

JOINT COMMUNIQUÉ

MINISTERIAL COUNCIL ON CONSUMER AFFAIRS MEETING TUESDAY 16 AND WEDNESDAY 17 MAY 2006

The Ministerial Council on Consumer Affairs (MCCA) held its sixteenth meeting in Alice Springs today. MCCA comprises Commonwealth, State, Territory and New Zealand Ministers responsible for fair trading, consumer protection laws, trade measurement and credit laws.

Members of the Council are:

Hon Dr Peter Toyne, MLA (Chair - Northern Territory)
Hon Chris Pearce MP, (Commonwealth)
Hon Diane Beamer MP, (New South Wales)
Hon Marsha Thomson, MLC (Victoria)
Hon Margaret Keech, MP (Queensland)
Hon Michelle Roberts, MLA (Western Australia)
Hon Jennifer Rankine, MP (South Australia)
Hon Steven Kons, MHA (Tasmania)
Mr Simon Corbell, MLA (Australian Capital Territory)
Hon Judith Tizard, MP (New Zealand)

Apologies were received from the Hon Diane Beamer MP, and the Hon Judith Tizard, MP and the Hon Michelle Roberts, MLA.

MCCA's objective

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

MCCA's principal strategies

To achieve this objective, MCCA's principal strategies are to facilitate and encourage:

1. nationally coordinated and consistent policy development and implementation by all jurisdictions, including legislative consistency of major elements of consumer protection law and emerging policy issues (*Policy and Legislative Harmonisation*);
2. consistency of policy and enforcement decisions for the suppliers of goods and services within a national marketplace (*Consistent Enforcement*);
3. access to education and information for consumers and suppliers (*Education*);

4. co-operation and consultation on consumer policy between Australia and New Zealand (*Australia/NZ Co-operation*); and
5. research into consumer concerns and trade practices (*Research*).

MCCA is supported by a Standing Committee of Officials of Consumer Affairs (SCOCA).

MCCA considered a range of consumer issues in the context of these strategies. Outcomes of the meeting included:

Strategy 1 - Policy and Legislative Harmonisation

Review of Australia's Product Safety Policy

Ministers welcomed the Productivity Commission's report *Review of the Australian Consumer Product Safety System*.

Ministers broadly supported the recommendations of the Productivity Commission. Ministers are committed to greater harmonisation of Australia's product safety system and to enhance the proactive nature of the system including:

- developing a hazard-based approach to product safety;
- undertaking a base-line study of product-related accidents;
- establishing an internet one-stop shop to provide product safety information to businesses and consumers;
- enhancing business reporting requirements regarding products clearly associated with serious injury or death;
- ensuring legislative coverage of 'reasonably foreseeable use' in the threshold tests for bans and recall orders; and
- enhancing the standards making process.

Ministers have directed officials to investigate how the Productivity Commission's recommendations would work in practice including concurrent work on the mechanics of a single law and regulator approach and on a uniform approach to product safety. Officials will report to MCCA ahead of the next meeting.

MCCA noted, but did not unanimously accept, the Productivity Commission's recommendation in relation to a General Safety Provision without further examination. Queensland has undertaken to further investigate.

National Regulation of Property Investment Advice

States and Territories support the recommendation of the Parliamentary Joint Committee on Corporations and Financial Services for a financial services reform style scheme administered by the Commonwealth. The Commonwealth wishes to continue to investigate all options.

MCCA has agreed that the property investment advice working party should finalise the Regulation Impact Statement as a matter of urgency, and report to the next SCOCA meeting with a view to MCCA agreeing upon a preferred option.

If agreement on a recommended model cannot be reached, MCCA will consider whether a national approach remains feasible.

National Consistency for Co-operatives Legislation

MCCA noted that progress has been made on ensuring consistency of co-operatives legislation across jurisdictions. This involves replacing the core consistent provision scheme with a template or consistent legislative scheme formalised by a Ministerial Agreement. To this end MCCA noted that a revised Ministerial Agreement is to be submitted out of session for endorsement.

In addition MCCA noted the progress on the replacement of the Foreign Registration scheme with a form of Mutual Recognition and the inclusion of Co-operative Capital Unit provisions into the legislation of participating jurisdictions. This will simplify the process for co-operatives to operate in other jurisdictions and provide co-operatives with another form of fundraising. In this regard the final draft Pro Forma Bill for Co-operative Capital Units and Mutual Recognition provisions will also be submitted out of session for approval.

Responsible Lending Practices by Credit Card Issuers

MCCA expects to release for consultation in the next few weeks proposals to ensure that credit card issuers adopt responsible lending practices when assessing consumers' capacity to repay their credit card debt.

