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# **Recent trends in ACCC SOI informal merger clearance decisions**

Eighth edition, April 2024

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**A special thanks to Morgan Blaschke-Broad and Liz Tang who provided invaluable assistance in preparing this report.**

# This report

We are pleased to share with you the 8th edition of our report on recent trends in informal merger clearance decisions made by the Australian Competition & Consumer Commission (ACCC) that involve a Statement of Issues (SOI).

The report provides a complete statistical analysis of ACCC informal merger clearance decisions where a SOI has been published.

It examines the likelihood of transactions being opposed or not opposed (with or without remedies) depending on the seriousness of the preliminary competition concerns identified in a SOI. It also analyses the time taken by the ACCC to make those decisions and whether the transaction has been opposed, not opposed or withdrawn in calendar year 2023.

A SOI provides a strong indication of the ACCC's views as to whether a transaction is likely to be granted informal clearance.

Those views are classified as:

- **issues of concern (or likely to be of concern)** (red light);
- **issues that may be of concern** (orange light); and
- **issues unlikely to be of concern** (green light).

The ACCC will only publish a SOI in relation to transactions that raise serious competition concerns. SOI transactions accordingly represent a small proportion of the total number of transactions considered by the ACCC in any given year.

The findings in this report should not be relied upon as an accurate predictor of future ACCC informal merger clearance decisions. They should be considered alongside the substantive competition issues involved in any particular case.

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*“New data from the Competition Review Taskforce confirms that we are not being told of many mergers taking place, including by Australia's biggest corporations. In addition the Taskforce's analysis shows that larger firms have increased their merger activity over recent years.*

*This means we do not have the chance to consider how they may harm competition and consumers. It is important to note that the most significant increases in merger activity are occurring in sectors like manufacturing, retail, professional services, and health and social services, which are markets that directly impact consumers as they go about their lives.”*

**Ms Gina Cass-Gottlieb, ACCC Chair, 'Evidence backs case for critical merger law reform' (ACCC Media Release), 2 February 2024. [Read more](#)**

”

# Key trends

## ACCC clearance for SOI deals continues to get harder and costlier

In recent years, the ACCC has taken a more robust and vigorous approach to merger review given the significant concerns it holds about consolidation in Australian markets and the adverse impact this has on competition and consumers.

This approach has resulted in extended timelines for merger review as the ACCC carefully tests claims made by merger parties, seeks feedback from market participants and considers a wide range of vertical and horizontal theories of harm. In particular, the ACCC is more prepared than ever before to issue compulsory notices on merger parties to provide information and documents to validate the submissions they may make about markets, competitive dynamics and the effects of a transaction.

Last year saw the highest percentage of deals opposed by the ACCC and the ACCC did not accept any remedies in clearing transactions.

### In relation to SOI transactions, what are the latest trends?

#### More deals are being opposed

In 2023, the ACCC opposed more transactions than ever before, with **57% of SOI transactions being blocked**. In the previous 2 years no deals were blocked, and in the previous 5 years, only 6% of deals were opposed.

While this reversal in statistics is to some extent affected by the nature of the deals reviewed by the ACCC in 2023, it also reflects the ACCC's harder stance on market consolidation and the mantra that parties should "compete rather than acquire".

#### Red lights are not fatal but they are more difficult to overcome

In 2023, the majority of SOIs involved one or more red lights (5 out of 7). Of these 60% were ultimately opposed by the ACCC, compared to no deals being opposed in the previous 2 years.

#### Orange lights can turn red rather than green

While the number of orange light SOIs almost halved in 2023 (compared to the historical average), there was an increase in the number of deals with an orange light SOI that were ultimately blocked (half of the deals with an orange light were blocked in 2023). The decrease in the number of orange light SOIs is directly reflected in the increase in the number of red light SOIs, is consistent with the ACCC having greater concerns with transactions (and taking a stronger approach to merger assessment).

#### The ACCC did not accept any post-SOI remedies in 2023

In 2023 the ACCC did not accept any remedies in relation to SOI deals. However, it did accept significant undertakings from parties after commencing public enquiries but prior to issuing any SOI, for example in the case of Woolworths/PetStock. While this is likely to be a reflection of the nature of the deals reviewed by the ACCC, it also demonstrates the tougher approach the ACCC is taking to SOI deals, the thoroughness of review and the level of regulatory engagement required at the early stages of assessment.

#### Parties did not withdraw their deals post-SOI

In 2023, there were no instances of parties withdrawing their transaction following an SOI being published. This is different to previous years where parties withdrew transactions following SOIs from the ACCC. For example, in 2022 43% of transactions were withdrawn after the SOI was published.

#### In 2023, two transactions were withdrawn prior to the SOI being issued

It is unclear why parties withdrew transactions prior to a SOI. They may have considered the prospects of clearance to be low as a result of their engagement with the ACCC and/or there may have been commercial reasons including costs. Unlike previous years however there were no withdrawals after a SOI was published. This is likely to be because the parties considered they could alleviate the ACCC's concerns in the SOI, the additional costs of proceeding to a final decision were not substantial and/or the transaction was not time sensitive.

#### Timeframes still remain well above average

The time taken to review mergers with an SOI in 2023 (average of 7.93 months) was similar to the time taken in 2022 (average time of 8.25 months).

This time period remains well above the historical average of 5.57 months reflecting:

- the large number of reviews the ACCC undertook in 2023;
- the rigour with which the ACCC is testing merger submissions including by way of compulsory notice;
- merger parties choosing to "stop the clock" to provide additional information and analysis; and
- deals that require regulatory approvals in other jurisdictions which often result in ACCC timelines being extended or delayed.

“

*"We want mergers to drive improvements in productivity, to put downward pressure on prices and to deliver more choice for Australians dealing with cost of living pressures.*

*Increasing economic concentration has emerged as a concern in many countries including Australia.*

*International evidence suggests current merger rules may be too permissive, allowing some mergers that don't deliver benefits to consumers, workers and the wider economy."*

**The Hon Dr Jim Chalmers MP, Treasurer, 'Merger reform for a more competitive economy' (Joint Media Release with The Hon Andrew Leigh MP), 10 April 2024. [Read more](#)**

”

# Key observations

## RED LIGHT TRANSACTIONS

- **59%** of all SOIs contain red lights.
- **46%** of all transactions with a red light have been cleared.
- In the last 5 years, **48%** of all transactions with a red light have been cleared.
- **25%** of all transactions with a red light have been blocked.
- In the last 5 years, **16%** of all transactions with a red light have been blocked.
- **29%** of all transactions with a red light have been withdrawn.
- In the last 5 years, **36%** of transactions with a red light have been withdrawn.

## ORANGE LIGHT TRANSACTIONS

- **41%** of SOIs contain orange lights.
- **69%** of all transactions with an orange light have been cleared.
- In the last 5 years, **69%** of all transactions with an orange light have been cleared.
- **12%** of all transactions with an orange light have been blocked.
- In the last 5 years, **8%** of all transactions with an orange light have been blocked.
- **19%** of all transactions with an orange light have been withdrawn.
- In the last 5 years, **23%** of all transactions with an orange light have been withdrawn.

## REMEDIES

- **53%** of cleared red light transactions required a remedy.
- **47%** of cleared red light transactions did not require a remedy.
- **33%** of cleared red light transactions required a divestiture remedy.
- **20%** of cleared red light transactions involved a behavioural remedy or combined divestiture/behavioural remedy.
- **89%** of all cleared orange light transactions did not require a remedy.
- **11%** of all cleared orange light transactions required a remedy.
- **4%** of all cleared orange light transactions required a divestiture remedy.
- **7%** of cleared orange light transactions involved a behavioural remedy or combined divestiture/behavioural remedy.

## TIMING

- **5.6** months for all SOI transactions.
- **6.0** months for red light transactions.
- **6.0** months for red light transactions that are not opposed.
- **5.9** months for red light transactions where remedies are required.
- **5.1** months for red light transactions where no remedies are required.
- **4.7** months for orange light transactions.

