



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
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Consumer and Commercial Regulatory System Assessment

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Executive Summary

The Ministry of Business, Innovation and Employment (MBIE) conducts a rolling programme of assessments of its regulatory systems as part of its regulatory stewardship role. The purpose of these assessments is to identify which aspects of a regulatory system are working well and which aspects are not working well. The assessments make findings but not recommendations.

Between December 2017 and September 2018, MBIE conducted an assessment of one of its regulatory systems: consumer and commercial. The assessment was conducted by three MBIE employees (the Panel): Liz Thomson (Chair), Allison Bennett, and Christine Ammunson.

The Panel conducted a series of interviews with a cross-section of stakeholders with a role or interest in the consumer and commercial regulatory system. A total of 16 individuals and organisations were interviewed. The Panel also received written feedback from two further organisations on the questions put to interviewees.

The Panel has identified a number of common messages and themes, based on the information provided at the interviews and in questionnaire responses. These have formed the basis of the Panel's findings.

The consumer and commercial regulatory system is defined in very broad terms and has at its core the economy-wide rules of engagement and protections for businesses and consumers. There are, however, a number of intersections, overlaps and linkages with other regulatory systems which contain consumer protection elements. There are also some pieces of legislation that sit within this regulatory system largely because they do not naturally fit in any other regulatory system within MBIE. There are also some things within this regulatory system, most notably the insurance contract statutes and the Personal Property Securities Act 1999, which raise questions about whether they would fit more comfortably in another regulatory system. The Panel identified the scope of the regulatory system as a key issue at the outset and sought to explore this issue with all stakeholders who were consulted.

It was also obvious to the Panel at the outset that the very broad scope of the system means there are a large number of actors in the regulatory system with widely divergent interests. The question was posed by one stakeholder as to whether it was of a size that exceeded the maximum number of players for a workable system.

Some stakeholders raised the question of resources. Essentially they considered that, while the system is "well intentioned", there is a lack of resources and this leads to work arounds or gaps in the system.

The Panel has concluded that, despite the broad scope and the diversity of actors in it, the system works reasonably well for the majority of consumers. There have also been significant improvements in terms of cooperation between key regulatory actors and consultation across the system in recent years.

There is, however, room for improvement in a number of respects. Firstly, access to effective dispute resolution mechanisms remains problematic, particularly for the more vulnerable consumers in the system. This leads into the second issue identified by the Panel.

The position of these more vulnerable consumers was raised with the Panel by almost all stakeholders we engaged with. There is a general acceptance by most that the system does not serve consumers who are vulnerable by reason of a lack of financial capability and/or economic deprivation well. These factors are a barrier to the uptake of information that is available to consumers, affects the choices available to them, as well as their willingness and ability to pursue remedies in the event of something going wrong with a transaction.

Thirdly, the regulatory system's reliance on non-governmental organisations is notable and brings with it particular challenges for the system.

Fourthly, a number of commentators identified generic consumer issues that arise across the economy and across a number of regulatory systems. In particular, issues with contracts were something that were identified as arising in a number of contexts including insurance, building and telecommunications. The areas identified seemed to be ones where the products being offered to consumers were particularly technical or complex in nature.

A further issue raised with the Panel by numerous stakeholders is the inherent tension between principle-based rules that apply across all sectors of the economy and which are inherently flexible and adaptable, versus the strong demands from both business and consumers for certainty. This tension is particularly difficult to manage in the face of rapid and disruptive technological change. The lack of resources mentioned above also puts strain on the system when there are sector specific approaches put in place as this means new, specific rules to communicate, administer and enforce with no corresponding increase in resources. There is a view that these sector specific responses do not always correspond to the areas of greatest risk or harm to consumers.

A number of stakeholders raised the issue of the extent to which the system captures and utilises data and evidence in formulating policy and developing information, educational and enforcement initiatives.

Finally, most stakeholders identified looming issues that the consumer and commercial regulatory system needs to prepare for, including new technologies, disruptive business models, and changes in consumer behaviour. A number of these things are further complicated by the fact they have cross-border dimensions.

Overview of the consumer and commercial regulatory system

Scope

The consumer and commercial regulatory system regulates the interactions that businesses and consumers have before, during, and after the point of sale of a good or service. The system comprises the rules, institutions and practices used to regulate conduct and promote or change behaviours in the interactions between consumers and businesses.

The consumer and commercial regulatory system is a “foundational” regime for consumer protections, which applies economy wide. It is largely limited to generic consumer and commercial matters and does not seek to regulate sector-specific consumer issues. This means that the system has overlap, and intersects, with many other regulatory systems, adding to its complexity.

Given its breadth and complexity, the Panel was interested in exploring stakeholders’ views with respect to the scope of the system from the outset. However, this assessment has not, and could not have been, a comprehensive examination of every aspect of the system. Rather, consistent with other regulatory system assessments, the Panel has focused on the overall state of the regulatory system and thematic issues arising.

There were also areas of the regulatory system that are currently the subject of detailed policy reviews. These include the review of consumer credit laws and the insurance contract law review. Given the separate and comprehensive consultation processes planned with respect to those reviews, the Panel did not focus on the substantive issues raised by stakeholders in those areas.¹

There are also some elements in the system that appear to have limited ongoing relevance and application. These are the Cheques Act 1960 and the Bills of Exchange Act 1908. These elements were also given a somewhat “lighter touch” in this assessment process.

A regulatory charter for the consumer and commercial system was finalised in December 2017.² A fuller description of the system and its component parts and actors can be found in the Charter. It was very helpful to the Panel to have the charter as a base for discussions with stakeholders. The pictorial representations of the system were particularly helpful in generating discussion on the scope of the system and the intersects with other regulatory systems.

¹ A number of stakeholders raised credit contracts as an area where there are ongoing issues for consumers. All stakeholders with experience in this area noted the complexity of fees and contracts and the difficulty for consumers and advocates in applying principle-based standards. Those issues were identified as having a particular impact on vulnerable consumers.

² <http://www.mbie.govt.nz/about/our-work/roles-and-responsibilities/regulatory-systems-programme/document-and-image-library/consumer-and-commercial-charter.pdf>

Objectives

The overarching objectives of the system are well-regulated and competitive markets and increased business and consumer confidence in markets. At a more specific level, the system has the following objectives:

- *Consumers and businesses have the information they need to transact with confidence* – there are potential information asymmetries between businesses and consumers. Accessing and processing information also incurs costs, as it requires time, effort and money. These factors can contribute to suboptimal decision-making, higher transaction costs, and distorted competition in markets.
- *Consumers and businesses are protected from high levels of detriment* – consumers may face harm from certain goods and services. Regulation provides incentives for businesses to ensure products they sell are safe, or to provide information about their safe use/consumption. The system also aims to protect consumers from high levels of detriment outside of their control. Detriment may take various forms.
- *Consumers and businesses have access to appropriate redress if things go wrong* - access to appropriate redress not only protects consumers after a problem occurs, it can also provide incentives for businesses to proactively meet consumer expectations. Mechanisms for redress should be fit for purpose and consistent with best practice in terms of the dispute resolution principles of user-focus and accessibility, independence and fairness, efficiency, effectiveness and accountability.³ It is also important that businesses have access to redress when dealing with other businesses.

