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ANNUAL REPORT ON COMPETITION POLICY DEVELOPMENTS IN AUSTRALIA

-- 2009 --

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Executive Summary

1. This report addresses events that have occurred in the past financial reporting year (1 July 2009 until 30 June 2010). However, significant developments since 30 June 2010 have also been included where appropriate.

2. There have been important reforms to Australia's competition laws and policies during the period 2009-2010. In November 2008, the Council of Australian Governments (COAG), which comprises of the heads of the Commonwealth, State and Territory Governments, agreed to work together to pursue a broad range of reforms in a number of areas, including removing various inconsistent and overlapping regulation across states and territories. The Australian Government is continuing to work with State and Territory Governments to deliver these reforms.

3. The Australian Government also continued to progress reforms in the areas of telecommunication infrastructure and energy.

4. The enforcement of the TPA remains strong. Australia's enforcement authority, the Australian Competition and Consumer Commission (ACCC), considered 321 matters for compliance with mergers and acquisitions provisions of the TPA during the period 2009-10. The ACCC has also been involved in bringing a number of successful court actions against companies engaged in anticompetitive practices in breach of the TPA, and continues to be heavily engaged in a number of pricing and access issues.

1. Changes to competition laws and policies

1.1 COAG Reform Agenda

5. On 20 December 2007, COAG agreed to a new reform agenda across a broad range of issues, such as health, water, regulatory reform and the broader productivity agenda. As part of the COAG Reform Agenda, in November 2008, COAG agreed to the *National Partnership Agreement to Deliver a Seamless National Economy* (the NPA). The NPA is intended to contribute to:

- creating a seamless national economy, reducing costs incurred by business in complying with unnecessary and inconsistent regulation across jurisdictions;
- enhancing Australia's longer-term growth, improving workforce participation and overall labour mobility; and
- expanding Australia's productive capacity over the medium-term through competition reform, enabling stronger economic growth.

6. The NPA's Implementation Plan comprises three parts:

- Part 1: 27 Deregulation priorities, where inconsistent and overlapping regulation across jurisdictions in 27 separate areas is impeding business productivity and innovation, and impeding workforce mobility and skill acquisition;
- Part 2: eight priority areas of competition reform; and
- Part 3: developing and enhancing existing processes for regulation-making and review.

7. Under the NPA, the Commonwealth committed to provide funding to the States and Territories of \$550 million over five years. The payments are in two components: \$100 million in facilitation payments to recognise the net set-up costs and revenue forgone as a result of implementing reforms; and \$450 million in reward payments.

8. The Implementation Plan sets out the outcomes and key milestones for each jurisdiction for reform. The achievement of these key milestones is to be assessed annually for the Commonwealth and each State and Territory by the COAG Reform Council (CRC), with jurisdictions to provide a detailed report to the CRC on its progress against the key milestones for each financial year of the NPA.

9. The Commonwealth will provide the reward payments based on the CRC's advice as to the achievement of the key milestones for the 27 deregulation priorities. There are no reward payments for the competition reforms and for further improving processes for regulation-making and review.

10. Over one-third of the 27 deregulation reforms have now been achieved, with the remainder either fully on track, or in a small number of cases, a few months behind schedule. Progress has also been made in relation to competition reforms, including with respect to the energy market and infrastructure access reforms discussed in more detail below.

1.2 Energy market reform

11. In 2004, COAG endorsed a major energy market reform program proposed by the Ministerial Council on Energy, which was expanded in 2006. The reform agenda focuses on improving regulatory and governance arrangements, electricity transmission and distribution networks, planning and regulation, gas market development and operation and end-user participation in the energy market.

12. In 2007, COAG committed to establish the Australian Energy Market Operator (AEMO) as a single national electricity and gas market operator. AEMO commenced operations on 1 July 2009 and includes a new national transmission planning function. COAG also committed to the development of a national framework for the roll out of smart meters to improve demand management for consumers and infrastructure providers.

13. In relation to gas market development, the creation of a national gas market bulletin board in July 2008 represents a move towards a more transparent and integrated gas market. The bulletin board was also designed to assist with the management of gas emergencies affecting participating pipelines.

14. Another key gas market reform is the commencement on 1 September 2010, of a new gas Short Term Trading Market (STTM) initially for New South Wales and South Australia. An objective of the STTM is to facilitate the short term trading of gas between pipelines, participants and production centres. In future, the STTM may be expanded to cover other jurisdictions such as Queensland and the Australian Capital Territory.

15. The Ministerial Council on Energy is in the final stages of development of a new National Energy Customer Framework, establishing a legal framework for the regulation of energy retailers and distributors in their dealings with end use customers. The new framework brings together existing jurisdictional frameworks and represents the final stage of transition to a national energy framework. The new law, rules and regulations will be considered by South Australian Parliament in Spring 2010, and will be introduced in participating jurisdictions on a staggered basis from 1 July 2011 through to December 2013.

1.3 *Telecommunications*

16. On 7 April 2009 the Government announced the establishment of a company to build a national broadband network, to operate on a wholesale-only basis. The company will invest up to \$43 billion over eight years to fund the rollout and ongoing operations of the network. The Government aims to achieve 93 per cent coverage of all premises with a fibre network, with the remaining 7 per cent to be connected through wireless and satellite technologies.

17. The Government has also committed to reforming the regulatory arrangements in the telecommunications sector, to promote greater competition across the industry, including measures to address the vertical integration of the dominant incumbent telecommunication firm, Telstra. It is also considering addressing competition and investment issues arising from horizontal integration of fixed-line and cable networks, and telecommunications and media assets. For further information see http://www.dbcde.gov.au/broadband/national_broadband_network.

18. In April 2009, the Minister for Broadband, Communications and the Digital Economy released a public discussion paper on possible public interest criteria to be used in deciding whether to reallocate spectrum licences through a price based method (e.g. by auction) or via conditional renewals to the existing licensees. The first of these licences will expire in 2013, with the remainder expiring by 2017. While the licences currently range from 500MHz to 31GHz, it is expected that there will be a focus on the spectrum licences in the 800MHz, 1800MHz, 2.1GHz, 2.3GHz and 3.4GHz bands. The Government is considering the responses to the discussion paper.

19. In August 2009, the Minister for Broadband, Communications and the Digital Economy, released a discussion paper intended to stimulate public debate on the anti-siphoning scheme, which regulates the acquisition of sports rights and the screening of sport on television in Australia. This process is intended to inform the Government's consideration of the effectiveness and appropriateness of the scheme in the contemporary digital television environment. The anti-siphoning scheme was introduced in 1994 to ensure that events of national importance and cultural significance were made freely available to the Australian public. The Government is considering the outcomes of the consultation process.

