

Implementation of the Australian Consumer Law

Report on progress VI (2015–16)

November 2016

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LETTER TO THE CHAIR OF CAF, THE HON MARLENE KAIROUZ MP

The Hon Marlene Kairouz MP
Chair, Legislative and Governance Forum on Consumer Affairs (CAF)
c/- CAF Secretariat
The Treasury
Langton Crescent
PARKES ACT 2600

November 2016

Dear Minister

The Australian Consumer Law (ACL) commenced on 1 January 2011, and this is the sixth progress report. The report provides highlights related to the administration of the ACL by consumer agencies across Australia during 2015-16.

During the year, consumer agencies continued to work together through the various national committees to ensure business compliance, to educate consumers and businesses about their rights and obligations under the ACL, and to support policy development. This coordinated approach will ensure the ACL remains current and provides appropriate protections to consumers in an ever-changing environment.

Consumer affairs officials collaborated through Consumer Affairs Australia and New Zealand (CAANZ) on a range of initiatives including:

- legislation to extend unfair contract term protections to small businesses commencing November 2016
- development of new information standards for country of origin labelling and free range egg labelling
- disseminating information to consumers and businesses, with a focus on vulnerable consumers through key areas such as property spruiking and potential hazards to children presented by pool toys and button batteries
- guidance provided to businesses via updated ACL guides to give them a better understanding of their obligations
- outcomes in the enforcement of the ACL, including \$20 million in penalties, fines, costs and compensation
- commencement of the ACL review.

In providing an account of activities during 2015-2016, this report highlights the efforts of consumer affairs regulators in their administration of the ACL, as well as their commitment to CAF's strategic priorities for 2015-2017.

I am pleased to provide this report on behalf of CAANZ.



Simon Cohen
Chair, Consumer Affairs Australia and New Zealand

LIST OF ACRONYMS

ACCC	Australian Competition and Consumer Commission
ACL	Australian Consumer Law
ASIC	Australian Securities and Investments Commission
ASIC Act	<i>Australian Securities and Investments Commission Act 2001</i>
CAANZ	Consumer Affairs Australia and New Zealand
CAF	Legislative and Governance Forum on Consumer Affairs
CCA	<i>Competition and Consumer Act 2010</i>
CDRAC	Compliance and Dispute Resolution Advisory Committee
COAG	Council of Australian Governments
EIAC	Education and Information Advisory Committee
FTOG	Fair Trading Operations Group (part of CDRAC)
IGA	<i>Intergovernmental Agreement for the Australian Consumer Law</i> , signed by members of the Council of Australian Governments on 2 July 2009
NICS	National Indigenous Consumer Strategy Operations Group
OFT	Office of Fair Trading
PRAC	Policy and Research Advisory Committee
PSCC	Product Safety Consultative Committee
PSOG	Product Safety Operations Group (part of CDRAC)
TCF	Travel Compensation Fund

EXECUTIVE SUMMARY

A STRENGTHENED CONSUMER PROTECTION FRAMEWORK

In 2015-16, consumer agencies focused on initiatives to strengthen the consumer policy framework, including the introduction of legislation to extend unfair contract term protections to small businesses (to commence on 12 November 2016). Work was also undertaken to enhance the level of information available to consumers, particularly on food labelling, with the development of new information standards for country of origin labelling and free range egg labelling.

The CAANZ review of the Australian Consumer Law (ACL) commenced in early 2016 with the release of an Issues Paper. A Secretariat, Steering Committee and Working Group were formed to provide the governance framework for the review. By the end of 2015-16, the Secretariat had engaged in consultations on the Issues Paper, and CAANZ had met to discuss the stakeholder feedback that had been received. An Interim Report will reflect the stakeholder feedback received in consultations, and a Final Report will be provided to CAF by March 2017.

FOCUSED EDUCATION AND INFORMATION

Consumer agencies coordinated education campaigns throughout 2015-16 on consumer rights and business obligations, focusing on emerging consumer protection issues and raising awareness among vulnerable and disadvantaged consumers. Key areas included property spruikers and potential hazards to children presented by pool toys and button batteries. Guidance was also provided to businesses via the ACL guides to give them a better understanding of their obligations. ACL regulators continued their collaborative approach to consumer education campaigns that align with cyclical events such as the 'Summer Safe' campaign.

TARGETED COMPLIANCE AND DISPUTE RESOLUTION

ACL regulators worked on a range of national projects and consumer protection challenges during 2015-16. These included taking action in the areas of real estate agent services, travel and accommodation, credit card chargebacks, the National Sentinel Pilot Program, training providers and travelling con-men. Regulators achieved significant outcomes in the enforcement of the ACL, including \$20 million in penalties, fines, costs and compensation.

A NATIONAL PRODUCT SAFETY APPROACH

Consumer agencies took action to improve safety outcomes for consumers and assist businesses understand their safety responsibilities. This included campaigns to raise awareness about toppling furniture and self-balancing scooters (hover-boards), the ongoing recalls of Samsung washing machines and Infinity electrical cable, successful legal action against a supplier of banned miniature motorbikes, a nationally coordinated sweep of online shopping websites, Christmas toy safety checks and action on the potential dangers of button batteries.

INTRODUCTION

The ACL commenced on 1 January 2011 as a single, integrated and harmonised consumer law by bringing together the consumer protection provisions of the *Trade Practices Act 1974* and previous state and territory fair trading laws. Since the commencement of the ACL, consumer agencies across Australia have worked together to support greater cooperation in enforcement, education, policy and research activities.

