COMMERCE COMMISSION NEW ZEALAND
Te Komihana Tauhokohoko

Estimating the Public Benefits of the Commerce Commission's Work
August 2025

Foreword

Kia ora,

At the Commission, we're keen to understand the benefit and value our work provides to New Zealanders and our economy.

We've prepared this report to quantify the public benefit of our work and share it with you.

We estimate that for every dollar invested in the Commerce Commission, we deliver $20 in public benefit* — enhancing competition and making an important contribution to our economy and the prosperity of all New Zealanders.

We recognise there are different ways to compile these estimates and acknowledge the inevitable role of assumptions in this work. We've tried to be conservative in the sense of understating our estimates of public benefits. And we hope that by being transparent about our methods, interested observers will help us find ways to improve them. Similar analysis on impacts has been carried out by other competition agencies around the world, including the UK's Competition and Markets Authority.

We know effective competition encourages businesses to innovate. This improves productivity and drives better choice and value to consumers. Some of that value is measurable now, but much of it is cumulative, building over time and helping future generations. This reflects our legislative purpose to focus on the long-term benefits for consumers.

The Commerce Commission delivers per year*

An estimated
$1.95b
in public benefit.

Public benefits of at least
$20
for every $1 of investment.

The savings have come from **four key areas** of the Commission's work:

Monopoly regulation
$800m
using price controls to help ensure people get good value and reliable service from essential utilities such as electricity and gas.

Regulation of semi-competitive markets
$290m
promoting competition so oligopolies in fuel, communications and retail payments continue to perform in the interests of consumers.

Fair trading
$26m
ensuring consumers, including businesses, are informed and empowered, and their interests are protected – via business penalties and consumer refunds.

Competition enforcement
$830m
through our work on mergers and cartels, we help make sure New Zealanders get the benefits from protecting and promoting competition - like better prices, more choice, and new ideas.

* Public benefit values are annualised, and draw on data from FY23/24, FY24/25 and some earlier information when needed.

Additional benefits we have not included in our calculations

Several important areas of our work remain unquantified and are not yet included in our benefit calculations. This is because the work is new, there is some uncertainty, or there are challenges in applying a suitable methodology.

Areas of our work excluded from our public benefit calculation are:

→ Impacts from grocery sector regulation

→ Work to improve competition in banking and electricity

→ Consumer education through fair-trading initiatives

→ The deterrence effect of our enforcement activities.

→ Other competition investigations work.

These areas are expected to deliver significant public value on top of the value we've calculated so far. Further analysis is needed to accurately assess their contribution.

More to come

This work on our public benefit is important not just to drive improvement in the value we provide, but to increase transparency around our work.

We're committed to making sure every dollar invested in the Commission drives more competition in the economy and improves choice and quality for New Zealanders. We're participating in an international working group to further develop and sharpen our estimates of public benefit.

We look forward to developing this work further and reporting it to you. One thing we'll focus on is how improving the pace and timeliness of our decision making can reduce costs to business and increase the benefit we provide.

In the meantime, we welcome any feedback or comments you have on this report, our methodology, and how we can improve.

Nga mihi

Dr John Small
Chair of the Commerce Commission

Contents

Introduction

1　This paper summarises the methods and assumptions for leveraging existing information and know-how to produce estimates of the public benefit of the Commerce Commission's work.

2　As the scope of the Commission's remit is broad compared to other countries' regulatory agencies, our approach here spans as much of the Commission's work as possible, considering the most useful measurement approaches for each part of the Commission's work, including competition, fair trading and credit, monopoly regulation and regulation of semi-competitive markets.

3　The Commerce Commission's statutory mandate is a cornerstone of the structure of our economy:

　3.1　Upholding competition through enforcement, regulation, and fair trade is one of the most important functions of our government for promoting a strong economy. Upholding competition grows economic institutions that support fairness, innovation, investment, and efficiency. It ensures that the economy supports the greatest opportunities for the most people to achieve their highest potential—through more meaningful work opportunities and consumer choices that feed efficient commerce, expand productivity, improve well-being, and minimise environmental waste.

　3.2　We acknowledge that the body of statutes that the Commission carries out were enacted to deliver the public benefit that economic research identifies as emanating from more competitive markets. The 2024 Nobel Prize in Economics recognised the critical role of institutions for determining a nation's wealth and well-being. Previous Nobels awarded in industrial organisation recognise that building these institutions supports fairness, innovation, investment, and efficiency. As a result, our work feeds into a larger ecosystem that itself delivers increasing public benefits from our work.

　3.3　We believe we execute on these statutes through our prioritisation of work in a way that will have the biggest possible impact, and we use methods to maximise the public benefit that those regimes can deliver. We engage in robust evaluation to ensure this is the case.