1.4 *National access regime*

20. On 14 July 2010, a package of reforms to the National Access Regime came into effect. The reforms are intended to streamline its operation and remove delays affecting decision-making and arbitration processes.

21. The reforms include measures giving effect to COAG's Competition and Infrastructure Reform Agreement, to establish a simpler and more consistent national approach to economic regulation of significant infrastructure. Significantly, the reforms introduced binding time limits for regulatory decision-making, and limited the scope of merits review under the National Access Regime. The reforms improve the clarity and timeliness of regulatory processes and promote greater consistency between state access regimes and the National Access Regime. In 1994, the COAG Agenda was broadened to include water reform. In 2004, COAG renewed this commitment by agreeing to the National Water Initiative to address efficiency and consistency for rural and urban water. The need for further reform in Murray-Darling Basin (the Basin) jurisdictions led to the Commonwealth *Water Act 2007* (Water Act).

22. The Water Act established the Murray Darling Basin Authority (MDBA) to develop a Basin Plan to ensure water resources are managed in an integrated and sustainable way. The Water Act also provided the ACCC with a key role in developing and enforcing water charge and water market rules that regulate the activities of operators in the Basin, and also in advising the MDBA on water trading rules to inform the Basin Plan.

23. In 2008-09 the ACCC provided advice to the Minister for Climate Change and Water on the development of water market and termination fee rules to govern the actions of irrigation infrastructure operators (IIOs) in the Basin. The Minister adopted the ACCC's advice and draft rules without alteration.

24. The Water Charge (Termination Fees) Rules 2009 (WCTFR) commenced fully on 1 September 2009. Termination fees are often levied by an irrigation infrastructure operator (IIO) when a right of access for delivery of water to an irrigation network is terminated. The WCTFR cap termination fees at 10x total network access charge (TNAC) or a lesser amount as provided for in a contract. TNAC is defined as the total amount payable to an IIO by the holder of a right of access in the financial year written notice of termination was given.

25. The Water Market Rules 2009 (WMR) commenced fully on 1 January 2010. The purpose of the WMR is to free up trade that might otherwise be prevented by IIOs. IIOs hold water access entitlements collectively on behalf of their members and their cooperation is required if an irrigator wants to trade their water. The WMR enable irrigators to 'transform' their share of the water access entitlements held on their behalf by an IIO (an 'irrigation right') into a separately held (statutory) water access entitlement.

26. In February 2009, the ACCC also provided advice to the Minister on water charge (infrastructure) rules. These rules relate to charges imposed by infrastructure operators for the provision of water storage and delivery services. These rules are yet to be made by the Minister.

27. In March 2010 the ACCC provided the MDBA with advice on water trading rules to inform the development of the Basin Plan. This advice is not yet public but will be released with the Basin Plan.

1.5 *Understandings under the TPA*

28. The TPA prohibits contracts, arrangements or understandings that substantially lessen competition. In 2007, the ACCC released an *Inquiry Report into the Price of Unleaded Petrol*. This report, amongst other things, raised concerns that the term 'understanding' under the TPA did not effectively capture anticompetitive conduct. In response, the Government released a discussion paper entitled the *Meaning of 'Understanding' in the TPA* in January 2009 which sought submissions regarding the adequacy of current court interpretations of the term to capture anticompetitive conduct.

29. Fifteen submissions were received in response to the paper. The Government is currently considering those submissions and will announce its intentions in due course.

1.6 *Creeping acquisitions*

30. The TPA prohibits mergers and acquisitions that would be likely to result in a substantial lessening of competition. In the *Report of the ACCC inquiry into the competitiveness of retail prices for standard groceries* (the Grocery Inquiry), the ACCC raised concerns that the prohibition in the TPA does not encompass the acquisition of a number of smaller individual assets or businesses over time, which collectively have significant competitive impacts.

31. The Government proposed four broad models for reform in its two discussion papers released in 2008 and 2009. Submissions made in response to the discussion papers indicated that there was no clear consensus of support for any individual model, and views varied as to whether, in practice, there was a substantive problem to be addressed.

32. As a result of this public consultation, the Government identified two areas in the law where it considered clarification would assist in addressing creeping acquisitions concerns. These amendments

were contained in the Competition and Consumer Legislation Amendment Bill 2010, which passed the House of Representatives and was awaiting introduction into the Senate prior to lapsing at the prorogation of the 42nd Parliament of Australia before the 2010 Election.

1.7 New guidelines

33. The ACCC produced and released 88 new publications for business and industry sectors as well as consumers in print, electronic and multimedia formats. These publications related to consumer protection issues such as guidance on component pricing, mobile telephone premium services, warranty and refund rights, codes of conduct and the outcome of ACCC enforcement actions as well as competition issues.

34. In April 2009, the ACCC released the *Compliance and Enforcement Policy*. The purpose of the policy is to set out the principles adopted by the ACCC to achieve compliance with the law and to outline the ACCC's enforcement powers, functions, priorities, strategies and regime.

35. In June 2009, the ACCC released a revised draft of the *ACCC Immunity Policy for Cartel Conduct and Immunity Policy Interpretation Guidelines*. Changes to the immunity policy and guidelines were made in a way that incorporated amendments necessary in the new criminal cartel environment while continuing to maintain certainty for potential immunity applicants.

36. In August 2009, the ACCC released its *Enforcement Guidelines—Water Market and Charge Rules*. The enforcement guidelines note the ACCC intends to use a cooperative approach, including working with irrigation infrastructure operators to achieve compliance with the rules. However, when necessary, the ACCC is prepared to use remedies available to it under the Water Act.

37. In most cases, publications are available from the ACCC's web site at www.accc.gov.au.

2. Enforcement of competition laws and policies

38. The TPA prohibits a wide range of anticompetitive practices, including cartel conduct, arrangements that substantially lessen competition, secondary boycotts, misuse of substantial market power, mergers or acquisitions that may substantially lessen competition, and resale price maintenance. The TPA also contains telecommunication-specific competition rules.

39. In addition to the ACCC's enforcement function under the TPA, provision is also made for any person to independently seek a remedy from a court. This right of private action generally enables persons who consider that the TPA has been contravened to approach a court directly, irrespective of the view of the ACCC.

2.1 Anticompetitive conduct matters

40. In the course of 2009-10, the ACCC commenced litigation in 11 competition matters covering a wide range of conduct the ACCC considers raises concerns under the competition provisions of the Act.

41. ACCC action against cartels continues, with nine proceedings relating to the ACCC's action against the air cargo cartel commenced in the period. The ACCC has obtained penalties of over AU\$41 million to date.

