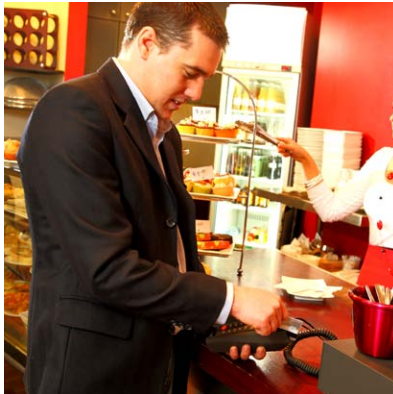


COMMERCE COMMISSION

2011-2014 STATEMENT OF INTENT



OUR VALUES

EXCELLENCE

- WE PRODUCE EXCELLENT WORK THAT STANDS UP TO SCRUTINY.
- WE CONTINUALLY LOOK FOR WAYS TO IMPROVE.
- WE RECRUIT AND RETAIN EXCELLENT PEOPLE AND SUPPORT THEIR DEVELOPMENT.

INTEGRITY

- OUR INDEPENDENCE INSPIRES THE TRUST AND CONFIDENCE OF NEW ZEALANDERS.
- WE ARE FAIR, HONEST AND IMPARTIAL.

ACCOUNTABILITY

- WE ANSWER TO NEW ZEALANDERS FOR THE WORK WE DO AND THE MONEY WE SPEND.
- WE TAKE INDIVIDUAL RESPONSIBILITY TO DELIVER WHAT WE SAY WE WILL.

RESPECT

- WE WORK TOGETHER, SUPPORT AND RESPECT EACH OTHER.
- WE VALUE THE DIVERSITY OF PEOPLE AND THEIR OPINIONS.

GOOD JUDGEMENT

- WE UNDERSTAND THE ENVIRONMENT IN WHICH WE OPERATE AND THE IMPACT OF OUR ACTIONS.
- WHAT WE DO IS RELEVANT AND USEFUL.
- WE ARE PROACTIVE AND FLEXIBLE AND LOOK FOR COMMONSENSE SOLUTIONS.

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ABBREVIATIONS	
Commerce Commission	Commission
Ministry of Economic Development	MED
Ministry of Agriculture and Forestry	MAF
Australian Competition and Consumer Commission	ACCC
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
Fair Trading Act 1986	Fair Trading Act
Telecommunications Act 2001	Telecommunications Act



CHAIR'S OVERVIEW

New Zealand's public sector is facing a period of increasing financial pressure. Like many other government agencies, we are being asked to do the same - or more - for less. Our total revenue for the 2011/12 year is \$8 million less than the 2010/11 year, although we are still in discussions with the Government about the level of funding for our work under Part 4 of the Commerce Act.

Against this fiscally pressured backdrop, we have been re-evaluating the way we go about our work, in order to extract maximum value from the funds invested in our activities.

Ultimately, we exist to ensure New Zealanders reap the benefits of competition. Effective competition at home helps New Zealand businesses compete overseas. Where effective competition is not possible, effective regulation supports the same outcome. Well-functioning competition and regulation help to make New Zealand more attractive as a place to do business.

We believe that by using a wider range of interventions, by communicating about our work more clearly, and by simplifying the way we do business, we can be more effective. This effectiveness will translate into better value for the taxpayers of New Zealand, and easier and more constructive relationships between the Commission and the business community.

Our aim, to achieve the best possible outcome in competitive and regulated markets for the long-term benefit of New Zealanders, remains unchanged. However, the approaches we take to achieving that aim are evolving.

HOW WE DO BUSINESS

There are a variety of ways we can achieve our aims. Traditionally, we have undertaken a significant enforcement programme. This continues to be an important part of our approach. We have taken significant legal action in the past year and will continue to do so in 2011-2014.

In 2010/11, we had several successful penalties awarded by the courts including a record \$12 million penalty against Telecom for a breach of section 36 of the Commerce Act - the largest ever penalty under the Act.

We have also begun settling a large number of cartel cases that have been under investigation for two or more years. We have recently secured penalties in the order of \$14 million from international airline companies and, to date, have already been granted penalties of more than \$8.8 million from the freight forwarding cartel case defendants. We expect more penalties to come in both these cases.

While we still pursue breaches of the Acts we enforce through the courts, we believe that over time we can reduce the need for such litigation by lifting voluntary compliance. One key way we are changing is through greater emphasis on helping businesses to understand what they need to do to comply with competition and consumer legislation or, where relevant, industry regulation. We aim to do this through education initiatives. Central to the effectiveness of this approach is ensuring we communicate in language everyone can understand. With this in mind, we have recently begun to introduce plain English to our documents.

We are also working to improve the quality of engagement with our stakeholders. We recognise that we can do a better job of listening to our stakeholders' needs, and then, through greater understanding, be more effective in our interactions and interventions.

We have embarked on a three-year business improvement programme which has five strategies. These strategic programmes are: *Simplify our business*; *Understand our value*; *Better connect*; *Stronger future focus*; and *Better investment in people*. This is a significant change programme that has people throughout the Commission focused on new and better ways to do our work.

REGULATION IS BETTER TARGETED AND MORE EFFECTIVE

The markets we regulate involve large commercial values. It is important that we understand the industries involved, and the impact we have on their businesses. We monitor these markets and as necessary develop and amend regulatory rules. As mentioned earlier, we aim to lift voluntary compliance with regulatory requirements. We do this by engaging constructively with the regulated businesses.

Our regulation team is currently busy putting in place and monitoring core elements of the new regime under Part 4 of the Commerce Act. This work builds on the significant achievement in 2010/11 in completing development of the input methodologies, the individual price path for Transpower and the information disclosure requirements for specified airport services.

In telecommunications, we have much work to do to implement changes to the regulatory regime in response to the Ultra Fast Broadband initiative, and to monitor the response by the mobile providers to the mobile termination access service determination. We are also continuing to place greater emphasis on market monitoring to ensure regulation is working, and, where markets have become competitive, continue to remove or reduce regulation.

We continue to monitor contestability in dairy markets. We intend to increase our education initiatives in this area to ensure shareholding Fonterra farmers are aware of their ability to switch between processors, which is an important aspect of the Dairy Industry Restructuring Act.

MARKETS ARE MORE COMPETITIVE AND CONSUMERS ARE BETTER INFORMED

As mentioned, we are placing a greater emphasis on making it easier for businesses to comply with competition and consumer legislation or, where relevant, industry regulation. By providing information and guidance to businesses who want to do the right thing, we can focus our enforcement efforts on those businesses that operate outside the law – intentionally or unintentionally. We have worked hard to refine our approach to compliance enforcement to ensure we have the appropriate response to each situation.

A key area that we have focused on to get the best results for markets and consumers is in being flexible in our approach to enforcement cases. By refining our approach to prioritising work, we can make the most of our available resources at any given time. This flexibility allows us to move quickly in relation to potential breaches so we can intervene early to limit the extent of harm to consumers.

MANAGING FINANCIAL RISKS

Always conscious of the constrained fiscal environment we work in, we also carefully monitor our work programme to anticipate any significant pressures on our operating budget. Over the next financial year, we expect a peak in activity and, in particular, the cost of the litigation workload. This peak is the result of several long-running pieces of litigation coming to critical court phases and the high level of litigation against the Commission that has been launched by regulated businesses in response to our input methodologies determinations.

As a Crown entity, we are responsible for managing our own financial risks, and the Commission has built up its reserves through a combination of a downturn in merger activity, a restructure of the organisation and streamlining of our processes over the last few years. This was a deliberate strategy aimed at ensuring we were well placed to manage future fiscal risks. The benefits of this strategy will be seen over the next few years.

RELATIONSHIP WITH AUSTRALIA

We recognise the importance of the Australian market for New Zealand businesses. It is also important, where possible, to have a consistent approach to competition matters involving both countries. We are pleased that, in the last year, Commissioner cross-appointments have been made between the Australian Competition and Consumer Commission (ACCC) and the Commerce Commission. This will strengthen the working relationships that already existed between the two organisations and will allow us to move quickly on matters involving trans-Tasman business activity.

PERFORMANCE IMPROVEMENT

As with any government agency, it is important that we are able to show the impact of our work on New Zealand by measuring our performance. Over the last year, we have reviewed our outcome statements to ensure they are clearer and reflect the current state of our society and the economy. These outcome statements – *regulation is better targeted and more effective, and markets are more competitive and consumers are better informed* – are the goals of our organisation and everything we do contributes to achieving them.

In 2011/12 and beyond, we aim to provide more specific information about how we are performing. To do this we have refined our medium-term impact measures and set specific targets where appropriate. This information will give a more detailed picture of how the Commission is performing its role.

Finally, the Commission has recently refreshed its values. Values are important to any organisation because they define how we expect our people to behave, and importantly are a commitment to our stakeholders. Our values are Excellence, Accountability, Integrity, Respect and Good judgement. You can read more about how we define these values on the inside front cover of this Statement of Intent. We are proud to state these values, and will ensure they underlie everything we do.



Dr Mark Berry
Chair

OUR ROLE

The Commerce Commission is New Zealand's competition enforcement and regulatory agency. We are responsible for enforcing laws relating to competition, fair trading, and consumer credit contract laws, and have regulatory responsibilities in the electricity, gas, telecommunications, dairy and airport sectors. Our purpose is to achieve the best possible outcomes in competitive and regulated markets for the long-term benefit of New Zealanders.

We are an independent Crown entity, with some quasi-judicial functions established under the Commerce Act. We are primarily accountable to the Minister of Commerce for our performance. We are not subject to direction from the government in carrying out our enforcement and regulatory control activities. This independence requires us to be an impartial promoter and enforcer of the law. Where relevant, we use our experience to provide advice on policy development and legislative reviews. Our outputs are delivered under an Output Agreement with the Minister of Commerce and the Minister for Communications and Information Technology. We report to these Ministers on our outputs through Triannual Reports. These outputs are funded through Vote Commerce and Vote Communications.

Our two outcomes are:

- Markets are more competitive and consumers are better informed.
- Regulation is better targeted and more effective.

MARKETS ARE MORE COMPETITIVE AND CONSUMERS ARE BETTER INFORMED

We enforce, adjudicate and provide information and guidance relating to New Zealand's competition law, the Commerce Act 1986. The Act prohibits anti-competitive behaviour and structures in markets.

We also enforce two pieces of consumer legislation that promote fair competition and help ensure consumers can be confident of the accuracy of the information they receive when making purchasing choices. The Fair Trading Act 1986 prohibits false and misleading behaviour by traders. It also specifies when information about certain products must be disclosed and promotes

product safety. The Credit Contracts and Consumer Finance Act 2003 requires the disclosure of certain information to consumers entering into credit contracts and provides rules that relate to interest, payments and credit fees.

Providing information and advice to consumers and businesses about these Acts and how they apply is an important part of our role.

REGULATION IS BETTER TARGETED AND MORE EFFECTIVE

Under the Commerce Act we have regulatory responsibility for suppliers of electricity lines services, gas pipeline services (distribution and transmission) and specified airport services (at Auckland International Airport Ltd, Christchurch International Airport Ltd and Wellington International Airport Ltd). Our responsibilities for these regulated industries include:

- administering the information disclosure regime (for all services);
- setting and enforcing price-quality paths (for gas pipeline services, non-consumer-owned electricity distribution services and Transpower);
- setting and reviewing input methodologies (upfront regulatory rules and process) for all regulated services; and
- conducting inquiries under the Commerce Act into whether particular goods or services should be regulated or controlled, and making recommendations to the Minister.

The Telecommunications Act 2001 regulates the supply of telecommunications services in New Zealand, which is administered by the Office of the Telecommunications Commissioner, within the Commerce Commission. The Act requires us to make determinations in respect of designated access and specified services and to undertake costing and monitoring activities.

We have both enforcement and adjudication roles under the Dairy Industry Restructuring Act 2001. The Act provides for us to undertake enforcement action and requires us to issue determinations to resolve disputes between Fonterra and other parties.

OUR ENVIRONMENT

This section outlines the main factors that influence our work.

MARKET ACTIVITY AND ECONOMIC ENVIRONMENT

Our work is influenced by the external environment. The state of the economy and changes to the legislative framework can have a significant impact on what we do and how consumers and businesses operate. For example, the number of merger clearance applications that businesses submit during a year affects the amount of resources we can use to progress other competition and consumer work. Similarly, the focus of our enforcement work varies depending on the specific issues that arise during any period, and changes to the regulatory framework direct our focus (such as the transmission investment approval function taken over from the Electricity Commission). In this demand-driven environment, we use our best estimates of the level and type of business activity we expect to see for our work planning.

The Christchurch earthquakes significantly affected our operations in Christchurch, where we have 10 staff. We have moved into temporary premises and are continuing to assess longer-term options for our Christchurch operations. We will continue to work with Christchurch electricity distribution business Orion to provide short-term relief from compliance obligations and to determine its appropriate future regulatory environment.

Like all government agencies, we are mindful of the constrained fiscal environment and are looking for ways to achieve better outcomes at lower cost. We will continue to build on the efficiency gains we have already made, such as streamlining our organisational structure. In particular, we will continue to focus on simplifying our processes as one of our strategic priorities (refer to the Managing Organisational Health and Capability section).

LITIGATION ENVIRONMENT

Our litigation workload varies considerably from year to year according to a number of factors, including the number and complexity of matters we decide to litigate, appeals of Commission determinations that we decide to defend, and court timetables.