Parties involved in the system that contribute to the achievement of the objectives

The core regulatory actors in the consumer and commercial regulatory system are MBIE and the Commerce Commission.

As stewards of the system, MBIE has the primary responsibility for maintaining, monitoring, evaluating, and improving the system. Within MBIE the following functions are undertaken in relation to the system:

- *Business.govt.nz* provides tools and resources to businesses from across government, including advice on compliance with consumer and commercial regulation.

³ For more on best practice dispute resolution, see the website of the Government Centre for Dispute Resolution: <http://www.mbie.govt.nz/about/our-work/roles-and-responsibilities/government-centre-dispute-resolution>

- *Business Law* advises the Minister of Commerce and Consumer Affairs on commercial law and has shared responsibility with the Competition and Consumer Policy team for administering commercial legislation.
- *Companies Office* is the government agency responsible for administering the Personal Property Securities Register, which is where details of security interests in personal property are registered and searched. The register is of assistance to consumers when buying goods which may be subject to security interests. It also provides information about their rights and obligations if a security interest is registered when they on debt.
- *Competition and Consumer Policy* is the owner of the system and advises the Minister of Commerce and Consumer Affairs on consumer policy issues and is responsible for administering consumer and commercial legislation.
- *Consumer Protection* develops and delivers targeted information and programmes aimed at increasing the ability of consumers to transact with confidence. Consumer Protection shares joint oversight of the overall development, implementation and review system strategy and policy with Competition and Consumer Policy.
- *The Government Centre for Dispute Resolution* is the steward of dispute resolution across government. It develops best practice guidance, tools and other resources, assists agencies to review and design dispute resolution schemes, and suggests improvements to dispute resolution across government. Dispute resolution is a cross cutting issue across a number of regulatory systems with consumer and commercial elements.
- *Standards New Zealand* develops New Zealand standards for products, processes, services and performance across a range of goods and services purchased by consumers.⁴
- *Trading Standards* undertakes monitoring, compliance and enforcement of measurement and product safety settings. It is responsible for regulating a range of consumer products, the national measurement system used for trade, fuel quality monitoring, and the registration of auctioneers and motor vehicle traders.
- *Service Design Policy* plays a role in supporting the Market Services Group and its regulatory systems by providing leadership and coordination of projects, and providing advice on operational policy and service design.

The Commerce Commission is an independent Crown entity established under the Commerce Act 1986. It has responsibility for enforcing consumer and commercial regulation (under both the consumer and commercial regulatory system, and the competition regulatory system). It also

⁴ While Standards NZ is included in the list of MBIE actors in the system in the charter, it should be noted that the Standards and Accreditation Act 2015 forms part of the Trade, international and standards regulatory system.

provides information and guidance to businesses and consumers about the law and how it applies in particular contexts.

There are, however, a number of other actors who undertake important roles in this regulatory system. This includes non-governmental organisations who provide advice and assistance, and advocate on behalf of consumers and businesses. While not formal regulatory actors, these groups perform functions that contribute to and indeed, are essential to, the effective functioning of the system.

Assessment process

What is a regulatory system assessment?

MBIE has regulatory stewardship responsibilities for 16 regulatory systems. One of them is the consumer and commercial regulatory system. A regulatory system comprises the rules (e.g. statutes and regulations), institutions and practices that work together to achieve the desired behaviours and outcomes. More details about MBIE's stewardship responsibilities and how it carries them out can be found in its *Regulatory Stewardship Strategy for 2017/2018* (the *Strategy*).⁵

One of the ways MBIE meets its stewardship responsibilities is by carrying out a rolling programme of assessments for each of its regulatory systems. The purpose of these is to identify which aspects of a system are working well and which are not at a particular point in time. The assessments make findings but not recommendations.

MBIE uses regulatory system assessments as a tool to determine the issues to focus on in the short to medium term to improve the regulatory system. An assessment report is provided to the Deputy Chief Executive and General Manager responsible for the regulatory system. They subsequently decide on an action plan for taking the assessment panel's findings forward.

A shorter public version of the report and action plan is subsequently published.

An assessment of the consumer and commercial regulatory system was conducted in 2018. This report sets out the findings of that assessment.

Assessment process

This assessment was carried out by:

- Liz Thomson, National Manager – CPIE, Business Integrity Services (Chair);
- Allison Bennett, Director, Legal Services;
- Christine Ammunson, Senior Stakeholder Advisor, Consumer Protection and Standards.

Anna Butler, General Manager Building System Performance sponsored the review. The Panel was supported by Valerie Townsend.

The Panel had a series of meetings with key stakeholders between November 2017 and February 2018. These discussions focused on both scope issues and identifying issues to explore further with stakeholders. There was also discussion about which stakeholders ought to be engaged, the breadth of the system making it impossible to engage with everyone.

⁵ <http://www.mbie.govt.nz/publications-research/publications/regulatory-systems-programme/regulatory-stewardship-strategy-2017-18.pdf>

In the next stage of the assessment, the Panel met with a full range of internal and external stakeholders, including both regulatory actors and a number of non-governmental actors in the systems. This took place between March and May 2018. The interviews were framed around a series of questions prepared by the Panel and external stakeholders were provided with a copy of the Consumer and Commercial Regulatory System Regulatory Charter in advance. A full list of the stakeholders the Panel engaged with is set out in Annex 1. The interview questions are in Annex 2.

While the Panel endeavoured to cover all of the material set out in the interview questions with stakeholders, the direction of interviews did tend to be set by the stakeholders and reflected their particular role in, and experience of, the system.

We also received written feedback on the interview questions from two further stakeholders.

The Panel then identified the common themes and messages based on the information provided to it in interviews and written responses. In October and November 2018 the Panel met with key stakeholders to test its findings with them and in order to ensure it had correctly understood the messages and themes.

The Panel's findings are based on the common themes and messages that emerged from engagement with the stakeholders. This makes the assessment necessarily impressionistic in nature, but the fact that these issues were raised consistently gives some confidence they are matters warranting further consideration. Further work will be needed to better understand the issues and to identify and assess policy and operational responses to those issues.

