

Commerce Commission (Information Disclosure and Fees) Bill

Note - the name of the Commerce Commission (Information Disclosure and Fees) Bill was changed to the Commerce Commission (International Co-operation, and Fees) Bill prior to introduction.

21 August 2008

ATTORNEY-GENERAL

LEGAL ADVICE

CONSISTENCY WITH THE NEW ZEALAND BILL OF RIGHTS ACT 1990:

COMMERCE COMMISSION (INFORMATION DISCLOSURE AND FEES) BILL

1. We have considered whether the Commerce Commission (Information Disclosure and Fees) Bill (PCO 6543/13.4) (the "Bill") is consistent with the New Zealand Bill of Rights Act 1990 ("Bill of Rights Act"). We understand the Bill is likely to be considered by the Cabinet Legislative Committee at its meeting on Thursday, 28 August 2008.
2. The Bill amends the Commerce Act 1986, the Credit Contracts and Consumer Finance Act 2003, and the Fair Trading Act 1986 to facilitate information sharing and investigative assistance between the Commerce Commission ("NZCC") and overseas competition and consumer regulators.
3. The Commerce Act, as amended in 1990, empowers the NZCC to compulsorily require information as part of its regulatory function. [\[1\]](#) The Bill requires that compulsorily required information may not be provided to an overseas regulator except pursuant to a co-operation agreement. The Bill provides that the NZCC can condition the release of compulsorily required information on the grounds that its confidentiality be maintained. Further, no compulsorily acquired information may be released absent an undertaking from the overseas regulator that the information will not be used in criminal proceedings or in proceedings to recover a civil penalty.
4. The Bill also amends the Commerce Act to include the power to make regulations relating to the refund of, and exemption from, certain fees payable to the NZCC.
5. We have concluded that the Bill appears to be consistent with the rights and freedoms contained in the Bill of Rights Act.

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Footnote:

1. The NZCC's power to compel information is not the subject of the Bill and is therefore beyond the scope of our analysis of the Bill's consistency with the Bill of Rights Act.

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