

The role and benefits of deep data in delivering the ACCC's mission: to promote competition and make markets work in the interests of consumers, businesses and the economy

Abstract:

In reporting on and understanding competition issues across the economy, the ACCC relies heavily on its statutory information gathering powers, which include the compulsion of firm-specific data. In recent times, we have been looking at sectors that have been impacted by external shocks such as the COVID-19 pandemic, geopolitical issues and natural disasters. The ACCC is also frequently directed to examine sectors experiencing more durable or 'secular' shifts in demand or supply conditions and where market failure is more likely to be prevalent. This paper uses recent examples of the ACCC's work to highlight the critical role that data plays in informing our inquiries and enforcement work – including on digital platforms, petrol, childcare, stevedoring and insurance markets.

The paper also looks at the potential benefits of increasing access to microdata sets by the ACCC and other regulators, in terms of both targeted market studies well as identifying market failures and instances of competitive misconduct.

Introduction

The Australian Competition and Consumer Commission (ACCC) is an independent Commonwealth statutory authority established in 1995. Its role is to administer and enforce the *Competition and Consumer Act 2010* and other legislation, promoting competition, fair trading and regulating national infrastructure for the benefit of all Australians.

Competitive, informed and, when necessary, well-regulated markets lead to lower prices, better quality products and services, and more choice. This increases the prosperity and welfare of all Australians.

The ACCC focuses on taking action that most promotes the proper functioning of Australian markets, protects competition, improves consumer welfare and stops conduct that is anti-competitive or harmful to consumers. This includes four broad strategies:

1. maintaining and promoting competition
2. protecting the interests and safety of consumers, and supporting fair trading in markets affecting consumers and small business
3. promoting the economically efficient operation of, use of, and investment in infrastructure, and identifying market failure
4. undertaking market studies and inquiries to support competition, consumer and regulatory outcomes.

To support these functions and to enable us to execute these strategies the ACCC relies on a broad range of information and data sources. Certain information is obtained voluntarily (including data shared by other government agencies), while other information is obtained directly from companies pursuant to the ACCC's statutory information gathering powers.

This paper is comprised of three parts:

- **Part 1** describes the ACCC's approach to gathering and using information
- **Part 2** provides a number of specific case studies of how information and data has played a critical role in the work of the ACCC
- **Part 3** contemplates how the ACCC could make greater use of data, particularly administrative data and the opportunities this could hold for the future.

Part 1 – How the ACCC obtains, uses and discloses information

Information obtained voluntarily includes submissions, documents and data provided by traders and complainants during investigations, regulatory processes and market studies. It also includes information provided to the ACCC by other government agencies in Australia, such as administrative data, or international organisations and our counterpart agencies overseas.

There is also a role for the ACCC to obtain information compulsorily and the ACCC has powers under the *Competition and Consumer Act 2010* to do this. This includes two key tools that assist the ACCC's ability to investigate breaches of the Act and to conduct inquiries:

- the ability to issue a notice under section 155 to require information and documents to be provided, or to require attendance at an examination, in relation to an investigation
- compulsory information gathering powers under section 95ZK which can require the production of information and documents during a price inquiry held under Part VIIA of the Act

There is an important place for both voluntarily and compulsorily obtained information for the ACCC, and each method can be associated with benefits and costs.

Voluntary information can sometimes be obtained more quickly and the processes for obtaining it can be simpler, more flexible and more efficient. However, the ACCC uses its statutory powers to obtain information where appropriate. For example, where:

- there is a risk of destruction, removal or alteration of information sought by the ACCC
- a party may not provide all or part of the information voluntarily
- a party may seek to attach conditions to the provision of information that could constrain the ACCC in the exercise of its functions
- the information is required within a certain timeframe
- it protects the information provider (for example, from being identified, breaching any duties of confidence or any retribution that might flow from appearing to cooperate with the ACCC)
- businesses in a regulated industry are required to provide information at regular intervals and in a consistent format.¹

¹ ACCC/AER Information Policy, June 2014 - <https://www.accc.gov.au/system/files/ACCC-AER%20Information%20Policy.pdf>

Table 1 - Number of compulsory information gathering notices issued by the ACCC, 2021-22²

| Type of notice | Number of notices |
|--|-------------------|
| Notices under s 155(1)(a) and (b) (requiring the addressee to furnish information in writing and produce documents) | 245 |
| Notices under s 155(1)(a) (requiring the addressee to furnish information) | 2 |
| Notices under s 155(1)(b) (requiring the addressee to produce documents) | 168 |
| Notices under s 155(1)(c) (requiring the addressee to appear in person and give evidence) | 97 |
| Notices under s 95ZK (requiring the provision of information and/or documents relating to the affairs of the addressee which may be relevant to an ACCC inquiry or ACCC monitoring, as set out in the provision) | 190 |

In the year 2021-22 the ACCC issued a total of 702 compulsory information gathering notices.

In performing our statutory functions, we understand – as the late professor Maureen Brunt did – that the CCA is fundamentally an economic law, in that it is directed towards achieving economic and associated social and political objectives.³ To fulfil its role successfully, the interpretation and application of the CCA needs to have practical relevance to the firms to whom the law applies. That, in turn, requires the ACCC to develop a strong understanding of firm strategies and behaviour, to get to the bottom of Dr Brunt’s famous question: “What is going on here?”

While economic models and concepts are influential in informing how we assess firm conduct under the CCA, we first need the ‘raw facts’ of the matter – and that includes detailed data or ‘microdata’ of various kinds.

We typically look at sales data to get an understanding of the shares that firms hold in markets relevant to the transaction or conduct in question. We also frequently consider firm costs in different forms to get a sense of operating margins, and we often have regard to accounting profits and cashflows to assess business sustainability.

In most instances, we need to request firm-level data from businesses directly, dealing with limited data availability and potential inconsistency across firms as well as we can. In this context, data collected by expert government agencies, including the ABS, on a uniform or

² ACCC Annual report 2021-22

³ Maureen Brunt, “Antitrust in the Courts: The Role of Economics and Economists (1999)”, Chapter 8 in *Economic Essays on Australian and New Zealand Competition Law*, 2003, Kluwer Law International, p.354.

appropriately-adjusted basis that incorporates a quality assurance process is extremely valuable.

The ACCC recognises that requests for the provision of information may involve the provider incurring considerable work and expense. The ACCC seeks to rely on existing information sources where possible to avoid unnecessary duplication of effort and to minimise the burden placed on those from whom information is requested. This applies both in respect of the large range of information already held by the ACCC, as well as other government sources of information such as administrative data.

The nature of the ACCC's work frequently involves obtaining access to information which may be confidential. Most commonly this is commercially sensitive information but can also involve personal information which is subject to privacy protections.

The ACCC takes protection of confidential information very seriously and is committed to treating such information responsibly and in accordance with the law.

In some circumstances, the ACCC may be legally required to produce confidential information (such as in court proceedings or under freedom of information). In most cases, the ACCC will endeavour to notify and consult the person who provided confidential information in relation to the proposed release of that information.

The ACCC recognises that the disclosure of confidential commercial information in respect of a business may have a substantial adverse effect on the interests of that business (including possible competitive detriment). However, an outcome of the ACCC's intervention may also be to substantially affect other parties (such as access seekers or competitors) and some disclosure of information may be necessary for open and transparent decision-making. In these circumstances, options available to the ACCC may include:

- releasing aggregated data
- disclosing the substance of submissions rather than releasing individual submissions in their entirety or disclosing the identity of the information provider, or
- restricting disclosure to limited internal personnel and external lawyers and consultants either by agreement or by order (such as in the context of arbitrations).

Part 2 of this paper goes into further detail, including case studies, of how the ACCC uses information and data.

Part 2 – examples of the critical role of information and data used in ACCC work

The ACCC's statutory functions require it to undertake a diverse range of analysis across the entire economy.

A feature of the ACCC's work is that it includes a mix of roles which cover:

- finite investigations of mergers, anti-competitive conduct and consumer protection law breaches which may involve businesses operating in any market in Australia
- longstanding monitoring of particular sectors which have enduring features of importance to the economy (e.g. natural monopolies such as ports, airports, post and rail)
- fixed term⁴ government-directed and self-initiated inquiries and studies into sectors of particular interest (e.g. electricity, gas, insurance, digital platforms and childcare)

This range of work dictates that the ACCC will necessarily become involved in a 'deep dive' into particular businesses or markets in a relatively short period of time (usually several months). Other work may require building a deep understanding of an issue or sector over time, often collecting the same data and information progressively (often over many years).

The ACCC's focus is often directed to contemporary issues or markets of importance in the Australian economy. For example, in recent times, we have been looking at sectors that have been impacted by external shocks such as the COVID-19 pandemic, geopolitical issues and natural disasters. The ACCC is also frequently directed to examine sectors experiencing more durable shifts in demand or supply conditions and where market failure is more likely to be prevalent.

In all of these cases data plays a critical role in informing our inquiries and enforcement work. Access to the right data helps the ACCC get to the core of the issues at hand, helping determine what effect shocks may have on markets and helping to distinguish exogenous effects from those which exist as a result of anti-competitive conduct or other impediments to competitive market outcomes.