## INDUSTRY ANALYSIS

- The five industries that have the **most SOI transactions** are: **industrial** (11%), **retail** (10%), **agriculture** (10%), **health** (9%), **transport and tourism** (9%). These sectors make up 49% of all SOI transactions.
- The five industries with SOI transactions that are **most opposed** by the ACCC are: **grocery** (46%), **petrol** (40%), **food and beverage** (38%), **energy** (33%), and **health** (29%).
- The five industries with SOI transactions that have the **highest ACCC clearance rate** are: **media and technology** (85%), **entertainment** (75%), **liquor** (67%), **agriculture** (63%), and **food and beverage** (63%).



Red lights are not fatal but they are becoming **much harder to resolve.**



Orange lights are turning red, rather than green.



There have been **more red lights than orange lights.**



Transactions impacting **cost of living** are in the spotlight.



Orange lights continue to be cleared by the ACCC at a high rate.



The ACCC takes **5-6 months** to make a final decision for transactions in respect of which a SOI is issued.

# What are the latest developments?

## The ACCC continues to take an evidence-based approach to merger review

Following the ACCC's ex post merger review study in 2019 that found that parties were overstating claims related to barriers to entry, the likelihood of international entrants to the Australian market, and the likely effects of transactions, the ACCC now rigorously tests the assertions made by merger parties.

That is, the ACCC continues to take a strong evidence-based approach to merger review. Where parties do not provide adequate evidence in support of their submissions upfront to the ACCC or in response to its requests for information and documents, the ACCC is prepared to issue compulsory notices to obtain that information.

Indeed, the ACCC has used its compulsory evidence gathering powers in over 50% of public merger reviews in 2023 (up from around 16% in previous years). The ACCC has indicated that this demonstrates its commitment to obtaining accurate and comprehensive information in its assessment process given that merger parties have previously been selective or strategic in the material disclosed to the ACCC.

The increased rigour from the ACCC in its merger review process has resulted in many of the trends that we have seen in 2023 – longer timelines, costlier processes and more concerns about deals from the ACCC.

### “Cost of living” deals are the subject of intense review

In accordance with its promise to closely examine consumer facing industries and consider post-Covid price increases, the ACCC closely reviewed transactions that have an impact on cost of living for consumers. Historically, industrial, agricultural and retail markets have been those most frequently under the ACCC spotlight (accounting for 30% of all SOIs). In 2023, all SOIs concerned ‘consumer facing’ industries.

For example, in 2023, the ACCC reviewed liquor, pet supplies, transport (including toll roads) and grocery deals and most SOIs had a consumer element to them. The majority of these transactions received ‘red lights’ and over half were ultimately opposed. An additional two mergers in the grocery and pets sector were withdrawn before proceeding to SOI.

We expect that this trend will continue into 2024, with the ACCC outlining a very consumer focused set of 2024 enforcement priorities, with explicit reference to the cost of living and in particular the grocery sector.

### Acquisitions of smaller rivals by large firms and local market effects are under the spotlight

This year the ACCC has been particularly focused on acquisitions of smaller competitors by large companies, especially in the retail sector where there is unlikely to be any competition concerns at a national or state level but the ACCC has expressed concerns over local markets.

Having previously flagged its concerns about mergers which entrench or consolidate a party's market power, the ACCC has (unsurprisingly) taken a very strong approach to assessing mergers involving national retail chains. This is evident in its examination of the *IGA-Karabar* and *Greencross-Habitat* transactions. Unlike previous years, these reviews have been heavily focused on the impacts of a transaction on local markets.

### The ACCC is just as concerned about vertical mergers as it is about horizontal mergers

In 2023, the number of vertical transactions reviewed by the ACCC increased as did the types of theories of harm in these matters.

For example, the ACCC considered data aggregation and cross-market impacts, impact on consumer stickiness, loyalty and behaviour in its assessment of transactions such as *Coles-Saputo* and *REA-Dynamic Methods* (which was ultimately abandoned).

While vertical transactions are sometimes considered to be less problematic than horizontal transactions, the ACCC is not taking a different approach to its review of such transactions. Parties to vertical transactions should expect the ACCC to conduct a comprehensive review, seek substantial information from the parties and explore the full range of competitive harms.

### Global deals continue to be in focus

In 2023, the ACCC expressed concern that merging parties with cross-jurisdictional transactions were approaching the ACCC as a ‘last port of call’ in their regulatory engagement. The ACCC indicated that it would continue to strengthen its engagement with international regulators and would closely scrutinise claims of potential offshore entry to Australian markets.

More recently, the ACCC indicated that it was tracking market trends in international markets against market behaviour in Australia as part of its analysis of market consolidation and pricing. In line with this the ACCC continues to take a vigorous approach where international regulators are looking at similar deals, for example, acquisitions in the pet sector (and multiple-minor acquisitions by private equity firms, potentially in furtherance of ‘roll up’ strategies).

### Where clearance was not sought for old acquisitions, these might now be under scrutiny

As the Australian merger review process is voluntary and parties can complete transactions without ACCC clearance, the ACCC is prepared to challenge and unravel past deals that were not notified to the ACCC. The ACCC has successfully used these cases as examples for why the merger review process should be mandatory or suspensory.

For example, in the ACCC review of *Woolworths-PetStock*, the ACCC became aware of numerous completed transactions by PetStock for which the parties did not seek clearance. In line with its concerns about consolidation of market power and multiple minority acquisitions, the ACCC considered that these historical transactions were likely to lessen competition in the pet sector. Accordingly, in granting Woolworth clearance for its transaction of PetStock, it required a number of divestments to remedy the previous acquisitions made by PetStock but for which clearance had not been sought.

# Merger Reforms

## A change is gonna come – proposed new merger reform

In 2023-2024, the ACCC continued its push to reform the merger review process to one that is mandatory and suspensory with revenue and/or turnover thresholds for notifications (rather than the current voluntary regime).

In mid-April 2024, Treasury announced the proposed reforms for Australia's merger control regime, bringing Australia into line with the competition regimes of the majority of OECD nations.

### Key proposed changes

The key proposals are:

- **A mandatory notification requirement** for all transactions that exceed certain notification thresholds, with transactions to be suspended until ACCC clearance.
- **Notification thresholds** that will be both monetary and share of supply- or market share-based, with the ACCC also considering transactions completed in the years prior (in order to capture and consider multiple acquisitions of 'roll-up' strategies).
- **Set periods of time for review** (which may be extended by the ACCC in appropriate circumstances). In cases where the ACCC does not make a determination within the relevant review periods, the parties will be allowed to complete the transaction.
- **Increased transparency and accountability.** A public register for all transactions notified to the ACCC will be created, and the ACCC will publish written reasons including findings of material facts for all of its determinations.
- **Application fees.** These fees will be scaled to reflect the complexity and risks of a notified transaction (and are expected to be between \$50,000-\$100,000 for most notified transactions). There will be an exemption for transactions notified by "small businesses" (a term which is yet to be defined but is currently defined in Australian Consumer Law as a firm with less than 100 employees or annual turnover of less than \$10 million).

- **Entrenchment of market power and creeping acquisitions.** The ACCC will expressly consider whether a transaction strengthens or entrenches a position of substantial market power.
- **Public benefit considerations.** Where a transaction progresses to a 'stage two' review, the parties will have the opportunity to make submissions that the transaction will result in a substantial benefit to the public which will outweigh any anti-competitive detriment.
- **Limited merits review of ACCC decisions** by the Australian Competition Tribunal (**Tribunal**) upon application by the merger parties or third parties (subject to having standing). The Tribunal may make a determination affirming, setting aside or varying the ACCC's determination. Judicial review of these decisions will still be available in the Federal Court.

### What do the changes mean for merger parties?

While there has been substantial debate as to whether the current voluntary merger regime operates effectively or not (given the number of deals that end up being blocked or withdrawn), the above proposed changes are unlikely to result in more transactions being blocked (as compared to the 2023-2024 figures).

The other implications of the proposed changes are:

- **Increased certainty for merger parties over the ACCC regulatory process.** The mandatory notification thresholds and set time periods will provide businesses with a greater degree of certainty about ACCC merger review requirements. Currently, there continues to be uncertainty as to whether merger parties should or should not obtain ACCC clearance for a transaction, the time taken for clearance and the nature and extent of the risk that the ACCC would seek penalties, divestments or injunctions for transactions that are not notified.

