

# VOTE *Commerce*

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# Commerce

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## Overview

Appropriations sought for Vote Commerce in 2001/2002 total \$62.370 million. They are to be applied as follows:

- \$46.703 million (74.9% of the Vote) purchasing services from the Ministry of Economic Development including:
  - \$8.641 million for policy advice services
  - \$0.397 million for administration of Part II Tariff Concessions
  - \$1.621 for policy advice on and administration of trade remedies
  - \$9.620 million for registration and granting of intellectual property rights by the Intellectual Property Office and granting of plant variety rights by the Plant Variety Rights Office
  - \$10.310 million for administration of insolvencies
  - \$16.114 million for registration and provision of statutory information.
- Appropriations sought for non-departmental outputs total \$14.991 million (24.1% of the Vote). These relate to the Commerce Commission and its work in the context of the Commerce and Fair Trading Acts, the Securities Commission, the Takeovers Panel and the Accounting Standards Review Board. Details are given under Part C.
- Appropriations sought for non-departmental other expenses total \$0.676 million (1.0% of the Vote). These relate to the Crown's membership in various organisations associated with activities within Vote Commerce.

The Ministry forecasts to collect \$0.369 million of Crown revenue under Vote Commerce in 2001/2002.

Details of how the appropriations are to be applied appear in Parts B1, C and E of this Vote. Details of Crown revenue appear in Part F.

## Terms and Definitions

<b>EIRA</b>	Electricity Industry Reform Act 1998
<b>IOSCO</b>	International Organisation of Securities Commissions

# Commerce

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VOTE MINISTER: Minister of Commerce and Minister for Information Technology  
ADMINISTERING DEPARTMENT: Ministry of Economic Development  
The Minister for Economic Development is the responsible Minister for the Ministry of Economic Development

## Part A - Statement of Objectives and Trends

### Part A1 - Objectives for Vote Commerce

#### *Related Government Outcomes*

The services to be purchased under Vote Commerce will contribute to the Government's goal of growing an inclusive, innovative economy for all.

The linkage to that Government goal is that innovative companies and people thrive in an economy where investment and innovation are encouraged by fair investment rules, efficient prices and the prohibition of anti-competitive practices, and where consumers are protected from misleading or deceptive business practices.

#### *Output Classes*

The appropriations will enable the Ministry of Economic development to deliver outputs in the following areas:

- strategic and technical policy advice on the creation and maintenance of a regulatory environment, including primary advice on 45 statutes, that provides greater certainty for, and positively encourages, business innovation and growth.
- policy advice in relation to information technology and electronic commerce.
- policy advice in relation to trade remedies, including policy advice relating to international issues and agreements.
- policy advice on local government infrastructure issues and the impact of local government policies on business.
- policy advice on the impact of environmental and conservation policies on business, including the administration of the Ozone Layer Protection Act 1996.
- timely assessment of applications for exemption from import duties as defined by the tariff concessions policy.
- the consideration and possible investigation of applications relating to imports and the making of recommendations on the application of trade remedies, such as the imposition of import duties.
- services relating to the administration of legislation providing for the protection of intellectual property rights by granting patents under the Patent Act 1953; registering trade marks, designs and geographical indications under the Trade Marks Act 1953, the Designs Act 1953, the Geographical Indications Act 1994 and granting plant variety rights under the Plant Variety Rights Act 1987.

- administrative services associated with the management of orders made by the courts initiating personal bankruptcies and company liquidations and the management or disposal of property restrained or forfeited under the Proceeds of Crime Act 1991.
- services relating to the registration and provision of a range of documents and information required to be filed on public record by corporate entities, insurance and superannuation funds, issuers of securities and holders of securities over motor vehicles.

In addition, funding is included in this Vote to purchase outputs from the following Crown entities:

- The Commerce Commission, which enforces the Commerce Act 1986 and the Fair Trading Act 1986, which protect the competitive process in New Zealand markets, prohibit misleading or deceptive conduct in trade and require disclosure of information about aspects of consumer and product safety. The Commission also enforces the Electricity Industry Reform Act 1998 (EIRA).
- The Securities Commission, which monitors and advises on practices in New Zealand securities markets.
- The Accounting Standards Review Board, which approves New Zealand financial reporting standards.
- The Takeovers Panel which will enforce the Takeovers Code.

