

30 May 2025

Hon Scott Simpson
Minister of Commerce and Consumer Affairs
Parliament Building
Wellington 6160
[REDACTED]

Dear Minister

RE: ANNUAL LETTER OF EXPECTATIONS 2025/26

Thank you for your recent letter setting out your strategic and performance expectations of the Commerce Commission (the Commission) for the 2025/26 financial year. This letter sets out how we are meeting and will meet your expectations.

We will support the Government's focus on driving economic growth by operating as a courageous and impactful regulator and promoting competition across the economy.

Our vision is *'Making New Zealanders better off because markets work well and consumers and businesses are confident market participants'*. To support this vision, we are focusing on the following strategic priorities:

- Building confidence in the Commission;
- Building an inclusive, high performing workforce and Board; and
- Sound fiscal responsibility and management.

Our strategic priorities are aligned with our 2023-2027 Statement of Intent (SOI) and are reviewed annually in concert with our strategic direction. We will provide you with any changes to these priorities following the next review in July 2025 ahead of releasing a revised SOI in July 2026.

Contribution to the Economy

The Commission, and the commerce and consumer regulatory system we operate in, enable economic growth and innovation. Our competition expertise plays a role in highlighting regulatory settings holding back productivity and growth.

The OECD reported in its Economic Survey of New Zealand, May 2024 that “because New Zealand’s economy is small and remote, competition policy in New Zealand needs to be at the international frontier of best practice to counteract these disadvantages and improve the level of economic performance and long-term growth”.

We note the Government’s intentions regarding policy and legislation within the Commerce and Consumer Affairs Portfolio, and we look forward to supporting the Government with these this year.

The predictable and stable infrastructure regulatory settings we administer under Part 4 of the Commerce Act 1986 support long-term investment. We also regulate fibre optic cable network infrastructure under Part 6 of the Telecommunications Act 2001. Fibre underpins New Zealand’s telecommunications networks and is a significant contributor to productivity and economic growth.

We are preparing to support the transfer of our functions under the Credit Contracts and Consumer Finance Act 2003 to the Financial Markets Authority (FMA). We are working closely with the FMA on the transfer to ensure a seamless transition for the financial sector and other stakeholders.

We are also engaging with the Ministry for Business, Innovation and Employment (MBIE), the Department of Internal Affairs, the Ministry for Primary Industries, the Ministry for Regulation, and others to support the Government’s intentions regarding water, the Commerce Act Review, promotion of open banking, commencing a review of the Dairy Industry Restructuring Act 2001, and the Telecommunications Review.

Specific expectations for the Commission

Under the Commerce Act 1986 and Fair Trading Act 1986 (the FTA) we promote competition, protect consumers’ interests, and support consumers and businesses to participate confidently in markets.

Our 2024/25 Enforcement and Compliance Priorities set out our enduring priorities, as well as our specific priorities for 2024/25 which include:

- cartels and non-compete agreements under the Commerce Act;
- illegal online sales conduct and unconscionable conduct under the FTA;
- breaches in the groceries and telecommunications sectors; and
- motor vehicle finance.

We are in the process of refreshing our Enforcement and Compliance Priorities for 2025/2026 and will advise you of these in due course.

Competition and Fair Trading

We are active in the courts, regularly acting on significant and complex competition and fair trading cases including prosecutions of Jetstar and Hellofresh, and obtaining enforceable undertakings by Kiwirail in relation to the Interislander ferry, and by Alpine Energy in relation to electricity charges. You will see more of that in 2025/26.

Last year we declined the merger of Foodstuffs North Island and Foodstuffs South Island. Our decision was recently appealed to the High Court.

This year, as part of a push to achieve greater impact, and in-line with your expectations that we vigorously pursue harmful conduct, the Board has adopted a strategy to oversubscribe the major litigation fund. As such, we forecast to use most of the fund for 2024/25. Oversubscription of the fund means that in 2025/26 the Commission may need to draw on reserves accrued through previous years' underspend in Crown funding.

We remain concerned that the available penalties under the FTA are particularly low compared to similar overseas jurisdictions and are no longer an effective deterrent on harmful conduct, so we are encouraged to see an FTA review on the Government's intentions list.

Retail Payment System

Our work under the Retail Payment System Act 2022 aims to promote competition and efficiency in retail payment systems for the long-term benefit of merchants and consumers. This year we will continue our work to simplify and lower costs for businesses of accepting card payments, including finalising our review of interchange fees. We will also focus on competition in the acquiring market, and try to support adoption of open banking to deliver greater competition across payment networks.

