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The Lookback

JWS Merger Regime Report

Quarter 3, 2026

Summary

1. **More deals** were notified to the ACCC in Q3 than Q1 or Q2 2026.
2. **Waivers are still the main game** but Phase 1 notifications have increased.
3. Clearance rates are **very high** (96%).
4. The ACCC continues to make decisions quickly (**not including preparation and pre-notification engagement time**).
5. **Structural remedies are improving clearance prospects**, while behavioural remedies remain unproven.
6. The **key reasons for ACCC clearances** continue to be: rival capacity, entry and alternatives; no or limited horizontal overlaps; presence of alternative suppliers; lack of vertical & ecosystem effects; low market share aggregation; and small target scale, trajectory and Australian footprint.
7. **The ACCC has opposed three of its first four Phase 2 determinations**, clearing only one transaction.
8. **Industrials, Health and Transport & Tourism** are the sectors which have the highest number of notified deals.
9. **New regulatory and review mechanisms are now being used**. The first Australian Competition Tribunal review is underway and the first public benefits application has been filed.

Key Findings

Volume and rates of clearance

The number of notified deals continues to grow. The ACCC made 302 determinations (183 waivers, 117 Phase 1 notifications and 2 Phase 2 notifications), almost 20% more than in Q2 2026 and almost triple than in Q1 2026.

Waivers are still the main game but Phase 1 notifications increased. Waivers accounted for 60% of all deals. Phase 1 notifications increased by 46% compared to 6% for waivers in Q3 2026. This is likely to be a result of some waivers being rejected in Q2 and Q3 2026, forcing parties to look at Phase 1 as the first option for approval.

Almost everything is getting approved. The ACCC granted 96% of waivers (176 of 183) and cleared 97% of 117 Phase 1 notifications.

There is a steady decline in waiver rejections. The ACCC only rejected 4% of waivers (7 of 183) down from 5% (8 of 172) in Q2 2026 and 8% (6 of 76) in Q1 2026.

Timing

ACCC decisions are taking longer. The average time for cleared waivers increased to 16 business days (up from 12 business days for H1 2026), and the average time for Phase 1 clearances increased to 20 business days (up from 18 business days). Rejected waivers took an average of almost 19 business days (up from 14 business days). The increased time is likely due to increased volume of notified deals.

Extensions of time are being used in Phase 1. Nine Phase 1 clearances exceeded the standard 30 business day period for a Phase 1 decision on account of requests by parties, delays in providing information to the ACCC and/or remedy offers.

Actual timing from preparation to completion continues to be several months. Despite the ACCC timelines for decisions, our experience is that the actual time from preparation to completion is 2-3 months for waivers and 3-6 months for Phase 1 notifications.

Reasoning

The key reasons for granting waivers continue to be no or limited horizontal overlap, presence of alternative suppliers and low market concentration or market share.

The key reasons for rejecting waivers continue to be limited alternative competitive constraints, removal of potential or actual competition and market dominance.

The key reasons for Phase 1 clearance continue to be rival capacity, entry and alternatives, no or limited horizontal overlap, lack of vertical and ecosystem effects and low market share aggregation.

Phase 2 deals

The ACCC has blocked a further two Phase 2 deals. Both of the deals (*MicroStar Logistics/Konvoy* and *IAG/RAC Insurance*) also offered proposed behavioural remedies which were not accepted.

Both Phase 2 deals landed within statutory timeframes. *MicroStar Logistics/Konvoy* took 114 business days, inside the 120-business day statutory period. *IAG/RAC Insurance* took 139 business days after a 20-day extension.

Other

Industrials, Health and Transport & Tourism are the sectors with the highest number of deals.

Deals involving private entities account for approximately 70% of all waivers and 40% of all Phase 1 notifications.

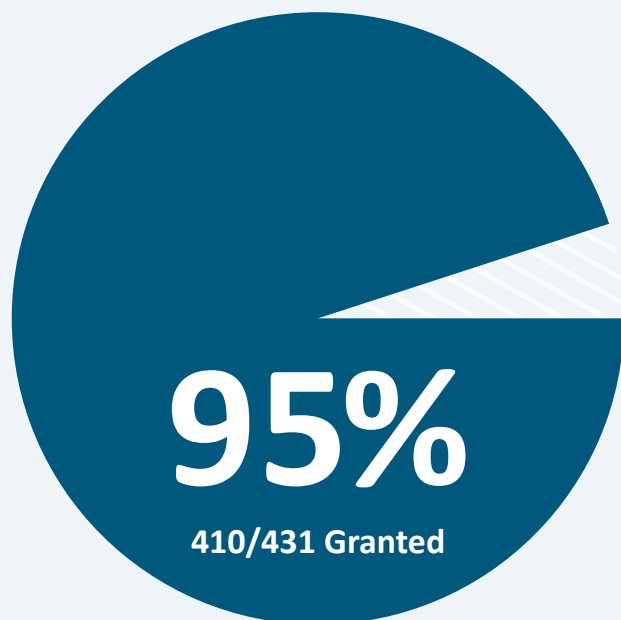
Most deals have a foreign element, including over half of all waivers and Phase 1 notifications.

Global investment themes are visible in the register. Consistent with market commentary, deals involving Resources, Industrials and Transport & Tourism (including airports and other infrastructure) featured prominently in Q3 2026. Private equity, infrastructure and superannuation funds were acquirers in a significant number of Q3 waivers.

The type of acquisitions being made continues to be diverse, with over half of all deals being majority shareholdings, 20% non-property assets and 8% minority shareholdings.

Waivers

Clearance Rate



21 rejected



6 of 21 went to Phase 1

Timing



Business days
Average for *cleared*
decisions



Business days
Average for *rejected*
decisions

Type

67%

by Private
Companies

58%

with Foreign
Elements

MOST WAIVERS IN...