## **Part A2 - Trends in Vote Commerce**

The allocation flows for Vote Commerce are detailed in the trends table.

### *Classes of Outputs to be Supplied*

Classes of outputs expenditure increased significantly from 1995/96 following the transfer of primary responsibility for policy advice on corporate and commercial law from the Department of Justice, and the transfer from Vote Justice of the Commercial Affairs and Motor Vehicle Securities functions for nine months. From 1996/97 a full-year impact is reflected in the results.

At the same time several Crown entities (the Accounting Standards Review Board, the Securities Commission and the Takeovers Panel) were transferred to Vote Commerce along with responsibility for full funding of the subscriptions to the International Copyright and Patent Union.

The changes between 2000/2001 and 2001/2002 mainly reflect:

- One off funding for the operation of a Business Compliance Cost Panel in 2000/01.
- The implementation of the Personal property Security Register (PPSR) across 2000/01 and 2001/02.
- A one off E-Commerce Summit being held in 2000/01.
- Implementation of the Government's electronic commerce strategy in 2001/2002.

- An increase in funding reflecting forecasts of a greater volume of clearances and authorisation applications requiring decisions by the Commerce Commission. This results from the implementation of the Government's new thresholds under Section 47 of the Commerce Act 1986.
- The full year impact of the establishment of operations of the Takeovers Panel.

### *Other Expenses*

The major increase in 1997/98 reflects one-off compensation payments following the tariff removal for motor vehicles. 1998/99 expenses include a one-off increase in departmental costs following the recognition and measurement of liabilities arising from employment entitlements in unvested leave liabilities. Additional one off funding in 2000/01 was approved to meet settlement costs relating to a contingent liability that arose from changes in import licensing for motor vehicles. The changes occurred in the transition period prior to the abolition of import licensing on 1 January 1989.

### *Crown Revenue and Receipts*

Variations reflect the nature of receipts classified under these line items. Penalties imposed under the Commerce Act and receipts collected under the Proceeds of Crime Act 1991 vary between years. Commerce Act 1986 penalties imposed in 1996/97 and 1998/99 are the major contributors to the fluctuation in these years.

During 1999/00 a portion of capital previously invested in the Greenstone Fund was returned to the Crown.

### *Capital Contributions*

Between 1994/95 and 1996/97 the Government contributed to the Greenstone Fund, set up to provide a new source of risk capital for business finance.

A one-off Capital Contribution of \$0.049 million was appropriated in 2000/2001 for the Takeover Panel in order to establish systems to effectively implement and enforce the new Takeovers regime.

### *Strategic Issues*

New Zealand business today operates in a highly competitive domestic and international environment. Over the last 15 years policy has focussed on creating an overall economic environment in which business can grow through policies aimed at low inflation, low interest rates, ensuring sound legal and competition frameworks that support innovation. There is a realisation, however, that these policies in themselves are not sufficient and that a more comprehensive approach is needed.

An increasing number of businesses has shifted towards exploring and exploiting new international market opportunities. The future of most businesses over the next fifteen years, either directly or indirectly, will be tied to their ability to integrate into the global economy. Businesses need to be supported by coherent economic policies, including regulatory approaches that minimise uncertainty and promote efficiency and cost-effective development. Almost all areas of economic policy now encompass a strong international dimension with distinctions between domestic and external policy considerations becoming increasingly blurred in the face of globalisation.

In reiterating its strong commitment to promote business growth, the Government has also clearly signalled in its high level goals its desire to see a more coordinated and integrated approach to advancing economic, social and environmental objectives in the interest of achieving a more inclusive society for all New Zealanders.

Against this background the key strategic issues for Vote Commerce are to:

- continue to maintain a high quality and improved business law and property rights regime, consistent with ensuring alignment with international developments
- ensure efficient competition throughout the economy and prevent anti-competitive behaviour, cognisant of the tension between competitive and cooperative approaches
- improve the quality of regulation and remove or minimise regulatory burden and costs on business
- promote on-going improvement in infrastructure and service provision in the interest of all New Zealanders
- contribute to the achievement of meeting government's social, environmental and business objectives
- ensure that tariff policy meets the balanced objectives of allowing adequate domestic adjustment periods and supporting an open competitive economy
- encourage the improvement of international regulatory regimes, including technical barriers to trade, that continue to hinder trade whether by accident or design
- facilitate and advance e-commerce capability in business and government.

