

Increase the value of corporate penalties for misuse of market power	
Party:	Australian Greens
<p>Summary of proposal:</p> <p>The proposal would increase the value of penalties corporations face for the misuse of market power to 10 times their current rate.</p> <p>The proposal would start from 1 July 2025.</p>	

Costing overview

The proposal would be expected to increase the fiscal and underlying cash balances by around \$926 million over the 2025-26 Budget forward estimates period (see Table 1). This impact reflects an increase in administered non-taxation revenue.

The proposal would be expected to have an impact beyond the 2025-26 Budget forward estimates period. A breakdown of the financial implications (including separate public debt interest (PDI) tables) over the period to 2035-36 is provided at Attachment A.

Table 1: Increase the value of corporate penalties for misuse of market power – Financial implications (\$m)^{(a)(b)}

	2025-26	2026-27	2027-28	2028-29	Total to 2028-29
Fiscal balance	223.0	229.0	234.0	240.0	926.0
Underlying cash balance	223.0	229.0	234.0	240.0	926.0

(a) A positive number represents an increase in the relevant budget balance; a negative number represents a decrease.

(b) PDI impacts are not included in the totals.

Uncertainties

There are considerable uncertainties associated with this costing.

- The base (expected corporate penalties) is highly volatile, reflecting the uncertainty inherent in estimating revenue from litigation. Industries impacted by penalties can vary based on the various methods employed to detect anti-competitive behaviour, changing enforcement priorities and sector focus. The Australian Competition and Consumer Commission (ACCC) relies on various methods to detect anti-competitive behaviour, including tip-offs, complaints, and its own investigative work. The ACCC sets enforcement priorities that may change over time, focusing on different sectors based on the economic impact, public interest, or prevalence of complaints.
- The costing estimates are based on the penalties that were imposed between 2014-15 and 2023-24, but these may not be a reliable indicator of the penalties that may be imposed in the future. The *Treasury Laws Amendment (More Competition, Better Prices) Act 2022*, which passed on 27 October 2022, increased penalties under the *Competition and Consumer Law Act 2010* and introduced penalties for unfair contract terms. As increased penalties apply to infractions occurring

after the legislation is passed, these changes would be expected to increase revenue collected from corporate penalties in the future (after the conclusion of relevant enforcement activity), however the impact of these changes may not yet be reflected in the baseline.¹

- A further significant source of uncertainty are corporations' behavioural responses to the proposal. The total value of penalties would be expected to decrease as a result of this proposal, driven by the impact of increased voluntary compliance. These impacts would be offset by the increasing concentration and size of businesses. An increase in the concentration of businesses in Australian industries over time would be expected to increase the total value of penalties applied in the future, due to the larger turnover of each business and the greater impact of their anti-competitive behaviour.²

Key assumptions

The Parliamentary Budget Office (PBO) has made the following assumptions in costing this proposal.

- The baseline penalty in 2025-26 is based on the linear projection of competition related penalties imposed on corporations between July 2014 and June 2024. From 2026-27, penalties would be expected to grow in line with CPI.
- All penalty amounts would increase from the current base
 - The current maximum penalties for breaches of Part IV of the *Competition and Consumer Act* 2010 will be the greater of:
 - \$50,000,000
 - if the Court can determine 'reasonably attributable' benefit obtained, 3 times that value, or
 - if the Court cannot determine the value of the 'reasonably attributable' benefit, 30% of the corporation's adjusted turnover during the breach turnover period for the contravention.
 - Under the proposed rate, the maximum penalties will be the greater of:
 - \$500,000,000
 - if the Court can determine 'reasonably attributable' benefit obtained, 30 times that value, or
 - if the Court cannot determine the value of the 'reasonably attributable' benefit, 300% of the corporation's adjusted turnover during the breach turnover period for the contravention.
 - The above is an example only and does not include all the legislations and penalties a corporation can face for the misuse of market power.
- The behavioural response is expected to result in a 50% decrease in the number of corporations who misuse their market powers.
- ACCC penalties are not tax deductible by companies.