4　We have conducted a defined exercise to estimate our public benefit as practically as possible. We have an eye towards updating and refining our approaches as improved research and methodologies become available.. This exercise allows us to provide some context to the presumed benefit of the regimes the Commission has been entrusted to carry out, in the form of estimates of the monetary impact, as well as other potential benefits to the people and businesses who make up our economy.

5　We recognise there are different ways to compile these estimates and acknowledge the inevitable role of assumptions in this work. We have tried to be conservative in the sense of understating our estimates of public benefits. And we hope that by being transparent about our methods, interested observers will help us find ways to improve them.

6　What follows are background, methods and assumptions, and estimates for each of the Commission's functions: monopoly regulation, regulation of semi-competitive markets, fair trading and credit, and competition.

7　All calculations have been annualised, and much of the data is drawn from the 2023/24 and 2024/25 financial years. However, some historical data has been drawn on when needed.

Function	Annual Benefits	Description
Infrastructure Regulation	**$800m**	Price control
Fuel	$100m	Estimates of price reductions
Telecoms	$70m	Lower prices
Payments	$120m	Interchange fee reductions
Market Regulation Total	**$290m**	
Penalties	$11m	Sample-based estimate for 2024
Refunds to consumers	$15m	Sample-based estimate for 2024
Fair Trading Total	**$26m**	
Merger Control	$730m	Avoiding 3% price increase
Cartel Control	$100m+	Avoiding 10% overcharge by cartel members
Competition Total	**$830m+**	
NZCC Total	**$1,946m**	

8   Total actual operating expenditure by the Commerce Commission in the 2024/25 financial year was $95.6 million, suggesting an estimated public benefit of at least $20 for each $1 invested in the Commission.

Monopoly regulation

9   For infrastructure regulation, we consider that public benefit of our regulation flows from the outcomes consistent with those in competitive markets. [1]

10   Some of the suppliers we regulate are natural monopolies. If they were not regulated, they would charge higher prices and earn higher returns. Therefore, preventing such price hikes is a key public benefit.

11   Our approach here is that the public benefit in respect of regulated markets would constitute and be measured by the following outcomes: (1) innovation, (2) investment, (3) improved efficiency, (4) quality that reflects consumer demands, (5) sharing of efficiency gains including through lower prices, and (6) limited ability to extract excessive profits. [2]

12   To estimate the public benefits *caused* by our regulation we need to construct a counterfactual: What would the public benefit be if our regulation did not exist?

Methods and assumptions

13   The revenue and the value of the regulated asset bases (RAB) of these sectors represents about 1.3% and 8.3% of New Zealand's GDP respectively.

Table 1: revenue and RAB value for the infrastructure sectors we regulate

Sector	Revenue $bn	RAB value $bn
Electricity lines	3.5	22.2
Gas pipelines	0.3	2.2
Fibre fixed lines	1.0	7.4
Airports	0.45	3.1
TOTAL	**5.3**	**34.9**
GDP 2024 June year	415	415
% of GDP	1.3%	8.4%

Source: information disclosure and Stats NZ

---

1   The Commission's Statement of Intent, which states as an intended outcome that "consumers get quality and value from reliable essential services". This relates to only a subset of outcomes. We could also consider wider benefits to the economy, since the outputs of markets managed through infrastructure regulation, such as electricity, are also inputs into many other productive industries.

2   See section 52A of the Commerce Act 1986 and section 162 of the Telecommunications Act 2001.

Counterfactual — no regulation

14 This considers a world with no regulation, where suppliers behave as they see fit without any regulatory constraint.

15 From recent history, we know how the relevant firms behaved before this regulation was introduced in 2010, what they argued in appeals against this regulation, and what they've argued since then.

16 Key initial assumptions:

    16.1 perfectly inelastic demand;

    16.2 revealed supplier behaviour in IM merit appeals as basis for likely extent of price rises;

    16.3 lower bound productivity performance in a counterfactual of no regulation assumed to equal the difference in measured Total Factor Productivity (TFP) between non-exempt and exempt Electricity Distribution Businesses (EDBs) in the post-2014 period, i.e., 0.3% annually.[3] Assumed a 15-year time horizon to get an aggregate impact of 5% higher costs. The upper bound of 15% is an estimate informed by the differences between exempt and non-exempt EDBs in the productivity of operational expenditures (opex partial factor productivity).

17 Relative to the status quo, these are the main impacts that we would likely expect:

    17.1 in the short term, significant increases in prices and profits towards the monopoly level for profit maximising suppliers.

    17.2 in the longer term, weaker incentives to improve efficiency can result in higher costs over time, and the risk suppliers may invest inefficiently, potentially resulting in worse outcomes.[4]

18 These are essential services with few substitutes, which causes the elasticity of demand to be generally low. Therefore, we can expect increases in prices to have little effect on quantity demanded, and so result in broadly similar increases in revenues and profits.