This report provides an update on the work of the Commonwealth and the states and territories in implementing, strengthening and improving the ACL. It highlights the enhanced coordination between consumer agencies and more consistent approaches to consumer issues, in accordance with the *National Consumer Policy Objective*:

to improve consumer wellbeing through consumer empowerment and protection, fostering effective competition and enabling confident participation of consumers in markets in which both consumers and suppliers trade fairly.¹

Further information on the National Consumer Policy Objective, the Intergovernmental Agreement for the Australian Consumer Law (IGA) and Australia's consumer agencies can be found at Appendix 1.

THE AUSTRALIAN CONSUMER LAW

The full text of the ACL is set out in Schedule 2 of the *Competition and Consumer Act 2010* and in Acts in each state and territory. The ACL includes:

- core consumer protection provisions prohibiting misleading or deceptive conduct, unconscionable conduct and unfair contract terms;
- specific prohibitions of unfair practices including pyramid selling and unsolicited supplies of goods and services;
- regulation of component pricing and the provision of bills and receipts;
- an integrated and harmonised legal framework for unsolicited selling, including door-to-door trading and telephone sales;
- a national law for consumer product safety;
- a system of statutory consumer guarantees; and
- enforcement and consumer redress provisions.

¹ Ministerial Council on Consumer Affairs (2009): A new approach to consumer policy: Strategy 2010-2012, page 4.

The ACL replaced approximately 900 substantive provisions of at least 20 national, state and territory Acts. Through the ACL all consumers in Australia have the same rights and all businesses have the same obligations, irrespective of the state or territory in which they engage in transactions. Further information about the ACL is available at www.consumerlaw.gov.au.

MULTIPLE REGULATOR MODEL OF THE ACL

The ACL operates under a 'multiple regulator model.' This means that a uniform Commonwealth, state and territory law is administered jointly by the ACCC and by state and territory consumer affairs agencies. ACL regulators collaborate to ensure dispute resolution, compliance and enforcement are consistent and coordinated across Australia. ASIC administers similar provisions under the *Australian Securities and Investments Commission Act 2001* (ASIC Act) in relation to financial services. These regulators have complementary roles.

There are a number of advantages to this approach where there is effective communication, coordination and cooperation between regulators. These advantages include that:

- regulators can respond quickly to issues emerging in their jurisdiction;
- enforcement and education projects can be delivered more efficiently than if jurisdictions acted alone, and sending a clear and uniform national message can have a greater impact on business behaviour and consumer understanding of the law;
- regulators draw on cross-regulatory experiences where state and territory agencies enforce generic consumer laws alongside other regulatory roles, for example, the enforcement of industry-specific laws such as motor vehicle dealer and real estate licensing regimes;
- policy development is informed by the experience and knowledge of agencies in all jurisdictions; and
- constitutional issues are avoided that may occur in a single regulator model, for example, where the national regulators do not have powers with respect to non-corporate entities.

The ACL regulators have continued to strengthen the multiple regulator model during 2015-16 through a range of activities underpinned by effective communication, coordination and cooperation. Examples are provided through the illustrative case studies and other work outlined in this report.

ACL GOVERNANCE FRAMEWORK

To support the ACL, Australia's governments and consumer agencies have made formal agreements and administrative arrangements to provide for a cooperative and coordinated approach to the enforcement and policy development of the ACL.

The Legislative and Governance Forum on Consumer Affairs (CAF) is the peak governance body for the ACL and consists of all Commonwealth, state and territory and New Zealand Ministers responsible for fair trading and consumer protection laws. CAF was formerly known as the Ministerial Council on Consumer Affairs.

