



Australian Government
The Treasury



Merger Reform- Cost Recovery Fees

Consultation paper

5 June 2025



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In the spirit of reconciliation, the Treasury acknowledges the Traditional Custodians of country throughout Australia and their connections to land, sea and community. We pay our respect to their Elders past and present and extend that respect to all Aboriginal and Torres Strait Islander peoples.

Contents

Contents	ii
Consultation Process	1
Request for feedback and comments	1
Publication of submissions and confidentiality	1
Closing date for submissions: 18 June 2025	1
Executive Summary	2
Merger reviews will be charged cost recovery fees	2
A phased cost recovery fees model for the new merger system	2
Summary of the proposed fees	4
Cost Recovery Background	6
Cost alignment and reporting	7
Costs of merger assessments under the new merger system	8
Summary of the costs of merger assessments	8
Methodology and key assumptions used to calculate costs	9
Outputs and business processes of the merger assessments	10
Notification waiver	10
Phase 1 reviews	11
Phase 2 reviews	11
Public benefits reviews	13
Design of the regulatory merger fees	14
A phased, risk-based approach to fees	14
Operation of the fees system	15
Implementation	16
Adjustment of Fees	16
Review	16
Indexation	17
Other issues	17
Small business exemption	17
Tribunal fees	17
Risk assessment	18
Consultation questions	18

Consultation Process

Request for feedback and comments

The government is introducing a mandatory and suspensory merger control system from 1 January 2026 (with voluntary notification available from 1 July 2025). Under the new system, mergers subject to review by the Australian Competition and Consumer Commission (ACCC) will be subject to fees, scaled according to the type of review to reflect the complexity of the review. Fees will ensure the ACCC is properly resourced to undertake its expert administrative decision-making role.

This joint Treasury and ACCC consultation paper provides information and seeks views on the proposed cost recovery mechanism for merger assessments. Feedback on this consultation paper will inform final advice to government on appropriate cost recovery fee settings for the new merger control system.

Once cost recovery fee settings have been finalised, the relevant legislative instrument will be made to give effect to the proposed fees. A Cost Recovery Implementation Statement (CRIS) will also be finalised and published, following stakeholder views in response to this consultation.

Questions are included throughout the paper to guide comments. You are invited to answer some or all of the questions, or to comment on issues more broadly.

While submissions may be lodged electronically or by post, electronic lodgement is preferred. For accessibility reasons, please submit responses sent via email in a Word or RTF format. An additional PDF version may also be submitted.

Publication of submissions and confidentiality

All information (including name and address details) contained in formal submissions will be made available to the public on the Australian Treasury website, unless you indicate that you would like all or part of your submission to remain confidential. Automatically generated confidentiality statements in emails do not suffice for this purpose. Respondents who would like part of their submission to remain confidential should provide this information marked as such in a separate attachment.

Legal requirements, such as those imposed by the *Freedom of Information Act 1982*, may affect the confidentiality of your submission.

If you would like to share information and views that may be sensitive, you are welcome to indicate that you would like all or part of your submission to remain confidential. Treasury and the ACCC also welcome the opportunity to discuss your views in a meeting.

Closing date for submissions: 18 June 2025

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Executive Summary

Merger reviews will be charged cost recovery fees

On 28 November 2024, the Australian parliament passed legislation¹ to enact major reforms to the *Competition and Consumer Act 2010* (CCA). The legislation introduces a mandatory and suspensory merger control system to replace the current voluntary and informal merger control system and the formal merger authorisation system. Under the new system, the ACCC will be the first instance administrative decision-maker for all notified acquisitions.

The reforms streamline the assessment of mergers, promote good decision-making, and enhance transparency for merger parties.

Currently, the operational cost of merger control incurred by the ACCC is funded through consolidated revenue by taxpayers and is not imposed on merger parties based on cost recovery principles.²

Following a decision by government in the 2024-25 Budget, all merger reviews under the new system will be accompanied by a full cost-recovery fee, with separate fees for each type of review so they are scaled to the complexity (including the competition risk) associated with the review.³

This reflects the resources required by the ACCC to efficiently carry out an assessment, and will ensure businesses that propose mergers for assessment, rather than taxpayers, bear the cost they impose on the community to assess that risk. The fees will also ensure the ACCC is adequately resourced to undertake its expert administrative decision-making role and can efficiently administer the new system. The revenue generated from fees will flow to consolidated revenue and the ACCC's operational costs will continue to be met out of appropriation funding.

In implementing and administering the new fee arrangements, the ACCC will comply with the Australian Government Charging Framework⁴ and associated requirements.

A phased cost recovery fees model for the new merger system

The government has decided to fully cost recover the ACCC's regulatory merger activities under the new merger control system via a cost recovery fee model. The cost recovery fee model is underpinned by:

- an activity-based costing assessment of the overall efficient costs of the ACCC to deliver its regulatory merger activities based on different types of review
- the proposed merger fees, to be charged per type of review that reflect the average resourcing required by the ACCC to reach a decision, informed by the efficient costs estimate.

¹ *Treasury Laws Amendment (Mergers and Acquisitions Reform) Act 2024*

² Merger parties are not charged fees under the informal review system. Merger parties that apply for merger authorisation must pay a fee of \$25,000 fee, which is significantly less than cost recovery, and there have only been 7 such applications since November 2017.






³ Australian Government, [Budget Paper No.2 - 2024-25](#), Australian Government, 2024, p 178, accessed 15 May 2025.

