

JOINT COMMUNIQUÉ

MINISTERIAL COUNCIL ON CONSUMER AFFAIRS MEETING

Friday 3 December 2010

The Ministerial Council on Consumer Affairs (MCCA) held its twenty-fourth meeting in Canberra, Australian Capital Territory today. MCCA comprises Commonwealth, State, Territory and New Zealand Ministers responsible for fair trading, consumer protection laws, and credit laws.

Members of the Council are:

Mr Simon Corbell MLA (Australian Capital Territory - Chair)
Hon David Bradbury MP (Commonwealth)
Hon Virginia Judge MP (New South Wales)
Hon Michael O'Brien MP (Victoria)
Hon Peter Lawlor MP (Queensland)
Hon Bill Marmion MLA (Western Australia)
Hon Gail Gago MLC (South Australia)
Hon Nick McKim MP (Tasmania)
Hon Delia Lawrie MLA (Northern Territory)
Hon John Boscawen MP (New Zealand)

Apologies were received from the Hon Delia Lawrie MLA (Northern Territory), the Hon Nick McKim MP (Tasmania) and the Hon Michael O'Brien MP (Victoria).

MCCA's objective

MCCA'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.

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:

The Australian Consumer Law

MCCA released the following Joint Statement on the ACL:

At the Ministerial Council on Consumer Affairs (MCCA) meeting today in Canberra Australia's consumer affairs Ministers discussed the final steps in the introduction of a single national consumer law for Australia: the Australian Consumer Law (ACL).

Ministers looked forward to the start of the ACL on 1 January 2011. They noted that the ACL is a priority element of COAG's reform agenda to deliver a seamless national economy, and it will be delivered in full and on schedule. It completes the reforms first recommended by the Productivity Commission in May 2008.

A single consumer law for all Australians

A single national consumer law will provide all Australians with real benefits. Indeed, the Productivity Commission found that implementing a national consumer law would provide between \$1.5 and \$4.5 billion in benefits to the economy each year.

The ACL will provide consumer protection and promote fair trading and a competitive national market for goods and services. It will empower consumers by making their rights clear and strengthen their ability to enforce those rights. It will give them greater confidence when they buy goods and services.

The best enforcers of consumer laws are consumers themselves. To reinforce this, the ACL provides more effective redress and enforcement mechanisms when they are needed, and enhances the tools available to Australia's consumer agencies to take effective action against those who harm or exploit consumers.

Ministers also welcomed the significant reductions in business compliance created by the ACL, which replaces nearly 900 substantive provisions in 20 national, state and territory Acts.

Ministers expressed their thanks to all of those who have participated in the development of the ACL, and particularly those stakeholders who have provided their views and input in the development of the Law and in its implementation.

Building awareness of consumer rights and business obligations

The effectiveness of consumer laws is greatly enhanced when consumers and businesses are aware of their rights and obligations. MCCA welcomed the recent publication of joint guides on key elements of the ACL by Australia's consumer agencies, which will provide advice to businesses about how they can comply with the new laws. These guides cover unfair contract terms, sales practices, consumer guarantees, product safety and unfair practices.

All Australian consumer agencies are actively raising awareness of the ACL and these efforts will intensify in the lead-up to 1 January 2011 and afterwards. Two new websites have been established to provide information about the ACL— www.consumerlaw.gov.au — and, in relation to the product safety parts of the ACL, www.productsafety.gov.au.

A new consumer policy framework

The ACL represents a major change in the way consumer laws are developed, administered and enforced in Australia, reducing the time needed to change laws and maintaining consistency across the country.

To ensure this occurs, MCCA has reformed its processes to support the new policy, enforcement and administration framework created by the ACL, and noted that these new arrangements have been in place for the implementation of the ACL and will continue after 1 January 2011.

A joint system for enforcement and administration

A key feature of the ACL is that consumers will have the same rights, businesses will face the same rules and the law will be enforced and administered in the same way regardless of where an issue arises.

MCCA commended the efforts of Australia's consumer agencies in implementing a joint national enforcement and administration system for the ACL and looked forward to receiving a report on the implementation process at their next meeting.

The ACCC, ASIC and each State and Territory consumer agency, along with the New Zealand Ministry of Consumer Affairs and the New Zealand Commerce Commission, have entered into a memorandum of understanding to guide joint enforcement and administration of the ACL, and have developed a wide range of practical mechanisms to support their work together in enforcing the new law.