Findings of assessment

Finding 1: the system is fit for purpose and is not vulnerable to systemic risks or harms but there is room for improvement

The Panel's findings

In terms of the general health of the system, the Panel has found that overall the system is working reasonably well for the majority of consumers and businesses. There have been a number of initiatives in recent years to improve coordination and cooperation amongst the various parties in the system. There is a greater focus on the collection of evidence and data with which to inform policy making and educational/informational activities.

However, almost all stakeholders are agreed that there are issues with respect to how well the system works for vulnerable consumers. Some stakeholders are of the view that the system is completely failing such consumers, while others would take a less drastic view, seeing instead room for improvement or for new ways of approaching the issue.

The breadth of the consumer and commercial regulatory system and the number of actors with divergent interests operating within it mean that coordination and cooperation will be an ongoing challenge for the system. As one stakeholder put it, "collective impact" will bring the greatest rewards for the system.

While none of the stakeholders we interviewed identified any looming system-wide risks or harms, insurance was identified as a point of risk by some. However, stakeholders were not specific about the nature of the risks they see arising in relation to insurance. The Panel also heard from a number of stakeholders who consider that insurance sits more naturally within the financial markets regulatory system than in the consumer and commercial system.

Effective dispute resolution and enforcement were consistently raised with the Panel. Furthermore, the Panel heard from a number of stakeholders that greater use should be made of data and evidence in decision-making within the system. There is a commonly held view the system should be more proactively considering emerging issues and trends.

Summary of stakeholders' comments

While there are pressures, the system is not exposed to an unacceptable level of failure

None of the stakeholders identified systemic risks or failures, although there were a number of areas identified where the system is under resourcing pressure, meaning that some hard decisions need to be taken. The system also relies heavily on the input of non-governmental actors who are not always resourced to perform this role.

Almost all stakeholders considered that the system performs well when issues of safety arise.

The most commonly identified risk for the system is insurance, although many did not see insurance as sitting comfortably within this regulatory system.

There has been considerable improvement in the way that regulatory actors engage with each other and with non-governmental actors in recent years

Almost all stakeholders commented on the improvements in cooperation and coordination that have been driven by the key regulatory actors (MBIE and the Commerce Commission) in recent years. The Consumer Protection Partnership Forum which brings together government agencies, non-government organisations and the private sector as part of a collaborative approach to protecting consumers was mentioned favourably by a number of stakeholders.

The system puts a relatively high level of effort and resource into informational and educational initiatives compared to other regulatory systems

The Panel heard that collaboration between MBIE and Commerce Commission in this area has improved noticeably in recent years. There is also a strong sense that the Commerce Commission is more proactive in the consumer area than previously was the case.

A number of areas where the system could do better were consistently raised with the Panel

The following areas where stakeholders consider the system could do better were consistently raised with the Panel:

- While the system is reasonably well understood at a general level, some elements might fit better within the other regulatory systems;
- It is important for the system to continuously seek to improve coordination of and cooperation between key regulatory actors;
- there are perceived issues with respect to enforcement and access to dispute resolution mechanisms;
- The system does not serve vulnerable consumers well;
- There is a heavy reliance on non-governmental actors;
- There is a series of generic and recurring consumer issues that arise across multiple sectors and systems;
- There is a tension between principles based legislation and the desire for certainty;
- There is a need for to collect and make better use of data and evidence; and
- Work is needed to address future issues and pressures for the system.

These issues are addressed in more detail below.

Finding 2: while the scope of the system is reasonably well understood at a general level, some elements might fit better in another regulatory system

The Panel's findings

The design of the system largely makes sense

The system is most logically conceived of as a foundational, economy-wide one that sets out the core rules with respect to interactions between consumers and businesses. The balance between horizontally and vertically integrated consumer protections is largely workable, with the vertical protections being concentrated on areas where the nature of the transactions requires particular regulatory attention.

There are a number of elements within the system that are not in nature of “core rules” so much as mechanisms that facilitate or provide a means for consumer-business transactions to occur. These include the Auctioneers Act 2013 and the Credit Contracts and Consumer Finance Act 2003. Given the consumer transaction focus of these statutes, however, they are most closely related to this system than to any other.

But there are some elements that are not a comfortable fit

There are some elements of the system that do not sit comfortably in it. For example, the Personal Property Securities Act 1999 is identified as being within scope of the system in the regulatory charter to the extent it relates to individuals (with it being within the corporate governance system to the extent it relates to corporate entities). While it is utilised with respect to consumer transactions, it is primarily intended to be a tool for business, enabling financing through personal property rather than real estate. As such, the benefits it delivers for consumers are secondary. Seen in this light, it is rather similar to standards, which sit within the trade and international regulatory system but are frequently used as a tool by the consumer and commercial regulatory system (e.g. for the purposes of measuring and enforcing product safety). Some stakeholders considered that standards play a limited role in this system.

The other element of the system consistently identified as belonging more naturally elsewhere are the insurance contract statutes. This is also identified in the charter as being the joint responsibility of the consumer and commercial regulatory system and another system, in this case, the financial markets system. The charter noted that it was possible responsibility may shift during the course of the review of insurance contract law. The Panel consistently heard from stakeholders that insurance matters are a better fit with the financial markets system. To the extent there are consumer issues arising with respect to insurance contracts, these are generic issues that arise consistently across numerous regulatory systems (see below for a fuller discussion). The prudential elements and the nature of insurance products sit more logically with the financial markets system.

Shared responsibility between multiple regulatory systems undesirable

As a general comment, the Panel considers it is undesirable for responsibility for legislation to be split between regulatory systems. Such an arrangement carries with it the risk of things falling between the cracks. The Panel had the impression that regulatory stakeholders were much less focused on those things that were a shared responsibility.

Summary of stakeholders' comments

As noted above, the scope of the system was an issue identified by the Panel as warranting particular consideration in this assessment from the outset. All of the stakeholders were specifically asked to comment on it.

Understand it to be a foundational system of consumer protection

Most stakeholders felt that the scope of the system made most sense when it is viewed from the perspective of over-arching economy-wide rules and protections. There are, however, some features of the system that do not fit this description and were described by one stakeholder as “clip ons”, and as “orphans” by another. Another stakeholder said there are questions about the coherence of the system.

Stakeholders assessed fit within the system in both substantive and stakeholder terms. For example, some stakeholders queried whether the Credit Contracts and Consumer Finance Act 2003 would sit more comfortably with the financial markets system. However, others were comfortable that the key stakeholders with respect to that legislation were actors who were fully engaged in the consumer and commercial regulatory system.