⁴ Department of Finance, [Implementing the Charging Framework](#), Department of Finance, Australian Government, 2023, accessed 15 May 2025.

The cost recovery model has been developed based on the five design principles below. The design principles are in line with the Charging Framework, to appropriately capture the costs to deliver the ACCC’s key regulatory merger activities while ensuring the overall fees system is efficient, equitable and transparent for parties and the ACCC to navigate.⁵

Charging fees by the type of review allows merger applications to be charged based on their complexity and the competition risk. This ensures only the highest-risk mergers incur high fees – reflecting the significant resourcing required to assess these mergers – while ensuring the vast majority of mergers can be assessed quickly at minimum cost to parties. An exemption from the fees will be available for acquisitions undertaken by small businesses so that fees are not a disproportionate burden for those businesses.

Importantly, the fees have been designed to be simple and straightforward for business and the ACCC, to ensure minimum regulatory and administrative burden in relation to merger reviews, and allow for transparent reporting by the ACCC.

Design principles for cost recovery fees	
	Aligns costs with fees Fees per type of review ensure parties that propose high risk mergers, and not the public, bear the cost of more intensive assessment.
	Promote equity and competition A fee structure based on the type of review, with an exemption for small business, will allow most mergers to be assessed at minimal cost for parties, and ensure fees do not act as a barrier to increased competition, innovation and merger activity.
	Promote efficiency and effectiveness Fees are set at a level that reflects the minimum and efficient resourcing required by the ACCC to carry out the assessment, regardless of any timeline extensions.
	Minimise regulatory and administrative burden Fees have been designed to be straightforward and clear for parties and the ACCC to understand and navigate.
	Transparency and accountability As part of its annual reporting, the ACCC will report on the number of waivers, notifications, Phase 1 and Phase 2 reviews, determinations, conditions and timeline extensions. The ACCC will also review the costs incurred for undertaking merger assessments on a yearly basis, and conduct annual consultation on fees.

⁵ The principles have been designed to align with the Charging Framework principles and Cost Recovery Principles. See Department of Finance, [Cost Recovery Policy](#), Department of Finance, Australian Government, 2023, accessed 15 May 2025; Department of Finance, [Implementing the Charging Framework](#), Department of Finance, Australian Government, 2023, accessed 15 May 2025.

Summary of the proposed fees

A cost recovery fee will be charged for notification waivers, Phase 1, Phase 2 and public benefits assessments that the ACCC will conduct as part of the new merger control system. Further detail on the new merger control system can be found on the Treasury website.⁶

It is expected that the vast majority of merger assessments will be decided in Phase 1 or via notification waiver and a small number of mergers (estimated to be 15 in the first full year) are anticipated to proceed to an in-depth Phase 2 review. Below is a high-level description of each type of review and the associated fees.

Further detail on the fees is set out in the *Design of regulatory merger fees* section. Fees are based on estimates of costs incurred for each type of review, which is set out in detail in the *Costs of merger assessments under the new merger system* section.

Table 1 – Summary of the proposed fees

Type of review	Fee in 2025-26	Description of activity
Notification waiver application	\$8,300	An application that seeks a waiver from the requirement to notify a merger to the ACCC.
Notification (Phase 1 assessment)	\$56,800	The review of all notified mergers commences in Phase 1 and incurs a fee.
Phase 2 assessment	\$952,000	<p>An additional fee will be charged for mergers that proceed to Phase 2.</p> <p>The ACCC anticipates that only a small number of mergers will proceed to a more in-depth consideration of the competition issues in a Phase 2 assessment.</p>
Public benefits application	\$401,000	<p>Notifying parties may also seek ACCC approval of an acquisition on public benefit grounds.</p> <p>If a notifying party makes an application for a public benefits review, an additional fee will be payable, reflecting the further assessment undertaken by the ACCC to determine whether the acquisition should be approved because the likely public benefits will outweigh the likely public detriments.</p>

⁶ Treasury, [Competition Review - Mergers and acquisitions](#), Treasury, Australian Government, 2025, accessed 15 May 2025.

Table 2 – Expected timeframes for cost recovery fee implementation

Event	Timeframe
Merger Reform – Cost Recovery Fees policy consultation	June 2025
Fees legislative instrument made	Prior to 30 June 2025
Publication of Cost Recovery Implementation Statement	Prior to 30 June 2025
New merger system – voluntary notification becomes available	1 July 2025
New merger system – mandatory notification comes into effect	1 January 2026

Cost Recovery Background

Cost recovery involves government entities charging individuals or organisations some, or all, of the efficient costs of a government activity.

The Charging Framework and Cost Recovery Policy supports government entities to design and implement best practice charging arrangements.⁷ It provides that where an individual or organisation creates the demand for a government activity, they should be charged for it unless the government has decided to fund that activity. The Charging Framework promotes the consistent, transparent, and accountable charging for government regulatory activity and supports the proper use of public resources.

Under the new merger system, the ACCC will be subject to the Charging Framework and must apply the requirements that apply to charging for regulatory activities. This includes that all regulatory activities must apply the principles of efficiency and effectiveness, transparency and accountability, and stakeholder engagement throughout the cost recovery process.

The Charging Framework also requires that for each regulatory activity, an entity must have policy authority from government to cost recover, have statutory authority to charge, ensure alignment between expenses and revenue, and maintain up-to-date publicly available documentation and reporting.