Over the next few years, we are expecting unprecedented levels of litigation resulting from several long-running pieces of litigation coming to critical court phases and a number of appeals of the Commission's input methodology determinations that were published in December 2010. We expect that the appeal process will create a significant workload over the coming two years and into the future. Input methodology issues are complex and inter-related and it is likely to take the court some time to consider any appeals.

WORKING WITH OTHER AGENCIES

We work cooperatively with relevant government agencies to ensure that we achieve our goals without duplication or conflict, and that we share information and expertise where required. Internationally, we are actively involved with our counterpart agencies through forums such as the Organisation for Economic Co-operation and Development (OECD) and the International Competition Network. Our relationship with the ACCC has been strengthened recently with Commissioner cross-appointments.

POLICY DEVELOPMENTS

We closely monitor policy developments that can affect our areas of work and, where appropriate, provide our view on these policies. For example, there have been recent changes in the telecommunications sector and we expect significant changes in the coming year as a result of the Government's Ultra Fast Broadband initiative. Upcoming changes to consumer laws and a potential move to criminalise cartels would both have significant implications for our work.

WHAT WE SEEK TO ACHIEVE

Our purpose is to achieve the best possible outcomes in competitive and regulated markets for the long-term benefit of New Zealanders.

The outcomes we seek to achieve are that:

- markets are more competitive and consumers are better informed; and
- regulation is better targeted and more effective.

New Zealand businesses and consumers benefit when markets work well. A competitive environment encourages innovation and investment by businesses and results in optimal prices and quality and greater choice. Because of the fair trading and consumer credit laws we enforce, consumers can have greater confidence in their transactions and make informed purchasing decisions.

We seek to limit the harm caused by anti-competitive behaviour. Where competition is not possible or is limited, we are responsible for regulation that aims to provide consumers with the benefits that competition would provide.

OUR OVERALL CONTRIBUTION

Across all markets, we enforce legislation that promotes competition (or outcomes consistent with competition) including requiring businesses to provide accurate information to consumers so they can make informed choices.

Markets have different degrees of competition, so our role can vary. In some markets there is limited competition, such as in the telecommunications, dairy, electricity lines, gas pipelines and airport sectors. In these markets, regulation is used to help ensure consumers receive outcomes consistent with those provided by competition. We can also use different approaches within a market, depending on the circumstances, to improve market outcomes.

Businesses and consumers benefit when the operating environment is fair and there are clear and transparent rules. This allows businesses to compete fairly with each other, and to win and retain customers on the merits of what they sell. Active competition in the New Zealand market also makes our businesses more competitive overseas. A clear and stable business environment builds confidence in New Zealand as a place to do business.

CONTRIBUTING TO WIDER GOVERNMENT GOALS

Our work contributes to wider government outcomes and priorities. In particular, we have regard to:

- *government outcomes*: of dynamic and trusted markets, enterprising and innovative businesses, and ease of doing business; and
- *government priorities*: of support for better science, innovation and trade, and removing red tape and unnecessary regulation.

We seek to foster cross-government links where appropriate and to understand the roles of different government agencies as we work collectively to achieve common goals for all New Zealanders.

OUR APPROACH TO COMPLIANCE

One of the ways we hope to improve levels of compliance is by promoting voluntary compliance. This approach is based on the premise that most businesses want to comply with the law. By providing information and guidance to businesses to help them comply voluntarily,

we can then focus our enforcement efforts on those businesses that operate outside the law and regulations – some intentionally and others unintentionally. Refer to figure 1 below.

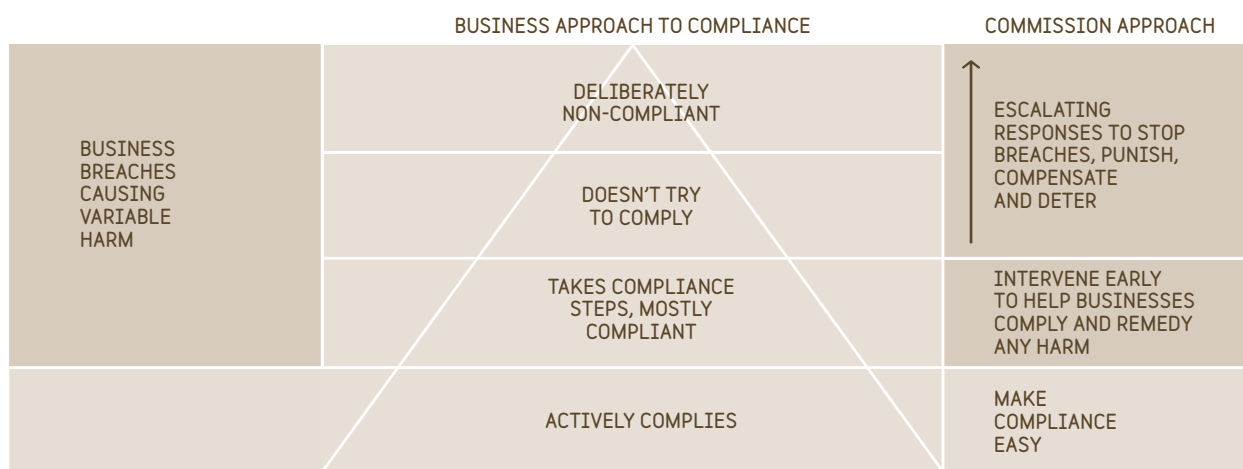


FIGURE 1: OUR APPROACH TO COMPLIANCE

OUR STRATEGIC FRAMEWORK

Our strategic framework (overleaf) sets out our purpose, our role and the links between our most important outcomes, impacts and outputs. The framework is underpinned by our five organisational capability strategies.

In 2010/11, we refined our strategic framework to more clearly demonstrate what is important to us and set our strategic direction. Our framework reflects our priorities and identifies what we want to achieve in the longer term. In developing our framework we have considered the external environment in which we operate and the stakeholders we work with.

WHAT WE SEEK TO ACHIEVE

STRATEGIC FRAMEWORK

<p>WHY ARE WE HERE?</p>	<p>PURPOSE: ACHIEVE THE BEST POSSIBLE OUTCOMES IN COMPETITIVE AND REGULATED MARKETS FOR THE LONG-TERM BENEFIT OF NEW ZEALANDERS</p>				
<p>WHAT ARE OUR GOALS FOR NEW ZEALANDERS?</p>	<p>OUTCOMES THE COMMISSION INFLUENCES</p>				
<p>WHAT DIFFERENCE ARE WE MAKING?</p>	<p>IMPACTS THE COMMISSION SEEKS TO HAVE OVER TIME</p>				
<p>WHAT ACTIVITIES ARE WE UNDERTAKING?</p>	<p>OUTPUTS AND EXPENDITURE 2011/12</p>				
<p>HOW ARE WE ENHANCING OUR CAPABILITY?</p>	<p>5 STRATEGIES TO ENHANCE THE COMMISSION AND ITS CAPABILITIES</p>				
	<p>General Markets</p> <p>\$13.2m Vote Commerce \$5.9m Major Litigation (external) \$4.1m Major Litigation (internal)</p>				<p>→ Determinations → Enforcement Cases → Advocacy and Development → Reports to Ministers</p>
	<p>Simplify our business</p>	<p>Understand our value</p>	<p>Better connect</p>	<p>Stronger future focus</p>	<p>Better investment in people</p>

OUTCOMES THE COMMISSION INFLUENCES

REGULATION IS BETTER TARGETED AND MORE EFFECTIVE

By delivering targeted and effective regulation of goods and services in markets where there is little or no competition, consumers receive the goods and services that would have been available if the market was competitive

IMPACTS THE COMMISSION SEEKS TO HAVE OVER TIME

REGULATION

→ Regulatory decisions promote statutory objectives

SECTOR MONITORING AND INFORMATION DISCLOSURE

→ Businesses and consumers have an increased understanding of business and market performance

COMPLIANCE AND ENFORCEMENT

→ Businesses are encouraged to act consistently with regulatory obligations

→ Conduct by businesses that does not comply with regulatory obligations is detected and dealt with appropriately

ADVOCACY AND DEVELOPMENT

→ Businesses and consumers are aware of and understand regulatory regimes and the benefits of targeted regulation

OUTPUTS AND EXPENDITURE 2011/12

Telecommunications	Input Methodologies	Electricity	Gas	Airports	Dairy
\$6.9m Vote Communications \$0.4m Major Litigation (external)	\$0.4m Vote Commerce \$4.6m Major Litigation (external)	\$4.2m Vote Commerce	\$1.3m Vote Commerce	\$0.4m Vote Commerce	\$0.7m Vote Commerce
<ul style="list-style-type: none"> → Regulation → Compliance and Enforcement → Sector Monitoring and Information Disclosure → Advocacy and Development 	<ul style="list-style-type: none"> → Regulation → Advocacy and Development 	<ul style="list-style-type: none"> → Regulation → Compliance and Enforcement → Sector Monitoring and Information Disclosure → Advocacy and Development 	<ul style="list-style-type: none"> → Regulation → Compliance and Enforcement → Advocacy and Development 	<ul style="list-style-type: none"> → Regulation → Compliance and Enforcement → Sector Monitoring and Information disclosure → Advocacy and Development 	<ul style="list-style-type: none"> → Determinations → Enforcement cases → Advocacy and Development

5 STRATEGIES TO ENHANCE THE COMMISSION AND ITS CAPABILITIES

Simplify our business	Understand our value	Better connect	Stronger future focus	Better investment in people
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WHAT WE SEEK TO ACHIEVE

MEASURING OUR PERFORMANCE

We have committed to measuring and monitoring our progress towards achieving our outcomes.

It is important to measure the effectiveness of our services and to use this information to assess whether we are making a difference. This information ensures we are proactively targeting the right areas of investment and using appropriate interventions.

We have adopted a standard performance measurement framework (see below) based on the State Services Commission framework (2008) to measure our performance.

What are your goals?	OUTCOMES ↑
What difference are we making?	IMPACTS ↑
What activities are we undertaking?	OUTPUTS ↑
How do we grow and learn?	CAPABILITY

During 2010/11, we reviewed our outcome statements to ensure that they are better articulated and clearly include a change in the state or condition of society and the economy. We have also refined our medium-term impact measures and set specific targets where appropriate.

Across our outcome, impact and output measures we have placed particular emphasis on developing a balanced set of robust measures. We have provided current and historical information as well as future targets to fully demonstrate our performance. In developing the best possible measures, we have considered the overall cost versus the benefits of measuring our performance. We have outcome indicators for our *markets are more competitive and consumers are better informed* outcome but not for our *regulation is better targeted and more effective* outcome. The reason for this is that we have been unable to develop a single outcome indicator that is appropriate for all our regulated industries.

The following sections set out outcome, impact and output measures for our two outcomes: *markets are more competitive and consumers are better informed*; and *regulation is better targeted and more effective*.

Many of our outcome indicators and impact measures are new measures. Therefore, in many cases we cannot provide actuals, estimated actuals or future targets because we are establishing the baselines in the new financial year. In areas where we are currently measuring impacts, such as in telecommunications, we have provided previous year and future trend data to give historical context and signal our intended performance. For our outputs we have provided historical data, estimated actuals and future year targets to complete the overall picture of our performance.

We continue to review and refine our output measures to select those that best demonstrate our performance across the range of activities we deliver.

OUTCOME: MARKETS ARE MORE COMPETITIVE AND CONSUMERS ARE BETTER INFORMED

We are responsible for administering and enforcing legislation (the Commerce Act, the Fair Trading Act, and the Credit Contracts and Consumer Finance Act) designed to promote competition and ensure markets are working well.

We undertake a range of activities that aim to:

- increase businesses' and consumers' awareness and understanding of these laws and the benefits of competition;
- encourage and help businesses to comply with these laws; and
- detect when businesses are not complying with the law and take appropriate action.

We also provide advice to other government agencies on competition matters, and how to safeguard competition in markets when designing policy and operational practices.

The following section provides context for the specific set of measures we have chosen to demonstrate our performance.

INCREASING AWARENESS AND UNDERSTANDING AND HELPING BUSINESSES TO COMPLY

Most businesses want to comply with the law. Our focus is to make compliance easy for them and to provide incentives to encourage compliance. Increasing compliance can save money both for businesses and the Commission.

We do this by:

- providing information about the benefits of competition, and the specifics of the law and how it applies (such as through our website, guidelines, fact sheets, and presentations);
- supporting individual businesses and industries to take steps to improve their compliance;
- providing timely decisions to businesses contemplating a merger or restrictive trade practice so that they know in advance whether or not they risk breaking the law;
- providing opportunities and incentives for parties engaged in misconduct to stop that behaviour;
- publicising and providing reasons for the determinations and enforcement decisions we make, including the harm caused by misconduct and the risks for businesses engaging in misconduct, and the outcomes of court cases; and
- providing advice to other government agencies whose policies and operational practices (such as procurement) have the potential to enhance or restrict competition in markets.

We know we are performing well when:

- we receive positive feedback from businesses and other stakeholders about the usefulness of the information we provide;
- businesses have a good awareness and understanding of the laws that we administer and support markets being more competitive;
- specific industries we have targeted in our advocacy/ education efforts report improved awareness and understanding of the law, and levels of compliance improve as a result;
- businesses apply for clearance or authorisation for all mergers that are potentially anti-competitive;
- government agencies seek our view on policy changes and operational practices that have potential competition implications; and
- our processes withstand judicial scrutiny.

DETECTING AND DEALING WITH BREACHES OF THE LAW

There will always be businesses that operate outside the law – whether intentionally or unintentionally. Our focus is to detect potential breaches of the law and to deal appropriately with that misconduct.