- **Potential increase in the number of transactions reviewed.** While we would still expect the number of transactions that proceed to SOI will be similar with the proposed changes, if notification thresholds are set too low, there is a risk that a higher number of total transactions will be notified to the ACCC. This in turn is likely to increase timelines for review of SOI deals.
- **Merger parties will need to 'front end' submissions for clearance which means increased costs.** Timelines will not commence without comprehensive information being provided to the ACCC which means parties will need to consider the costs and time for preparing for ACCC review at the start of the transaction timeline.
- **Acquisitions by large companies and creeping acquisitions will become harder.** While it is arguable that the ACCC already seeks to stop entrenchment of market power and creeping acquisitions (*Woolworths/PetStock*, *Greencross/Habitat* and various proposed acquisitions by supermarkets), the proposed changes mean the ACCC will expressly target these types of acquisitions.
- **For SOI deals that proceed to the Tribunal, all evidence will need to be provided upfront.** As the Tribunal will only undertake limited merits review (not a rehearing), it will only consider information and evidence initially provided to the ACCC (subject to limited exceptions).

### Next steps and timing

The proposed reforms still need to be tabled and passed by Parliament which means there could be changes to the above proposals.

Treasury has indicated that the new laws will commence on 1 January 2026.

For SOI transactions where parties may wish to proceed to court, there may be some benefit in notifying deals under the current regime rather than the new regime given that the ACCC has traditionally found it difficult to block deals that go to court. This is usually only 1-2 SOI transactions every few years (*TPG/Vodafone*, *PN/Auziron*, *Metcash/Franklins*).

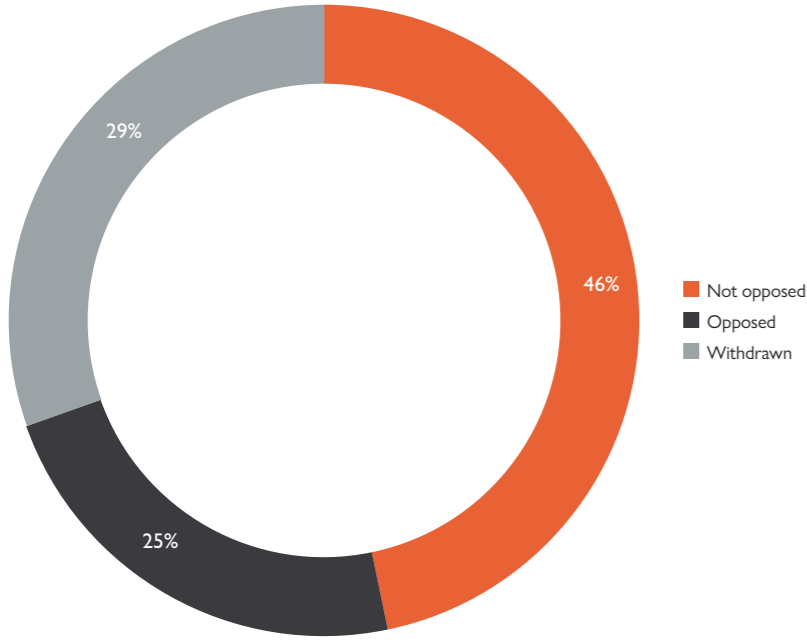
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“We're particularly looking at the ability to see the merges through mandatory notification, to be able to assess them without the threat of completion occurring, and certain number of notable instances completion occurring... The thresholds will be set at a level that will ensure that we do see the mergers that matter, then that the test is a test that is understood across this legal community, because it is a substantial lessening of competition test, but which does make clear that the creation, strengthening, or entrenchment of a position of substantial market power is treated as a substantial lessening of competition.”

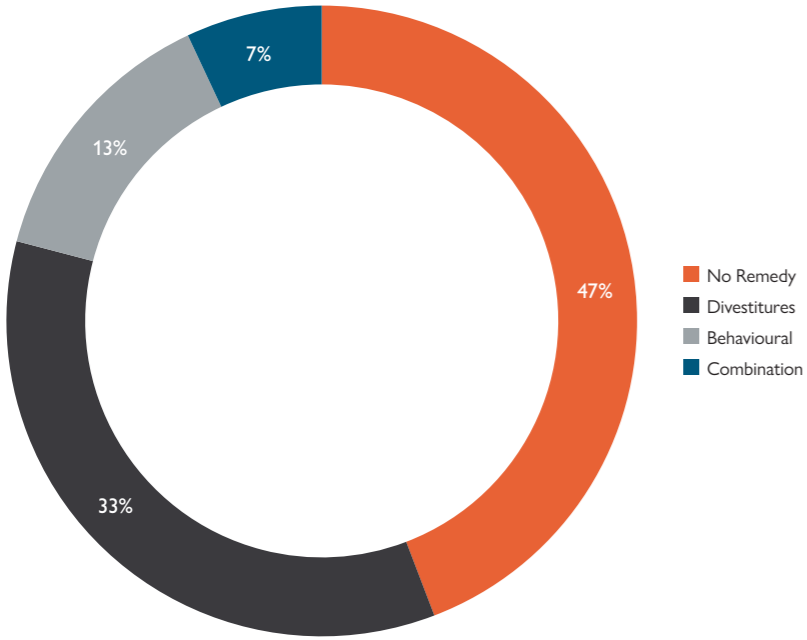
Ms Gina Cass-Gottlieb, ACCC Chair, Speaking at the 2024 Bannerman Competition Lecture, 10 April 2024.  
[Read more](#)

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# Red light statistics

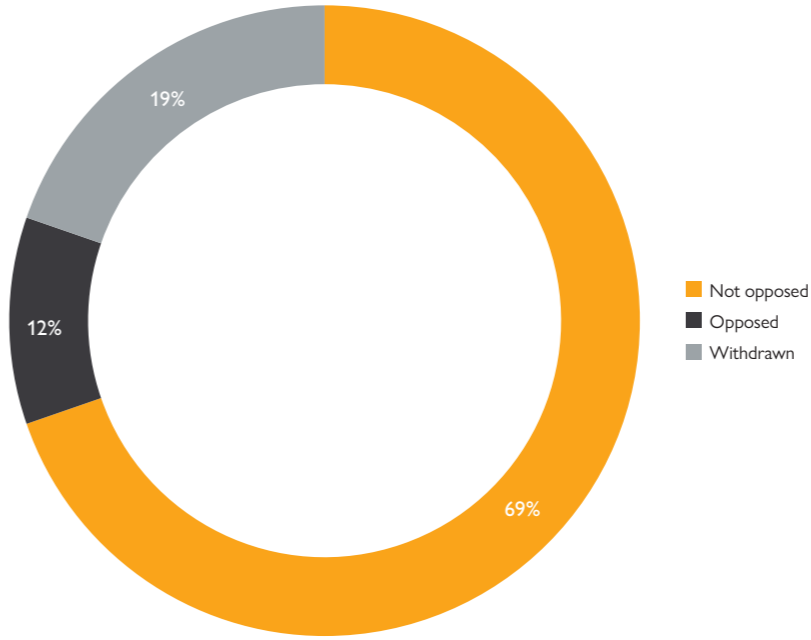


**CLEARANCE ANALYSIS**  
 There have been **165** SOIs published by the ACCC since 2006.  
 Of those **165** SOIs, **97** had one or more red lights.  
 Of those **97** red light SOIs:  
 • **45** were not opposed  
 • **24** were opposed  
 • **28** were withdrawn