Current lending practices impact most severely on those who can least afford to carry a lifetime debt burden and result in that group of consumers paying for those consumers who use their cards as a payment instrument and never pay interest.

MCCA anticipates that any changes to the current regulatory regime will result in a more equitable system.

Victorian Credit Review

Ministers noted the progress which has been made on the Consumer Credit Review which is being conducted by Victoria and in particular, the release of the Report of the Consumer Credit Review in March 2006.

Unfair Contracts

MCCA noted the extensive work undertaken by Victoria in implementing its unfair contract terms legislation. Other States and Territories are continuing to seek nationally consistent legislation in this area. The issue will be progressed out of session.

Framework and Principles for Achieving Nationally Beneficial Outcomes

Ministers noted the increasing number of multi-jurisdictional matters being investigated by fair trading agencies around Australia with the aim of obtaining beneficial outcomes for consumers not only in the home state but in other jurisdictions as well. Issues investigated have included poor lending practices by a major bank to indigenous consumers, large scale multi state false billing conduct and misleading advertising in the jewellery industry.

Ministers also acknowledged the success of the recent anti scam campaign initiated by the Australasian Consumer Fraud Taskforce and supported the recent establishment of the Australasian Consumer Protection Enforcement Network to further enhance national coordination of consumer protection law enforcement actions.

Strategy 5 - Research

Consumer Policy Research

MCCA established an on-going MCCA consumer policy research agenda which will provide information that will improve the ability of policy-makers to make appropriate, timely and effective policy decisions. Ministers agreed that scams and product safety be included on the initial research agenda.

Scams – this exercise will seek to identify the factors which may make consumers more likely to be victim to scam activity; to understand the number of scam operators in the market; and the amount of loss suffered by consumers who are victims of scam activity.

Base-line Study for Product Safety – this exercise will identify the current incidence and costs of product-related accidents and provide a thorough analysis of the significance of different causes of accidents.

Ministers further agreed that the Scams project should be pursued as a matter of priority.

Other issues

Telemarketing and Do Not Call Register

MCCA supported the Australian Government's move to establish a national do not call register to protect consumers from nuisance telemarketing phone calls. The number of unsolicited calls in Australia has grown in recent years and has led to a rise in community concerns about the intrusiveness of telemarketing.

The register will enable consumers and small businesses to opt out of receiving unsolicited calls once a telephone number is registered.

The register will apply to all telemarketers operating in Australia, as well as those overseas telemarketers that represent Australian companies.

MCCA noted that the Australian Government has committed \$17.2 million to establish the register and that the register is expected to be up and running in 2007.

MCCA has agreed to maintain an active interest in this issue and the Australian Government will provide the mechanism by which this will occur.

Future Directions in Consumer Policy

MCCA discussed a report on the recent National Consumer Congress. Congress proceedings highlighted aspects of consumer policy and implementation in Australia requiring review if Australia is to aspire to have world-class consumer policy.

The Commonwealth's Taskforce on Reducing Regulatory Burdens on Business recommended that COAG, through MCCA initiate an independent public review into Australia's Consumer Protection Framework and its administration. The Australian Government has announced that the Productivity Commission will undertake an inquiry into Australia's Consumer Policy Framework.

MCCA has agreed to establish a working party to consider the current state of consumer policy and develop options for improvements. The working party will be chaired by Victoria with membership including the Australian Government, South Australia, Queensland, Western Australia and New South Wales.

Trade Measurement Review

Ministers held further discussions on the review of the national trade measurement system. It was noted that the review will assess the current arrangements with regard to the roles of the States, Territories, the Commonwealth and New Zealand and will consider ways to streamline the present arrangements for cost recovery and the certification of trade measuring instruments. This will be done through very wide consultation including key stakeholders.

At the conclusion of the review, MCCA will report its recommendations and proposed timeline for implementation to COAG for consideration before December 2006.

Membership of External Dispute Resolution Scheme for Credit Providers

Ministers agreed to investigate the introduction of mandatory participation in external dispute resolution by all providers of consumer credit, consistent with requirements currently applying to other providers of financial services to retail clients.

Jetstar and Australia Post Application for Exemption from the Travel Compensation Fund (TCF)

MCCA considered the Australia Post's application for an exemption from the National Scheme for the Regulation of Travel Agents to sell Jetstar domestic air tickets. There was no agreement to grant an exemption.

However, MCCA requested that the TCF trustees develop a risk-based premium for the TCF and that this should be treated as a matter of priority.

Victorian Minister for Consumer Affairs to be next Chair of MCCA

As of 1 September the next Chair of MCCA will be the Hon Marsha Thomson MLC, Victorian Minister for Consumer Affairs.

Next Meeting

Ministers agreed to meet again in September 2006.