2.1.1 Admiral Mechanical Services Pty Ltd and others

42. The ACCC commenced proceedings in December 2004 against 17 companies and 22 individuals alleging bid-rigging and price-fixing conduct affecting the supply and installation of commercial and industrial air conditioning and mechanical services in Western Australia. The proceedings concluded on 13 April 2010. Court orders obtained over the course of the proceedings include pecuniary penalties (totalling AU\$9.2m), declarations, injunctions and costs.

2.1.2 Australian Karting Association (NSW) Inc. and others

43. The ACCC commenced proceedings on 9 June 2009 for alleged price fixing in relation to the go-kart industry. The proceedings concluded on 6 November 2009. Court orders obtained include declarations, injunctions, trade practices compliance program, notification orders and costs.

2.1.3 Bill Express Ltd and others

44. The ACCC commenced proceedings on 29 October 2008 for alleged third line forcing, false and misleading or deceptive conduct in relation to an electronic product distribution, promotion, sales and bill payment network. The proceedings concluded on 14 September 2009, with orders obtained including declarations and an undertaking to repay in excess of AU\$200,000 to affected parties.

2.1.4 Bridgestone Corporation and others

45. The ACCC commenced proceedings on 1 June 2009 alleging price fixing and market sharing conduct in the supply of marine hoses to the Australian oil and gas industry. The proceedings concluded on 13 April 2010. Court orders obtained include declarations, injunctions, pecuniary penalties (in excess of AU\$8.2m) and costs.

2.1.5 DRS C3 Systems Inc.

46. The ACCC commenced proceedings on 18 June 2009 for alleged cartel behaviour in the international military defence training systems industry. The proceedings concluded on 5 February 2010. Court orders obtained include injunctions, pecuniary penalties (AU\$1.0m), trade practices compliance program and costs.

2.1.6 Toll (PRK) Ltd and others

47. The ACCC commenced proceedings on 24 August 2007 for alleged breaches of the TPA in entering into contracts, arrangements or understandings that restrict dealings or affect competition, and into arrangements to share motor vehicle wharf facilities around Australia and to jointly acquire other facilities. The proceedings concluded on 3 July 2009. Court orders obtained include pecuniary penalties (totalling AU\$3.8m) and costs.

2.1.7 Vanderfield Pty Ltd and others

48. The ACCC commenced proceedings on 1 July 2009 for alleged price fixing and market sharing in the sale of light and medium trucks. The proceedings concluded on 3 November 2009. Court orders obtained include declarations, pecuniary penalties (totalling AU\$1.09m) and costs.

2.2 *Mergers and Acquisitions*

49. In 2009-10 the ACCC refined its reporting processes to distinguish between matters that do not require review because competition concerns are pre-assessed as being low, and matters that require review. Pre-assessed matters were often referred to the ACCC by other agencies, such as the Foreign Investment Review Board, or by the merger parties as a courtesy.

50. In 2009-10 the ACCC considered 321 matters for compliance with section 50 of the Act. Of these, 168 underwent a public or confidential review and 153 were pre-assessed as not requiring review. Of the 168 matters reviewed, eight were publicly opposed; confidential opposition or concerns were expressed in six; and four were allowed to proceed after the acceptance of undertakings to address competition concerns. Sixteen matters were withdrawn by the parties before a decision could be made, or were confidential matters where no view could be formed without market inquiries. Of the 168 matters reviewed, 46 were conducted confidentially and 122 were reviews of public mergers. The ACCC unconditionally cleared 78 per cent of all mergers reviewed.

Table 1: Merger matters assessed and reviewed in 2009–10

Financial Year 2009-10	
TOTAL MATTERS ASSESSED AND REVIEWS UNDERTAKEN	321
Matters pre-assessed - no review required	153
Reviews undertaken	168
<i>Total reviews can be broken down into the following categories:</i>	
Not Opposed	131
Finished - no decision (incl. withdrawn)	16
Publicly Opposed outright	8
Confidential review - Opposed or ACCC concerns expressed	6
Resolved through undertakings	4
Variation to undertaking accepted	2
Variation to undertaking rejected	1

51. The ACCC communicates with international counterpart agencies when assessing the implications of international mergers and acquisitions. These discussions relate to technical aspects, such as the appropriate market definition, barriers to entry, possible remedies and emerging market dynamics.

52. Two of the major merger reviews conducted by the ACCC in 2009-10 are discussed below.

2.2.1 *Woolworths Limited - proposed acquisition of Danks Holdings Limited*

53. Australian retailer Woolworths and Lowe's, a United States home improvement needs retailer, planned a joint venture to enter the Australian hardware sales sector by rolling out 'big-box', or large floor-space, home improvement stores. They proposed to buy Danks Holdings Ltd, which wholesales and distributes hardware products and services to independent retailers.

54. The ACCC began a review of this proposed acquisition on 3 September 2009, inviting submissions on the proposal and market dynamics from parties including Danks member stores, other retailers, wholesalers, manufacturers, buying groups and industry associations. On 16 October 2009 the ACCC released a statement of issues—a document which outlines the ACCC's preliminary views on a transaction, draws attention to any concerns and identifies further inquiries the ACCC plans to make.

55. The ACCC was concerned that the acquisition might enable the joint venture to discriminate against some of its wholesale customers who were also its future retail competitors. The ACCC was also concerned that the acquisition might reduce some local retail competition by reducing the number of wholesalers.

56. To address these concerns, Woolworths and Lowe's offered undertakings which imposed requirements to maintain retail competition by ensuring that hardware retailers can switch from Danks to alternative suppliers. The undertakings also alleviated concerns that Danks stores near joint venture stores would be treated less favourably than other stores.

57. On 11 November 2009 the ACCC accepted the undertakings and announced that it would not oppose the acquisition; its reasons were detailed in a public competition assessment released on 14 January 2010.

2.2.2 Caltex Australia Limited - proposed acquisition of the retail assets of Mobil Oil Australia Pty Ltd

58. The Caltex and Mobil groups of companies produce and sell petrol, diesel and liquefied petroleum gas (LPG). On 27 May 2009, it was publicly announced that Caltex Australia Ltd proposed to buy from Mobil Oil Australia Pty Ltd 302 service station sites in metropolitan areas in South Australia, Queensland, New South Wales, Victoria and the Australian Capital Territory, subject to ACCC clearance. Caltex was also to obtain some fuel and storage services from Mobil-linked fuel terminals.

59. On 9 June 2009 the ACCC commenced its review of the proposed acquisition. It conducted extensive inquiries with market participants including Caltex's and Mobil's retail and wholesale competitors and independent retailers and distributors.

60. On 2 December 2009 the ACCC announced that it would oppose the sale; its reasons were detailed in a public competition assessment released on 9 February 2010.