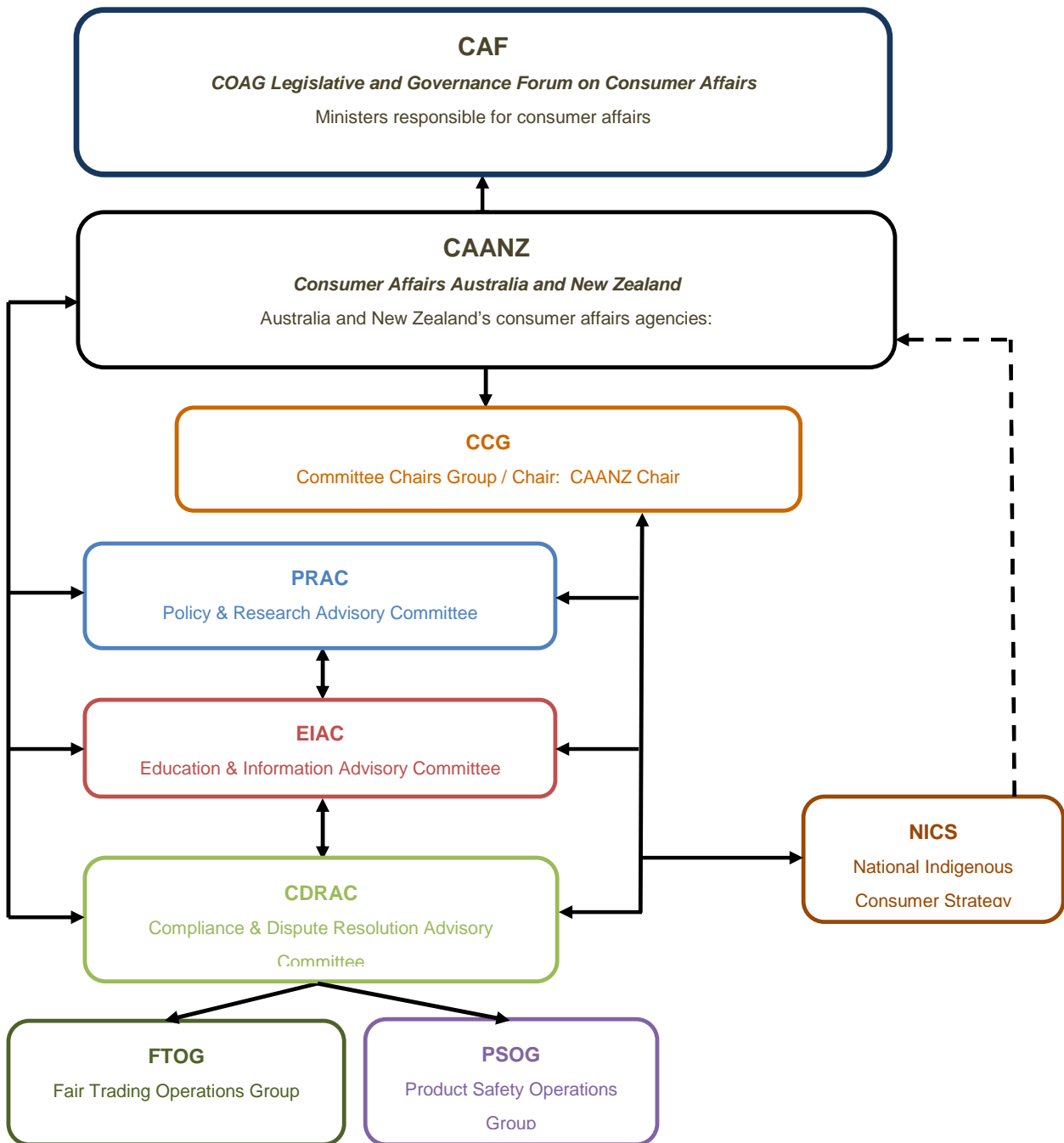
CAF's role is to administer the Ministers' collective responsibilities under the IGA, including considering consumer affairs and fair trading matters of national significance and mutual interest and developing a consistent approach to those issues where possible.

CAF is supported by Consumer Affairs Australia and New Zealand (CAANZ) (formerly known as the Standing Committee of Officials on Consumer Affairs) as the principal national forum for day-to-day policy and enforcement cooperation and coordination between consumer agencies. Its membership comprises the most relevant senior officer of Commonwealth, state, territory, and New Zealand government agencies responsible for consumer affairs or fair trading. CAANZ receives advice, information and other support from three committees:

- **The Policy and Research Advisory Committee (PRAC) focuses on the development of common policy approaches to national consumer issues, particularly as they relate to the ACL, and on coordinating the development of any amendments to the ACL. PRAC also conducts national consumer policy research.**
- **The Education and Information Advisory Committee (EIAC) focuses on national cooperation and coordination for education and information activities relating to the ACL and consumer issues more generally.**
- **The Compliance and Dispute Resolution Advisory Committee (CDRAC) focuses on national cooperation and coordination for compliance, dispute resolution and enforcement activities relating to the ACL.**
- **From time to time, CAANZ may create other specific operations groups to aid it in achieving its objectives. CAANZ has established a Fair Trading Operations Group (FTOG), a Product Safety Operations Group (PSOG) and the National Indigenous Consumer Strategy Reference Group (NICS) as specific operations groups.**

The ACL governance framework for 2015-16 is outlined in Figure 1.

Figure 1: CAF governance arrangements



THE ACL REVIEW

Summary

In 2015-16, consumer affairs officials, through CAANZ, commenced a review of the ACL. This is the first review of the ACL since its commencement on 1 January 2011. The review is examining whether the law is operating as intended and addresses the risk of consumer detriment without imposing unnecessary red tape.

In undertaking the review, CAANZ has been supported by an ACL Review Secretariat and an inter-jurisdictional Working Group and Steering Committee.

The ACL Review Secretariat has continued to work closely with the Policy Research and Advisory Committee, the Education and Information Advisory Committee and the Compliance and Dispute Resolution Advisory Committee to progress the review.

An Issues Paper was released on 31 March 2016 for public consultation (available at the consumer law website, www.consumerlaw.gov.au). By the end of June, the Secretariat had received submissions on the Issues Paper and consulted with stakeholders. A final report providing findings and options to improve the efficiency and effectiveness of the ACL, will be provided to Consumer Affairs Ministers by March 2017.

On 12 June 2015, CAF agreed the Terms of Reference for the ACL Review setting out its conduct and scope (available at www.consumerlaw.gov.au). As outlined in the Terms of Reference, the review is examining the effectiveness of the ACL's specific provisions, the extent to which the national consumer policy framework has met the objectives agreed by COAG, and the flexibility of the ACL to respond to new and emerging issues. CAANZ will also review the operation and terms of the IGA.

To inform the review, in late 2015 CAANZ commissioned a study of consumer policy frameworks in comparable countries (the European Union, the United Kingdom, United States and Singapore). This study, completed in April 2016, focused on several cross-cutting themes or issues, including access to justice and overseas approaches to the regulation of e-commerce and peer-to-peer transactions.

On 31 March 2016, an Issues Paper was released on www.consumerlaw.gov.au for an 8-week public consultation period and it received more than 160 submissions and 100 comments. From April to June 2016, face-to-face consultations were held with more than 80 stakeholder groups across Australia, including consumer advocates, community legal centres, businesses and industry peak bodies, legal practitioners, academics and other government agencies.