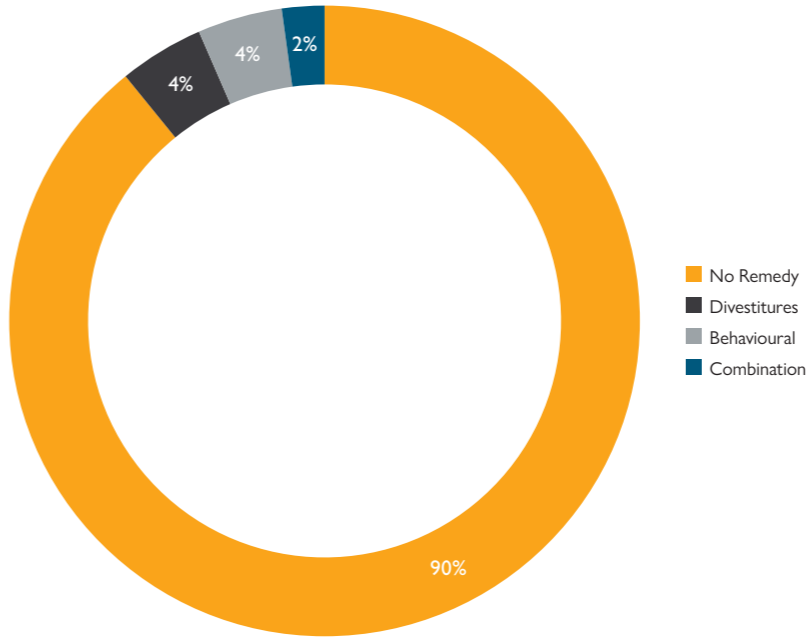


**REMEDY ANALYSIS**  
 There have been **165** SOIs published by the ACCC since 2006.  
 Of those **165** SOIs, **97** had one or more red lights.  
 Of those **97** red light SOIs, **45** were not opposed.  
 Of the **45** red light SOIs that were not opposed:  
 • **21** required no remedy  
 • **15** required divestitures  
 • **6** required behavioural undertakings  
 • **3** involved a combination of remedies

# Orange light statistics



**CLEARANCE ANALYSIS**  
 There have been **165** SOIs published by the ACCC since 2006.  
 Of those **165** SOIs, **68** had one or more orange lights (but no red lights).  
 Of those **68** orange light SOIs:  
 • **47** were not opposed  
 • **8** were opposed  
 • **13** were withdrawn

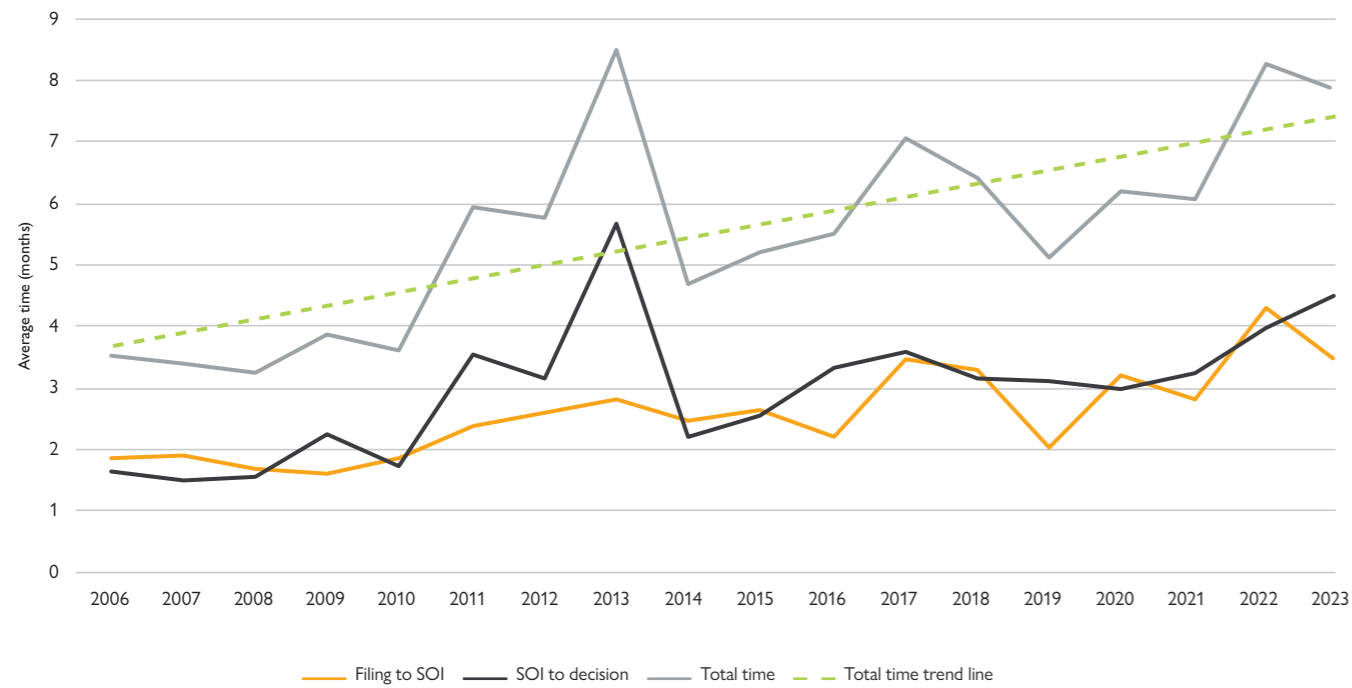


**REMEDY ANALYSIS**  
 There have been **165** SOIs published by the ACCC since 2006.  
 Of those **165** SOIs, **68** had one or more orange lights (but no red lights).  
 Of those **68** orange light SOIs, **47** were not opposed.  
 Of the **47** orange light SOIs that were not opposed:  
 • **42** required no remedy  
 • **2** required divestitures  
 • **2** required behavioural undertakings  
 • **1** required a combination of remedies



# Timing statistics

## AVERAGE TIME - ALL SOI DECISIONS



## RED LIGHTS



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“We are finding that businesses are pushing the boundaries of the informal regime. Given that there are no up-front information requirements for an informal review, merger parties are increasingly giving us late, incomplete, or incorrect information...”

“An increasing number are threatening to complete their transaction before we have finalised our review. This leads to the situation where we find ourselves negotiating with the merger parties to obtain sufficient information and time to conduct our review...”