61. The ACCC identified 53 Mobil sites where competition in local retail markets was likely to be lessened substantially if Caltex bought them. The ACCC also had broader concerns about the consequences for possible price coordination between Australia's major fuel retailers should the sale proceed.

62. The ACCC considered that the likely alternative buyers for a significant number of sites were not parties that led price rises in the weekly petrol price cycle.

2.3 Pricing Matters

2.3.1 Airports

63. Under Part VIIA of the TPA, the ACCC monitors and reports annually on a range of indicators – including quality of service, prices, costs, profits and investment levels – relating to aeronautical and car-parking services at Australia's five major airports. While the indicators do not provide conclusive evidence as to whether the airports have been earning monopoly rents, trends in those indicators over time can identify those airports whose performance might require greater scrutiny.

64. In the 2008-09 airport monitoring report released on 11 March 2010, the ACCC found the performance of Sydney Airport to be of greatest concern. The indications are that Sydney Airport has increased profits by permitting service quality to fall below that which the airlines reasonably expect. Airport users, including passengers and airlines, rated Sydney Airport last amongst the monitored airports for the fourth consecutive year and it appears that investment in the international terminal has been slow.

65. The ACCC also raised concerns that the major airports' monopoly position in car parking could be used to exploit the public. The indications are that car parking prices likely reflect an element of monopoly rent. At least some car parking charges increased at all of the monitored airports during the 2008-09 financial year, or since then. The ACCC has observed that some airports may affect the cost or convenience of potential alternatives to on-airport parking, which could contribute to the high margins reported for on-airport car parking.

66. Following the ACCC's 2008-09 report, the Minister for Infrastructure and Transport publicly stated on 12 March 2010 that he would bring forward a Productivity Commission inquiry into the economic regulation of airport services inquiry from 2012 to as soon as possible. In the Aviation White Paper, which was released in December 2009, the Government committed to full review of the economic regulatory regime for leased federal airports in 2012.

2.3.2 *Australia post*

67. The ACCC has an ongoing role in assessing increases in the prices of letter services over which Australia Post has a legislated monopoly under Part VIIA of the TPA. In 2009–10 the ACCC assessed two proposals by Australia Post to increase prices for its monopoly postal services. In December 2009, the ACCC objected to a draft pricing proposal by Australia Post following concerns that Australia Post's costs were not falling in response to declining volumes. In May 2010, the ACCC decided to not object to a subsequent pricing proposal by Australia Post which identified significant reductions in operating expenses.

2.3.3 *Petrol monitoring*

68. The ACCC monitors the retail prices of petrol, diesel and automotive liquefied petroleum gas (LPG) in the capital cities and around 150 regional centres and country towns, as well as international crude oil and refined petrol prices. It also closely follows developments in the petroleum industry.

69. The ACCC provides information on its website on petrol price cycles in the five largest metropolitan cities (Sydney, Melbourne, Brisbane, Adelaide and Perth), to increase consumers' understanding of petrol price cycles. In particular, the ACCC provides consumers with information on the cheapest and most expensive days of the past weeks to buy petrol in the five largest metropolitan cities. The ACCC also provides a comparison of Australian retail petrol price movements with the Singapore Mogas 95 (seven day rolling average) benchmark over the previous three months. The website also includes information on what determines petrol prices, country petrol prices and provides answers to some frequently asked questions. It also has links to a number of other websites that have information about petrol prices and petrol pricing issues.

70. In December 2007 the Australian Government instructed the ACCC to undertake formal monitoring of unleaded petrol prices, and report to the Government every year for a period of three years. The ACCC produced its second report in December 2009 and is expected to produce its third in December 2010. In May 2010 the Australian Government directed the ACCC to formally monitor unleaded petrol prices for a further period to December 2011. This will be the ACCC's fourth formal monitoring report on petrol prices.

71. The Government also asked the ACCC to have a renewed focus on the informal monitoring of diesel and liquefied petroleum gas (LPG) prices on 16 February 2008, and to advise the Government if further powers in this area are necessary or desirable. The ACCC has been informally monitoring diesel and LPG prices since this time and has reported on them in its monitoring reports.

2.3.4 Container Stevedoring Monitoring

72. The ACCC released its eleventh container stevedoring report in November 2009 examining trends in prices, costs and profits of the two major stevedoring companies, Patrick and DP World for 2008-09. The report shows that Container volumes were slightly lower than the previous year, unit total costs rose and revenues were slightly lower in 2008-09. Profits decreased slightly, but remain high against benchmark indicators.

73. The report also shows that, over the last 10 years, Australian stevedores have benefited from waterfront reform by becoming increasingly efficient and profitable. In turn, users of stevedoring services have benefited as the cost of using stevedoring services has fallen in real terms. Demand for stevedoring services is expected to grow over the next decade and this presents opportunities for more intense competition in Australian stevedoring.

2.4 Copyright remuneration

74. In December 2006, the *Copyright Act 1968* was amended to allow the ACCC to become a party to certain applications and references made to the Copyright Tribunal of Australia.

75. In May 2007, the ACCC was made a party to a reference by the Phonographic Performance Company of Australia (PPCA). This reference involves the licence scheme for the public performance of recorded music in fitness classes. In September 2007, the ACCC was made a party to a reference by the Australasian Performing Right Association (APRA) and the Australasian Mechanical Copyright Owners' Society (AMCOS). This reference relates to the rates payable by digital music service providers (including those that offer digital downloads) for the reproduction and communication of musical and associated literary works.

76. In December 2009 the tribunal made a decision approving the commercial settlement reached by the Australasian Performing Right Association and the Australasian Mechanical Copyright Owners Society in relation to licence fees for digital downloads services. In May 2010 the tribunal handed down its decision in relation to the reference brought by the Phonographic Performance Company of Australia for fitness class tariffs. The ACCC's role as a party to each matter helped the tribunal make decisions reflecting efficient pricing principles.

2.5 Monitoring/enforcement of water charge and water market rules

77. Under the Water Act 2007, the ACCC has responsibility for monitoring compliance with the water market and water charge rules. The ACCC will be providing its first report to the Minister in March 2011.

78. In 2009, the ACCC commenced investigations into some operators regarding compliance concerns with the WCTFR.

2.6 Energy Infrastructure regulation and energy market monitoring/enforcement

79. In 2009-10, the Australian Energy Regulator (AER) completed regulatory determinations for three electricity distribution businesses in Queensland and South Australia. The AER also published draft regulatory determinations for five distribution businesses in Victoria, with final determinations to be released in October 2010. During 2009-10 the AER also approved network prices in the electricity sector for 12 distribution businesses.

80. In the gas sector, the AER published 3 gas distribution decisions in relation to NSW and ACT gas distribution networks. During 2009-10 the AER also approved annual tariff variations for the Victorian principal gas transmission system, 3 transmission pipelines and 8 distribution systems.