Consumers and businesses with concerns or questions about their rights or obligations under the ACL can contact the ACCC, ASIC or any State and Territory consumer agency to have their question addressed.

More effective enforcement and redress

Ministers expressed their expectation that the ACL will give consumers and businesses greater confidence in addressing consumer problems nationwide.

Ministers welcomed the implementation of systems by consumer law agencies to share information and data about consumer problems and enforcement issues, giving consumers confidence that their concerns will be dealt with by the right agency. Businesses should have confidence that any issues under the ACL will be dealt with in a consistent way across the country.

Consumers will be able to enforce their rights under the ACL in national, State and Territory courts and tribunals.

New Zealand

MCCA welcomed the work being done in New Zealand to modernise its consumer laws. One of the objectives of this work is to pursue greater harmonisation with Australia's laws where appropriate.

Ministers also welcomed the steps being taken to improve trans-Tasman enforcement. The New Zealand Ministry of Consumer Affairs and the New Zealand Commerce Commission (NZCC) are also signatories to the ACL Memorandum of Understanding, to emphasise the cooperative relationship between Australian and New Zealand consumer agencies.

To further support Australia-New Zealand cooperation, during November 2010 cross appointments were made between the ACCC and NZCC. The NZCC chair, Dr Mark Berry has been appointed as an associate member of the ACCC and ACCC member Dr Jill Walker has been appointed as an associate member of the NZCC.

BRCWG Projects

MCCA noted the progress of important national reform projects, and resolved to continue working towards the agreed goals of simplified national systems and uniformity of laws and procedures.

Fundraising Regulation Reforms

Ministers noted progress in developing proposals for a nationally consistent approach to fundraising regulation, including the establishment of a national project team with representation from all states and the Australian Capital Territory, together with the Commonwealth and New Zealand, and the development of an issues and options paper identifying key areas of inconsistency in current fundraising regulation and outlining potential options for reform.

Review of Consumer Protection in the Travel and Travel Related Services Market

MCCA recognises that the travel industry has undergone major changes in recent years including the uptake of technology, most importantly the internet. At the same time many Australians are engaging increasingly in travel due to its declining relative cost.

Ministers agreed to seek final advice from SCOCA in time for MCCA's first meeting in 2011.

Review of Ticket Onselling

Ministers noted the release of the comprehensive study on the review of ticket onselling undertaken by the Commonwealth Consumer Affairs Advisory Council (CCAAC), with assistance from NSW Fair Trading, entitled *Consumers and the ticket market: Ticket onselling in the Australian market*. Ministers thanked CCAAC for their contribution in examining the concerns of consumers and in setting out in a comprehensive and thoughtful way the issues relevant to the secondary ticket market.

Ministers noted that CCAAC found the incidence of unauthorised ticket onselling in Australia is low compared to the total number of tickets sold, and that where sell out events are a precondition for a strong secondary ticket market, the number of sold out events in Australia each year is low.

A key finding in the report is that the use of technology allows a large number of consumers to purchase tickets concurrently, leading to tickets for sought after events being sold out quickly. CCAAC found that this has raised specific concerns for consumers, including a general perception of unfairness about the operation of the ticket market. CCAAC found that this perception is enhanced by the increased visibility of ticket onselling resulting from the use of the internet in selling and onselling tickets. The internet has also allowed consumers to onsell unwanted tickets by using online auction websites.

Ministers noted CCAAC's view that no further regulation is justified, and that industry has a number of mechanisms available to them to address specific consumer concerns, such as through primary ticket distribution methods and a voluntary industry code of practice.

The study will be available on www.consumerlaw.gov.au

National Consumer Advocacy: models for delivery

MCCA believes that enhancing capacity in consumer representation in Australia is a worthwhile goal. Ministers directed consumer affairs officials, led by Victoria, to continue work on a range of practical and innovative ways that governments can support and facilitate consumer policy advocacy.

Residential Tenancy Databases

Ministers noted that the national Residential Tenancy Databases model provisions have been approved and that the project is now complete.

Ministers endorsed the publication of the model provisions on the MCCA website and noted that the adoption of the model provisions is now a matter for each government's consideration.

Vulnerable Consumers and the Australian Consumer Law

Ministers agreed to develop a strategy to actively promote the new ACL protections to vulnerable consumers.