

STATEMENT OF INTENT

COMMERCE COMMISSION



2009-2012

THE COMMISSION'S PURPOSE AND VALUES

PURPOSE

THE COMMISSION'S PURPOSE IS TO PROMOTE DYNAMIC AND RESPONSIVE MARKETS SO THAT NEW ZEALANDERS BENEFIT FROM COMPETITIVE PRICES, BETTER QUALITY AND GREATER CHOICE.

CORE VALUES AND OPERATING PRINCIPLES

THE COMMISSION IS COMMITTED TO ACTING WITH:

- INTEGRITY
- RESPONSIBILITY
- RESPECT

THE COMMISSION IS COMMITTED TO THE FOLLOWING OPERATING PRINCIPLES, WHICH UNDERPIN ITS CORE VALUES:

- MAINTAINING ITS INDEPENDENCE
- ACTING PROFESSIONALLY
- USING TRANSPARENT PROCESSES
- SETTING STANDARDS OF EXCELLENCE
- EMPLOYING A PRINCIPLED APPROACH
- LOOKING FOR COMMERCIALY REALISTIC SOLUTIONS

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ABBREVIATIONS	
Australian Competition and Consumer Commission	ACCC
Commerce Commission	Commission
Ministry of Consumer Affairs	MCA
Ministry of Economic Development	MED
LEGISLATION ENFORCED BY THE COMMERCE COMMISSION	
Commerce Act 1986	Commerce Act
Credit Contracts and Consumer Finance Act 2003	CCCF Act
Dairy Industry Restructuring Act 2001	DIR Act
Electricity Industry Reform Act 1998	EIR Act
Fair Trading Act 1986	Fair Trading Act
Telecommunications Act 2001	Telecommunications Act

CHAIR'S FOREWORD

The Commerce Commission's role is to foster market competition, as this encourages businesses to be efficient and innovative and to meet consumer demands. When markets are dynamic and efficient, consumers benefit from having a greater choice of goods and services at better prices and quality, while businesses thrive in an environment where they can compete on their merits, and where success is rewarded with improved profits.

It is the Government's expectation that the Commission will contribute to its objective of driving productive, non-inflationary growth of the New Zealand economy. The Commission will aim to create an environment which promotes confidence and certainty in markets, so as to foster investment decisions and encourage innovation.

The Commission's tasks over the 2009/10 year will be prioritised having regard, in particular, to recent regulatory developments under New Zealand law. It can also be predicted that the current global economic crisis will have certain impacts on priorities. These factors are likely, in the foreseeable future, to have the following three primary impacts upon the Commission's workstreams.


First, priority will need to be given to meeting the statutory timetables for the set of input methodologies applying to regulated entities between now and mid-2010. Parallel regulatory workstreams throughout this period will also need to be accorded priority.

Second, since the introduction of the Commission's leniency programme, significant evidence of price fixing has emerged. In times of financial stress, it may be predicted that such evidence will continue to emerge. Price fixing is deemed to be unlawful, and this area of enforcement is likely to remain one of priority.

Third, a downturn in merger activity has already been experienced and this trend may continue, at least for the initial part of the period covered by this Statement of Intent. Nevertheless, there may, in the short to medium term, be merger activity driven by financial stress. The Commission will need to meet adjudication demands in respect of such mergers, as and when they arise.

Outside of these particular influences, much of the Commission's activities will be business as usual. For example, the important work that the Commission undertakes under the Fair Trading Act and Credit Contracts and Consumer Finance Act will continue. This will help to ensure that consumers are enabled to make informed choices.

In all of its endeavours, the Commission is aware of its need to make timely and robust decisions and judgment calls. It will aim to achieve these goals in a cost-effective manner and, to the extent possible, through an open dialogue with the business community, consumer interest groups and all other interested parties.



Dr Mark Berry
Chair

CEO'S SUMMARY

In the years 2009-2012 the Commerce Commission is facing a new set of challenges both in terms of the economic environment and in terms of internal productivity pressures. The Commission needs to adapt and change to meet these challenges. We want to develop a smarter, more nimble organisation through the following initiatives:

First, we will target our resources tightly on those activities that can have the greatest impact at this time. We will also be smarter in the way we treat and resource high-volume, low-impact complaints.

Second, we will engage more with business and traders to improve the flow of information and level of mutual understanding. Good communication will help us to set better priorities, limit areas for dispute, and improve the quality of our work through taking advantage of industry expertise. Equally, working with industries through outreach programmes to lift awareness and understanding of what is acceptable behaviour can have far-reaching benefits.

Third, we will restructure the organisation to achieve a better division of labour between our enforcement and regulatory activities, while continuing to retain and support a critical mass of leading technical/professional expertise in-house. At the same time, a smaller senior management team will help to tighten the organisation's focus and complement the adjudicative and governance roles of Commission Members. With this structure the Commission offers economies of scope and scale.

Fourth, we will emphasise the development and retention of highly skilled and competent people. The work we do is intellectually challenging, pressured and important. We need to offer the kind of work environment that appeals to leading professionals. The Commission needs to do more to actively support and develop individuals, provide the support systems required to produce top class work, and promote a culture of excellence.

Fifth, we will increase the pace at which we work. The development and use of project management disciplines are helping to improve internal management. Now the challenge is to ensure our management processes and systems are streamlined and "fit for purpose". Improving our management information systems will help improve the speed and quality of management decision-making.

Finally, we will improve our accountability to Government and the wider community through utilising better measurement, reporting and evaluation of the Commission's impact.

These are very difficult and challenging times for New Zealanders. Government and businesses are having to move quickly, think creatively and act confidently to secure the future. It is no different for the Commission, and action in these six areas will assist us to play our part.



Nicholas Hill
CEO

NATURE AND SCOPE OF FUNCTIONS

The Commerce Commission is responsible for enforcing New Zealand's competition, fair trading and consumer credit contract laws. It also has regulatory responsibilities in the electricity, gas, telecommunications, dairy and airport industries.

New Zealand businesses benefit from a competitive environment that encourages innovation and investment and provides greater regulatory certainty. New Zealand consumers benefit as well, as businesses offer lower prices and better quality and range of products and services in order to compete for consumers' custom. Consumers are also given greater confidence in their transactions through the enforcement of fair trading and consumer credit laws and product safety regulations.

The Commission is an independent, quasi-judicial body, established under the Commerce Act, and is accountable to the Minister of Commerce for its performance. This independence requires the Commission to be an impartial promoter and enforcer of the law. As experts in enforcing and implementing competition and regulatory policy, the Commission also provides operational input to policy development and legislative reviews.

The Commission delivers its outputs under an Output Agreement with the Minister of Commerce and the Minister of Communications and Information Technology, funded through Vote Commerce¹, and through Vote Communications and Information Technology.

In these challenging economic times the Commission's functions take on even greater importance in contributing to New Zealand's economic performance and encouraging consumer confidence.

COMPETITIVE MARKETS

The Commission enforces, adjudicates and provides information and advice relating to competition law that prohibits anti-competitive behaviour and structures in markets (Commerce Act 1986, Electricity Industry Reform Act 1998 (EIR Act)).

INFORMED CONSUMERS

The Commission enforces and provides information and advice about consumer legislation that prohibits false and misleading behaviour by traders (Fair Trading Act 1986), and requires the disclosure of certain information to consumers entering into consumer credit contracts (Credit Contracts and Consumer Finance Act 2003 (CCCF Act)).

1. Historically for Competition, Electricity Industry Reform Act, Dairy Industry Restructuring Act, Fair Trading Act, and Credit Contracts and Consumer Finance Act outputs, and in 2009/10 for Airport Sector Regulation, Gas Sector Regulation, Electricity Sector Regulation and Input Methodologies.

SOUND REGULATORY REGIMES

The Commerce Amendment Act received Royal Assent on 16 September 2008. This is a substantial piece of legislation that repeals and substitutes Part 4 of the Commerce Act, repeals Part 4A and some of Part 5 of the Commerce Act and increases the Commission's regulatory responsibility substantially to include gas pipelines businesses and named international airports. The new and existing responsibilities as defined under this legislation are listed below:

INPUT METHODOLOGIES

The Commission is required to determine a range of input methodologies in order to promote certainty for suppliers and consumers in relation to the rules, requirements and processes applying to the regulation, or proposed regulation, of goods or services under the Commerce Act.

ELECTRICITY LINES SERVICES

The Commission will implement a price-quality control regime for specified electricity lines services, along with a complementary information disclosure regime. The regime now also includes the national grid operator, Transpower.

GAS PIPELINE SERVICES

The Commission will implement a price-quality regime for certain gas pipeline services, including both distribution and transmission, along with a complementary information disclosure regime.

AIRPORT SERVICES

The Commission will implement an information disclosure regime for specified airport services. This relates to aircraft and freight activities, airfield activities and specified passenger terminal activities.

PART 4 INQUIRIES

The Commission can conduct a regulatory inquiry to determine whether to recommend that particular goods or services should be controlled. Should the Minister accept the Commission's recommendation then it will be recommended to the Governor-General that regulation be imposed under an Order in Council. The Commission is then required to make a determination about how this regulation should apply.

As well as its new responsibilities under Part 4 of the Commerce Act 1986, the Commission continues to regulate the telecommunications and dairy industries under industry-specific legislation.

TELECOMMUNICATIONS

In the telecommunications industry the Commission monitors and reports on developments and trends, determines access terms to networks, determines and allocates the cost of telecommunications service obligations, reports to the Government on the desirability of regulating or deregulating telecommunications services, and monitors and enforces Telecom's compliance with its operational and accounting separation obligations (Telecommunications Act 2001).

DAIRY

The Commission makes determinations on disputes with Fonterra about the application of subpart 5 of Part 2 of the Dairy Industry Restructuring Act and the Dairy Industry Restructuring (Raw Milk) Regulations 2001 and has an investigation and enforcement role under that legislation. In 2009/10 the Commission's role under this legislation is expected to be affected by anticipated amendment to both the Act and Regulations to provide for an auction system for raw milk.

OPERATING ENVIRONMENT

The global economy is experiencing what is probably its deepest crisis since the Great Depression of the 1930s. Many governments are under pressure to protect, or even to bail out, particular firms and industries. There have been calls to pull back on the enforcement of competition and regulation policies. In times like this, understanding how markets work, and the place of regulation in markets, is fundamentally important.