81. Over the same period, the AER has continued with its technical audits program, completing two and commencing a new one. It also conducted over 60 compliance reviews of targeted electricity and gas obligations, as well as an investigation into a network service provider's compliance with the applicable regulatory test for new large electricity transmission assets. In terms of enforcement action, the AER issued two infringement notices for alleged breaches of the electricity market rules and instituted proceedings in the Federal Court of Australia for alleged contraventions of the rebidding provisions under those rules.

82. The economic regulation and enforcement activities by the AER continue to increase as additional functions and responsibilities are moved from State jurisdictions to the AER. Additional functions that the AER has prepared for over the last year include retail energy market regulation (other than retail pricing) for all states except Western Australia and the Northern Territory. The AER has initiated a public consultation process to assist it in the development of key regulatory guidelines and instruments that will support the new National Electricity Customer Framework on its commencement from July 2011. The AER is in the process of building capacity for its new functions in relation to small customers and will continue to do so throughout the transitional period.

83. Publications such as guidelines, weekly reports into market outcomes in the electricity and gas markets, annual regulated business performance reports and quarterly compliance reports, are issued regularly by the AER. The most significant publication is the annual State of the Energy Market report. This provides a comprehensive overview of activity in the Australian energy and gas sectors. In 2009-10, the AER also issued one investigation report relating to an electricity market event and 16 high electricity price reports (as well as two reports on high ancillary services prices in the electricity market).

2.7 Access to infrastructure facilities

84. Under National Competition Policy (NCP), all Australian governments agreed to the introduction of an economy-wide access regime for essential infrastructure services. The National Access Regime, which was established in 1995 through Part IIIA of the TPA, provides an avenue for firms to access certain essential infrastructure services on reasonable terms and conditions in cases where commercial negotiations on access are unsuccessful. The regime provides three regulatory routes for access, with administration of the arrangements being carried out by a number of Commonwealth bodies. In addition to the (generic) National Access Regime, there are also a number of industry-specific access regimes, both at the Commonwealth level – for example, access to telecommunications services is provided for under Part XIC of the TPA – and at state and territory level.

2.7.1 Telecommunications

85. The ACCC continues to oversee the telecommunications access regime under Part XIC of the TPA. This includes presiding over access disputes and considering access undertakings for the provision of a number of key regulated wholesale access services. As of July 2009, 39 separate access disputes were under consideration by the ACCC, the majority of which related to unbundled services, namely the unconditional local loop service (ULLS) and line sharing services (LSS), provided by Telstra over its copper access network. Over the course of the year, two mobile terminating access service (MTAS), one wholesale line rental (WLR) and three LSS access disputes were notified. Twelve access disputes were withdrawn during the reporting period.

86. In conducting its arbitration role, the ACCC was able to progress or complete its consideration of a number of access disputes during the reporting period. The ACCC issued an interim determination in one WLR access dispute and extended interim determinations in one LSS and three ULLS access disputes. It also issued final determinations in relation to 11 ULLS and eight LSS access disputes. At the end of the reporting period, 13 disputes were under active consideration by the ACCC.

87. The ACCC also assisted the Australian Competition Tribunal (ACT) in its consideration of Telstra's appeal of the ACCC decision to reject the Telstra proposed ULLS undertaking which would have nearly doubled ULLS prices. The ACT affirmed the ACCC decision to reject Telstra's undertaking.

88. During the reporting period, the ACCC completed its review of a suite of declarations for access services to fixed line services. In July 2009, the ACCC published its final decision to extend the declarations of six fixed-line services (the ULLS, LSS, public switch telephone network originating access (PSTN OA), public switch telephone network terminating access (PSTN TA), local carriage service (LCS) and WLR services) until 31 July 2014.

89. Following the extension of the fixed-line services' declarations, the ACCC issued pricing principles and indicative prices for each of the services for the period from 1 August 2009 to 31 December 2010.

90. By extending the declarations and setting pricing principles and indicative prices for these key services, the ACCC provided certainty to industry and encouraged continued investment in and use of bottleneck services to supply telecommunications services to end users.

91. In addition to the provisions for declaration of telecommunication services, Part XIC of the TPA enables access providers to voluntarily lodge written access undertakings with the ACCC specifying the terms and conditions upon which they agree to supply a specified service. The ACCC can accept or reject the undertaking. There are two types of undertakings. First, ordinary access undertakings, which are lodged in relation to current declared services. Second, special access undertakings which relate to services that are either not yet declared, or that the carrier does not yet supply. During the reporting period, the ACCC conducted pre-lodgment discussions with NBN Co – the operator of the National Broadband Network – regarding NBN Co's intention to provide a special access undertaking to the ACCC. If the special access undertaking is lodged with the ACCC it will then be subject to a period of public consultation. If accepted, the special access undertaking will establish a regulatory framework for NBN Co's provision of access to service providers.

92. While outside the 2009–10 financial year, the recent \$18.55 million penalty imposed on Telstra by the Federal Court for denying competitors access to infrastructure in contravention of its carrier licence is a particularly noteworthy enforcement outcome.

93. In March 2009 the ACCC instituted proceedings against Telstra alleging contraventions of its standard access obligations under Part XIC of the TPA and its facilities access obligations under the Telecommunications Act, and for misleading and deceptive conduct in contravention of Part V of the TPA. The allegations related to Telstra refusing access seeker requests for equipment interconnection at certain key metropolitan telephone exchanges on the basis that the exchanges were 'capped'. In particular, Telstra claimed that there was no capacity on the main distribution frames available for access seekers to interconnect their equipment to the copper wires running to customer homes. The ACCC alleged that there was capacity available, or that could have been made available, on Telstra's main distribution frames.

94. Telstra admitted to the majority of the pleaded contraventions in July 2009, and a contested hearing regarding the appropriate sanctions for the conduct was held in mid-2010. The ACCC had put a

penalty of \$40 million to the court while Telstra submitted that the appropriate penalty was in the order of \$3–5 million. The total penalty imposed by the court was \$26.5 million; however Justice Middleton gave Telstra a 30 per cent discount for cooperation, acceptance of responsibility and for implementing a compliance program.

95. In 2009–10 the ACCC conducted seven major investigations into alleged anti-competitive conduct in contravention of Part XIB of the Trade Practices Act by the telecommunications industry. In six of the investigations the ACCC did not form the requisite ‘reason to believe’ that the carrier or carriage service provider had engaged or was engaging in anti-competitive conduct. One investigation is continuing.

2.7.2 *Rail – third party access*

96. On 30 June 2010, the Australian Competition Tribunal (Tribunal) reached a decision in relation to applications made by Fortescue Metals Group (FMG) seeking to use four iron ore railway lines in the Pilbara, Western Australia. The lines are operated by BHP Billiton (Mt Newman and Goldsworthy lines) and Rio Tinto (RIOT) (Hamersley and Robe lines).