Industrials



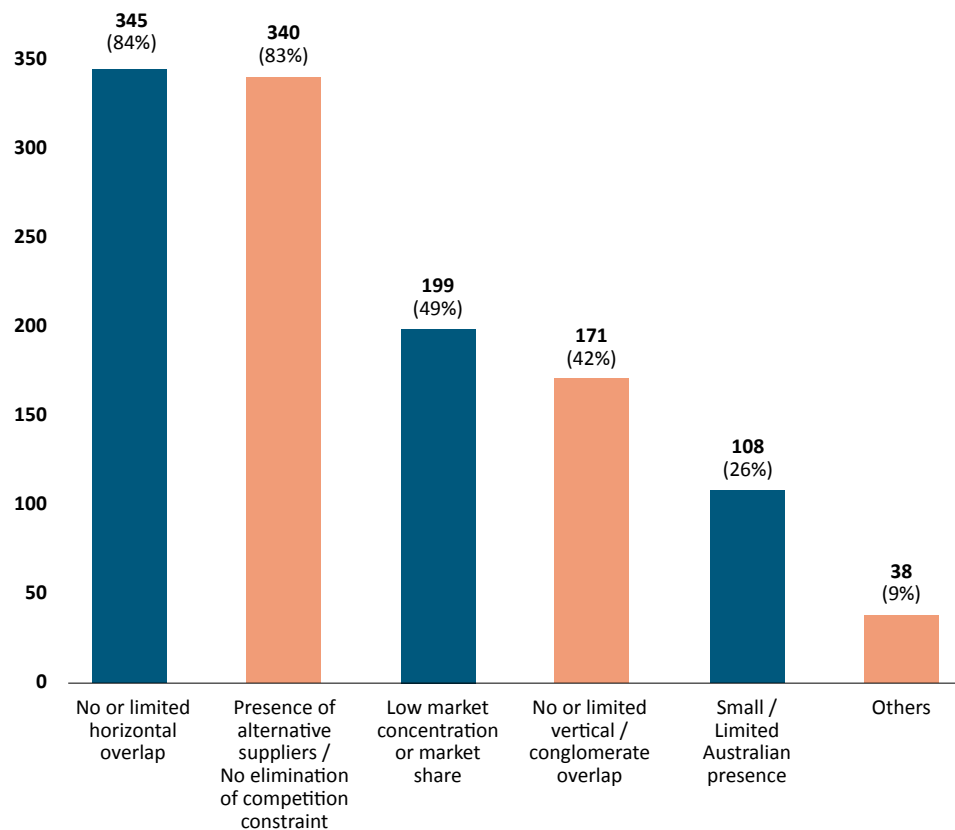
Health



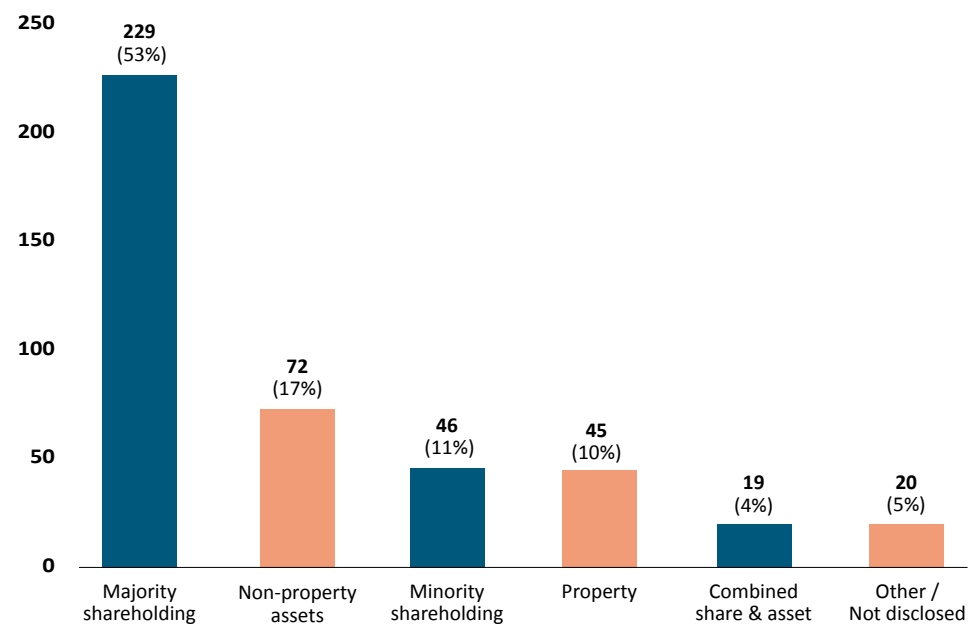
Transport
& Tourism

Waivers

Reasons for approval



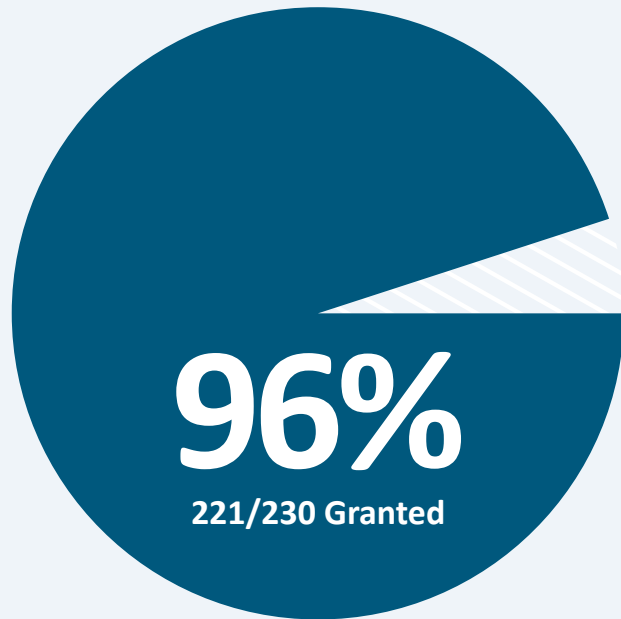
Type of acquisition



Percentage is calculated against the total number of waiver applications.