Where something is more closely related to a specific regulatory system, stakeholders generally felt it should live there. The Personal Property Securities Act 1999 and the insurance contract statutes fell into that category, with the feedback from stakeholders indicating they belong in the corporate governance and financial markets regulatory systems respectively.

And see it as setting out foundational rules regulating consumer and business interactions

A question was raised with the Panel about whether the commercial statutes should form their own regulatory system, separate from the consumer protection elements of the system. However, most stakeholders seemed to understand the system as setting out the basic rules that regulate and apply to consumer and business interactions in the market place.

System interacts with many other regulatory systems

Many stakeholders struggled with the issue of how the system interacts with other regulatory systems. A number of stakeholders raised issues with respect to the way that the foundational protections in the Consumer Guarantees Act 2003 and the Fair Trading Act 1986 interacted with specific regulation in other sectors such as telecommunications and building. The role played in relation to consumer protection issues by a number of regulators who are not part of this system was also raised. For example, it was noted that Medsafe and the Environmental Protection Authority play an important role in consumer safety.

The interactions with other systems were seen by some stakeholders as important and as benefiting the system. For example, one stakeholder considered there to be considerable overlap between the consumer and commercial regulatory system and the competition regulatory system, with competitive markets delivering benefits to consumers.

Finding 3: it is important for the system to continuously seek to improve coordination of, and cooperation between, key regulatory actors

The Panel's findings

There need to be practical mechanisms to ensure the system is fully functional

The consumer and commercial regulatory system is complex and involves many actors. If this complexity is taken as a given, there is a need for the system to have mechanisms operating at a practical level in order to make it less confusing and more functional. There is a need for all actors in the system to understand the current issues and priorities for the system and for things to be pushed to the appropriate regulatory actor. For example, feedback from complaints and disputes should be informing policy making, as well as information, educational and enforcement initiatives.

Initiatives such as the Consumer Protection Partnership Forum provide a good opportunity for all actors in the system to come together, share information, and reach consensus about current issues and priorities. A number of stakeholders expressed the view that it is important for cooperation and coordination to be based on more than personal relationships and for these to be underpinned by an agreed approach and formal structures to support cooperation that is supported by senior leadership. The Partnership Forum is a good example of this.

There is also a need for regulatory actors to be deliberate about consultation and collaboration with other regulatory actors to ensure the system is utilising scarce resources efficiently and that policy-making and priority setting are well informed.

MBIE is well placed to take a leadership role in driving best practice in relation to consumer protection issues

Given the horizontal nature of this regulatory system, there is also a need to ensure coordination and cooperation extends to the interface with the vertical regulatory systems. In this respect, MBIE is well placed as it has a leadership role in a number of functional areas such as dispute resolution, occupational regulation, and standards.

Good relationships and clear communication are vital

There is a relatively high degree of alignment of intentions and objectives, despite the wide range of interests in the system. The Panel was surprised by the consistency of feedback on a number of issues.

The relationship between MBIE and the Commerce Commission appears to be strong and the Panel had the sense there is good collaboration about priorities and consultation to avoid duplication of efforts. The Panel had the sense that perhaps more communication with other actors in the system is necessary to ensure everyone shares their understanding of how priorities are determined.

There is a sense that business interests are less well represented than consumer ones

There may be greater scope for the system to engage with businesses and organisations representing business interests.

Summary of stakeholders' comments

Appreciate improvements in coordination and cooperation

Almost all stakeholders spoke positively about there having been improvements in the way actors in the system come together in recent years. The Consumer Protection Partnership Forum was mentioned by a number of stakeholders as an initiative that provided opportunities for information and views to be shared.

There also seems to be regular discussions occurring between regulatory actors and non-governmental actors outside of more formal fora, as well as between the non-governmental actors who work together from time to time (e.g. on input to government consultation processes).

There are still difficulties

Despite the clear improvements, there are still challenges in a system that is both crowded and comprised of very diverse interests. One stakeholder expressed concern that the size of the system made it inherently difficult to get true collaboration (as opposed to informing or consulting) on issues. Another commented that the disparate interests in the system makes it difficult for the system to get traction on key issues. Another commented on the difficulty of engagement in a sector with such diverse interests. There is the issue of who to engage with when consultation about consumer interests is required.

While the Consumer Protection Partnership Forum has clearly been a useful initiative in terms of providing a formal structure to support collaboration and cooperation, the Panel did get the sense from some stakeholders that there is still considerable reliance on the strength of certain personal relationships within parts of the system. Such reliance comes with risks about the sustainability of institutional engagement in the event of key individuals leaving. The challenge is in achieving the right level of formal structures and arrangements to support collaboration and cooperation, while avoiding consultation and engagements becoming check box exercises.

Some stakeholders commented to the Panel on what they perceived to be a lack of transparency about how priorities are determined. Some of the non-governmental stakeholders said they did not fully understand how the Commerce Commission goes about its triaging of complaints and how it prioritises enforcement matters. Multiple stakeholders expressed concern about what happens to the complaints the Commission decides not to pursue.

MBIE's leadership role

A number of internal stakeholders commented on MBIE's ability to link between regulatory systems in relation to consumer protection issues. One commented that the consumer perspective ought to be more widely considered in policy making across MBIE's regulatory systems. Another thought more cross cutting work is required, particularly in relation to disputes resolution, occupational regulation, and standards.

One stakeholder commented on the importance of senior leadership within MBIE setting the direction in terms of building good relationships with other actors in the regulatory system, especially key actors, such as the Commerce Commission.

Business interests do not feel well represented

One stakeholder commented that the system is very “consumer organisation heavy”. There was a sense that business interests are not well represented in the system and that there is scope for better engagement with organisations that represent business. The comment was also made that the system focuses on the transaction between the consumer and the trader, it largely ignores the role of manufacturers and suppliers in consumer issues. One stakeholder commented that many small businesses are in the position of individual consumers when it comes to consumer protection issues.

Finding 4: there are perceived issues with respect to enforcement and access to dispute resolution mechanisms

The Panel’s findings

Self enforcement works for the majority of consumer-business transactions

It is reasonable to expect the majority of consumer issues to be dealt with through negotiation between the parties and that appears to be largely what happens. This appears to be less likely to occur when vulnerable consumers are involved (the position of vulnerable consumers in the system is discussed in more detail below under finding 5).

There are, however, some areas where self enforcement is more difficult for consumers. These include areas where there is an information asymmetry involved. It is in these areas where publicly funded enforcement is justifiable. There may be scope for improvements to the system in this regard.