We do this by:

- undertaking market surveillance and analysis to identify important market problems;
- providing a complaints process that is easy to use, with complaints assessed in a timely manner;
- cooperating with overseas agencies;
- following robust investigative and litigation practices, including intervening early to limit the extent of harm to the market;
- using prioritisation criteria (e.g. level of harm) to make informed judgements/decisions about which potential breaches we investigate and which we do not;
- using enforcement criteria to make informed judgements/decisions about what action we take in relation to breaches of the law (such as a warning, a settlement, or prosecution);
- offering immunity to the first member of a cartel who helps us to detect and/or prove the existence of the cartel; and
- agreeing in some cases to take a lower level of enforcement action against parties who have engaged in misconduct, in exchange for information and full cooperation with the investigation.

We know we are performing well when:

- a large proportion of the complaints that we receive from consumers and businesses are relevant to the legislation we enforce;
- people who complain to us report that our process was easy to use and that they received a clear and timely response to their concerns;
- our intelligence work identifies market problems that may be difficult for consumers or businesses to detect;
- overseas competition agencies seek information from us, and provide us with information, about potential breaches that may be relevant to each other's jurisdiction;
- we complete our investigations in the shortest reasonable time using the optimal amount of resources to achieve the outcome;
- we achieve meaningful refunds or compensation for affected consumers (where relevant);
- parties willingly cooperate with our investigations and we receive positive feedback from parties to investigations about the professionalism of our staff;
- a large proportion of cases that we decide to prosecute are found by the court to be breaches;
- feedback from stakeholders suggests that we made the right judgements about what we focused on, how we approached it and how we dealt with it; and
- our processes withstand judicial scrutiny.

OUTCOME INDICATORS

OUTCOME	MEASURE	ESTIMATED ACTUAL 2010/11	TARGET 2011/12	TARGET 2012/13	TARGET 2013/14
Levels of business compliance with competition and consumer laws improve over time	The proportion of sampled advertising (or product) that is likely to contravene the FTA decreases after interventions with target industry sectors	Not currently measured	New baseline to be established from survey results	Target to be set once baseline established	Target to be set once baseline established
	The reoffending rates by businesses decrease over time	Not currently measured	New baseline to be established	Target to be set once baseline established	Target to be set once baseline established
	Increase in self-reported levels of compliance by target industry sectors: Telecommunications ¹	64%	60%	Target to be set once trend established	Target to be set once trend established
	The number of businesses that have a regular compliance programme under the Commerce Act (CA) and the Fair Trading Act (FT) increases over time	Commerce Act 23% ² Fair Trading Act 27%	New target to be set once robust baseline established	New target to be set once robust baseline established	New target to be set once robust baseline established

MARKETS ARE MORE COMPETITIVE AND CONSUMERS ARE BETTER INFORMED

1. This measure is based on education activity in our Fair Trading area. Telecommunications companies spoken to were asked to grade the compliance levels of their competitors. The score shown is the average grade given across the telecommunications sector. We expect a lower level in the next year as enforcement action in the sector affects the grades that companies apply to their competitors.
2. This data was extracted from a Commission survey completed in February/March 2010. The survey covered businesses with between 5 to 100 employees. There was a margin of error of +/- 7.6%. We expect to refine our survey methodology over the coming year.

IMPACT MEASURES

IMPACT	MEASURE	ESTIMATED ACTUAL 2010/11	TARGET 2011/12	TARGET 2012/13	TARGET 2013/14
ADVOCACY Businesses and consumers are aware of and understand competition and consumer laws and the benefits of competition	The level of business and consumer awareness and understanding of competition laws and consumer laws increases over time	Not currently measured	New baseline to be established	Target to be set once baseline established	Target to be set once baseline established
	The level of awareness and understanding of competition and consumer laws in targeted sectors improves over time	Survey underway for targeted construction sector	An increase in awareness and understanding in the targeted sectors	An increase in awareness and understanding in the targeted sectors	An increase in awareness and understanding in the targeted sectors
	The percentage of complaints received that are relevant to competition and consumer laws does not increase over time	23%	20%	18%	15%
FACILITATION Businesses are encouraged and enabled to comply with competition and consumer laws	The percentage of surveyed businesses that have interacted with the Commission in the last 12 months report that the Commission's published relevant publications are clear and useful	Not currently measured	New baseline to be established	Target to be set once baseline established	Target to be set once baseline established
	The number of decisions to prosecute a potentially anti-competitive merger does not exceed 1 every 2 years	0	No more than 1 every 2 years	No more than 1 every 2 years	No more than 1 every 2 years
ENFORCEMENT Business conduct that does not comply with competition or consumer laws is detected and dealt with appropriately	We obtain penalties in Court for breaches of the Acts we enforce; and we achieve refunds or compensation for affected consumers	Penalties awarded \$22 million ³ Compensation awarded to consumers \$192,000 ⁴	No target to be set	No target to be set	No target to be set

3. A \$12 million penalty has been awarded in relation to a section 36 case in addition to this figure, and is currently being appealed.

4. These figures are year to date as at 31 May 2011, and further penalties are pending and may be confirmed by the court in this financial year.

GENERAL MARKET OUTPUTS

In 2011/12, we will be focusing on:

- continuing targeted industry education initiatives, looking at industry-specific competition and consumer issues. This includes continuing to develop an intelligence function, to assist us in targeting our efforts, and continuing to rely on our complaints process and leniency policy;
- updating our investigative and evidence management policies and procedures. We plan to deliver these changes, preparing us for a change from a civil to criminal regime in cartel enforcement and increasing our overall capability within baseline funding. One of the ways we will look to lower costs is by continued engagement with the ACCC, learning from their experience in moving to a criminal regime;
- further developing our approach to compliance and enforcement responses, so that we are able to articulate a wide range of consistent and predictable enforcement responses;
- making litigation choices where this represents the best possible enforcement outcome. We expect a high level of litigation activity over 2011/12 because of the high number of cases currently in our major litigation portfolio. In future years we expect levels of litigation to decrease as we are using a wide range of enforcement tools to enforce the relevant legislation and foster competition;
- taking a more flexible and proactive approach to the allocation of resources, mindful of the demands on funding across government. This includes continuing to refine our approach to prioritising our work to allow us to make better decisions about when we decide to investigate and what resources are required. We will continue with our early intervention approach in relation to potential breaches to limit the extent of harm;
- better connecting with overseas and domestic agencies to assist our investigations and to exchange knowledge and best practice; and
- continuing to give appropriate advice to government on enforcement aspects of consumer and competition law.

GENERAL MARKET SERVICE PERFORMANCE TRENDS 2011-2014

The number of applications for clearances and authorisations is market driven, but we expect a similar number of applications as in 2010/11 and a continuing (small) upward trend in the years to 2013/14. We will continue to aim to deliver clearance decisions within 40 working days from registration.

In 2010/11, we significantly increased our work in the area of advocacy and plan a similar level of work in 2011/12. We aim to undertake more stakeholder engagement, including presentations and meetings with stakeholders, publication of guidelines and contributions to trade publications. This focus on advocacy and development will continue into 2012-2014; we expect to invest less money and people resource than in 2010-2012, but still more than before 2009/10 and earlier years on the presumption that we will have produced a significant number of guidelines.

For enforcement cases we have changed our timeliness measures and will use exception reporting to capture investigations that fall outside of the expected timeframes (for example, if an overseas agency undertakes some activity related to our investigation). Our focus will be on prioritising the investigations we do, and then doing that work in a timely way. We are also planning in the period 2011-2014 to be ready for a change from a civil to criminal regime in relation to cartel enforcement.

We expect a high level of litigation going into 2011/12 but thereafter are forecasting a decrease in litigation as large-scale cartel litigation currently underway comes to an end, or becomes less resource intensive.

GENERAL MARKET OUTPUT MEASURES 2011/12

The determinations and enforcement case quantity measures in italics are activity information rather than performance measures. Activity information relates to output volumes that are demand driven and therefore out of the Commission's control.

OUTPUT MEASURE	2008/09 ACTUAL	2009/10 ACTUAL	2010/11 ESTIMATED ACTUAL	TARGET 2011/12	TARGET 2012/13	TARGET 2013/14
DETERMINATIONS						
<i>Quantity</i>						
Number of clearances	11	8	15	15-24	10-22	10-22
Number of authorisations	11	4	2-4	0-2	0-4	0-4
<i>Quality and Timeliness</i>						
Number of successful legal challenges of the Commission's processes	0	0	0	0	0	0
Percentage of successful defended determinations appeals over 5 years	100%	100%	100%	80%	80%	80%
Percentage of written reasons published for determinations	100%	100%	100%	100%	100%	100%
Average number of working days from date of registration to date of decision for merger clearance applications	46 days	38 days	40 days	40 days	40 days	40 days
Average number of working days from date of decision to date of publication of reasons for declined clearance applications	52 days	Not applicable (no declines)	Not applicable or 10 days (depending on whether any applications are declined before 30 June)	10 days	10 days	10 days
ENFORCEMENT CASES						
<i>Quantity</i>						
Number of market structure cases ⁵	6	3	2	0-4	0-5	0-5
Number of coordinated behaviour cases ⁶	10	17	19-23	8-14	8-20	8-20
Number of unilateral conduct cases ⁷	14	8	7-10	5-10	5-10	5-10

5. Investigations into mergers that might harm competition and that do not have the protection of a clearance.

6. Investigations into anti-competitive agreements between businesses, such as agreements to fix prices or to carve up markets.

7. Investigations of anti-competitive practices of a business, such as the business taking advantage of its market power or setting a minimum price for the sale of its goods or services by another business.

OUTPUT MEASURE	2008/09 ACTUAL	2009/10 ACTUAL	2010/11 ESTIMATED ACTUAL	TARGET 2011/12	TARGET 2012/13	TARGET 2013/14
Number of Fair Trading Act cases ⁸	298	384	350-370	260-370	260-400	260-400
Number of product safety and information standards cases ⁹	35	50	50-65	40-65	40-70	40-70
Number of CCCF Act cases ¹⁰	43	46	40-43	31-47	30-50	30-50
Quality and Timeliness						
Number of successful legal challenges of the Commission's processes	0	1	0	0	0	0
Percentage of investigations undecided for more than 18 months (at any point during the year)	Not measured	Not measured	3%	0%	0%	0%
Percentage of Commerce Act investigations decided within 12 months	80%	86%	70%	80%	80%	80%
Percentage of Fair Trading, product safety and CCCF investigations decided within 12 months	Not measured	Not measured	90%	95%	90%	90%
ADVOCACY AND DEVELOPMENT						
Quantity						
Number of Commission guidelines or fact sheets published	28	29	25	20-35	15-30	15-25
Number of contributions made to external publications, guidelines and codes of practice	Not measured	Not measured	Not measured	100-200	50-100	45-100
Number of substantial pieces of advice provided to inform policy design	24	17	38	15-30	15-30	15-30
Number of presentations delivered and stakeholder engagements held	18 (presentations only)	17 (presentations only)	64 (presentations only)	25-100	25-100	25-100
REPORTS TO THE MINISTER						
Quantity						
Number of reports to the Minister on the control of certain goods and services in specified markets	0	0	0	0-1	0-1	0-1

8. Investigations into the behaviour of traders who might have given false or misleading information to consumers.

9. Investigations of products such as bikes, cots and children's toys that might be unsafe, as well as the incorrect labelling of footwear and clothing, and failure to display required information on motor vehicles offered for sale.

10. Investigations into possible breaches of the CCCF Act including fees on credit contracts that might not be reasonable and fully disclosed to consumers.

OUTCOME: REGULATION IS BETTER TARGETED AND MORE EFFECTIVE

We are responsible for administering and enforcing legislation under Part 4 of the Commerce Act and the Telecommunications Act.

When competition is limited, there is the risk that consumers can be over-charged or may not receive the quality of service they require. We play a key role in regulating markets where competition is limited. We administer regulatory regimes in the following sectors: telecommunications, dairy, electricity lines, gas pipelines and specified airport services.

To get the best possible outcomes for New Zealanders, regulation needs to be targeted at the right services and appropriate for the type of service that is regulated.

For regulation to be more effective, it needs to be:

- appropriately targeted;
- for the long-term benefit of consumers; and
- complied with by the regulated businesses.

The section below provides context for the specific set of measures we have chosen to demonstrate our performance.

APPROPRIATE TARGETING

We monitor how well the markets we regulate work, and have a programme of work to develop and amend regulatory rules so that regulation becomes better targeted. Given the complexity of the issues involved, and the large amount of commercial value at stake, it is important that we understand the markets, industries and businesses we are regulating.

The extent to which we are responsible for deciding what services are regulated, and the types of regulation that apply, varies by sector. Appropriate targeting can involve advising government on appropriate forms of regulation and/or directly putting regulation in place.

In the telecommunications sector, the regulatory regime focuses on promoting competition for the benefit of end consumers. This includes regulating access to wholesale bottleneck services and removing regulation of services where competition has become effective. Underlying our work is sector monitoring so we are well placed to understand when to leave competition to market forces or when intervention is necessary to promote competition.

In the electricity lines and gas pipelines sectors, the focus of the regulatory regime is on providing certainty, setting price-quality paths (where required), monitoring the performance of regulated services (through information disclosure), and ensuring compliance with regulatory requirements.

We also monitor Auckland International Airport, Wellington International Airport and Christchurch International Airport on their delivery of aircraft and freight services, airfield activities, and specified passenger terminal services.

The Commission also plays a key role in facilitating competition in dairy markets. This work requires monitoring contestability in the industry through the entry and expansion of other dairy processors besides Fonterra.