⁴ In a number of cases, government directed inquiries have been renewed for multiple periods

This part of the paper will present four case studies which demonstrate the way in which the ACCC uses data and information.

Digital Platforms

Since 2017, the ACCC has been directed by the Treasurer to conduct several related inquiries into digital platforms:

- The Digital Platforms Inquiry (2017-19) examined the effect that digital search engines, social media platforms and other digital content aggregation platforms have on competition in media and advertising services markets.⁵ It also looked at the impact of digital platforms on consumers and on businesses using these platforms to advertise to customers.⁶
- The Digital Advertising Services Inquiry (2020-21) focussed on markets for the supply of digital advertising technology services and digital advertising agency services.⁷
- The Digital Platform Services Inquiry (2020-25) is looking into competition and consumer issues in markets for the supply of various digital platform services, with a requirement that reports be provided to the Treasurer every six months. To date the ACCC has considered competition and consumer issues relating to internet search engine services, social media services, online private messaging services, app distribution services, and electronic marketplace services.⁸ The fifth report made recommendations for:
 - new consumer measures to address scams, harmful apps and fake reviews and to improve dispute resolution, to apply to all digital platforms, as well as
 - a new competition regulatory framework to apply to digital platforms with the ability and incentive to engage in anti-competitive conduct in digital platform markets.⁹

⁵ <https://www.accc.gov.au/inquiries-and-consultations/finalised-inquiries/digital-platforms-inquiry-2017-19>

⁶ <https://www.accc.gov.au/system/files/Digital%20platforms%20inquiry%20-%20final%20report%20-executive%20summary.pdf>, page 1

⁷ <https://www.accc.gov.au/inquiries-and-consultations/finalised-inquiries/digital-advertising-services-inquiry-2020-21>

⁸ <https://www.accc.gov.au/inquiries-and-consultations/digital-platform-services-inquiry-2020-25>

⁹ DPSI report 5, pages 4 to 5

Data sources and some examples

The collection and analysis of extensive quantitative and qualitative information from a variety of sources has been fundamental to the ACCC's analysis of competition and consumer issues in digital platform service markets.

A key component of the assessment of competition in relevant markets is the analysis of different platforms' shares of supply.

The ACCC has conducted this analysis for several digital platform services, relying upon both information obtained from companies that prepare and supply data sets on aggregate usage behaviour, as well as on data obtained by the ACCC directly from businesses (including through the use of section 95ZK notices).

In relation to the former, the ACCC has used data from Statcounter to understand shares of supply for mobile operating systems in Australia.¹⁰ In contrast, the ACCC used data obtained directly from suppliers to understand shares of supply for display advertising and ad tech services (shown below in Figure 1 and Figure 2). The ACCC relied on these data, in combination with other evidence, to make a range of findings in relation to the market power of various digital platforms.¹¹

The ACCC seeks information from a variety of sources in order to test, and ultimately support, any findings we make. Ideally, we prefer to use publicly available information, and information that is collected on a consistent basis across businesses, to support our findings.

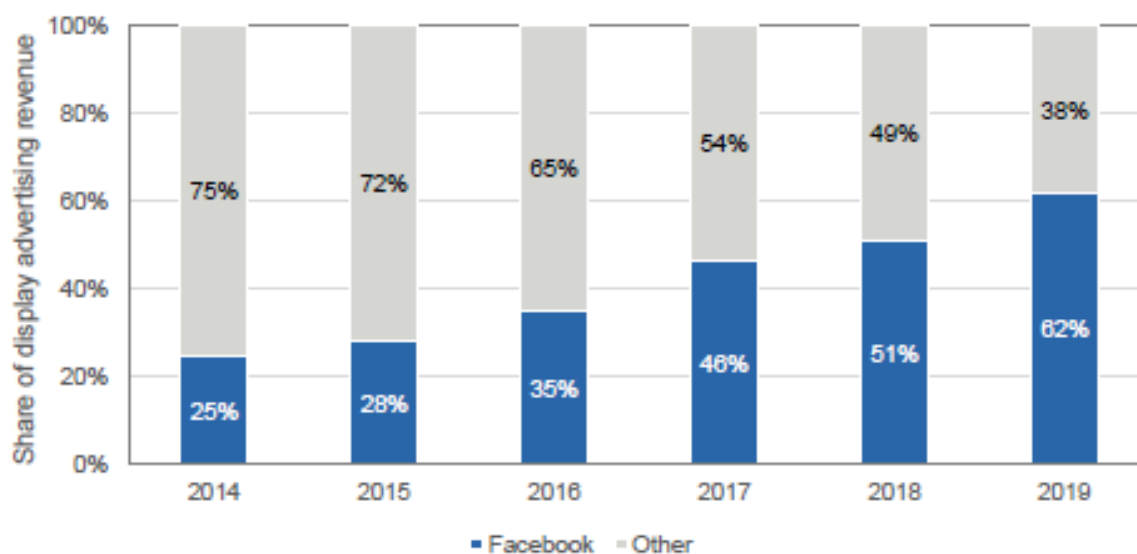
As outlined above, there can be challenges in collecting complete and consistent data when it is sourced from multiple different businesses.¹² However, in some instances, data provided directly from businesses is the main or only source of information available on the degree of concentration in a market for a particular service.

¹⁰ See for example DPSI report 3 page 4 and 19, DPSI report 5 page 199

¹¹ For a summary of findings relating to market power see DPSI report 5 pages 36 to 37

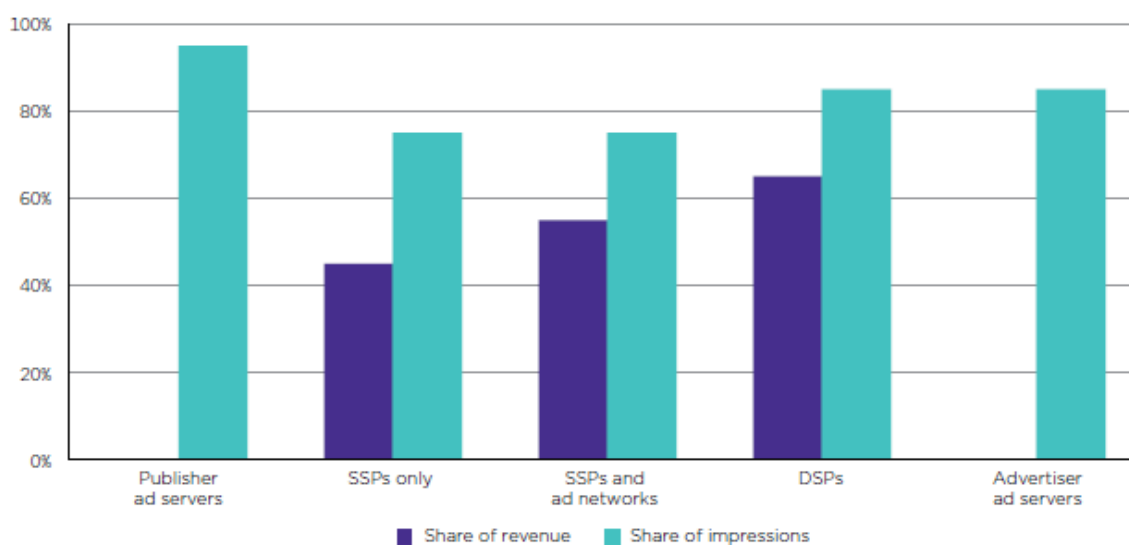
¹² See Ad tech inquiry final report, page 22

Figure 1 - Shares of display advertising revenue in Australia



Source: Information provided to the ACCC.

Figure 2 - ACCC estimates of Google’s share of revenue and impressions for the main ad tech services, Australia, 2020



Note: The values in this chart are based represent the mid-point of the ranges included in the table below, and not the exact share of revenue or impressions for any service.

Source: ACCC analysis of information obtained from ad tech providers.

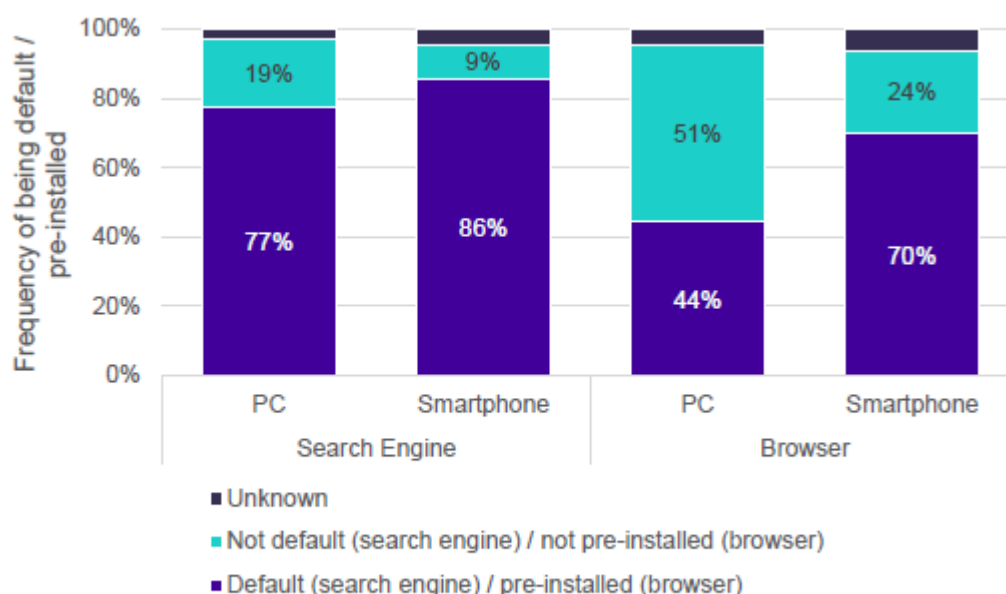
Where information is not available, we will sometimes undertake commissioned surveys. Information obtained from ACCC commissioned surveys has in the past enabled the ACCC to gain a better understanding of consumer behaviour and consumer perspectives, which has informed the ACCC’s assessment of competition and consumer harms.

