

ACCC Corporate plan 2011–12

From the Chair

A major focus for the ACCC in the year ahead will be the Australian Consumer Law (ACL). The ACL enhances the ACCC's enforcement role by providing:

- A single, national consumer law, unifying legislation across all states and territories.
- Protection for consumers from unfair contract terms.
- New remedies and powers for the ACCC.

We will take a lead role as national champion of the ACL, incorporating the new legislative framework for competition and consumer protection into our regulatory responsibilities and working collaboratively with our co-ACL regulators to affect co-ordinated national outcomes in consumer protection.

National infrastructure and related markets also remain a key focus in the coming year. In particular, the enhanced role of the AER in undertaking significant retail responsibilities and the development of an effective regulatory regime for the NBN and associated structural market changes will have substantial resources devoted.

The ACCC will continue to exercise independence and rigour in our enforcement of the *Competition and Consumer Act 2010* (formerly the *Trade Practices Act 1974*) and other legislation under which it has an enforcement role. The strategic areas of focus in our 2011–12 corporate plan enables the ACCC to:

- Achieve timely and effective enforcement and compliance outcomes.
- Regulate businesses and national infrastructure to improve the welfare of the community.
- Inform and educate the community about the work we do and how the legislation and rules we administer benefit all Australians.
- Equip us for our new roles and responsibilities.

The ACCC is guided by the fundamental principle that competition is crucial for economic growth and to deliver benefits for Australian consumers.

With the expertise, dedication and high-quality work of our employees we will meet the challenges before us in 2011–12.

Our purpose

To enhance the welfare of the Australian community by fostering competitive, efficient, fair and informed markets. Our aim is to bring greater competitiveness and fair trading to the Australian economy, working on the fundamental principle that this benefits consumers, business and the wider community.

Our role

The ACCC enforces the Competition and Consumer Act and a range of additional legislation, promoting competition, fair trading, consumer protection and providing regulation of national infrastructure for the benefit of all Australians.

Our values

We take pride in our people and the way we perform our role. We adhere to the Australian Public Service Values and Code of Conduct. The Commission performs its functions in a timely, effective, efficient and consistent manner that respects confidentiality. We produce results in the public interest through accessibility, transparency, independence and fairness in all our dealings.

Our outcomes

Lawful competition, consumer protection, and improved efficiency in national infrastructure markets which includes the determination of access terms to bottleneck infrastructure as well as a range of enforcement, education and price monitoring activities. To achieve these outcomes the three strategies the ACCC will pursue are:

Promotion of vigorous, lawful competition and informed markets

- Detect, pursue and stop anti-competitive conduct including cartels and misuse of market power.
- Promptly deliver authorisation and notification decisions, particularly on small business collective bargaining arrangements.
- Assess mergers promptly and efficiently across all industries, taking effective action to address substantial competition concerns arising from mergers where competition may be affected.

Our business model

Our role is prescribed by legislation

- We are government funded, but as an independent statutory authority we act independently of government.
- We apply the law without fear or favour, to achieve wide reaching compliance.
- As well as enforcing the law, we provide information and education to businesses and consumers about the laws we administer.
- We regulate national infrastructure markets in accordance with the power given by legislation.

We investigate breaches of the law

- Possible breaches of competition, consumer law and other relevant laws come to our attention through complaints and information from members of the public, the media, our own people and other agencies.
- Our Infocentre is the first point of contact for all inquiries and complaints to the ACCC/AER on competition and consumer issues.
- If the matter is serious, the case is investigated and may ultimately lead to a range of actions up to and including civil or criminal court action.

We promote a culture of compliance

- We foster a culture of compliance through our integrated approach to the administration and enforcement of the law.
- Depending on the circumstances, we choose from a range of compliance strategies—including education and outreach programs, media communications, and working with business (both big and small) on specific programs to change conduct.

We make decisions in the public interest

- ACCC decisions are made through formal meetings of ACCC commissioners. Only the Commission can decide to start court action, to approve or oppose a major merger proposal, to authorise anti-competitive behaviour in the public interest, or to undertake formal activity in one of its regulated sectors including to agree to or determine the conditions of access to bottleneck infrastructure facilities.
- Employees present submissions to the Commission. Commissioners can either accept the recommendations made by employees or ask for further work to be done—or decide on a different course of action.
- The Australian Energy Regulator (AER) decisions are made through formal meetings of AER members.

Regulating national infrastructure services and other markets where there is limited competition

- Support and protect competition in markets that rely on networks with natural monopoly characteristics.
- Provide consistent and independent regulation of the energy sector, encouraging competition in gas and electricity markets to benefit industry and consumers.
- Regulate and advise on industries where market structures are changing, including where the market structure or practices impede effective competition and efficient outcomes (for example water, some areas of transport and communications).
- Monitor prices to advise on the effect of market conditions (including deregulation) on the price levels of specified goods and services, including petrol, container stevedoring and a range of airport prices including car parking.

Focus for 2011–12

Vigorous, lawful competition and informed markets:

- Review our approach to the economic framework for the assessment of authorisation applications and notifications to promote consistent, informed and efficient decisions which ensure competition laws do not prevent arrangements that are in the public interest.
- Drive a greater degree of transparency in dealings with parties involved in the merger review process, enhancing our ability to assess and deter potentially anti-competitive mergers, and encourage notification of potentially anti-competitive mergers to the ACCC before they happen.
- Promote minimum requirements and standard terms for divestiture undertakings to facilitate an efficient and effective undertaking evaluation process, engender consistency and rigour in undertaking development and maximise undertaking compliance by merger parties.

Fair trading and consumer protection:

- Demonstrate effective collaboration with other ACL regulators to promote the national reach of the Australian Consumer Law, and to enforce the ACL with a focus on unfair contract terms, consumer guarantees, unconscionable conduct and unsolicited selling.
- Proactively identify and rapidly respond to emerging product safety hazards, and actively manage product recalls.
- Reduce the incidence of illegal conduct and consumer harm by using communication approaches that will better inform consumers, small businesses and trading enterprises about their rights and responsibilities under the Competition and Consumer Act and Industry Codes.
- Use our knowledge and information resources effectively to prevent, where feasible, the incidence of unfair trading practices and to reduce the likelihood that this conduct will harm consumers and small business operators.

Regulation of national infrastructure services and other markets where there is limited competition:

- Promote competitive outcomes through a period of transition in communications markets as a consequence of network and service convergence and the implementation of the National Broadband Network.
- Continue to develop and implement a holistic approach to the regulation of transport and logistics related infrastructure.
- Monitoring of, and advice to government and the public on, fuel prices and other issues related to Australian fuel markets.
- Continue to develop and harmonize annual reporting requirements for gas and electricity businesses to underpin the regulatory determination process.
- Implement the new energy retail package with continuing strong consumer and industry engagement.
- Continue to develop effective enforcement and regulatory capabilities to underpin competition and efficiency in the Murray-Darling Basin water sector.

Resources and tools for a dynamic organisation:

- Improve the delivery of high quality, strategic and timely legal advice and litigation services within an integrated national framework of internal and external lawyers.
- Improve communication within and between branches.
- Develop and implement our information management framework.
- A working electronic record management system.
- Strengthened support for developing leadership and performance management.
- Upgrade the ACCC's online communications to meet changing audience preferences and needs.
- Continue to develop effective, efficient and sound financial practices.
- By using a diverse range of tools continue to bring the latest thinking in regulatory economics into the organisation.