¹ For conduct prior to 10 November 2022, the maximum penalties will be based on those that applied at the time the breach occurred. Refer to: *Penalty amount*, [Fines and penalties | ACCC](#).

² Bakhtiari, [Trends in the market concentration of Australian industries](#).

Methodology

The estimates are based on ACCC data on competition related penalties that were imposed over the period from July 2014 to June 2024.

The financial impact was calculated by subtracting the total value of penalties estimated under the current rate from the total value of penalties as calculated under the proposed rate. Penalties raised in a year are paid in that same year.

- The baseline penalty in 2025-26 was calculated based on the linear projection of competition related penalties imposed on corporations.
- The total annual value of penalties was estimated by applying the assumed increases in penalty amounts.

Financial implications were rounded consistent with the PBO's rounding rules.³

Data sources

The ACCC provided data on the number and value of civil penalties imposed under the *Competition and Consumer Act 2010* as a result of prosecutions by the ACCC over the period from July 2014 to June 2024 as at 12 May 2025.

Bakhtiari, Sasan (2019) [Trends in the market concentration of Australian industries](#), Department of Industry, Science and Resources.

Commonwealth of Australia (2025) *Pre-election Economic and Fiscal Outlook 2025*, Commonwealth of Australia.

³ <https://www.pbo.gov.au/for-parliamentarians/how-we-analyse/pbo-rounding-rules>

Attachment A – Increase the value of corporate penalties for misuse of market power – Financial implications

Table A1: Increase the value of corporate penalties for misuse of market power – Fiscal and underlying cash balances (\$m)^(a)

	2025-26	2026-27	2027-28	2028-29	2029-30	2030-31	2031-32	2032-33	2033-34	2034-35	2035-36	Total to 2028-29	Total to 2035-36
Revenue													
<i>Increase the value of corporate penalties to ten times their current rate</i>	223.0	229.0	234.0	240.0	246.0	252.0	259.0	265.0	272.0	279.0	286.0	926.0	2,785.0
Total (excluding PDI)	223.0	229.0	234.0	240.0	246.0	252.0	259.0	265.0	272.0	279.0	286.0	926.0	2,785.0

- (a) A positive number for the fiscal balance indicates an increase in revenue or a decrease in expenses or net capital investment in accrual terms. A negative number for the fiscal balance indicates a decrease in revenue or an increase in expenses or net capital investment in accrual terms. A positive number for the underlying cash balance indicates an increase in receipts or a decrease in payments or net capital investment in cash terms. A negative number for the underlying cash balance indicates a decrease in receipts or an increase in payments or net capital investment in cash terms.

Table A2: Increase the value of corporate penalties for misuse of market power – Memorandum item: Public Debt Interest (PDI) impacts – Fiscal and underlying cash balances (\$m)^{(a)(b)}

	2025-26	2026-27	2027-28	2028-29	2029-30	2030-31	2031-32	2032-33	2033-34	2034-35	2035-36	Total to 2028-29	Total to 2035-36
Fiscal balance	5.0	15.0	26.0	38.0	50.0	64.0	78.0	93.0	110.0	127.0	146.0	84.0	752.0
Underlying cash balance	4.0	13.0	23.0	35.0	47.0	60.0	74.0	89.0	105.0	123.0	141.0	75.0	714.0

- (a) As this table is presented as a memorandum item, these figures are not reflected in the totals above. This is consistent with the approach taken in the budget where the budget impact of most measures is presented excluding the impact on PDI. If the reader would like a complete picture of the total aggregate, then these figures would need to be added to the figures above. For further information on government borrowing and financing please refer to the PBO's online budget glossary⁴.
- (b) A positive number for the fiscal balance indicates an increase in revenue or a decrease in expenses or net capital investment in accrual terms. A negative number for the fiscal balance indicates a decrease in revenue or an increase in expenses or net capital investment in accrual terms. A positive number for the underlying cash balance indicates an increase in receipts or a decrease in payments or net capital investment in cash terms. A negative number for the underlying cash balance indicates a decrease in receipts or an increase in payments or net capital investment in cash terms.

⁴ [Online budget glossary – Parliamentary Budget Office \(pbo.gov.au\)](https://pbo.gov.au/)