For example, the ACCC commissioned a survey in 2021 to understand the impact of pre-installation and default settings on consumer choice and competition for search engine

services and web browsers in Australia.¹³ This survey suggested that consumers have a tendency to remain with the pre-installed browser and pre-set search engine, particularly on mobile devices (as shown in Figure 3 below).

Alongside other evidence and analysis, this informed the ACCC’s findings that Google’s pre-installation and default arrangements with original equipment manufacturers and browser suppliers had likely contributed to Google’s current dominance in search services.¹⁴

Figure 3 - Retention of the pre-installed browser as ‘main browser’ and default search engine as ‘main search engine’ on devices



Source: Roy Morgan Research, *Consumer Views and Use of Web Browsers and Search Engines*, September 2021.

The ACCC also commissioned a consumer survey in 2018, which informed the analysis of consumer harms relating to the collection and use of their data by digital platforms. This survey indicated that three in five Australian users of digital platforms rarely, or never, read privacy policies of terms of use (Figure 4 below).¹⁵ This survey also sought perspectives from consumers on what they perceived to be a misuse of personal information.

More than four in five digital platforms users surveyed (82 per cent) considered that tracking of online behaviour such as browsing history, viewing habits, or search history when they are not logged into an account, to be a misuse of personal information.¹⁶

¹³ DPSI report 3 and Roy Morgan Research, [Consumer Views and Use of Web Browsers and Search Engines](#), September 2021, p 7.

¹⁴ DPSI report 3 page 40 and page 68

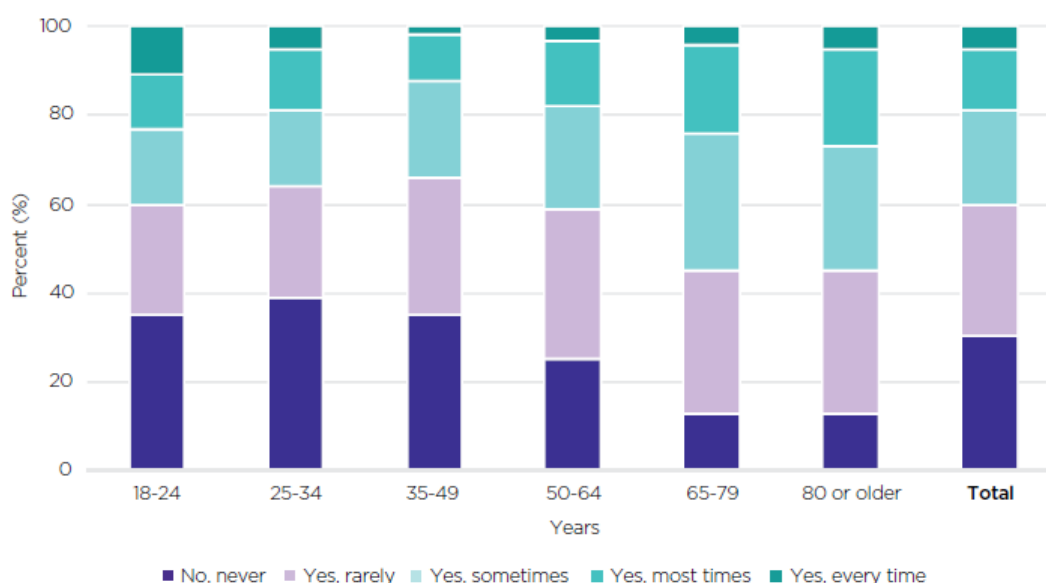
¹⁵ DPI page 396-7

¹⁶ DPI page 389

In addition to the surveys that we commission, our inquiry work has benefitted from surveys conducted by other government agencies and authorities such as the Office of the Australian Information Commissioner (OAIC) and the Australian communications and Media Authority (ACMA).

The OAIC’s 2017 and 2020 surveys on Australians’ attitudes to privacy has informed our analysis of the consumer harms relating to data collection and use by digital platforms.¹⁷ The ACMA’s consumer surveys have provided important information on the extent to which Australians use different digital platform services for communication.¹⁸

Figure 4 - How often users read privacy policies



Source: ACCC consumer survey. Q12. Do you normally read all the privacy policy or terms and conditions for an internet site or app?

Base: Australian digital platform users aged 18 or more (n=4308)

The ACCC has also drawn on data to inform its inquiry work from other activities it undertakes that lie outside its specific inquiry work. For example, data from Scamwatch (a scam reporting channel and website run by the ACCC to provide information to consumers and small businesses about how to recognise, avoid and report scams), was used to gauge the level of financial harm experienced by consumers from scams via digital platforms (see Figure 5 below).¹⁹ This data indicated significant and recent increases in reported financial losses from scams, and informed the ACCC’s recommendations that digital platforms implement specific processes to prevent and disrupt these harms.²⁰

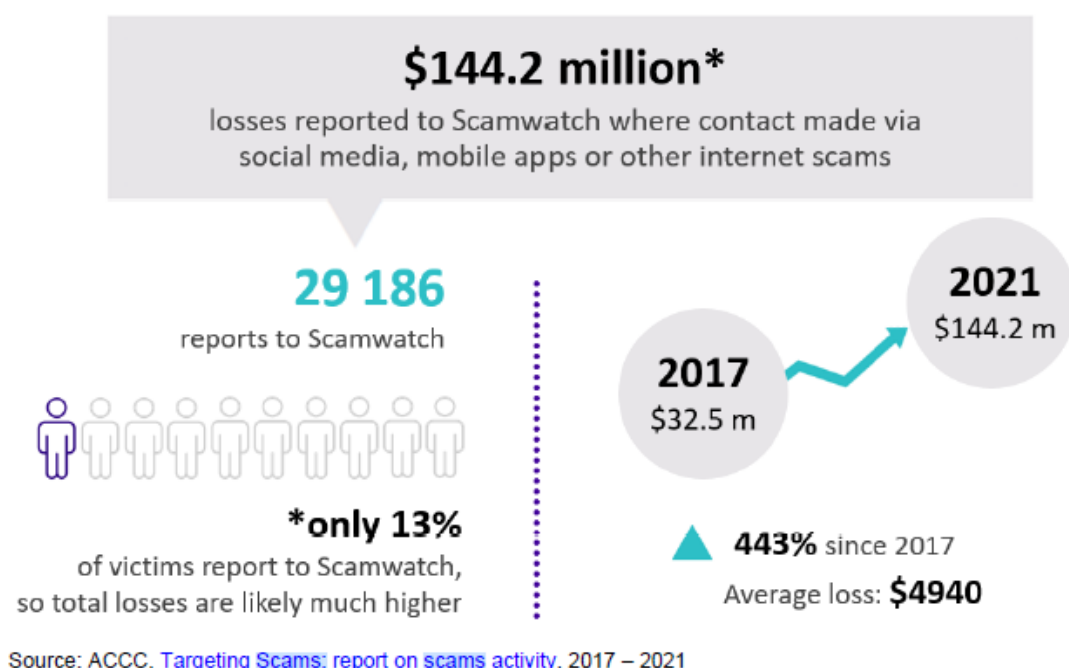
¹⁷ See for example DPI page 382 to 449, and fifth DPSI page 65.

¹⁸ See for example DPSI report 1 page 12, and DPSI report 6 issues paper page 8

¹⁹ DPSI report 5, pages 74 and 75.

²⁰ DPSI report 5, pages 16, 74 and 75.

Figure 5 - Harms from scams via digital platforms in Australia in 2021



The Australian Petroleum Market

The ACCC monitors prices, costs and profits relating to the supply of petroleum products in Australia. This is part of a Ministerial direction to continue to monitor this sector for 3 years from December 2022. Under this direction, we prepare quarterly petrol monitoring reports focusing on price movements in the capital cities and over 190 regional locations across Australia. We also prepare reports on particular issues of interest in the industry.²¹ The price data reported is sourced from the Fueltrac data reporting service.

Monitoring the cut in fuel excise

On 29 March 2022, the Australian Government announced a halving of the excise and excise-equivalent customs duty rate on petrol and diesel for 6 months from 30 March 2022. The Australian Government also announced that the ACCC would monitor the price behaviour of retailers to ensure that the lower excise rate was fully passed on.²²

The rate of excise and excise-equivalent customs duty applying to petrol and diesel on 29 March was 44.2 cents per litre (cpl). The budget measure halved the rate to 22.1 cpl. Taking

²¹ <https://www.accc.gov.au/by-industry/petrol-and-fuel>

²² ACCC's Quarterly report on the Australian petroleum market - March quarter 2022 – published June 2022, p.12

into consideration the reduction in the GST associated with the halving of the excise rate, the impact on petrol and diesel prices would be a reduction of 24.3 cpl.