Key elements of the work programme include:

- the enforcement of the Trade Mark Bill (subject to legislative priority)
- approval of the Takeovers Code which will define the rights and obligations of those affected by a takeover.
- supporting the passage of a Bill amending the Commerce Act 1986 to increase the powers of the Commerce Commission to deal with anti-competitive behaviour.
- enacting the Electronic Transactions Bill (subject to legislative priority).
- establishing E-Commerce Action Teams.
- development of policy positions in areas of Copyright and Patents prior to drafting new legislation.

## Trends in Vote Commerce - Summary of Appropriations and Crown Revenue

Types of Appropriation	1996/97	1997/98	1998/99	1999/2000	2000/01		2001/02 Appropriations to be Used				Total \$000
	Actual \$000	Actual \$000	Actual \$000	Actual \$000	Budget \$000	Estimated Actual \$000	By the Department Administering the Vote		For Non-Departmental Transactions		
							Annual \$000	Other \$000	Annual \$000	Other \$000	
<b>Operating Flows</b>											
Classes of Outputs to be Supplied	55,916	54,939	56,792	56,188	60,020	59,513	46,703	-	14,991	-	61,694
Benefits and Other Unrequited Expenses	-	-	-	-	-	-	N/A	N/A	-	-	-
Borrowing Expenses	-	-	-	-	-	-	N/A	N/A	-	-	-
Other Expenses	567	10,693	432	462	1,416	1,205	-	-	676	-	676
<b>Capital Flows</b>											
Capital Contributions	924	-	-	-	49	49	-	-	-	-	-
Purchase or Development of Capital Assets	-	-	-	-	-	-	N/A	N/A	-	-	-
Repayment of Debt	-	-	-	-	-	-	N/A	N/A	-	-	-
<b>Total Appropriations</b>	57,407	65,632	57,224	56,650	61,485	60,767	46,703	-	15,667	-	62,370
<b>Total Crown Revenue and Receipts</b>	2,470	563	7,489	2,904	369	349	N/A	N/A	N/A	N/A	369

## Part B - Statement of Appropriations

### Part B1 - Details of 2001/02 Appropriations

Appropriations	2000/01				2001/02		Description of 2001/02 Appropriations
	Vote		Estimated Actual		Vote		
	Annual \$000	Other \$000	Annual \$000	Other \$000	Annual \$000	Other \$000	
<b>Departmental Output Classes (Mode B Gross)</b>							
D1 Policy Advice - Business and Competition	9,147	-	9,147	-	<b>8,641</b>	-	Policy advice on business legal framework; competition law policy; intellectual property rights; the impact of environmental issues; IT including e-commerce and international technical developments; tariff and border protection policies; local government infrastructure issues and operation monitoring of Crown entities.
D2 Administration of Part II Tariff Concessions	399	-	284	-	<b>397</b>	-	Assessing applications by importers to be exempted from import duties under the tariff concessions policy.
D3 Policy Advice and Administration of Trade Remedies	1,540	-	1,540	-	<b>1,621</b>	-	Policy advice in relation to trade remedies. Investigating complaints concerning imports, and recommendations regarding trade remedies.
D4 Registration and Granting of Intellectual Property Rights	9,651	-	9,600	-	<b>9,620</b>	-	Administering legislation providing for the protection of intellectual property rights by the granting of patents and plant variety rights, the registration of trademarks, designs and geographical indicators.
D6 Administration of Insolvencies	10,337	-	10,260	-	<b>10,310</b>	-	Administration of insolvencies and proceeds of crime orders.
D7 Registration and Provision of Statutory Information	16,114	-	16,044	-	<b>16,114</b>	-	Registering and provision of documents and information services in respect of all corporate entities, investment schemes and motor vehicle securities.
<b>Total Appropriations for Departmental Output Classes (Mode B Gross)</b>	<b>47,188</b>	-	<b>46,875</b>	-	<b>46,703</b>	-	Refer to Part C1 for a full description.