To demonstrate how our work influences change in this area we introduced a new payments impact measure in our 2024/25 Statement of Performance Expectations (SPE): Transparency, comparability and competitiveness of merchant fees improves over time for businesses. However, we have replaced this measure for 2025/26 with one that allows a more straightforward, objective way of assessing the impact of our work on retail payments regulation. We intend to establish a baseline for this measure in 2025/26 and will report in our 2026 Annual Report on:

Impact Measure

Competitiveness of acquiring market improves over time.¹

Personal Banking Market Study

We completed the Personal Banking Market Study last year and are monitoring implementation of the recommendations agreed by the Government. We will provide a short follow-up report to you and Hon Nicola Willis in August this year regarding progress.

¹ We will measure competitiveness in the acquiring market through acquirer margin levels, and average merchant service fees net of interchange.

Fuel

We will continue to monitor and provide oversight of competition in the fuel sector under the Fuel Industry Act 2020. Our monitoring reports will continue to pinpoint areas of concern, highlight opportunities for entry, and where competition is working well.

We introduced a new fuel impact measure and target in our 2024/25 Statement of Performance Expectations. In the 2025 Annual Report, we will report on:

Impact Measure

The percentage of wholesale volume that is multi-sourced is at least 70%.²

Our 2025/26 SPE will reduce the target for this measure to 45%. This change reflects our intention that the measure should apply only to wholesale customers with realistic supply diversification options.

Telecommunications

Under the Telecommunications Act 2001 we regulate revenue of Chorus and other fibre-optic cable infrastructure businesses, and copper where no fibre connections are available. We also regulate to protect the interests of consumers including enforcing the 111 Contact Code and the Copper Withdrawal Code, and we monitor and report on retail service quality to promote transparency and consumer choice. In addition, this year we will carry out an extensive deregulatory work programme covering the regulation of copper services in rural areas, remaining legacy multi-operator services and certain fibre services. We will also initiate a comprehensive review of key fibre settings including our approach to weighted average cost of capital (WACC).

We introduced a new telecommunications impact measure and target in our 2024/25 Statement of Performance Expectations. This year we will report in our Annual Report on:

Impact Measure

Herfindahl-Hirschman Index for broadband and mobile sectors of the telecommunications market reduces over time to between 1,500 and 2,500 for broadband, and to between 3,000 and 4,000 for mobile.³

Stakeholder Engagement

We engage with stakeholders frequently and have developed a stakeholder engagement strategy to maximise and interpret that engagement. We will continue to engage and collaborate across the public sector and beyond, and will keep you informed of engagement on key policy matters through our quarterly reporting.

Timeliness

We have heard your expectations regarding the timeliness of outputs and responsiveness to ministerial and cross-agency requests. This year we will improve our performance and increase our oversight over the timeliness of responses.

² Multi-sourced is where a wholesale buyer purchases fuel from more than one supplier.

³ The Herfindahl-Hirschman Index (HHI) is a measure of market concentration.

Efficient, Resilient, and Sustainable Infrastructure Services

We carry out information disclosure and/or price-quality regulation of infrastructure sectors with little or no competition such as electricity distribution, gas distribution, fibre-optic cable, and major airports (Wellington, Christchurch, and Auckland). This year we are taking on similar responsibilities for water.

Airports

We will carry out an assessment of Wellington Airport's price setting and will continue to monitor compliance with information disclosure requirements across New Zealand's three largest airports.

Water

Under the Local Government (Water Services Preliminary Arrangements) Act 2024 we are responsible for interim economic regulation of water. We are the Crown monitor of Watercare's draft charter and are setting up foundational information disclosure for Wellington Water. We are also developing the enduring regime under the Local Government (Water Services) Bill.

Input Methodologies

Input methodologies are the rules, requirements and processes we must determine for infrastructure services that are regulated under Part 4 of the Commerce Act, and for fibre-optic cable under part 6 of the Telecommunications Act. This year we will continue the Fibre Input Methodologies Review under Part 6 of the Telecommunications Act which is due for completion in October 2027.

Electricity

We regulate the price and quality of electricity transmission and distribution services to maintain downward pressure on prices and ensure appropriate quality service. We will continue to work alongside the Electricity Authority (EA) to coordinate on our approach, and to assist with lifting electrification of New Zealand. We are also working closely with the EA on the Electricity Competition Task Force to investigate ways to improve the performance of the electricity market.