As highlighted by the Secretary-General of the Organisation for Economic Co-operation and Development (OECD)², the importance of the market economy and the role of competition authorities cannot be underestimated in these times. The Commission believes that competition has a critical role to play in ensuring a sustainable recovery takes place.

The economic conditions are expected to have an impact on the way in which businesses and governments behave and the confidence consumers have in the market. Businesses under stress may be more likely to bend the rules to try to stay afloat especially as they face volatility in accessing funding. And at the same time, consumer confidence is dropping to very low levels.

Within this operating environment the Commission is in a unique position to target its range of responsibilities to deliver competitive outcomes in both regulated and unregulated industries. These competitive outcomes will help to address the immediate issues created by the economic crisis and to restore the market in the medium to long term. Later sections of this document provide more detail on both the expected effects of the economic conditions in each of the Commission's areas of responsibilities and the Commission's intended response.

Along with the rest of the public sector, the Commission will face the direct impact of financial constraint due to the economic conditions. The Commission will respond to this challenge by continuing to increase its productivity through strengthened strategic capability and planning, and prioritising its resources to address areas where the greatest impact can be achieved in the most efficient and cost-effective manner. As a result, the Commission will, in effect, deliver more with less.

The Commission must continue to maintain a focus on its work with stakeholders given the current operating environment. The Commission is seeking to become more outwardly focused in its interactions with other agencies, both locally and internationally, and with the industries it regulates and interacts with. International liaison programmes will continue to be maintained where they contribute directly to the Commission's ability to deliver value to the New Zealand market. In particular, the ongoing importance of trans-Tasman relationships is recognised and the Commission has been continuing to liaise with the Australian Competition and Consumer Commission (ACCC) since the signing of a Memorandum of Understanding in 2007. The Commission also contributes to a trans-Tasman working group which meets annually ahead of the Australia New Zealand Leadership Forum. Working with other agencies within New Zealand, such as the Banking Ombudsman, will be critical in taking a joint approach to responding to issues in the market. And early, proactive engagement with industry will allow the Commission to take more efficient and effective enforcement and regulatory actions, and promote confidence and certainty in markets.

2. Opening remarks by Angel Gurría, OECD Secretary-General, at the Global Forum on Competition, Paris, 19 February 2009.

OUTCOMES, IMPACTS AND OBJECTIVES

The Commission focuses on competitive markets, informed consumers, sound regulatory regimes and creating knowledgeable New Zealanders to achieve outcomes that strengthen the New Zealand economy. The Commission has recently been working to better define and measure the impact that the range of interventions it uses has on these outcomes.

In early 2009 the Commission completed a review of its performance measurement framework to improve the way in which it measures impact as well as to streamline and improve the performance measures for outputs, activities and inputs.

The diagram on pages 12-13 depicts the Commission's purpose, outcomes and impacts, and the way in which these are achieved. Key strategic priorities for 2009/10 are also identified. These priorities are covered in more detail in the Strategic Direction, Achieving Our Outcomes and Managing Organisational Health and Capability sections of this document.

The Commission is funded through a number of appropriations within Vote Commerce and Vote Communications. The Commission has a large number of outputs to deliver within each appropriation. Within these outputs the Commission also has a degree of discretion in the interventions it takes. One focus for the Commission going forward is to ensure the interventions it takes achieve the greatest impact in the most cost-effective way. For example, supplementing the Commission's traditional enforcement activities with increased proactive communication and education activities, or taking joint industry-focused initiatives across different output areas may provide greater impact for the same or decreased cost.

A set of performance measures has been developed to provide the Commission and its stakeholders with a better understanding of whether the Commission is achieving the desired impact in the most efficient manner possible. These measures are both internally and externally focused. External measures are for the purpose of accountability to the government and are set out in this Statement of Intent. Internal measures for Commission management to use to manage day-to-day operations and delivery are contained in the Commission's business plan.

The new measures mark a significant change to the way in which the Commission monitors and reports its performance. The implementation of the measures will be phased over two financial years. Externally focused measures that are ready for implementation or development in 2009/10 are contained within the Forecast Service Performance section of this document.

The new performance measurement framework and the increased focus on impacts will be fully integrated into the Commission's quarterly and annual reports and quarterly briefings to relevant Ministers under its Output Agreement.

STRATEGIC FRAMEWORK 2009/10

PURPOSE	TO PROMOTE DYNAMIC AND RESPONSIVE MARKETS SO THAT NEW ZEALANDERS		
OUTCOMES	COMPETITIVE MARKETS Markets are dynamic and all goods and services are provided at competitive prices	INFORMED CONSUMERS Consumers make choices informed by accurate information received from traders	KNOWLEDGEABLE NEW ZEALANDERS New Zealanders understand the benefits of competition and regulation in a market economy
IMPACTS	<ul style="list-style-type: none"> → Harm to New Zealanders due to anti-competitive behaviour is minimised → Harm to New Zealanders due to changes in market structures is minimised → Businesses understand and comply with competition legislation 	<ul style="list-style-type: none"> → Traders provide accurate information to consumers → Traders understand and deliver on Fair Trading Act/ CCCF Act obligations to consumers → Consumers understand, trust and can use information from traders → Consumers are informed of their rights 	<ul style="list-style-type: none"> → New Zealanders understand and support the role of the Commission as an independent competition authority and economic regulator → New Zealanders are informed of the demonstrable benefits of competition and regulation
OUTPUTS	COMPETITIVE MARKETS \$8.8M VOTE COMMERCE, \$8.4M MAJOR LITIGATION <ul style="list-style-type: none"> → Market Structure investigations → Co-ordinated behaviour cases → Unilateral conduct cases → Clearances and authorisations → EIR Act exemptions → Framework development → Reports to the Minister 	INFORMED CONSUMERS \$5.8M VOTE COMMERCE, \$1.3M MAJOR LITIGATION <ul style="list-style-type: none"> → Fair Trading cases → Safety and Standards cases → CCCF cases → Framework development 	PUBLIC INFORMATION/EDUCATION FUNDED ACROSS ALL APPROPRIATIONS <ul style="list-style-type: none"> → Media releases → Publications → Presentations
OUTPUT PRIORITIES	<ul style="list-style-type: none"> → Cartels (leniency applications) → Non-discretionary demand-driven activity 	<ul style="list-style-type: none"> → CCCF Act cases → Major Fair Trading Act cases involving egregious industry practices 	<ul style="list-style-type: none"> → Development of increased influencer approach
CAPABILITY PRIORITIES	Leadership framework External communications Valuing our people		

BENEFIT FROM COMPETITIVE PRICES, BETTER QUALITY AND GREATER CHOICE

SOUND REGULATORY REGIMES

Regulated industries invest efficiently and provide long-term benefits for end users in regulated industries

- Excessive profits are limited in regulated industries
- Regulated industries have incentives to invest efficiently and in a timely manner
- Regulated industries have incentives to achieve efficiency gains and share them
- Barriers to entry and expansion are lowered for telecommunications and dairy industries
- Regulated industries have a shared understanding of the regulatory framework, and regulatory certainty and transparency are enhanced

TELECOMMUNICATIONS REGULATION

\$6.9M VOTE TELECOMMUNICATIONS, \$0.25M MAJOR LITIGATION

- TSO determinations
- Monitoring and reporting enforcement
- Code approval development
- Reports to Ministers
- Access determinations
- Framework development
- Information disclosure

ELECTRICITY AND GAS REGULATION

\$5.8M VOTE COMMERCE, \$0.3M MAJOR LITIGATION

- Determinations
- Monitoring and assessment of compliance
- Inquiries
- Enforcement
- Framework development
- Information disclosure

INPUT METHODOLOGIES (AIRPORTS, ELECTRICITY AND GAS)

\$4.9M VOTE COMMERCE

- High-level guidelines
- Determinations

AIRPORT REGULATION

\$0.5M VOTE COMMERCE

- High-level guidelines
- Determinations

DAIRY REGULATION

\$0.6M VOTE COMMERCE

- Dairy investigations
- Determinations
- Framework development

- Mobile services
- Broadband
- Next generation networks

- Part 4 implementation focusing on sectors causing immediate detriment to consumers and sectors not currently regulated

- Dairy determinations

Process streamlining

Prioritisation

Administrative efficiencies

STRATEGIC DIRECTION

Overall, the Commission's activities have one common strategic purpose – to promote dynamic and responsive markets so that New Zealanders benefit from competitive prices, better quality and greater choice. To achieve this the Commission applies a logical mix of interventions looking across all areas of delivery including Competitive Markets, Informed Consumers and Sound Regulatory Regimes, supported by an organisation-wide focus on engagement and communication that targets the fourth outcome – Knowledgeable New Zealanders.

In the medium term the Commission has three strategic priority areas, advancing the direction set in previous years:

1. Maximising impact – the Commission will maximise its impact by setting clear priorities based on the extent of public detriment.
2. Leadership – the Commission will focus on achieving effective external leadership by promoting the benefits of competition to the wider community and taking a more outwardly focused approach to its engagement with stakeholders.
3. Capability – the Commission will ensure that its people, processes and systems are fit for purpose to enable it to achieve its outcomes in the most cost-effective and productive way.

The “maximising impact” priority is realised in the strategies identified for both the short and medium term in each of the Commission's areas of responsibility. These are shown as the output priorities in the strategic framework diagram. In the short to medium term the Commission will look to maintain its established role and influence in areas such as Fair Trading, mergers and the telecommunications regime, while at the same time looking to develop or increase its role and influence in new and changed areas of responsibility such as CCCF Act and network regulation and those of high detriment such as cartels. More detail on these strategies is contained in the Achieving Our Outcomes section of this document.

The maximising impact and capability priorities will be supported by the Commission's continued focus on prioritisation, productivity and efficiency in order to optimise delivery across these areas – in essence, doing more with less. A three-year plan with detailed targets to increase the proportion of time spent on outputs through reduction of administration and increases in productivity is being implemented. More detail on this plan is contained in the Managing Organisational Health and Capability section of this document. As referenced in the Outcomes, Impacts and Objectives section we have also made significant enhancement to the Commission's processes for the measurement, reporting and evaluation of impact.