## Part B1 - Details of 2001/02 Appropriations (continued)

Appropriations	2000/01			2001/02		
	Vote		Estimated Actual	Vote		Other \$000
	Annual \$000	Other \$000		Annual \$000	Other \$000	
<b>Non-Departmental Output Classes</b>						
O1 Approval and Review of Financial Reporting Standards	134	-	134	134	-	-
O2 Performance of Securities Market Functions	2,550	-	2,550	2,550	-	-
O3 Commerce Act 1986 and Fair Trading Act 1986 Enforcement and Adjudication	9,507	-	9,313	10,707	-	-
O4 Formulation and Administration of the Takeovers Code	641	-	641	1,600	-	-
<b>Total Appropriations for Non-Departmental Output Classes</b>	12,832	-	12,638	14,991	-	-
<b>Other Expenses to be Incurred by the Crown</b>						
Settlement Expenses	740	-	740	-	-	-
Contributions to International Organisations	670	-	459	670	-	-

Description of 2001/02 Appropriations

Reviewing and approving financial reporting standards.

The performance of statutory functions by the Securities Commission in relation to the Securities Act 1978.

The promotion of competition and fair trading through the administration, enforcement and adjudication activities undertaken by the Commerce Commission.

The performance of strategy functions by the Takeovers Panel and for a facility to enable the Takeovers Panel to undertake enforcement action at short notice as specified in the Takeovers Act 1993.

Refer to Part C2 for a full description.

No appropriation is sought in 2001/02.

Annual fee for New Zealand's membership of: International Copyright and Patent Union; the International Patent Documentation Centre; International Standards Association; International Union for the Protection of New Plant Varieties; and a share of New Zealand's annual subscription to the Basel Convention.

Risk Capital Fund – Directors' Fees	6	-	6	-	6	6	-	6	-	6	6	-	6	-	6	6	-	6	-	6
Total Appropriations for Other Expenses to be Incurred by the Crown	1,416	-	1,205	-	-	676	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Capital Contributions to Other Persons or Organisations																				
Investment in Takeovers Panel	49	-	49	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Appropriations for Capital Contributions to Other Persons or Organisations	49	-	49	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>Total Appropriations</b>	<b>61,485</b>	<b>-</b>	<b>60,767</b>	<b>-</b>	<b>-</b>	<b>62,370</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>

Payment of directors' fees for attendance at meetings.

No appropriation is sought in 2001/02.

## Part C - Explanation of Appropriations for Output Classes

### Part C1 - Departmental Output Classes

For more detailed analysis of Departmental Output Classes, including financial and non-financial performance measures, please refer to the Ministry of Economic Development's 2001/2002 Departmental Forecast Report (DFR).

#### *Output Class D1 - Policy Advice Business and Competition*

##### **Description**

The Minister of Commerce will purchase strategic and technical policy advice on the creation and maintenance of a regulatory environment that provides greater certainty for, and positively encourages business innovation and growth. This will include policy advice on:

- the costs to business of compliance with laws and regulations;
- corporate and commercial law, including the competition, capital markets, insolvency and intellectual property laws;
- the impact of environmental and conservation policies on business;
- the impact of local government policies on business;
- tariff and border policies;
- government purchasing policy;
- the standards, accreditation and certification infrastructure;
- information technology and electronic commerce, including international technical developments and regulatory frameworks relevant to electronic commerce;
- international and regulation frameworks that support the interests of New Zealand exporters and recognise the needs of domestic businesses;
- other issues affecting the environment for business; and
- operation of Crown entities:
  - Accounting Standards Review Board;
  - Testing Laboratory Registration Council;
  - Commerce Commission;
  - Standards Council;
  - Takeovers Panel; and
  - Securities Commission.

### *Output Class D2 - Administration of Part II Tariff Concessions*

#### **Description**

The Minister of Commerce will purchase timely assessment of applications for exemption from import duties as defined by the tariff concessions policy.

This output class provides administration of tariff concessions through timely assessment of applications by importers for exemption from import duties as defined by the tariff concessions policy.

