

Why are we doing this review?

New Zealand's core competition law settings are set out in the Commerce Act 1986.

We want to ensure New Zealand's competition settings are keeping pace with market developments, including those in the digital economy, and international best practice. All businesses need to have incentives to compete fairly and rigorously to deliver benefits to consumers and the economy.

Competitive and dynamic markets are crucial to economic productivity and the welfare of New Zealanders. Effective competition settings are particularly important in a small, geographically isolated economy like New Zealand, to ensure that firms continue to innovate, and remain competitive on their prices and product offerings.

We are aiming to ensure the settings in the Commerce Act encourage innovation, improved efficiency, and the availability of better services at lower prices for consumers - which, in turn, improves productivity.

Targeted Review of the Commerce Act 1986

What is competition?

Competitive and dynamic markets are critical to economic productivity and the welfare of New Zealanders. Competition incentivises firms to compete and innovate through producing goods and services at a price and quality that consumers demand.

When customers can choose between different providers, they benefit and so does the economy as a whole. Their ability to choose incentivises businesses to compete with one another, and the simplest way for a company to compete is to offer a better price than its competitor. Businesses may also be encouraged to improve the quality of goods and services they sell or offer a greater range.

What are we consulting on?

We are consulting on:

- › the merger control regime: whether the Commerce Commission is able to review and take effective action for all mergers that are likely to harm competition.
- › anti-competitive conduct: whether all businesses have incentives to compete fairly and rigorously and understand when they can cooperate for welfare-enhancing purposes.
- › industry codes: whether sector specific rule making powers could provide a flexible and efficient tool to reduce barriers to entry.

- › the court injunction process: whether the process could be used to remedy (as well as stop) harmful conduct.
- › commercially sensitive information: how this is handled by the Commission.

Ensuring the Commerce Act is fit for purpose

We want to ensure the Commerce Act 1986 is fit for purpose. This means asking:

- › Whether the Act provides the Commerce Commission with the tools it needs to protect the competitive process by ensuring:
 - › Mergers can be scrutinised appropriately, and where appropriate, supported for the promotion of innovation, efficiency gains and better outcomes for consumers.
 - › Anti-competitive conduct can be detected and prevented.
 - › That the Act is agile enough to provide for exemptions where needed.
- › This also means asking if New Zealand is keeping up with international best practice.
- › It also means asking if the Act is achieving its purpose of promoting competition in markets for the long-term benefits of consumers.

We want to hear from anyone with views on the settings covered by the review

- › Businesses
- › Legal Practitioners
- › Consumer Groups
- › Additionally
We would like to hear from a range of stakeholders, including independent contractors, interest groups, those with an interest in the merger regime and anti-competitive conduct prohibitions. We also encourage consumers, academics, groups representing consumers, NGOs and those who represent different community groups to submit.

What we will use this information for

This consultation is the first stage of our review. We will use the information you provide to understand how these aspects of the Commerce Act are working, and if changes are needed to ensure the competition regulatory system is fit for purpose, agile and responsive when markets are not functioning for the benefit of consumers.