There are concerns about the accessibility of dispute resolution mechanisms

An important measure of the success of this regulatory system is the way in which dispute resolution is working. The Panel found there is a general lack of confidence in some of the dispute resolution mechanisms available to consumers. In particular, the dispute resolution schemes under the Financial Service Providers (Registration and Dispute Resolution) Act 2008 do not appear to be well regarded, understood, or utilised by consumers.

There are also concerns with respect to the Disputes Tribunal as a mechanism for enforcing consumers’ rights. By way of contrast, a number of stakeholders expressed the view that the Motor Vehicle Disputes Tribunal works well. The fact that its decisions are readily available was also viewed favourably.

Gaining access to the dispute resolution mechanisms appears to be the greatest concern in this area. Despite awareness raising campaigns on the part of the financial service providers disputes resolution schemes, awareness levels around these schemes and how to access them remain low.

One suggestion that was made to the Panel by a number of stakeholders was for a tool such as a portal that would provide a single point of entry to the disputes resolution mechanisms in the system.

As a foundational regulatory system, the consumer and commercial system should be diffusing best practice and insights horizontally in relation to matters such as dispute resolution. It is therefore particularly problematic that there appear to be concerns about the extent to which consumers understand and are willing and able to access dispute resolution mechanisms in the system.

Consumers “walking away” from complaints is problematic for the system

The Panel was told a number of consumers will just “walk away” from issues because self enforcement is not considered to be worth the time and effort. This appears to be even more of an issue for vulnerable consumers who face multiple disadvantages when seeking to enforce their rights.

This is potentially problematic when the enforcement strategy and priorities for the system are perceived to be informed by volumes of consumer complaints (amongst other things).

Summary of stakeholders’ comments

Consumers’ experience of self enforcement

While a number of stakeholders commented that self enforcement works reasonably well for the majority of consumers, a number also thought the system could do more to support consumers through the process. The Panel had mixed feedback about how well businesses do at responding to consumers’ issues. One stakeholder commented that bigger retailers tend to handle consumer issues better as they will have standard processes, better staff training, and escalation procedures. This stakeholder thought that smaller businesses tend to “wing it”. However, others commented that big box retailers are often worse for a consumer to deal with than small to medium businesses, for whom brand protection and relationships with customers is very important.

The Panel was told that vulnerable consumers often struggle with self enforcement for multiple reasons. In addition to language, literacy, and confidence issues, vulnerable consumers often transact with very small businesses (which are sometimes marginally viable) and with traders operating in local markets. Self enforcement when something goes wrong can be particularly problematic from both sides of the dispute in these circumstances.

Consumers often give up on self enforcement when there is push back. The Panel was told that some retailers will flout the law because they know there is very little prospect of there being enforcement action against them. One stakeholder was of the view that a high proportion of people walk away from issues because enforcement is too hard.

Range of views about how successful enforcement in this area is

The Panel heard mixed feedback about enforcement action. Some stakeholders noted that the Commerce Commission has been more active in relation to consumer issues in recent years and considered that it was doing a good job in pursuing the difficult issues and then publicising the

outcomes of enforcement action in an effort to educate businesses and encourage compliant behaviour.

Others expressed concern about the “tail” of unresolved complaints and noted that there is a lot of harm unaddressed by the system. A number of stakeholders identified the lack of enforcement around persistent low-level harm as an unfortunate consequence of the enforcement strategy used by the system. One stakeholder said it felt conflicted about encouraging consumers to complain to the Commerce Commission when it was often unlikely that the complaint would be the subject of action by the Commission. Stakeholders did acknowledge that there were benefits in encouraging complainants to proceed with complaints as a volume of complaints on the same issue may lead to priority being given to that issue.

A number of stakeholders consider that the range of regulatory tools available to the Commerce Commission should be reconsidered. In particular, enforceable undertakings and infringement offences, which are available to regulators in other regulatory systems, were suggested.

Some expressed concern about the time it takes to enforce difficult consumer issues (the example of the position in relation to fees under the Credit Contracts and Consumer Finance Act 2003 was given by multiple stakeholders).

Concerns with dispute resolution mechanisms

One of the most commented on issues in stakeholder engagement was the dispute resolution mechanisms available in relation to consumer issues.

There was a lot of concern about the large number of dispute resolution schemes available to consumers which leads to difficulties for consumers in identifying the right scheme. This is particularly so in the financial services area where there are four schemes operating.

A number of stakeholders commented that having dispute resolution schemes competing with each other leads to the wrong incentives. Some stakeholders even considered the schemes to have a bias towards the financial service providers who pay fees to the schemes. Some stakeholders were generally concerned with having dispute resolution schemes run by the private sector. These concerns seem to give rise to a lack of confidence in the dispute resolution schemes providing a satisfactory mechanism for addressing consumers’ problems.

As well as the number of schemes, perceived difficulties in accessing the schemes were also raised with the Panel. For example, we were told that there is no consistency in the entry gateways as between the various schemes.

A number of stakeholders raised with the Panel the idea of a single point of access or a portal, through which consumers could be directed to the appropriate dispute resolution scheme for their complaint.

A number of stakeholders also commented on the suitability of the Disputes Tribunal to resolve consumer issues. We were told it is “clunky” and that the minimum \$45.00 filing fee may put off some consumers. Also, the rule against representation often works in the favour of businesses who are generally better resourced and have experience in the Tribunal. This was contrasted with the

situation in the Tenancy Tribunal where there is provision for representation in certain circumstances, including when the amount in dispute exceeds \$6,000 or the matter is particularly complex.

One stakeholder described the Disputes Tribunal as an overly formal process for a so-called informal process, saying that while the quality of the decisions is generally good, it sometimes feels like overkill in terms of the issue the consumer may be seeking to resolve. There are also perceived issues regarding enforcement of decisions of the Tribunal.

Finding 5: the system does not serve vulnerable consumers well

The Panel's findings

The system does not serve vulnerable consumers well

As noted above, the system operates on the basis that the majority of consumer issues will be dealt with through self enforcement, with only those issues not easily dealt with by consumers being the subject of publicly funded enforcement action. This is supported by information and educational material being made available by the system to support consumers (and to a lesser extent, businesses) through self enforcement of their rights.

However, this intervention logic may not work well for vulnerable consumers. These consumers generally face multiple disadvantages that impact on their ability (and willingness) to self enforce in relation to consumer issues they face. They may also impact on their uptake of, and ability to apply, the informational and educational resources provided by the system.

Issues faced by consumers generally are exacerbated in the case of vulnerable consumers

As noted above, there is a shared view among stakeholders that consumers do not tend to enforce in all situations where they experience issues. They may make a decision that following up on an issue is not worth the time and energy given the value of the product, or it may seem too hard. Any perceived issues with respect to the accessibility of dispute resolution mechanisms presumably come into play in this regard also.