### *Output Class D3 - Policy Advice and Administration of Trade Remedies*

#### **Description**

The Minister of Commerce will purchase policy advice in relation to trade remedies, including policy advice relating to international issues and agreement.

The Minister will also purchase the carrying out of investigations of applications relating to imports and the making of recommendations on the application of trade remedies, such as the imposition of import duties. This service is conducted under the Temporary Safeguard Authorities Act 1987 and the Dumping and Countervailing Duties Act 1988 in relation to dumped and subsidised goods.

Outputs in this class are:

- policy advice;
- consideration of dumping and countervailing applications;
- investigation of dumping and countervailing cases; and
- investigation of trade remedies applications.

### *Output Class D4 - Registration and Granting of Intellectual Property Rights*

#### **Description**

The Minister of Commerce will purchase services relating to the administration of legislation providing for the protection of intellectual property rights by granting patents under the Patent Act 1953, registering trade marks, designs and geographical indications under the Trade Marks Act 1953, the Designs Act 1953 and the Geographical Indications Act 1994 and granting plant variety rights under the Plant Variety Rights Act 1987.

Outputs within this class are:

- granting of patents and registration of trade-marks, designs and geographical indications by the Intellectual Property Office of New Zealand; and
- granting of plant variety rights by the Plant Variety Rights Office.

*Output Class D5 - Administration of Insolvencies***Description**

The Minister of Commerce will purchase the administration of bankruptcies, and liquidations by the Official Assignee pursuant to the Insolvency Act 1967 and the Companies Act 1993 and the management or disposal of property restrained or forfeited under the Proceeds of Crime Act 1991.

Outputs in this class are:

- administration of bankruptcies and liquidations; and
- administration of proceeds of crime orders.

*Output Class D6 - Registration and Provision of Statutory Information***Description**

The Minister of Commerce will purchase services relating to the registration and provision of a range of documents and information required to be filed on a public record by corporate entities, insurance and superannuation funds, issuers of securities and holders of securities over motor vehicles.

Outputs in this class are:

- Companies Office services;
- Motor Vehicles Securities Register services (until the implementation of the Personal Property Securities Register in May 2002);
- Insurance and Superannuation Unit services; and
- Personal Property Securities Register services.

**Part C2 - Non-Departmental Output Classes***Output Class O1 - Approval and Review of Financial Reporting Standards***Description**

The Minister of Commerce will purchase services from the Accounting Standards Review Board to consider, and to approve as the Board considers appropriate, financial reporting standards and amendments to financial reporting standards that are submitted to it.

Quantity, quality, timeliness and cost

The Minister of Commerce expects the following:

Performance Measures	2001/2002 Performance Standards
<b><u>Quantity</u></b>	
Number of applications for standards.	2 – 3 (2 – 3)
Number of applications for exposure drafts.	2 – 3 (6 – 8)

Performance Measures	2001/2002 Performance Standards
<p><b><u>Quality</u></b></p> <p>Applications considered in accordance with procedural requirements (including the rules of natural justice and fairness and with all other requirements of law) so that no decisions of the Board are challenged on the basis of failure of the Board to comply with procedural requirements.</p>	100% (100%)
<p><b><u>Timeliness</u></b></p> <p>All applications received will be considered at a meeting of the Board within 2 months.</p> <p>All applications will be either approved or declined within 4 months of receipt.</p>	100% (100%) 100% (100%)

### **Cost**

2001/02	Total output class to be provided within (GST inclusive)	\$134,000
2000/01	Total output class to be provided within (GST inclusive)	\$134,000

### **Provider**

Accounting Standards Review Board.

### *Output Class O2 - Performance of Securities Market Functions*

#### **Description**

The Minister of Commerce will purchase the performance of the following functions by the Securities Commission:

- Enforcement – maintaining oversight of securities market activity and intervening in the interests of investors in accordance with statutory powers.
- Authorisations - considering and deciding on applications for authorisation of market participants, for example futures exchanges and dealers, trustees and statutory supervisors.
- Exemptions – considering and deciding on applications for exemptions from the provisions of the Securities Act and Regulations.
- Reform - reviewing securities law and practice and making recommendations for reform.
- International liaison - promoting New Zealand as a well-regulated country; keeping abreast of developments in global standard setting and contributing the Commission's view to this process.
- Public understanding - promoting public understanding of the law and practice of securities.