We know we are performing well when:

- regulation promotes statutory objectives;
- regulation is cost effective; and
- our processes withstand judicial scrutiny.

MORE EFFECTIVE REGULATION

THE LONG-TERM BENEFITS FOR CONSUMERS

In order to promote long-term benefits for consumers, regulation aims to promote competition, or (if this is not possible) outcomes consistent with what would be possible in a competitive market. Part of promoting competition includes ensuring that there are appropriate incentives for businesses to invest in infrastructure, to deliver services efficiently at a quality that customers expect, and that the suppliers of these services do not earn excessive profits.

Both consumers and investors can benefit from well-performing businesses that improve their efficiency, innovate and earn an appropriate level of profit.

The reference to 'long-term' is important. If regulatory settings are too low, lower prices for consumers in the short term could be greatly overshadowed by higher long-term costs, and regulated businesses may not make appropriate investments in replacing equipment or new technology. Given that very large investments are sometimes at stake, these trade-offs are important to understand.

We know we are performing well when consumers get the benefit from:

- appropriate investment incentives for suppliers of regulated services;
- regulated services delivered at a level of quality that consumers expect;
- increased efficiency in the delivery of regulated services over time; and
- suppliers of regulated services achieving an appropriate profit.

COMPLIANCE BY REGULATED BUSINESSES

Regulation will only be effective if suppliers act in accordance with regulatory requirements. We seek to achieve voluntary compliance wherever possible. To do this, we engage constructively with the suppliers of regulated services, including assisting them to understand regulatory rules. We also engage with suppliers in developing regulatory rules.

If regulated businesses do not comply, we can take enforcement action. A key part of our role is to decide which cases we will investigate, and tailor our approach to each issue. This involves selecting the most appropriate enforcement action, which can include issuing a warning letter, reaching a settlement, seeking pecuniary penalties, or proceeding with litigation action.

We know we are performing well when:

- suppliers of regulated services demonstrate an understanding of the rules associated with regulation and the reasons for these rules;
- suppliers operate in accordance with the requirements of regulation; and
- our processes withstand judicial scrutiny.

IMPACT MEASURES

TELECOMMUNICATIONS IMPACT MEASURES

We promote competition in telecommunications markets for the long-term benefit of end users by regulating and monitoring telecommunications services.

One of our functions is to review competitive conditions in telecommunications markets and, in areas where competition is effective, recommend regulation be removed.

The creation of the Ultra Fast Broadband network and its associated services is an important development in New Zealand’s telecommunications sector. In 2011/12, work will continue on the building of the Ultra Fast Broadband network by the selected local fibre companies. We will work closely with the local fibre companies and other stakeholders to implement the regulatory regime required to support this initiative.

In 2011/12, we will be seeking to ensure progress continues to be made in broadband quality and uptake, competitiveness in the mobile markets and uptake of core regulated services. We will continue to focus on market monitoring and reporting to build on the growing understanding by stakeholder groups of the performance of the telecommunications market and the benefits of targeted regulation.

IMPACT	MEASURE
REGULATION Regulatory decisions promote statutory objectives	SIMPLIFICATION: A reduction over time in the total number of regulated services
	QUALITY: An increase over time in the average broadband connection speed for New Zealand customers
	MARKET SHARE: Increased levels of competition in all mobile and fixed line markets:
	The fixed telephone retail market concentration by connection as measured by the HHI ¹¹
	The fixed broadband line retail market concentration by connection as measured by the HHI
	The mobile retail market concentration by connection as measured by the HHI
	UPTAKE: Increased uptake of core regulated services
COMPLIANCE AND ENFORCEMENT Businesses are encouraged to act consistently with regulatory obligations Conduct by businesses that does not comply with regulatory obligations is detected and dealt with appropriately	MILESTONES: Telecom meets enforceable milestones defined by the Telecom Separation Undertakings as agreed with the Minister for Communications and Information Technology The number of formal complaints about Telecom’s behaviour by Telecom wholesale customers decreases over time
SECTOR MONITORING AND INFORMATION DISCLOSURE Businesses and consumers have an increased understanding of business and market performance	New Zealand’s position in the OECD ranking for fixed broadband services (connections per 100 of the New Zealand population) improves over time
ADVOCACY AND DEVELOPMENT Businesses and consumers are aware of and understand regulatory regimes and the benefits of targeted regulation	The level of business and consumer group Awareness and Understanding of targeted regulation and the benefits increases over time

11. The Herfindahl-Hirschman Index (HHI) is a commonly accepted measure of market concentration and is calculated by squaring the market share of each market participant that has a material number of subscribers and adding these together. The maximum possible score is 10,000.

	ACTUAL 2007/08	ACTUAL 2008/09	ACTUAL 2009/10	ESTIMATED ACTUAL 2010/11	TARGET 2011/12	TARGET 2012/13	TARGET 2013/14
	16	16	17	16	15	14	13
	Not applicable	2.5Mbps	3.3Mbps	3.8Mbps	4.3Mbps	4.8Mbps	5.0Mbps
	6,712	5,834	5,222	5,000	Ongoing improvement		
	4,533	4,119	3,867	3,600	Ongoing improvement		
	4,994	4,972	4,237	3,900	Ongoing improvement		
	3,000	37,000	67,000	84,000	Ongoing improvement		
	Not applicable	8,000	38,000	220,000	Ongoing improvement		
	94.4%	100%	100%	100%	100%	100%	Not applicable
	0	3	3	0	0	0	0
	19/31	18/31	17/31	17/31	Top half of the OECD ranking	Top half of the OECD ranking	Top half of the OECD ranking
	Not measured	Not measured	Not measured	Not currently measured	Baseline to be established	Target to be set once baseline established	Target to be set once baseline established

ELECTRICITY, GAS AND AIRPORTS IMPACT MEASURES

We are required under Part 4 of the Commerce Act to administer regulation for electricity lines businesses, gas pipeline businesses and specified airport services that will contribute to the long-term benefit of consumers. We do this by promoting outcomes that are consistent with outcomes in competitive markets to ensure that the suppliers of regulated goods or services:

- have incentives to invest;
- have incentives to promote efficiency and provide services that reflect customer demands;
- share the benefits of efficiency gains with consumers; and
- are limited in their ability to extract excessive profits.

The impacts of the new regime are expected to be felt broadly over the five-year regulatory period.

The new Commission impact measures will be primarily (but not solely) derived from information disclosed by suppliers of regulated services under information disclosure requirements. Information disclosure provides sufficient information to enable people to assess whether the purpose of Part 4 is being achieved. Consequently, information disclosure also provides impact measures of the Commission's effectiveness in administering regulation under Part 4.

Impact measures are now in place for airport regulation as we completed our determination of information requirements in December 2010, with full reporting on impacts to begin in 2012. Some impact measures for the regulation of electricity lines businesses are available from existing electricity information disclosure requirements.

New impact measures will be in place for electricity lines and gas pipeline regulation once new information disclosure determinations have been set. New information disclosure regimes for electricity and gas are expected to be in place by December 2012.

ELECTRICITY

IMPACT	MEASURE	TARGET 2011/12	TARGET 2012/13	TARGET 2013/14
REGULATION Regulatory decisions promote statutory objectives	QUALITY No material deterioration in the quality of electricity distribution services as indicated by aggregate industry SAIDI ¹² and SAIFI ¹³ measures	New baseline to be established	Aggregate industry SAIDI and SAIFI do not materially increase	Aggregate industry SAIDI and SAIFI do not materially increase
	No material deterioration in the quality of electricity transmission services as measured by Transpower meeting established quality targets	New baseline to be established	No reductions in Transpower's revenue as a result of the quality incentive mechanism ¹⁴	No reductions in Transpower's revenue as a result of the quality incentive mechanism
	EFFICIENCY Electricity industry investment is prudent and efficient (as measured biennially in the Asset Management Plan compliance ratings)	Not measured	New baseline to be established	Not applicable as no review expected
COMPLIANCE AND ENFORCEMENT Businesses are encouraged to act consistently with regulatory obligations Conduct by businesses that does not comply with regulatory obligations is detected and dealt with appropriately	Business compliance with information requirements is maintained over time	100%	100%	100%
	The number of breaches of the price path by non-exempt electricity distribution businesses does not increase over time	Number of breaches does not exceed the average of the 3 years prior	Number of breaches does not exceed the average of the 3 years prior	Number of breaches does not exceed the average of the 3 years prior
SECTOR MONITORING AND INFORMATION DISCLOSURE Businesses and consumers have an increased understanding of business and market performance	Understanding of the performance of regulated electricity lines services by specific business and consumer groups increases over time	New baseline to be established	An increase from previous year in the percentage of respondents that believe the disclosure regime has increased understanding of sector performance	An increase from previous year in the percentage of respondents that believe the disclosure regime has increased understanding of sector performance
ADVOCACY AND DEVELOPMENT Businesses and consumers are aware of and understand regulatory regimes and the benefits of targeted regulation	Understanding and awareness by stakeholders of the regulatory regimes and the benefits of regulation increases over time	New baseline to be established	An increase from previous year in the percentage of respondents that are aware of the regulatory regime and the benefits of regulation	An increase from previous year in the percentage of respondents that are aware of the regulatory regime and the benefits of regulation

12. System Average Interruption Duration Index. SAIDI is the average outage duration for each customer served, and is calculated as the sum of all customer duration interruptions divided by the total number of customers served.

13. System Average Interruption Frequency Index. SAIFI is the average number of interruptions that a customer experiences and is calculated as the total number of customer interruptions divided by the total number of customers served.

14. The quality incentive mechanism creates a financial penalty for Transpower (through reduced revenue) if quality is not maintained.

GAS

IMPACT	MEASURE	TARGET 2011/12	TARGET 2012/13	TARGET 2013/14
REGULATION Regulatory decisions promote statutory objectives	Quality and efficiency measures to be developed as part of the information disclosure requirements to be set in 2011/12			
COMPLIANCE AND ENFORCEMENT Businesses are encouraged to act consistently with regulatory obligations Conduct by businesses that does not comply with regulatory obligations is detected and dealt with appropriately	Rates of compliance with information disclosure requirements are maintained over time	100%	100%	100%
	The number of breaches of the price path by gas distribution businesses does not increase over time	Not measured	New baseline to be established	Target to be set once baseline established
SECTOR MONITORING AND INFORMATION DISCLOSURE Businesses and consumers have an increased understanding of business and market performance	The percentage of surveyed target stakeholders that report an increased understanding of sector performance increases over time	Not measured	New baseline to be established	An increase from previous year in the percentage of respondents that believe the disclosure regime has increased understanding of sector performance
ADVOCACY AND DEVELOPMENT Businesses and consumers are aware of and understand regulatory regimes and the benefits of targeted regulation	Understanding and awareness by stakeholders of the regulatory regimes and the benefits of regulation increase over time	New baseline to be established	An increase from previous year in the percentage of respondents that are aware of the regulatory regime and the benefits of regulation	An increase from previous year in the percentage of respondents that are aware of the regulatory regime and the benefits of regulation

AIRPORTS

IMPACT	MEASURE	TARGET 2011/12	TARGET 2012/13	TARGET 2013/14
REGULATION Regulatory decisions promote statutory objectives	The level of customer service satisfaction by surveyed airline passengers improves over time	Not measured	New baseline to be established	Score of survey \geq minimum aggregate satisfaction index
	Airports' target profitability at next price-setting round is consistent with normal returns as derived from the input methodology	Target profitability = WACC ¹⁵	Target profitability = WACC	Not applicable - no price setting scheduled
COMPLIANCE AND ENFORCEMENT Businesses are encouraged to act consistently with regulatory obligations Conduct by businesses that does not comply with regulatory obligations is detected and dealt with appropriately	The level of compliance by businesses with the information disclosure requirements is maintained over time	100%	100%	100%
SECTOR MONITORING AND INFORMATION DISCLOSURE Businesses and consumers have an increased understanding of business and market performance	Understanding of the performance of regulated airport services by targeted business and consumer groups increases over time	Not measured	New baseline to be established	Target to be set once baseline established
ADVOCACY AND DEVELOPMENT Businesses and consumers are aware of and understand regulatory regimes and the benefits of targeted regulation	Understanding and awareness by stakeholders of the regulatory regimes and the benefits of regulation increase over time	New baseline to be established	The percentage of respondents aware of the regulatory regime and the benefits of regulation is higher than baseline	The percentage of respondents aware of the regulatory regime and the benefits of regulation is higher than baseline

REGULATION IS BETTER TARGETED AND MORE EFFECTIVE

15. Weighted Average Cost of Capital.

DAIRY IMPACT MEASURES

We monitor contestability in dairy markets through the entry and expansion of efficient independent processors. This indicates compliance with the entry and exit provisions for shareholding farmers in the Dairy Industry Restructuring Act and the obligation to supply raw milk under the Raw Milk Regulations.

IMPACT	MEASURE	TARGET 2011/12	TARGET 2012/13	TARGET 2013/14
<p>COMPLIANCE AND ENFORCEMENT</p> <p>Businesses are encouraged to act consistently with regulatory obligations</p> <p>Conduct by businesses that does not comply with regulatory obligations is detected and dealt with appropriately</p>	<p>Compliance with the Dairy Industry Restructuring Act improves over time. A failure to comply is indicated by a finding resulting from a determination or investigation that a breach has occurred</p>	<p>New baseline to be established</p>	<p>Target to be set once baseline established</p>	<p>Target to be set once baseline established</p>

OUTPUT MEASURES 2011/12

TELECOMMUNICATIONS

We have a range of functions under the Telecommunications Act 2001, the main purpose being to promote competition in telecommunications markets for the benefit of end users. These functions include: monitoring competition in telecommunications markets; setting access determinations; calculating the cost of providing telecommunications service obligations (TSO)-related services; enforcing its determinations; and approving industry codes.