Also informing the review is the Australian Consumer Survey 2016, completed in May 2016. The survey explored consumer and business awareness and understanding of Australia's consumer laws and their experience with consumer problems, and whether these have changed since the first survey was conducted in 2010-11 (see page 7).

The Terms of Reference for the review also requires an independent assessment of opportunities to improve the single-law 'multiple regulator' model. The Commonwealth tasked the Productivity Commission to undertake this work with an Issues Paper to be released for public consultation in July 2016. A final report is to be provided by March 2017.

Further information on these projects, including the final reports from the comparative analysis of overseas consumer policy frameworks and the Australian Consumer Survey 2016, are available on the consumer law website.

THE 2016 AUSTRALIAN CONSUMER SURVEY

The first Australian Consumer Survey was conducted in 2010-11 as part of the implementation of the ACL, shortly before the law came into effect. The second survey was conducted after five years to assess the ACL's impact.

The 2016 survey, conducted by EY Sweeney on behalf of CAANZ, provides insights into consumer and business experience and understanding of consumer laws, their application and enforcement since the commencement of the ACL on 1 January 2011. The report of the 2016 survey was released on 6 May 2016 on the consumer law website.

It surveyed more than 5,400 consumers and 1,200 businesses across Australia. Findings from the 2016 survey highlighted a number of positive trends in consumers and businesses' experiences of the ACL.

2016 Australian Consumer Survey — Some key findings

- Consumer and business awareness of the existence of Australia's consumer protection laws remain high (at 90 per cent and 98 per cent respectively).
- Consumers and businesses are experiencing a lower incidence of consumer problems (an average of 3.44 per month compared to 5.15 per month in 2011).
- Consumers feel more empowered to resolve disputes (82 per cent compared to 75 per cent in 2011), are more satisfied with the adequacy of regulators' information and advice (54 per cent compared to 38 per cent in 2011), and are more likely to believe the law provides adequate protection (54 per cent compared to 50 per cent in 2011).
- More businesses believe the ACL's introduction has had a positive impact on their compliance with the law (56 per cent compared to 42 per cent in 2011) and are more likely to agree consumer disputes result in a fair outcome (70 per cent compared to 50 per cent in 2011).
- Consumer-related problems cost Australian businesses \$18.03 billion per year, a decrease from \$21.56 billion in 2011. The decrease in costs is driven by a lower incidence of consumer-related problems. However, the time spent dealing with each problem has increased (an average of 3.18 hours per issue compared to 2.54 hours in 2011).
- The 2016 survey also found that consumers are now less confident that businesses will do the right thing, and not mislead or cheat consumers (64 per cent compared to 71 per cent in 2011).

CONSUMER POLICY AND RESEARCH

Summary

During 2015-16, the Policy and Research Advisory Committee (PRAC) continued to progress a commitment to extend to small business the unfair contract term protections already provided in the ACL for consumers. PRAC also focused its attention on measures to improve the level of information available to consumers about the products they buy through improved product labelling. This was specifically through the development of a new information standard for country of origin labelling for food, and the creation of a new information standard for free range egg labelling. Members of PRAC also comprised a Working Group supporting the review of the ACL.

EXTENDING UNFAIR CONTRACT TERM PROTECTIONS TO SMALL BUSINESS

On 12 November 2015, the *Treasury Legislation Amendment (Small Business and Unfair Contract Terms) Act 2015* (the Act) received Royal Assent. The Act extended to small business the unfair contract term protections available under the ACL to consumers.

Under the new law a small business will be able to have an unfair term in a standard form contract declared void by a court if, at the time of agreeing to the contract, it had fewer than 20 employees and the contract did not exceed \$300,000 (or \$1 million for contracts longer than 12 months). The new law was developed in close consultation with PRAC and will come into force on 12 November 2016 following a 12 month transition period.

A review of the extension of unfair contract terms to small business will be conducted within two years of commencement.

Case Study 1 – ACCC Review of Unfair Contract Terms in Business-to-Business Standard Form Contracts

To promote compliance with the new law, the ACCC reviewed 46 standard form contracts across the advertising, telecommunications, retail leasing, independent contracting, franchising, waste management and agriculture industries.

The ACCC engaged with some of Australia's largest businesses, including Australia Post, News Limited, Optus and Scentre Group (Westfield). As a result of the review, a range of businesses agreed to amend or remove contract terms that may have raised concerns under the new law.

The ACCC's *Unfair terms in small business contracts* report provides an industry-by-industry breakdown of the common terms of concern identified in the course of the review. The most commonly-occurring problems across industries were terms that allowed the contract provider:

- to unilaterally vary all terms in an unconstrained manner
- to impose broad indemnities or excessive limitations of liabilities

- an unreasonable ability to cancel or end an agreement.

With the new law now in effect, the ACCC has transitioned to a more focused enforcement approach and will now be targeting businesses that supply standard form contracts to small businesses containing unfair terms.

IMPROVING PRODUCT INFORMATION FOR CONSUMERS

When presented with many different consumption choices, it can be difficult for consumers to determine their preferences. Consumer interest in food knowledge is growing and an important role is played by information. Various studies and inquiries have highlighted that many Australian consumers find country of origin claims on food hard to locate, confusing or do not provide enough information.

Among the different sources of information available to the consumer, labelling can support customers in making choices connected to their preferences by reducing information asymmetry and improving economic efficiency.