Phase 1

Clearance Rate



9 rejected



6 of 9 proceeded
with a Phase 2 review

Timing



19

Business days
Average for *cleared*
decisions



42

Business days
Average for *rejected*
decisions

Type

40%

by Private
Companies

62%

with Foreign
Elements

MOST PHASE 1 IN...



Industrials



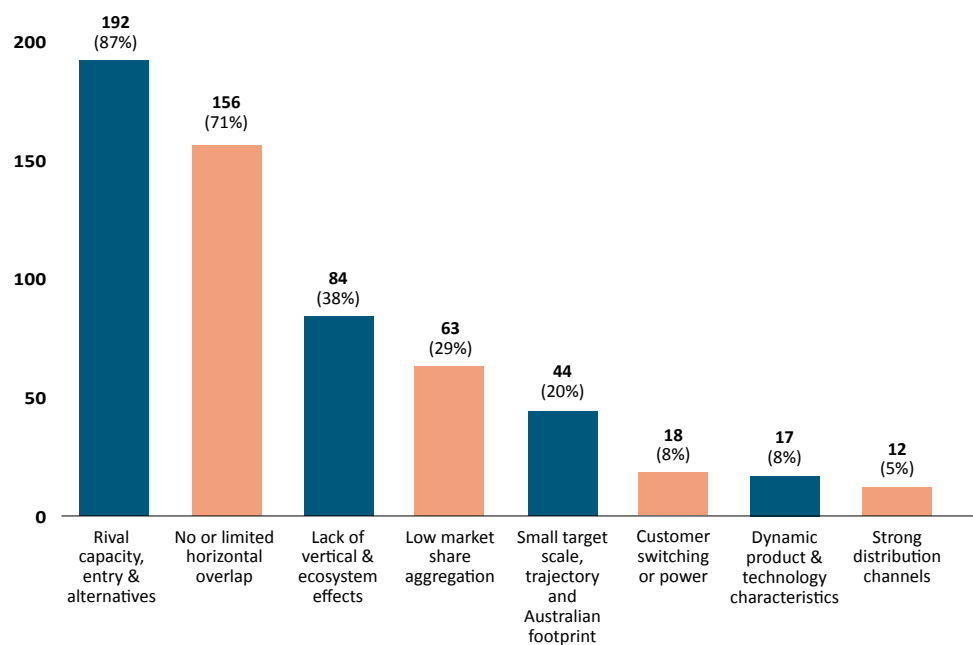
Health



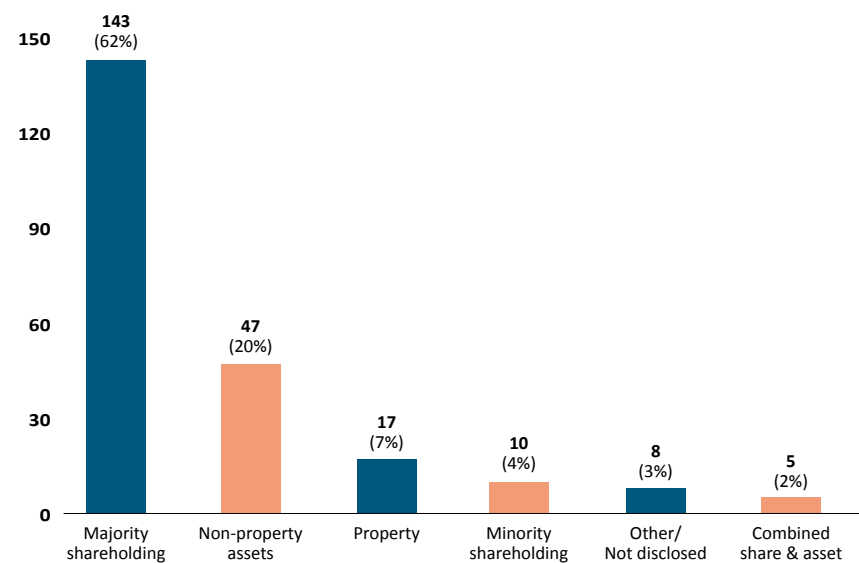
Transport
& Tourism

Phase 1

Reasons for approval



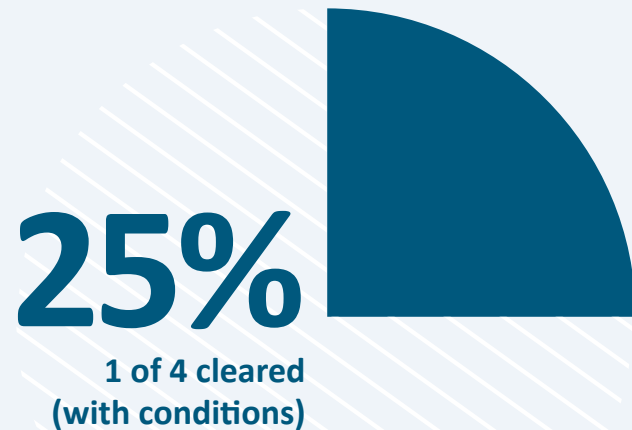
Type of acquisition



Percentage is calculated against the total number of Phase 1 notifications.

Phase 2

Clearance Rate



3 of 4 rejected



- Two rejected Phase 2 deals have been brought to the Australian Competition Tribunal
- One rejected Phase 2 deal has proceeded with a public benefits application

Timing



Business days
Average for *cleared*
decisions



Business days
Average for *rejected*
decisions

Type

75%

by Public
Companies

100%

with Domestic
Elements

MOST PHASE 2 IN...