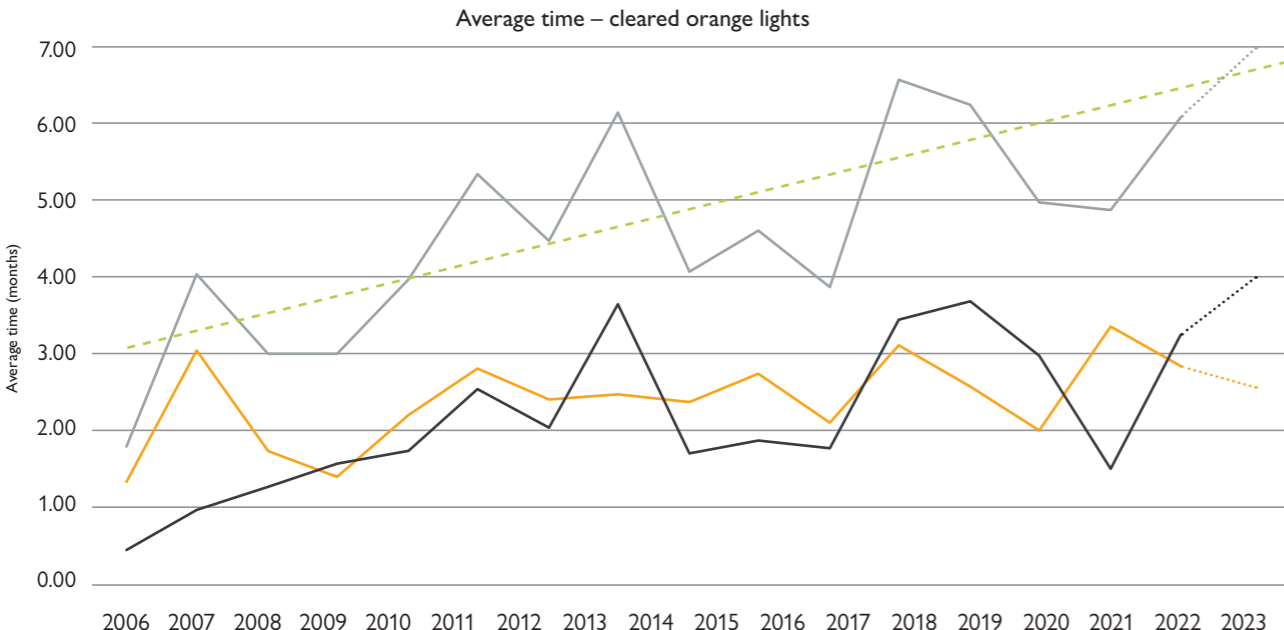
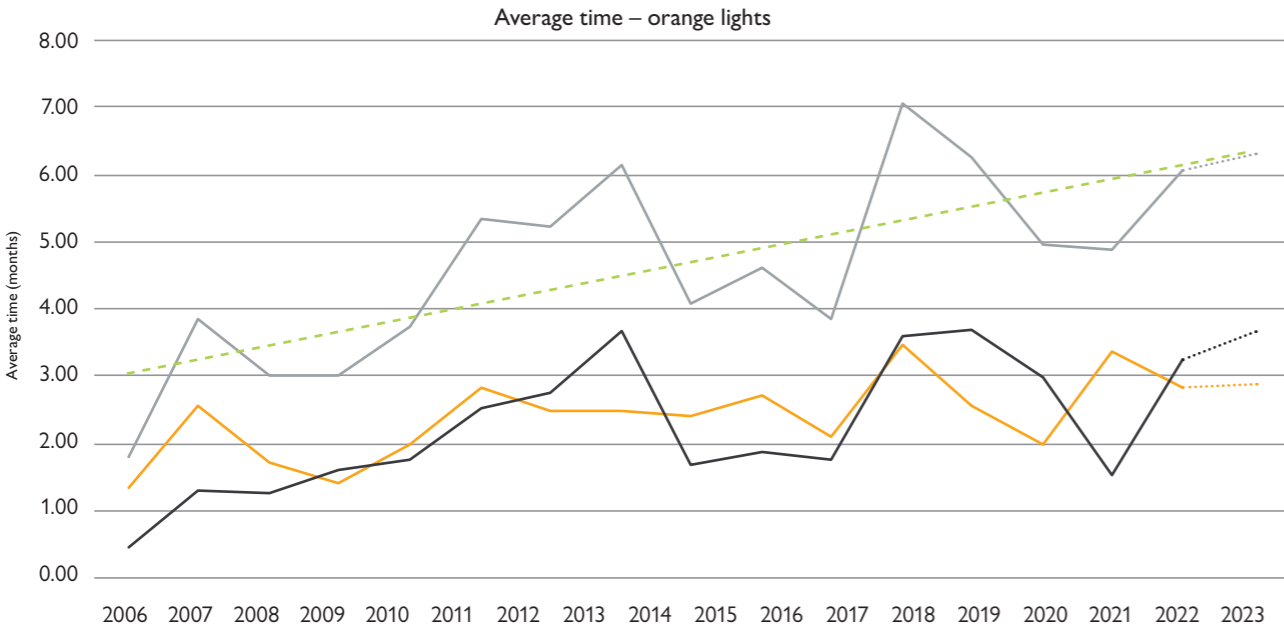
“In global transactions, we often find that merger filings in other regimes that require mandatory clearances are prioritised over our voluntary informal regime. This has hamstrung the ACCC’s ability to assess mergers and prevent potentially anti-competitive mergers.”

Ms Gina Cass-Gottlieb, ACCC Chair, ‘Reform of merger laws critical for Australia’s economic transition’ (ACCC Media Release), 12 April 2023. [Read more](#)

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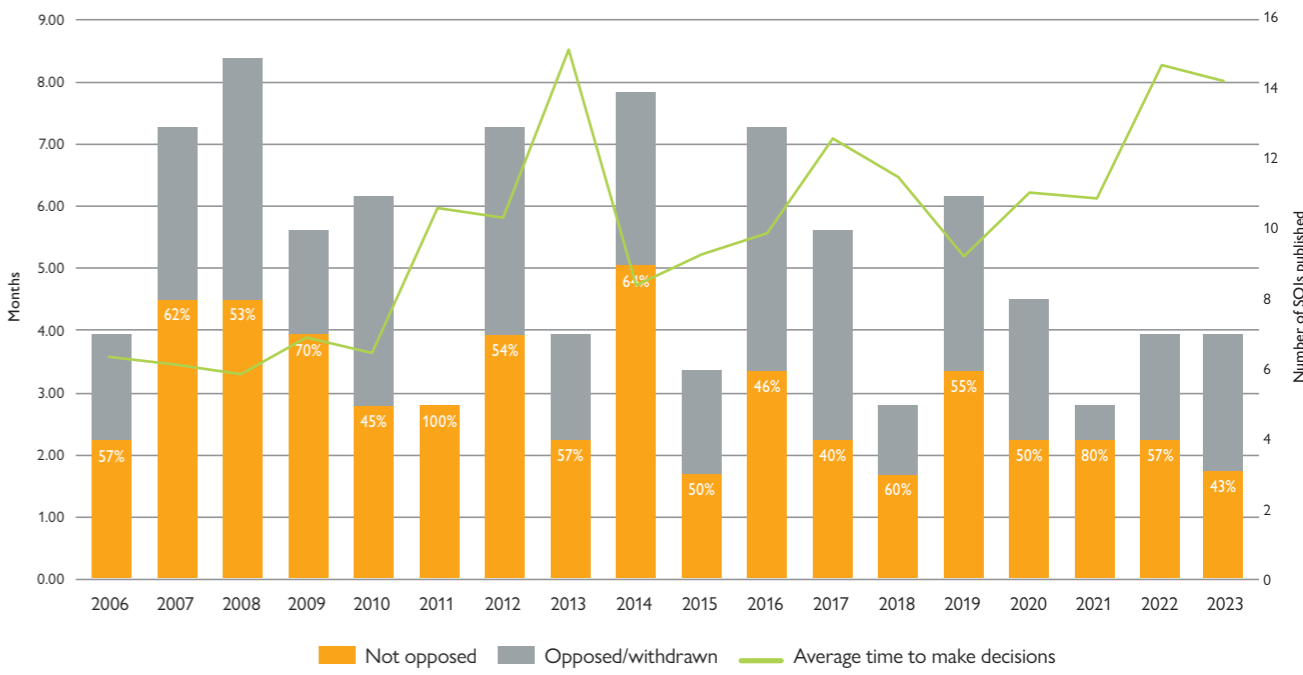
# Year by year statistics

## ORANGE LIGHTS



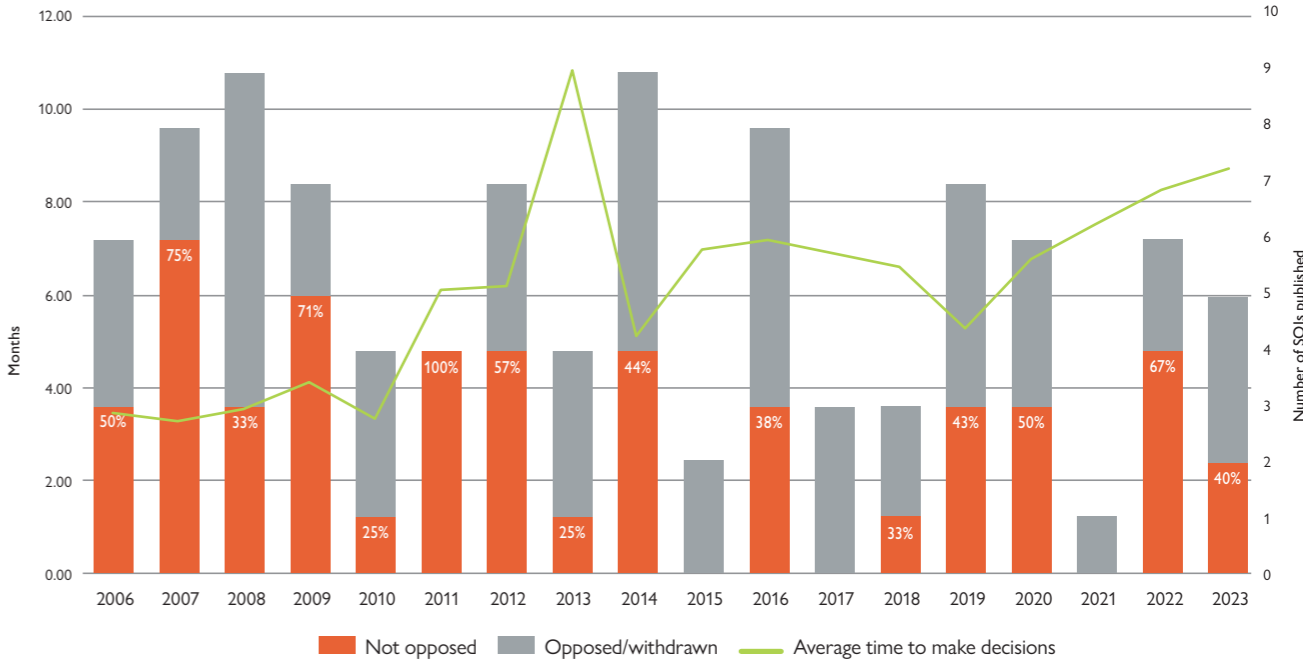
- Filing to SOI
- SOI to decision
- Total time
- Total time trend line