The focus over the planning period will be on:

- implementing changes to the regulatory regime in response to the Government's Ultra Fast Broadband initiative;
- developing and implementing an information disclosure framework for local fibre companies;
- undertaking reviews of regulated services where appropriate;
- monitoring the mobile market in light of the mobile termination access services determination; and
- initiating (as required) investigations into any alleged breaches of the separation undertakings by Telecom and, where appropriate, taking action.

These are likely to result in an increased number of access determinations and monitoring reports.

In 2010/11, we stated we would place greater emphasis on market monitoring. This will continue in the 2011/12 year with the emphasis remaining the same, which is to monitor:

- the extent to which competition is improving in the market segments that have been regulated;
- how regulated segments of the telecommunications market are performing and evolving and whether there are any signs of 'bottleneck-type' competitive problems; and
- whether certain markets are effectively competitive and can be deregulated.

TELECOMMUNICATIONS SERVICE PERFORMANCE TRENDS 2011-2014

Over the next three years, we will focus on a continuation of our current industry engagement programme targeting communications with key stakeholders, and monitoring and gathering market intelligence both locally and internationally.

Increased competition in telecommunications markets will result in a reduction in regulation. We recognise that it is the operation of competitive forces that provides the best allocation of economic resources, and delivers optimal prices, quality and consumer choices. Regulation is used to attempt to reinforce competitive outcomes in markets where competitive pressures are weak or non-existent.

TELECOMMUNICATIONS OUTPUT MEASURES 2011/12

OUTPUT MEASURE	2008/09 ACTUAL	2009/10 ACTUAL	2010/11 ESTIMATED ACTUAL	TARGET 2011/12	TARGET 2012/13	TARGET 2013/14
REGULATION						
Quantity						
Total number of access determinations	6	13 ¹⁶	8	5-10	2-7	2-7
Number of determinations	6	13	1	1-2	0-1	0-1
Number of reviews	Not applicable	Not applicable	4	4-5	2-4	2-4
Number of clarifications	Not applicable	Not applicable	3	0-3	0-2	0-2
Number of industry codes approved	0	0	0	0-1	0-1	0-1
Number of TSO cost determinations	6	6	2	0-1	2-3	2-3
Number of reports to Minister	0	2	1	0-1	0-1	0-1
Quality and Timeliness						
Number of successful legal challenges of the Commission's processes	0	0	0	0	0	0
Number of significant errors in reports	Not applicable	Not applicable	0	0	0	0
Average time taken to complete access determinations (months)	16.7	4.3	8	10	10	10
Average time taken to complete reviews (months)	Not applicable	Not applicable	10	10	6	6
Average time taken to complete clarifications (months)	Not applicable	Not applicable	6	2	2	2
Average time taken to complete TSO determinations (months)	6	6	4.1	4	4	4
Average time taken to complete reports to Ministers (months)	Not applicable	8.4	14.5	12	12	12

16. These include statutory clarifications; no access determinations were made during 2009/10.

OUTPUT MEASURE	2008/09 ACTUAL	2009/10 ACTUAL	2010/11 ESTIMATED ACTUAL	TARGET 2011/12	TARGET 2012/13	TARGET 2013/14
COMPLIANCE AND ENFORCEMENT						
Quantity						
Number of enforcement cases closed	1	0	1	0-2	0-1	0-1
Quality and Timeliness						
Number of significant errors in reports	0	0	0	0	0	0
Number of successful legal challenges of the Commission's processes	0	0	0	0	0	0
SECTOR MONITORING AND INFORMATION DISCLOSURE						
Quantity						
Number of monitoring reports	8	5	3	2-4	3-5	3-5
Number of information disclosure reports	1	2	1	1-2	1-2	1-2
Quality and Timeliness						
Performance impact on telecommunications markets shows increased competition over the last 3 years as disclosed by monitoring reports	Not applicable	Not applicable	Fully achieved	Fully achieved	Fully achieved	Fully achieved
ADVOCACY AND DEVELOPMENT						
Quantity						
Number of pieces of advice to officials on regulation matters	Not applicable	Not applicable	18	5-15	3-10	3-10
Number of guidelines or frameworks	Not applicable	0	0	0-3	0-2	0-2
TOTAL FRAMEWORK DEVELOPMENT¹⁷	3	5	18	0-18	3-12	3-12
Number of media releases	42	37	10-20	10-20	10-20	10-20
Number of presentations	52	29	25-40	40-50	10-20	10-20
Number of stakeholder engagement meetings	Not measured	Not measured	20-30	20-30	15-25	15-25
Number of consumer panels	Not measured	Not measured	2	2	0-2	0-2
TOTAL PUBLIC INFORMATION/ EDUCATION ACTIVITIES	94	66	57-70	72-100	35-67	35-67
Quality and Timeliness						
Review framework and establish new baseline for feedback ratings from key stakeholders	Not measured	Not measured	New baseline to be established	Target to be set once baseline set	Target to be set once baseline set	Target to be set once baseline set

17. Before 2010/11, we included international exchange and liaison activities in our framework development measure.

INPUT METHODOLOGIES, ELECTRICITY, GAS AND AIRPORTS

Our outputs in these areas involve administering:

- input methodologies (setting upfront rules for the regime);
- price-quality paths (for some businesses); and
- information disclosure requirements.

The focus for 2011/12 will be on continuing to implement Part 4 of the Commerce Act. This builds on the significant achievements in 2010/11 with the completion of input methodology determinations, the individual price path for Transpower and the information disclosure requirements for specified airport services.

The priority will be on resetting the price-quality paths for electricity lines business and gas pipeline businesses, and completing the newly required input methodology for capital expenditure for Transpower. We will continue with the setting of information disclosure requirements for suppliers of electricity lines and gas pipeline services in light of the input methodologies set in December 2010.

We will regularly publish cost of capital determinations in accordance with the requirements of the input methodologies. We also anticipate some technical amendments to the input methodology determinations, as they are applied through both the setting of information disclosure requirements and customised price-quality paths.

Merits reviews of the input methodologies were lodged in February 2010 in the High Court. These reviews will require significant work in the 2011/12 year.

INPUT METHODOLOGIES, ELECTRICITY, GAS AND AIRPORTS SERVICE PERFORMANCE TRENDS 2011-2014

The medium-term priority for us will be to work with businesses delivering regulated services to ensure effective compliance and implementation of price-quality paths. In addition, there will be an increased focus on promoting greater understanding of the performance of suppliers of regulated services through the summary and analysis of information disclosed as part of the information disclosure regime. The extent to which this can be achieved will depend on the availability of funding to undertake effective analysis of regulated market performance.

INPUT METHODOLOGIES OUTPUT MEASURES 2011/12

OUTPUT MEASURE	2008/09 ACTUAL	2009/10 ACTUAL	2010/11 ESTIMATED ACTUAL	TARGET 2011/12	TARGET 2012/13	TARGET 2013/14
DETERMINATIONS						
Quantity						
Number of gas/electricity/airports determinations	0	0	5	0	0	0
Number of transpower capital expenditure input methodology determinations	Not applicable	Not applicable	Not applicable	1	0	0
Quality and Timeliness						
Percentage of legislative requirements for consultation complied with	100%	100%	100%	100%	Not applicable	Not applicable
Number of successful legal challenges of the Commission's processes	0	0	0	0	0	0
Transpower capital expenditure input methodology completed by:	Not applicable	Not applicable	Not measured	1 November 2011	Not applicable	Not applicable
ADVOCACY AND DEVELOPMENT						
Quantity						
Number of public information/education activities (media releases and presentations)	8	7	7	2-6	2-6	2-6

ELECTRICITY OUTPUT MEASURES 2011/12

OUTPUT MEASURE	2008/09 ACTUAL	2009/10 ACTUAL	2010/11 ESTIMATED ACTUAL	TARGET 2011/12	TARGET 2012/13	TARGET 2013/14
REGULATION						
Quantity						
Number of electricity distribution services: default price paths determinations (including amendments)	Not applicable	1	1-2	1	0-1	0-1
Number of electricity transmission (Transpower) price-quality determinations including amendments	Not applicable	Not applicable	1	1	0-1	0-1
Number of amendments to input methodologies determinations	Not applicable	Not applicable	0-2	0-8	0-2	0-2
Number of publications of cost of capital estimates in accordance with input methodologies	Not applicable	Not applicable	4	3	2	2
Number of information disclosure determinations	1	Not applicable	0 ¹⁸	0	2	0-2
Quality and Timeliness						
Percentage of compliance with legislative requirements for consultation	100%	100%	100%	100%	100%	100%
Number of successful legal challenges of the Commission's processes	0	0	0	0	0	0
Transpower price-quality determinations completed by:	Not applicable	Not applicable	30 December 2010	30 June 2012	30 June 2013	30 June 2014
Electricity distribution services: default price paths (including amendments) completed by:	Not applicable	30 December 2009	Not applicable	20 October 2011	30 June 2013	30 June 2014
Percentage of transmission investment approvals completed in accordance with timeframes set in input methodologies	Not applicable	Not applicable	Not applicable	100%	100%	100%
Percentage of publications of cost of capital estimates in accordance with timeframes set in input methodologies	Not applicable	Not applicable	100%	100%	100%	100%
Information disclosure determinations including amendments completed by:	Not applicable	Not applicable	0	0	30 December 2012	30 June 2014
COMPLIANCE AND ENFORCEMENT						
Quantity						
Number of electricity distribution services: price-quality path compliance assessment	29	29	17	12-29	17-29	17-29
Number of electricity transmission (Transpower) compliance assessment (individual price-quality path)	Not applicable	Not applicable	Not applicable	Not applicable	1	1

18. The budgeted standard was incorrect as there were in fact no information disclosure determinations to be completed in 2010/11.

OUTPUT MEASURE	2008/09 ACTUAL	2009/10 ACTUAL	2010/11 ESTIMATED ACTUAL	TARGET 2011/12	TARGET 2012/13	TARGET 2013/14
Number of electricity transmission (Transpower) compliance assessments (administrative settlement)	Not applicable	0	2	1	Not applicable	Not applicable
Number of assessments of compliance with information disclosure requirements	30	30	30	30	30	30
Quality and Timeliness						
Number of successful legal challenges of the Commission's processes	0	0	0	0	0	0
Electricity distribution services: price-quality path compliance assessment completed by:	Not applicable	16 February 2010	1 April 2011	31 December 2011	31 December 2012	31 December 2013
Electricity transmission (Transpower): compliance assessment (individual price-quality path) completed by:	Not applicable	Not applicable	Not applicable	31 December 2012	31 December 2013	31 December 2014
Electricity transmission (Transpower): compliance assessment (administrative settlement) completed by:	Not applicable	Not applicable	30 November 2011	31 December 2012	31 December 2013	Not applicable
Assessment of compliance with information disclosure requirements completed by:	Not measured	Not measured	Not measured	30 June 2012	30 June 2013	30 June 2014
SECTOR MONITORING AND INFORMATION DISCLOSURE						
Quantity						
Number of summary and analysis reports (including asset management review)	Not applicable	2	2	1	1	1
Quality and Timeliness						
Number of successful legal challenges of the Commission's processes	0	0	0	0	0	0
Summary and analysis reports completed by:	Not applicable	11 November 2009	30 June 2011	30 June 2012	30 June 2013	30 June 2014
ADVOCACY AND DEVELOPMENT						
Quantity						
Number of pieces of advice to officials	0	9	1	0-5	0-5	0-5
Number of public information/education activities (media releases, presentations and publications)	8	10	6	4	4	4
ACTIVITY INFORMATION¹⁹						
Number of transmission investment approvals	Not applicable	Not applicable	0	10	10	10

19. Activity information relates to output volumes that are demand driven and therefore out of our control.

GAS OUTPUT MEASURES 2011/12

OUTPUT MEASURE	2008/09 ACTUAL	2009/10 ACTUAL	2010/11 ESTIMATED ACTUAL	TARGET 2011/12	TARGET 2012/13	TARGET 2013/14
REGULATION						
Quantity						
Number of determinations of price-quality paths (including amendments)	Not applicable	Not applicable	0	1-2	0-2	0-2
Number of information disclosure determinations (including amendments)	Not applicable	Not applicable	0	0	2	0-2
Number of consultation papers on gas price-quality paths	Not applicable	Not applicable	1	1-3	Not applicable	Not applicable
Number of amendments to input methodologies determinations	Not applicable	Not applicable	0-2	As required 2-4	As required 2-4	As required 2-4
Number of publications of cost of capital estimates in accordance with input methodologies	Not applicable	Not applicable	1	3-4	3-4	3-4
Quality and Timeliness						
Percentage of legislative requirements for consultation complied with:	100%	100%	100%	100%	100%	100%
Number of successful legal challenges of the Commission's processes	0	0	0	0	0	0
Determination of price-quality paths completed by: (subject to information disclosure determinations being deferred by one year)	Not applicable	Not applicable	Not applicable	30 June 2012	30 June 2013	30 June 2013
Consultation papers on gas price-quality paths completed by:	Not applicable	Not applicable	30 June 2011	30 June 2012	Not applicable	Not applicable
Information disclosure determinations including amendments completed by:	Not applicable	Not applicable	Not applicable	Not applicable	31 December 2012	30 June 2014
Percentage of publication of cost of capital estimates in accordance with timeframes set in input methodologies	Not applicable	Not applicable	100%	100%	100%	100%
COMPLIANCE AND ENFORCEMENT						
Quantity						
Number of assessments of compliance with authorisations and determinations	4	0	4	2	2	5
Quality and Timeliness						
Number of successful legal challenges of the Commission's processes	0	0	0	0	0	0
Compliance with existing authorisations and determinations completed by:	Not applicable	30 June 2010	27 January 2011	30 June 2012	Not applicable	Not applicable
ADVOCACY AND DEVELOPMENT						
Quantity						
Number of public information/education activities (media releases, presentations and publications)	6	1	2	2	2	2