19 A small increase in prices or the rate of return relative to what we allow would have a large negative impact on consumers.

    19.1 For example, using the data in table 1, price rises that led to a one-percentage point increase in the rate of return would result in additional annual profits of around $350 million per year. A five-percentage point increase would cause approximately $1.75 billion additional annual profits.

20 We can get a sense of how much prices, and as a result margins, likely would rise based on evidence on suppliers' past behaviour.

    20.1 Looking at RABs: when we first determined in 2010 the initial value of the RAB for regulated suppliers under Part 4, as part of setting the Input Methodologies (IMs), EDBs appealed the merits of the decision. The High Court found in our favour.

    20.2 Had the EDBs been successful in their appeals of our asset valuation decisions, that would have resulted in a wealth transfer from electricity consumers to distributors of between $1.9 billion and $7.7 billion, in the form of higher initial EDB RAB values.[5] This represents an uplift of 27% to 110% of the RAB value we determined in the initial IMs.

---

3 Section 54G (2) of the Commerce Act 1986 specifies that electricity lines services that are supplied by a supplier that is consumer-owned are exempt from price-quality regulation.

4 This principle, known as "X-inefficiency", refers to the loss of productive efficiency often found when firms face little competitive pressure.

5 The lower bound of $1.9 billion was cited in the High Court merits appeals judgment at [390], [591] and [719], citing the 2010 final EDB-GPB IM Reasons Paper at E2.44. See footnote 578, setting forth calculations, available at https://comcom.govt.nz/__data/assets/pdf_file/0019/62704/EDB-GPB-Input-Methodologies-Reasons-Paper-Dec-2010.pdf; The High Court judgement at https://www.justice.govt.nz/jdo_documents/workspace___SpacesStore_f440247a_5cb0_4faa_a806_c64c168c416b.pdf.

20.3   We have applied that same proportional RAB uplift to Transpower and airports, which results in higher RABs for these three sectors of $1.1 billion to $4.5 billion.[6] Using the ratio of revenue to RAB of 15% from the data in table 1, this suggests combined higher annual revenues—and therefore profits—of $456 million to $5.6 billion.

20.4   Looking at returns: The High Court judgement presents the WACC estimates that suppliers put forward in the IM merits appeals, and compares them to our own estimates. They are around 1 to 4 percentage points higher.[7]

    20.4.1   Our 2013 report on Wellington Airport's price setting event found that it was targeting returns around 4 to 8 percentage points above normal returns.[8]

    20.4.2   Our market study found that grocery retailers, which in contrast to monopolies face *some* competition, earned a return around 7 percentage points above the normal return (about 13%, over a normal return of 5%).[9]

    20.4.3   A recent report into the port sector, which exhibits natural monopoly characteristics and is not subject to economic regulation, found that ports with mixed ownership (including private ownership) earned a return ~2.5 percentage points higher than ports with full local government ownership.[10]

    20.4.4   This evidence suggests returns in the range of 1 to 8 percentage points above normal returns, which would correspond to higher annual profits of $350 million to $2.8 billion.

20.5   Looking at the difference between proposed and approved expenditure: when we reset price-quality paths for suppliers subject to PQ regulation, we tend to disallow some proposed expenditure, as we consider that it is not justified and risks leading to inefficiently high prices (since expenditure allowances drive allowed revenues and prices).

    20.5.1   Since 2010, we have disallowed around $3.6 billion in expenditure that suppliers applied for.[11]

    20.5.2   Our estimate of the annual amount of disallowed expenditure is around $290 million,[12] which we calculate as follows: Total capex and opex have historically been broadly similar. Capex has smaller impact on prices because it is depreciated over many years, whereas opex has a one-to-one impact on prices. For our purpose here, we make the simplifying assumption that 50% of the disallowed expenditure would have translated one-to-one into higher annual revenues. Therefore, this suggests higher annual revenues—and therefore profits—of around $145 million.[13]

---

6   The estimated benefits of regulating fibre fixed lines are included in the telecommunications sector.

7   See at [1192], https://www.justice.govt.nz/jdo_documents/workspace___SpacesStore_f440247a_5cb0_4faa_a806_c64c168c416b.pdf.

8   https://comcom.govt.nz/news-and-media/media-releases/2013/commerce-commission-final-report-on-wellington-international-airport-points-to-excessive-profits.

9   See at page 44, https://comcom.govt.nz/__data/assets/pdf_file/0024/278403/Market-Study-into-the-retail-grocery-sector-Final-report-8-March-2022.pdf

10   Note that higher return could also be the result of cost efficiencies. See at page 7, https://www.tdb.co.nz/wp-content/uploads/2023/04/TDB-Ports-A-Comparison-of-Mixed-and-Government-Ownership.pdf

11   This includes all resets we have done (including DPP4, RCP4 and PQP2), Transpower's NIGU major capex project and Chorus' only individual capex project so far.