Related to all the strategic priorities, the Commission will continue to develop an increased balance in the portfolio of interventions it uses, particularly by increasing the proportion of proactive, influence-focused interventions. For example, we will make use of guidelines and public information and education activities as a means to influence industry behaviour to enhance competitive markets instead of always resorting to costly and time consuming litigation. These activities will be further supported by development of a three-year external communications strategy that takes a coordinated approach to external leadership and engagement across the Commission's activities.

ACHIEVING OUR OUTCOMES

COMPETITIVE MARKETS

The Commission's competition programme comprises adjudications, under which the Commission considers applications for clearance of mergers and acquisitions, the authorisation of mergers and coordinated market behaviour, and applications for exemptions to the structural restrictions set out in the Electricity Industry Reform Act.

The Commission's competition programme also includes the investigation of coordinated behaviour, unilateral conduct and changes in market structure not notified to the Commission through the clearance, authorisation or exemption regimes.

There is good international evidence that in times of economic distress the temptation for corporate executives to turn to price fixing and market allocation arrangements for short-term relief can be irresistible. According to a recent historical review major global cartels frequently have their origins in times of economic stress³. It is possible that the economic slowdown may also result in the Commission seeing more applications for the authorisation of anti-competitive arrangements or mergers between businesses, and ultimately to have to deal with more such arrangements that have not been authorised. The Commission has developed a streamlined authorisation process that will assist with dealing with such applications in a more cost-effective and timely manner.

Another effect the Commission is seeing is a decline in merger clearance applications. Reduced merger activity has been observed internationally. The decline is partly because of a tightening of credit available from the financial sector, and partly because of a "wait-and-see" attitude amongst potential acquirers. However, it is possible that clearance applications might increase in the future, if the recession bites more deeply, in particular involving proposed acquisitions of "failing firms". It will be critical for the Commission to vigorously apply the requirements of the Commerce Act and make the right decision for the markets affected, while at the same time being mindful that businesses need quick decisions.

In light of these issues it is appropriate that the Commission continues its strategic focus on the cartel programme in 2009/10. With globalisation, many cartels impact directly on a number of countries. Generally, large economies such as the United States and the European Union take the lead in prosecuting these international cartels; this breaks up the cartel and destabilises other worldwide cartels. This has a positive impact on New Zealand. To this extent, the Commission supports these investigations by large economies where possible.

However, such prosecutions are country specific, and do not address the harm to consumers in individual countries such as New Zealand. It is for this reason that in most cases it is not desirable for New Zealand to "free ride" on international cartel investigations. By investigating an international cartel's operations in New Zealand, the specific local harm can be identified, and enforcement action can be taken against the responsible international and local entities.

In previous years the Commission has been successful in detecting both national and international cartels through its leniency programme. A current review of this leniency and cooperation policy and the introduction of sentencing guidelines are likely to further enhance the Commission's detection capability. Since late 2004 leniency has been granted in relation to twelve investigations. Many of these cases are now either in the litigation process or about to complete the final stages of investigation. The outcome of these cases is anticipated to confirm and extend the Commission's jurisdiction with respect to international cartels. They will demonstrate the very substantial economic harm caused by cartel activity and the consequences for those who engage in the conduct. The Commission will be arguing for very substantial penalties.

The Commission will also be looking to increase the speed of its resolution of these cases through a greater focus on leveraging leniency and encouraging early settlement. In addition, the Commission will continue to build on the benefits obtained through its International Competition Network membership, particularly through sharing information with its counterpart enforcement agencies and through sharing best practice learning.

3. Don Klawiter "Cartel Enforcement Today: The Perils of the Economic Downturn", the September 2008 issue of the online magazine Global Competition Policy (www.globalcompetitionpolicy.org).

In 2009/10 the Commission will continue examining its approach to unilateral conduct by reviewing its enforcement approach to section 36 of the Commerce Act.

Leadership by the Commission in terms of guidelines and the further development of responsive, low-cost processes for the application of its responsibilities under the Commerce Act will also continue to be a key focus in the Competitive Markets area.

INFORMED CONSUMERS

A key role of the Commission is to give consumers confidence that the information provided by businesses is accurate and not misleading. The legislation relevant to this work is the Fair Trading Act 1986 and the Credit Contracts and Consumer Finance Act 2003 (CCCF Act).

Businesses thrive in an environment where consumers are confident. The latest OECD data on consumer confidence⁴, however, shows it has experienced an unprecedented collapse. Consumers, with less money in their pockets, will be more discerning than ever before. In order to make good choices they need accurate information from traders, but they also need to be given the opportunity to make a choice in the first place. This links directly to strong enforcement of competition laws, as competition provides consumer choice. In times of economic crisis we can expect to see more traders using misleading information to try to gain a competitive advantage. Consumers need to be alert to this, and increasingly they are.

The Commission's enforcement of the Fair Trading Act has a history of significant success in influencing trader behaviour and, as a result, improving consumer confidence. The Commission must continue to prioritise major cases of egregious industry practice that result in significant consumer detriment. This will be supported by the implementation of a low-level inquiry unit, focused on rapid non-litigation based resolution of cases.

In 2008/09 the Commission developed centres of excellence focused on specific industry segments that were identified as emerging areas of concern. These segments are financial products, telecommunications and sustainability claims. The creation of centres of excellence is intended to build capability and focus resource and compliance efforts to ensure the Commission makes progress in influencing behaviours in key target areas. It is an important job of any competition agency to scan the markets and keep abreast of new technologies, consumer trends and business developments. The focus of the centres of excellence was chosen on the basis of the Commission's enforcement criteria.

As part of its role in improving consumer confidence the Commission will be doing more to educate businesses and consumers about how not to breach, or fall victim to a breach of, the Fair Trading Act or CCCF Act. To support this the Commission is developing an "outreach" programme with a short- to medium-term focus that will increase presentations and briefings, with the aim of improving voluntary compliance levels.

Compliance with the Credit Contracts and Consumer Finance Act is a priority area for the Commission, given the deterioration in consumer confidence in the financial sector and the important role that a competitive lending market can play in strengthening the New Zealand economy. The Commission is dedicating significant resource to support this focus and will be working alongside industry and other agencies with a role in the financial sector as much as possible to avoid and deter practices that might undermine consumer confidence or competition.

4. OECD Statistics Directorate, "Financial Crisis Sees Collapse in Consumer Confidence", www.oecd.org, March 2009.

SOUND REGULATORY REGIMES

In markets where competition is not possible the Commission aims to promote competitive outcomes through regulation. The OECD states that regulation is essential for the functioning of society and the economy but also notes that poor-quality regulations can impose unnecessary costs on the community, impede innovation and stifle competitive pressures⁵. As key enablers of our economy, the network industries the Commission regulates will be looking for regulatory clarity, certainty and incentives to invest as they go forward. In support of this the Commission has adopted a set of best practice principles for the use of regulatory powers developed by the Australia New Zealand Leadership Forum. Especially critical in the application of these principles for New Zealand's regulated industries will be the principle that in exercising its powers and discharging its functions the Commission must adopt processes which are fair and equitable by virtue of being:

- consistent with international best practice;
- clearly defined;
- consistently applied over time while allowing flexibility in response to changing market conditions and experience;
- generally comprehensible to those affected by the processes; and
- transparent to the public.

TELECOMMUNICATIONS

Under the Telecommunications Act, the Commission promotes competition in telecommunications markets for the long-term benefit of end users.

A competitive telecommunications sector underpins economic growth and productivity across multiple sectors and industries. Recognising the importance of this sector, the Government has made the roll-out of an ultra-fast national broadband network a priority.

Since the implementation of changes to the telecommunications regulatory regime in 2006, there have been significant changes across telecommunications markets. These include increased competition in the broadband retail market, the building of new networks in the mobile market, the operational separation of Telecom and a movement away from old telephone-based technology to new broadband-based technology.

The Commission is coming to the end of the early phase of the regime, in which the focus was on setting terms and conditions for regulated services, and is now moving into a consolidation phase. The emphasis is likely to shift towards monitoring the impact of interventions and assessing new market developments as new technologies emerge.

The impact on investment and activity in the telecommunications industry due to the economic situation is unclear. The Government's broadband agenda may also have an impact on the Commission's telecommunications activities. The Commission will need to retain its capacity to respond quickly to the changing needs of this industry.

The Commission's strategy in the medium term will be to:

- promote competition in mobile services markets;
- promote competition in fixed services, including voice and broadband; and
- facilitate the transition to next generation technology.

5. OECD Competition Directorate, "Reducing Regulatory Restrictions on Competition", www.oecd.org, March 2009.

Across the mobile sector the Commission continues to focus on lowering barriers to entry and on ensuring a competitive environment, while providing regulatory certainty about the Commission's approach to competitive issues in the market. The Commission's review of mobile termination will be a priority for completion in 2009. The Commission will monitor co-location and other market outcomes in this area, and will develop a programme for obtaining more direct feedback from consumers about competitive outcomes.

In the fixed market, broadband and voice services are increasingly linked through bundling, and have common competition issues. The Commission has intervened in this market through access regulation, and it will be important to track the impact of regulated services on market outcomes. As the market continues to change, the Commission will consider whether there are opportunities to reduce the scope of regulation. The Commission will also continue to ensure that the Accounting and Operational Separation regimes applying to Telecom work effectively to promote non-discrimination between Telecom's business units and other service providers.

The Commission's study into the transition to a next generation network will set priorities for future work in this area. The Commission is cautious about intervening in emerging markets, but will continue to review the appropriateness of legacy models of regulation in light of new technology. The scope for creating innovative services in telecommunications which lower costs for businesses and increase value for consumers may provide the industry with some resilience in the face of the current downturn.

Overall, the Commission will maintain its focus on responsive and flexible regulation through targeted communication with key stakeholders, continuation of its industry engagement strategy, and monitoring and gathering market intelligence both locally and internationally.

ELECTRICITY, GAS AND AIRPORTS

The amendments to the economic regulatory provisions of the Commerce Act 1986 that were introduced by the Commerce Amendment Act 2008 provide, amongst other things, a greater emphasis on improving certainty for regulated entities and providing incentives for investment. These are important objectives in the current economic climate. The electricity, gas and airport sectors have a considerable impact on New Zealand's economy. The pricing of electricity, gas and aviation services provide important inputs into the productive enterprises of businesses across sectors. As such they have a direct impact on businesses' ability to compete effectively in national and global markets.

