

JOINT COMMUNIQUÉ

MEETING OF MINISTERS FOR CONSUMER AFFAIRS

THURSDAY 7 NOVEMBER 2013
BRISBANE, QUEENSLAND

FINAL

Commonwealth, State, Territory and New Zealand Ministers responsible for fair trading and consumer protection met in Brisbane, Queensland, today.

Members of the Forum are:

Hon Jarrod Bleijie MP (Queensland – Chair)
Hon Anthony Roberts MP (New South Wales)
Hon Bruce Billson MP (Commonwealth)
Hon Heidi Victoria MP (Victoria)
Hon John Rau MP (South Australia)
Hon Michael Mischin MLC (Western Australia)
Mr Simon Corbell MLA (Australian Capital Territory)
Hon Nick McKim MP (Tasmania)
Hon John Elferink MLA (Northern Territory)
Hon Craig Foss (New Zealand)

Apologies were received from Mr Simon Corbell MLA (Australian Capital Territory), the Hon John Rau MP (South Australia), the Hon Michael Mischin MLC (Western Australia), the Hon Nick McKim MP (Tasmania), the Hon John Elferink MLA (Northern Territory) and the Hon Craig Foss (New Zealand).

The Legislative and Governance Forum on Consumer Affairs' (CAF'S) objective

CAF's objective is to provide the best and most consistent protection for Australian and New Zealand consumers through its consideration of consumer affairs and fair trading issues of national significance and, where possible, development of consistent approaches to those issues.

CAF was previously the Ministerial Council on Consumer Affairs (MCCA).

The Australian Consumer Law

Implementation of the Australian Consumer Law: Report on progress III (2012-13)

Ministers welcome the release of the third report on the progress of the implementation of the ACL, highlighting the significant work that Australia's consumer agencies have undertaken to more closely

integrate compliance, enforcement and education operations in the period between 1 July 2012 and 30 June 2013.

Ministers commended the critical work that was undertaken by consumer agencies which included:

- a continuation of efforts to implement and transition to the ACL including the progression of key policy and research initiatives such as amendments to the component pricing provision and travel services reform;
- communication and education activities to disseminate information to Australian consumers and businesses about their rights and obligations under the ACL, including to culturally and linguistically diverse communities (such as through the *My consumer rights* communication strategy);
- closer integration of compliance and enforcement operations through national efforts towards an Australia-wide complaint reporting and resolution program; and
- the coordination of national strategies to reduce the risk of product related injury and death including work relating to sunglasses, sporting goods, ember protection for evaporative air conditioners, quad bikes, small powerful magnets and synthetic drugs.

Ministers welcomed the Federal Court's confirmation that consumers can use a 'Do Not Knock' sticker to direct uninvited sales people to leave their premises and that they do not need to meet the sales person face to face to ask them to leave. It confirms Ministers' views that businesses must respect people's wishes in their homes.

The report outlines a number of selected case studies that demonstrate coordinated national responses to a range of important consumer issues that support all consumers. These case studies illustrate the work that consumer agencies have undertaken to support consumers' understanding of their rights and access to remedies.

Review of Inconsistent Legislation

Ministers discussed the importance of a harmonised and consistent approach when developing and reviewing legislation within their jurisdiction in light of the Australian Consumer Law. It is vital that consumer laws are consistent in their approach when protecting consumers and promoting fair trading across all industry sectors.

Unfair Terms and Small Business

Ministers affirmed their agreement to consider an extension of the unfair contract terms provisions of the Australian Consumer Law to small business.

Ministers noted that small businesses can face many of the same issues as individual consumers when negotiating contracts and that the Commonwealth in its Real Solutions Small Business Policy committed to extending unfair contract terms protections to business to business contracts involving small business. Ministers are eager to hear the views of stakeholders on this matter, which will be obtained through a comprehensive stakeholder consultation process commencing in the coming months.

Further information will be released through the Australian Consumer Law website and stakeholders are encouraged to check for updates on this important policy issue.