12   This excludes around $22 million of disallowed expenditure for Transpower's MCPs and Chorus' ICP because they are capex, and capex has a small impact on price in any given year.

13   This estimate is not used in the final number.

Estimates

Preventing higher prices

21 The above evidence indicates that suppliers have in the past revealed behaviour consistent with that we would expect of unregulated monopolies. The rough estimates suggest a wide range of counterfactual annual wealth transfers from consumers to suppliers.

22 We know from the IM merits appeals that suppliers tried to get both higher RABs *and* higher WACCs. Therefore, we can consider those estimates as additive:

22.1 At least $456 million annual wealth transfer from the low-end of the RAB-related estimate;

22.2 At least $350 million annual wealth transfer from the low-end of the WACC-related estimate.

23 This calculation suggests that regulation likely is preventing price increases that would lead to wealth transfers from consumers to suppliers of at least $800 million every year.

24 This would represent a ~15% increase in price or ~2.5 percentage point increase in returns. This seems a reasonable low-end estimate given:

24.1 the observed returns mentioned above, ranging from 1% to 8% above normal returns;

24.2 consumers' willingness to pay to avoid losing electricity supply, typically estimated at $25,000 per MWh. The retail electricity price is around $350MWh, which suggests that the typical consumer has a willingness to pay significantly higher prices for electricity supply, and we would expect an unconstrained profit-seeking monopolist to exploit that;

24.3 demand elasticities will not be zero, so a price increase would not translate entirely into higher revenue and profits, since consumers would buy less. However, we can expect suppliers to increase prices as much as required to recover the allowed revenues resulting from the counterfactual RABs and WACCs (i.e. we would have entitled them to recover that amount of revenue). A non-zero elasticity means that any reduced consumption represents lost consumer welfare.

24.4 Preventing this is a benefit from regulation. Therefore, the lost consumer welfare we have not estimated should be added to the $800 million of annual wealth transfers.

25 While we would not expect consumer-owned suppliers to increase prices in the counterfactual to the same extent as privately-owned ones, we do not consider this changes the above findings because ~80% of revenue relates to suppliers we expect to have at least some profit motive (i.e. excluding exempt EDBs).

Promoting long term efficiency

26 We estimate that costs—and therefore prices and revenue—would be 5% to 15% higher over a 15-year period from worse productivity if suppliers did not face the same incentives they do now to improve efficiency (productive efficiency).[14]

27 Using revenue data from table 1, this translates to higher annual costs and revenues of around $18 million to $53 million.

Monopoly regulation

→ **$800m** estimated public benefit

Using price controls to help ensure people get good value and reliable service from essential utilities such as electricity and gas.

---

14 Table 3 in the CEPA EDB Productivity Study shows TFP for exempt EDBs in the post-2014 period has been 0.3% lower than that of non-exempt EDBs. This is evidence that more stringent incentive regulation does result in better productivity performance. Over 15 years, that translates into 5% higher costs. The upper bound of 15% is broadly informed by the opex PFP differences between exempt and non-exempt EDBs in table 3. https://comcom.govt.nz/__data/assets/pdf_file/0033/356757/CEPA-EDB-Productivity-Study-A-report-prepared-for-the-Commerce-Commission-24-June-2024.pdf

Regulation of semi-competitive markets

28   The government has given the Commission a role in regulating several sectors that are vital for the functioning of our economy, but that are only semi-competitive. As context we estimate that turnover in these sectors represents approximately 10% of New Zealand's GDP. We note these sectors have benefits beyond this, as important facilitators for the wider economy.[15]

Sector	Turnover $bn
Groceries	26
Telecommunications*	5.5
Fuel**	10
Payments***	1
TOTAL	**41.5**
GDP 2024 June year	415
Revenue as % of GDP	**~10%**

Source: Stats NZ: https://www.stats.govt.nz/indicators/gross-domestic-product-gdp/
*   Telecommunications includes the fibre network so subsumes that part of regulation which falls into infrastructure
**   This is an estimate from confidential data
*** Payments turnover is the total interchange revenue generated over the Visa and Mastercard networks, which are the networks covered by regulation. Total transactions subject to interchange fees are much larger ($95bn) but largely subsume the other sectors.

Methods and assumptions

29   For estimating the benefits of our market regulation work, we follow the OECD guidance on estimating benefits but have adapted it to New Zealand particulars where needed, applying methods tailored to the particulars of each sector included in these estimates, i.e., telecommunications, fuel, and payments.