## ALL SOIs



- Not opposed
- Opposed/withdrawn
- Average time to make decisions

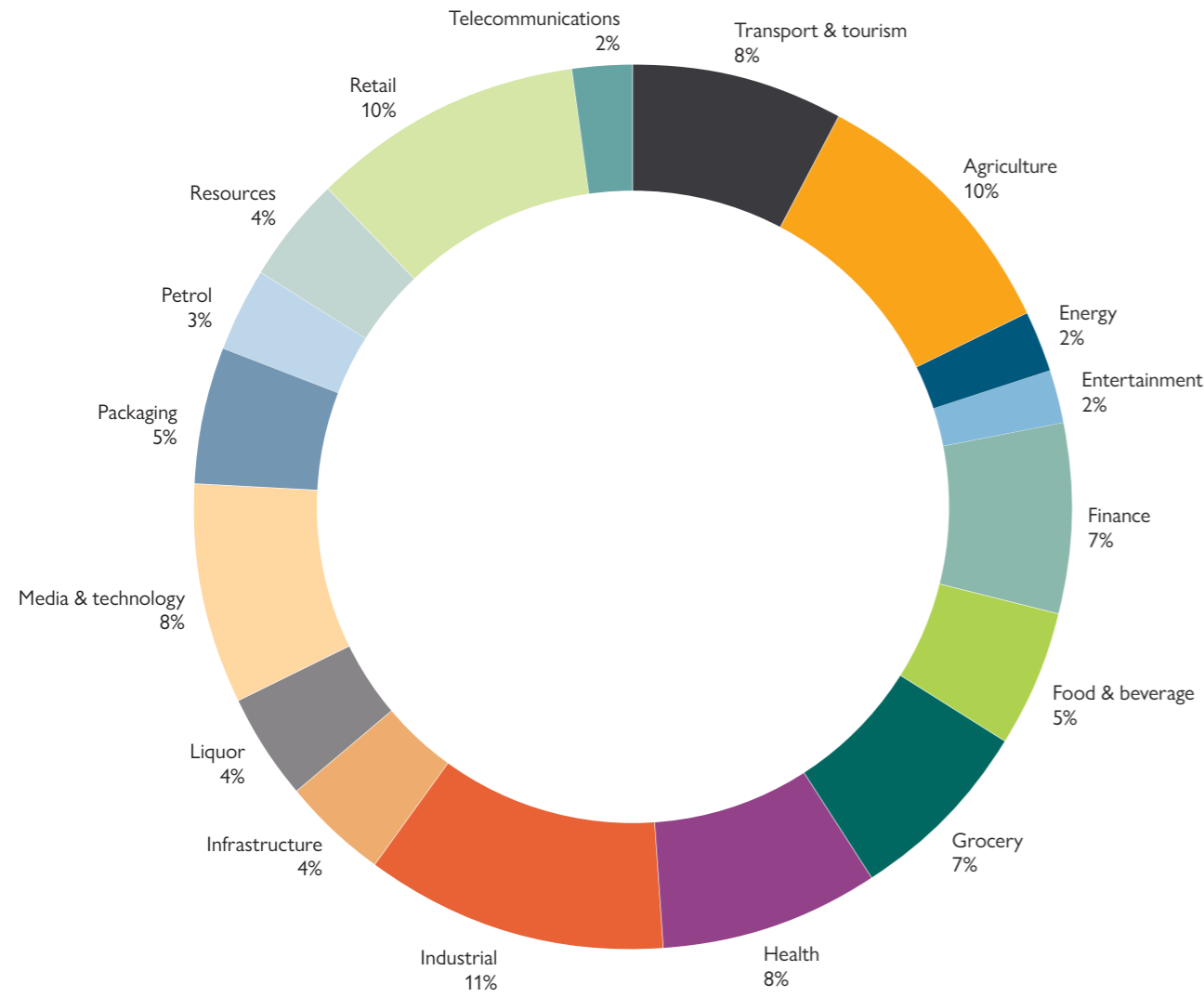
## RED LIGHT SOIs



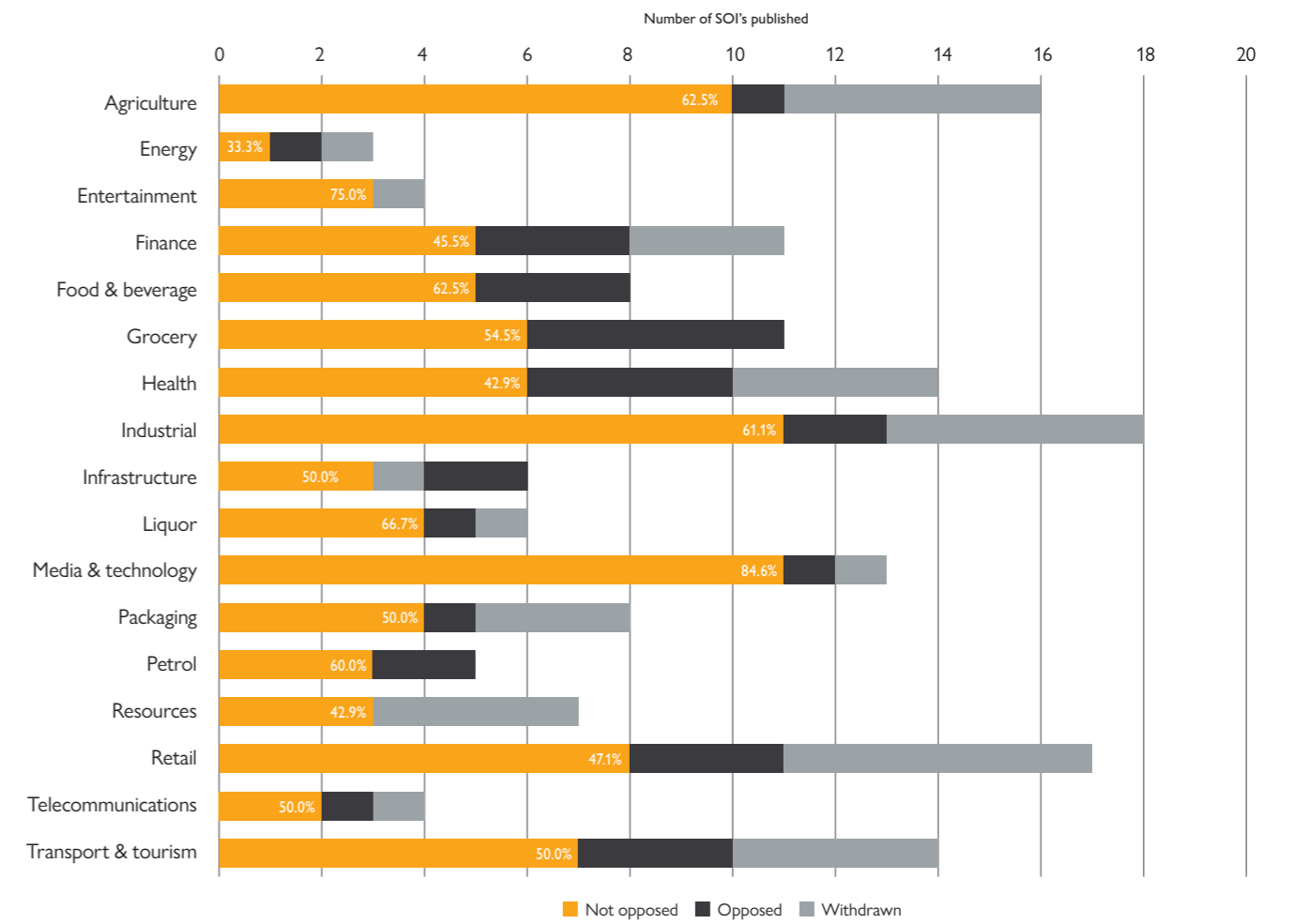
- Not opposed
- Opposed/withdrawn
- Average time to make decisions

Note, only completed decisions are included in timing statistics. Withdrawn applications are not included. Average time is determined across cleared and opposed decisions.