The Commission's focus in this area in 2009/10 is on delivery of the statutory timeframe deliverables as well as high-priority projects critical to the success of the regime. Once the regime is fully operational, the Commission will develop an impact-based strategy that prioritises its work in this area in the same way as it has done in its other output areas. Under the planned work programme, the following key outputs will be delivered in 2009/10.

- Input methodologies will be developed that apply to regulated gas, electricity and airport services, such that final determinations on the input methodologies for these industries can be issued by the end of the financial year. Determinations may be issued that are specific to transmission as well as distribution, although this will be confirmed through the consultation and submission process. These determinations will provide a transparent and consistent framework for regulating industry sectors.
- A summary of a default price-quality path will be published by 1 December 2009 for new price-quality paths which apply to additional specified lines businesses, to take effect by 1 April 2010. These price-quality paths will aim to ensure the regulated businesses have incentives to deliver efficient services and pricing, taking account of consumer demand, and will be supported by information disclosure processes.

- In accordance with the new statutory provisions relating to Transpower, the Commission will continue to consult on appropriate regulatory instruments for the national grid operator, as well as complete a capital expenditure review (covering replacement, refurbishment, minor development and enhancement of transmission assets and operational network IT services) and a compliance statement review as required by the existing Transpower settlement agreement.
- An information disclosure process will be developed for specified airport services and will be ready for determination by 1 July 2010.

In keeping with the overall strategy of the Commission, a focus on stakeholder engagement and relationship management will be maintained throughout this workstream.

DAIRY

The purpose of this output is to promote the efficient operation of dairy markets in New Zealand.

To achieve its outcomes in this area, the Commission determines disputes between Fonterra and other parties, investigates and resolves allegations of breaches of the Dairy Industry Restructuring Act (DIR Act), and provides information in that context to build industry understanding of the obligations and responsibilities of all parties under the Act.

During 2009/10, amendments to the pricing of regulated milk will be introduced. The Minister of Agriculture has confirmed the decision to replace the default pricing formula with an auction system. The introduction of this new system will require legislative amendment to the Raw Milk Regulations and with this legislative amendment there may be the potential for an increase in applications for determinations of disputes. This simply reflects the fact that there will be a period during which an industry understanding of the new system develops.

To ensure that independent dairy processors and Fonterra understand the new system, and to reduce the likelihood of an increase in disputes, the Commission intends to develop and publish guidelines. It will also be important for the Commission to develop its internal capability in order to deal efficiently with any disputes that arise under this new system.

KNOWLEDGEABLE NEW ZEALANDERS

The enhancement of New Zealanders' understanding of competition and regulation is essential to supporting the Commission's delivery of its other outcomes as well as contributing to competitive outcomes in its own right. By helping New Zealanders to understand and support the role of the Commission as an independent competition authority and economic regulator, and informing consumers and businesses of the demonstrable benefits of competition and regulation, it is expected that they will then be able to take greater responsibility for ensuring competitive outcomes themselves.

The Commission has been increasing its focus on public information and education in recent years, and will continue this focus in the short and medium term. This is reflected by increasing outputs in this area both in terms of media activity and in terms of publications and presentations directly targeted at key business and consumer groups within each of the outcome areas. The external communications strategy will further advance the Commission's engagement strategy and among other things ensure a coordinated approach to education and information about the Commission's role.

MANAGING ORGANISATIONAL HEALTH AND CAPABILITY

In the 2008-2011 Statement of Intent the Commission signalled its focus on organisational health through its strategic priorities of capability and leadership. Since then significant progress has been made to develop both staff and leadership capability. In 2009/10 and following years the focus on organisational health and capability will increase.

The baseline review completed in 2008 highlighted a need for the Commission to invest in its organisational capability in order to increase efficiency and effectiveness, specifically targeting improved strategy, resource allocation, capacity, risk and project management. The Commission has also completed extensive internal consultation with staff as part of a culture survey and the strategic planning process to identify key capability opportunities. These processes have identified a series of interlinked capability and leadership priorities for the Commission in 2009/10 that will improve its performance through the medium term.

LEADERSHIP FRAMEWORK

This priority is a continuation and extension of the work commenced in 2008/09. It builds on a highly successful conference about leadership held by the Commission in September 2008 that helped the Commission to define good leadership.

Outstanding leadership at the Commerce Commission is the ability to make sound decisions, act decisively and communicate effectively to improve the dynamism of markets and the knowledge of consumers in an ever changing, challenging and complex business environment.

The Commission will now focus on defining and implementing the organisational environment required to develop and sustain this leadership model. This will include the development of competencies and associated behaviours that staff will be asked to exhibit, encouraged through integration in the Commission's human resource management processes and the provision of targeted development programmes.

EXTERNAL COMMUNICATIONS

This priority is a continuation and expansion of the external component of the leadership priority outlined in 2008/09. Work in 2008/09 has focused on developing strategies for increasing the use of external communications and proactive stakeholder engagement within each of the Commission's specific areas of responsibility. In 2009/10 these strategies will be implemented along with development and implementation of a supporting Commission-wide strategy that will define the Commission's overall philosophy of engagement. To advance this strategy of increased engagement the Commission will need to ensure availability of specialist communications support and upskilling of management. Ultimately it is expected that this engagement strategy will deliver increased impact along with significant efficiencies for the Commission through the application of a broader, more proactive range of interventions, working more closely with those we seek to influence.

PRIORITISATION

The Commission has made significant progress in 2008/09 on development of a customised project management framework that will allow for the implementation of a consistent and improved approach across the organisation. In 2009/10, to support this, an improved prioritisation process will be implemented that allows the Commission to proactively collect and analyse market data against a set of criteria to identify areas for focus, define the best approach to addressing these areas and then allocate resources to deliver on the defined priorities in the short, medium and long term. The key to the success of this process lies in the ability to continue to reprioritise in response to changing demand for the Commission's services, and changes in the market environment. Clear communication will also be required both internally and externally to ensure understanding of the way in which the Commission is prioritising and the reasons.

PROCESS STREAMLINING AND ADMINISTRATIVE EFFICIENCIES

The Commission has identified opportunities to further reduce the cost and improve the quality of the management systems and processes within the organisation. In particular, internal administrative processes will be targeted for streamlining. This will reduce the amount of time spent on administrative activities and enable greater efficiency and performance across the organisation.

VALUING OUR PEOPLE

In recent years the Commission has maintained a strong focus on valuing people and establishing itself as a good employer, investing in its employees and managing its talent to ensure it has the right people with the right skills to deliver on its objectives. The Commission has also undertaken significant development of its capability for the in-sourcing of major litigation services.

The Commission will continue to maintain the progress made in these areas in the short and medium term as well as developing an organisational development strategy that will include a combination of leadership, succession planning and career development, to ensure the retention of high-performing people.

The Commission is also undertaking a review of its internal management and support structures to identify ways in which the Commission can lift its performance to a higher level. An internal structure will be designed that allows the Commission to be more strategic, more nimble and aligned with markets and stakeholders, as well as ensuring support services are as lean and effective as they can be. The results of this structural review will be implemented in 2009/10.

MONITORING OUR CAPABILITY AND STRATEGIC PRIORITIES

The Commission will be implementing measures specifically targeted at ensuring that it is achieving its stated goals for capability development and strategic initiatives. The Commission will report against the following measures in order to achieve this:

- level of staff engagement – a regular survey aimed at identifying any issues staff have within the workplace to enable management to react promptly to address these issues;
- progress on strategic priority projects against plan – tracking actual percentage complete on these projects against their formal project plans to ensure delivery of these key projects;
- projects meeting approved budgets – ensuring that project cost variance is minimised, as part of the new project management process; and
- percentage of productive time – tracking the Commission's activities to ensure increasing productivity over time based on agreed targets of output focused versus administrative time.

CAPITAL ASSET MANAGEMENT

The Commission will continue to manage its capital programme through its operational cash flow in 2009/10. The programme is primarily made up of ongoing replacement of existing equipment or minor additional equipment to meet growth or changing technology and work patterns. An IT asset management system was implemented in 2008/09 that allows for the efficient tracking and allocation of Commission IT assets as part of the overall capital asset management programme. More detail on this can be found in the Appendix.

FORECAST SERVICE PERFORMANCE

MEASURING THE COMMISSION'S PERFORMANCE

The measures reflected in this Statement of Intent represent a significant advancement in impact measurement and simplification of the Commission's output measures. In many cases, the 2009/10 focus is on baseline data collection or development of collection processes.

Impact measurement by its very nature is focused on the medium term and the results of the new measures will develop over time. Updates on measurement and target development through 2009/10 will be provided through the formal accountability reporting process.

These tables reflect the measures of performance considered relevant to external stakeholders. Supporting these measures is a detailed internal management measurement framework that provides the Commission with the data it needs to manage the inputs and resource on a day-to-day basis to ensure delivery of the outputs and impacts. The Commission has not identified quality or timeliness measures for some output classes. Where quality and timeliness are key for an output, and a measure is able to be taken in a cost-effective manner, these are provided.

The Commission continues to set challenging output targets that require the organisation to perform at a high level. In the majority of cases the targets for 2009/10 represent maintenance of, or increase in, targets and/or actual levels of delivery in 2008/09⁶. This is being achieved in a static funding environment through significant productivity and efficiency gains.

For each area of activity an indication of expected performance trends in 2010/11 and 2011/12 is provided. Due to the formative nature of the impact measurement process, these trends are focused on output numbers. Following the establishment of a baseline for these measures in 2009/10, forecasting for impact measures for future years will be possible.