Excise is imposed on producers (i.e. refiners) and importers of petrol and diesel, who pass the cost on to buyers of refined products. Excise is a significant part of the wholesale price, which then flows into retail prices.

In the December quarter 2021, taxes (i.e. excise and the GST) accounted for around 36% of the average petrol price in the 5 largest cities. Excise accounted for around 27% of the retail price.

The ACCC engaged directly with industry to promote awareness of the ACCC's role in monitoring the flow through of the excise cut. The ACCC also set expectations around pass-through and the ACCC's role in enforcing misleading and deceptive conduct provisions that could apply in this context.

The ACCC published media releases followed by weekly updates on its monitoring activities.

To assist with monitoring of the pass-through of the excise cut the ACCC expanded its existing processes for data collection to obtain price data for all capital cities and for regional locations each working day.²³

The ACCC's analysis and reporting focused on movements in average daily prices in those locations since the announcement of the excise cut on 29 March 2022.

After 6 weeks (i.e. by 10 May 2022) the monitoring found significant falls in retail fuel prices in all capital cities and most regional locations, showing the cuts had clearly been passed on to a large extent. Some lag was expected given that changes in wholesale prices can take time to flow through to retail prices. This is largely because it is generally only when fuel is replenished at a retail site after stocks have been run down that the lower wholesale price is reflected in retail prices.

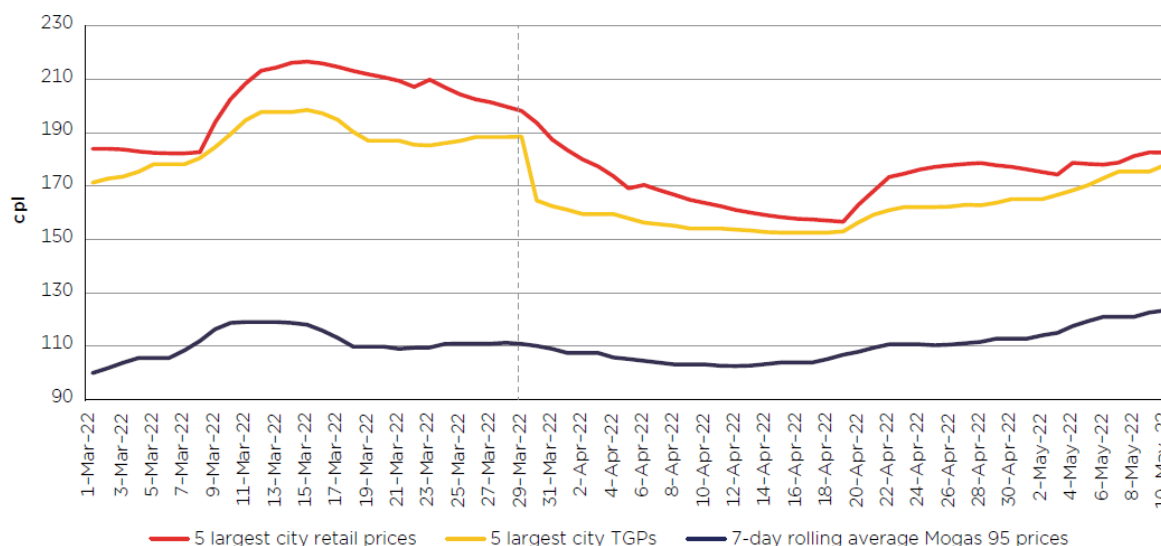
The ACCC also observed other factors that also contributed to lower retail prices following the excise cut, including a decrease in international benchmark refined fuel prices in early April 2022.

²³ Prior to April 2022 the ACCC received daily average price data for the 5 largest cities each day and incorporated this data into the price cycle charts on the ACCC website. It also generally received data for the smaller capital cities and regional locations once a month.

Figure 6, below, shows that daily average retail petrol prices in the 5 largest cities decreased by around 42 cpl between 29 March (the day prior to the excise cut) and 19 April, after which prices started to increase again as international refined petrol prices increased.

Over the same period, daily average terminal gate prices²⁴ (TGP) in the 5 largest cities decreased by around 36 cpl. The impact of the cut in excise on TGPs is clearly apparent. The decrease in retail prices and TGPs incorporates both the impact of the cut in excise from 30 March and the influence of the decreasing international petrol prices flowing through to retail prices.

Figure 6 - Daily average retail petrol prices and terminal gate prices in the 5 largest cities, and 7-day rolling average Mogas 95 prices: 1 March to 10 May 2022²⁵



Source: ACCC calculations based on data from FUELtrac, Argus Media, Ampol, bp, ExxonMobil, Viva Energy, WA FuelWatch and RBA.

Notes: The dotted line in the chart is 29 March 2022, the day before the excise cut.

A 7-day rolling average price is the average of the current day's price and prices on the 6 previous days.

The larger decreases in retail prices compared with TGPs over this period may reflect the fact that some companies decreased retail prices immediately on 30 March, before waiting for the higher priced fuel in their tanks to be depleted, and that the petrol price cycles in the 4 eastern capital cities were all decreasing around the same time.

The ACCC undertook similar analysis in relation to retail diesel prices which showed smaller average reductions than for retail petrol prices. However, as with retail petrol prices, reductions

²⁴ TGPs are prices that wholesalers charge for petrol in the spot market. The major wholesalers post these prices on their websites on a regular basis. Although few wholesale transactions occur at TGPs, they are indicative wholesale prices.

²⁵ ACCC's Quarterly report on the Australian petroleum market - March quarter 2022 – published June 2022, p.14
Mogas 95 Unleaded (Mogas 95) is the price of refined petrol in the Asia-Pacific region and is the relevant benchmark for petrol prices in Australia.

in retail diesel prices were also larger than diesel TGPs, possibly reflecting the influence of decreasing international diesel prices flowing through.

There were a relatively small number of locations in regional areas where the decrease in petrol and diesel prices was smaller than the cut in excise. The ACCC wrote to retailers in a handful of locations seeking an explanation for why they did not decrease their prices by the full amount of the cut in excise. The ACCC analysed retail site specific price data in these locations and considered responses from retailers before determining that no further action was warranted.

Monitoring restoration of the excise

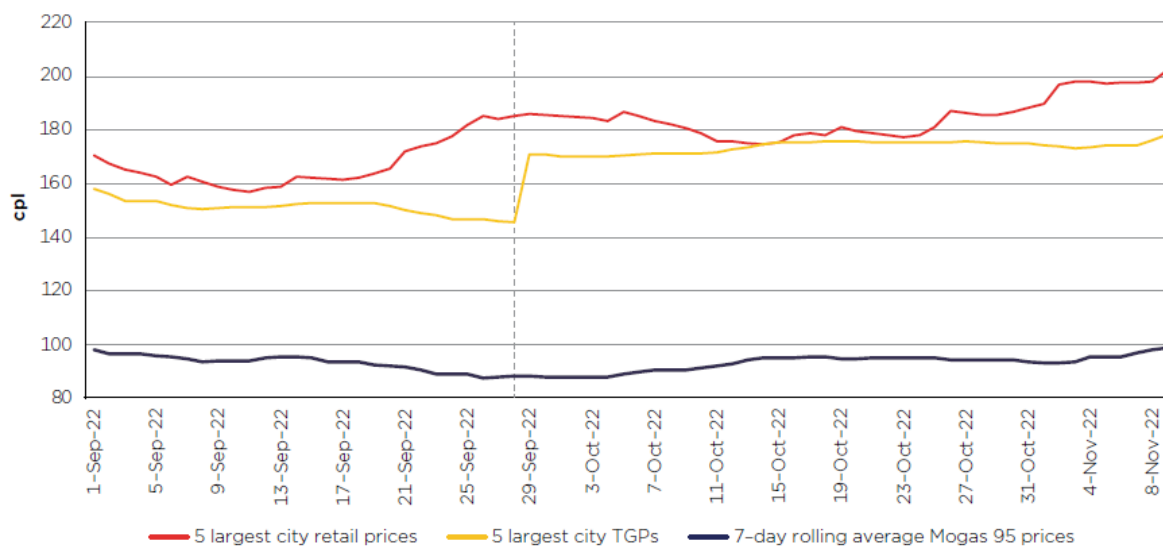
The fuel excise cut ceased from 29 September 2022, restoring the rate of excise to 46.0 cpl. Including the associated GST increase, the impact on petrol and diesel prices was an additional 25.3 cpl.

At the time, the ACCC's monitoring found that following the restoration of the full excise, wholesale prices (as indicated by published TGPs) increased by around 25.0 cpl on 29 September. However, other factors also contributed to retail price movements following the excise restoration. These included the price cycles in the five largest cities as well as changes in international benchmarks (influenced by the AUD-USD exchange rate).

Consistent with the influence of a six week price lag when excise was cut, the ACCC's analysis of price movements following the restoration of excise focused on retail price changes up to 9 November 2022 (that is, six weeks after the restoration of the full excise). This analysis suggested that retail petrol prices in most locations increased by less than 25.3 cpl.