The ACCC's policy authority to charge for merger assessments was provided in the 2024-25 Budget. The Government announced the decision to fully recover costs for the merger control system in Budget Paper No. 2 of the 2024-25 Budget.⁸ The Government has also announced that an exemption from the fees will be available for acquisitions made by small businesses so that fees are not a disproportionate burden for those businesses.

The ACCC derives its legal authority to charge fees for regulatory activities undertaken as part of the new merger system from the *Treasury Laws Amendment (Mergers and Acquisitions Reform) Act 2024*. Under the legislation, the Minister determines the quantum of fees by legislative instrument to ensure that the government decision to fully cost recover is implemented. A legislative instrument specifying the amount of the fees to be charged will be in place prior to the commencement of charging of fees.


The new merger system represents a significant change to the process for merger assessments, moving from a voluntary merger control system to a mandatory and suspensory administrative merger control system.

Given the significant change to the merger system and increase in the scope of the ACCC's role as an administrative decision-maker, the ACCC will require significant additional resources to ensure the success of the new merger system. Charging cost recovery fees will ensure the ACCC is adequately resourced to administer the new merger system efficiently, which will be critical to realising the substantial benefits of the new merger system.

These reforms will provide significant benefits to businesses, consumers and the wider community. The new system will be faster, stronger and more transparent, and this will require the ACCC to redesign and expand existing capabilities and practices.

⁷ Department of Finance, [Implementing the Charging Framework](#), Department of Finance, Australian Government, 2023, accessed 15 May 2025.

⁸ Australian Government, [Budget Paper No.2 - 2024-25](#), Australian Government, 2024, p 178, accessed 15 May 2025. 'Additional funding for this measure and future cost recovery arrangements will be held in the Contingency Reserve pending the finalisation of the policy and implementation details of the new merger system'



Under the new system, there will be statutory timeframes for the ACCC to conduct its merger assessments. The ACCC will have 30 business days to review mergers under Phase 1 and 90 business days under Phase 2, with mergers automatically cleared if the ACCC does not make a determination within these timeframes (subject to any extensions and other adjustments to the timeline allowable under the legislation).

The ACCC will also extend its capabilities through greater use of economic analysis, supported by data analytics at each stage of the assessment to improve the rigour and quality of its merger assessments. This will support the ACCC in identifying and preventing anti-competitive mergers.

There will be greater transparency requirements to enhance transparency for merger parties and the broader community. All merger reviews will be published on the public register, including details of the merger, reasons for the determination and decision documents.

The shift to administrative decision-making, from the existing model of judicial enforcement, will ensure the ACCC is better placed to protect consumers and competition in our economy. As an administrative decision-maker, the ACCC will gather all relevant information and evidence, analyse this material, weigh up relevant considerations and set out objective, factual findings and other considerations in its reasons for the determination.

This will involve engaging with the merger parties and consulting with third parties – consumers, suppliers, competitors – affected by the merger. It will also enhance the accountability, accessibility and transparency of merger reviews.

Cost alignment and reporting

The costs incurred in the delivery of the regulatory activities are underpinned by a costing model that identifies the outputs and activities of each type of review, assigns direct costs to the outputs and activities, and allocates indirect costs to the outputs and activities using an appropriate cost driver.

Aligning the costs incurred on each type of review will form the basis for future reporting and comparison of financial performance each financial year as part of future Cost Recovery Implementation Statements.

Costs of merger assessments under the new merger system

The ACCC has developed an activity-based costing model to estimate the cost of merger assessments under the new merger system. This has been done on a forward-looking basis. This section outlines the estimated costs and how these estimates were derived, including the underlying methodology, key assumptions and processes that underpin the estimates.

Summary of the costs of merger assessments

Table 3 represents the estimated costs for the 2025-26 financial year disaggregated by direct and indirect costs. If merger assessment assumptions remain the same, costs for the three forward years are expected to be broadly consistent but adjusted for indexation, and will be included in the final Cost Recovery Implementation Statement (CRIS).

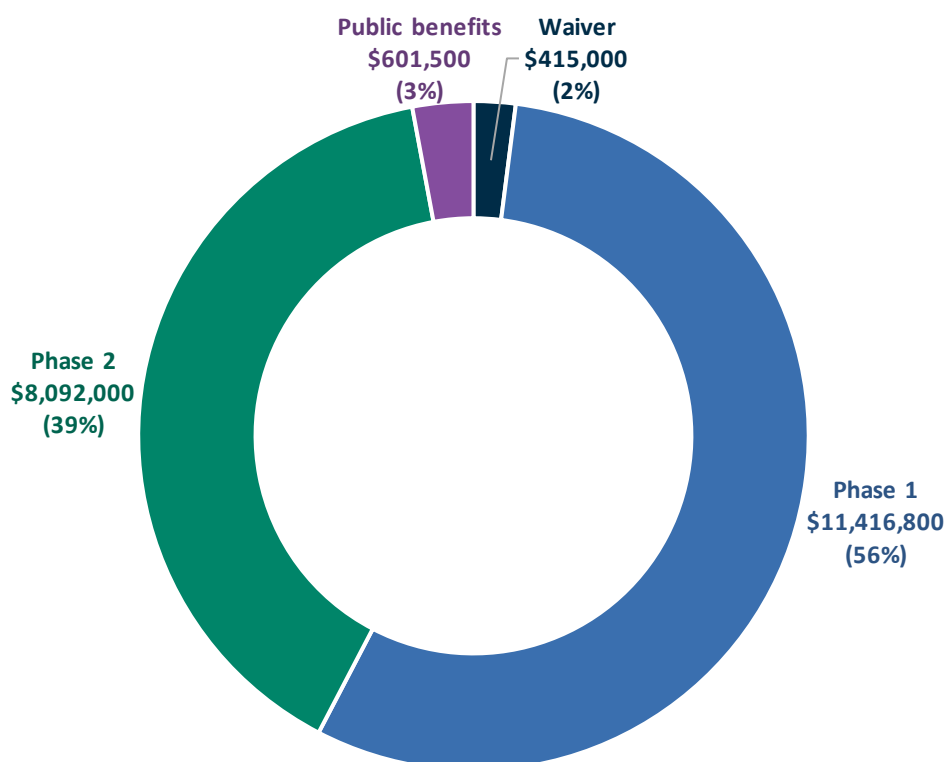
Table 3 – Nearly all the costs are expected to be incurred through Phase 1 and Phase 2 reviews
Estimated application volume, total direct costs, total indirect costs and total costs for each type of review, 2025-26