6. The Commission's targets for 2008/09 can be found in its 2008-2011 Statement of Intent.

COMPETITIVE MARKETS

IMPACT MEASURES 2009/10

MEASURE	METHOD OF COLLECTION	TARGET
Economic benefit realised as a result of preventing anti-competitive clearances and authorisations, and as a result of taking enforcement action: → Direct effect → Wider deterrent effect	→ Method of collection to be developed based on internationally accepted processes for defining proxies for estimating detriment and consumer benefit	→ Report actual benefit realised per year → No target for 2009/10; developing and piloting method of collection
Trends in price, quality, range and/or service in markets where the Commission has granted a clearance/authorisation or decided not to take enforcement action	→ Evaluation of specific cases including quantification of the size of the markets affected → Evaluation method to be developed and tested in 2009/10	→ 2009/10 2 pilot evaluations (1 behaviour and 1 structure)

OUTPUT MEASURES 2009/10

OUTPUT	QUANTITY	QUALITY	TIMELINESS
ENFORCEMENT ACTION			
Investigations completed		→ No successful legal challenges of the Commission's processes	→ 90% of complex ⁷ unilateral and coordinated investigations completed within 2 years
→ Merger	0 - 2	→ No orders to pay indemnity costs	
→ Unilateral	3 - 8	→ Penalties and settlements achieved in Coordinated Behaviour cases (establish baseline in 2009/10)	→ 90% of routine unilateral and coordinated investigations completed within 9 months
→ Coordinated	1 - 4		
→ EIR Act	0 - 1		→ Proceedings filed within 20 working days of decision to prosecute
Litigation resolved			
→ Merger	0 - 1		
→ Unilateral	1 - 2		
→ Coordinated	3 - 4		
→ EIR Act	0 - 1		
SCREENING INVESTIGATIONS⁸			
→ Merger	4 - 5	n/a	n/a
→ Unilateral	3 - 5		
→ Coordinated	3 - 5		

7. Complex cases are defined as those involving one or a number of the following features:

- multiple breaches;
- multiple parties;
- international conduct and/or international-based parties;
- conduct that is difficult to evidence because of its covert nature or because the conduct is undocumented;
- conduct requiring significant analysis to identify the nature of the breach or the effect in New Zealand, often requiring the use of external experts
- need to use search warrant powers; and
- need to analyse substantial amounts of information.

8. A screening investigation is where the Commission undertakes significant research to establish whether the facts alleged by a complainant are as represented and whether the likely economic detriments are sufficient to justify a full investigation. In these cases, the Commission will typically not interview the companies alleged to have contravened legislation that is enforced by the Commission.

OUTPUT	QUANTITY	QUALITY	TIMELINESS
DETERMINATIONS			
Determinations made		→ No successful legal challenges of the Commission's processes	→ 90% of complex clearance applications decided within 60 working days
→ Restricted Trade Practices authorisations	0 - 1	→ 80% success over 5 years	
→ Merger authorisations	0 - 1	in defending appeals of	→ 90% of routine clearance applications decided within 30 working days
→ EIR Act exemptions	2 - 4	determinations	
→ Clearances	15 - 23		
Litigation resolved			
→ Appeals	0 - 1		
REPORTS TO MINISTER			
	0 - 1 ⁹	n/a	n/a
FRAMEWORK DEVELOPMENT			
Development or review of guidelines, industry codes or frameworks		→ Above average feedback ratings from government agencies, business, professional services and international bodies on Commission contribution/advice	n/a
→ Commerce Act	2 - 4		
→ EIR Act	0 - 1		
Advice to government agencies		→ Breadth of impact of framework development activities - number and size of markets affected (establish baseline in 2009/10)	
→ Commerce Act	7 - 12		
International information exchange and liaison			
→ Commerce Act	6 - 10		

SERVICE PERFORMANCE TRENDS 2010-2012

In general, the level of determination outputs should reflect the level of acquisition activity. The current economic environment suggests that the low level of merger activity could persist. However, the Commission notes that as industry rationalisation occurs and financial sector lending resumes, an increase in clearance activity is predicted. Merger investigation activity is also expected to reflect the general low level of acquisition activity.

The Commission expects to see the trend of increasingly large and sophisticated cartels (both international and domestic) applying for leniency to continue over 2010-2012. Some large, high-detriment cases (Air Cargo, Interchange) are now in the early litigation phase. As they move through the court process, these cases will increase awareness of the illegality of cartel conduct, resulting in increasing destabilisation of cartels and the likelihood of a steady flow of cartel members coming forward under the leniency policy. The current review of the leniency policy, along with the development of penalty guidelines, is also expected to lead to an increase in leniency applications.

The Commission intends to continue to focus its efforts on fewer, carefully selected, high-impact Unilateral Conduct cases. The Commission will target cases that present a clear contravention of section 36 on their facts.

9. The Commission may undertake an inquiry under Part 4 of the Commerce Act either if required to by the Minister, or on its own initiative. Pursuant to the State-Owned Enterprises (Agriquality Limited and Asure New Zealand Limited) Act 2007, AgriQuality and Asure NZ have merged to form AsureQuality. The Act requires an inquiry into whether it is necessary or desirable for meat inspection services to be controlled under Part 4 of the Commerce Act. The inquiry must proceed unless the Minister in consultation with the Meat Industry Association agrees one is not necessary.

INFORMED CONSUMERS

IMPACT MEASURES 2009/10

MEASURE	METHOD OF COLLECTION	TARGET
Proportion of consumers who report being able to understand, trust and use the information provided to them by traders and creditors, and report that they understand their rights	<ul style="list-style-type: none"> → Surveys in areas defined as centres of excellence in 2009/10 → Telecommunications → Financial Products → Sustainability 	<ul style="list-style-type: none"> → No target for 2009/10; will establish baseline → Future target to maintain or increase understanding
Observed changes in trader and creditor behaviour	→ Case studies conducted in areas defined as centres of excellence in 2009/10	<ul style="list-style-type: none"> → No target for 2009/10; will establish baseline → Future target to exemplify behaviour changes and quantify the size of the markets affected

OUTPUT MEASURES 2009/10

OUTPUT	QUANTITY	QUALITY	TIMELINESS
ENFORCEMENT ACTION			
Investigations completed		→ No successful legal challenges of the Commission's processes	→ Proceedings filed within 20 working days of decision to prosecute
→ Fair Trading Act	265 - 320	→ No orders to pay indemnity costs	
→ Product standards	40 - 52	→ Actual level of penalties and settlements achieved in	
→ CCCF Act	29 - 42	Fair Trading cases (establish baseline in 2009/10)	
Litigation resolved			
→ Fair Trading Act	15 - 20		
→ Product standards	5 - 7		
→ CCCF Act	4 - 7		
FRAMEWORK DEVELOPMENT			
Development or review of guidelines, industry codes or frameworks		→ Above average feedback ratings from government agencies, business, professional services and international bodies on Commission contribution/advice	n/a
→ Fair Trading Act	10 - 15		
→ CCCF Act	0 - 1		
Advice to government agencies		→ Breadth of impact of framework development activities - number and size of markets affected (establish baseline in 2009/10)	
→ Fair Trading Act	8 - 12		
→ CCCF Act	1 - 3		
International information exchange and liaison			
→ Fair Trading Act	30 - 40		
→ CCCF Act	0 - 1		

SERVICE PERFORMANCE TRENDS 2010-2012

Planned efficiency improvements in 2009/10 are expected to increase output numbers slightly in the Fair Trading area – 265-320 in 2009/10 compared with 257-312 in 2008/09. Maintaining these levels will be a focus in future years especially if funding levels remain static. Some reductions of output quantity may be experienced in the medium term as costs increase. External litigation costs are expected to increase for the foreseeable future. If this occurs, it will limit the ability of the Commission to maintain litigation activity and hence it is likely that litigation outputs will reduce over time.

SOUND REGULATORY REGIMES – TELECOMMUNICATIONS

IMPACT MEASURES 2009/10

MEASURE	METHOD OF COLLECTION	TARGET
Position of New Zealand in the OECD ranking of prices of bundles of telecommunications products	→ OECD report - quarterly	→ Broadband - increase OECD position → Mobile services - improve position to the top half of the OECD by 2012
Aggregate telecommunications industry investment	→ Annual sector monitoring	→ Stable or rising
Evidence of entry or expansion in the overall telecommunications industry	→ Market share figures for expansion → Observation of viable entry	→ Reduced barriers to entry and expansion
Proportion of customers surveyed that report a positive customer experience (PQRS ¹⁰)	→ Survey in relation to mobile services	→ 2009/10 baseline collection → Future target to maintain or increase experience
Broadband quality	→ Contracted quarterly collection	→ Improved quality over time
Uptake of regulated service by access seekers	→ Internal quarterly collection	→ Increased uptake over time
Deregulation of telecommunications industry	→ Observation of regulation removed	→ Unnecessary legacy regulation removed

OUTPUT MEASURES 2009/10

OUTPUT	QUANTITY	QUALITY	TIMELINESS
Access determinations	2 - 4	→ No successful legal challenges of the Commission's processes → 80% success over 5 years in defending appeals of determinations	→ Completed within an average of 10 months from commencement of investigation
TSO determinations	5 - 6	→ Applications for statutory clarifications 0 - 2	→ Completed within an average of 12 months from commencement of investigation
Enforcement action	0 - 3	→ No orders to pay indemnity costs received for any enforcement action	n/a
Information disclosure	1 - 4	→ No successful legal challenges of the Commission's processes	n/a
Monitoring and reporting	9 - 13	→ No retrospective corrections	n/a
Industry codes	0 - 1	n/a	n/a
Reports to Ministers	2 - 3	n/a	→ Completed within an average of 12 months from commencement of investigation

10. Price, quality, range, service.

OUTPUT	QUANTITY	QUALITY	TIMELINESS
FRAMEWORK DEVELOPMENT			
→ Development or review of guidelines, industry codes or frameworks	2	→ Above average feedback ratings from government agencies, business, professional services and international bodies on Commission contribution/advice	n/a
→ International information exchange and liaison	2	→ Breadth of impact of framework development activities - number and size of markets affected (establish baseline in 2009/10)	

SERVICE PERFORMANCE TRENDS 2010-2012

An increase in monitoring and reporting activity is expected over time as the Commission transitions from setting regulated terms and conditions to observing impacts in the market. As next generation network technology is deployed there may be additional work in reviewing the regulatory regime and associated legislation to support this deployment.

SOUND REGULATORY REGIMES – ELECTRICITY, GAS AND AIRPORTS

IMPACT MEASURES

Due to the passing of the Commerce Amendment Act 2008 the focus of 2009/10 is on the development of the regimes under the new legislation. Impact from the new regime will not occur until after such time as the regime is implemented, expected to be early 2010/11. Impact measures are therefore not provided for these regulatory regimes in 2009/10, but will be defined in 2009/10 and provided in future years. However, there are impacts that can already be assessed resulting from the existence of the historic electricity regime, especially in relation to information disclosure.

