

The Australian Competition and Consumer Commission has the statutory responsibility to administer and enforce the Trade Practices Act 1974.

The enforcement of the Act directly contributes to the process of microeconomic reform and helps to realise the economic benefits of competition. In addition, enforcement of the Act counters excessive and unlawful market concentration. The Commission protects, and promotes competition in every sector of the economy from agriculture through to manufacturing and transport - also services, banking and telecommunications. All Australian businesses have a strong interest in being supplied competitively, and competitive inputs to businesses are essential if Australia is to compete on the world stage.

The experience of the Commission in enforcing the relevant provisions of the Act is that, for the most part, mergers are not damaging to the Australian economy. Mergers can potentially deliver real efficiency gains, which, in turn, generate clear public benefit (although in some instances the benefits can be overstated). Commercially, mergers are a logical response by companies to the pressures arising from globalisation in the world economy, and the associated conversion of national markets with global markets.

The Commission opposes relatively few mergers each year. In 2000-01, the Commission considered 265 mergers, assets sales and joint ventures. Of these, the Commission objected to thirteen; ten later proceeded after parties signed undertakings to eliminate anti-competitive effects. The remaining three were withdrawn following the Commission's opposition.

Claims that a softer merger law is required if Australia is not to become a branch office economy (defined as the phenomenon of emigration by Australian companies to a more benign economic and regulatory environment) need to be tested against evidence. Empirical research suggests that the pre-eminent reasons for Australian companies investing offshore is to gain access to, and exploit the growth opportunities in international markets. Australian companies have indicated that the aspects of the Australian regulatory environment that inhibit domestic growth to the greatest extent were taxation and labour market policies. The view of the Commission is that merger law is administered carefully and to the nation's benefit.