Type of review	Estimated volume of applications	Total direct costs	Total indirect costs	Total costs
Notification waiver	50	\$310,000	\$105,000	\$415,000
Phase 1 review	201	\$8,803,800	\$2,613,000	\$11,416,800
Phase 2 review	8.5	\$6,417,500	\$1,674,500	\$8,092,000
Public benefits review	1.5	\$463,500	\$138,000	\$601,500
Total	—	\$15,994,800	\$4,530,500	\$20,525,300

The estimated volume of assessments for 2025-26 reflects the estimated volume for the half year of the mandatory regime from 1 January 2026, with some provisions made for reviews that are sought during the voluntary notification period from 1 July 2025 to 31 December 2025. The ACCC expects to receive a lower volume of notifications during the transitional voluntary notification period given the existing informal merger approach will be concurrently in operation.

These cost estimates reflect the risk-based approach of the new merger system with a significant proportion of the total costs incurred relating to a small number of more complex merger assessments. Phase 2 reviews account for almost two-fifths (39%) of the total costs despite involving a small number of reviews (estimated to be 15 in the first full year) (Figure 1).

Figure 1 – Phase 2 reviews account for two-fifths of total costs despite a small number of reviews
Percent of total costs incurred by type of review, 2025-26



These estimates also highlight the significant costs the ACCC is expected to incur in its role as the administrative decision-maker of the new merger system, and therefore the importance of appropriate cost recovery fees to ensure the ACCC is adequately resourced to administer the system efficiently.


The proposed cost recovery fees based on the costs per type of review are discussed in the *Design of regulatory merger fees* section below.

Methodology and key assumptions used to calculate costs

Consistent with the approach to cost recovery fees, costs were estimated separately for each type of review to reflect a merger's complexity and risk: notification waiver, Phase 1, Phase 2 and public benefits assessments.

The ACCC has considered the activities required to deliver a determination in relation to each step in the review process, the ACCC's obligations as an administrative decision-maker, and the timeframe in which the ACCC must reach a decision. The activities are informed by the ACCC's experience with the informal merger review system and merger authorisations, adjusted for the legislative requirements of the new merger control system.

In calculating costs, the ACCC has estimated the number of hours for each activity that staff will undertake (allocated by each staffing level) for each type of review. These costs comprise the ACCC's direct costs, which include Australian Public Service (APS) staff, contractors, consultants and other suppliers.



The ACCC has also estimated the indirect costs it will incur in assessing mergers for each type of review, which are those that indirectly contribute to the delivery of the activity and cannot be easily allocated to particular types of reviews.

These indirect costs include property operating costs, information technology, human resources and other corporate support and overhead costs. For example, the CCA requires the ACCC to maintain a public register of all merger reviews. Maintenance of this public register entails information technology costs, but it is not possible to directly allocate those costs on a per type of review basis.

The ACCC's direct and indirect costs per merger review were then multiplied by the number of reviews per type of review category the ACCC expects to undertake each year.

The new merger control system will commence on a voluntary basis from 1 July 2025 and on a mandatory basis from 1 January 2026. In 2026-27 (the first financial year in which notification will be mandatory for a full financial year), the ACCC has estimated it will conduct 100 waiver reviews, 335 Phase 1 reviews, 15 Phase 2 reviews and 3 public benefits reviews.

In 2025-26, which includes the voluntary period, the ACCC expects to receive a lower volume of applications, and therefore has assumed 50 waiver reviews, 201 Phase 1 reviews, 8.5 Phase 2 reviews and 1.5 public benefit reviews.

These estimates are subject to uncertainty due to the limited visibility of merger activity that Australia's voluntary notification system has provided to date and uncertainty in future merger activity in Australia.

Based on the ACCC's experience, the estimates of the activities required to assess these applications are that approximately 146 Average Staffing Level (ASL) will be required to support the merger review system from 2026-27, ranging from Australian Public Service (APS) Level 4 to Senior Executive Service Band 2. The ACCC Chair and Commissioners will have oversight of the merger control system.

Costs that are not recovered through the cost recovery fees (and are not included in the cost model) include the costs the ACCC will incur to transition to the new merger control system, such as preparing assessment and process guidelines, drafting notification forms, and training staff.