MEASURE	METHOD OF COLLECTION	TARGET
Electricity industry investment	→ Information disclosure regime requirements: asset management plan (AMP) reviews	→ Annual improvement in AMP compliance ratings
Quality of electricity distribution	→ Information disclosure regime → SAIDI ¹¹ → SAIFI ¹²	→ No material deterioration of quality over time
Electricity distribution business and Transpower price changes	→ Information disclosure regime requirements and default price-quality compliance statements	→ Timely resolution of any breaches of EDB default price-quality paths or the Transpower administrative settlement → Reduction in number of breaches over time

OUTPUT MEASURES

OUTPUT	QUANTITY	QUALITY	TIMELINESS
INPUT METHODOLOGIES			
→ Airports	1	→ Compliance with legislative requirements for consultation	→ Completion by 30 June 2010
→ Gas/Electricity	2 - 4		
PRICE-QUALITY PATHS			
→ Electricity	1	→ Compliance with legislative requirements for consultation	→ Electricity - completion by 1 December 2009
→ Gas	1 - 2		→ Gas - developed by 1 March 2010
INFORMATION DISCLOSURE DETERMINATIONS			
→ Airports	0 - 1	→ Compliance with legislative requirements for consultation	→ Airports - 1 July 2010
→ Electricity	0 - 2		→ Milestones completed to ensure delivery by Electricity/Gas - 30 June 2011
→ Gas	0 - 2		

11. System average interruption duration index (SAIDI).

12. System average interruption frequency index (SAIFI).

OUTPUT	QUANTITY	QUALITY	TIMELINESS
RECOMMENDATIONS ON CONTROL			
→ Electricity Transmission	1	→ Compliance with legislative requirements for consultation	→ Milestones completed to ensure delivery by 30 December 2010
INFORMATION DISCLOSURE - SUMMARY AND ANALYSIS			
→ Electricity (incl asset management plan review)	1 - 2	n/a	→ 30 June 2010
COMPLIANCE ASSESSMENTS			
→ Electricity	30	→ No successful legal challenges of the Commission's processes	→ 30 June 2010
THRESHOLD INQUIRIES			
→ Electricity	0 - 4	→ No successful legal challenges of the Commission's processes	→ 30 June 2010
AUTHORISATIONS			
→ Electricity	0 - 2	→ No successful legal challenges of the Commission's processes	→ 30 June 2010
COMPLIANCE WITH EXISTING AUTHORISATIONS AND DETERMINATIONS			
→ Electricity	2	→ No successful legal challenges of the Commission's processes	→ 30 June 2010
→ Gas	2 - 4		

SERVICE PERFORMANCE TRENDS 2010-2012

Service performance trends for the 2010/11 and 2011/12 financial years will be significantly different from those proposed for 2009/10. Two of the major workstreams, the establishment of input methodologies and development of price-quality paths, will have been completed and will therefore no longer feature as outputs. Threshold inquiries will no longer feature as part of the regulatory framework. Threshold compliance assessments will likely change in nature to reflect the new regulatory provisions (and will reduce in number according to the number of electricity distribution businesses subject only to information disclosure). Likewise, authorisations will no longer feature. Customised price-quality proposals will be a new feature, and will likely be restricted to a targeted number per year. The new outputs will reflect a compliance and monitoring role, as opposed to the development stage in which the Commission is currently engaged, with the exception of a price-quality determination for Transpower in 2010/11 once its administrative settlement expires.

SOUND REGULATORY REGIMES – DAIRY

IMPACT MEASURES 2009/10

MEASURE	METHOD OF COLLECTION	TARGET
Greater competition in dairy markets through increased access to raw milk by independent processors	→ An increase in the volume of raw milk processed by independent processors - aggregated statistics to be collected from MAF	→ Significant entry and/or expansion in independent processing

OUTPUT MEASURES 2009/10

OUTPUT	QUANTITY	QUALITY	TIMELINESS
ENFORCEMENT ACTION			
	0 - 2	<ul style="list-style-type: none"> → No successful legal challenges of the Commission's processes → No orders to pay indemnity costs 	<ul style="list-style-type: none"> → Investigation phase completed within an average of 6 months of commencing the investigation → Administrative resolutions completed within an average of 45 working days of the decision to pursue administrative resolution
ADJUDICATION			
	0 - 2	→ No successful legal challenges of the Commission's processes	→ Determinations completed within an average of 6 months of receiving the application
FRAMEWORK DEVELOPMENT			
	0 - 1	→ Above average feedback ratings from government agencies and industry on usefulness of advice/guidelines produced	n/a

SERVICE PERFORMANCE TRENDS 2010-2012

In view of planned changes to the Raw Milk Regulations, possibly being introduced in late 2009, it is expected that there may be a slightly higher number of applications for determinations of disputes in the period from 2010 to 2012 than has been experienced over recent years.

KNOWLEDGEABLE NEW ZEALANDERS

IMPACT MEASURES 2009/10

MEASURE	METHOD OF COLLECTION	TARGET
Degree to which stakeholders understand the benefits of competition and regulation and the Commission's role	<ul style="list-style-type: none"> → Combined with behavioural surveys or using website → Questions to be targeted at key areas of focus identified in Communications strategy 	→ Understanding increases over time
Degree to which businesses have established effective business compliance programmes	→ Method of collection to be developed around sample survey of industry conducted by audit firms of client base	<ul style="list-style-type: none"> → No target for 2009/10 - method of collection in development → Increasing number of programmes over time
Number of published/broadcast media articles that result from Commission media releases, and which communicate key messages	→ Existing measure	→ Increasing over time

OUTPUT MEASURES 2009/10

OUTPUT	QUANTITY	QUALITY	TIMELINESS
MEDIA RELEASES			
→ Competitive Markets	44 - 50	→ Refer impact measures	n/a
→ Informed Consumers	35 - 41		
→ Telecommunications	10 - 20		
→ Gas/Electricity/Airports	7 - 26		
→ Dairy	0 - 4		
→ EIR Act	2 - 6		
PUBLICATIONS			
→ Competitive Markets	3 - 4	→ Above average feedback ratings from government agencies and industry on usefulness of advice/guidelines produced	n/a
→ Informed Consumers	25 - 40		
→ Telecommunications	0 - 2		
→ Gas/Electricity/Airports	3 - 10		
PRESENTATIONS			
→ Competitive Markets	6 - 14	→ Number of requests for Commission speakers increases over time (establish baseline in 2009/10)	n/a
→ Informed Consumers	5 - 12		
→ Telecommunications (incl 20-30 stakeholder engagement meetings, 2 consumer panels)	24 - 37		
→ Gas/Electricity/Airports	6 - 12		

SERVICE PERFORMANCE TRENDS 2010-2012

The increase in levels of activity in public information and education for Fair Trading is expected to continue, and is expected to be reflected in other areas of the business as the external engagement strategy is implemented more broadly.

PROSPECTIVE FINANCIAL STATEMENTS

STATEMENT OF RESPONSIBILITY

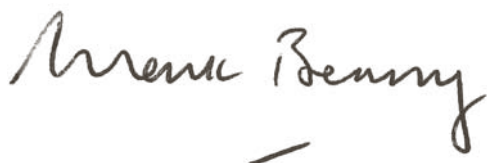
Pursuant to the Crown Entities Act 2004, the Commission must prepare a statement of intent including prospective financial statements at or before the start of each financial year to promote public accountability. The prospective financial statements may not be appropriate for any other purposes and are unaudited.

The prospective financial statements have been prepared on the basis of best estimates and assumptions as to future events expected to occur. As the financial statements are prospective, inherently actual results are likely to vary from the information presented. All material variations are required to be disclosed in the subsequent annual report.

The Commerce Commission accepts responsibility for:

- the preparation of the prospective financial statements in accordance with generally accepted accounting practice in New Zealand and the judgments made therein; and that
- those prospective financial statements fairly reflect the financial position of the Commission as at 30 June 2009 and the results of its operations, cash flows and service performance for the period ending on that date; and
- the establishment and maintenance of a system of internal controls designed to provide reasonable assurance as to the integrity and reliability of financial and non-financial reporting.

In the opinion of the Commerce Commission, the prospective financial statements fairly reflect the financial position of the Commission as at 30 June 2009 and the results of its operations, cash flows and service performance for the period ending on that date.



Dr Mark Berry
Chair – Commerce Commission



P J M Taylor
Chair – Audit, Finance and
Risk Management Committee

STATEMENT OF PROSPECTIVE FINANCIAL PERFORMANCE FOR THE YEAR ENDING 30 JUNE 2010

	2008/09 BUDGET \$000	2008/09 FORECAST \$000	2009/10 BUDGET \$000
OPERATING REVENUE			
Revenue from Crown	40,955	42,310	44,396
Interest income	900	900	420
Fees and recoveries	550	375	35
Sundry income	60	60	60
TOTAL OPERATING REVENUE	42,465	43,645	44,911
OPERATING EXPENSES			
Personnel	20,609	19,334	23,108
Personnel - Training	682	551	355
Personnel - Other	897	1,450	797
Occupancy	281	303	322
Rent and leasing	1,505	1,453	1,515
Legal and other professional fees	13,896	14,812	13,317
Depreciation and amortisation	853	1,031	1,177
Computer, information and IT related	1,386	1,103	639
Phones/telecommunications	489	448	394
Travel	1,184	1,077	863
Postage/photocopy/stationery	229	259	273
Expenses - Other	714	519	429
Audit fees	40	40	42
TOTAL OPERATING EXPENDITURE	42,765	42,380	43,231
OPERATING SURPLUS FOR THE YEAR	(300)	1,265	1,680
PROVISION TO REPAY THE CROWN			
Surplus/(deficit) all other votes (repay)	0	662	1,180
	0	662	1,180
PROVISION TO RETAIN			
Surplus transfer to Litigation Cost Reserve	0	500	500
Surplus/(Deficit) Vote Commerce	(300)	103	0
	(300)	603	500

STATEMENT OF PROSPECTIVE CHANGES IN EQUITY FOR THE YEAR ENDING 30 JUNE 2010

	2008/09 JUNE FORECAST \$000	2009/10 JUNE BUDGET \$000
BALANCE AT 1 JULY	3,615	3,718
Operating surplus for the year	1,265	1,680
TOTAL RECOGNISED INCOME AND EXPENSE FOR THE YEAR	1,265	1,680
Repayment of surplus to the Crown	(662)	(1,180)
Transfer to Litigation Cost Reserve	(500)	(500)
BALANCE AT 30 JUNE	3,718	3,718