Figure 7, below, shows that daily average retail petrol prices in the 5 largest cities increased in the week before the restoration of fuel excise and were broadly stable within a 10 cpl band between 185 cpl and 175 cpl, before increasing again in late October. The increase in daily average retail prices in the week before the excise restoration was influenced by the fact that price cycles in Sydney, Melbourne, Brisbane and Adelaide were all increasing at the same time, and all peaked in a 4-day period between 25 and 29 September.

Figure 7 - Daily average retail petrol prices and terminal gate prices in the 5 largest cities, and 7-day rolling average Mogas 95 prices: 1 September to 9 November 2022²⁶



Source: ACCC calculations based on data from FUELtrac, Argus Media, Ampol, bp, Mobil, Viva Energy, WA FuelWatch and RBA.

Notes: The dotted line in the chart is 28 September 2022, the day before the excise restoration.

A 7-day rolling average price is the average of the current day's price and prices on the 6 previous days.

Our monitoring identified a small number of regional locations that had petrol price increases larger than the restoration of excise and increases in wholesale prices due to international factors (that is, an overall increase of more than 35.0 cpl). After analysing retail site-specific price data in these locations and considering other factors (including the impact of floods), we concluded that no further action was required.

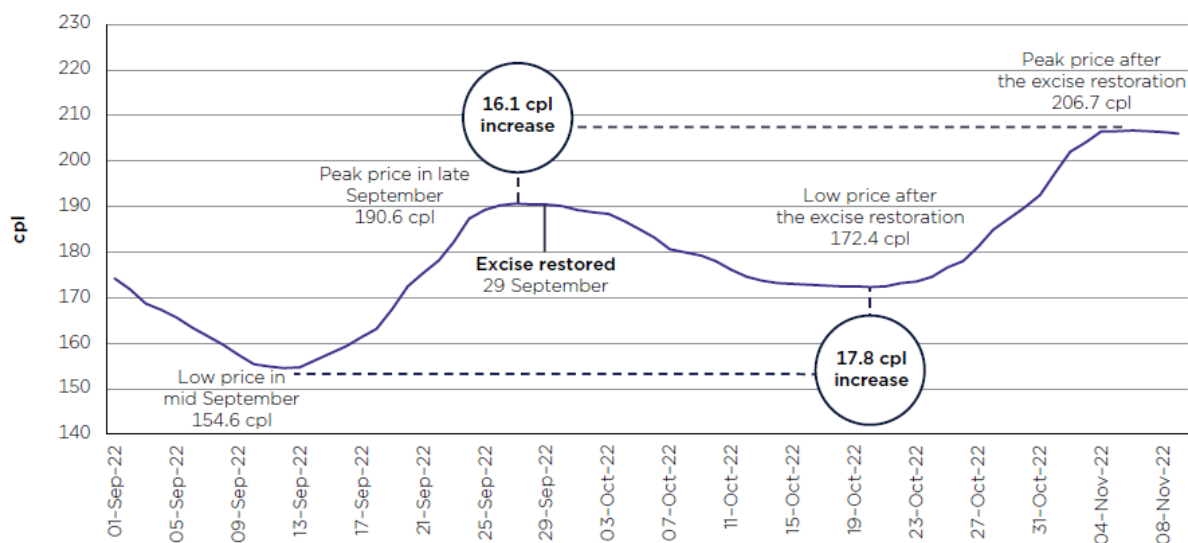
As noted above, in examining the impacts of the excise cut and restoration, the ACCC took into account relevant petrol price cycles that typically prevail in the major cities. Our analysis found that petrol price cycles peaked in the few days before the excise restoration in all of the 5 largest cities except Perth.

As part of this analysis we examined the difference between the peak price of the price cycle after the restoration of full excise from 29 September 2022 and the previous peak price, as well as similar differences between the price troughs in the two price cycles. An example of this analysis for Sydney is reproduced in Figure 8, below.

It shows daily average retail petrol prices in Sydney between 1 September and 9 November 2022. This shows the effect of the regular retail price cycle that is observable in the five largest capital cities combined with the flow-through of the excise restoration.

²⁶ ACCC's Quarterly report on the Australian petroleum market - September quarter 2022 – published December 2022, p.15

Figure 8 - Daily average retail petrol prices in Sydney: 1 September to 9 November 2022²⁷



Source: ACCC calculations based on data from FUELtrac.

Insurance

The ACCC has been involved in two important pieces of work in insurance that have been commenced in response to a number of large price increases and reductions in coverage in the sector, particularly in the northern part of Australia, over an extended time period. This included:

- the Northern Australia Insurance Inquiry (2017-2020) (NAII)
- our current monitoring role (2022-2026), with a focus on the effect of the cyclone reinsurance pool, administered by the ARPC, that was brought in to help counteract some of the price increases in insurance

Data has been central to carrying out both of these functions. In particular, the collection of regional data, and obtaining an understanding of varying outcomes in different geographic areas, has been central to both roles. This is because the focus of our work has been on outcomes for insurance customers in Northern Australia.

In both cases, we have been given a task of examining the prices, costs and profits in general insurance (home and strata in NAII; home, strata and small business in the current role). Our objective was to identify issues in the sector and come up with recommendations (focus of

²⁷ ACCC's Quarterly report on the Australian petroleum market - September quarter 2022 – published December 2022, p.21

NAII) and/or to monitor prices and see the effect of the pool (current role). This is an inherently data driven exercise.

Both pieces of work have used or will use a combination of data from various sources to inform our analysis and the findings that we can make.

- Insurer data

- As with many aspects of our inquiry and monitoring work, the central information source for the ACCC's general insurance functions has been data obtained from insurers using our compulsory information powers.
- This insurer-level micro data is collected at the insurer, product or sometimes policy level, depending on the purpose for which we are collecting it.
- This information is important in getting to the heart of pricing and cost issues, particularly when it is at a level of disaggregation and detail, or cut in a different way, that would be beyond regular financial regulator data collection.
- It is also important not just to have the data – this information is complemented by metadata and qualitative explanations of process / approach about pricing and costs.

- Survey data

- While insurer data is important to obtain a perspective from the supply side, we have found it valuable to get consumer side data, primarily through the use of survey information. This allows us to get a quantitative sense of consumer attitudes and experience in the insurance market.

- Other regulator data

- The collection of our own data is important, but it is important that we make efficient use of other data sources.
 - These are important to supplement, check and expand the information we get via our notices (for example, we could use ABS data on income as an overlay to our pricing information to examine affordability, or look at APRA regulatory return data for verifying and supplementing profit information we gain from insurers).

- While the information from the ABS and APRA is the most obvious information source, there are other sources of information available.
- For example, at present we are: working closely with the Australian Reinsurance Pool Corporation (ARPC) in their implementation of the cyclone reinsurance pool; keeping abreast of developments in the government's new Hazards Insurance Partnership; and working with APRA and ASIC as they conduct their current insurance data transformation.

Climate and weather data closely affects insurance pricing itself. While it is not the ACCC's role to monitor the climate, these outcomes do have a direct effect on the industry and outcomes for consumers.

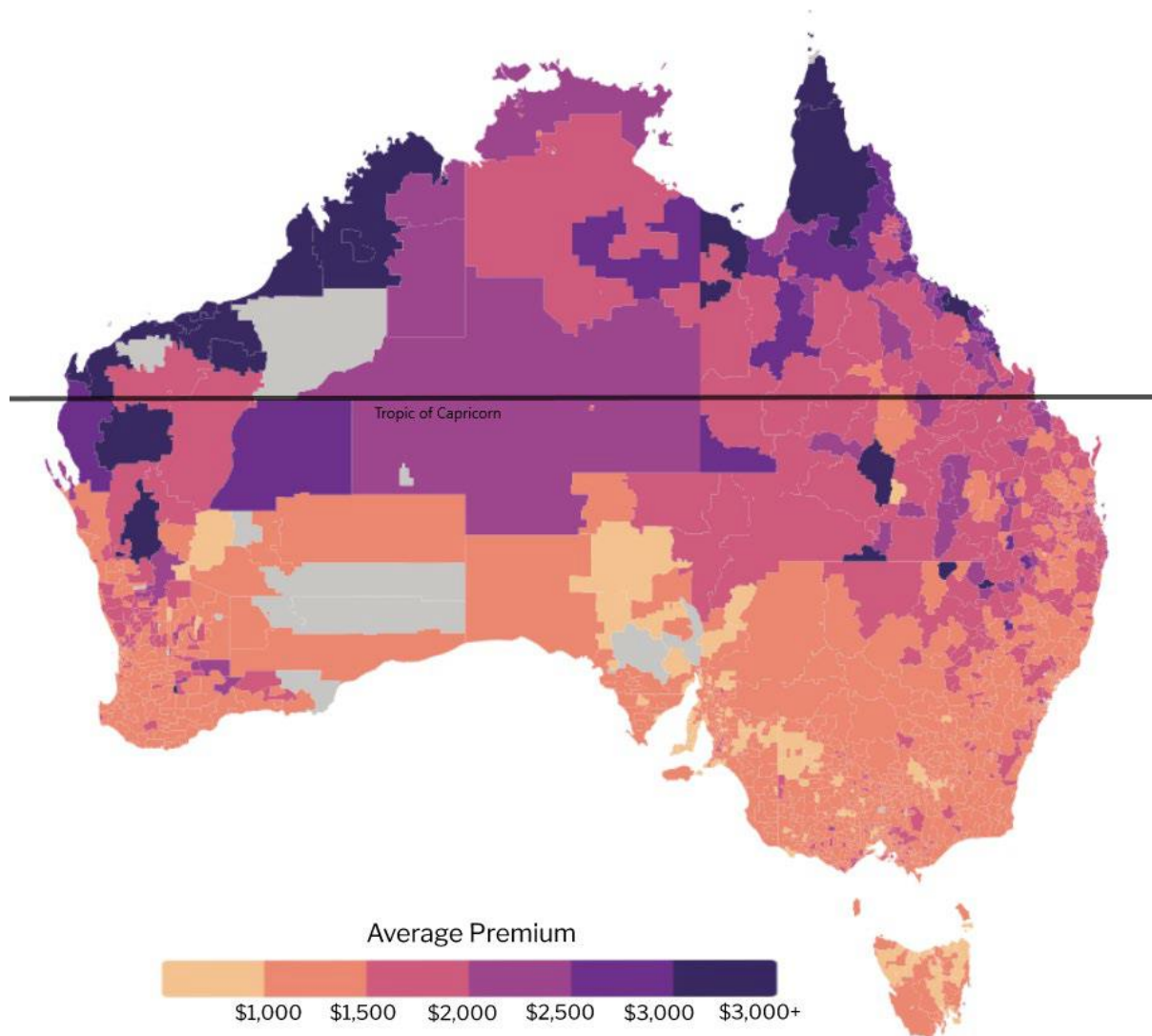
The key takeaway from working with many other regulators and agencies is that it is important to maintain a constructive collaboration. While we have different purposes and goals, the functions that various agencies have are often complementary (sometimes directly in the case of the ARPC, but more generally in ensuring good outcomes in the market), and it is important that we figure out the best ways to use information together.