**Food &
Beverage**



Retail



Industrials

Phase 2 deals

More Phase 2 deals blocked, first public benefits case and first Tribunal cases

Industry	Parties	Timing	Status	Reasoning	Remedies
Food & Beverage 	<u>MicroStar Logistics / Konvoy</u>	Phase 1: 27 business days Phase 2: 87 business days Total time taken: 114 business days	Opposed	The acquisition would remove Kegstar's closest and only direct rival and leave Kegstar as the sole provider of keg pooling services. Further, without the deal, there was a real prospect that another buyer or redeployed assets would maintain competition in the market.	Proposed behavioural remedy not accepted.
Finance 	<u>Insurance Australia Group / RAC Insurance</u>	Phase 1: 29 business days Phase 2: 110 business days Total time taken: 139 business days	Opposed, public benefits application under assessment	The acquisition would result in the merged entity having overall market shares of approximately 55-65% in motor vehicle insurance and approximately 50-60% in home and contents insurance in Western Australia. Further, the acquisition would eliminate the competitive pressure that RAC Insurance and IAG impose on each other.	Proposed behavioural remedy not accepted.

The other matters that proceeded to Phase 2 in 2026 are:

- **Ampol/EG** (approved with divestments)
- **Peter Warren/Wakeling Automotive** (ceased, re-notified in Phase 1 and approved)
- **Trescal/TR Calibration** (ceased)
- **Vets Central/Hills Veterinary Centre** (ceased)
- **Coles/Kalgoorlie** (opposed, before Tribunal)
- **Saipem S.p.A/Subsea7 S.A** (due 1 December 2026)
- **Zoetis/Neogen Genomics Business** (due 17 December 2026)

Regulatory and review mechanisms



2 Australian Competition Tribunal Reviews

Coles/Kalgoorlie

Coles' proposed acquisition of a leaseholder interest in Kalgoorlie is the first case to come before the Australian Competition Tribunal for review following the ACCC's adverse Phase 2 determination under the merger regime. It has been listed for hearing from 9-19 November 2026.

IAG/RAC Insurance

IAG's proposed acquisition of RAC Insurance is also before the Australian Competition Tribunal. Following a directions hearing on 9 October, the Tribunal directed that the proceeding be listed for a 12-day hearing commencing 30 March 2027. However, those proceedings are stayed pending the ACCC's determination of the public benefits application.



1 Public Benefits Application

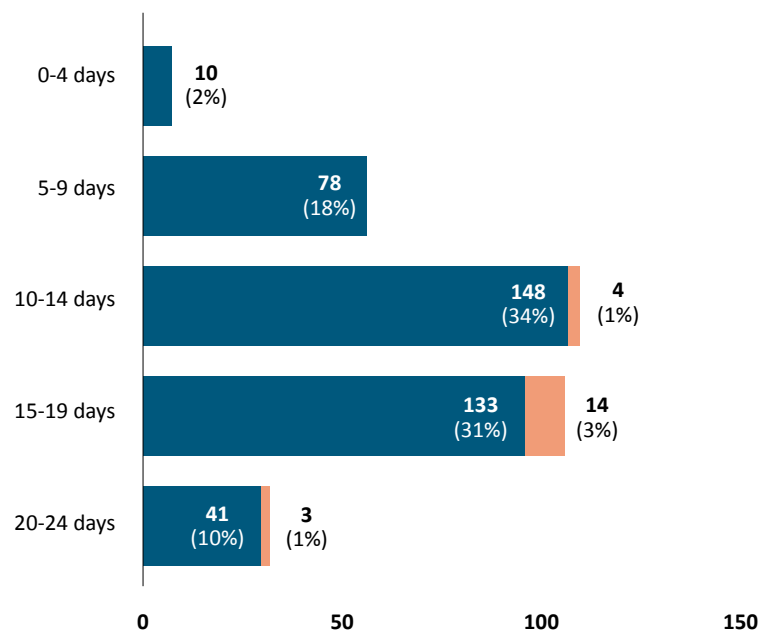
IAG/RAC Insurance

IAG has made the first public benefits application under the new merger regime regarding its proposed acquisition of RAC Insurance after the transaction was blocked at Phase 2.

IAG has also offered a remedy as part of its application which includes divestiture of certain insurance business assets and associated rights in Western Australia, as well as ongoing behavioural, service and compliance commitments. The ACCC has undertaken market inquiries and a determination is due by 22 December 2026.

Timing

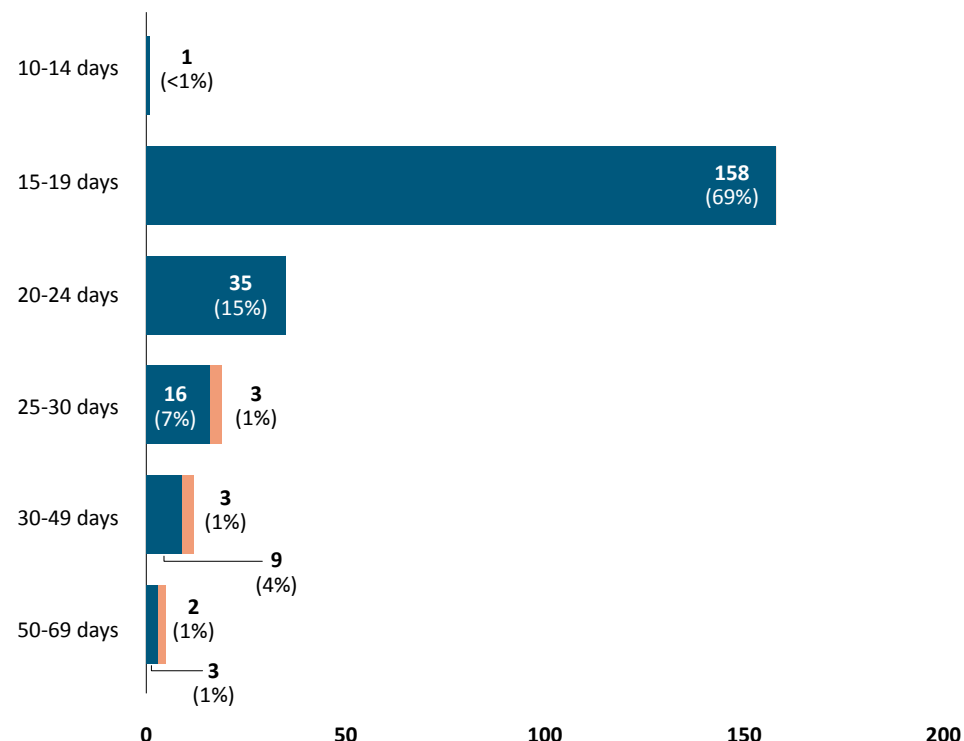
Waiver



Total: 431 (410 cleared, 21 rejected)