29.1   For the purposes of this initial estimate, we have derived an annual estimate based on constant ongoing harm, which drops the duration term out of the equation. This is because market regulation requires ongoing intervention (including compliance monitoring and adjustment) to maintain the outcomes consistent with more competitive markets, in contrast to individual transactions or actions that pose a threat to competition. As a result, the duration of concern absent regulation is likely to be longer than with individual competition interventions, as only the most persistent and significant issues warrant sector-specific regulation.

29.2   As with our Infrastructure methodologies, we recognise that competitive incentives, including from regulation, drive more than just price benefits but also should be expected to improve quality, efficiency and innovation. For many regulated services, we also carry out consumer information interventions which may improve choice of products, which provides consumer benefit holding constant prices. In addition, we acknowledge there can be wider growth and productivity benefits from regulation as well as removing government barriers to entry or other market imperfections. We do not include these, so our estimates should be considered conservative.

29.3   The Grocery sector is not currently included in the estimates given the early stages and that the nature of the regime should improve the probability new competition will emerge. Some benefits from work in the grocery sector will be reflected in the competition and fair-trading estimates.

29.4   Dairy is excluded at this stage given the complexities of estimating benefits from restricting a monopsony (a single buyer for many sellers).

---

15 For example, high prices in broadband not only will cause consumer harm directly, but will also increase input costs for firms which rely on broadband for supplying consumers.

Estimates

Telecommunications

30   Telecommunications regulation covers a diverse range of activities, including monitoring and informing consumers when making decisions on which telecommunications services to use.

    30.1   We note here that fibre network regulation under Part 6 is also included in the Infrastructure estimate

31   We can observe that telecommunications inflation is much lower than headline inflation, and we draw from OECD recommendations to inform estimations of the contribution to this difference potentially attributable to the Commission's work.

    31.1   We used data on connections and revenues to calculate revenue per fixed line connection and revenue per mobile connection in 2012/2013 and in 2022/2023. We then considered the CPI move from Q2 2013 to Q2 2023.

    31.2   We calculate that on average since 2012/13 telecommunication revenue would have been $2.5 billion higher in 2022/23 if telecommunication prices had risen with inflation (ignoring volume effects from higher prices).

    31.3   To some extent this reflects the greater technological progress in telecommunications than the economy in general. Partly this will be due to the greater competition and better choices made through the work carried out under the Telecommunications Act.

    31.4   The estimate is based on an assumption of 3% attributable to the Commerce Commission's work to yield an average annual benefit estimate over the ten-year period of approximately $70 million.

Fuel

32   For estimating the public benefit of our work in fuel, we focus on the possible consumer surplus gain from lower prices, absent any quantity effects.

33   Consistent with approaches in empirical studies, here we apply three different approaches as a cross-check against each estimate:

    33.1   Benefit as a percentage of total fuel sector turnover—

        33.1.1   Total turnover in the fuel sector varies along with the price of oil and the exchange rate, but is typically in the vicinity of $10 billion annually.

        33.1.2   The majority of this figure is accounted for by underlying product costs as well as excise taxes applied to the various petrol grades. A smaller component of this amount represents margins derived by fuel companies.

        33.1.3   If increased competition led to a 1% reduction in overall retail prices, the benefit to consumers could be in the order of $100 million annually.

    33.2   Potential impact of increased competition on overall fuel importer margins—

        33.2.1   The impact of greater competition is likely to have led to margins being lower than they otherwise would have been.

        33.2.2   In the most recent Quarterly Report, total importer margins are estimated to range from 26 cpl for Diesel up to 45 cpl for Premium 95. Margins for Regular 91 were estimated at 33 cpl.

        33.2.3   To the extent that greater competition stemming from increased regulation led to these margins being 1 – 2 cpl lower than they would be otherwise, this would reflect a benefit to consumers of between $31 and $63 million.

33.3 Potential impact of increased competition on wholesale margins—

33.3.1 Impacts on margins from greater competition can be both at wholesale and retail levels. Current estimates of wholesale margins in the most recent quarter range from 8 cpl for Diesel to 22 cpl for Premium 95, with wholesale margins for Regular 91 estimated between these figures at 15 cpl.

33.3.2 In the Market Study into Retail Fuel, we learned that some distributors were facing wholesale prices that were higher than commercial customers, despite the fact that large distributors were purchasing significantly higher quantities than large commercial customers, i.e., over 100s of millions of litres versus 10s of millions of litres.

33.3.3 Market participants have told us that distributors now have some degree of increased bargaining power, and thus have been able to benefit from greater competition between importers because of the regulatory regime. The effect of this regulation could be to have reduced the wholesale margins charged by importers to distributors down to levels similar to those faced by large commercial customers.

33.3.4 Therefore, if lower wholesale margins were passed on in full across all downstream markets, the benefit to consumers would be in the order of $30 million to $59 million.