Outputs and business processes of the merger assessments

As discussed above, costs were estimated for each type of merger review by estimating and aggregating the costs for each step of the review process. This section provides greater detail on the specific processes undertaken under each type of merger review that informed the total cost estimates.

Notification waiver

The ACCC will be able to approve notification waiver applications after 10 business days with minimal resources required. This resourcing expectation is based on an assumption that applications for waivers will be most appropriate for acquisitions that present low competition risk and detailed analysis is not required to assess this.

The key activities involved in reviewing applications for waivers include conducting desktop research, accessing prior relevant ACCC determinations and data, assessing applications with regard to s51ABV(2)(b) of the CCA, and preparing a written explanation.

Phase 1 reviews

The ACCC is required to commence a Phase 1 review upon receipt of a notification. The ACCC will determine whether the acquisition should be allowed to be put into effect (with or without conditions), or proceed to a Phase 2 in-depth assessment, and must do so within 30 business days (subject to any time extensions). The earliest the ACCC can make a determination to allow the acquisition is 15 business days.

To make the determination, the ACCC may have regard to information, documents and data supplied by the merger parties with its notification. A fundamental aspect of the review will be engaging with third parties to test facts and assumptions. This will be facilitated through publishing details of the notified acquisition on the public register and allowing third parties to make submissions. The ACCC may also proactively engage with certain third parties.

In Phase 1, the ACCC will undertake an assessment of whether the acquisition, if put into effect, would have the effect or likely effect of substantially lessening competition. This assessment will be underpinned by economic analysis of the likely effects of the proposed acquisition. To complete the analysis, the ACCC may need to obtain additional information, data and documents from the merger parties and third parties. This may be obtained through voluntary information requests or compulsory notices.

In assessing the competitive effects of an acquisition, the ACCC will also consider any remedies the merger parties propose no later than 20 business days into Phase 1 to determine whether a merger should be approved with conditions. The ACCC must not include conditions in its determination unless it is “satisfied” that, disregarding any conditions, the acquisition could “in all the circumstances, have the effect of substantially lessening competition in any market”.

At the conclusion of Phase 1, the ACCC will either make a determination to allow the acquisition to be put into effect (with or without conditions) or to refer the acquisition to a Phase 2 review. Referrals can only be made where the ACCC is satisfied that the merger, if put into effect, could in all the circumstances, have the effect, or be likely to have the effect, of substantially lessening competition in any market.


If the ACCC decides to refer the acquisition to Phase 2, the referral notice will identify the parties, describe the economic activities in which they engage, the nature of the competition concerns, as well as matters to be investigated further in Phase 2. This notice will be published on the public register.

As previously noted, the ACCC expects the vast majority of all notifications will be decided within Phase 1 or via notification waiver. Taking a risk-based approach, the ACCC intends that small investigation teams will conduct Phase 1 reviews, supported by internal economic and legal advisers. In estimating the number of staff required per Phase 1 review, the ACCC has taken into account its experience with reviews in the informal review system, including confidential pre-assessments and public reviews as well as the timing and transparency requirements of the new merger control system.

Phase 2 reviews

A small minority of matters (the ACCC estimates 15 in the first full year) are likely to proceed to a Phase 2 assessment. Those that are referred will be the mergers that pose the highest risk of competitive harms to the Australian economy and will require rigorous economic analysis to reach a conclusion on the likely effects of the merger. The extended duration of Phase 2 (90 business days) reflects the more robust nature of analysis required.

The ACCC’s analysis will be underpinned by an in-depth legal and economic assessment of relevant information, data and documents, and these materials will usually be gathered by issuing compulsory



notices. In complex matters involving multiple markets, responses to compulsory notices may result in very large document sets (drawing on global experience), which the ACCC will review to inform its analysis.

Some matters may be informed by quantitative analysis and the ACCC may obtain data from multiple sources, which it will then process, match and clean to undertake robust analysis to inform its overall conclusions on the likely competition effects. The ACCC may also undertake detailed qualitative analysis, such as by way of questionnaires, surveys or interviews, which the ACCC will then need to synthesise.

The ACCC may use compulsory oral examinations to gather evidence or test facts, assumptions and conclusions asserted by the merger parties or third parties. An oral examination may be conducted before individual Commissioners of the ACCC, or before ACCC Senior Executive Service employees. The examinations are private hearings, and examinees are required to give evidence under oath or by way of affirmation. In many cases the ACCC will brief legal counsel to represent the ACCC by asking questions during the examination.

The ACCC may engage external economic, industry or legal advisers to inform its consideration of the acquisition. For example, where key facts are disputed by merger parties and third parties, it may be necessary for the ACCC to obtain independent advice from a suitably qualified industry expert to help inform the ACCC's judgement of the likely future with and without the merger.

Similarly, it may be necessary to engage expert economists to assist the ACCC's development of analytical frameworks to assess the competitive effects of a merger. It is also possible that merger parties may engage economists to provide reports on specific issues, which will require interrogation from economists at the ACCC, or by experts engaged by the ACCC.

The ACCC procures legal services through the Whole of Australian Government Legal Services Panel (the Panel) or the Australian Government Solicitor (AGS). In relation to Phase 2 reviews, the ACCC may use these services to assist with evidence gathering and conducting oral examinations. The ACCC may also seek advice on aspects of its statutory decision making, including procedural fairness obligations.