These issues are likely to be exacerbated in the case of consumers facing disadvantages that impact on their willingness and ability to enforce their rights, whether these be by reason of a lack of resources, language, literacy, or otherwise.

Need for new approaches

The system's response to consumers failing to follow through on enforcement of their issues seems to be to generate and distribute informational and educational resources aimed at addressing knowledge gaps. As it seems reasonable to assume that the same disadvantages that impact on the willingness and ability of vulnerable consumers to enforce their rights will impact on their uptake of informational and educational resources, there is a need to consider whether there are more effective ways of supporting these consumers so that they can address the issues they face. There may be, for example, more effective ways or alternative channels of communication with these consumers.

Summary of stakeholders' comments

Consensus about the system not working well for vulnerable consumers

Almost all stakeholders commented on the position of vulnerable consumers in the system. There is a widely held view amongst stakeholders that the system does not work well for these consumers, although the degree to which that is believed to be the case varies between stakeholders.

One stakeholder said that the system's objectives (as set out above) are not being met with respect to these consumers. They are not in a position to transact with confidence, are often suffering high levels of detriment, and do not have access to appropriate redress when things go wrong.

Multiple stakeholders noted the many barriers that are often faced by vulnerable consumers. One stakeholder commented that the same consumers tend to "get caught out time and time again".

Some stakeholders also noted that there is a technological divide for some consumers which impacts when access to information or dispute resolution mechanisms, for example, requires access to the Internet. Similarly, the lack of a Freephone number can be a barrier for some consumers who may operate pre-pay mobile telephones and have limited resources to top up their credit and data.

Some stakeholders were also of the view that the dispute resolution schemes and the Commerce Commission did not have a good appreciation of the context within which vulnerable consumers operate. It was felt that this may impact on willingness of vulnerable consumers to access, and to pursue complaints through, these channels.

Less consensus about how the system can better address needs of vulnerable consumers

While there was general agreement that the system does not serve vulnerable consumers well, there was little or no consensus about how to address that at a system level.

One stakeholder thought that there are opportunities for greater cooperation between agencies to reach these consumers. In particular, a more holistic view in terms of the services and resources provided to these consumers (by the consumer and commercial regulatory system and by other systems) might better address the disadvantages they face.

Another commented that there may be ways of improving informational and educational resources so that they are more accessible to the communities where vulnerable consumers live. Other options raised with the Panel included super complaints and class actions, which are more prevalent in other jurisdictions and provide an alternative to the fragmented nature of self enforcement.

Finding 6: there is a heavy reliance on non-governmental actors

The Panel's findings

Non-governmental actors fill gaps in the system

The system is reliant on non-governmental actors who advocate on behalf of and provide advice and assistance to both consumers and businesses. Some of the work done by these actors is publicly funded and some of is not. All of it is important in making the system's default setting of self enforcement a realistic one.

There is scope for better and more productive engagement

There is scope for the regulatory actors, and Government in general, to be more coordinated and strategic in their interactions with the non-governmental actors in order to reduce duplication, drive common understandings about issues and objectives in the system, and to ensure that the publicly funded resources provided to these actors are utilised as efficiently and effectively as possible.

Summary of stakeholders' comments

Contribution of non-governmental actors significant

A number of stakeholders commented on the role that non-governmental actors play in the consumer and commercial regulatory system. Almost all of the non-governmental stakeholders were of the view that they input to the system in multiple places. Many of the organisations working with consumers noted that, in addition to the services they provide directly to consumers, they also provide information and feedback that informs policy and the development of informational and educational resources. Much of this work is unfunded by Government.

Many of the non-governmental stakeholders the Panel interviewed considered that they filled regulatory gaps in the system. One organisation told the Panel that they see themselves acting as a default regulator on a regular basis.

Considerable challenges for non-governmental actors in the system

A number of stakeholders commented on the challenges facing non-governmental actors in the system. Resourcing issues were mentioned frequently. A number of the organisations providing important services and assistance to consumers are not necessarily funded specifically to do so, or are funded to provide particular services that do not fully address the issues faced by the consumers they work with.

The resourcing issues faced by these organisations are perceived as impacting on their ability to input in a meaningful way to consultation processes within the system. Some stakeholders spoke to the Panel about participation in consultation processes where they were representing consumer interests but felt the consultation was dominated by business interests who are better resourced. The Panel was told that there are sometimes efforts to coordinate input to these processes in order to maximise the impact of submissions; however, tight timeframes often prevent that happening. Some stakeholders consider that Government should consider funding consumer advocacy groups to participate in consultation processes in order to ensure a balance between the interests of consumers and businesses. One stakeholder also commented that their lack of resources also impacts on the ability of consumer groups to participate in Standards Committees.

One stakeholder commented on the challenge for organisations working with consumers of developing and maintaining expertise across a very wide range of areas. This problem is heightened by the need to stay abreast of policy and legislative changes that impact on the rules applying to consumers and consumer issues.

Engagement with and inputs from Government could be improved

A number of stakeholders commented on the lack of coordination within Government in its engagements with non-governmental actors. For example, contract cycles are not consistent and there may be funding coming from multiple sources in Government with no communication or coordination between them.

One stakeholder thought the “fragmented” nature of Government’s relationships with the NGO sector tends to drive competitive behaviour and does not encourage strategic decisions about where resources should be used to drive the best outcomes.

One stakeholder specifically commented on the resources regulatory actors provide to assist non-governmental actors, noting that there is a need for informational resources that are more sophisticated than those developed for consumers to assist those working directly with consumers. They referred to training materials produced by the former Ministry of Consumer Affairs for certain organisations which worked with consumers as being an example of this kind of assistance.

Another suggested that there is a need for greater co-design in the system. As the system relies so heavily on the contributions of non-governmental actors, it is incumbent on the regulatory actors in the system to engage more closely with the non-governmental actors as to how they go about things and what they need in order to do it better.

Finding 7: there is a series of generic and recurring consumer issues that arise across multiple sectors and systems

The Panel’s findings

There are recurring issues faced by consumers across multiple regulatory systems

There are a number of generic consumer issues that consistently arise across a number of regulatory systems. These tend to occur in areas where the products being offered are particularly technical or complex in nature, for example insurance and telecommunications. These issues include consumers not understanding the contractual terms and pricing issues.

There is a need for the actors in the consumer and commercial regulatory system to be looking beyond the system

As this is a foundational system, there is a need for the actors in the consumer and commercial regulatory system to be looking beyond the system to other regulatory systems where these issues arise, so that linkages can be made and any attempts to address the issues can be framed and targeted appropriately.

