



Australian Government



NATIONAL
ARCHIVES
OF AUSTRALIA

Records Authority

2013/00376451

Australian Competition Tribunal

Competition Tribunal Case Management

2013

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INTRODUCTION

The Australian Competition Tribunal and the National Archives of Australia have developed this Records Authority to set out the requirements for keeping or destroying records for the core business area of Competition Tribunal Case Management. It represents a significant commitment on behalf of the Australian Competition Tribunal to understand, create and manage the records of its activities.

This Authority is based on the identification and analysis of the business of the Australian Competition Tribunal. It takes into account the agency's legal and organisational records management requirements, and the interests of stakeholders, the agency and the National Archives of Australia.

The Authority sets out those records that need to be retained as national archives and specifies the minimum length of time that temporary records need to be kept. This Authority gives the Australian Competition Tribunal permission under the *Archives Act 1983*, for the destruction of the temporary records described after the minimum retention period has expired. Retention periods for these temporary records are based on: an assessment of business needs; broader organisational accountability requirements; and community expectations, and are approved by the National Archives of Australia on the basis of information provided by the agency.

As changes in circumstances may affect future records management requirements, the periodic review of this Authority is recommended. All amendments must be approved by the National Archives of Australia.

APPLICATION OF THIS AUTHORITY

1. This Authority should be used in conjunction with the Tribunals Records Authority 2011/00681744 covering Tribunal External Relations and Tribunal Management and Statutory Appointments.
2. This Authority is to be used to determine how long records must be kept. Records are matched to the relevant business area and records class in the Authority.
 - Where the minimum retention period has expired and the records are not needed for agency business they should be destroyed as authorised in this Authority;
 - Records that have not reached the minimum retention period must be kept until they do; and
 - Records that are identified as retain as national archives (RNA) are to be transferred to the National Archives of Australia for preservation.
3. This Authority should be used in conjunction with general records authorities such as:
 - AFDA Express which covers administrative business processes and records common to many Australian Government agencies; and
 - General Records Authority (31) For source (including original) records that have been copied, converted or migrated.
4. The Normal Administrative Practice (NAP) provision of the *Archives Act 1983* gives agencies permission to destroy certain records without formal authorisation. This usually occurs where records are duplicated, facilitative or for short-term use only. NAP does not replace arrangements agreed to in records authorities but can be used to destroy very low-value records. The National Archives recommends that agencies develop and implement a Normal Administrative Practice policy. Advice and guidance on destroying records as a normal administrative practice and on how to develop an agency NAP policy is available from the National Archives' website at www.naa.gov.au
5. Records that are reasonably likely to be needed as evidence in a current or future judicial proceeding or are subject to a request for access under the *Archives Act 1983*, the *Freedom of Information Act 1982* or any other relevant Act must not be destroyed until the action has been completed.
6. Records subject to a disposal freeze must not be destroyed until the freeze has been lifted. Further information about disposal freezes and whether they affect the application of this Authority is available from the National Archives website at www.naa.gov.au
7. Where the method of recording information changes (for example from a manual system to an electronic system, or when information is migrated to a new system) this authority still applies, providing the records document the same business area. The information must be accessible for the period of time prescribed in this Authority.

8. In general, retention requirements indicate a minimum period for retention. The Australian Competition Tribunal may extend minimum retention periods if it considers that there is an administrative need to do so, without further reference to the National Archives. Where the Australian Competition Tribunal believes that its accountability will be substantially compromised because a retention period or periods are not adequate, they should contact the National Archives for review of the retention period.
9. Records coming within 'retain as national archives' classes in this Authority have been determined to be part of the archival resources of the Commonwealth under section 3C of the *Archives Act 1983*. The determination of Commonwealth records as archival resources of the Commonwealth obliges agencies to transfer the records to the National Archives when they cease to be current and, in any event, within 15 years of the records coming into existence, under section 27 of the *Archives Act 1983*.
10. Records in the care of agencies should be appropriately stored, managed and preserved. Agencies need to meet this obligation to ensure that the records remain authentic and accessible over time. Under Section 31 of the *Archives Act 1983*, access arrangements are required for records that become available for public access including those records that remain in agency custody.
11. Arrangements should be made with the National Archives when records are to be transferred into custody. The National Archives accepts for transfer only those records designated as national archives.
12. Advice on how to use this Authority is available from the Australian Competition Tribunal records manager. If there are problems with the application of the Authority that cannot be resolved, please contact the National Archives.