Quantity, quality, timeliness and cost

<b>Performance Measures</b>	<b>2001/2002 Performance Standards</b>
<b><u>Exemptions</u></b>	
<b>Quantity</b>	
Consider applications for exemption from the Securities Act and Regulations	80
Review existing exemption notices	As required
Initiate special review projects relating to Commission policy on existing or potential new exemptions.	2
<b>Quality</b>	
Proportion of notices issued in accordance with the law including and, where appropriate, the rules of natural justice.	100%
<b>Timeliness</b>	
Decisions made within timeframe agreed with applicants.	As agreed with applicants.
<b><u>Authorisations</u></b>	
<b>Quantity</b>	
Consider applications for authorisation of market participants.	6
<b>Quality</b>	
Proportion of notices issued in accordance with the law including and, where appropriate, the rules of natural justice.	100%
<b>Timeliness</b>	
Decisions made within timeframe agreed with applicants.	As agreed with applicants.
<b><u>Enforcement</u></b>	
<b>Quantity</b>	
Undertake surveillance or enforcement inquiries with focus on insider trading and investment advisers.	60
Major enforcement inquiries commenced.	2
Cases to the High Court.	1
<b>Quality</b>	
Enforcement action taken in accordance with the law.	100%

<b>Performance Measures</b>	<b>2001/2002 Performance Standards</b>
<p><b>Timeliness</b></p> <p>Complete enforcement work promptly</p>	<p>The Commission will endeavour to complete its enforcement work in a way that minimises the resources committed by both market participants and the Commission.</p> <p>It will meet agreed timetables for work undertaken on behalf of overseas enforcement agencies.</p>
<p><b>Reform</b></p> <p><b>Quantity and quality</b></p> <p>Make recommendations for securities law reform and market practice in accordance with obligations under the Securities Act 1978 and other relevant legislation.</p> <p>Participate as required on projects and reviews with the Ministry of Economic Development, other government departments and interested parties</p> <p><b>Timeliness</b></p> <p>Provide information and responses to the Ministry of Economic Development and others within agreed timeframes.</p>	<p>The Commission will comply with its obligations under the Securities Act 1978 and with other relevant legislation. It will base its work on accurate research into, and analysis of, the existing law and practice.</p> <p>100%</p>
<p><b>International Liaison</b></p> <p><b>Quantity and quality</b></p> <p>Participate actively in the work of IOSCO's Presidents Committee, Asia Pacific Regional Committee and Implementation Committee on Objectives and Principles of Securities Regulations. The Commission will meet regularly with overseas institutional investors.</p> <p><b>Timeliness</b></p> <p>Attendance at meetings and responses to committees provided within agreed timeframes</p> <p><b>Quantity, quality and timeliness</b></p> <p>Publish "The Bulletin", a publication designed to provide up-to-date and relevant information about securities market practice and law.</p> <p>Receive 1000 miscellaneous inquiries from members of the public.</p>	<p>The Commission will aim to present itself as a constructive and co-operative member of the international community of regulators. Any views expressed to IOSCO will take into account the relevant New Zealand values and principles.</p> <p>100%</p> <p>4 times a year</p> <p>Respond to inquiries within 5 working days of receipt.</p>

### Cost

2001/02	Total output class to be provided within (GST inclusive)	\$2,550,000
2000/01	Total output class to be provided within (GST inclusive)	\$2,550,000

### **Provider**

Securities Commission.

## *Output Class 03 – Commerce Act and Fair Trading Act Enforcement and Adjudication*

### **Description**

The Minister of Commerce will purchase the promotion of competition and fair trading through the enforcement and adjudication activities undertaken by the Commerce Commission under the Commerce Act 1986, the Fair Trading Act 1986 and the Electricity Industry Reform Act 1998 (EIRA).