34 The last two approaches are not mutually exclusive, regulations downward pressure on wholesale margins to distributors can sharpen competition from importer only sites. Combined this leads to an estimate of between $60 and $122m although we recognise that the high end is likely overstated as it implies every importer site is competing with a nearby distributor site which is not the case. Nonetheless overall, this provides some confidence in an estimate at around $100 million annually.

35 These estimates are based on figures from the September 2023 to June 2024 quarters. The estimates use some confidential figures which are sourced from our 2019 Market Study.

Retail payment systems

36 There are three current main areas of benefit in retail payment system regulation:

36.1 The price caps on interchange fees which directly impacts the costs to merchants and consumers but is complicated by the multi-sided nature of the market and ability for revenue streams to shift where capped.

36.2 The work around merchant surcharging where surcharges exceed merchant service fees.

36.3 Driving further competition into payment schemes, for example the work around account-to-account authorisation and more general open banking work.

37 For this estimate, we focus only on interchange fee reductions based on recent work, including around the banking market study:

37.1 In August 2023 we estimated $130 million annual reduction in interchange fees of which $105 million was passed on to merchants.[16]

37.2 We have revised figures for 2023 indicating estimated benefits to merchants above these numbers.

38 There are significant potential further benefits on the horizon which will be included in a future update of this work.

Regulation of semi-competitive markets

→ **$290m** estimated public benefit

Promoting competition so oligopolies in fuel, telecommunications and retail payments continue to perform in the interests of consumers.

---

16 https://comcom.govt.nz/__data/assets/pdf_file/0019/324541/Retail-Payment-System-Observations-on-the-impact-of-interchange-fee-regulation-8-August-2023.pdf.

Fair trading and credit

39 The Commission's fair trading and consumer credit work aims to ensure that New Zealanders are confident market participants. While this mainly focuses on individual consumers, ensuring that the demand side of a market is working effectively can also contribute to competition, efficiency and productivity over the longer term.

Methods and assumptions

40 The methodology we used to estimate the benefit of our fair trading and credit work draws on work done by the OECD and other agencies that have attempted to estimate such impacts.

41 For a general estimate, we present two case studies of recent Commission actions that indicate the types of methodologies that may be used to derive quantitative estimates where reasonable data exists.

42 We then compare this to actual monies obtained from litigation as reparation, compensation, or refunds.

43 Based on these two sources of data, we find consistent public benefits in the tens of millions of dollars. We consider $10 million annually to be a reasonable, conservative lower bound.

44 The OECD has been working for many years to develop an evidence base to better assess the benefit of consumer protection work, including assessing the impact of agencies' interventions.

    44.1 In 2020, the OECD published a feasibility study on measuring consumer detriment and the impact of consumer policy. [17]

    44.2 The OECD defines consumer detriment as the loss or damage experienced by a consumer when they encounter a problem relating to the purchase of a good or service, such as when it is faulty, over-priced or does not otherwise meet the consumer's requirements. It comprises personal and structural detriment as well as potentially hidden detriment.[18]

    44.3 The OECD is developing consistent and robust methodologies for estimating the impact of consumer agency actions, including providing an empirical basis for underlying assumptions as to parameters such as price effects and duration of conduct absent intervention.

45 It is likely to be easier to estimate, and the focus to date has been on, the impact of enforcement actions as these tend to involve a specific issue or conduct. For example, an estimate of average consumer detriment could be estimated and then applied to the estimated number of affected consumers.

46 Therefore, we have focused our efforts on estimating the impacts of consumer protection work using certain case studies of enforcement actions that have resulted in recent court decisions. This allows for some quantification of impact of total and average consumer detriment using simple before and after comparisons. The 'before' estimates are based on publicly reported information in court judgement. The 'after' estimates are based on assumptions about the likely duration of the conduct absent intervention by the Commission.

---

17 OECD (2020), "Measuring consumer detriment and the impact of consumer policy: Feasibility study", *OECD Digital Economy Papers*, No. 293, OECD Publishing, Paris, https://doi.org/10.1787/0c2e643b-en.

18 Personal detriment is the negative outcome experienced by individual consumers relative to some benchmark such as 'reasonable expectations'. Structural detriment is the loss in consumer welfare due to market or regulatory failure. Hidden detriment may arise if a consumer has experienced detriment but is unaware that this has occurred.

Estimates

47 TSB Bank Limited[19] admitted to multiple breaches of the CCCFA 2003, arising from the bank overcharging some 42,000 credit contract consumers mid 2015, when the Act's responsible lending provisions took effect. This was based on the 'reasonableness' of the fees charged. TSB was ordered to pay a pecuniary penalty of $2.47 million.

    47.1 Information on the extent of consumer detriment is provided at [18] in the judgement: The bank's contraventions caused loss and damage to be suffered by more than 42,000 customers, ultimately quantified by the bank's $6 million refund, being an average loss of over $140 to each consumer.