In 2015-16, PRAC has undertaken two projects aimed at improving the level and quality of product information available to consumers: country of origin labelling for food and free range egg labelling.

Case Study 2 — Country of Origin Labelling for Food

At the CAF meeting on 31 March 2016, Ministers agreed to the creation of an information standard for country of origin labelling. While country of origin labelling for food has been mandatory in Australia for many years, consumers have often found origin labels confusing and unhelpful. The purpose of the reforms is to enable consumers to make more informed choices about the food they buy.

On 15 April 2016, the then Minister for Industry, Innovation and Science, the Honourable Christopher Pyne MP, registered the Country of Origin Food Labelling Information Standard 2016 (the Standard) under section 134 of the Australian Consumer Law. The Standard commenced on 1 July 2016. ACL regulators will be responsible for enforcing compliance with the new laws after a two year transition period. The new information standard replaces the mandatory labelling requirements outlined in the Australia New Zealand Food Standards Code, and provides clearer and more consistent country of origin food labels.

To coincide with the Country of Origin Food Labelling Information Standard 2016 taking effect, the ACCC released a guide and updated relevant web pages to assist businesses to comply with the Standard. The guide is now live at www.accc.gov.au/cool.

CAF Ministers further agreed to amend the ACL to simplify and clarify the existing safe harbour defences for country of origin claims. On 4 May 2016, the Competition and Consumer Amendment (Country of Origin) Bill 2016, which contained provisions to simplify the safe harbour defences, was introduced into Parliament. The Bill lapsed upon the prorogation of Parliament on 9 May 2016.

The country of origin labelling reforms mean that many foods found on Australian supermarket shelves such as fresh produce and processed food products will be required to

include a kangaroo in a triangle logo to indicate the food is made, produced or grown in Australia, and a bar chart indicating the proportion of Australian ingredients with a supporting text statement. In addition, when passed, the reforms to the safe harbour defences will mean that Australian consumers will now have greater certainty that claims of “Made in” and “Product of” are applied consistently.

PRAC worked closely with the Country of Origin Labelling Taskforce within the Commonwealth Department of Industry, Science and Innovation on the development of the reforms.



Source: Country of Origin Food Labelling Information Standard 2016

Case Study 3 — Free Range Egg Labelling

At the CAF meeting on 31 March 2016, Ministers agreed to the creation of an information standard for free range egg labelling, along with a corresponding safe harbour defence in the ACL.

The new information standard will be made under the ACL and will provide, for the first time, an enforceable, national requirement that producers must meet to label their eggs as ‘free range’. The new information standard will require eggs labelled as ‘free range’ to have been laid by hens that have meaningful and regular access to the outdoors, and there will be a maximum outdoor stocking density of 10,000 hens per hectare. Producers who label their eggs as ‘free range’ will also be required to prominently display the outdoor stocking density.

Producers who comply with the information standard will be protected from court action under the misleading and deceptive conduct provisions of the ACL in relation to the term ‘free range’. An amendment to the ACL will be required to give effect to this safe harbour defence.

PRAC formed a Working Group that provided guidance to policy makers and assisted with the development of policy options.

RESPONDING TO EMERGING CONSUMER POLICY ISSUES

PRAC continued to play an important role in identifying and responding to emerging consumer policy issues. PRAC seeks to ensure that consumer protection, policy development and legislative reform is best practice and undertaken in a nationally consistent and cooperative manner. In 2015-16, PRAC focused its attention on the review of the ACL. PRAC members also comprise the Working Group supporting the Steering Committee and Secretariat for this review.

Case Study 4 — ACL Review Working Group

The ACL Review formally commenced in early 2016. As part of the governance arrangements to support the review, CAANZ agreed to the establishment of an ACL Review Secretariat, and a Working Group comprised of PRAC members and chaired by the Commonwealth Treasury. The Working Group reports to the Review Steering Committee, which comprises CAANZ members.

The Working Group's role in the ACL Review is as a key consultation body for the Secretariat and to provide input into its various tasks where appropriate. The Secretariat worked closely with the Working Group in the preparation of materials for the Steering Committee workshops, and participated in Working Group teleconferences.

In 2015-16, the Working Group acted as the key consultation point for jurisdictions' input into the ACL Review. This included providing input into the drafting of the Interim Report, commenting on drafts and, where necessary, resolving issues with regard to priority areas and options. The Working Group met regularly to discuss the various options to be considered by the review. These discussions focused on broad range of consumer policy issues.

The Working Group will continue to operate until the end of the review in 2017 and will have a role post-review to progress the findings and options as outlined in the Final Report. The Working Group is also managing the review of the IGA as part of the wider ACL Review.

EDUCATION AND INFORMATION FOR CONSUMERS AND BUSINESS

Summary

During 2015-16, the Education and Information Advisory Committee (EIAC) coordinated education campaigns on consumer rights and raised awareness with business regarding their obligations. This included focusing on raising awareness among vulnerable consumers around the tactics of property spruikers; providing updated guidance for businesses on the application of the Australian Consumer Law; and giving parents and caregivers tips on how to keep children safe over summer. As part of its ongoing commitment to provide efficient and effective responses to consumer issues, EIAC met regularly to consider emerging consumer protection issues and how to best work together to raise awareness in the community.

OVERVIEW

Through EIAC, ACL regulators have collectively continued to focus on ensuring cost-effective, coordinated, innovative and effective mechanisms are used to provide information, increase knowledge and change behaviour of both consumers and business to protect consumers across Australia.