Activities include:

- enforcing the Commerce Act's prohibitions relating to restrictive trade practices and business acquisitions;
- undertaking adjudication activities in relation to clearance or authorisation of business acquisitions, or authorisation of trade practices under the Commerce Act, and consideration of applications for exemptions under the EIRA;
- enforcing the provisions of the Fair Trading Act which prohibit certain misleading or deceptive conduct and practices in trade and require compliance with Consumer Information and Product Safety Standards;
- enforcing the separation of electricity lines and energy businesses as required by the EIRA;
- promoting public awareness of the Acts the Commission enforces; and
- reporting on the application of price controls and implementing such controls as required.

### Quantity, quality, timeliness and cost

Where appropriate, comparative targets for the previous year are shown in parentheses.

<b>Performance Measures</b>	<b>2001/2002 Performance Standards</b>
<b><u>Quantity</u></b>	
<b>Business Competition Enforcement</b>	
Complaints and inquiries received	2,400 (2,400)
Investigations commenced	60 (60)
Warnings and settlements implemented	18 (18)
Cases and appeals filed	2 (4)
Restrictive trade practice authorisation applications received	2 [n/a]

<b>Performance Measures</b>	<b>2001/2002 Performance Standards</b>
<b>Business Acquisitions</b>	
Clearance applications received	40 (30)
Authorisation applications received	6 (2)
Surveillance of non-notified business acquisitions	200 (n/a)
Investigations commenced	60 (n/a)
Cases and appeals filed	4 (n/a)
<b>Economic Regulations</b>	
Price control inquiries conducted	1 (1)
Compliance with new statutory responsibilities	100% (n/a)
<b>Fair Trading Act Enforcement</b>	
Complaints and inquiries received	13,000 (12,000)
General investigations commenced	330 (300)
Standards investigations commenced	55 (50)
Warnings and settlements implemented	220 (200)
Cases and appeals filed	38 (35)
<b>Quality</b>	
Proportion of Commission investigations meeting relevant quality standard	100%
Judgments with no adverse comment on Commission's case	100%
<b>Timeliness</b>	
Decisions made within statutory time limits.	100%
Average complaint assessment time.	3 days (3 days)
Time between Commission approval and initiation of proceedings.	Complex matters - 42 days (42 days) Routine matters - 28 days (28 days)

**Cost**

2001/02	Total output class to be provided within (GST inclusive)	\$10,707,000
2000/01	Total output class to be provided within (GST inclusive)	\$9,507,000

**Provider**

Commerce Commission

## *Output Class 04 – Formulation and Administration of the Takeovers Code*

### **Description**

The Takeovers Code comes into effect on 1 July 2001. The 2001/2002 financial year will be the first year that the Panel will be operating as the enforcement agency for the Takeovers Code.

The Minister of Commerce will purchase the performance of the following functions applying to the take-overs for the provision of specific services in accordance with the Takeovers Act 1993 by the Takeovers Panel:

- Takeovers Code – review the Takeovers Code as the panel sees fit and recommend amendments to the Minister of Commerce;
- Code Approvals – granting approvals for independent advisors and experts under the rules of the Takeovers Code;
- Code Exemptions – processing class and individual exemptions from the rules of the Takeovers Code;
- Enforcement – maintaining oversight of takeover activity and intervening where necessary in accordance with statutory powers. An amount of up to \$0.675 million (GST inclusive) of the appropriations has been included to enable the Takeovers Panel to undertake enforcement action at short notice;
- Review of market practice relating to takeovers – surveillance of takeover activity;
- Public understanding – promoting public understanding of the Code;
- International liaison – maintaining relationships with similar overseas bodies, including Australia.

<b>Performance Measures</b>	<b>2001/2002 Performance Standards</b>
<p><b>Takeovers Code</b></p> <p><b>Quantity and Quality</b></p> <p>Keeping the Code and the Act under review on an ongoing basis and recommending amendments to the Code as it considers necessary.</p> <p>Participate as required on projects and reviews with the Ministry of Economic Development, other government departments and interested parties that are relevant to its responsibilities.</p> <p><b>Timeliness</b></p> <p>Recommendations for amendments to the Code will be made promptly as need for change is identified.</p>	<p>The Panel will comply with its obligations under the Takeovers Act 1993 and with other relevant legislation. It will aim to ensure that the provisions of the Code are effective and relevant to market practice. It will base its work on accurate research into, and analysis of, the existing law and practice.</p> <p>1 per year</p>