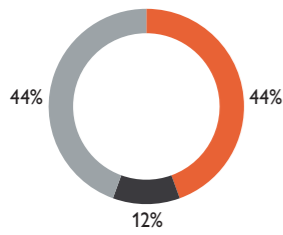
PERCENTAGE OF SOIs BY INDUSTRY (2006-2023)



PERCENTAGE OF SOIs BY INDUSTRY (2006-2023)



**RED LIGHTS**



Of the **16** decisions in the agriculture industry, **9** were red light SOIs. Of those **9** red light SOIs:

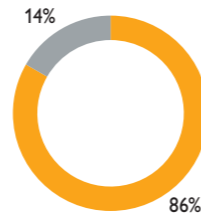
- 4 were not opposed
- 1 was opposed
- 4 were withdrawn

**Agriculture**

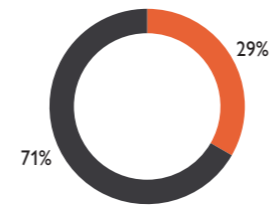
Of the **16** decisions in the agriculture industry, **7** were orange light SOIs. Of those **7** orange light SOIs:

- 6 were not opposed
- 1 was withdrawn

**ORANGE LIGHTS**



**RED LIGHTS**



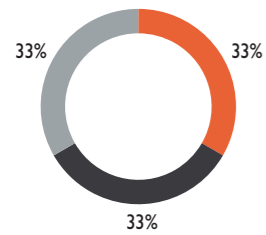
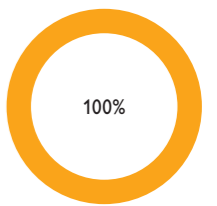
Of the **11** decisions in the grocery industry, **7** were red light SOIs. Of those **7** red light SOIs:

- 2 were not opposed
- 5 were opposed

**Grocery**

Of the **11** decisions in the grocery industry, **4** were orange light SOIs. Of those **4** orange light SOIs all were not opposed.

**ORANGE LIGHTS**

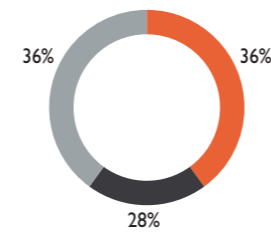
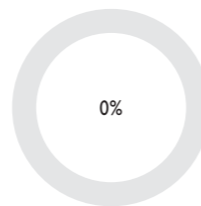


Of the **3** decisions in the energy industry, all **3** were red light SOIs. Of those **3** red light SOIs:

- 1 was not opposed
- 1 was opposed
- 1 was withdrawn

**Energy**

Of the **3** decisions in the energy industry none were orange light SOIs.



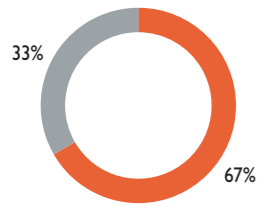
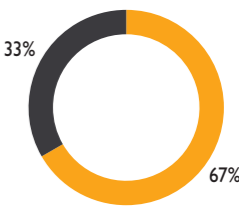
Of the **14** decisions in the health industry, **11** were red light SOIs. Of those **11** red light SOIs:

- 4 were not opposed
- 3 were opposed
- 4 were withdrawn

**Health**

Of the **14** decisions in the health industry, **3** were orange light SOIs. Of those **3** orange light SOIs:

- 2 were not opposed
- 1 was opposed

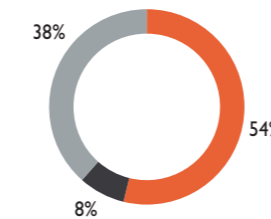
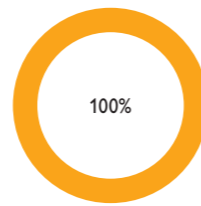


Of the **4** decisions in the entertainment industry, **3** were red light SOIs. Of those **3** red light SOIs:

- 2 were not opposed
- 1 was withdrawn

**Entertainment**

Of the **4** decisions in the entertainment industry, **1** was an orange light SOI. That orange light SOI was not opposed.



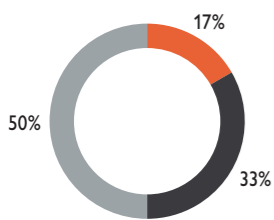
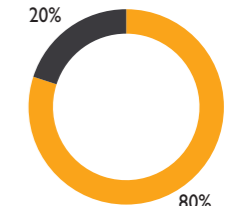
Of the **18** decisions in the industrial industry, **13** were red light SOIs. Of those **13** red light SOIs:

- 7 were not opposed
- 1 was opposed
- 5 were withdrawn

**Industrial**

Of the **18** decisions in the industrial industry, **5** were orange light SOIs. Of those **5** orange light SOIs:

- 4 were not opposed
- 1 was opposed



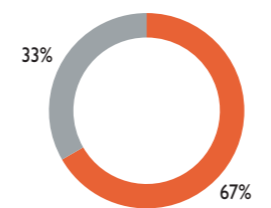
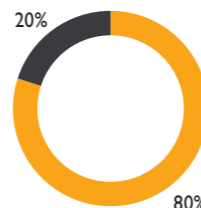
Of the **11** decisions in the finance industry, **6** were red light SOIs. Of those **6** red light SOIs:

- 1 was not opposed
- 2 were opposed
- 3 were withdrawn

**Finance**

Of the **11** decisions in the finance industry, **5** were orange light SOIs. Of those **5** orange light SOIs:

- 4 were not opposed
- 1 was opposed



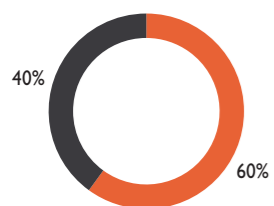
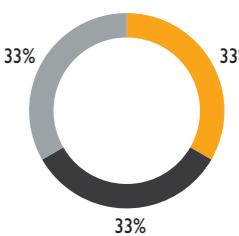
Of the **6** decisions in the infrastructure industry, **3** were red light SOIs. Of those **3** red light SOIs:

- 2 were not opposed
- 1 was withdrawn

**Infrastructure**

Of the **6** decisions in the infrastructure industry, **3** were orange light SOIs. Of those **3** orange light SOIs:

- 1 was not opposed
- 1 was opposed
- 1 was withdrawn



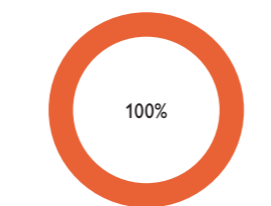
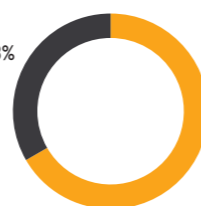
Of the **8** decisions in the food and beverage industry, **5** were red light SOIs. Of those **5** red light SOIs:

- 3 were not opposed
- 2 were opposed

**Food and beverage**

Of the **8** decisions in the food and beverage industry, **3** were orange light SOIs. Of those **3** orange light SOIs:

- 2 were not opposed
- 1 was opposed



Of the **6** decisions in the liquor industry, **4** were red light SOIs. Of those **4** red light SOIs, all were not opposed.