RAISING AWARENESS AMONG VULNERABLE AND DISADVANTAGED CONSUMERS

Case Study 5 — Property Spruikers Project

The Property Spruikers project was an inter-committee project undertaken by PRAC, CDRAC and EIAC. An initial paper from July 2014 by PRAC entitled *Property Spruikers: A Multilayered Problem* identified the consumer issues surrounding property investment and rent-to-buy schemes as promoted by property spruikers. Following this report, CDRAC undertook a project aimed at advancing compliance and enforcement strategies targeting misleading behaviour by property spruikers.

EIAC's project warned consumers to be wary of spruikers who purport to be financial experts, promoting property investments and promising 'wealth creation', and high returns at so-called 'free seminars'. Attendees at seminars are sometimes pressured to invest in a property development with questionable growth rates for which the spruiker has an undisclosed interest, or are encouraged to establish dubious 'rent-to-buy' schemes targeting vulnerable consumers. Seminars often subject attendees to high-pressure sales tactics to buy books and DVDs, and sign attendees up to more seminars, this time for a fee.

The campaign messages were promoted via a media release, news articles, short community radio ads, letters to stakeholders, website content, a flyer and social media. The project also produced an animated video following a character who attends a seminar, and an interview video with NewsCorp journalist Annabel Hennessy regarding her experiences on the property spruiking circuit for her investigative news article.

Online advertising was also undertaken via Google AdWords, Facebook and Instagram which reached over three million people in total.



Source: Property Spruikers campaign image

Case Study 6 — ‘Do not knock’ initiative in the Wujal Wujal community

In April 2016, the Australian Competition and Consumer Commission (ACCC) and Queensland Office of Fair Trading (OFT), launched the nation’s first ‘do not knock aware’ community in the far north Queensland Indigenous community of Wujal Wujal.

The initiative, in conjunction with the Indigenous Consumer Assistance Network and local Wujal Wujal Aboriginal Shire Council, is designed to deter unscrupulous door-to-door traders, who in the past have preyed on Wujal Wujal residents.

Prominent roadside signage was erected, reminding door-to-door traders not to approach residences displaying a ‘do not knock’ notice and also of their obligation to abide by permitted hours of trade and cooling-off period requirements. Free ‘do not knock’ stickers were distributed to all residents at a community information day.

The initiative has been well received by the Wujal Wujal community and received wide-spread positive feedback.

The initiative had early success when a group of door-to-door traders visited Wujal Wujal within days of the launch, selling photography packages. They were reminded of their obligations by the local Community Justice Group coordinator and left town without making a sale. Importantly, their presence was reported to the OFT, enabling surrounding towns to be warned as well.

Since the launch of the initiative in Wujal Wujal, other north Queensland Indigenous communities have also expressed interest in also becoming ‘Do not knock aware’ towns. The ACCC and the OFT look forward to working with these communities in 2017.

Door-to-door traders



Wujal Wujal is 'Do not knock' informed

YOU MUST NOT approach any place displaying a 'Do not knock' notice

You must comply with all obligations in the Australian Consumer Law including permitted **hours of trade** and consumer **cooling off** rights. The Wujal Wujal community works closely with consumer protection regulators. Consumer rights will be enforced by reporting unlawful conduct.

An initiative of the Wujal Wujal Aboriginal Shire Council, Australian Competition and Consumer Commission, Queensland Office of Fair Trading and the Indigenous Consumer Assistance Network (ICAN). ACCC Indigenous infoline—1300 303 143.



Source: Signage erected in Wujal Wujal

IMPROVING BUSINESS UNDERSTANDING OF THE ACL

Case Study 7 — Australian Consumer Law guides

When the ACL was implemented in 2011 consumer affairs regulators created ACL guides to help businesses understand their legal rights and responsibilities. The guides cover issues such as advertising, how to compete fairly, what to do if you realise you are selling an unsafe product, and when you must provide a customer with a repair, replacement or refund. Legal practitioners are also able to use the guides to provide advice to their clients on how to comply with the ACL.

The ACL has been in force for approximately five years and important legal precedents have been set since its inception. The updated guides aim to capture the effectiveness of the ACL, by incorporating recent legal cases as examples to demonstrate how the courts interpret and apply the law. The penalties handed down by state and federal courts have been significant, in the range of \$2 to \$3 million in some recent Federal Court cases. These high profile cases have resulted in substantial penalties and significant media attention. The guides therefore

include examples and case studies to give businesses a practical understanding of how to meet their obligations when dealing with customers, suppliers and other businesses.

The guides were promoted via social media, a media release and articles for business-focused newsletters and blogs.



Source: Australian Consumer Law Guides

ASSISTING CONSUMERS AS THEY ENGAGE WITH THE MARKETPLACE

Case Study 8 — Safe Summer campaign

EIAC runs a number of cyclical campaigns over the year, focusing on topics such as scams around Valentine’s Day and consumer rights related to end-of-financial-year sales. This year’s campaign focused on product safety awareness during the summer months. The Safe Summer campaign ran from December 2015 to January 2016 and aimed to raise awareness among parents and carers of children about the potential hazards relating to portable pools, button batteries in toys and Christmas decorations, detachable parts in toys, and quad bikes. The social media focused campaign (Facebook and Twitter) included a video on pool safety tips as well as a series of images to support engagement.



