

ACCC activity statistics 2008-2009

Number of inquiries and complaints received

The ACCC Infocentre is the primary contact point for people telephoning or emailing the ACCC. The information received from businesses and consumers is recorded in the ACCC complaints database and used to analyse complaint trends and identify possible areas of further inquiry.

This year the ACCC Infocentre:

- received 96 118 telephone calls; of these 80 281 were served by Infocentre staff, 13 409 callers were referred to the website; and 2008 were unanswered due to congested incoming lines or telephone system breakdown
- responded to 74 per cent of calls in less than 20 seconds
- entered 74 750 matters in the complaints and inquiries database, of which 51 057 were received via telephone (64 per cent of calls served), and
- responded to 30 008 emails; of these, 11 882 emails were received via the SCAMwatch 'report a scam' online complaint form sent a total of 299 245 publications to customers.

Tables 1 and 2 below illustrate the top ten industries for complaints and inquiries and top ten breaches of the *Trade Practices Act 1974* (TPA) recorded by Infocentre staff.

Table 1: Top ten industries for complaints and inquiries 2008-2009

Top ten industries for complaints	Number of complaints
Other auxiliary finance and investment services	15 513
Non store retailing	3 130
Automotive fuel retailing	3 664
Electrical, electronic and gas appliance retailing	2 699
Other store-based retailing	2 350
Lottery operation	1 879
Computer and computer peripheral retailing	1 720
Wired telecommunications network operation	1 674
Car retailing	1 520
Credit reporting and debt collection services	1 269

Table 2: Top ten breaches of TPA 2008-2009

Top ten possible breaches of the TPA predominantly fair trading and consumer protection Part V	Number of complaints
Misleading or deceptive conduct	32 733
Retail warranties	8 040
Accepting payment non supply	2 159
Misrepresentation of price	1 621
Harassment and coercion	929
Misrepresentation of performance characteristics, accessories, uses or benefits	888
Product safety	672
Assert right to payment unsolicited services	536
Assert right to unsolicited goods	503
Misrepresentation of warranty, guarantee	501
Predominantly effective competition and informed markets Part IV	
Exclusive dealing	451
Misuse of market power	246

Litigation matters

In the course of 2008-09, the ACCC commenced litigation in 17 competition matters and accepted 5 court enforceable undertakings concerning competition matters covering a wide range of conduct the ACCC considers raises concerns under the competition provisions of the TPA.

ACCC action against cartel conduct continues, with five proceedings relating to the ACCC's action against the air cargo cartel commenced in the period and concluded by consent. A number of related proceedings remain before the court. The ACCC has obtained penalties of over AU\$41 million to date with other matters also under investigation.

The ACCC commenced two proceedings alleging misuse of market power.

The following table provides a brief summary of enforcement activity undertaken by the ACCC during the year.

Table 3: Litigation matters and undertakings accepted 2008-2009

	Effective competition and informed markets*	Fair trading and consumer protection**	Total
Litigation concluded during 2008-09	9	32	41
Litigation continuing at end of 2008-09	14	13	27
Undertakings accepted during 2008-09	5	63	68
Total matters: concluded and continuing	28	108	136

*Effective competition and informed markets: Part IV - anti-competitive conduct including price fixing, market sharing, boycotts, agreements substantially lessening competition, misuse of market power, exclusive dealing, resale price maintenance, mergers and acquisitions substantially lessening competition; and Part XIA - the Competition Code.

**Fair trading and consumer protection: Part IVA - unconscionable conduct in commercial and consumer transactions; Part IVB - industry codes of conduct including the franchising code which is a mandatory code prescribed under that Part; Part V - unfair practices including misleading and deceptive conduct, pyramid selling, country of origin representations, product safety and information, conditions and warranties in consumer transactions; and Part VC - criminal conduct in fair trading and consumer protection.

Adjudication applications, notifications and considerations

The ACCC issued 35 final determinations on authorisation matters covering a wide range of conduct.

Some 563 exclusive dealing notifications were lodged with the ACCC, the vast majority of these were allowed to stand.

The ACCC allowed 64 collective bargaining notifications covering seven collective bargaining groups.

The collective bargaining notification process provides immunity for activities that may otherwise breach the TPA if the activities can be demonstrated to be in the public interest. Further information is available on the ACCC's website at: [collective bargaining notifications](#)

Table 4: Authorisation applications 2008-2009 and 2007-2008

	Opening balance	New applications	Applications withdrawn	Applications decided	Balance
Authorisation applications	8(9)	27(50)	1(3)	22(29)	12(27)
Minor variation applications	0 (0)	7(7)	0(0)	7(7)	0(0)
Revoke and substitute authorisation applications	2(2)	6(8)	0(0)	6(6)	2(4)
Revocations	0(0)	0(0)	0(0)	0(0)	0(0)
Total in 2008-2009	10(11)	40(63)	1(3)	35(42)	14(31)
Total in 2007-2008	9(19)	32(46)	2(4)	29(50)	10(11)

Note: Figures in brackets indicate total applications; figures without brackets indicate numbers of projects (i.e. some projects involve multiple applications).

Table 5: Collective bargaining notifications 2008-2009 and 2007-2008

	2008-2009	2007-2008
New notifications	64	7
Notifications withdrawn	0	1
Notifications revoked	0	1
On hand at end period	0	0

Applications for review by the Australian Competition Tribunal

Decisions under the authorisation process and decisions to revoke either exclusive dealing or collective bargaining notifications may be reviewed by the Australian Competition Tribunal.

There were no new applications for review lodged with the tribunal within 2008-09.

Merger matters

The ACCC reviewed 412 mergers, acquisitions and asset sales for their compliance with s. 50 of the TPA. One matter was publicly opposed; confidential opposition or concerns were expressed in nine; and five were allowed to proceed after the acceptance of undertaking to address competition concerns. Of the 412 reviews, 239 were conducted confidentially, and 173 were reviews of public mergers. During the past financial year some

of the more substantial mergers the ACCC considered fell within the banking, retail and energy sectors.

Table 6: Mergers and joint ventures 2008-2009 and 2007-2008

	2008-2009	2007-2008
Total ¹	412	397
Not opposed ^{1,2}	397	380
Opposed outright ^{1,3}	10	11
Resolved during review through undertakings	5	6

¹ Includes confidential reviews.

² Includes reviews that were not opposed plus reviews withdrawn before a decision was made, and reviews of variations to undertakings.

³ Includes reviews that were publicly opposed, rejected variations to undertakings, and where the ACCC expressed concerns on a confidential basis.