As is the case with Phase 1, in assessing the competitive effects of a merger, the ACCC will also consider any remedies proposed by the merger parties, no later than 60 business days into Phase 2, to determine whether an acquisition should be allowed to be put into effect subject to conditions. The ACCC must not include conditions in its determination unless it is "satisfied" that, disregarding any conditions, the acquisition could "in all the circumstances, have the effect of substantially lessening competition in any market".

To facilitate transparency, the ACCC is required to prepare a Notice of Competition Concerns no later than 25 business days into Phase 2. This notice sets out the ACCC's preliminary assessment of whether the acquisition would be likely to substantially lessen competition in any market and the grounds for that assessment. Parties will have an opportunity to respond orally or in writing, and the ACCC will take any response from the merger parties into account before making its determination. The ACCC may need to conduct further market inquiries, or issue further requests for information or compulsory information to test propositions put by the merger parties and/or third parties.

At the conclusion of the Phase 2 review, the ACCC will publish a determination with reasons, supported by evidence and other material, including economic, data and legal analysis, commensurate with the complexity of the review.

In estimating the number of staff required per Phase 2 review, the ACCC has taken into account its experience with in-depth reviews in the informal review system, including public reviews that proceed beyond the publication of a Statement of Issues, and its experience with merger authorisations.

Public benefits reviews

If a merger party applies for a public benefits review, the ACCC will allocate an investigation team, which may include members of the Phase 2 team. The duration of a public benefit review is 50 business days. The ACCC must prepare a public benefits assessment 20 business days into the review, setting out the ACCC's preliminary assessment of the benefits and detriments to the public that could result from the merger and the grounds for that assessment. At the conclusion of the review, the ACCC will release a determination with reasons, supported by evidence and other material.

The activities and analysis will be similar to a Phase 2 review, although redirected to an assessment of public benefits and detriments. Public detriments can be broader than anti-competitive detriment, and public benefits can be "anything of value to the community generally".⁹

The review may require the ACCC to engage further with the merger parties and market participants, including by way of issuing further information and document requests and/or conducting additional oral examinations. The ACCC's review will focus on whether the claimed public benefits are merger specific, who the benefits accrue to, how widely they will be shared in the community, how and when the benefits will arise, their duration, and the magnitude and likelihood of the benefits.

The ACCC may need to undertake additional consumer and industry engagement to test the veracity of information and assumptions relevant to the public benefits claims. This may include engagement with third parties (who may make submissions to the ACCC), industry associations, government departments and other regulatory agencies.

The merger parties may also put forward reports by industry or academic experts, which will require interrogation by the ACCC. The ACCC may decide to engage industry or academic experts to help assess this information and/or consult on specific issues and prepare reports.

The ACCC will also consider any remedies proposed by the merger parties to determine whether an acquisition should be allowed to be put into effect subject to conditions.

In estimating the number of staff required per public benefit review, the ACCC has taken into account its experience with merger authorisations, as well as its experience in assessing public benefit claims in conduct authorisations.

⁹ [*Re Queensland Co-operative Milling Association Ltd., Defiance Holdings Ltd. \(Proposed Mergers with Barnes Milling Ltd.\)*](#) (1976) ATPR 40-012, p. 18, accessed 15 May 2025.

Design of the regulatory merger fees

Beginning 1 July 2025, merger parties will be required to pay a fee for applications made under the new system. This approach will see fees charged for Phase 1 assessments, Phase 2 assessments, and public benefit applications. Applications for waivers are only permitted from 1 January 2026 and fees will be charged from that date.¹⁰ The fees will recover both direct and indirect costs relating to each type of review.

From 1 July 2025 to 31 December 2025, the current informal merger regime will continue to operate. The ACCC has released transitional guidance to business on the phasing out of the informal system and the phasing in of the mandatory system. The ACCC has advised that notifying parties should engage closely with the ACCC if they seek an informal review between July and October 2025. As to reviews after October, the ACCC has advised that there is a risk that these mergers may not be considered in time. If a party is not able to request an informal review before October 2025, the ACCC advises that they should consider lodging a voluntary notification using the new regime to avoid the risk of running out of time.

A phased, risk-based approach to fees

To ensure that fees charged to parties appropriately reflect the level of risk and complexity – and therefore resourcing costs – involved in a merger assessment, fees have been determined by dividing the total cost incurred per type of review by the estimated volume of assessments per year (Table 4). The fees will not attract GST.

Table 4 – Fees are determined by dividing the total cost by the estimated volume of assessments
Estimated total cost and volume for each type of review, 2025-26

Type of review	Total Cost [A]	Estimated Volume [B]	Proposed Fee [A]/[B]
Notification waiver	\$415,000	50	\$8,300
Phase 1	\$11,416,800	201	\$56,800
Phase 2	\$8,092,000	8.5	\$952,000
Public benefits	\$601,500	1.5	\$401,000


Note: All fees are exclusive of GST. For 2025-26, mandatory notification is only required for half of the financial year from 1 January 2026.

Adopting the proposed fee structure ensures merger parties pay a fee that reasonably aligns with the estimated level of cost for the type of review, consistent with the Charging Framework. No additional fees will be charged for timeline extensions. An exemption from fees will apply to acquisitions by small businesses (discussed further below in the Implementation section).

While Phase 2 fees are significantly higher than Phase 1 fees, only high-risk and complex mergers are expected to proceed to Phase 2. This ensures the ACCC's resource-intensive Phase 2 costs are borne by the minority of parties that propose high-risk and complex mergers.