STATEMENT OF PROSPECTIVE FINANCIAL POSITION FOR THE YEAR ENDING 30 JUNE 2010

	2008/09 JUNE FORECAST \$000	2009/10 JUNE BUDGET \$000
EQUITY		
General funds	3,718	3,718
Litigation fund	1,500	1,500
Litigation cost reserve	1,000	1,500
TOTAL EQUITY	6,218	6,718
CURRENT ASSETS		
Cash and cash equivalents	2,500	3,507
Investments	5,000	5,000
Debtors and other receivables	99	100
TOTAL CURRENT ASSETS	7,599	8,607
NON-CURRENT ASSETS		
Property, plant and equipment	2,133	1,423
Intangibles	760	1,053
TOTAL NON-CURRENT ASSETS	2,893	2,476
TOTAL ASSETS	10,492	11,083
CURRENT LIABILITIES		
Creditors and other payables	2,327	2,000
Employee entitlements	1,100	1,000
Crown funding to be repaid	662	1,180
TOTAL CURRENT LIABILITIES	4,089	4,180
NON-CURRENT LIABILITIES		
Reinstatement of lease occupancy	185	185
TOTAL NON-CURRENT LIABILITIES	185	185
TOTAL LIABILITIES	4,274	4,365
NET ASSETS	6,218	6,718

STATEMENT OF PROSPECTIVE CASH FLOWS FOR THE YEAR ENDING 30 JUNE 2010

	2009/10 JUNE FORECAST \$000	2009/10 JUNE BUDGET \$000
CASH FLOW FROM OPERATING ACTIVITIES		
Government funding received	44,308	44,396
Interest received	1,008	420
Fees and recoveries received	4,728	94
Members and employee payments	(15,283)	(23,207)
Supplier payments	(32,848)	(19,274)
NET CASH INFLOW/(OUTFLOW) FROM OPERATING ACTIVITIES	1,913	2,429
CASH FLOW FROM INVESTING ACTIVITIES		
Property, plant and equipment sale proceeds	2	0
Property, plant and equipment purchases	(533)	(467)
Intangible purchases	(473)	(293)
NET CASH INFLOW/(OUTFLOW) FROM FINANCING ACTIVITIES	(1,004)	(760)
CASH FLOW FROM FINANCING ACTIVITIES		
Government funding repaid	(4,335)	(662)
NET CASH INFLOW/(OUTFLOW) FROM FINANCING ACTIVITIES	(4,335)	(662)
NET INCREASE/(DECREASE) IN CASH AND CASH EQUIVALENTS	(3,426)	1,007
Opening cash and cash equivalents	5,926	2,500
CLOSING CASH AND CASH EQUIVALENTS	2,500	3,507
OPENING CASH AND CASH EQUIVALENTS COMPRISE:		
Cash and cash equivalents	2,500	3,507
CLOSING CASH AND CASH EQUIVALENTS	2,500	3,507

STATEMENT OF SERVICE PERFORMANCE

VOTE COMMERCE

	2008/09 BUDGET \$000	FULL YEAR FORECAST \$000	2009/10 BUDGET \$000
REVENUE			
Crown revenue	13,935	13,935	13,935
Interest	900	900	420
Fees	300	300	35
Miscellaneous income	60	60	60
	15,195	15,195	14,450
EXPENDITURE			
COMPETITIVE MARKETS			
Market Structure cases	209	339	256
Coordinated behaviour cases	3,642	3,551	2,952
Unilateral conduct cases	1,893	2,380	1,050
Determinations	3,205	1,952	2,869
Framework development	502	828	1,140
Public information/education	22	211	177
	9,473	9,261	8,444
INFORMED CONSUMERS			
Fair Trading Act cases	4,222	3,922	3,193
Fair Trading Safety and Standards cases	290	87	189
Fair Trading framework development	20	145	423
Fair Trading public information/education	5	261	382
	4,537	4,415	4,187
CCCF ACT			
CCCF Act cases	1,330	1,095	1,291
CCCF Act framework development	67	287	192
CCCF Act public information/education	88	34	119
	1,485	1,416	1,603
TOTAL EXPENDITURE	15,495	15,092	14,234
RESULT	(300)	103	216
Transfer to Major Litigation	0	0	(216)
Surplus/(Deficit) to be retained	(300)	103	
NET RESULT	0	0	0

VOTE TELECOMMUNICATIONS

	2008/09 BUDGET \$000	FULL YEAR FORECAST \$000	2009/10 BUDGET \$000
REVENUE			
Crown revenue	7,790	7,790	7,790
Fees	250	75	0
	8,040	7,865	7,790
EXPENDITURE			
Determinations	1,333	2,151	1,021
TSO cost allocations	740	626	538
Monitoring and reporting	2,361	1,867	945
Enforcement	568	68	491
Code approval	191	3	23
Reports to Ministers	718	569	1,023
Framework development	317	512	786
Public information/education	147	99	420
Telecommunications information disclosure	1,665	1,783	1,630
TOTAL EXPENDITURE	8,040	7,678	6,877
RESULT	0	187	913

VOTE DAIRY

	2008/09 BUDGET \$000	FULL YEAR FORECAST \$000	2009/10 BUDGET \$000
REVENUE			
Crown revenue	300	905	905
TOTAL REVENUE	300	905	905
EXPENDITURE			
Dairy investigations	300	9	167
Dairy determinations	0	468	276
Dairy framework development	0	0	189
Dairy public information/education	0	17	5
TOTAL EXPENDITURE	300	494	637
RESULT	0	411	268

VOTE ELECTRICITY

	2008/09 BUDGET \$000	FULL YEAR FORECAST \$000	2009/10 BUDGET \$000
REVENUE			
Crown revenue	5,630	3,630	3,167
TOTAL REVENUE	5,630	3,630	3,167
EXPENDITURE			
Electricity assessment of performance threshold compliance	1,089	804	1,040
Electricity threshold inquiries	1,555	536	204
Electricity framework development	1,472	1,158	855
Electricity public information/education	0	114	17
Electricity - authorisation to regulate ELBs ¹³	0	0	114
ELB information disclosure	1,513	1,018	937
TOTAL EXPENDITURE	5,629	3,630	3,167
RESULT	1	0	(0)

VOTE GAS

	2008/09 BUDGET \$000	FULL YEAR FORECAST \$000	2009/10 BUDGET \$000
REVENUE			
Crown revenue	300	1,750	2,700
TOTAL REVENUE	300	1,750	2,700
EXPENDITURE			
Gas determinations	266	1,400	1,897
Gas assessment of compliance with authorisations	34	0	121
Gas framework development	0	315	16
Gas public information/education	0	0	16
Gas information disclosure	0	0	563
TOTAL EXPENDITURE	300	1,715	2,613
RESULT	0	35	87
Transfer to Major Litigation	0	0	(87)
NET RESULT	0	35	0

VOTE AIRPORTS

	2008/09 BUDGET \$000	FULL YEAR FORECAST \$000	2009/10 BUDGET \$000
REVENUE			
Crown revenue	0	400	500
	0	400	500
EXPENDITURE			
Airports information disclosure	0	0	495
Airports principles and guidelines	0	400	0
Airports framework development	0	0	0
Airports public information/education	0	0	5
TOTAL EXPENDITURE	0	400	500
RESULT	0	0	0

VOTE INPUT METHODOLOGIES

	2008/09 BUDGET \$000	FULL YEAR FORECAST \$000	2009/10 BUDGET \$000
REVENUE			
Crown revenue	3,000	3,400	4,899
	3,000	3,400	4,899
EXPENDITURE			
Input Methodologies determinations (All)	0	0	4,844
Input Methodologies principles and guidelines (All)	3,000	3,371	0
Input Methodologies public information/education (All)	0	0	55
TOTAL EXPENDITURE	3,000	3,371	4,899
RESULT	0	29	0

MAJOR LITIGATION

	FULL YEAR FORECAST \$000	2008/09 BUDGET \$000	2009/10 BUDGET \$000
CROWN INCOME			
Competitive Markets	8,688	8,188	9,064
Informed Consumers	1,682	1,682	465
CCCF Act	130	130	465
SUBTOTAL COMMERCE	10,500	10,000	9,994
Telecommunications	0	0	253
Gas determinations	0	0	253
TOTAL INCOME	10,500	10,000	10,500
APPROPRIATION EXPENDITURE			
Competitive Markets	8,431	8,188	8,438
Informed Consumers	1,268	111	471
CCCF Act	280	1,701	801
SUBTOTAL COMMERCE	9,978	10,000	9,710
Telecommunications	0	0	253
Gas determinations	22	0	340
TOTAL APPROPRIATION EXPENDITURE	10,000	10,000	10,303
OPERATING RESULT	500	0	197
Transfer from Vote Commerce	0	0	216
Transfer from Vote Commerce Gas	0	0	87
Transfer to Litigation Cost Reserve	(500)	0	(500)
NET OPERATING RESULT	0	0	0

SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES FOR THE YEAR ENDING 30 JUNE 2010

REPORTING ENTITY

The Commerce Commission (the Commission) is a Crown entity, established under the Commerce Act 1986 (operating solely within New Zealand) with responsibilities for the Commerce Act 1986 and the Fair Trading Act 1986; the Electricity Industry Reform Act 1998; the Dairy Industry Restructuring Act 2001 and the Telecommunications Act 2001; and the Credit Contracts and Consumer Finance Act 2003.

MEASUREMENT BASE AND STATEMENT OF COMPLIANCE

These prospective financial statements have been prepared in accordance with the Crown Entities Act 2004. The prospective financial statements have been prepared on a historical cost basis in accordance with New Zealand Generally Accepted Accounting Practice (GAAP) and were authorised for issue by the Commission on 9 April 2009.

The prospective financial statements comply with New Zealand equivalents to International Financial Reporting Standards (NZ IFRS) and other applicable financial reporting standards as appropriate for public benefit entities. All available reporting exemptions allowed under NZ IFRS for public benefit entities have been adopted.

The prospective financial statements comply with FRS-42 – Prospective Financial Statements. The Commission must prepare a statement of intent including prospective financial statements at or before the start of each financial year to promote public accountability. The prospective financial statements may not be appropriate for any other purposes.

