

---

The Parliament of the Commonwealth of Australia

# **Review of the Australian Competition and Consumer Commission Annual Report 2017**

House of Representatives  
Standing Committee on Economics

September 2018  
Canberra

---

© Commonwealth of Australia 2018

ISBN 978-1-74366-854-2 (Printed Version)

ISBN 978-1-74366-855-9 (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

On 29 June 2018 the Australian Competition and Consumer Commission (ACCC) appeared before the committee, and discussed its activities in relation to enforcing the *Competition and Consumer Act 2010* and related legislation. The ACCC has an important role to play in monitoring and holding individuals and groups to account for anti-competitive behaviour and breaches of Australia's consumer law.

The committee notes that in the last financial year the Government has extended the ACCC's roles and responsibilities to include: regular inquiries into competition in the financial sector; inquiry powers to increase transparency in the gas markets; examining the electricity markets; and an inquiry into the supply of residential insurance products in Northern Australia.

The committee notes the ACCC's assurance that it is taking a more proactive approach to issues in the financial sector. In response to the committee's recommendation in the November 2016 report for its review of the four major banks, the Government established the new Financial Services Unit (FSU). Through the FSU, the ACCC now has a permanent role in monitoring the banks on competition matters, enabling the regulator to play a competition champion role. The FSU will undertake regular inquiries into specific financial competition issues, facilitating greater and more consistent scrutiny of competition matters in the sector.

The committee shares the Productivity Commission's concern that the financial sector has been without a competition champion. The committee will continue to monitor the ACCC's work in this area, and looks forward to the ACCC further developing in the role of competition champion.

The committee notes that while strong competition laws and corresponding penalties have been in place since 2007, until recently this has not been reflected in the pecuniary penalties imposed in competition cases.

The committee notes the high penalty against Yazaki in the criminal cartel case. However, there is still much work to be done by the ACCC and in the legal system to clearly demonstrate to companies that for serious competition breaches there will be serious consequences. In particular, penalties for competition law breaches must take into account company size and turnover for them to be an effective deterrence to anti-competitive behaviour.

While the ACCC appears well placed for its new enhanced competition role, the committee notes the regulator's advice that it has been a different story when it comes to Australian Consumer Law (ACL). However, the recently passed Treasury Laws Amendment (2018 Measures No. 3) Bill 2018 will correct the disparity between competition and consumer law penalties. The maximum penalties under the ACL will now align with the maximum penalties under the competition provisions.

The ACCC is also doing important work in energy markets on electricity and gas supply and affordability. In particular, the committee notes that the ACCC will now be monitoring and reporting to the Government on electricity prices, at least every six months, until 2025. The ACCC will be empowered to require energy providers to supply relevant information, and the regulator may make recommendations to Government on how to improve electricity outcomes for electricity customers.

The Government has also directed the ACCC and the Australian Energy Regulator to set a default price for electricity, which is expected to apply, at the latest, from July 2019. The committee will continue to monitor the ACCC's work on energy.

On behalf of the committee, I thank the Chairman of the ACCC, Mr Rod Sims, and other ACCC representatives for appearing at the hearing. I would also like to thank the former Chair of the committee, Ms Sarah Henderson MP, for her contribution.

**Tim Wilson MP**  
**Chair**



# Contents

Chair's foreword .....	iii
Membership of the Committee .....	vii
Terms of reference .....	viii
Abbreviations.....	ix

## THE REPORT

<b>1 Introduction .....</b>	<b>1</b>
<b>Background .....</b>	<b>1</b>
<b>Scope and conduct of the review .....</b>	<b>3</b>
<b>2 Current issues in competition and consumer law .....</b>	<b>5</b>
<b>Overview .....</b>	<b>5</b>
<b>Criminal cartel cases .....</b>	<b>5</b>
Secondary boycotting.....	6
<b>Penalties .....</b>	<b>7</b>
Competition law penalties .....	8
Australian Consumer Law penalties.....	11
<b>Competition in the financial sector .....</b>	<b>12</b>
Mortgage pricing .....	14
Bank considered passing on bank levy costs.....	15
<b>Energy markets .....</b>	<b>16</b>
Electricity.....	16
Electricity pricing inquiry findings .....	17

Liddell power plant .....	20
Gas .....	23
<b>Other matters.....</b>	<b>26</b>
Petrol prices .....	26
New car retailing industry.....	27
Free range eggs standard .....	29
Dairy industry code .....	30
Cryptocurrency.....	31
<b>Conclusion .....</b>	<b>32</b>

## **APPENDIX**

<b>Appendix A — Hearing and witnesses .....</b>	<b>33</b>
---	-----------

## **LIST OF TABLES**

Table 1.1 ACCC comparative financial results, 2014–15, 2015–16 and 2016–17 .....	3
--	---



## **Membership of the Committee**

<b>Chair</b>	Mr Tim Wilson MP (from 10 September 2018) Ms Sarah Henderson MP (to 28 August 2018)
<b>Deputy Chair</b>	The Hon Matt Thistlethwaite MP
<b>Members</b>	Mr Adam Bandt MP Ms Julia Banks MP Mr Scott Buchholz MP (to 28 August 2018) Mr Trevor Evans MP Mr Jason Falinski MP (from 20 June 2018) Mr Kevin Hogan MP (to 27 March 2018) Ms Ged Kearney MP (from 21 May 2018 to 10 September 2018) Mr Craig Kelly MP Mr Matt Keogh MP The Hon Craig Laundry MP (from 10 September 2018) Mr Josh Wilson MP (to 10 May 2018 and from 10 September 2018)

## **Committee Secretariat**

<b>Secretary</b>	Mr Stephen Boyd
<b>Inquiry Secretary</b>	Ms Samantha Mannette
<b>Office Manager</b>	Ms Jazmine Rakic



## **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
ACL	Australian Consumer Law
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
ANZ	Australia and New Zealand Banking Group Limited
ASIC	Australian Securities and Investments Commission
CFMEU	Construction, Forestry, Mining and Energy Union
LNG	Liquefied natural gas
NEM	National Electricity Market
OECD	Organisation for Economic Co-operation and Development
UTC	Unfair Contract Term