The magnitude of Phase 2 fees is commensurate with application fees for foreign investment proposals through the Foreign Investment Review Board for large transactions where the maximum

¹⁰ Section 189(4) of *Treasury Laws Amendment (Mergers and Acquisitions Reform) Act 2024*



application fee is \$1,171,600.¹¹ Internationally, merger filing fees vary considerably, from nil for the European Commission to up to US\$2.39 million (approximately AU\$3.8 million) for some acquisitions in the United States.¹²

The Phase 2 costs are reflective of the increased scrutiny that a Phase 2 review requires. Larger teams are required to undertake resource intensive work, such as reviewing large volumes of information and documents from the parties, conducting oral examinations, testing evidence and theories of harm with the parties and relevant stakeholders and, in some cases, external economist advisers, and drafting and finalising the public decision document, which will outline the ACCC's reasons. The decisions are also subject to merits review by the Tribunal. The fee for Phase 2 matters also covers additional costs on top of direct staffing costs, such as external legal review and advice, expert advisers, and indirect costs.

To limit cross-subsidisation, fees for Phase 1 and Phase 2 have been split. This means that merger parties that enter transactions that are allowed in Phase 1 (with or without conditions) will not fund the ACCC's review of high-risk mergers that proceed to a much more resource-intensive Phase 2 review. This allows for the vast majority of mergers (estimated to be cleared within Phase 1 or by notification waiver) to be reviewed at minimum cost to merger parties.

Charging different fees to mergers based on objective metrics such as turnover or transaction value was considered. However, this approach would likely involve substantial cross-subsidisation between high-value and low-value matters as competition risk and the assessment costs are not well correlated with these metrics.

The charging model developed by the ACCC will assist to closely monitor and regularly review expenses to ensure they are cost effective.

Operation of the fees system

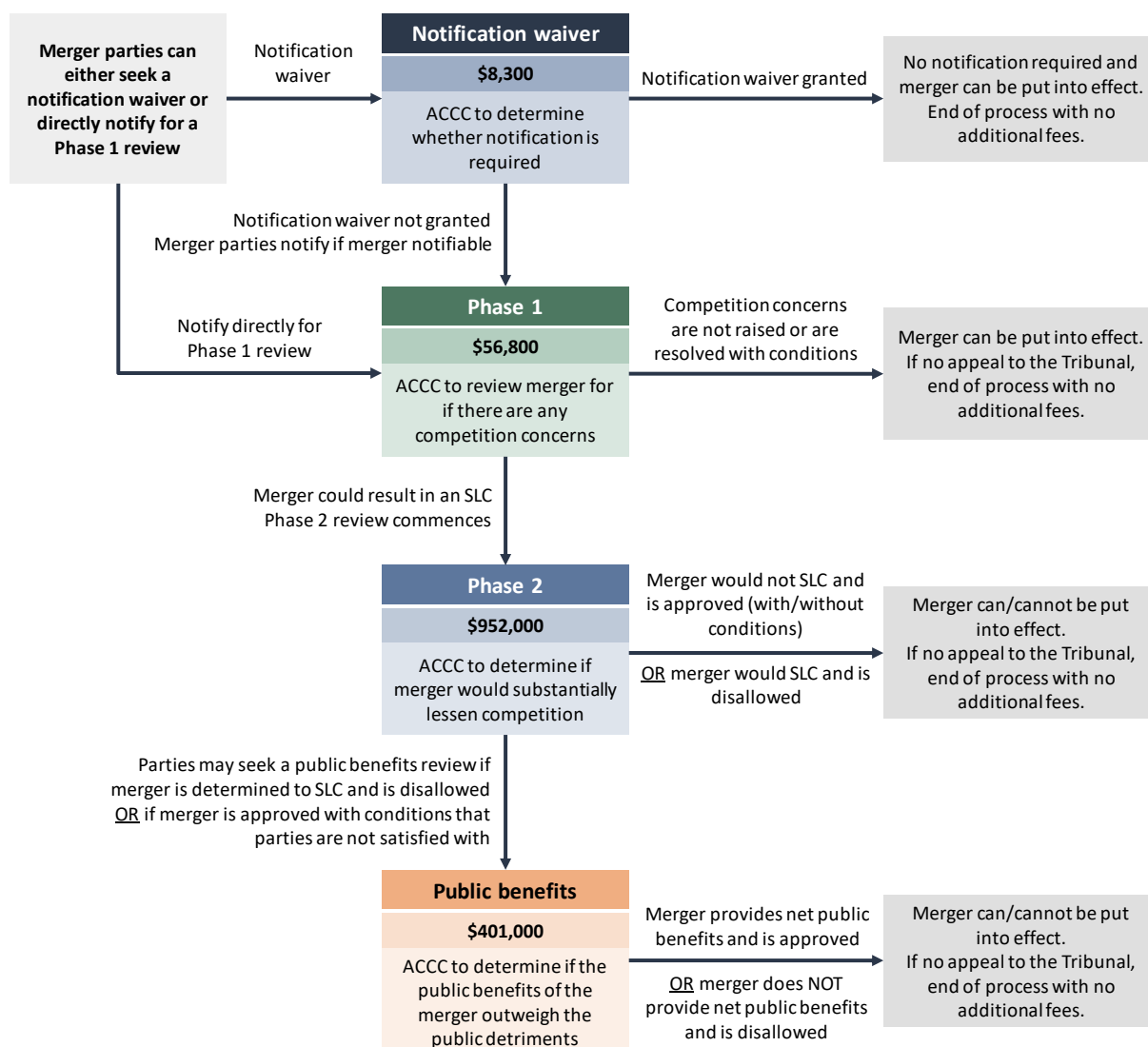
Figure 2 presents the operation of the fees system within the broader merger review process by the ACCC. The vast majority of mergers are expected to be cleared within Phase 1 or through the notification waiver, with a Phase 2 assessment required only if the ACCC is satisfied the merger could likely substantially lessen competition.