97. Under Part IIIA of the TPA, a business may be required to supply a service which has natural monopoly characteristics where this will promote competition in another market. A person may apply to the National Competition Council for a recommendation to the relevant Minister (in this case, the Commonwealth Treasurer) that a service be declared. Parties may then apply to the Tribunal for review of the Minister’s decision. If the service is declared and the parties are unable to agree upon the terms and conditions of access, either party may notify the ACCC of the dispute. The ACCC then arbitrates the dispute.

98. The NCC, in response to applications received from FMG in June 2004 (Mt Newman), November 2007 (Hamersley and Goldsworthy) and January 2008 (Robe), recommended that the services be declared. The relevant Minister was deemed not to have declared the Mt Newman service (May 2006) and decided to declare the Hamersley, Goldsworthy and Robe services (October 2008). The Tribunal:

- affirmed the Minister’s decision to declare the Goldsworthy service for a period of 20 years to 19 November 2028;
- affirmed the Minister’s decision to declare the Robe service but reduced the duration of the declaration by 10 years to 19 November 2018;
- affirmed the Minister’s deemed decision not to declare the Mt Newman service; and
- set aside the Minister’s decision to declare the Hamersley service.

99. On 13 August 2010, applications for judicial review by the Full Federal Court of Australia of the Tribunal’s decisions were lodged by FMG (in respect of Hamersley and Robe) and RIOT (in respect of Robe).

2.7.3 *Australian Rail Track Corporation*

100. On 30 July 2008, the ACCC accepted an interstate rail access undertaking under Part IIIA of the TPA by the Australian Rail Track Corporation (ARTC).

101. ARTC's undertaking sets out the principles and processes under which ARTC, as an infrastructure provider of rail, will be obliged to provide access to businesses wishing to run trains on ARTC's interstate rail network. The interstate rail network covers the mainline standard gauge track linking Kalgoorlie in Western Australia, Adelaide, Wolseley and Crystal Brook in South Australia, Melbourne and Wodonga in Victoria and Broken Hill, Cootamundra, Albury, Macarthur, Moss Vale, Unanderra, Newcastle (to the Queensland border) and Parkes in New South Wales.

102. In 2009-10 the ACCC also continued to monitor and administer relevant provisions of the ARTC interstate undertaking accepted in 2008, which facilitates competition by providing access to services on the interstate rail network.

103. On 23 April 2009, ARTC lodged an access undertaking application for the Hunter Valley Rail Network with the ACCC for approval under Part IIIA. The undertaking sets out the terms and conditions on which ARTC will provide access to the Hunter Valley rail network. The ACCC provided guidance to the Australian Rail Track Corporation (ARTC), industry and stakeholders to assist in the ARTC's development of a proposed voluntary access undertaking for access to the Hunter Valley Rail Network.

104. In March 2010 the ACCC issued a draft decision indicating its preliminary view that the Hunter Valley access undertaking was not likely to be appropriate in its current form, and provided extensive guidance on how the undertaking could be amended to be appropriate. The ARTC withdrew its undertaking in April 2010, and lodged a revised undertaking in September 2010. There is a statutory six-month time limit for the ACCC to make a decision.

105. The ACCC expects that an acceptable undertaking from the ARTC will promote economically efficient use of and investment in infrastructure and promote effective competition in upstream and downstream markets in accordance with the objectives of Part IIIA of the TPA.

2.7.4 Bulk wheat port terminal services

106. In September 2009 the ACCC accepted three wheat access undertakings (from bulk handling businesses Cooperative Bulk Handling, ABB Grain and GrainCorp) pursuant to Part IIIA of the TPA covering wheat export terminals at 17 ports. The aim of these undertakings is to unlock constraints at grain ports and benefit the Australian economy by promoting the development of a wheat export marketing industry that is efficient and competitive and advances the needs of wheat growers. The undertakings provide robust prohibitions against port operators anti-competitively discriminating in favour of their own wheat trading businesses or hindering access to their port terminal services. They enable the ACCC to order independent audits of each port operator's compliance with the non-discrimination obligations.

107. These access undertakings were offered by the companies in order to comply with the Wheat Export Marketing Act 2008 (Cth) which required vertically integrated bulk handling companies to have an access undertaking in place by 1 October 2009 in order to qualify for accreditation as a bulk wheat exporter post 1 October 2009. The wheat export marketing arrangements are currently being reviewed by the Productivity Commission.

2.8 Adjudication

108. The ACCC assesses the public benefit and detriment resulting from certain anticompetitive practices prohibited by the TPA through adjudication processes. The ACCC can authorise parties to engage in these practices where there is a net public benefit, providing immunity from legal proceedings under the TPA. A simpler process known as notification provides immunity for exclusive dealing and, from 1 January 2007, collective bargaining conduct.

109. In addition, the ACCC assists the ACT in its consideration of applications for review of adjudication decisions.

110. The ACCC assessed 74 collective bargaining notifications covering 9 collective bargaining groups in 2009-10. These arrangements included collective bargaining by chicken growers with Inghams, retailers of paint and related products with suppliers and plantation timber suppliers with timber exporters.

111. The ACCC issued 37 final determinations on authorisation matters during 2009-10. These arrangements spanned a wide range of industries, including collective bargaining by vegetable growers in Tasmania, joint marketing of gas produced by the Gorgon gas project, a long-term solution to the capacity constraints in the Hunter Valley coal chain, a Virgin Blue – Delta Air Lines joint venture and a liquor accord in the Northern Territory. The ACCC issued a decision to deny authorisation to a joint-risk management arrangement for state-owned electricity generators and future buyers.

112. Approximately 745 exclusive dealing notifications were lodged with the ACCC in 2009-10. The vast majority of these were allowed to stand.

113. The ACCC issued notices revoking the legal protection afforded by a series of notifications covering a proposal to only allow access to speedway track facilities to National Association of Speedway Racing license holders. The ACCC also revoked a notification lodged by Ice Hockey Australia for a proposal to sanction members who had participated in ice hockey games or leagues that were not sanctioned by the association. A number of other notifications were withdrawn following concerns being raised by the ACCC.

114. There were no new applications for review lodged with the ACT during the 2009-10 year.

3. The Role of Competition Authorities in the Formulation and Implementation of Other Policies

115. The role of competition authorities in Australia has underpinned a broad based reform agenda that was developed to provide a consistent approach and address reforms across markets.

116. The principal government departments/agencies involved in the development, implementation, administration and enforcement of competition policy and laws are detailed below.