**Liquor**

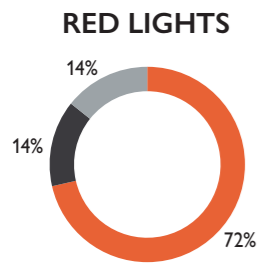
Of the **6** decisions in the liquor industry, **2** were orange light SOIs. Of those **2** orange light SOIs:

- 1 was opposed
- 1 was withdrawn



Not opposed Opposed Withdrawn

Not opposed Opposed Withdrawn

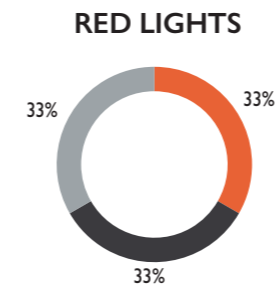
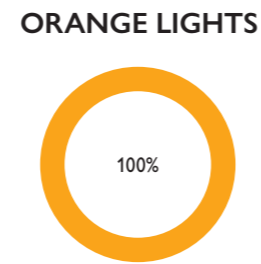


Of the **13** decisions in the media and technology industry, **7** were red light SOIs.  
Of those **7** red light SOIs:

- 5 were not opposed
- 1 was opposed
- 1 was withdrawn

### Media and technology

Of the **13** decisions in the media and technology industry, **6** were orange light SOIs.  
Of those **6** orange light SOIs, all were not opposed.

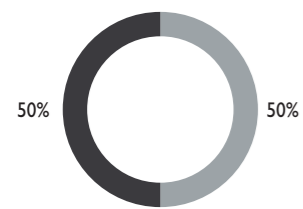
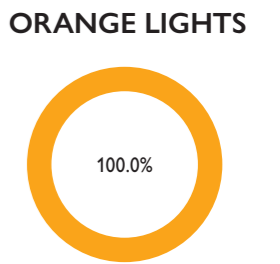


Of the **4** decisions in the telecommunications industry, **3** were red light SOIs.  
Of those **3** red light SOIs:

- 1 was not opposed
- 1 was opposed
- 1 was withdrawn

### Telecommunications

Of the **4** decisions in the telecommunications industry, **1** was an orange light SOI.  
That orange light SOI was not opposed.



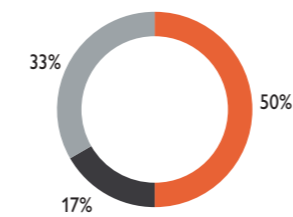
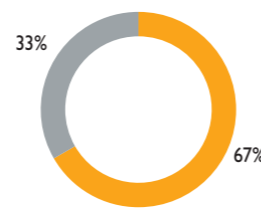
Of the **8** decisions in the packaging industry, **2** were red light SOIs.  
Of those **2** red light SOIs:

- 1 was opposed
- 1 was withdrawn

### Packaging

Of the **8** decisions in the packaging industry, **6** were orange light SOIs.  
Of those **6** orange light SOIs:

- 4 were not opposed
- 2 were withdrawn



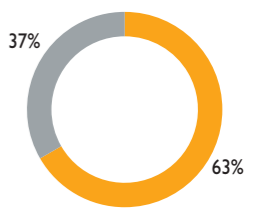
Of the **14** decisions in the transport and tourism industry, **6** were red light SOIs.  
Of those **6** red light SOIs:

- 2 were not opposed
- 3 were opposed
- 1 was withdrawn

### Transport and tourism

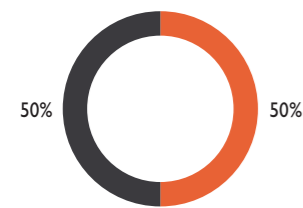
Of the **14** decisions in the transport and tourism industry, **8** were orange light SOIs.  
Of those **8** orange light SOIs:

- 5 were not opposed
- 3 were withdrawn



■ Not opposed ■ Opposed ■ Withdrawn

■ Not opposed ■ Opposed ■ Withdrawn



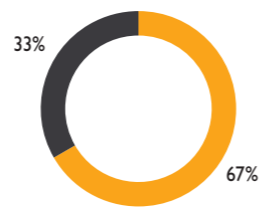
Of the **5** decisions in the petrol industry, **2** were red light SOIs.  
Of those **2** red light SOIs:

- 1 was not opposed
- 1 was opposed

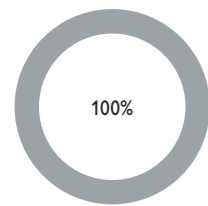
### Petrol

Of the **5** decisions in the petrol industry, **3** were orange light SOIs.  
Of those **3** orange light SOIs:

- 2 were not opposed
- 1 was opposed



### Resources



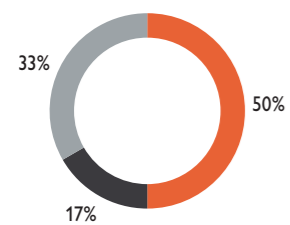
Of the **7** SOI decisions in the resources industry, **1** was a red light SOI.  
That red light SOI was withdrawn.

Of the **7** decisions in the resources industry, **6** were orange light SOIs.  
Of those **6** orange light SOIs:

- 3 were not opposed
- 3 were withdrawn



### Retail

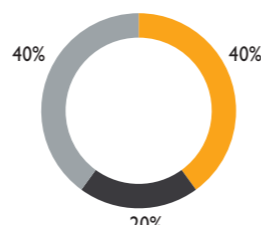


Of the **17** SOI decisions in the retail industry, **12** were red light SOIs.  
Of those **12** red light SOIs:

- 6 were not opposed
- 2 were opposed
- 4 were withdrawn

Of the **17** decisions in the retail industry, **5** were orange light SOIs.  
Of those **5** orange light SOIs:

- 2 were not opposed
- 1 was opposed
- 2 were withdrawn



### QUALIFICATIONS

In terms of the data included in this report, we note the following qualifications:

- **Data:** Data presented in this report is for the calendar year January 2023 to December 2023. For example, if a transaction commenced in 2022 but was finalised in 2023, it is deemed to be a 2023 transaction for this report. All data has been sourced from SOIs available on the ACCC's mergers register since 2006 as at February 2024.
- **SOI data:** Data only relates to transactions where a SOI has been issued and the "traffic light" system has been adopted. Transactions that have been cleared by the ACCC without a SOI have not been considered. While these may include global mergers or transactions where remedies have been offered upfront, our findings and the trends are unlikely to change materially if we considered these transactions.
- **Timing:** For timing statistics, withdrawn merger applications have not been considered. Statistics have been calculated from data based on the number of days between events, which have been recorded to the nearest integer unless otherwise specified.
- **Rounding:** Some figures have been rounded to whole numbers.

Johnson Winter Slattery is a leading independent law firm representing Australian and international clients on their most strategic, complex and demanding transactions and disputes throughout Australia and surrounding regions.

Our unique business model distinguishes us from other firms, providing clients with greater access and involvement of senior practitioners resulting in efficiency and higher quality commercial outcomes.

Our competition team (which is one of the biggest in Australia, spanning four offices, eight partners, six special counsel and 13 associates) is often briefed to “get the deal through” even if the corporate work is being undertaken by another firm or in-house. We also act for the ACCC.

## OUR DEALS

**ACCC:** Review of the merger of Cochlear and Oticon (\$170m)

**Bauer:** ACCC informal clearance for its acquisition of Pacific Magazines (\$40m)

**Bayer:** ACCC informal clearance for its acquisition of Monsanto (\$66b)

**Domain:** ACCC informal clearance for its acquisition of Realbase (\$180m)

**EQT:** Acquisition of VET Partners (\$1.4b)

**Illion:** Proposed sale to Experian (\$820m)

**InvoCare:** ACCC informal clearance for its acquisition of Bledisloe (\$108m)

**LINX Cargo Care Group:** Autocare sale to Optimus Group (\$44m)

**Liverpool:** ACCC informal clearance for its acquisition of Genea (\$202m)

**Pepsi:** ACCC informal clearance for acquisition of SodaStream (US\$3.2b)

**Perenti:** ACCC clearance for Perenti’s acquisition of DDH1 Limited (\$400m)

**PLBY:** ACCC informal clearance for acquisition of Honey Birdette (\$443m)

**Qantas:** Proposed acquisition of Alliance Aviation (\$615m)

**Ruralco:** ACCC informal clearance for its acquisition by Nutrien (\$450m)

**Spotify:** ACCC informal clearance for its acquisition of Whooshka (<\$50m)

**Unilever:** ACCC informal clearance for its acquisition of Weis (\$50m+)

**Yahoo!:** ACCC informal clearance for global search engine deal with Microsoft (US\$500m)



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