

JOINT COMMUNIQUÉ

MEETING OF MINISTERS FOR CONSUMER AFFAIRS

FRIDAY 12 JUNE, 2015
MELBOURNE, VICTORIA

FINAL

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

Members of the Forum are:

Hon Bruce Billson MP (Commonwealth – Chair)
The Hon Victor Dominello MP (New South Wales)
The Hon Jane Garrett MP (Victoria)
The Hon Yvette D’Ath MP (Queensland)
The Hon Vanessa Goodwin MLC (Tasmania)
The Hon Paul Goldsmith (New Zealand)
The Hon Gail Gago MLC (South Australia)
Mr Simon Corbell MLA (Australian Capital Territory)

Apologies were received from

The Hon Michael Mischin MLC (Western Australia), represented by Anne Driscoll
The Hon John Elferink MLA (Northern Territory), represented by Gary Clements

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.

Items for discussion and decision

Review of the Australian Consumer Law

Consumer Affairs Ministers agreed Terms of Reference for the review of the Australian Consumer Law (ACL) which will commence in 2016. The ACL review satisfies the requirements of the *Intergovernmental Agreement for the Australian Consumer Law* (IGA), signed by COAG on 2 July 2009, that a review of the enforcement and administration arrangements supporting the ACL be undertaken within seven years, and a review of the operation and terms of the IGA be undertaken after seven years.

The ACL review will be conducted by CAANZ with a final report to be provided to Ministers by March 2017. It is important that the review consult widely including with consumer representatives, businesses and the wider public, with public consultation on the review to formally begin in 2016.

Ministers agreed that the review will consider the effectiveness of the ACL and the extent to which the national consumer policy framework has met the objectives agreed by COAG. As part of this, the review will examine the shared enforcement and administration arrangements supporting the ACL (the 'multiple regulator' model), assess the effectiveness of the provisions of the ACL including whether they are operating as originally intended, changes in consumer and business awareness of their rights and obligations under the ACL and the flexibility of the ACL to respond to new and emerging issues.

Ministers noted that the findings of the review will be informed by the second national Australian Consumer Survey, scheduled to commence in late 2015.

Lemon Laws in Australia

Consumer Affairs Ministers noted an e-petition in Queensland requesting that Queensland Parliament introduce lemon Laws into Queensland to protect Australian consumers with the long term plan to release for national acceptance. As existing protections fall within the scope of the Australian Consumer Law and it would be preferable to have a nationally consistent approach, Consumer Affairs Ministers preferred that the issue of lemon laws be considered as part of the general review of the Australian Consumer.

Egg labelling

Consumer Affairs Ministers considered options to enhance consumer confidence and certainty regarding egg labelling.

Five options were presented for Ministers' consideration, which formed the basis of a wider discussion before any decisions were made on the next steps for the project.

Australian Ministers agreed to direct officials to prepare a draft national standard on egg labelling for consideration by Ministers later this year to enhance consumer confidence and certainty around egg labelling. Officials will consult with affected stakeholders and prepare a cost benefit analysis.

The draft standard will include a statement of when the 'free range' label may be used, having regard to recent ACCC case law. Officials were asked to include in the draft standard other potential 'category' labels.

During the course of the consultation the Consumer Affairs Forum will engage with Agricultural Ministers.

Co-operatives National Law – approval of WA legislation as alternative consistent legislation

Ministers approved proposals by Western Australia to amend the *Co-operatives Act 2009* (WA) to align with the Co-operatives National Law opening the way for amendment of the Co-operatives National Regulations to recognise Western Australia as a participating jurisdiction and allowing Western Australian registered co-operatives to conduct business nationally.

Ministers also noted that Western Australia will proceed with the assessment and amendment of its Co-operatives Regulations using the same approval process and that this will occur prior to amendment of the Co-operatives National Regulations to recognise WA as a participating jurisdiction.

Endorsement of the *Legislative and Governance Forum on Consumer Affairs Strategic Agenda 2015-2017*

Ministers endorsed CAF Strategic Agenda for 2015-17, which sets out the key priorities that centre on informed consumers, responsible traders and improved consumer outcomes for Australians and New Zealanders.

Australian consumer law policy discussion

Country of origin labelling

Consumer Affairs Ministers noted that there was broad community interest in improving the country of origin labelling framework in light of consumer concerns about the current labelling framework for food.

Ministers noted that any change should help Australian consumers better understand the origin of the food they buy, while avoiding unnecessary compliance costs on businesses and complying with Australia's international trade obligations.

Harper Competition Policy Review

Consumer Affairs Ministers discussed the final report of the Harper Competition Policy Review and noted the Review's finding that competition policies, laws and institutions should promote the long-term interests of consumers. Ministers considered the Review's recommendation that governments should work with industry, consumer groups and privacy experts to allow consumers to access information in an efficient format to assist them to make informed choices. Providing consumers with better access to data can empower consumers facing increasingly complex purchasing decisions and improve overall economic efficiency.

Unfair Contract Terms and Small Business

Ministers welcomed agreement being reached on a legislative extension of consumer unfair contract term protections to small businesses and noted that legislation is expected to be introduced into the Commonwealth Parliament in mid-2015.

The design of the protections was informed by extensive public consultation in 2014. The consultation showed that small businesses, like consumers, are vulnerable to unfair terms in standard form contracts as they are often offered contracts on a "take it or leave it" basis and lack the resources and bargaining power to negotiate contract terms.

The new protections will be limited to low-value standard form contracts, providing support for small businesses in their day-to-day transactions while retaining an onus on operators to conduct due diligence for large contracts. The protections will allow unfair terms to be declared void by a court, reducing the incentive for those writing contracts to include and enforce unfair terms in small business contracts and increasing small business confidence in contractual dealings.

Ministers discussed the importance of consumer affair agencies working together, and with the business community, to support the implementation of the protections and noted that the Australian Competition and Consumer Commission will conduct education and compliance programs along with post-implementation engagement with industry and where necessary initiate an enforcement-focused approach.

Consumer Affairs Australia New Zealand (Caanz) progress report to CAF

Ministers noted the progress of key CAANZ national projects over the last 12 months including Property Spruikers, Australian Uniform Co-operative Laws Agreement and Training Providers CDRAC National Project and the Competition and Consumer Amendment (Deregulatory and Other Measures) Bill 2015.

Attachment

CAF Strategic Agenda 2015-17 priorities:

1. Provide more targeted education and greater access to information and tools that support empowered, self-sufficient consumers;
2. Develop an approach and mechanisms for more effective data collection and analysis;
3. Collaborate with other bodies to engage and protect vulnerable consumers;
4. Identify, understand and respond to emerging market innovations and their impact on regulatory regimes;
5. Better leverage the compliance and enforcement outcomes of regulators;
6. Create an annual integrated strategy for nominated areas of concern and signal these to the market;
7. Extend collaborative relationships with regulatory bodies and other relevant stakeholders; and
8. Commence, support and implement the ACL Review.