. It must apply to the court for penalties to be imposed or conduct to be stopped—it does not have the power itself to punish offenders or to order them to stop their conduct.

The ACCC also has several committees with external stakeholders (see pp. 28–9).

Maintaining information registers

The ACCC maintains 27 statutory and voluntary registers containing information that is available to the public. They include legally enforceable undertakings, authorisations, notifications, mergers and acquisitions, access to services, product safety conferences and telecommunications.

Media policy

The ACCC believes that publicising its activities is in the public interest. Publicity plays an important role in achieving compliance with the law. It is also critical in ensuring that the courts and the ACCC remain accountable and transparent, and is one of the keystones of public confidence in the ACCC's administration of the law.

However, the ACCC does not always publicise all information it receives because of:

- the potential to jeopardise investigations
- privacy considerations
- ensuring a person's right to a fair trial is not prejudiced
- the risk of defamation
- compliance with court orders not to disclose information in certain circumstances.

When communicating information the ACCC also seeks to deal with parties in a fair, transparent and ethical manner, and to ensure that there is no unnecessary damage to reputation.

EXTERNAL COMMITTEES

The ACCC has six consultative committees with external stakeholders.

As well as being successful and inclusive forums for policy development and industry discussion, these groups all provide accountability and transparency to the ACCC's decision-making.

Consumer Consultative Committee

This is a committee of consumer, community and welfare organisations from around Australia that meet to advise the ACCC on issues and trends affecting consumers that fall within the scope of the Trade Practices Act. It meets three times a year.

Small Business Advisory Group

This group provides the ACCC with the opportunity to liaise with small business stakeholders, discuss emerging issues and work towards a collaborative approach to addressing them. It meets twice a year.

Franchising Consultative Panel

The Franchising Consultative Panel gives the ACCC an opportunity not only to identify specific issues in the franchising industry, but also to develop specific compliance and educational initiatives to help franchisors and franchisees understand their rights and obligations under the Trade Practices Act. Its membership includes franchisors, consultants, lawyers, franchise associations and franchisees. The ACCC hosts meetings of the panel once a year.

Health Sector Consultative Committee

This committee was formed to continue the liaison process between the ACCC and the health sector that developed through the operation of the Health Services Advisory Committee. It provides a forum for the ACCC to advise the health sector on trade practices issues and for committee members to raise trade practices concerns relevant to their position within the sector. It will meet twice a year.

Energy Consultative Committee

This committee was established to provide a forum for federal, state and territory economic regulators to discuss developments and directions in energy industries and regulation. With economic regulatory functions for energy being progressively transferred from jurisdictional regulators to the new Australian Energy Regulator, the ACCC and AER will seek to continue the forum in a consultative form to assist the smooth transition to national regulatory arrangements and to ensure ongoing communication between jurisdictions and the new regulatory agencies.

Infrastructure Consultative Committee

The committee was set up in 2006 to facilitate discussions on the broad issues of infrastructure and infrastructure regulation. It is representative of the diversity of infrastructure interests—energy, water, telecommunication, rail, ports and airports—and is an important mechanism for the ACCC to gain feedback from stakeholders in infrastructure sectors. Its focus is on issues in the practice of regulation that cross the different infrastructure sectors. The committee commissions research work for discussion.

CONTACTS

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ACCC WEBSITE www.accc.gov.au | AER WEBSITE www.aer.gov.au

Callers who are deaf or have a hearing or speech impairment can contact the ACCC through the National Relay Service www.relayservice.com.au.

TTY or modem users phone 133 677 and ask for 1300 302 502.

Voice-only (speak and listen) users, phone 1300 555 727 and ask for 1300 302 502.

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