Groceries

We will continue to use the full range of tools available to us to deal with competition issues in the grocery sector. Reviews of the Commerce Act and FTA provide a timely opportunity to strengthen these regimes with respect to groceries and more broadly. We look forward to contributing our expertise to support these reviews.

We will continue our monitoring work under the Grocery Industry Competition Act 2023 (the GICA) and will be publishing our second annual monitoring report this year.

We will continue to address the power imbalances in the grocery sector by reporting on proposed changes to the Grocery Supply Code, by assessing compliance, and acting where we see non-compliance. We will prioritise where regulated grocery retailers are not acting in good faith, or where we see potential bullying of suppliers. We continue to engage with grocery sector stakeholders regularly.

We will continue to assess the effectiveness of the wholesale provisions of the GICA regime. We intend to make recommendations to you on whether further regulation is needed, based on any improvements to regulated grocery retailers' wholesale offers and our understanding of the dynamics of direct supply.

To improve transparency for customers, we will implement a disclosure standard for consumer complaints and will continue with our focus on pricing integrity and promotional mechanics.

We introduced a new groceries impact measure in our 2024/25 Statement of Performance Expectations and will report on the status of the measure in our 2025 Annual Report including whether we will extend an additional year of data to set a realistic baseline:

Impact Measure

The national retail grocery market share concentration of regulated grocery retailers reduces over time when measured against baseline.⁴

Good Governance and Reporting

Effective Board

We are committed to continuous improvement and note your desire for increased pace. We will update you on how we are giving effect to new ways of working at the Commission and its impact throughout the year.

We have engaged with the Governance and Effectiveness Review and we look forward to the opportunity to respond to the report. We are preparing to implement any recommendations the Government accepts and will keep you informed of progress through our regular monthly meetings. We look forward to discussing the findings of the Governance and Effectiveness Review with you in due course.

Accountability documents and Key Performance Indicators

Over several years we have driven a significant uplift in how we measure our performance across almost every output class with a focus on measuring our impact. Our 2024/25 SPE established new impact measures and targets for fuel, telecommunications, groceries, and payments. We will begin reporting on those in our 2025, 2026, and 2027 Annual Reports respectively. Appendix 1 contains a summary of the measures and reporting timelines. You can find further details contained in our 2025/26 SPE. We are also reviewing our performance framework and indicators ahead of the release of a revised SOI in 2026.

⁴ We will measure a baseline against the national Herfindahl-Hirschman Index (HHI) for regulated grocery retailers and base the baseline on results obtained from the annual grocery reports for 2023/24 and 2024/25.

We will continue our regular reporting to you, timed to coincide with our monthly meetings. We are in the process of refreshing this reporting. Under the 'no surprises' principle, we will inform you promptly of matters of significance, particularly where these may be controversial or may become the subject of public debate.

Thank you for your support. We look forward to working with you and your MBIE officials this year.

Yours sincerely | Nāku noa nā



Dr John Small
Chair

Copy to: Adrienne Meikle
Chief Executive, Commerce Commission



Andrew Hume
General Manager, Small Business, Commerce and Consumer Policy Branch,
MBIE



Appendix 1: Summary of Impact Measures and Reporting Timelines

	Measure	Target	2024/25		2025/26		2027/28	
			SPE	2025 Annual Report	SPE	2026 Annual Report	SPE	2027 Annual Report
Fuel	The percentage of wholesale volume that is multi-sourced is at least:	70%	Target Set	Report				
		45%			Target Set	Report		Report
Telecommunications	Herfindahl-Hirschman Index (for broadband and mobile sectors of the telecommunications market) reduces over time.	<ul style="list-style-type: none"> 1,500-2,500 Broadband 3,000-4,000 Mobile 	Target Set	Report		Report		Report
Payments	Transparency, comparability and competitiveness of merchant fees improves over time for businesses.	Survey Results	Establish baseline	No report				
	Competitiveness of acquiring market improves over time.	Reduced acquirer margin and average merchant service fee			Establish Baseline		Target Set	Report
Groceries	The national retail grocery market share concentration of regulated grocery retailers reduces over time when measured against baseline.	Lower Herfindahl-Hirschman Index	Establish Baseline		Establish baseline	Report (TBC)	Target Set	Report