OUTPUT MEASURE	2008/09 ACTUAL	2009/10 ACTUAL	2010/11 ESTIMATED ACTUAL	TARGET 2011/12	TARGET 2012/13	TARGET 2013/14
REGULATION						
Quantity						
Number of information disclosure determinations (including amendments)	Not applicable	Not applicable	1	As required 0-1	As required 0-1	As required 0-1
Number of amendments to input methodologies determinations	0	0	0-1	As required 0-4	As required 0-4	As required 0-4
Number of publications of cost of capital estimates in accordance with input methodologies	Not applicable	Not applicable	2	2	2	2
Quality and Timeliness						
Percentage of legislative requirements for consultation complied with	100%	100%	100%	100%	100%	100%
Number of successful legal challenges of the Commission's processes	0	0	0	0	0	0
Information disclosure determinations (including amendments) completed by:	Not applicable	Not applicable	22 December 2010	30 June 2012	30 June 2013	30 June 2014
COMPLIANCE AND ENFORCEMENT						
Quantity						
Number of assessments of compliance with information disclosure requirements	Not applicable	Not applicable	0	4	5	3
Quality and Timeliness						
Number of successful legal challenges of the Commission's processes	0	0	0	0	0	0
Assessment of compliance with information disclosure requirements made by:	Not applicable	Not applicable	Not applicable	30 June 2012	30 June 2013	30 June 2013
SECTOR MONITORING AND INFORMATION DISCLOSURE						
Quantity						
Number of summary and analysis reports	Not applicable	Not applicable	0	0-1	1-2	1
Quality and Timeliness						
Number of successful legal challenges of the Commission's processes	0	0	0	0	0	0
Summary and analysis reports completed by:	Not applicable	Not applicable	Not applicable	30 June 2012	30 June 2013	30 June 2014
ADVOCACY AND DEVELOPMENT						
Quantity						
Number of public information/education activities (media releases and presentations)	8	1	2	1-2	1-2	1-2

DAIRY

We enforce and adjudicate disputes in relation to subpart 5 of the Dairy Industry Restructuring Act 2001 (DIR Act), the key purpose of which is to promote the efficient operation of dairy markets in New Zealand. The bulk of our work in this area has consisted of determining disputes between Fonterra and independent processors. The determination work stream is less discretionary than for investigations, as the criteria for rejecting determination applications are specified in the DIR Act.

We intend to increase our education initiatives in this area. We will communicate our role and how the pro competition provisions of the DIR Act work, particularly if the Raw Milk Regulations are amended.

DAIRY SERVICE PERFORMANCE TRENDS 2011-2014

The number of determinations the Commission usually receives each year varies between none and two and between none and two enforcement cases.

Looking forward, two issues make estimating performance trends challenging:

- the current review by the Ministry of Agriculture and Forestry (MAF) of the Raw Milk Regulations may lead to significant changes to the framework we apply; and
- our current review of milk markets under Part 4 could lead to a full Part 4 inquiry and ultimately to recommendations to regulate milk markets.

If neither of these events occurs, we would expect current output numbers to continue. We have increased the output ranges to deal with this uncertainty.

We will invest more in education about our role and the key dairy laws we adjudicate and enforce, particularly if the laws are amended. We expect to increase our advice to officials this year and expect this to continue into 2012/13.

DAIRY OUTPUT MEASURES 2011/12

OUTPUT MEASURE	2008/09 ACTUAL	2009/10 ACTUAL	2010/11 ESTIMATED ACTUAL	TARGET 2011/12	TARGET 2012/13	TARGET 2013/14
DETERMINATIONS						
Quantity						
Number of determinations	2	0	1	0-2	0-2	0-2
Quality and Timeliness						
Number of successful legal challenges of the Commission's processes	0	0	0	0	0	0
Percentage of written reasons published for determinations	100%	Not applicable	N/A or 100% (depending on whether applications are determined by 30 June)	100%	100%	100%
Percentage of determination applications decided within an average of 120 working days from registration	0%	Not applicable	New baseline to be established	Target to be set	Target to be set	Target to be set
ENFORCEMENT CASES						
Quantity						

OUTPUT MEASURE	2008/09 ACTUAL	2009/10 ACTUAL	2010/11 ESTIMATED ACTUAL	TARGET 2011/12	TARGET 2012/13	TARGET 2013/14
Number of enforcement cases	0	1	1	0-2	0-3	0-3
Quality and Timeliness						
Number of successful legal challenges of the Commission's processes	0	0	0	0	0	0
Average number of working days from date of registration to date of publication of reasons or applications for determination	0	0	0	0	0	0
Percentage of investigations decided within 12 months	Not applicable	100%	0%	80%	80%	80%
ADVOCACY AND DEVELOPMENT						
Quantity						
Number of Commission guidelines or fact sheets published	1	0	1	1	1-5	1-5
Number of contributions made to external publications, guidelines and codes of practice	0	0	0	0-1	0-3	0-3
Number of substantial pieces of advice provided to inform policy design	0	0	1	0-2	0-4	0-4
Number of presentations delivered and stakeholder engagement meetings	0	0	0	1-2	1-3	1-3
Quality and Timeliness						
Percentage of surveyed users who find the Commission's guidelines, fact sheets, advice and contributions helpful	New measure	New measure	Establishing baseline	Target to be set	Target to be set	Target to be set

MANAGING ORGANISATIONAL HEALTH AND CAPABILITY

We aim to improve our contribution to New Zealand by finding innovative ways to do our work. We recognise the importance of valuing our people, increasing efficiency and improving our interactions with those our work affects.

In 2009/10, we restructured our organisation into three branches – Enforcement, Regulation and Organisation Performance. Since then, we have made further refinements to our structure to improve our organisational performance.

In 2010/11, we established five programmes of business improvement (*Simplify our business, Understand our value, Better connect, Stronger future focus and Better investment in people*) and implemented a new governance approach to ensure we focus on the right initiatives and that benefits are realised. The focus for 2010/11 was *One Team*. We made significant progress on defining and developing a one team culture for our staff, and in improving processes, systems and people capabilities. Three key priorities included the review of our organisational values, the development of our learning and development strategy and an external engagement strategy.

The focus for 2011/12 is *Better Delivery*. We will build on the structural changes we made over the past two years, communicate our direction for further organisational improvements, and promote individual responsibility for improving the way we go about our work.

SIMPLIFY OUR BUSINESS

We want to make it easier to do business with and within the Commission. In 2010/11, we introduced a stronger governance approach, including a new Board cycle and greater clarity and emphasis on our different roles. A fresh look at the core requirements for monitoring and measuring our work started in 2010/11, as well as reviewing the tools, systems and processes we use for project management, time recording, financial management, resource allocation, planning and reporting. These projects will continue in 2011/12, and in 2012/13 we will streamline our internal and external reporting.

UNDERSTAND OUR VALUE

With good information we can make better decisions about how we use our resources (money and people) to ensure we offer the best value for money for New Zealanders. In 2010/11, we began piloting a new approach to prioritising our work in the Enforcement branch. An intelligence project, also underway in the Enforcement branch, allows us to keep up to date with market developments and innovations, and incorporate them into our work.

In 2010/11, we refined our performance measurement frameworks to demonstrate our value and impact. These frameworks will be further refined during 2011/12, and in 2012/13 we plan to develop efficiency indicators. In 2010/11, we developed our compliance philosophy, and in 2011/12 will build on this work to create an enforcement response approach.

BETTER CONNECT

We recognise that we can be a more effective enforcer and regulator by building good relationships with those who are affected by our decisions. By listening to the needs of our stakeholders we are also more likely to communicate in ways our stakeholders understand. We aim to work more efficiently and effectively as one team through communicating better, sharing information and learning from each other.

In 2010/11, we developed a Commission-wide external engagement strategy, implemented a Managers' Forum to enhance the relationships between senior staff, updated our internal communications strategy and reviewed the way we communicate with people who complain to the Commission through our Contact Centre. In 2011/12, we intend to put in place improvements planned under the external engagement and internal communications strategies, including the development of new channels and tools for listening to stakeholders. We will also implement and promote our plain English programme, which started in 2010/11.

STRONGER FUTURE FOCUS

Having long-term plans and processes to continually improve the way we work will make us more effective. We also need to be clear about how we fund current and future needs and ensure we make good investment decisions. Any changes to our systems and processes must be well planned, well managed and delivered efficiently.

During 2010/11, we established a management group, chaired by the CEO, to govern the delivery of our five strategic programmes. We also developed a Capability Assessment Framework (based on the State Services Commission's Performance Improvement Framework) to inform our business improvement priorities.

We completed an analysis of the current state of our information systems as the first step in developing a new Information Systems Strategic Plan (ISSP). We also delivered an information systems ownership framework. In 2011/12, we will complete our ISSP. We will also continue to be involved in 'all-of-government' initiatives where this makes sense.

In 2011/12, we will improve our capability assessment and strategic planning processes and refine our three-year outlook (both financial and non-financial).

BETTER INVESTMENT IN PEOPLE

We invest in our people in order to attract, develop and retain great staff. We are committed to ongoing investment in staff and will continue to provide programmes that develop our people and organisational capability. In 2010/11, we completed an organisational restructure, agreed an approach to implement a manager development programme, developed a learning and development strategy, rolled out an online training portal and delivered performance management training for managers. In addition, we developed the *One Team* culture and values for the Commission and started developing a human resources strategy.

In 2011/12, we will focus on implementing and embedding our organisational values, continue to implement our manager development programme and refresh the learning and development programme. Priorities for 2011/12 include an engagement survey and workforce planning. In 2012/13, we will review the remuneration framework, develop our recruitment strategy and refine and roll out the competency framework.

FUNDING

The Commission receives revenue from a mix of industry levies and Crown revenue. In general, the Commission's industry regulation (electricity lines, gas pipelines, airports, telecommunications and dairy) is funded by levies on the industries themselves. Our activity in the General Market area, which includes fair trading, and credit contracts and consumer finance, is funded by Crown-appropriated revenue.

	2009/10 ACTUAL \$000	2010/11 SOI \$000	2010/11 FORECAST \$000	2011/12 SOI \$000
TOTAL REVENUE	43,327	41,444	47,367	39,662
EXPENDITURE				
General market	14,234	16,261	14,742	17,379
Dairy	484	688	580	684
Input methodologies	4,910	2,612	3,293	355
Electricity	2,761	3,167	4,104	4,167
Gas	1,441	1,100	2,146	1,300
Airports	687	875	718	400
Major litigation fund	9,407	7,500	5,890	10,819
Telecommunications	6,558	7,400	6,704	6,892
TOTAL EXPENDITURE	38,524	39,603	38,177	41,996
RESERVES				
General reserves	7,433	6,290	9,873	5,920
Restricted reserves	3,000	3,500	3,361	3,861
TOTAL RESERVES	10,433	9,790	13,234	9,781

2010/11 VARIANCE TO SOI BUDGET

At the end of each financial year, if the Commission has not spent the appropriated level of revenue, some of the funding can be retained for the following years and some has to be returned to the government. Specifically, General Market surpluses can be retained by the Commission, while under-spends in levy-based appropriations are returned to the government for distribution back to the levy payers. The exception to this is that the Commission may apply to the Minister of Finance to transfer an under-spend in a levy-based appropriation to the next year.

This means that the budgeted revenue at the start of a year will sometimes change through the year as transfers are finalised. Consequently, the forecast revenue and associated expenditure for the 2010/11 year is greater than we originally forecast in the 2010-2013 Statement of Intent. Funding in 2010/11 has increased due to a combination of new funding for new activities and expense transfers from 2009/10.

Through a combination of a down-turn in merger activity, a restructure of the organisation and streamlining of our processes over the last few years, the Commission has generated surpluses in the General Market area. The deliberate strategy of retaining these surpluses has allowed the Commission to build up its reserves in order to manage future fiscal risks, especially from litigation, with General Reserves forecast to reach approximately \$9.8 million by the end of the 2010/11 year.

2011/12 BUDGET

The Commission will continue to improve its efficiency and effectiveness. Crown funding will fall significantly in 2011/12, by more than \$8 million, from 2010/11 forecast appropriation levels and is expected to stay at this new level in future years. These reductions in revenue compared with 2010/11 are largely from a decrease in funding of regulatory activities. Conversely the Commission is forecasting to manage its 2011/12 input costs (e.g. rent and total personnel) at 2010/11 levels, except for legal and other professional fees, which are expected to increase due to a peak in litigation activity. Litigation expenditure is expected to increase by \$5 million compared with previous years.

We expect that the litigation workload for the 2011/12 financial year is likely to see a peak in activity and cost. This is the result of several long-running pieces of litigation coming to critical court phases, and the merits reviews against the Commission's input methodologies determinations. Having built up reserve surpluses, the Commission is well placed to manage the fiscal risks around this peak in litigation activity and associated costs (including adverse cost awards). The peak in activity and cost in litigation results in a forecast deficit for the 2011/12 financial year, which is forecast to be funded by reserves.