■ Waiver Cleared ■ Waiver Rejected

Phase 1



Total: 230 (221 cleared, 9 rejected)

■ Phase 1 Cleared ■ Phase 1 Rejected

The ACCC is required to wait 15 business days to allow time for third parties to comment on the notified acquisition.

Remedies



First remedies under Phase 1

Four Phase 1 notifications were approved with conditions, suggesting merger parties may be prepared to offer remedies early within Phase 1 to avoid Phase 2.



If at Phase 1 you don't succeed, try again with remedies

Peter Warren/Wakeling Automotive went to Phase 2 without a remedy only for the parties to withdraw the application and submit a new Phase 1 with remedies which was cleared. This takes additional time but avoids the time and costs of Phase 2.



Structural divestitures need not have identified purchasers

Four Phase 1 notifications were cleared subject to divestiture undertakings. Most deals were cleared before a purchaser had been approved, as the ACCC was satisfied suitable buyers were likely to be available.

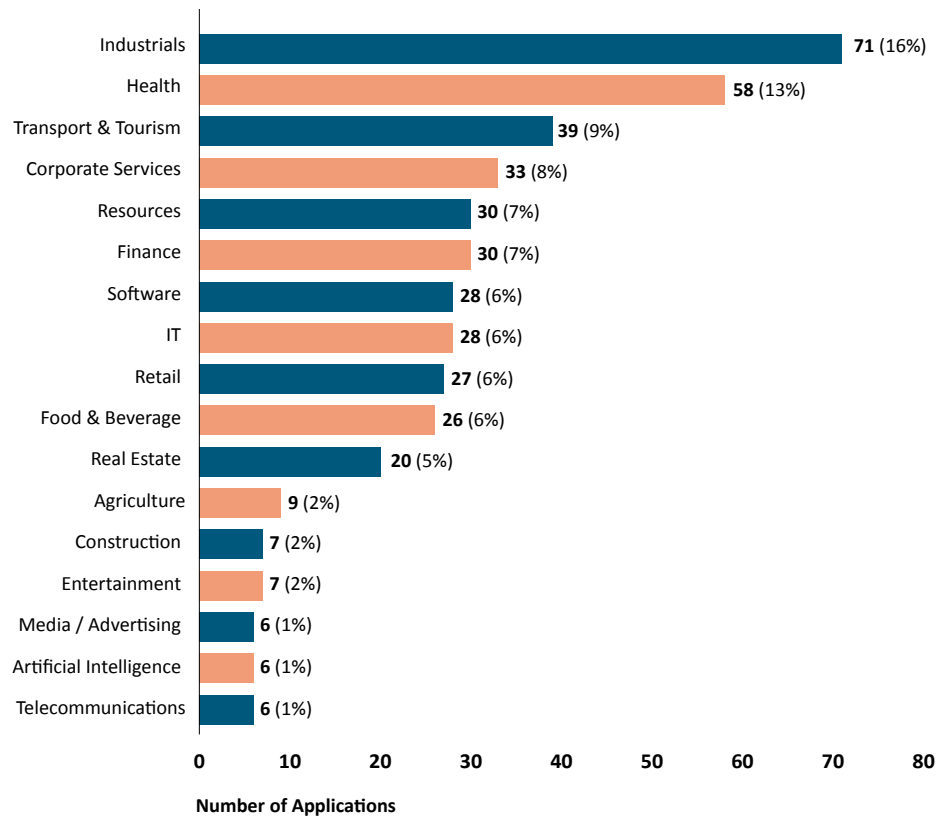


Behavioural remedies remain unproven

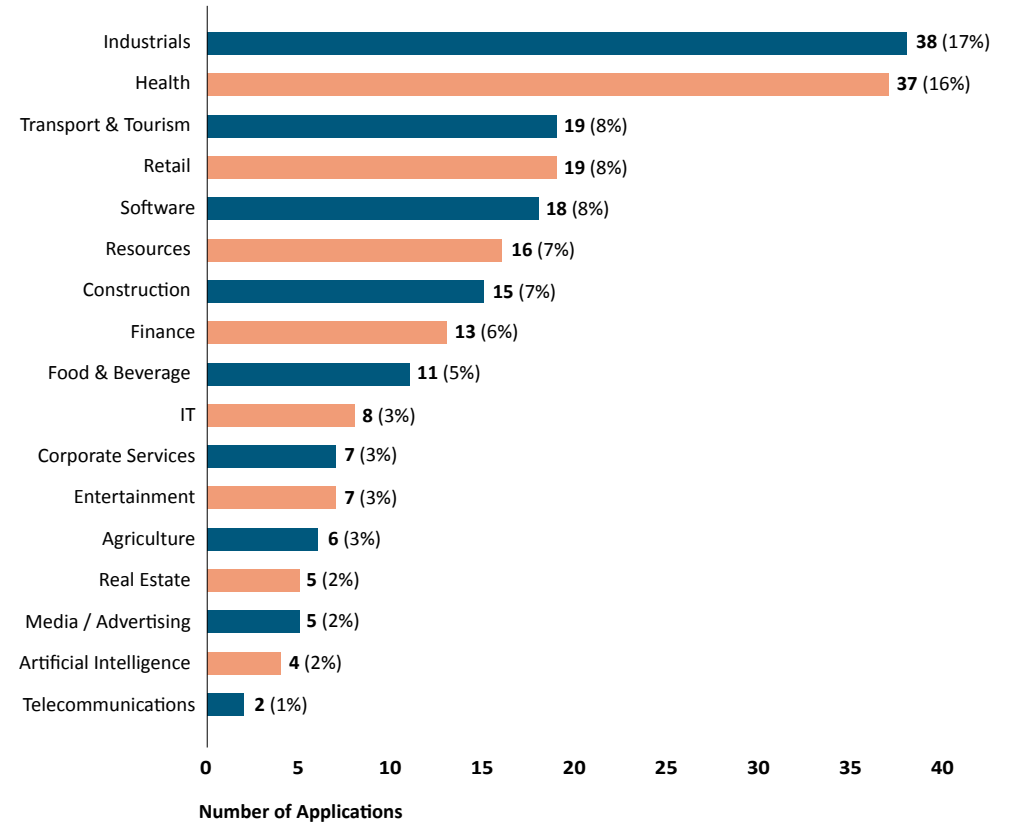
To date, all remedy clearances have involved structural divestitures, including the only approved Phase 2 (*Ampol/EG Australia*). Behavioural undertakings offered in *IAG/RAC Insurance* and *MicroStar Logistics/Konvoy* were considered insufficient to address the ACCC's concerns, although both were also Phase 2 matters involving transactions ultimately found likely to substantially lessen competition.

Industry statistics

Waiver

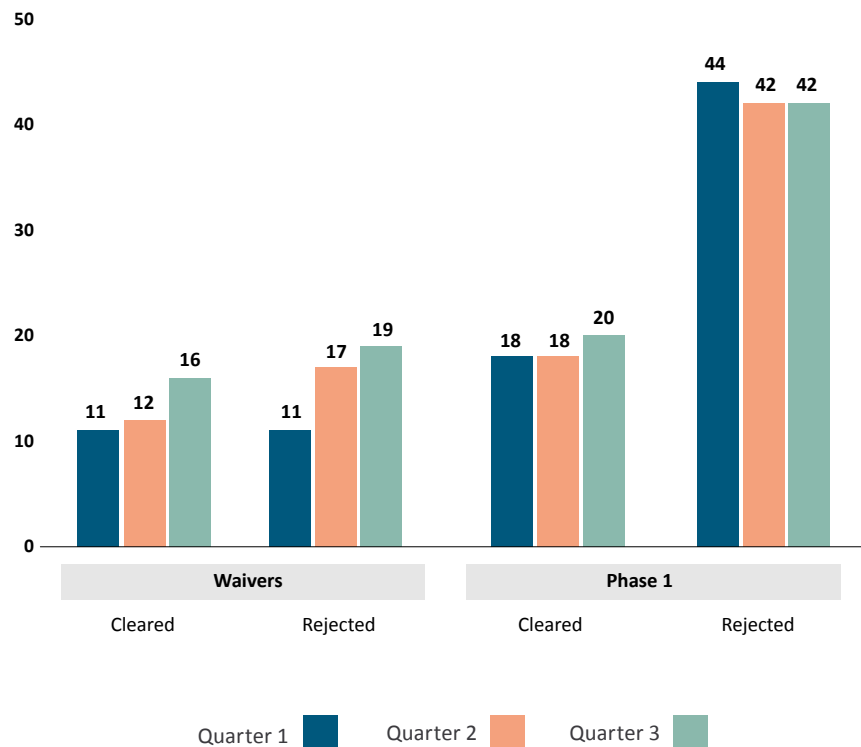


Phase 1

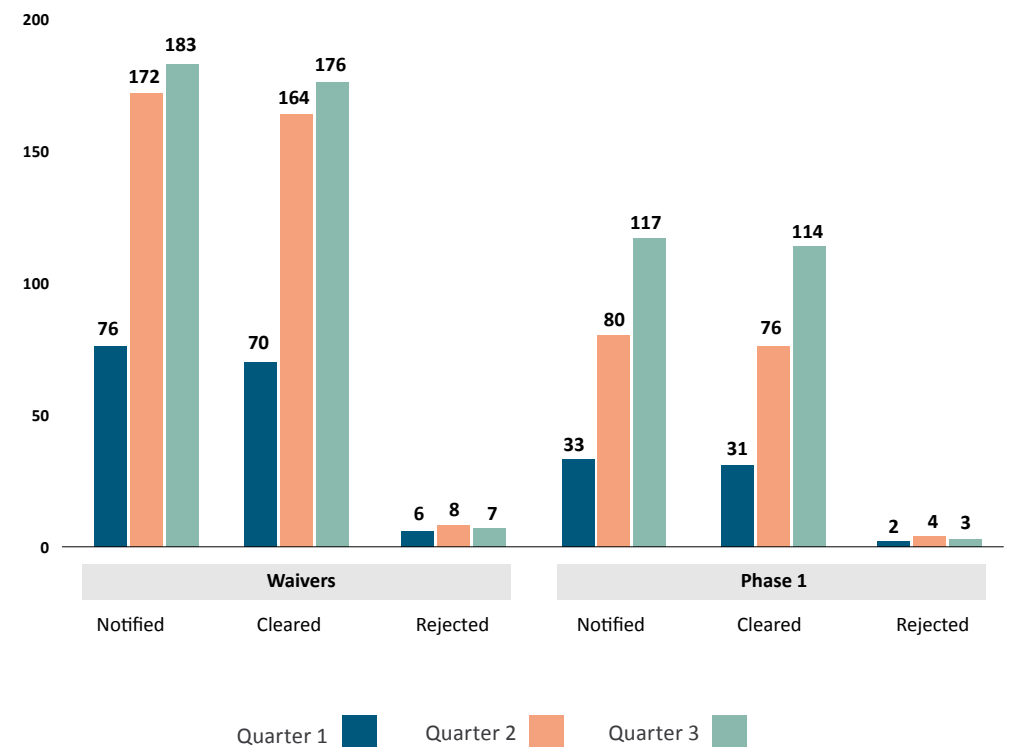


Trends

Average determination time (business days)

