



22 March

Guide for collaborating during emergencies published

The New Zealand Commerce Commission (NZCC) issued new guidance that outlines the NZCC's views of how businesses can collaborate in response to an emergency without breaching competition law. This only applies where a State of Emergency is in effect or where businesses have consulted with the NZCC.

[read more...](#)



29 March

Misuse of Market Power Guidelines published

The NZCC issued guidance on the updated misuse of power provision in section 36 of the Commerce Act 1986 which outlines the conduct the NZCC considers may breach this new section.

[read more...](#)



5 April

Significant amendments to the Commerce Act 1986 come into force

Three key amendments to the Commerce Act 1986 came into force in April. These significantly changed New Zealand's competition law framework.

The three key changes that took effect at this time were:

1. Introducing a new test for misuse of market power.
2. Repealing the intellectual property exceptions meaning intellectual property will now be assessed just like any other arrangement.
3. Expanding the cartel provision to include land covenants. This means land covenants that fix prices, allocate markets, or restrict output, will be considered cartel provisions.

[read more...](#)



6 April

Guidelines on the Application of Competition Law to Intellectual Property Rights

Following the repeal of the intellectual property-related exceptions (above), the NZCC issued guidance about how it views the Commerce Act 1986 applying to intellectual property rights.

[read more...](#)



20 June

Market study into personal banking services commences

The NZCC was asked to commence a market study into personal banking services in New Zealand. The final report is expected in August 2024.



3 July

Updates to Authorisation Guidelines and application form

The NZCC updated the Authorisation Guidelines and application form. One key change captured in the guidelines is that the NZCC can now authorise unilateral conduct (misuse of market power) that reduces competition.

[read more...](#)



10 July

New laws in the grocery sector

Following on from the NZCC market study into the grocery sector, the Grocery Industry Competition Act 2023 took effect this year. The Act requires regulated grocery retailers to wholesale grocery products and to comply with a grocery supply code when dealing with suppliers. The Act also created the role of Grocery Commissioner, with Pierre van Heerden appointed in July 2023.



31 July

First penalty for anti-competitive land covenant imposed

NGB Properties Limited placed an anti-competitive covenant on a site close to Mitre 10 MEGA Tauranga to prevent future owners using the site for competing hardware businesses. The High Court held that this breached section 28 of the Commerce Act 1986, which prohibits covenants that substantially lessen competition, and required NGB Properties to pay a \$500,000 penalty.



23 August

Australia considers updating its competition law

The Australian Treasury announced the commencement of a two-year review of Australia's competition policy settings, including its merger control regime. NZCC Chair, Dr John Small, has said the NZCC will be "watching what they do with interest".



10 October

Overseas Investment Office (OIO) refers acquisition to the NZCC

The OIO (New Zealand's foreign investment regulator) approved AlphaTheta's US\$65 million (approximately NZ\$110 million) purchase of Kiwi DJ software maker Serato, but has made its approval subject to NZCC approval, signalling potential closer cooperation between the two agencies.



6 November

NZCC joins forces with Pacific regulators

The NZCC joined with 11 other regulators from across the Pacific to establish the Pacific Island Network of Competition Consumer and Economic Regulators, enabling them to share information, investigative techniques and authority best practice.



4 December

Collaboration and Sustainability Guidelines published

The NZCC issued guidelines that set out the way the NZCC considers businesses can collaborate to pursue sustainability goals without breaching competition laws.

[read more...](#)



6 December

NZCC files proceedings for animal bedding merger

Following a 10-month investigation, the NZCC has filed High Court proceedings against Alderson Logistics Limited and related company Supa Shavings (2022) Limited in relation to its 2022 acquisition of two large suppliers of animal bedding products in the Waikato. This continues an increase in the NZCC taking merger enforcement proceedings in recent years, including against Wilson Parking in 2018, First Gas in 2019, and Objective Corporation in 2022.



12 December

First criminal cartel proceedings brought

The NZCC has filed criminal charges against two construction companies and two directors for alleged bid rigging of publicly funded construction contracts. This is New Zealand's first-ever criminal prosecution for cartel conduct, following the introduction of criminal sanctions for cartel conduct in April 2021.

[read more...](#)

On the horizon for the new year...



Banking market study reports

The personal banking market study will continue into 2024, with the NZCC due to publish its draft report in March 2024 and its final report in August 2024.

According to the coalition agreements, the Government also plans to establish a select committee inquiry into banking competition.

The market study process itself is also expected to be reformed to "focus on reducing regulatory barriers to new entrants to drive competition."



Mergers and Acquisitions Guidelines

We are still awaiting the highly anticipated new Mergers and Acquisitions Guidelines, which have not received substantive updates in the past 10 years.

Hot topics on the global radar for 2024



No poach agreements

There has been an international focus on no poach agreements (ie where employers agree not to solicit each other's employees). For example, in June 2023, wage-fixing and no poaching agreements became illegal in Canada.



Algorithms and large language models

International regulators are becoming increasingly concerned with the impact algorithms and large language models are having on competition. Across the ditch, a number of Australian regulators collectively published working papers on these topics.



Sustainability

Sustainability has been a key focus for international regulators. NZCC Chair, Dr John Small, has said sustainability and environmental claims will be a key focus of the NZCC's heading into 2024.

STATISTICS

11

merger applications cleared
(1 of which was subject to a divestment undertaking)

70

average number of working days taken for merger clearance applications
(where the NZCC paused the administrative clock, this time has not been included in the number of working days)

0

merger clearance applications declined
(no applications were withdrawn)

1

investigations commenced into completed mergers or acquisitions published on the NZCC website

5

investigations into anti-competitive conduct published on the NZCC register
(ongoing or concluded in 2023)

Any questions? Talk to one of our experts



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