Of course, there are inherent limits on how we can do this taking account of our governing legislation and information collection frameworks. This includes limitations on our ability to share information from our compulsory notices – limitations which are significant even for our main purpose of reporting to the Minister and public.

Our data work has allowed us to come up with some useful insights into the insurance market that has both helped shape recommendations in the NAI and that we will continue to report on in our current monitoring role.

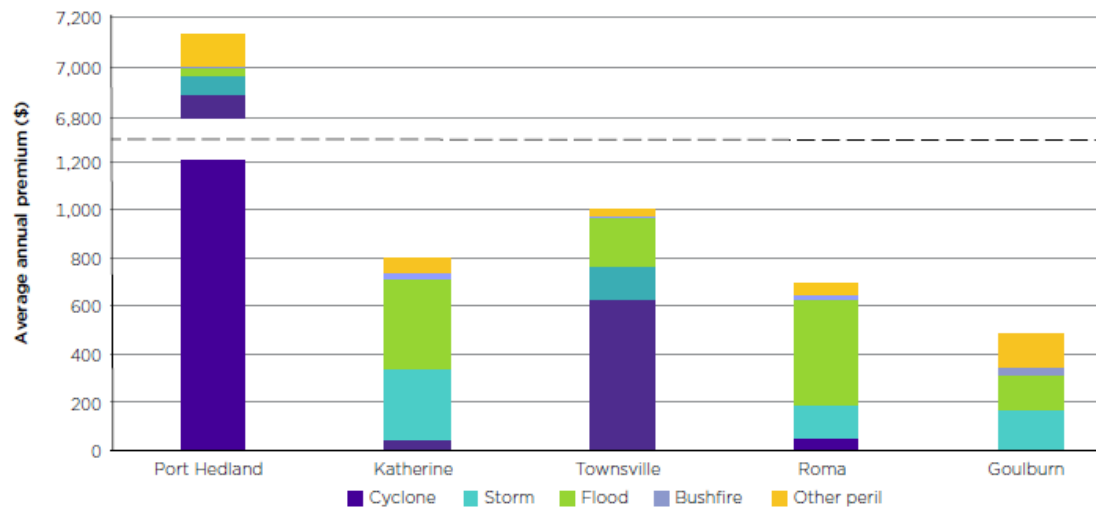
One fundamental outcome that we have been able to present using insurer data is the disparity in premiums in different regions. For example, the following heatmap from our most recent monitoring report confirmed outcomes we had observed in the NAI that showed significantly higher premiums for residential insurance in Northern Australia (see Figure 9, below).

Figure 9 - Average premiums for residential combined building and contents insurance in Australia, 2021–22 (from ACCC 2022 monitoring report)



We have also been able to meaningfully break down premiums into their price components, or even to divide those components into particular natural perils. For example, the following chart from the NAI highlights the significant role that ‘cyclone cost’ components play in some geographic regions (see Figure 10, below).

Figure 10 - Average peril components of technical premiums in the selected case study postcodes for combined home and contents insurance, 2018-19

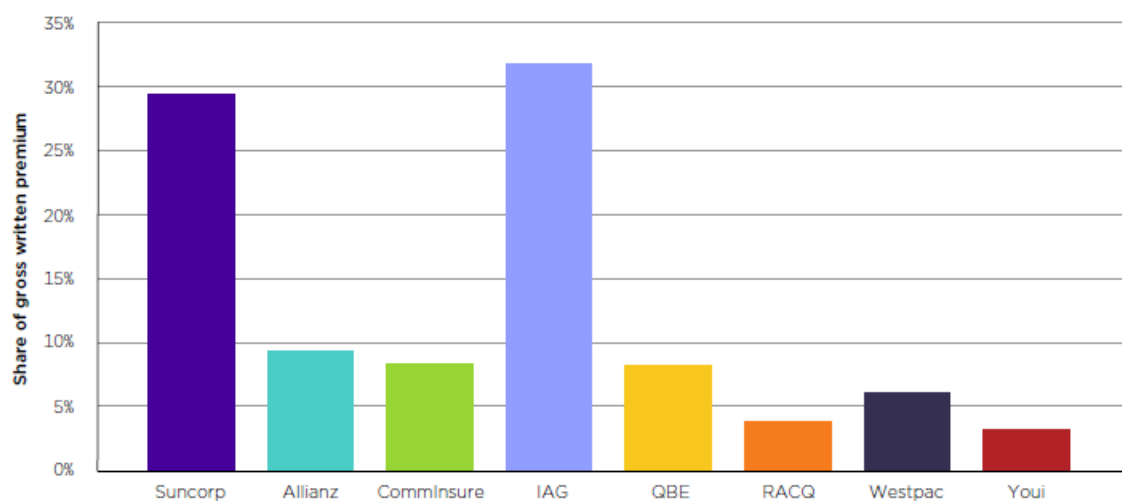


Source: ACCC analysis of data obtained from insurers.

Note: Other perils includes storm surge, earthquake, hail and any other natural perils insurers consider outside of non-peril components.

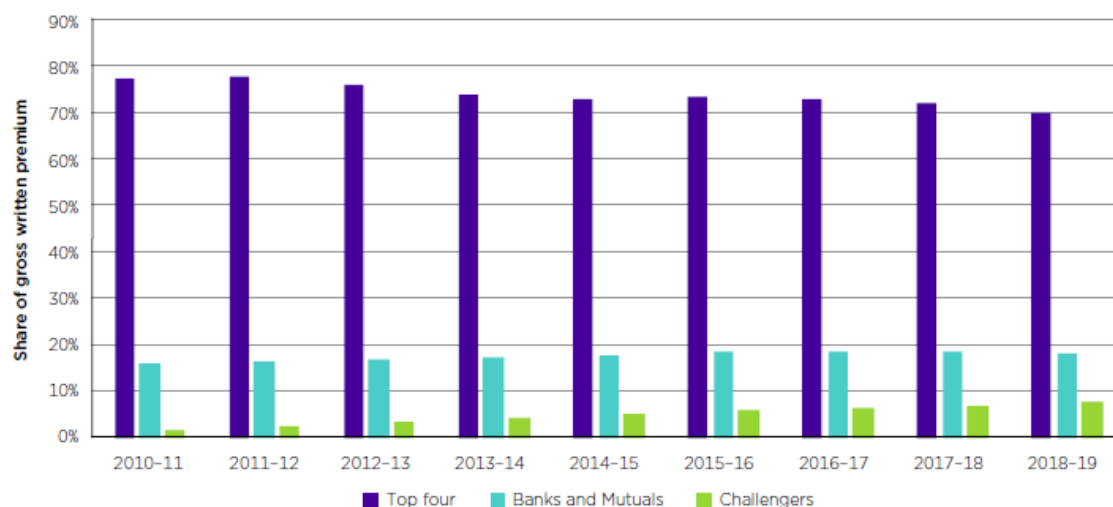
An example where we were able to use data we collected alongside information from other regulators came when we examined various aspects of competition and market share in the NAII. Figure 11 shows estimated market shares based on our own data, while we were able to also draw on APRA information in Figure 12. The table at Figure 13 draws on both ACCC-collected information and ABS data to present conclusions about differing outcomes for consumers in different geographic regions

Figure 11 – Insurers’ share of total gross written premium for home and contents insurance products nationally, 2018-19



Source: ACCC analysis of data obtained from insurers.