Source: Summer Safe campaign image

COMPLIANCE AND DISPUTE RESOLUTION

Summary

In 2015-16, ACL regulators worked through the Compliance and Dispute Resolution Advisory Committee (CDRAC) on a range of national projects and consumer protection challenges. Six national dispute resolution, compliance and enforcement based projects were completed throughout the year. Actions were also taken for consumers in regard to financial services, and for vulnerable and disadvantaged consumers.

Regulators secured enforcement outcomes including \$20 million in penalties, fines, costs and compensation.

COLLABORATION AND COORDINATION OF ENFORCEMENT OPERATIONS

ACL regulators continued to collaborate and strengthen relationships to ensure dispute resolution, compliance and enforcement were consistent and coordinated across Australia. Six national dispute resolution, compliance and enforcement based projects were completed during 2015-16: Real Estate Agent Services, Travel and Accommodation, Credit Card Chargebacks, National Sentinel Pilot Program (Automotive Industry), Training Providers and Travelling Con Men. Work on the Most Complained about Businesses Nationally project will continue into 2016-17.

Case Study 9 — Training Providers

In 2015-16, ACL regulators concluded the NSW Fair Trading led training providers' national project. During the course of the project, regulators identified serious conduct in the sector with vulnerable consumers being misled into signing up for diploma courses funded by loans through the Commonwealth Government's VET FEE-HELP scheme. This resulted in a series of investigations by the ACCC, working with other Commonwealth, state and territory agencies, including joint investigations with NSW Fair Trading. During 2015-16, the ACCC has accepted one enforceable undertaking from a registered training organisation, and instituted proceedings in the Federal Court against four groups of registered training organisations and one broker of education services (see Case study 27).

Before concluding the project, regulators also wrote to registered training organisations and other stakeholders about the industry's obligations under the ACL. This is in addition to the ongoing education campaigns and outreach work conducted with consumers and community service providers to help consumers make informed choices and to assist with options for redress if they were misled into signing up for training courses.

Case Study 10 — Credit Card Chargebacks

The Credit Card Chargebacks national project, led by Consumer Affairs Victoria (CAV), sought to establish a common understanding by ACL regulators of chargebacks, to create a suite of tools to support ACL regulators and ultimately assist consumers to understand and utilise chargeback as a means to address disputes.

Two factsheets and a "useful links" live document were developed for internal use by ACL regulators' staff to assist with providing information to consumers.

As a result of this project, changes have been made to the processes of enquiry and complaint handling by regulators. ACL regulators' understanding of chargeback processes has increased markedly and advice is being proactively provided to consumers in a more clear, concise and consistent manner with a long term goal of consumers being able to seek chargebacks without having to contact their ACL regulator first.

Case Study 11 — Real Estate Agent Services

NSW Fair Trading led a national project which involved conducting research to assist ACL regulators in gaining a better understanding of the key regulatory issues for the real estate agency sector at a national level. The project was also an opportunity for regulators to share lessons learned, experiences and best practice models. A number of key regulatory and emerging issues were identified, taking into consideration the ACL and legislation administered locally by state and territory jurisdictions.

A number of key recommendations for national strategies were developed and as a result, a pilot national real estate regulators group will be established.

Case Study 12 — Travel and Accommodation

The Queensland Office of Fair Trading (OFT) led a national project to determine conduct and trends in the travel and accommodation industry. Key project objectives included determining the effects of the closure of the Travel Compensation Fund (TCF) in June 2014, considering ACL provisions to help define parameters for any future focus that may be required, and identifying any potential systemic non-compliance in the industry.

The six month average for complaints recorded prior to the TCF closure was 554 per month. The six month period post TCF closure recorded 500 complaints per month, demonstrating a marginal fall in complaints received for this period.

Businesses attracting the highest level of complaints were large national entities, reflecting a larger volume of transactions. Some areas of the ACL, specifically consumer guarantees and pricing, attracted large numbers of enquiries versus complaints which may indicate a lack of consumer understanding about these provisions.

Analysis of the national data provided encouraging indications that there are no obvious systemic schemes or other activities within the travel and accommodation industry that are intentionally detrimental to consumers. As such, targeted compliance and enforcement operations were not considered necessary.

The project also engaged with CHOICE to obtain information regarding its work in reviewing the travel and accommodation industry. CHOICE's work was funded by Consumer Affairs Australia and New Zealand (CAANZ) following the winding up of the TCF.

Following consideration of the ACL and the travel industry, CHOICE's final report confirmed it will continue to develop a suite of case studies to inform advocacy on the application of the ACL in the travel sector and will refer travel-specific complaints to regulators for action under the ACL. No systemic issues were identified overall.

In February 2016, CDRAC endorsed the final report on the project and its recommendation to note industry monitoring processes had commenced as part of the project. CDRAC also supported the ongoing monitoring and sharing of information about this industry by all ACL regulators.

Case Study 13 — National Sentinel Pilot Program: Automotive Industry

The National Sentinel Pilot Project is an initiative led by NSW Fair Trading, designed to deliver an operational analytics platform which transforms and integrates multiple sources of data into a single user friendly environment and provides a range of analytic tools to develop understanding and meaning from the data. At the national level, an analytics platform would greatly improve regulators' ability to share information and identify emerging consumer issues in the national marketplace.

The purpose of the project was twofold. The first was to undertake an intelligence assessment of data relating to the automotive industry to support the possible establishment of an intelligence-led national project.

The second was as a proof of concept, to gain 'in principle' support for the development of a national intelligence and analytics capability which supports operational and strategic decision makers across all ACL regulators.