Summary of stakeholders’ comments

Common issues

The Panel was told by several stakeholders that failure to understand contractual terms is a common problem that arises in a number of regulatory systems. We were told that this arises most often where the product is complex or technical in nature. Building, telecommunications, credit, and

insurance contracts were identified as often being complex and difficult for consumers to understand. Disclosure obligations were singled out by two stakeholders as causing particular issues, which can have real impacts on consumers' rights under the contract.

Pricing and fees issues were also identified as ones that arise commonly and across multiple regulatory systems.

One stakeholder working with consumers said it found issues with respect to delivery of goods are also common.

The Panel was told that motor vehicles and telecommunications are the two largest areas of consumer disputes and that the same disputes tended to arise repeatedly in these areas.

Some stakeholders considered that the linkages between these issues are not being made as often as they should be.

Finding 8: there is a tension between principles based legislation and the desire for certainty

The Panel's findings

Need for flexibility and adaptability versus desire for certainty

There is a tension between principles-based legislation that applies across all sectors of the economy and which is inherently flexible and responsive to changes in technology and consumer behaviour and disruptive business models on the one hand, and the desire of businesses and consumers for certainty on the other.

The Consumer Guarantees Act 1993 and the Fair Trading Act 1986 have largely proven themselves to be durable and adaptable, however, consumers and businesses sometimes find it difficult to understand or predict what they mean in a particular area.

Summary of stakeholders' comments

Legislation is fit for purpose

A number of stakeholders commented that the Consumer Guarantees Act 1993 and the Fair Trading Act 1986 are generally fit for purpose. One stakeholder said they thought the Fair Trading Act 1986 has been successfully applied in a number of areas to give surprisingly good outcomes.

However, there is a desire for certainty

Despite the commonly held view that the legislation in the regulatory system is generally fit for purpose and makes sense at a theoretical level, the Panel heard from many stakeholders about the difficulties experienced by consumers and businesses in applying it in particular contexts. We were also told that businesses in particular experience frustration at the unwillingness of the regulatory actors to provide guidance on what it means in particular areas.

This tension was also apparent when stakeholders talked about the review of credit contracts and consumer finance that is underway at present. While a number of stakeholders talked about the

difficulty of applying the responsible lending obligations, others also noted the potential for specific rules such as an interest rate and fees cap to be “blunt instruments”.

Mechanisms to provide certainty

Some stakeholders gave examples of mechanisms that might provide certainty or guidance about the application of principles in particular areas. One stakeholder thought standards were a useful way of spelling out what good looks like in relation to particular products.

Another stakeholder thought that safe harbours, particularly for SMEs, might provide a useful solution.

Some stakeholders emphasised the importance of information and education to address the application of the principles in particular contexts.

Finding 9: there is a need to collect and make better use of data and evidence

The Panel’s findings

There is greater collection and use of data by the system than previously

The consumer and commercial regulatory system has improved in terms of collecting and collating data in recent years. For example, the National Consumer Survey 2016 has provided useful insights into what consumers know about their rights, the issues they experience, and their experience of resolving issues.⁶ That survey is about to be repeated by MBIE.

There is room for better utilisation of data already in the system or available to the system

However, there is room for data already held by, or available to, the system to be better utilised to get ahead of emerging issues, identify trends, and understand common issues.

Summary of stakeholders’ comments

General agreement as to the value of data and evidence

Almost all stakeholders we spoke to mentioned data and evidence. There is general agreement about the value of data and evidence in understanding and responding to issues in the system. Some stakeholders specifically referred to the National Consumer Survey as a valuable initiative in this regard. One stakeholder said that data is important to understanding consumer interests as they appear across different regulatory systems. Others considered that objective measures rather than anecdotal evidence should be underpinning policy development.

There is data in or available to the system that could be better utilised

One stakeholder expressed the view that the system would benefit from being more strategic about data and evidence and ought to develop a plan that identifies data needs and where those needs can be met.

⁶ <https://www.consumerprotection.govt.nz/assets/PDFs/NCS-Final-Report-Summary-Findings.pdf>

Stakeholders identified a number of areas where they think there is data that could be utilised or better utilised by the system. Several stakeholders think there needs to be more reporting out of the various dispute resolution schemes in order to give a better understanding of the basis for consumer disputes. Multiple stakeholders also expressed the view that the Disputes Tribunal should be publishing more case notes than it does to give a better understanding of the matters consumers and businesses end up in dispute over.

The Panel was also told that some of the organisations working with consumers hold rich data sets based on their client interactions. However, they lack the resources to interrogate or organise the data so that it is useful for policy and other purposes.

Other potential sources of data identified by stakeholders for the purposes of better informing the system include ACC (in relation to product safety issues) and insolvency (with a view to understanding the factors that lead to insolvency, which may include individual consumer choices).

Finally, some stakeholders also suggested that the system should be more deliberate about carrying out post-implementation evaluations of legislative changes.

Finding 10: work is needed to address future issues and pressures for the system

The Panel's findings

Issues on the horizon

There are a number of emerging issues, many of which have cross-border implications, and there is a need for the system to be working to identify the likely impacts for the system. These include changes in consumer purchasing behaviour (most obviously online shopping), alternative means of financing, disruptive business models and technologies.

Data use and privacy issues are also key, with the use of algorithms, differential pricing and the like increasing.

The speed of technological change means there is a need to be more proactive about emerging product safety issues.

The growing complexity of scams and frauds is also impacting on the system.

Need for greater cooperation at a regulatory level

The global impact of these issues, together with the cross border implications, means that there is scope for much greater cooperation at a regulatory level, including across borders. While individual actors in the system are obviously thinking about the potential impacts of these issues, the system needs to be more coordinated in its approach to emerging issues.

Summary of stakeholders' comments

System actors aware of emerging issues

Individual stakeholders all had views about emerging issues that are of significance for the system. There was also a relatively high level of convergence in terms of the emerging issues identified by stakeholders. The issues commonly identified included:

- Internet shopping, which includes purchasing through social media platforms (this in turn brings its own unique challenges for consumers when issues arise);
- Data use and privacy issues associated with the use of algorithms, preferential pricing and the like;
- Alternative means of financing and open banking;
- Product safety issues arising from new and emerging products;
- The potential of new technologies (e.g. the potential for AI to be used in dispute resolution); and
- Increasing numbers of, and increases in the complexity of, scams and frauds.

Lack of engagement at a system level on these issues

A number of stakeholders commented on the lack of engagement at a system level on emerging issues and what they mean for the system. One stakeholder queried the extent to which the predominant issue driven policy review pattern is distracting the system from engaging in a more proactive fashion on future issues. Two stakeholders commented on the tendency for the system to respond in a reactive fashion in relation to product safety issues.