Unsolicited Consumer Agreements - Review of prohibition on payment during cooling off period.

Ministers noted the issues raised by industry concerning the effect of the present prohibition on payments being made during the cooling off period, provided for under the Australian Consumer Law in relation to unsolicited consumer agreements.

Ministers agreed to refer those issues for the consideration of Consumer Affairs Australia and New Zealand (CAANZ), in the context of its project reviewing the relevant provisions of the ACL.

Credit card surcharges

Ministers welcomed the Commonwealth Consumer Affairs Advisory Council's (CCAAC) study into *Credit card surcharges and non-transparent transaction fees*. Ministers noted that the Reserve Bank of Australia (RBA) has been active in considering issues relating to credit card surcharges, and had recently amended surcharging rules to address concerns in relation to excessive surcharging.

To ensure that Australia's consumer laws remain appropriate to the needs of consumers, Ministers agreed that officials should consider the report's findings and recommendations and report back on the need for further action, if necessary.

Australian Uniform Co-operative Laws Agreement (AUCLA) – Co-operatives National Law (CNL)

Ministers approved the extension of the time limit for the commencement of the CNL or alternative consistent legislation to 18 May 2015, given the current position of several jurisdictions in progressing their legislation, due to the effects of State election cycles and legislative schedules.

Ministers also approved the amendment to the commencement of the National Regulations, to align it with the above time limit.

A report for CAF on whether further transitional arrangements are required for the staged commencement of the CNL was prepared by the inter-jurisdictional CNL Working Party. The report found that no further transitional arrangements were needed in the enabling laws, the CNL or the National Regulations. The CNL Implementation Group of State and Territory officers is considering whether transitional provisions are needed in the Local Regulations and will advise jurisdictions shortly.

Ministers noted progress with the implementation of the new laws, including the making and publication of the National Regulations on the NSW Legislation website and that NSW and Victoria are going to commence their respective CNL laws on the same date, Monday 3 March 2014.

Charitable Fundraising Reform

Ministers noted progress in developing an Options Paper for charitable fundraising reform and that following review by CAANZ, the Options Paper will be submitted for consideration by Ministers at its first CAF meeting in 2014.

Benchmarks for Industry-based Consumer Dispute Resolution Schemes

Ministers noted the progress of the CCAAC in reviewing the *Benchmarks for Industry-based Consumer Dispute Resolution Schemes* and that CCAAC will continue to engage with stakeholders in finalising its report. Ministers look forward to receiving the report in 2014.

Other Consumer Affairs Issues

Ministers also discussed a number of other consumer affairs issues including Fuel Price Boards.

Agreement on a national approach for petrol price boards

Ministers noted the importance of providing clear and concise information to consumers when purchasing fuel. They considered the value of having a national information standard for petrol price boards and noted the consultation conducted by Western Australia since the last CAF meeting.

Ministers agreed that the Commonwealth would develop a specific proposal for a minimum mandatory information standard to be put to a vote under the ACL out of session.

ATTACHMENT A

CAF's principal strategies

To achieve this objective, CAF's principal strategic and operational priorities are:

Strategic Priorities

1. Promote the achievement of improved consumer outcomes
2. Reaffirm the value and commitment to an integrated and harmonised approach to protecting consumers, across Australia and trans-Tasman
3. Engage in the international arena to effectively address global marketplace issues and solutions
4. Using social media, introduce new, national approaches to educate and engage business and consumers
5. Use a coordinated approach to better engage and protect vulnerable consumers (including refreshing the NICS)
6. Develop a cohesive approach to respond to online issues

Operational Priorities

7. Develop the capability to deliver integrated solutions
8. Raise our visibility, including with other government agencies, to encourage compliance and enforce the law
9. Create a national approach to the analysis and collection of intel
10. Identify and implement national and trans-Tasman strategies that minimise risk of injury and death from safety hazards in consumer products.