    47.2 There is a question as to whether the conduct would have continued absent intervention by the Commission given TSB detected and self-reported the breach.

48 In April 2024, Shelley Cullen was found guilty pursuant to s24 of the Fair Trading Act of promoting a crypto currency pyramid scheme known as Lion's Share between 11 July 2020 and 8 November 2020 (when the Commission issued a 'stop now' letter).[20]

    48.1 The overwhelming majority of Ms Cullen's recruits to the scheme lost money. Specifically, of the 6,127 recruits to the Ethereum platform, 87.5 % lost money totalling $1,824,333 (average $298). Of the 37, 942 recruits on TRON platform, 89.7% lost money, totalling $6,866,822 calculated at the time of the transaction (average $181).

    48.2 Conservative assumptions are that the scheme would have continued for an additional 5 months; existing recruits would have continued to lose money and incurred an additional 50% of detriment; and new recruits would have joined at an equivalent rate, with the same percentage losing money, as the previous 5 months. Average detriment would be the same as the 'before' scenario for new recruits.

49 The Commission's litigation obtained penalties, reparation, compensation, and refunds in fair trading and credit cases totalling $11.1 million and $15.2 million, respectively, in calendar year 2024; and totalling $4 .3 million and $11 million, respectively, in 2023.

Fair trading

→   **$26m** estimated public benefit

Ensuring consumers, including businesses, are informed and empowered, and their interests are protected – via business penalties and consumer refunds.

---

19 https://comcom.govt.nz/__data/assets/pdf_file/0026/362249/Commerce-Commission-v-TSB-Judgement-27-August-2024.pdf.

20 https://comcom.govt.nz/__data/assets/pdf_file/0021/350427/Commerce-Commission-vs-Shelly-Rose-Cullen-District-Court-Judgment-16-April-2024.pdf.

Competition

50   Direct interventions against threats to competition are the bread and butter of the Commerce Commission's work, in the form of the assessment of mergers, and acquisitions, and challenges to agreements that constrict competition, including price-fixing, bid-rigging and market allocation.

51   As with other regulatory work, these direct interventions prevent increases in price, but also prevent decreases in choice and reductions in innovation, among other benefits to the public.

Methods and assumptions

52   We calculate the customer savings associated with our merger and cartel decisions by multiplying the estimated reduction in prices resulting from the competition policy enforcement in the market concerned by the estimated duration of the price reduction.

Mergers

53   For mergers, we have developed a simple methodology for purposes of providing an indicative number of the estimated benefits of our mergers work:

    53.1   Our estimation only includes active interventions (e.g., declines, clearances with divestment undertakings, etc.). It covers clearance applications (section 66), merger authorisations (s67) and merger investigations (s47). We have not attempted to quantify the benefits of the Commission's deterrence efforts through ongoing merger surveillance or compliance activities.

    53.2   We estimate the benefits of each intervention as customer detriment averted, i.e. the total overspend due to price increases that would have occurred in the relevant markets absent the intervention. Our estimation does not attempt to quantify customer savings resulting from non-price competition effects such as reduced quality of goods and services or innovation.

    53.3   We have included applications that were withdrawn in our estimation since we assume these proposed mergers had some chance of being anticompetitive and may have been withdrawn after our investigation uncovered potential competition issues. Our estimation also includes all s47 merger investigations that went to litigation.

    53.4   Following OECD guidance, we assume that any merger that was declined or withdrawn would have led to a permanent 3% price increase across the size of the affected relevant market(s) if it had proceeded. In instances where mergers were cleared subject to divestment undertakings, we assume that the merger would have caused a permanent 3% price increase over the relevant market(s) facing a risk of competitive harm.

    53.5   To estimate the size of the relevant market(s) for each decision in a simple and consistent manner we use the Stats NZ "Business Financial" dataset on the total dollar sales of various industry groupings.

        53.5.1   Stats NZ's industry groupings are typically wider than the antitrust markets affected by our merger decisions. For each decision, we select the industry grouping most likely to encompass the relevant markets, and we use our knowledge of the sector to estimate the proportion of the industry grouping that the relevant markets comprise.

    53.6   We estimate the total annual dollar value of sales in the relevant market(s) when each case was decided. To do so, we deflate the estimated current size of the relevant markets using the CPI index, assumed to have averaged 2.5% p/a over the last decade.

    53.7   We express the value of each merger intervention in 2024 dollars to have a consistent basis for comparing the benefits we delivered in each year and for calculating the average annual benefit.