3.1 The Department of the Treasury

117. Amongst other functions, the Treasury advises the Government on competition law and policy, including advice on the economic regulation of infrastructure and broader product markets.

118. The Infrastructure, Competition and Consumer Division is located in the Treasury's Markets Group and focuses its policy role on three streams: competition policy; economic regulation of infrastructure; and consumer policy. The ACCC, the Productivity Commission (PC), NCC and ACT are Treasury portfolio agencies.

3.2 The Australian Competition and Consumer Commission

119. The ACCC was formed in 1995 and is an independent statutory authority that enforces the TPA. The TPA prohibitions of anticompetitive conduct apply to virtually all businesses in Australia.

120. The ACCC also has responsibilities under the Water Act 2007 to advise the Minister on water charge and market rules and monitor compliance with, and enforce those rules.

3.3 *The Australian Energy Regulator*

121. The AER was formed in 2005 under Part IIIAA of the TPA and is a separate legal entity which operates as a constituent part of the ACCC. The AER comprises three statutorily appointed members, consisting of a Commonwealth member and two State/Territory members. The Commonwealth member must also be a member of the ACCC. One of the members is appointed as the Chair of the AER.

122. The ACCC and the AER have a single body of staff that support and advise both the ACCC and the AER in their respective electricity and gas regulation work.

123. The AER is the economic regulator of the wholesale electricity market and electricity transmission networks in the national electricity market. The AER is also responsible for the economic regulation of gas transmission and distribution networks and enforcing the National Gas Law and National Gas Rules in all jurisdictions except Western Australia. The AER will also regulate retail markets (other than retail pricing) in all states except Western Australia and the Northern Territory. These retail functions are expected to transition on a State-by-State basis from 1 July 2011.

3.4 *The National Competition Council*

124. The NCC was formed in 1995 under Part IIA of the TPA. It comprises up to five members, including the President. The NCC considers applications for declaration of infrastructure services and certification of state infrastructure access regimes under Part IIIA of the TPA and makes a recommendation to the relevant decision-making Minister.

125. The NCC has a similar role under the National Gas Law, where it makes recommendations on coverage, the form of regulation (light or full regulation), classifying pipelines (as transmission or distribution) and various exemptions for greenfields gas pipelines.

3.5 *The Productivity Commission*

126. The PC, an independent statutory authority, is the Australian Government's principal review and advisory body on microeconomic policy and regulation, and undertakes public inquiries and other research in response to terms of reference provided by the Australian Government. The PC also undertakes self-initiated research.

3.6 *The Australian Competition Tribunal*

127. The ACT was created in 1966 as the Trade Practices Tribunal. It was renamed the Australian Competition Tribunal in 1995. The ACT is an independent statutory tribunal whose primary role is to review decisions of the ACCC.

128. Decisions of the ACCC which may be referred to the ACT for reconsideration include decisions on whether or not to grant authorisations under the TPA, and arbitration decisions in cases involving access to essential facilities. The ACT also considers applications at first instance for authorisation in relation to mergers and acquisitions under the TPA. The legislation requires that the ACT seek information and assistance from the ACCC in carrying out this role.

3.7 *COAG Reform Council*

129. The role of the CRC was expanded in March 2008 to enhance accountability and promote reform as part of the new Commonwealth-State financial framework. When requested by COAG, the CRC reports to the Prime Minister on the publication of nationally-comparable performance information for all

jurisdictions against national specific purpose payments, independently assesses predetermined milestones and performance benchmarks under the National Partnership Agreement arrangements, and monitors the aggregate pace of activity in COAG's agreed reform agenda. To assist the CRC in its role, the Productivity Commission is to report to COAG on the economic impacts and benefits of COAG's agreed reform agenda every two to three years.

3.8 Other reforms

3.8.1 Consumer policy reforms

130. In Australia, competition and consumer policy are closely linked in policy, legislative and enforcement contexts. This reflects the Australian Government's view that competition and consumer policy are mutually reinforcing, and share common aims in ensuring Australian markets are efficient and well-functioning.

131. In keeping with its regulatory reform agenda, the Australian Government has commenced a wide ranging reform process of Australia's consumer policy framework, in cooperation with the States and Territories. In October 2008, all Australian governments agreed to a new consumer policy framework, comprising a single national consumer law – to be called the Australian Consumer Law – based on the consumer protection provisions of the TPA. It was agreed that the national consumer law would also include provisions regulating unfair contract terms in standard-form contracts; a uniform, streamlined regulatory system for consumer product safety; new civil penalties, enforcement powers and redress options; and additional changes based on best practice in existing state and territory laws.

132. The *Trade Practices Amendment (Australian Consumer Law) Act (No.1) 2010* was passed by the Parliament in March 2010 and commenced in mid-April 2010 (new enforcement provisions) and on 1 July 2010 (a national unfair contract terms law). The Act establishes and makes provision for the application, administration and amendment of the Australian Consumer Law; introduces a provision regulating unfair contract terms, which can be applied by States and Territories when it becomes effective at national level; and introduces new penalties, enforcement powers and consumer redress options. The rest of the Australian Consumer Law – which replaces all existing national, state and territory consumer laws – is to be implemented under the *Trade Practices Amendment (Australian Consumer Law) Act (No.2) 2010* which was passed by the Parliament in late June 2010. This will bring in national laws on general and specific unfair commercial and sales practices, consumer guarantees for goods and services and product safety. The Australian Consumer Law is expected to be fully implemented by 1 January 2011. It will apply nationally and in all States and Territories, and to all Australian businesses.

4. Resources of competition authorities

133. The total average number of staff employed by the ACCC at 30 June 2010 was 733.1 (up from 701.5 in 2008-09). It should be noted that in addition to competition matters and consumer protection matters, the ACCC has a role in regulating national infrastructure services and it is therefore difficult to provide a breakdown of staff resources. The number of ACCC staff which predominantly deal with traditional competition law issues consist of the following main three areas: mergers 45 staff; enforcement 257 staff; and advocacy 68 staff. It should also be noted that ACCC enforcement staff along with investigating anticompetitive matters also investigate breaches of consumer protection law and are involved in complaint handling, policy, and education activities. The ACCC consists of eight full-time members, and seven associate members; two of these are *ex-officio*, being economic regulators from other federal or state and territory bodies.

134. The ACCC's total funding for 2009-10 was A\$147.1 million, comprising the original appropriation of A\$142.9 million and other revenue of A\$4.2 million. The ACCC's total appropriation in 2010-11 is A\$140.8 million.

135. The NCC had an average staff of twelve over 2009-10. The NCC's total funding was A\$3.8 million in 2009-10, comprising original appropriation of A\$2.8 million, expenses funded through receivables of A\$0.9 million and other revenue of A\$0.02 million.