Global impacts

While the regulatory actors talked about their growing reliance on the experiences of international equivalents, several stakeholders commented on the global nature of the key emerging issues and the need for even more regulatory cooperation at an international level.

Cooperation with Australia was identified as particularly important, with one stakeholder noting that New Zealand is often a “bolt on” to Australian supply chains so understanding the Australian landscape is key. Another stakeholder cautioned against the perceived tendency to adopt Australian regulation, saying that New Zealand needs to ensure that anything it borrows from at an international level is fit for purpose here.

Assessment against ‘fitness of purpose’ criteria

As set out above, the Panel has reached the view that the regulatory system is “fit-for-purpose” (see *Finding 1* above). As a further check to this, the Panel has adopted the approach used in the *Strategy* for assessing “fitness for purpose” .

The *Strategy* uses four criteria to assess the “fitness for purpose” of each of its regulatory systems. These criteria are:

- to what extent does the system deliver the intended outcomes and impacts (effectiveness);
- to what extent does the system minimise unintended consequences and undue costs and burdens (efficiency);
- how well does the system cope with variation, change and pressures (resilience); and
- how well does the system respect rights and deliver good process (fairness and accountability).

In addition, the *Strategy* gives each criterion a colour-coded rating. Table 1 below sets out the colour code key.

Table 1: Assessment rating colour-code key

RATING	MEANING
Green	System performing well against criteria
Yellow	System has some issues against criteria
Orange	System has significant issues against criteria
Red	System failing against criteria or at serious risk of doing so

The Panel’s assessment based on this approach is set out in Table 2 below. This assessment draws on the common themes and messages from its interviews with stakeholders and supports the conclusion reached earlier. The assessment below differs slightly from the petroleum and minerals ‘fitness for purpose’ assessment presented in the *Strategy*. This is primarily because the Panel has defined the system more broadly.

Table 2: Panel’s assessment and rating against the ‘fitness for purpose’ criteria

CRITERION	RATING AND ASSESSMENT
<p>Effectiveness</p> <p><i>System has some issues</i></p>	<p>Strengths</p> <ul style="list-style-type: none"> • System working well for the majority of consumers • There is generally an understanding by regulatory actors of their role in the system and as stewards • Considerable improvement in the way regulatory actors engage and strong relationships <p>Challenges</p> <ul style="list-style-type: none"> • System doesn’t serve vulnerable consumers well • How to move from reliance on good relationships to embedded formal structures supporting communication and collaboration between actors in the system
<p>Efficiency</p> <p><i>System has some issues</i></p>	<p>Strengths</p> <ul style="list-style-type: none"> • Considerable improvement in the way regulatory actors engage • Enforcement, including self enforcement, works well in the majority of cases <p>Challenges</p> <ul style="list-style-type: none"> • Self enforcement nevertheless imposes challenges and costs for consumers • Self enforcement does not work for many vulnerable consumers • There is a heavy reliance on NGOs in order for the system to operate • There is a need for more coordinated and deliberate approaches to engagement between the regulatory actors with NGOs • There are issues with respect to access to the dispute resolution mechanisms in the system
<p>Resilience</p> <p><i>System performing well</i></p>	<p>Strengths</p> <ul style="list-style-type: none"> • System is well placed to respond to new technology, disruptive business models and changes in consumer behaviour through principles based legislation • There are good relationships between key regulatory actors and an increased focus on good structures to support cooperation and collaboration • There is an increased focus on use of data and information to inform policy and operational initiatives • There is a high level of consensus about the challenges facing the system, particularly those relating to vulnerable consumers <p>Challenges</p> <ul style="list-style-type: none"> • Uncertainty when applying principles based legislation in new contexts • Lack of coordinated work to identify and work through future challenges for the system • How to move from reliance on good relationships to embedded formal structures supporting communication and collaboration between actors in the system

Fairness and accountability

System performing well

Strengths

- Enforcement strategy generally seen as making the best use of resources in the system
- The foundational legislation is generally regarded as striking a good balance

Challenges

- Need to address position of vulnerable consumers to deliver fair outcomes for all
- Need to address the view that business interests are not well understood or taken into account in the system

Annex 1 – Panel’s engagement with stakeholders

MBIE STAKEHOLDERS INTERVIEWED	
1.	Consumer Protection Team
2.	Competition and Consumer Policy Team
3.	Government Centre for Dispute Resolution
4.	Registrar for Building Practitioner Licensing
5.	Better for Business Team
6.	Financial Markets Policy Team
7.	Business Registries Systems
8.	Trading Standards Team

EXTERNAL STAKEHOLDERS INTERVIEWED	
9.	Commerce Commission
10.	Consumer New Zealand
11.	Citizens Advice Bureau
12.	National Building Financial Capability Charitable Trust
13.	Retail NZ
14.	Trade Me

EXTERNAL STAKEHOLDERS – WRITTEN RESPONSES	
15.	Business NZ
16.	Community Law Centre

Annex 2 – Interview questions

GENERAL

1. What do you think the consumer and commercial regulatory system consists of?
2. Are there any elements in the regulatory system that you do not think properly belong in this system, or others which are not included but which you think should be?
3. How fit for purpose is the regulatory system?
4. What are your key concerns about the regulatory system?
5. What would you like to change and how would you change it?

ADMINISTRATIVE EFFICIENCY AND SYSTEM PERFORMANCE GENERALLY

6. How would you rate the performance of the regulatory system, and why?
7. How adaptive is the regulatory system and its administration to new issues in the market brought about by technology or changes in commercial/consumer behaviour?

ENFORCEMENT

8. How do you view the enforcement mechanisms in the regulatory system?
9. Are there any deficiencies or gaps in the regulatory system with respect to enforcement?
10. To the extent the regulatory system relies on consumer self-enforcement, do you think the enforcement mechanisms are readily accessible to consumers?

EDUCATION AND INFORMATION

11. Who do you think are the key actors in the regulatory system in terms of information and educational resources for both consumers and businesses?
12. How well do you think they undertake this role?
13. What do you think about the split of resources between enforcement and education/information in the regulatory system?

LAW REFORM/IMPLEMENTATION OF CHANGES

14. How well has the regulatory system implemented recent law changes (such as the 2014 amendments to the Credit Contracts and Consumer Finance Act) and how easy was it for consumers and businesses to understand those changes?

KEY ISSUES

15. What are the key issues facing the regulatory system in the next 5 years?
16. What are the key issues you think the assessment should address?

STAKEHOLDERS

17. Which stakeholders (internal and external) should the Panel speak to?