Competition Impact Assessment Guidelines 2026-27

Chief Minister, Treasury and Economic Development Directorate

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ACT Government

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1. Introduction

In November 2024, the ACT together with the Commonwealth, States and Northern Territory, agreed to seven new and updated Competition Principles through the *Intergovernmental Agreement on National Competition Policy*. The principles are intended to lift productivity and improve economic outcomes by embedding competition considerations across government decision-making.

A key commitment is to harness the benefits of competition. To support this, all jurisdictions have agreed to establish processes to assess the competition impacts of major policy decisions and ensure they do not unnecessarily restrict competition.

Governments also committed to supporting a single national market. This includes considering the potential impact of policy decisions on barriers to interstate trade and taking steps to avoid creating or entrenching unnecessary restrictions.

Implementing the updated Competition Principles across the ACT Government will strengthen policy development and decision-making by ensuring competition impacts are appropriately considered. This will support more informed policy advice, programs and services that promote competitive markets across the Territory.

Strong competition can improve productivity, innovation and consumer choice, leading to better products and services at lower prices. Over time, these benefits can support economic growth and help address cost-of-living pressures.

The Competition Impact Assessment (CIA) process will help the ACT meet these commitments by ensuring significant competition impacts are identified and considered early in policy development. The process does not prevent policies that may restrict competition where justified by broader public objectives. Rather, it promotes informed decision-making by balancing competition impacts against other policy considerations to achieve the best outcomes for the community.

2. What is competition?

Competition occurs when businesses seek to attract customers and increase their market share. To succeed, businesses are encouraged to innovate, adopt new technologies and operate more efficiently. These competitive pressures can reduce costs, lower prices and improve the quality, range and accessibility of goods and services.

Competition benefits the community by giving consumers greater choice and better value. In everyday life, this can mean more affordable groceries, energy, telecommunications and other essential services.

Competition also encourages innovation and rewards efficient businesses, enabling them to grow, invest and create jobs. By supporting productivity and economic growth, competition contributes to higher living standards and improved economic outcomes. This is why governments seek to ensure competition is not unnecessarily restricted.

3. When should a CIA be prepared?

A Competition Impact Assessment (CIA) is required for major decisions that have potential for **material impacts on competition**. This includes, but is not limited to:

- new or amended legislation, and
- new or substantially revised frameworks relating to:
    - procurement,
    - industry assistance, and
    - planning (including regulatory, environmental or land use frameworks).

A CIA is also required for decisions that could create or entrench barriers to interstate trade, particularly in relation to the movement of goods, services or workers. This includes measures that disadvantage competitors from other jurisdictions or provide preferential treatment to local competitors.

Not all decisions affecting competition will require a CIA. The impact must be material. In practice, only a relatively small number of Government decisions are likely to meet this threshold each year.

A CIA should be considered where a proposal is likely to:

- affect the number or type of business able to participate in a market;
- affect the ability or incentive for businesses to compete including through innovation; or
- affect consumer choice, access to information, or market outcomes.

Where any of these impacts are likely, agencies should assess whether they are material. Relevant considerations include whether the proposal would:

- significantly alter how competition operates in a market;
- encourage or restrict new, innovative or disruptive business models;
- create substantial barriers to entry or expansion; or
- generate significant stakeholder interest or concern

In addition, any proposal seeking to exempt conduct from the competition laws administered by the Australian Competition and Consumer Commission (ACCC) must be supported by a CIA.

4. What does a CIA need to include?

The scope and level of detail of a CIA should be proportionate to the expected impact on competition. Proposals with material adverse impacts on competition will generally require a more detailed assessment.

At a minimum, a CIA should:

- identify the feasible options for achieving the policy objective;
- assess the likely costs and benefits of each option, including impacts on competition and affected markets; and
- demonstrate that any measure which restricts competition satisfies the public interest test.

Where available, quantitative evidence should be used to support the assessment of competition impacts. However, a qualitative assessment will be sufficient where reliable quantitative data is not available.

5. What is the public interest test?

The public interest test is designed to identify the option that delivers the greatest overall benefit to the community while maintaining a focus on competition outcomes.

Under the test, major government decisions should not restrict competition or create material barriers to the movement of goods, services or workers between Australian jurisdictions unless it can be demonstrated that:

- the benefits of the restriction to the community outweigh the costs; and
- the policy objective cannot be achieved through an alternative approach that:
    - imposes a lesser restriction on competition, or no restriction at all; and
    - delivers community benefits that are at least equivalent.

6. What if a decision does restrict competition?

A decision that restricts competition may still be the preferred policy option. The purpose of the CIA process is not to prevent such decisions, but to ensure that the impacts on competition are understood and appropriately weighed alongside other policy objectives.

Restrictions on competition may be justified where they address a market failure, support important Government objectives, or deliver broader benefits to the community. For example, Government intervention may be required to establish or develop a market before competition can emerge. In other circumstances, monopoly provision may be appropriate

due to high infrastructure costs or the need to ensure equitable access to essential services, such as electricity networks, sewage systems or public healthcare.

There may be circumstances in which restricting competition may be in the public interest. The key requirement is that the decision is made consciously and with a clear understanding of the associated costs, benefits and alternatives.

Where a decision that restricts competition proceeds on public interest grounds, agencies should ensure appropriate review arrangements are in place. At a minimum:

- the decision should be reviewed at least every 10 years, or earlier if the relevant policy or regulatory framework is being reviewed; and
- the review should reassess whether the restriction remains justified under the public interest test and whether the policy objective could be achieved in a way that is more consistent with the Competition Principles.

7. What does the end product look like?

As part of the Intergovernmental Agreement, governments committed to using CIAs to inform decision-making. Accordingly, a CIA should be prepared for Cabinet consideration of any proposal that may have a material impact on competition.

Cabinet should be provided with the completed assessment, including the options considered, associated costs and benefits, and where relevant the outcomes of the public interest test. This assessment should be attached to the Cabinet submission to support consideration of the competition impacts of the proposal.

The Cabinet submission should also include a concise summary of the assessment findings, including the key costs and benefits of the preferred option and, where applicable, the outcome of the public interest test and its influence on the recommended approach.

Consistent with Open Access requirements, the outcome of the assessment will be published following the Government's decision.

The analysis required for a CIA is broadly consistent with that undertaken for a Regulatory Impact Assessment (RIA). Where both a CIA and RIA are required, agencies should prepare a single integrated assessment in accordance with the *ACT Government Best Practice Guide for Preparing Regulatory Impact Assessments* (refer page 13). In these circumstances, the CIA requirements can be addressed through the RIA by incorporating the outcome of the public interest test.

8. What additional guidance is available to help prepare a CIA?

Further guidance is available in the *Competition Impact Assessment Guidelines: Technical Guidance*. Agencies may also seek advice from Treasury's Economic and Regulatory Policy Unit (ERPU).

Appendix 1: CIA process at a glance