Figure 12 – Different groups of insurers’ share of total gross written premium for home, contents and strata insurance nationally, 2010-11 to 2018-19



Source: ACCC analysis of data provided by APRA.

Note: APRA grouped the insurers in the following way. Top four: Suncorp, IAG, QBE and Allianz. Banks and Mutuals: CommInsure, Westpac, RAC, RACQ and Chubb. Challengers: Hollard, Auto & General and Youi.

Figure 13 – Number of insurers writing new home and contents insurance products in northern Australian postcodes, and percentage of population living in those postcodes, 2018-19

| Number of insurers writing new business | North Western Australia | | Northern Territory | | North Queensland | |
|---|-------------------------|---|---------------------|--|---------------------|---|
| | Number of postcodes | Percentage of north Western Australian population | Number of postcodes | Percentage Northern Territory population | Number of postcodes | Percentage of North Queensland population |
| 0 | 5 | 2.54 | 1 | 0.13 | 0 | 0.00 |
| 1 | 1 | 1.52 | 0 | 0.00 | 1 | 0.01 |
| 2 | 2 | 0.82 | 1 | 0.33 | 4 | 0.07 |
| 3 | 0 | 0.00 | 2 | 1.18 | 4 | 0.07 |
| 4 | 1 | 0.66 | 2 | 0.34 | 8 | 0.19 |
| 5 | 9 | 19.78 | 6 | 1.44 | 10 | 0.75 |
| 6 | 14 | 74.67 | 23 | 96.58 | 12 | 1.95 |
| 7 | 0 | 0.00 | 0 | 0.00 | 40 | 28.09 |
| 8 | 0 | 0.00 | 0 | 0.00 | 47 | 68.88 |

Source: ACCC analysis of data obtained from insurers and 2016 ABS Census data.

Note: North Western Australian postcodes with zero insurers writing new business include four offshore islands currently or previously used for mining with few residential buildings and Telfer, a mining site. Northern Territory postcode with zero insurers writing new business is Charles Darwin University. Population figures are for 2016.

The central importance of regional information is apparent in this work. Understanding the differing outcomes in a geographic sense – whether that be within particular states/territories, northern versus southern Australia, or at a postcode level – is crucial to understanding the dynamics of the pricing and competition outcomes in the insurance market.

The ACCC will continue to conduct this work as we monitor the effects of the cyclone reinsurance pool over the coming years.

Container stevedoring

The monitoring role

Following the introduction of its workplace reform package in 1999, the Australian Government directed the ACCC to monitor the prices, costs and profits of stevedores at Australia's container ports and provide a report to the Minister every financial year.²⁸

The ACCC publishes an annual Container Stevedoring Monitoring Report presenting information and its observations, typically in November of each year.²⁹

The initial purpose of the monitoring regime was to assess the impact of the waterfront reforms. Over time, the ACCC has shifted its focus to matters covered under Part VIIA of the *Competition and Consumer Act 2010* (CCA).

This includes the degree of competition between the stevedores, whether the stevedores' returns are indicative of excessive pricing, the level of investment by the stevedores, and the degree of productivity and efficiency at Australian container ports.

Given concerns about the rising cost of living, the interconnected nature of the container freight supply chain and the significant challenges that the Australian container trade has faced during the COVID-19 pandemic, the ACCC's recent reports have included a broader analysis of the container freight supply chain.

The ACCC's monitoring serves several purposes, including:

- to inform governments' container freight policy and planning; and
- to provide transparency to industry participants about stevedores' operations to facilitate more informed decision making.

Data Collection

The monitoring direction issued by the Australian Government leverages the ACCC's powers under section 95ZK to compel the monitored stevedores to provide information and documents relating to their affairs. To strike an appropriate balance between achieving the objectives of the monitoring regime and minimising regulatory burden, the ACCC typically:

²⁸ On 20 January 1999, the Federal Treasurer directed the ACCC under s27A of the *Prices Surveillance Act 1983* (PSA) to monitor prices, costs and profits of container terminal operator companies at the ports of Adelaide, Brisbane, Burnie, Fremantle, Melbourne and Sydney. The PSA has since been repealed and the price surveillance provisions are now contained in Part VIIA of the CCA. The direction under the former s 27A of the PSA is now deemed a direction under s 95ZE of the CCA.

²⁹ <https://www.accc.gov.au/about-us/publications/serial-publications/container-stevedoring-monitoring-report#:~:text=Container%20stevedoring%20monitoring%20report%202021,key%20developments%20within%20the%20sector.>

- seeks information from each of the 5 stevedores on a voluntary basis
- collects only the level of detail that it considers necessary to achieve the objectives of the monitoring regime.

The ACCC can seek more detailed information and utilise its compulsory information powers when necessary.

To inform its own analysis, the ACCC obtains disaggregated data for each stevedore at each container port. However, to protect disclosure of commercially sensitive data, the ACCC treats all data that it collects in accordance with confidentiality protections under section 95ZN of the CCA. This includes the ACCC aggregating data across several stevedores, where appropriate, and consulting with each stevedore prior to publishing the data.

To accurately interpret the information the ACCC collects from the stevedores and to understand the drivers behind the observed trends, the ACCC also gathers and synthesises additional information from a range of sources, including:

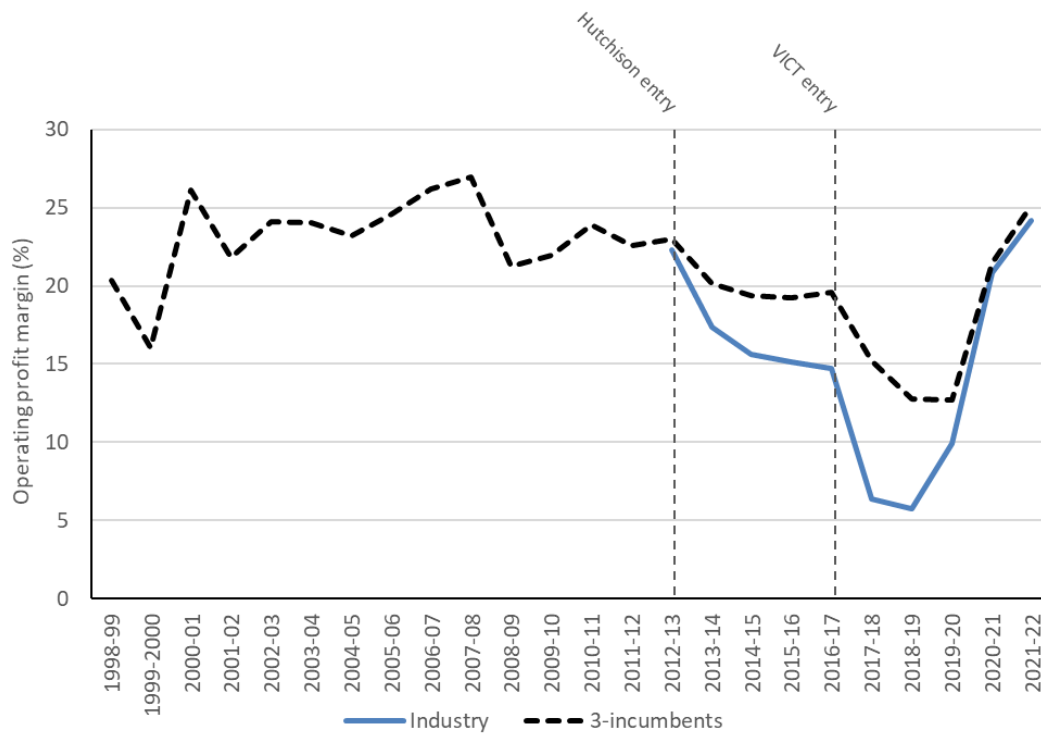
- information from market participants, by way of surveys, meetings and information requests
- data from Bureau of Infrastructure, Transport and Research Economics (BITRE) in advance of the publication of its Waterline report
- data and industry insights from industry experts and data providers such as S&P Global
- publicly available information.

Some examples from 2021-22 Container Stevedoring Monitoring Report

The ACCC collects data that allows it to analyse and report how stevedores' profitability is changing over time. This allows the ACCC to detect significant changes in stevedores' performance due to changes in competitive landscape, market dynamics or other factors.