CONTACT INFORMATION

For assistance with this authority or for advice on other records management matters, please contact the National Archives' Agency Service Centre.

Queen Victoria Terrace
Parkes ACT 2600
PO Box 7425
Canberra Business Centre ACT 2610

Tel: (02) 6212 3610
Fax: (02) 6212 3989
Email: recordkeeping@naa.gov.au
Website: www.naa.gov.au

AUTHORISATION

RECORDS AUTHORITY 2013/00376451

Person to whom notice of authorisation is given:

Justice John Ronald Mansfield
President
Australian Competition Tribunal
Roma Mitchell Commonwealth Law Courts Buildings
Level 5, 3 Angas Street
Adelaide SA 5000

Purpose:

Authorises arrangements for the disposal of records in accordance with Section 24(2)(b) of the *Archives Act 1983*

Determines records classed as 'Retain as national archives' in this Records Authority to be part of the archival resources of the Commonwealth under section 3C of the *Archives Act 1983*.

Application:

All core business records relating to Competition Tribunal Case Management.

This authority gives permission for the destruction, retention or transfer to the National Archives of Australia of the records described. This authority will apply only with the consent of the agency currently responsible for the business documented in the records described.

Authorised by

David Fricker
Director-General
National Archives of Australia

Date of issue:

13 November 2013

COMPETITION TRIBUNAL CASE MANAGEMENT

The core business of conducting merit reviews of certain administrative decisions under competition legislation and limited merit reviews under national electricity and gas legislation, includes managing and determining cases and conducting review hearings relating to certain determinations by the Australian Competition and Consumer Commission (or equivalent); and decisions of the Minister declaring access to or regarding services of essential facilities of national significance under national electricity and gas legislation. Also includes reviews of reviewable decisions of the Australian Energy Regulator (or equivalent) and the Productivity Commission (or equivalent).

The tasks associated with this core business include:

- handling enquiries and consultations with stakeholders;
- development of practice directions;
- developing policies, procedures and guidelines;
- processing documents presented for filing, including originating applications;
- monitoring of case progress;
- document inspection arrangements;
- arranging and conducting hearings, including arranging legal, security or interpreter services;
- managing exhibits;
- reporting;
- referral of cases or matters to higher appeal bodies; and
- finalisation of cases including notifying applicants and other stakeholders.

Cross References

For records relating to managing relationships with other tribunals, government and community stakeholders, including the provision of advice, use Tribunal Records Authority 2011/00681744 – TRIBUNAL EXTERNAL RELATIONS.

For records relating to establishing and managing the administration of the tribunal, including the appointment and terms and conditions of statutory appointees, and the development of tribunal policies, procedures and guidelines, use Tribunal Records Authority 2011/00681744 – TRIBUNAL MANAGEMENT AND STATUTORY APPOINTMENTS.

COMPETITION TRIBUNAL CASE MANAGEMENT

Class no	Description of records	Disposal action
61458	<p>The following significant records:</p> <ul style="list-style-type: none"> • Tribunal case files (part A only). Includes: <ul style="list-style-type: none"> - initiating and interlocutory applications, affidavits in support; - applications for joinder; - statements of issues; - submissions; - witness statements, affidavits and other statements/correspondence that are directed to defining the issues before the tribunal for decision; - list of exhibits and exhibits not returned to the parties; - transcripts of argument and of evidence (in cases involving full merits review); - for review proceeding documents detailing the decision/authorisation/revocation being reviewed; - notices of appearance; - reasons for decision; and - appeals including orders from the Federal or High Court setting aside or affirming a Tribunal decision and remitting the matter back to the Tribunal. <p>Excludes part B of the tribunal case file.</p> <ul style="list-style-type: none"> • master set/register of tribunal decisions; • principal records of the major policies, guidelines and procedures relating to the operations of the Tribunal including the master set of practice directions; and • outcomes of reviews of certain decisions in access matters including final reports requested by the Minister. 	Retain as national archives
61459	<p>Records documenting:</p> <ul style="list-style-type: none"> • Tribunal case files (part B only) – applications to inspect Tribunal files, correspondence with parties and file notes; • operational schedules and rosters, such as daily hearing schedules, and member schedules and rosters; • provision of interpreter services; and • routine arrangements for hearings, such as room, facility, phone and video conferencing bookings and arrangements. 	Destroy 3 years after action completed
61460	<p>Records documenting:</p> <ul style="list-style-type: none"> • routine operational administrative tasks supporting the core business; and • competition tribunal case management activities, other than those covered in classes 61458 and 61459. 	Destroy 7 years after action completed