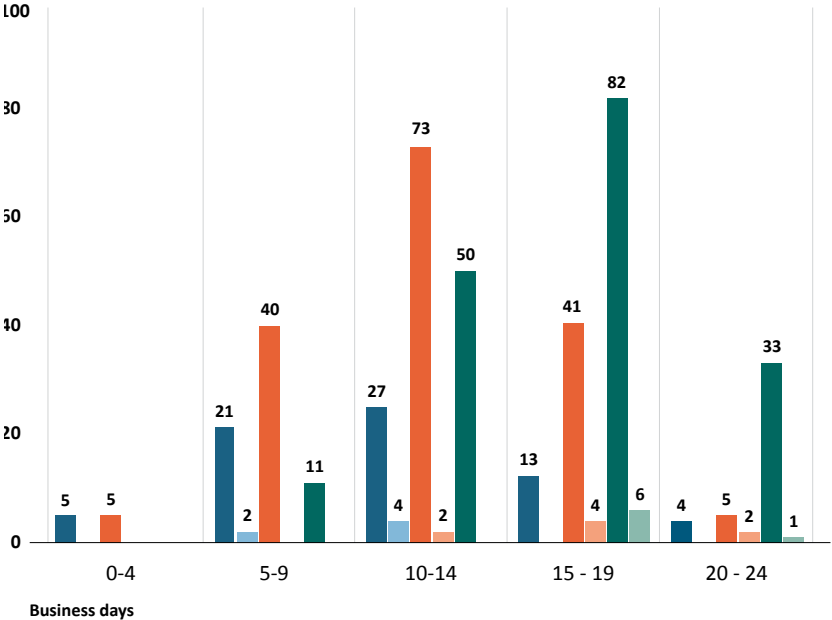


Number of deals



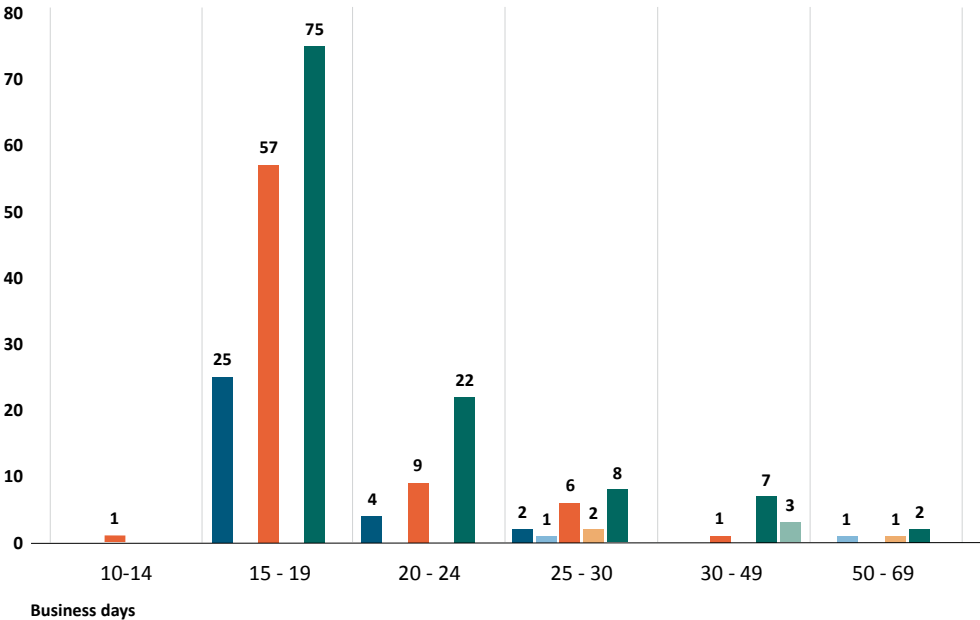
Trends

Timing – Waiver



Waiver (Cleared) Q1 Waiver (Cleared) Q2 Waiver (Cleared) Q3
Waiver (Rejected) Q1 Waiver (Rejected) Q2 Waiver (Rejected) Q3