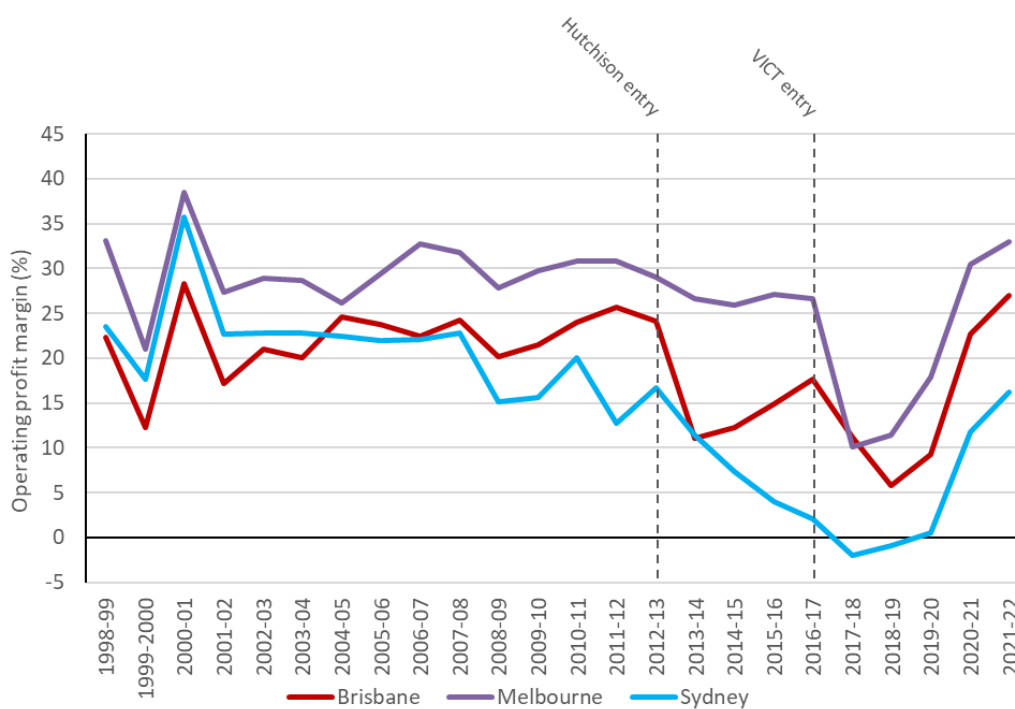
For example, the 2021-22 report illustrated the initial impact of new entry of VICT (Melbourne) and Hutchison (Brisbane and Sydney) on stevedores' performance at an industry level and at each affected port. It also found a sharp rebound in stevedores' profits in the last few years (see Figure 14 and Figure 15, below).

Figure 14 - Stevedores' total operating profit margins, industry & 3 incumbents: 1998-99 to 2021-22³⁰



Source: ACCC analysis of information received from stevedores as part of the monitoring regime.

Figure 15 - Stevedores' total operating profit margins in Melbourne, Sydney and Brisbane: 1998-99 to 2021-22³¹



Source: ACCC analysis of information received from stevedores as part of the monitoring regime.

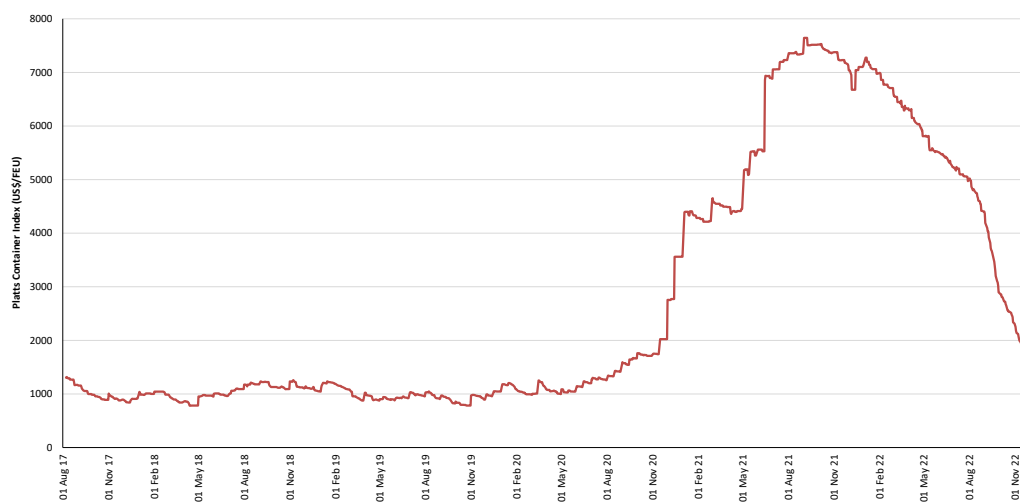
³⁰ Container stevedoring monitoring report 2021-22, December 2022, p. 29

³¹ Container stevedoring monitoring report 2021-22, December 2022, p. 30

We noted that the apparent rapid profit increase of stevedores in the past few years seems to suggest a loss of competitive pressure in the industry. However, these increases have also coincided with significant changes in market dynamics due to COVID-19.

To better understand the impact of COVID-19 on stevedoring operations and broader container freight supply chain, the ACCC obtained data from a number of other sources, including from S&P Global on international freight rates as well as data published by Sea-Intelligence on global vessel schedule reliability (see Figure 16 and Figure 17, below).

Figure 16 - S&P Global Commodity Insights Platts Container Index (US\$/FEU): August 2017 to November 2022³²



Source: S&P Global Commodity Insights, copyright 2022 by S&P Global Inc.

Note: The Platts Container Index is a weighted average of Platts' key container assessment including North Asia to North America, and North Asia to North Continent routes. FEU (40-foot equivalent unit) is a measure of volume in units of 40-foot long containers.

³² Container stevedoring monitoring report 2021-22, December 2022, p. 17

Figure 17 - Global vessel schedule reliability: January 2018 – September 2022³³



Source: Sea-Intelligence Global Liner Performance Report - Issue 134

The ACCC considered the potential for increased profits to have been caused by changed market dynamics or, alternatively, by anticompetitive conduct.³⁴ While it has not formed a conclusive view at the time, the ACCC will continue to monitor and analyse stevedores' charges and financial performance over the coming years to evaluate the extent to which the recent increases in profits are temporary or likely to be sustained.³⁵

³³ Container stevedoring monitoring report 2021-22, December 2022, p. 12

³⁴ Container stevedoring monitoring report 2021-22, December 2022, p. 38-39

³⁵ Container stevedoring monitoring report 2021-22, December 2022, p. 39

Part 3 – opportunities for making greater use of data

As noted in Part 1 and as demonstrated in the case studies in Part 2 of this paper, the ACCC seeks to access and rely on administrative data to support its functions wherever possible. The ACCC considers that accessing existing datasets can lessen duplicative data requests thereby reducing the burden on businesses and improving the efficiency of data collection for government.

The ACCC's experience, however, is that there can be barriers to access to administrative data, including the timeliness and restrictions on the use of some sources.

The Business Longitudinal Analysis Data Environment (BLADE) is an example of an economic data tool with considerable possibilities when it comes to understanding the Australian economy and business performance over time.

The ACCC has identified BLADE as a valuable source of firm level data that could be of particular benefit to many aspects of our work.

The ACCC has attempted to access BLADE data previously in at least two separate contexts that would assist the ACCC's functions. One related to a project on anti-competitive conduct with the other relating to an ACCC supply chain project.

Ultimately access was not provided on the basis that BLADE access is restricted for "research purposes" and not "compliance or regulatory purposes". The ACCC understands that this is based on an interpretation of the legislation that underpins BLADE.

In relation to the Childcare Inquiry³⁶, the Treasurer's direction, requires the ACCC to examine, consider and report on matters including:

- costs and availability of labour
- the use of land and related costs
- finance and administrative costs
- regulatory compliance costs
- the costs of consumables
- the prices charged since 2018 and how these have changed following changes in childcare policy settings.

³⁶ <https://www.accc.gov.au/inquiries-and-consultations/childcare-inquiry-2023>

The ACCC will examine how costs and prices differ by:

- type of provider and size
- type of childcare service
- age and characteristics of the child in care
- geographic location
- level of competition
- the quality rating of the childcare services provided.

The childcare sector is characterised by a large number of small and medium-sized providers of services and we believe that the BLADE dataset could be a potential source of firm level data for thousands of childcare providers. In the absence of being able to access BLADE, the ACCC is currently undertaking a highly resource intensive data collection exercise that involves:

- Using publicly available information
- Requesting data from other government agencies such as the Department of Education, the Australian Bureau of Statistics, Services Australia and Australia's Children's Education & Care Quality Authority
- Requesting data directly from childcare providers
- Requesting information from the childcare workforce
- Requesting information from people with childcaring responsibilities
- Requesting submissions from the public

The ACCC will be making written requests, followed by attending provider sites in person to encourage and assist with completion of the requested information.

While access to BLADE would not have covered the entirety of the ACCC's needs, it could have substantially reduced the need to make requests of other government agencies, businesses and the public, particularly for those data that are already reported to the ATO.

The ACCC sees an opportunity for broadening the use of BLADE, with appropriate protections in place, to unlock efficient data use by other government entities.

Another example of the potential to improve competition and enforcement outcomes through access to administrative data is in the case of better access to government procurement data.

Access to such data held by government bodies can be beneficial in active screening for potential cartels in the provision of government services.

More generally, the ACCC supports cooperative sharing of data among government agencies and a legal framework that permits and facilitates this. From the ACCC's perspective, having more efficient access to administrative data will result in more timely and higher quality outputs which in turn will better inform the general public, business decisions, public policy and government decisions in the areas related to the ACCC's functions and areas of focus.

Conclusion

The ACCC is already a large user of data and information obtained both voluntarily and compulsorily from businesses and government sources. This paper demonstrates how the ACCC puts that information to good use to help drive competition, improve fair trading, enhance regulatory outcomes and to deliver insights into key market sectors.

The ACCC sees an opportunity for even greater levels of cooperation between government agencies to enhance efficient information sharing, with appropriate protections in place, to help inform the public as well as contribute to high quality public policy development and government decision making.