Table 2: ACCC and NCC funding appropriations

	ACCC*		NCC	
	2010-11	2009-10	2010-11	2009-10
A	140.8	147.1	2.8	3.8
US	129.5	135.3	2.6	3.5

5. Studies and reports

5.1 *Petroleum industry*

136. The ACCC published its second *Monitoring of the Australian petroleum industry* in December 2009. The key findings of this report were that:

- After reaching a peak above 160 cents per litre (cpl) in July 2008, retail prices fell rapidly between October and December 2008 with the onset of the global financial crisis. Prices then increased in January and February 2009 by about 20 cpl
- The most important influences on retail petrol prices were:
 - The international price of refined petroleum (Mogas 95)
 - The exchange rate of the Australian dollar against the US dollar
 - The well-established weekly retail price cycles which operate in the large capital cities and affect the day-to-day prices of petrol.

137. The ACCC also commissioned two studies on the Import Parity Price (IPP) for unleaded petrol, diesel and automotive LPG. The IPP plays a central role in determining price outcomes in Australia.

5.2 *Telecommunications sector*

138. The ACCC has a number of ongoing statutory reporting requirements that it must comply with in relation to the telecommunications sector. Below is a summation of the sector-specific reports published by the ACCC during the reporting period.

139. The ACCC continued to collect pricing information for a number of telecommunications services. Together with usage data provided by major carriers and carriage service providers, this information was used to determine and report on the changes in price for telecommunications services in 2008-09. The report was provided to the minister in June 2010.

* Foreign exchange rate used for conversion purposes: 1A\$ = US\$0.92.

140. The ACCC published quarterly reports on imputation testing and non-price terms and conditions relating to the accounting separation of Telstra (June quarter 2009, September quarter 2009, December quarter 2009, March quarter 2010). The ACCC also published bi-annual reports on current cost accounting reports (for the second half of 2008-09 and first half of 2009-10) relating to the same regime.

141. Another ACCC report assessed Telstra's compliance with the price control arrangements in 2008-09. The report was published in March 2010.

142. In addition to its ongoing statutory reporting requirements, the ACCC can initiate or be directed to conduct public inquiries regarding sector-specific regulation. As directed by the minister, the ACCC held a public inquiry into the retail price control arrangements that should apply to Telstra. The report was provided to the minister in March 2010.

143. The ACCC also closely monitors industry developments and the conduct of its participants to ensure that regulation is operating effectively. One such example during the reporting period was the ACCC's continued monitoring of Telstra's compliance with the operational separation plan. The operational separation plan seeks greater equivalence and transparency in Telstra's supply of certain wholesale services, and ongoing assurance that Telstra is not favouring its own retail business units by implicitly supplying services to itself at unjustifiably lower prices or higher quality than those offered to downstream competitors.

144. The ACCC has the power to make a record keeping rule (RKR) by written instrument and require that carriers and carriage service providers comply with it. Through the use of RKRs the ACCC continued to monitor the effect of Telstra's bundling of residential services using on competition in telecommunications markets.

5.3 Water sector

145. The ACCC provided a series of advices on reform in the Murray-Darling Basin. This includes advice to the minister on amendments to the Water Charge (Termination Fees) Rules 2009, and further advice to the minister on the accreditation of state regulators for the purposes of the water charge (infrastructure) rules. The ACCC also provided its *Water Trading Rules Final Advice* to the Murray-Darling Basin Authority, and considered a range of matters relevant to the development of an efficient water trading regime, including impediments to the trade of water access rights, irrigation rights and water delivery rights.

5.4 Productivity Commission Inquiries, Reports and Publications

5.4.1 Australian Government-Commissioned Projects

146. In the past year, the PC completed a number of public inquiries and commissioned research studies. These can be accessed at www.pc.gov.au. Completed inquiries included:

- Gambling - Productivity Commission Inquiry Report;
- Australia's Anti-dumping and Countervailing System - Productivity Commission Inquiry Report; and
- Executive Remuneration in Australia - Productivity Commission Inquiry Report.

147. The PC also completed commissioned research studies during the year. These involved examinations of:

- Overcoming Indigenous Disadvantage: Key Indicators 2009;
- Performance Benchmarking of Australian Business Regulation: Occupational Health and Safety - Productivity Commission Research Report;
- Performance Benchmarking of Australian and New Zealand Business Regulation: Food Safety - Productivity Commission Research Report;
- Market Mechanisms for Recovering Water in the Murray-Darling Basin - Productivity Commission Research Report;
- Contribution of the Not for Profit Sector - Productivity Commission Research Report;
- Report on Government Services 2010 - Steering Committee for the Review of Government Service Provision Report;
- Annual Review of Regulatory Burdens on Business: Social and Economic Infrastructure Services - Productivity Commission Research Report;
- Restrictions on the Parallel Importation of Books - Productivity Commission Research Report; and
- Public and Private Hospitals - Productivity Commission Research Report.

5.4.2 *Other Research*

148. The PC also undertakes a variety of research studies. Projects completed in 2009-10 include:

- Modelling the Effects of the EU Common Agricultural Policy - Productivity Commission Staff Working Paper;
- Productivity Commission submission to the House of Representatives Standing Committee on Economics - Inquiry into Raising the Level of Productivity Growth in the Australian Economy;
- Trade and Assistance Review 2008-09 - Productivity Commission Annual Report Series;
- Valuing the Future: the social discount rate in cost-benefit analysis - Productivity Commission Visiting Researcher Paper;
- Developing a Partial Equilibrium Model of an Urban Water System - Productivity Commission Staff Working Paper;
- The Effects of Education and Health on Wages and Productivity - Productivity Commission Staff Working Paper; and
- Work Choices of Married Women: drivers of change - Productivity Commission Visiting Researcher Paper.

5.4.3 *Current Work Program*

149. The PC is currently undertaking inquiries into:

- Caring for Older Australians;
- Disability Care and Support;
- Australia's Urban Water Sector; and
- Rural Research and Development Corporations.

150. The PC is also undertaking commissioned research studies into:

- Annual Review of Regulatory Burdens on Business - Business and Consumer Services;
- Education and Training Workforce;
- Impacts and Benefits of COAG Reforms;
- Bilateral and Regional Trade Agreements; and
- Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessments.

6. **Glossary**

ACCC Australian Competition and Consumer Commission

ACT Australian Competition Tribunal

AEMC Australian Energy Market Commission

AER Australian Energy Regulator

COAG Council of Australian Governments

CPA Competition Principles Agreement

NCC National Competition Council

NCP National Competition Policy

NECA National Electricity Code Administrator

NEM National Electricity Market

NWC National Water Commission

NWI National Water Initiative

PC Productivity Commission

TPA Trade Practices Act 1974