

PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

**Review of the Australian  
Competition and Consumer  
Commission Annual Report 2015  
(Second Report)**

Standing Committee on Economics

© Commonwealth of Australia

ISBN 978-1-74366-567-1 (Printed Version)

ISBN 978-1-74366-568-8 (HTML Version)

This work is licensed under the Creative Commons Attribution-NonCommercial-NoDerivs 3.0 Australia License.



The details of this licence are available on the Creative Commons website:  
<http://creativecommons.org/licenses/by-nc-nd/3.0/au/>.

# Chair's foreword

At the public hearing with the ACCC on 14 October 2016, the organisation outlined its principal responsibilities under the *Competition and Consumer Act 2010* (the Act) as a competition and consumer regulator. The committee scrutinised the performance of the ACCC and examined its role, recent activities, and priorities for the coming year.

The committee was particularly interested in hearing about the ACCC's existing powers, the impacts of proposed changes to competition law, and competition in the banking sector. The committee heard that financial services are the one area where the ACCC is not the principal consumer regulator. The ACCC stated that its focus in the financial sector is on mergers and cartels as well as any activity that causes a significant lessening of competition.

The ACCC advised the committee that it had, relatively recently, initiated a programme of conducting market studies into particular sectors of the economy, and that this is consistent with the practices of other competition regulators internationally. The committee noted the ACCC's work in this area, however it was concerned that the ACCC had not initiated a market study into the banking sector, given that the ACCC has expressed concern that competition in banking is less than robust.

The ACCC also pointed to a number of sectors which were of concern, including telecommunications, the operators of various Australian ports and market concentration in the supermarket sector. In this context, the ACCC emphasised that the banking sector was also of concern as it was a highly concentrated market.

The committee noted the ACCC's view on the potential impacts of introducing an effects test into section 46 of the Act, as suggested by the Harper Review. The ACCC reiterated its position that the existing provisions are poorly crafted and that an effects test will support more competition and innovation in various markets, including the financial sector.

On behalf of the committee I would like to thank the Chairman of the ACCC, Mr Rod Sims, and his colleagues for appearing at the public hearing on 14 October 2016. The ACCC plays a vital role in seeking to ensure Australia's markets function fairly for both businesses and consumers. The committee will continue to provide oversight of this into the future.

**David Coleman MP**

**Chair**

# Contents

Chair's foreword .....	iii
Membership of the Committee .....	vii
Terms of Reference .....	ix
Abbreviations .....	xi

## The Report

<b>1</b>	<b>Introduction.....</b>	<b>1</b>
	Background .....	1
	Scope and conduct of the review .....	2
<b>2</b>	<b>Current issues in competition and consumer law .....</b>	<b>3</b>
	Overview.....	3
	Powers and activities of the ACCC.....	4
	Market studies .....	4
	Legal activities and access.....	6
	Resourcing of the ACCC.....	7
	Sectors of concern for the ACCC.....	9
	Priority areas .....	10
	Competition in the banking industry .....	11
	Mergers .....	12

Market power.....	13
Section 46 and the effects test .....	15
Other matters.....	16
Petrol pricing.....	16
Food and Grocery code of conduct.....	17
Motor vehicle aftermarket.....	17
National broadband network .....	19
Credit card surcharges.....	19
Conclusion .....	20

## **End Matter**

A. Public hearing details and documents .....	21
---	----

# Membership of the Committee

## *Chair*

Mr David Coleman MP

## *Deputy Chair*

Hon Matt Thistlethwaite MP

## *Members*

Mr Adam Bandt MP

Ms Julia Banks MP

Mr Scott Buchholz MP

Mr Pat Conroy MP (to 7 November 2016)

Mr Trevor Evans MP

Mr Kevin Hogan MP

Mr Craig Kelly MP

Mr Matt Keogh MP

Ms Madeleine King MP (from 7 November 2016)

## **Committee Secretariat**

Stephen Boyd, Committee Secretary

Kilian Perrem, Inquiry Secretary

Jazmine Rakic, Office Manager

# Terms of Reference

The House of Representatives Standing Committee on Economics is empowered to inquire into, and report on, the annual reports of government departments and authorities tabled in the House that stand referred to the committee for any inquiry the committee may wish to make. The reports stand referred in accordance with the schedule tabled by the Speaker to record the areas of responsibility of the committee.



# Abbreviations

ACCC	Australian Competition and Consumer Commission
ASIC	Australian Securities and Investments Commission
FSI	Financial System Inquiry
NBN	National broadband network