The prospective financial statements have been prepared on the basis of best estimates and assumptions as to future events expected to occur. Revenue is based on the estimates included in the Crown's 2009/10 budget. As the financial statements are prospective, inherently actual results are likely to vary from the information presented. All material variations are required to be disclosed in the subsequent annual report.

FUNCTIONAL AND PRESENTATION CURRENCY

The Commission's functional currency is the New Zealand dollar, and, accordingly, these prospective financial statements are presented in New Zealand dollars (rounded to the nearest thousand).

Depreciation – Depreciation is charged to the prospective statement of financial performance on all property, plant and equipment. Depreciation is charged on a straight-line basis on all asset components to allocate the cost of the asset (less any estimated residual value) over its useful life.

The estimated useful lives and associated depreciation rates of the asset classes are as follows:

Motor vehicles	3 - 4 years	25 - 33%
Computer and office equipment	3 - 4 years	25 - 33%
Furniture and fittings	up to 5 years	20%
Leasehold improvements	for the period of lease	10 - 12.5%

Leasehold improvements are depreciated over the shorter of the unexpired period of the lease or the estimated remaining useful life of the improvements.

Amortisation – Amortisation is charged to the prospective statement of financial performance on a straight-line at rates estimated to write off the cost of the asset (less any estimated residual value) over its useful life.

The estimated useful life and associated amortisation rate of the asset class is as follows:

Software	3 - 4 years	25 - 33%
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Leases – The Commission is party to various operating leases as a lessee. As the lessors retain substantially all of the risk and rewards of ownership of the leased property, plant and equipment, the operating lease payments are recognised in the income statement only in the period in which they are incurred. Any lease incentives received or obligations to make good on the condition of leased premises are recognised in the income statement over the term of the lease. At balance date, any unamortised incentive and outstanding obligation for reinstatement is recognised as a liability in the balance sheet.

Taxation – The Commission is exempt from income tax as a public authority. Accordingly, no charge for income tax has been provided for.

Service performance outputs – Direct costs are charged directly to outputs. Personnel costs are allocated to outputs based on the time records. The indirect costs of support groups and overhead costs are charged to outputs based on the relative time data of each output.

Equity – Equity is the Crown's interest in the Commission and is measured as the difference between total assets and total liabilities. Equity is disaggregated and classified into components to enable clearer identification of the specified uses that the Commission has for its accumulated surpluses. The components of equity are accumulated funds and restricted funds. Restricted funds are those reserves subject to specific conditions of use binding on the Commission which may not be altered without reference to other counterparties.

The Litigation Fund Reserve was established as a restricted fund to provide funds for major litigation activities. The criteria for operation of the Fund are laid down in the Output Agreement between the Commission and the relevant Ministers.

The Litigation Cost Reserve was established as a restricted fund to provide funds for settlement of an adverse decision. The criteria for operation of the Litigation Cost Reserve are laid down in the Output Agreement between the Commission and the relevant Ministers.

Cash and cash equivalents – Cash and cash equivalents include cash on hand and funds on deposit with banks.

Receivables – Debtors and other receivables are initially measured at fair value and subsequently measured at amortised cost using the effective interest rate, less impairment changes.

Impairment of a receivable is established when there is objective evidence that the Commission will not be able to collect amounts due according to the original terms of the receivable. Significant financial difficulties of the debtor, probability that the debtor will enter into bankruptcy, and default in payments are considered indicators that the debtor is impaired. The amount of the impairment is the difference between the asset's carrying amount and the present value of estimated future cash flows, discounted using the original effective interest rate. The carrying amount of the asset is reduced through the use of an allowance account, and the amount of the loss is recognised in the statement of financial performance. Overdue receivables that are renegotiated are reclassified as current (i.e. not past due).

Investments – Investments comprise debt securities (term deposits) issued by New Zealand registered banks and are classified as loans and receivables. Loans and receivables are initially measured at fair value plus any transaction costs. After initial recognition, loans and receivables are re-measured at amortised cost using the effective interest rate method. Any gains or losses arising from impairment or de-recognition are recognised in the income statement in the period in which they are first identified.

Property, plant and equipment – Property, plant and equipment consists of leasehold improvements, furniture and office equipment, and motor vehicles.

Property, plant and equipment is shown at cost or valuation, less accumulated depreciation and impairment losses.

Individual assets, or groups of assets, are capitalised if their cost is greater than \$2,000. The value of an individual asset that is less than \$2,000 and is part of a group of similar assets is capitalised.

Additions

The cost of an item of property, plant and equipment is recognised as an asset if, and only if, it is probable that future economic benefits or service potential associated with the item will flow to the Commission and the cost of the item can be measured reliably.

In most instances, an item of property, plant and equipment is recognised at its cost. Where an asset is acquired at no cost, or for a nominal cost, it is recognised at fair value as at the date of acquisition.

Costs incurred subsequent to initial acquisition are capitalised only when it is probable that future economic benefits or service potential associated with the item will flow to the Commission and the cost of the item can be measured reliably.

Disposals

Gains and losses on disposals are determined by comparing the proceeds with the carrying amount of the asset. Gains and losses on disposals are included in the statement of financial performance. When revalued assets are sold, the amount included in the asset revaluation reserves is transferred to accumulated general funds.

Intangible assets

Intangible assets comprise computer software and are shown at cost less any accumulated amortisation and impairment losses.

Additions

The cost of an item of computer software is capitalised if, and only if, it is probable that future economic benefits or service potential associated with the item will flow to the Commission and the cost of the item can be measured reliably.

Costs capitalised for acquired computer software licences include the costs incurred to acquire and bring the software into use.

Employee entitlements – At balance date, any unpaid employee entitlements earned by employees for salaries, bonuses and annual leave are recognised as a liability in the balance sheet and charged to the income statement. Entitlements are calculated on an actual entitlement basis at current rates of remuneration.

Short-term employee entitlements

Employee entitlements that the Commission expects to be settled within 12 months of balance date are measured at nominal values based on accrued entitlements at current rates of pay.

These include salaries and wages accrued up to balance date and annual leave earned but not yet taken at balance date.

Cash flows – Operating, investing and financing cash flows are prepared using the direct method subject to the netting of certain cash flows. The cash flows in respect of bank deposits that have been rolled over under arranged banking facilities have been netted in order to ensure meaningful disclosures. Operating cash flows include all cash received from all operating revenue sources and all cash payments for all operating expenditure items. Investing cash flows reflect the payments for property, plant and equipment purchases, proceeds from the sale of property, plant and equipment, and the net movement in bank deposits. Financing cash flows reflect all cash received from the payments for property, plant and equipment purchases, proceeds from the sale of property, plant and equipment, and the net movement in bank deposits.

Contingencies – As the Commission is a quasi-judicial body, it is inherently engaged in litigation activity which may result in costs being ordered against or in favour of the Commission. The outcome of an order for costs may not be certain until all appeal processes are completed. Accordingly, the possibility of a costs award being incurred or received is disclosed firstly as either a contingent liability or contingent asset respectively. An award for costs, whether for or against the Commission, is only recognised in the income statement when it is probable that there will be a future outflow or inflow of resources.

Provisions – The Commission recognises a provision for future expenditure of uncertain amount or timing when there is a present obligation (either legal or constructive) as a result of a past event, it is probable that expenditure will be required to settle the obligation and a reliable estimate can be made of the amount of the obligation. Provisions are distinct from other liabilities such as trade payables in that there is uncertainty about the timing or the amount of the future expenditure required on settlement. Any increase in the provision which is due to the passage of time is recognised as a finance cost in the prospective statement of financial performance.

A specific accounting policy for reinstatement of lease occupancy is outlined below:

- Reinstatement of lease occupancy – the make good reinstatement provision covers the costs involved in returning leasehold property to the state they were in when the Commission entered the lease. The expected future “make good” costs are discounted using market yields on government bonds at balance date with terms to maturity that match as closely as possible the estimated future payments.

Commitments – Commitments are future expenses and liabilities to be incurred in contracts that have been entered into at balance date. Cancellable commitments that have penalty or exit costs explicit in the agreement in exercising the option to cancel are reported at the value of that penalty or exit cost ie minimum future payments.

Commitments are classified as:

- non-cancellable operating leases – these may include contracts or the leasing of office equipment with a term of more than one year.

CHANGES IN ACCOUNTING POLICIES

There have been no changes in cost accounting policies since the date of the last audited financial statements.

APPENDIX

ASSET MANAGEMENT CAPABILITY

This financial year the Commission has committed to the development and implementation of an IT Asset Management system which will allow for efficient tracking and allocation of Commission IT Assets. The system will also provide for data transfer to the Financial Management Information System.

PERFORMANCE OF PHYSICAL ASSETS

AVAILABILITY	% UPTIME
Network	99.97
Application	99.86
Telephony	99.79
Server	99.95

Uptime statistics do not include scheduled outage periods and unavoidable outages due to external events eg power cuts; however, these are noted.

“Applications” are those defined by the 10 designated critical applications within the Commission’s Disaster Recovery plan.

UTILISATION

The Commission does not currently monitor the utilisation of all IT systems as the functionality is not available in many applications used within the Commission.

FUNCTIONALITY AND CONDITION

All Core Infrastructure is monitored for fault or any significant degradation of performance. Any detected occurrence of such is dealt with within four-hour or next-business-day replacement support agreements with vendors. The condition of less critical equipment such as PCs is not monitored but they are also covered by support warranties of the same duration as the assets’ expected life. Therefore the condition of all physical assets is maintained at a minimum of the level forecast and provided for in the Commission’s depreciation schedule.

CAPITAL EXPENDITURE INTENTIONS

Over half of the capital expenditure programme for 2009/10 is made up by ongoing replacements of existing equipment or minor additional equipment to meet growth or changing technology and work patterns.

The remainder of the programme comprises expenditure relating to improving the reliability and monitoring of existing systems; building further functionality and better process into applications and systems already in place; and tools enabling the consolidation and efficient reallocation of existing equipment, thereby decreasing our operating expenditure long term while making productivity gains.

The capital expenditure programme for 2009/10 will be funded from the Commission’s operational cash flow.

www.comcom.govt.nz

CONTACT DETAILS

To contact the Commission with information about false or misleading trading practices, or anti-competitive behaviour by businesses
CALL the Contact Centre on 0800 943 600, WRITE to Contact Centre, PO Box 2351, Wellington or EMAIL contact@comcom.govt.nz