Performance Measures	2001/2002 Performance Standards
Provide information and responses to the Ministry of Economic Development and others within agreed timeframes.	100%
<b><u>Code Approvals</u></b>	
<b>Quantity</b>	
Consider applications for approval of independent advisors and independent experts	65
Consider applications for consent to withdrawal of offers, and in relation to defensive tactics	10
<b>Quality</b>	
Proportion of approvals granted in accordance with the law including and, where appropriate, the laws of natural justice	100%
<b>Timeliness</b>	
Decisions made within timeframe agreed with applicants	As agreed with applicants
<b><u>Code Exemptions</u></b>	
<b>Quantity</b>	
Consider applications for individual exemptions from the Takeovers Code	70
Panel to formulate class exemptions from the Takeovers Code on own initiative or in response to applications	4
<b>Quality</b>	
Proportion of notices issued in accordance with the law including, where appropriate, the rules of natural justice	100%
<b>Timeliness</b>	
Decisions made within timeframe agreed with applicants	100%
<b><u>Enforcement</u></b>	
<b>Quantity</b>	
Review of offer documents	25
Review of meeting documents	35
Section 32 meetings	3

Performance Measures	2001/2002 Performance Standards
Section 35 meetings	2
Investigation of complaints	50
<b>Quality</b>	
Enforcement action taken in accordance with the law	100%
<b>Timeliness</b>	
Complete enforcement work within the timeframes specified in the Takeovers Act 1993	100%
<b><u>Review of Market Practice</u></b>	
<b>Quantity and Quality</b>	
Keep under review practices relating to takeover activities.	Continuous
Initiating a specific inquiry into market practice with a view to recommending amendments to the Code	1
<b>Timeliness</b>	
Complete inquiry work promptly	Review work to be based on accurate research into, and review of, existing practices
<b><u>Public Understanding</u></b>	
<b>Quantity, Quality and Timeliness</b>	
Publish a publication designed to provide up-to-date and relevant information about the Takeovers Code and relevant law	6 times a year
Receive 500 miscellaneous inquiries from members of the public and professional firms	Respond to inquiries within 5 working days
<b><u>International Liaison</u></b>	
<b>Quantity and Quality</b>	
To liaise with comparable overseas bodies, particularly in Australia, to improve the administration and enforcement of takeovers law, and to promote international understanding of New Zealand's laws	To respond to enquiries from overseas bodies within five working days
<b>Timeliness</b>	
Panel to meet regularly with overseas bodies	2 times a year

**Cost**

2001/02	Total output class to be provided within (GST inclusive)	\$1,600,000
2000/01	Total output class to be provided within (GST inclusive)	\$641,000

**Provider**

Takeovers Panel

## Part E - Explanation of Appropriations for Capital Flows

### Part E1 - Capital Contributions

There is no appropriation for Capital Contributions.

### *Net Worth of Entities Owned*

#### Statement of Estimated and Forecast Net Worth

	Balance Date	Estimated Net Worth 2001 \$ million	Forecast Net Worth 2002 \$ million
<b>Crown Entities:</b>			
Standards Council	30 June	2.0	2.0
Testing Laboratory Registration Council (TELARC)	30 June	3.1	3.2
Commerce Commission	30 June	2.8	2.8
Securities Commission	30 June	1.0	1.0
Accounting Standards Review Board	30 June	0.020	0.020
Takeovers Panel	30 June	0.049	0.049

Part F - Crown Revenue and Receipts

Part F1 - Current and Capital Revenue and Receipts

	2000/01		2001/02	Description of 2001/02 Crown Revenue
	Budgeted \$000	Estimated Actual \$000	Budget \$000	
<b>Current Revenue</b>				
Non-Tax Revenue				
Accounting Standards Review Board	119	119	119	Recovery of costs from fees payable under section 5 of the Financial Reporting Order 1994.
Proceeds of Crime	250	230	250	Revenue collected under Proceeds of Crime Act 1991.
Total Non-Tax Revenue	369	349	369	
<b>Total Current Revenue</b>	369	349	369	
<b>Total Crown Revenue and Receipts</b>	369	349	369	