54   For mergers, the following table summarises the public benefits of our merger interventions by year to illustrate the potential variance:

Table 3: Estimates of the Commission's merger interventions

Year	Estimated benefits (2024 $, millions)
2014	$190
2015	$170
2016	$640
2017*	$4,368
2018	$786
2019	$199
2020	$340
2021	$162
2022	$746
2023	$256
2024**	$160
Average	**$729**
Merger price effect modelled	**3.0%**

*Note: We have excluded NZME/Fairfax from our 2017 estimation as the proposed merger was declined mainly on the concern of lost plurality in media markets instead of any concerns regarding pricing effects.
**Note: We have excluded the FSNI/FSSI merger from our 2024 estimation as the matter is currently under appeal.

Cartels

55   While we considered estimating the benefits of the Commission's cartel interventions, in the form of consumer savings, using the methodology proposed by the OECD including its proposed 10% cartel overcharge estimation, we adapted this methodology by using a sample of recent, representative case studies on different ends of the spectrum in terms of industry size.

    55.1   OECD is considering adjusting upward its assumed overcharge to be more in line with the academic literature while remaining conservative and based on many jurisdictions' experiences and estimations. The literature considers a better assumption for cartel overcharges to be above 20%. Thus, our approach is conservative.

56   For the select cartel cases the methodology details are as follows:

    56.1   International freight forwarding—In June 2022 the High Court imposed penalties totalling over $9.7 million on two international freight forwarding companies (Mondiale and Oceanbridge) and on four individuals associated with the companies, for longstanding cartel agreements with their competitors.

        56.1.1   This investigation involved 16 freight forwarding companies that entered into customer allocation agreements. It is one of the largest cartel investigations in recent years.

        56.1.2   The conduct took place over the period 2011 to 2020. At the time of the investigation, we estimated that the total average international freight forwarding turnover was approximately $720 million.

        56.1.3   Applying the OECD's proposed methodology of a 10% cartel overcharge over the 9-year period results in a lower bound customer savings estimate of $72 million per year ($648 million in total).

    56.2   Christchurch industrial cleaning—In July 2024 the Christchurch High Court imposed penalties against cleaning company Canterbury Industrial Scrubbing Limited (CI Scrubbing) for longstanding cartel agreements with a competitor.

        56.2.1   In a scheme that ran virtually uninterrupted for nearly two decades, CI Scrubbing and another industrial cleaning company agreed that CI Scrubbing would only offer industrial scrubbing services, while the other would only offer industrial sweeping services, and the two would not compete. When the other company tried to exit the scheme, CI Scrubbing's director, Daniel Jamieson, threatened to target their customer base in an attempt to induce them to continue.

        56.2.2   After the cartel broke down, some customers of industrial scrubbing and sweeping services saw an immediate benefit, with prices dropping by up to 30% in some cases.

        56.2.3   At the time of the investigation, we estimated that the value of the Christchurch industrial cleaning services market is approximately $1.6 million annually. The conduct in this case was estimated to have taken place over a significant length of time lasting 20 years. However, we focused our investigation on a 10-year period to reflect the limitation period.

        56.2.4   Applying the OECD's proposed methodology of a 10% cartel overcharge over the 10-year period results in a lower bound customer savings estimate of $1.6 million. Evidence during the investigation showed that the most common discount provided to customers after the breakdown of the agreement was 20%. Using this as an upper bound the estimate of customer savings is $3.2 million. This gives us a range of savings estimates between $1.6 million and $3.2 million. We note that this is likely an underestimate of customer savings since the conduct took place over a longer period (20 years) and there was some evidence of customers receiving a 30% discount after the breakdown of the cartel.

56.3 As our estimate is based on two case studies, this is likely to significantly underestimate the benefit given the volume of cartel work that the Commission undertakes.

56.4 For context, this chart captures the volume of our cartel enforcement work:

Cartels

	2021/22	2022/23	2023/24	2024/25*	Total
Leniency applications granted	6	12	6	2	26
Leniency applications declined	0	3	2	0	5
No Further Action	4	9	4	3	20
Warning letter	1	0	1	0	2
Compliance Advice	1	0	2	0	3
Collaborative active decline	1	0	0	0	1
Litigation	0	1	1	0	2
TOTAL	**13**	**25**	**16**	**5**	**59**

Estimates

57 Our estimate shows that over the past decade the benefits of our merger interventions was on average likely at least $729 million per year.

58 For illustrative purposes we have also estimated customer savings for two cartel studies on different ends of the spectrum in terms of industry size. We find that for the smaller cartel there was a likely average yearly customer saving of $160,000 to $320,000, whilst for the larger international freight forwarding cartel customer savings could range between $72 million and $97 million.

Competition enforcement

→ **$830m** estimated public benefit

Through our work on mergers and cartels, we help make sure New Zealanders get the benefits from protecting and promoting competition - such as better prices, more choice, and new ideas.

You can subscribe for information updates at
www.comcom.govt.nz/subscribe