

Q&As – AI webinar

	Question	Key points from answer
1	Why did the Commission decide to present this webinar?	<ul style="list-style-type: none"> • AI is a ‘hot topic’ both domestically and internationally. AI provides huge potential to increase business productivity and assist innovation. • We have been working hard to understand the potential implications of AI technology on competition, both for the supply of AI services and for the use of AI services by firms. Like all the rest of you, we are on our own internal AI adoption journey. • We saw this webinar as a useful opportunity to share some our thinking about how AI is affecting competition regulation, and to get that conversation going. But this is really just the start – we are keen to hear from others and develop this conversation.
2	Was there anything from the OECD competition meetings in June 2025 that you would like to share with us in New Zealand?	<ul style="list-style-type: none"> • At OECD, a lot of the agencies described the work of their data units and teams, and the tools they are developing to assess the impact of AI. This work, although happening overseas, provides an incredible learning opportunity for smaller organisations like us. • Another interesting topic that was discussed was the supply chain of AI products, from hardware production down to app software. There is the risk of bottlenecks appearing in that chain, particularly around components required at the various levels, and around production infrastructure. A good example of an input which could risk bottlenecks is cloud computing. • The rise of non-standard transactions involving AI technology provider firms was discussed. An example of this is ‘acqui-hires’, where a business acquires expert employees from another business rather than acquiring the business in the traditional manner. This is an example of structuring an acquisition so it does not fit into the M&A legal framework, by not being an asset or share acquisition.

3	Do you think the existing law is fit for purpose for AI and, if not, do you think we would want to advocate for an AI Act like in the EU?	<ul style="list-style-type: none"> • We consider that the laws that we currently have are capable of tackling many of the competition and consumer protection harms that have been identified. Some of the thinking we need to do is around how AI technology fits within those existing frameworks. • We will be closely watching (and we assume MBIE will be too) to see how the new laws in the UK and EU, relating to AI competition and consumer enforcement, work in practice. The ACCC is also considering the adequacy of its laws and Australia is likely to pass new laws in this area, for example through the introduction of an unfair trading practices prohibition. This prohibition will deal with conduct that sits between misleading and deceptive, and unconscionable. This prohibition will likely be useful to address certain dark patterns like drip pricing and subscription traps. • One of the interesting features of modern AI and digital laws is that the framework provides for ex-ante regulation rather than tackling everything ex-post. This is unlike the way the Commerce Act and Fair Trading Act work, which both deal with conduct after it has occurred (ex-post). Modern AI and digital laws tend to designate certain activities, and rules are then put in place to prevent harm from such activities occurring.
4	As AI adoption grows, we will probably see a surge in data centres across New Zealand — which bring massive energy demands. In a country already facing energy scarcity, what are the Commission's views on the potential impact of AI driven infrastructure,	<ul style="list-style-type: none"> • We think this is going to be a hot topic in the near future. Everyone wants to see the development of AI technology, but we obviously need to have the infrastructure to be able to accommodate it. • There are possible ways to accommodate such infrastructure. For example, a data centre could contract with an electricity provider to build renewable energy resources, specifically for that data centre. This would mean the data centre is not as much of a burden on the network.

	like data centres, on competition in New Zealand?	
5	Is the Commission using AI?	<ul style="list-style-type: none"> • Yes. We considered what the chief data and security requirements around the use of AI across government are and have conducted some experiments. • We have also now rolled out Microsoft Copilot across whole organisation, and it is already being used on a day-to-day basis. We are also looking to see how we can use Copilot to assess the many public enquiries we receive more quickly.
6	On 'acqui-hires', please explain further the competitive harm caused by potentially hiring a large number of experts from a firm and how that would be akin to a traditional acquisition.	<ul style="list-style-type: none"> • In the Microsoft/Inflection case assessed by the CMA, the target firm in essence ceased to exist because the intellectual leaders had all been hired away and were contracted to a rival. The technology was also licensed to that rival. So really what is left of the target is an empty shell. • We consider 'acqui-hires' like that to be acquisitions in all but name. The way we would likely approach these arrangements is by focusing on what the substantive effect or the substance of the arrangement is, rather than looking at the form of the arrangement.
7	What work internationally is the Commission doing in the AI space?	<ul style="list-style-type: none"> • We engage and collaborate regularly with our overseas counterpart agencies, learning from their experiences and sharing our own. There are strong international networks amongst competition and consumer protection agencies and we get a lot of value out of these networks, particularly as agencies are all facing similar challenges. • It is useful for us to know about actions being taken by agencies in larger jurisdictions. Our expectations can then be made clear to New Zealand-based businesses (that are often attached to international businesses) that we do not expect businesses to engage in the relevant conduct here in New Zealand.