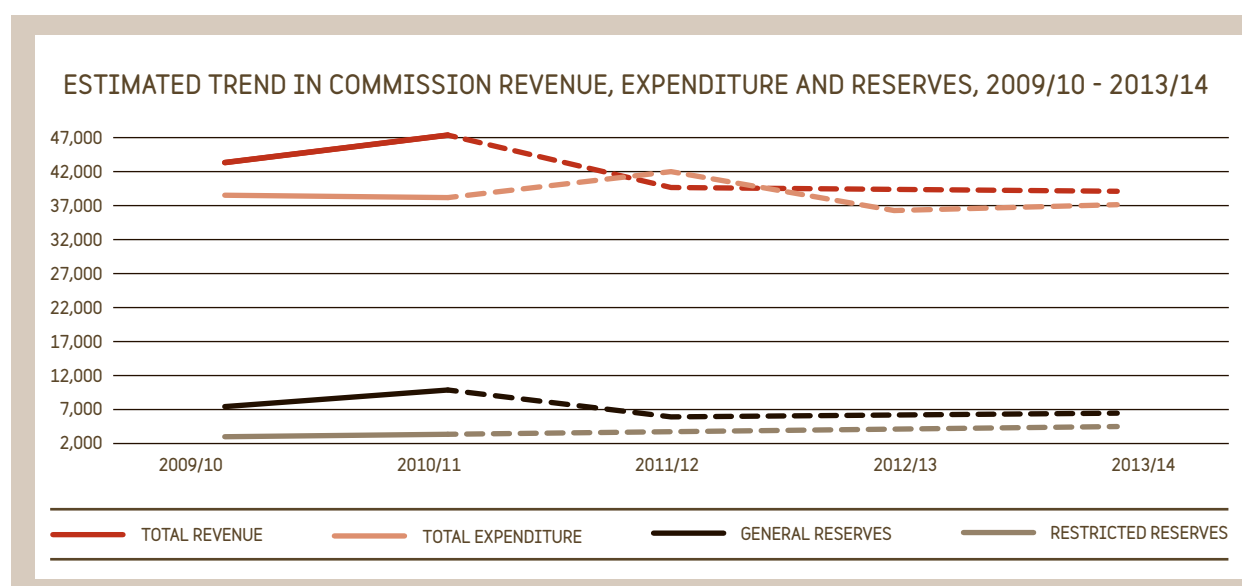


FIGURE 2: ESTIMATED TREND IN COMMISSION REVENUE, EXPENDITURE, AND RESERVES, 2009/10 - 2013/14

Our expectation is that expenditure will come within revenue again from 2012/13.

The Commission will continue to manage risks in relation to potential adverse cost awards or other financial shocks for the organisation through the use of reserves.

Overall, the Commission recognises the difficult operating environment for Government and the private sector. Our commitment to reducing expenditure and seeking productivity gains in our work is demonstrated in our expenditure trend returning back below revenue for the 2012/13 and 2013/14 financial years. We also note that, were it not for the peak in litigation during the 2011/12 year, our expenses would fall within our revenue in 2011/12. Some of the decrease in expenditure from 2012/13 onwards will result in increased Commission reserves. We will continue to look for better and more efficient ways to carry out our work in order to ensure that the funding we receive is used in the most cost-effective way.

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 expected future events. As the financial statements are prospective, 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 judgements made therein; and that
- those prospective financial statements fairly reflect the forecast financial position of the Commission expected as at 30 June 2012 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 forecast financial position of the Commission expected as at 30 June 2012 and the results of its operations, cash flows and service performance for the period ending on that date.



Dr Mark Berry
Chair – Commerce Commission



Anita Mazzoleni
Convenor – Audit, Finance and Risk Management
Committee

STATEMENT OF SIGNIFICANT UNDERLYING ASSUMPTIONS

The prospective financial statements presented on pages 42-59 have been compiled on the basis of existing Government policies, in consultation with the Commission's oversight Ministry, the Ministry of Economic Development. Significant assumptions underlying the prospective financial statements are presented below.

- The Commission's functions will remain the same as for the previous year.
- Crown Revenue received by the Commission is in line with Estimates of Appropriation, except for ministerial approved adjustments and amendments relating to the Litigation Fund Review, which will be reflected in the 2011/12 Supplementary Estimates.
- The Commission will not receive additional funding for its functions under Part 4 of the Commerce Act, and reduced output measures have been developed accordingly.
- Expenditure on Major Litigation activities is based on the Commission's estimate of timing in Court hearings. If delays, settlements, or significant other litigation matters arise from Commission cases (particularly Air Cargo and Input Methodologies Merits Appeals), then expenditure on Major Litigation will change, favourably or unfavourably, for the year.
- A significant portion of the Commission's work is reactive, based upon requests from ministers or the public, and complaints received by the Commission. In preparing the prospective financial statements, the Commission has assumed that some activity (particularly in General Markets) will increase from the low levels seen in the previous year, to a level more in line with historic activity.

These assumptions are adopted as at 7 June 2011.

STATEMENT OF PROSPECTIVE COMPREHENSIVE INCOME FOR THE YEAR ENDED 30 JUNE 2012

	2010/11 BUDGET \$'000	2010/11 FORECAST \$'000	2011/12 BUDGET \$'000
OPERATING REVENUE			
Crown revenue	40,884	46,324	39,352
Interest income	450	450	200
Fees and recoveries	50	409	50
Other revenue	60	183	60
Gains on disposals	0	1	0
TOTAL OPERATING REVENUE	41,444	47,367	39,662
OPERATING EXPENSES			
Personnel	19,130	19,115	19,800
Personnel – Training	920	450	495
Personnel – Other	1,718	3,353	1,726
Occupancy	323	323	328
Rent and leasing	1,500	1,474	1,405
Legal and other professional fees	12,292	10,033	14,871
Depreciation and amortisation	973	799	817
Computer, information and IT related	763	730	722
Phones/telecommunications	432	396	410
Travel	790	771	780
Postage/photocopy/stationery	290	196	196
Expenses – Other	429	501	406
Audit fees	43	36	40
TOTAL OPERATING EXPENSES	39,603	38,177	41,996
TOTAL SURPLUS/(DEFICIT)	1,841	9,190	(2,334)
TOTAL COMPREHENSIVE INCOME FOR THE YEAR	1,841	9,190	(2,334)

STATEMENT OF PROSPECTIVE CHANGES IN EQUITY FOR THE YEAR ENDED 30 JUNE 2012

	2010/11 FORECAST \$000	2011/12 BUDGET \$000
BALANCE AT 1 JULY	10,433	13,234
COMPREHENSIVE INCOME		
Total surplus/(deficit)	9,190	(2,334)
TOTAL COMPREHENSIVE INCOME	9,190	(2,334)
TRANSACTIONS WITH OWNER		
Repayment of surplus to the Crown	(6,389)	(1,119)
TOTAL TRANSACTIONS WITH OWNER	(6,389)	(1,119)
BALANCE AT 30 JUNE	13,234	9,781

STATEMENT OF PROSPECTIVE FINANCIAL POSITION AS AT 30 JUNE 2012

	2010/11 FORECAST \$000	2011/12 BUDGET \$000
EQUITY		
Accumulated general funds	9,873	5,920
Litigation cost reserve	1,861	2,361
Litigation Fund	1,500	1,500
TOTAL EQUITY	13,234	9,781
CURRENT ASSETS		
Cash and equivalents	19,779	12,748
Debtor Crown	1,500	0
Prepayments	15	15
Other receivables	29	29
TOTAL CURRENT ASSETS	21,323	12,792
NON-CURRENT ASSETS		
Property, plant and equipment	1,473	1,500
Intangibles	427	593
TOTAL NON-CURRENT ASSETS	1,900	2,093
TOTAL ASSETS	23,223	14,885
CURRENT LIABILITIES		
Creditors and other payables	1,853	2,300
Employee entitlements	1,562	1,500
Surplus repayable to the Crown 2010/11	6,389	0
Surplus repayable to the Crown 2011/12	0	1,119
TOTAL CURRENT LIABILITIES	9,804	4,919
NON-CURRENT LIABILITIES		
Reinstatement of accommodation lease	185	185
TOTAL NON-CURRENT LIABILITIES	185	185
TOTAL LIABILITIES	9,989	5,104
NET ASSETS	13,234	9,781

STATEMENT OF PROSPECTIVE CASH FLOWS FOR THE YEAR ENDED 30 JUNE 2012

	2010/11 FORECAST \$000	2011/12 BUDGET \$000
CASH FLOW FROM OPERATING ACTIVITIES		
Receipts from Crown	46,152	40,656
Receipts from fees and recoveries	1,576	110
Receipts from settlements to be repaid	0	0
Receipts from interest	450	200
Payments to members and employees	(23,311)	(22,083)
Payments to suppliers	(14,550)	(18,770)
Goods and services tax (net)	88	255
NET CASH INFLOW/(OUTFLOW) FROM OPERATING ACTIVITIES	10,405	368
CASH FLOW FROM INVESTING ACTIVITIES		
Investments receipts/(deposits)	0	0
Receipts from sale of property, plant and equipment	0	0
Purchase of property, plant and equipment	(655)	(599)
Purchase of intangible assets	(134)	(411)
NET CASH INFLOW/(OUTFLOW) FROM INVESTING ACTIVITIES	(789)	(1,010)
CASH FLOW FROM FINANCING ACTIVITIES		
Capital contribution	0	0
Repayment of surplus	(3,801)	(6,389)
Payment of finance leases	0	0
NET CASH INFLOW/(OUTFLOW) FROM FINANCING ACTIVITIES	(3,801)	(6,389)
NET INCREASE/(DECREASE) IN CASH AND CASH EQUIVALENTS	5,815	(7,031)
Opening cash and cash equivalents	13,964	19,779
CLOSING CASH AND CASH EQUIVALENTS	19,779	12,748

VOTE COMMERCE – ENFORCEMENT OF GENERAL MARKET REGULATION

	2010/11 BUDGET \$000	FULL YEAR FORECAST \$000	2011/12 BUDGET \$000
REVENUE			
Crown revenue – General market	13,935	13,935	13,935
Crown revenue – Major litigation (internal)	2,500	2,500	4,138
Interest	450	450	200
Fees and recoveries	50	409	50
Other revenue	60	32	60
TOTAL REVENUE	16,995	17,326	18,383
EXPENDITURE			
DETERMINATIONS			
Determinations	2,926	2,707	3,387
TOTAL DETERMINATIONS	2,926	2,707	3,387
ENFORCEMENT CASES			
Market structure cases	105	45	139
Coordinated behaviour cases	2,613	1,897	2,190
Unilateral conduct cases	836	347	697
Fair Trading Act cases	3,135	3,415	3,205
Product safety and information standards cases	279	294	279
CCCF Act cases	1,254	1,328	1,254
TOTAL ENFORCEMENT CASES	8,222	7,326	7,764
ADVOCACY AND DEVELOPMENT			
Advocacy and development	0	0	2,090
Competitive market framework development	1,115	861	0
Competitive market public information/education	592	379	0
Informed consumers framework development	209	361	0
Informed consumers public information/education	418	320	0
CCCF Act framework development	105	234	0
CCCF Act public information/education	174	97	0
TOTAL ADVOCACY AND DEVELOPMENT	2,613	2,252	2,090

	2010/11 BUDGET \$000	FULL YEAR FORECAST \$000	2011/12 BUDGET \$000
REPORTS TO MINISTERS			
Reports to Ministers	0	0	0
TOTAL REPORTS TO MINISTERS	0	0	0
TOTAL GENERAL MARKET EXPENDITURE	13,761	12,285	13,241
INTERNAL MAJOR LITIGATION			
Competitive markets	1,603	1,887	1,764
Fair Trading Act	512	342	776
CCCF Act	385	228	541
Telecommunications	0	0	302
Input methodologies	0	0	755
TOTAL INTERNAL MAJOR LITIGATION	2,500	2,457	4,138
TOTAL EXPENDITURE	16,261	14,742	17,379
RESULT	734	2,584	1,004

VOTE COMMUNICATIONS – ENFORCEMENT OF TELECOMMUNICATIONS SECTOR REGULATIONS

	2010/11 BUDGET \$000	FULL YEAR FORECAST \$000	2011/12 BUDGET \$000
REVENUE			
Crown revenue	7,790	7,790	7,790
Cost recovery	0	24	0
TOTAL REVENUE	7,790	7,814	7,790
EXPENDITURE			
REGULATION			
Access determinations (including determinations, reviews and clarifications)	856	1,338	1,970
Industry code approvals	390	14	15
TSO cost determinations	273	274	244
Reports to Ministers	779	562	588
TOTAL REGULATION	2,298	2,188	2,817
COMPLIANCE AND ENFORCEMENT			
Enforcement cases	390	215	225
TOTAL COMPLIANCE AND ENFORCEMENT	390	215	225
SECTOR MONITORING AND INFORMATION DISCLOSURE			
Monitoring and reporting	1,270	1,147	1,641
Information disclosure	1,300	1,204	627
TOTAL SECTOR MONITORING AND INFORMATION DISCLOSURE	2,570	2,351	2,268
ADVOCACY AND DEVELOPMENT			
Framework development (including advice to officials and guidelines or frameworks)	1,947	1,816	1,462
Public information/education (including media releases and presentations, stakeholder engagement meetings and consumer panels)	195	134	120
TOTAL ADVOCACY AND DEVELOPMENT	2,142	1,950	1,582
TOTAL EXPENDITURE	7,400	6,704	6,892
RESULT	390	1,110	898

VOTE COMMERCE – INPUT METHODOLOGIES

	2010/11 BUDGET \$000	FULL YEAR FORECAST \$000	2011/12 BUDGET \$000
REVENUE			
Crown revenue	2,612	3,443	355
TOTAL REVENUE	2,612	3,443	355
EXPENDITURE			
REGULATION			
Input methodologies determinations (gas, electricity and airports)	2,586	2,690 ²⁰	0
Input methodologies determinations (Transpower capital expenditure)	0	603	350
TOTAL REGULATION	2,586	3,293	350
ADVOCACY AND DEVELOPMENT			
Input methodologies public information/education	26	0	5
TOTAL ADVOCACY AND DEVELOPMENT	26	0	5
TOTAL EXPENDITURE	2,612	3,293	355
RESULT	0	150	0

20. Internal costs of \$144,000 for the funding of Input Methodologies Merits Appeals are recorded as part of the expenditure within Vote Commerce – Input Methodologies. From 2011/12 these figures will be reported separately.