Timing – Phase 1



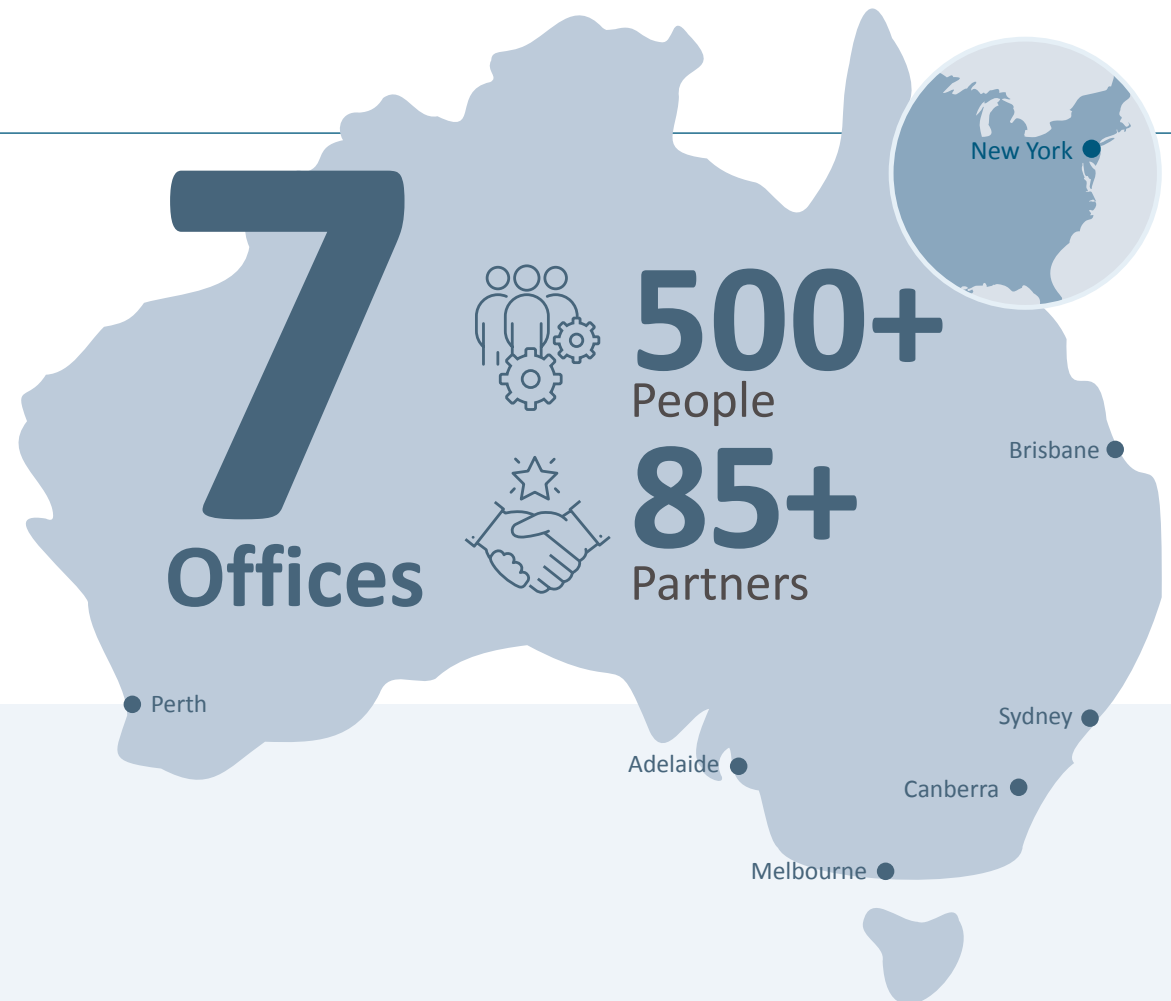
Phase 1 (Cleared) Q1 Phase 1 (Cleared) Q2 Phase 1 (Cleared) Q3
Phase 1 (Rejected) Q1 Phase 1 (Rejected) Q2 Phase 1 (Rejected) Q3

About us

Johnson Winter Slattery represents Australian and international clients on their most strategic, complex and demanding transactions and disputes throughout Australia and surrounding regions.

Our competition team is widely regarded as one of the leading teams in Australia on all aspects of competition law including mergers and acquisitions, ACCC investigations and litigation, advisory and compliance work and economic regulation.

We act for multinationals, ASX-listed companies, large private organisations, hedge funds and private equity firms.



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Sar has over 25 years' experience advising multinational and ASX-listed clients on all aspects of competition and consumer law. He has been involved in landmark cases relating to mergers, cartels, misuse of market power and access to infrastructure.

He is consistently ranked in international directories including Who's Who Legal, Chambers (Asia Pacific), Legal 500, Best Lawyers, GCR100 and Client Choice.

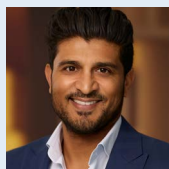
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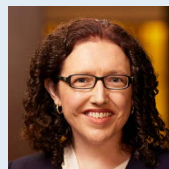
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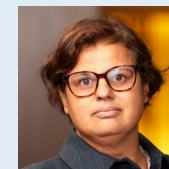
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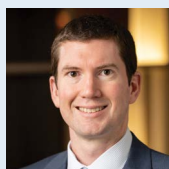
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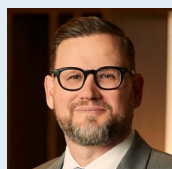
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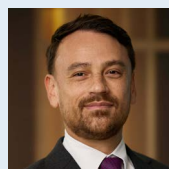
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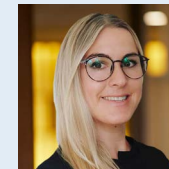
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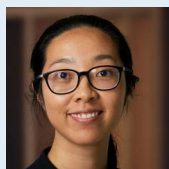
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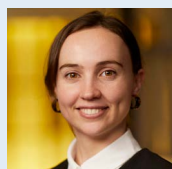
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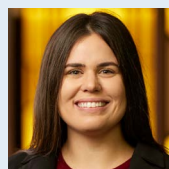
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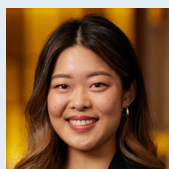
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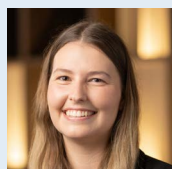
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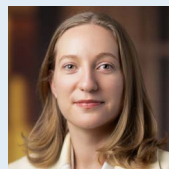
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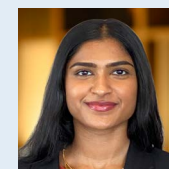
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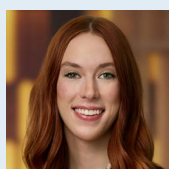
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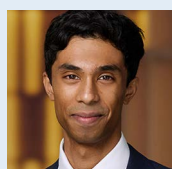
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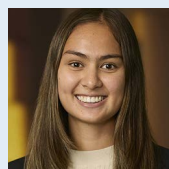
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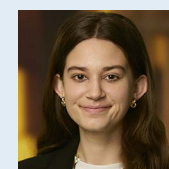
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