All application fees collected by the ACCC will be remitted to the [Official Public Account \(OPA\)](#).

¹¹ For acquisitions of residential land of more than \$40 million, agricultural land of more than \$80 million, or commercial land, tenements or business of more than \$2,000 million.

¹² For acquisitions with transaction values of US\$5.555 billion or more.

Figure 2 – Flowchart for the merger assessment phases and associated fees




Implementation

Adjustment of Fees

Review

The ACCC will review its processes and cost estimates each year and the fees will be adjusted if required, so that charges reflect the costs of providing the activities. The ACCC will also conduct annual consultation on the level of the fees. Under the CCA, the Treasurer will determine any adjustments to the quantum of fees by legislative instrument to ensure that the government decision to fully cost recover is implemented.

In particular, the ACCC conducts periodic budget reviews in a financial year, which it uses to carefully assess whether costs are accurately recorded and appropriate for the relevant functions. These



budget reviews also include responding to the Government's Efficiency Dividend and/or targeted savings measures. As part of the annual CRIS preparation, a cost review will also be performed to ensure the workforce supporting the new merger review system is appropriate, having regard to staff count, span of control considerations and building process efficiencies to minimise costs.

Indexation

The government proposes that fees will be indexed annually at the beginning of each financial year, as part of the ACCC's annual review of costs. Given that the ACCC's funding is adjusted for the latest Wage Cost Index (WCI), the WCI will also be used to index all fees except for the component of costs related to amortisation.

The WCI is a composite index that comprises a wage cost component and a non-wage cost component. The non-wage component is based on different periods of movements in the CPI, and the wage cost component is based on an index related to wage growth, the Safety Net Adjustment (SNA)¹³.

Using the WCI is appropriate given that the composition of costs to be incurred by the ACCC for merger reviews will be a mix of staffing and non-staffing costs such as ICT, property operating expenses, external specialist expertise and other supplier costs.

Forecasts for the WCI rates are published in '[Appendix A: Parameters and further information](#)' of Budget Paper No.3 in the Federal Budget and the ACCC is required by government to apply WCI-3.

This approach to fee indexation ensures merger applicants are only paying the costs incurred by the ACCC.

Other issues

Small business exemption

As outlined in the April 2024 merger reform paper, a fee exemption will be available for acquisitions made by small businesses so that fees are not a disproportionate burden for those businesses.¹⁴ The government proposes to adopt the Australian Taxation Office definition of 'small business entity' of aggregated turnover of less than \$10 million.¹⁵

Tribunal fees

The costs associated with Tribunal reviews will be subject to separate government decisions and consultation. The ACCC's estimates therefore exclude these costs from the cost recovery mechanism for its administration of the merger control system.

¹³ Parliamentary Budget Office, '[Indexation & the budget – an introduction](#)', Parliamentary Budget Office, 2023, accessed 15 May 2025.

¹⁴ Treasury, '[Merger Reform: A Faster, Stronger and Simpler System for a More Competitive Economy](#)', Treasury, Australian Government, 2024, p 8, accessed 15 May 2025.

¹⁵ Australian Taxation Office, '[Small business entities](#)', Australian Taxation Office, Australian Government, 2020, accessed 15 May 2025.

Risk assessment

The ACCC has undertaken a charging risk assessment, using the Charging Risk Assessment (CRA) template provided by the Department of Finance, to identify areas of implementation risk that could arise from the fee changes as outlined in this consultation paper.

The ACCC has assessed the overall CRA rating as high, largely because this is a new regulatory charging activity, and the extent of the total recovery for 2025-26 (\$20.5m) is considered substantial. When undertaking the risk assessment, the ACCC identified some risks across all activity groups.

- The cost estimates and volumes could be inaccurate.
- Other activities could be cross subsidising costs.
- The fee charges for an activity could be challenging for some merger parties.

The ACCC will manage cost estimate risks by monitoring the costs of the activities it undertakes. Internal systems will also be developed to allow performance and cost tracking to assist with the comparison against the forecasted application volumes and costs. The effect of charging on the industry will also be monitored through annual stakeholder consultation, as well as via the policy outcome performance measure. The ACCC will review its processes and cost estimates each year, and will adjust if required so that charges continue to reflect the costs of providing the services.

The Charging Risk Assessment Rating will be updated following consultation, and a final rating will be determined.

Consultation questions

1. Do you have any feedback regarding the proposed cost recovery model objectives?
2. What impact will the proposed fees have on competition, innovation or merger activity?
3. Does the phased fee structure create appropriate equitability between simple and more complex cases? If not, what changes would enhance equitability, noting the government decision for full cost recovery of the merger control system?
4. Does the level of transparency of the ACCC reporting processes for determining fees appropriately meet the interests of all relevant stakeholders?
5. Is the proposed approach for indexation of merger fees appropriate? Are there alternative indicators that the government should consider?