VOTE COMMERCE – REGULATION OF ELECTRICITY LINES BUSINESSES

	2010/11 BUDGET \$000	FULL YEAR FORECAST \$000	2011/12 BUDGET \$000
REVENUE			
Crown revenue	3,167	5,117	4,167
Cost recovery	0	128	0
TOTAL REVENUE	3,167	5,245	4,167
EXPENDITURE			
REGULATION			
Electricity distribution services: default price paths (including amendments)	1,235	1,166	992
Electricity transmission (Transpower) price-quality determinations (including amendments)	792	1,116	634
Amendments to input methodologies determinations	0	0	50
Publication of cost of capital estimates in accordance with input methodologies	0	0	50
Information disclosure determinations	0	0	500
Electricity distribution information disclosure	404	485	0
Transpower information disclosure	404	263	0
TOTAL REGULATION	2,835	3,030	2,226
COMPLIANCE AND ENFORCEMENT			
Electricity distribution services: price-quality path compliance assessments	126	203	203
Electricity transmission (Transpower) compliance assessments (including individual price-quality path and administrative settlement)	142	45	131
Assessment of compliance with information disclosure requirements	0	0	50
TOTAL COMPLIANCE AND ENFORCEMENT	268	248	384
SECTOR MONITORING AND INFORMATION DISCLOSURE			
Summary and analysis reports (including asset management review)	0	0	50
Electricity information disclosure	0	0	0
TOTAL SECTOR MONITORING AND INFORMATION DISCLOSURE	0	0	50
ADVOCACY AND DEVELOPMENT			
Electricity distribution framework development	25	0	0
Transpower framework development	29	127	0
Advice to officials	0	0	5
Electricity public information/education	10	2	2
TOTAL ADVOCACY AND DEVELOPMENT	64	129	7
ACTIVITY INFORMATION			
Transmission investment approvals	0	697	1,500
TOTAL ACTIVITY INFORMATION	0	697	1,500
TOTAL EXPENDITURE	3,167	4,104	4,167
RESULT	0	1,141	0

VOTE COMMERCE – REGULATION OF NATURAL GAS SERVICES

	2010/11 BUDGET \$000	FULL YEAR FORECAST \$000	2011/12 BUDGET \$000
REVENUE			
Crown revenue	1,100	2,359	1,300
TOTAL REVENUE	1,100	2,359	1,300
EXPENDITURE			
REGULATION			
Gas determination of price-quality paths (including amendments)	742	1,388	1,000
Gas information disclosure determinations (including amendment and consultation papers)	300	627	178
Amendments to input methodologies determinations	0	0	20
Publication of cost of capital estimates in accordance with input methodologies	0	0	50
TOTAL REGULATION	1,042	2,015	1,248
COMPLIANCE AND ENFORCEMENT			
Gas assessment of compliance with authorisations and determinations	34	131	50
TOTAL COMPLIANCE AND ENFORCEMENT	34	131	50
ADVOCACY AND DEVELOPMENT			
Gas framework development	19	0	0
Gas public information/education	5	0	2
TOTAL ADVOCACY AND DEVELOPMENT	24	0	2
TOTAL EXPENDITURE	1,100	2,146	1,300
RESULT	0	213	0

VOTE COMMERCE – REGULATION OF AIRPORT SERVICES

	2010/11 BUDGET \$000	FULL YEAR FORECAST \$000	2011/12 BUDGET \$000
REVENUE			
Crown revenue	875	875	400
TOTAL REVENUE	875	875	400
EXPENDITURE			
REGULATION			
Airports information disclosure determinations (including amendments)	870	718	50
Amendments to input methodologies determinations	0	0	25
Publication of cost of capital estimates in accordance with input methodologies	0	0	25
TOTAL REGULATION	870	718	100
COMPLIANCE AND ENFORCEMENT			
Assessment of compliance with information disclosure requirements	0	0	10
TOTAL COMPLIANCE AND ENFORCEMENT	0	0	10
SECTOR MONITORING AND INFORMATION DISCLOSURE			
Summary and analysis reports	0	0	261
TOTAL SECTOR MONITORING AND INFORMATION DISCLOSURE	0	0	261
ADVOCACY AND DEVELOPMENT			
Airports public information/education	5	0	29
TOTAL ADVOCACY AND DEVELOPMENT	5	0	29
TOTAL EXPENDITURE	875	718	400
RESULT	0	157	0

VOTE COMMERCE – ENFORCEMENT OF DAIRY SECTOR REGULATION

	2010/11 BUDGET \$000	FULL YEAR FORECAST \$000	2011/12 BUDGET \$000
REVENUE			
Crown revenue	905	905	905
TOTAL REVENUE	905	905	905
EXPENDITURE			
DETERMINATIONS			
Determinations	453	536	453
TOTAL DETERMINATIONS	453	536	453
ENFORCEMENT CASES			
Investigations	91	23	140
TOTAL ENFORCEMENT CASES	91	23	140
ADVOCACY AND DEVELOPMENT			
Advocacy and development	0	0	91
Dairy framework development	100	21	0
Dairy public information/education	45	0	0
TOTAL ADVOCACY AND DEVELOPMENT	145	21	91
TOTAL EXPENDITURE	689	580	684
RESULT	216	325	221

VOTE COMMERCE – MAJOR LITIGATION FUND

	2010/11 BUDGET \$000	FULL YEAR FORECAST \$000	2011/12 BUDGET \$000
REVENUE			
Crown revenue	8,000	9,400	6,362 ²¹
TOTAL REVENUE	8,000	9,400	6,362
EXPENDITURE			
Competitive markets	4,550	4,450	4,133
Fair Trading Act	1,130	215	805
CCCF Act	850	383	916
Telecommunications	485	132	385
Input methodologies	485	710	4,580
TOTAL EXPENDITURE	7,500	5,890	10,819
RESULT	500	3,510	(4,457)
Transfer (to)/from reserves	(500)	(361)	4,457
NET RESULT	0	3,149	0

21. Cabinet has approved an in principle transfer of up to \$3.510 million appropriation underspend from 2010/11 to 2011/12. The exact transfer will be finalised once the Commission's 2010/11 Annual Report is audited and published, and accordingly is not included in this total.

SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES FOR THE YEAR ENDING 30 JUNE 2012

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 Act 2010, the Dairy Industry Restructuring Act 2001, the Telecommunications Act 2001, and the Credit Contracts and Consumer Finance Act 2003. The Commission has designated itself as a public benefit entity for the purposes of New Zealand equivalents to International Financial Reporting Standards (NZ IFRS).

MEASUREMENT BASE AND STATEMENT OF COMPLIANCE

These financial statements have been prepared in accordance with the Crown Entities Act 2004. The financial statements have been prepared on a historical cost basis for a going concern in accordance with New Zealand Generally Accepted Accounting Practice (GAAP), which includes NZ IFRS and other applicable reporting standards as applicable for a public benefit entity. The financial statements were authorised for issue by the Commission on 21 June 2011.

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 2010/11 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 financial statements are presented in New Zealand dollars (rounded to the nearest thousand).

SIGNIFICANT ACCOUNTING POLICIES

The significant accounting policies which materially affect the measurement of financial performance, position and cash flows have been applied consistently for all reporting periods covered by these financial statements including the comparative information. The significant accounting policies are:

Revenue – Revenue is measured at the fair value of consideration received or receivable. Revenue is derived through the provision of outputs for the Crown, for services to third parties, court cost award recoveries and investment income.

Crown revenue – The Commission receives appropriations from the Crown. These are restricted in their use to the purpose of meeting the Commission's objectives, as outlined in the Statement of Intent. Appropriations received but not spent are refunded to the Crown after year end for all appropriations except Vote Commerce – General Markets, for which the unspent funds are retained by the Commission. Appropriations from the Crown are recognised as revenue when received. Appropriations received but not spent are treated as a Crown creditor and shown in the Statement of Financial Position as a provision for refund of appropriation to the Crown.

Expenditure – All expenditure incurred in the provision of outputs for the Crown is recognised in the Statement of Comprehensive Income when an obligation arises on an accruals basis.

Foreign currency transactions – Transactions in foreign currencies are translated into the Commission's functional currency at exchange rates at the dates of the transactions. Monetary liabilities denominated in foreign currencies at the reporting date are translated to the functional currency at the exchange rate at that date. Any gain or loss on monetary liabilities is the difference between the cost in the functional currency at the beginning of the period and payments during the period and are recognised in the Statement of Comprehensive Income during that period.

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 Statement of Comprehensive Income 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 Statement of Comprehensive Income over the term of the lease. At balance date, any unamortised incentive and outstanding obligation for reinstatement is recognised as a liability in the Statement of Financial Position.

Depreciation and impairment – Depreciation is provided 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 residual values and remaining useful lives of property, plant and equipment components are reviewed at least annually. All property, plant and equipment are subject to an annual test of impairment to test the recoverable amount. Any impairments losses are charged to the Statement of Comprehensive Income in the period in which they are first identified. The estimated useful lives of the major asset classes are:

Computer and Office Equipment	3-4 years
Furniture and Fittings	up to 5 years
Leasehold Improvements	for the period of lease
Motor Vehicles	up to 5 years

Taxation – The Commission is exempt from income tax under section CW 38 of the Income Tax Act 2007.

Cost allocation – 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 records of each output.

Goods and services tax – All items in the financial statements are presented exclusive of GST, except for receivables and payables, which are presented on a GST-inclusive basis. Where GST is not recoverable as input tax then it is recognised as part of the related asset or expense. The net amount of GST recoverable from, or payable to, the Inland Revenue Department (IRD) is included as part of receivables or creditors in the

Statement of Financial Position. The net GST paid to, or received from, the IRD, including the GST relating to investing and financial activities, is classified as an operating cash flow in the Statement of Cash Flows. Commitments and contingencies are disclosed exclusive of GST.

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 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 Ministry of Economic Development.

Cash and cash equivalents – Cash and cash equivalents comprise cash on hand, transactional cash balances and term deposits held with New Zealand registered banks which are highly liquid, with original maturities of three months or less, and are used as part of the Commission's day-to-day cash management.

Receivables – Receivables are stated at their estimated net realisable value, after providing for doubtful and uncollectible debts. All known bad debts are written off and charged to the Statement of Comprehensive Income in the period in which they are first identified.

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 Statement of Comprehensive Income in the period in which they are first identified.

Property, plant and equipment – All items of property, plant and equipment owned are recorded at historical cost less accumulated depreciation and any impairment losses. An item of property, plant and equipment acquired in stages is not depreciated until the item of property, plant and equipment is in its final state and ready for its intended use. Subsequent expenditure that extends the useful life or enhances the service potential of an existing item of property, plant and equipment is capitalised. All other costs incurred in maintaining the useful life or service potential of an existing item of property, plant and equipment are recognised in the Statement of Comprehensive Income as expenditure when incurred. Gains or losses arising from the sale or disposal of an item of property, plant and equipment are recognised in the Statement of Comprehensive Income in the period in which the item of property, plant and equipment is sold or disposed of.

Intangible assets – Computer software that is not integral to the operation of the hardware is recorded as an intangible asset. Software is amortised on a straight-line basis over its estimated useful life to a maximum of three years.

Financial instruments – The Commission is inherently a party to financial instruments as part of its day-to-day operations. Financial instruments are monetary assets and liabilities and are initially recognised at their fair value and subsequently measured at their amortised cost less any impairment losses. All revenue and expenditure arising from the financial instruments are recognised in the Statement of Comprehensive Income when earned or an obligation exists.

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 Statement of Financial Position and charged to the Statement of Comprehensive Income. Entitlements are calculated on an actual entitlement basis at current rates of remuneration.

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.

Contingencies – As the Commission is a quasi-judicial body, it is engaged in litigation activity which inherently 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 Statement of Comprehensive Income when it is probable that there will be a future outflow or inflow of resources.

Comparatives – To ensure consistency with the current year, all comparative information including the prior year budget (Statement of Intent) has been restated or reclassified where appropriate. The budget comparatives are those approved by the Commission at the beginning of the prior year for inclusion as prospective financial statements in the Statement of Intent. The budget was prepared in accordance with Generally Accepted Accounting Practice and is consistent with the accounting policies governing the preparation of these financial statements.

CHANGES IN ACCOUNTING POLICIES

The accounting policies adopted are significantly consistent with the previous year. The definitions of investments and cash equivalents have been amended so as to clarify the treatment of term deposits according to maturity. Further disclosure has been added regarding the treatment of surpluses from appropriations, and the treatment of GST. The policy regarding comparatives has been clarified for the purposes of the Statement of Intent.

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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

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