The objectives achieved during the project included determining how ACL regulators are able to legally and technically exchange information relating to the automotive industry, proceeding to exchange, integrate and analyse relevant data from ACL regulators and relevant industry stakeholders, and developing sample strategic and operational intelligence products to demonstrate the data analytics platform's capabilities.

The pilot project demonstrated the capabilities of the data analytics platform, which identified potentially concerning conduct within the automotive industry and a number of potential targets for further investigation and enforcement action.

Case Study 14 — Trader engagements related to the Most Complained about Businesses Nationally Project and the NSW Complaints Register

Consumer Affairs Victoria (CAV) led a national project aiming to identify some of the most complained about businesses/brands nationally and, if warranted, taking coordinated action to improve business compliance with the ACL, reducing the risk of consumer detriment.

In the lead up to the 'Most Complained about Businesses Nationally' project, ACL regulators received nearly 14,000 consumer complaints regarding 49 businesses and brands during a single financial year. The single most complained about business or brand alone generated 1,431 complaints across six regulators.

With such a large number of consumer complaints attributed to such a small number of businesses and brands, ACL regulators had the opportunity to work together to address and, in some cases, re-visit those businesses or brands whose conduct, year-on-year, drive their customers to contact and seek assistance from their local consumer protection agency.

The objectives of the project were to facilitate a coordinated response by ACL regulators; ensure these businesses are compliant with the ACL; ensure the burden of ongoing compliance is born by the businesses and not ACL regulators; and to reduce the number of complaints to ACL regulators.

In line with these objectives, state and federal ACL regulators were able to identify businesses and brands that were responsible for large numbers of national contacts to regulators by consumers (enquiries and complaints) and engaged with a number of these businesses, offering face-to-face meetings to provide information about the nature of concerns raised by consumers. The information provided has enabled businesses to implement improved practices with the goal of achieving an improved reputation, increased customer loyalty, reduced costs in managing after sales concerns and ensuring legislative compliance.

ACHIEVING COMPLIANCE WITH THE ACL

The ACL provides for penalties, enforcement powers and consumer redress options, including:

- enforceable undertakings;
- substantiation notices, infringement notices and public warning notices;
- civil pecuniary penalties and criminal penalties of up to \$1.1 million for a body corporate and \$220,000 for an individual;
- damages and injunctions;
- orders for non-party redress;
- adverse publicity and non-punitive orders; and
- disqualification orders from managing corporations.

ACL enforcement outcomes for all ACL regulators in 2015-16, including penalties, fines, costs and compensation of \$20 million, are summarised in Table 1.

Table 1: ACL Enforcement Outcomes

Activity*	Number	Value
Infringement notices	195	\$902,886
Enforceable Undertakings	33	
Public Warnings	66	
Court cases	149	
Court action fines		\$711,400
Court action costs		\$122,165
Compensation awarded**		\$2,963,849
Civil pecuniary penalty orders		\$15,642,000

* Actions taken under the ACL, or under the ACL with other legislation.

** As a result of court action or enforceable undertaking negotiations.

Some examples of ACL regulator actions and remedies during 2015-16 are outlined below.

Enforceable undertakings

Case Study 15 — James Fredrick Kaufmann, Play Mor Pty Ltd & Newcastle RVS Pty Ltd

Between 7 October 2008 and 12 November 2012, Play Mor Pty Ltd and Newcastle RVS Pty Ltd imported, marketed and supplied 111 RV Gooseneck Trailers, also known as Fifth Wheeler trailers, to consumers nationally across Australia. Prior to supplying the trailers to consumers, in an attempt to comply with the Australian Design Rules (ADR), repairs and modifications were performed and compliance plates were fitted representing to the consumers that the trailers were safe for operation on Australian roads.

It was alleged that through representations of compliance with the ADR, made in advertising and marketing of the trailers, Mr Kaufmann and his companies engaged in misleading or deceptive conduct under the ACL. Of the 111 trailers supplied, 49 were subject to a voluntary recall published by the ACCC on 1 September 2014 for non-compliant features.

On 10 April 2016, Mr James Fredrick Kaufmann entered into enforceable undertakings with NSW Fair Trading. In accordance with the enforceable undertaking and for the purposes of section 218 of the ACL, Mr Kaufmann agreed to bear all costs associated with the inspections and repairs to the Fifth Wheeler Trailers identified under the voluntary recall order so that any applicable non-compliances with the ADR are rectified.

Case study 16 — Belle Gibson and Inkerman Road Nominees Pty Ltd (in Liquidation)

In May 2016, Consumer Affairs Victoria commenced proceedings in the Federal Court of Australia, alleging that Ms Gibson and Inkerman Road Nominees Pty Ltd (in Liquidation) contravened the misleading and deceptive conduct, false or misleading representations and unconscionable conduct provisions of the ACL.

The alleged contraventions relate to false claims concerning Ms Gibson's diagnosis with terminal brain cancer, her rejection of conventional cancer treatments in favour of natural remedies and the donation of proceeds to various charities.

Consumer Affairs Victoria is seeking a range of remedies, including injunctions prohibiting further false medical claims, declarations, civil pecuniary penalties and an adverse publicity order. This matter is listed for hearing in September 2016.

Ms Gibson's publisher, Penguin Australia Pty Ltd, has entered into a court enforceable undertaking and agreed to make a contribution of \$30,000 for failing to fact-check Ms Gibson's book, *The Whole Pantry*, in which she claims to have cured herself with a healthy lifestyle.

The Director of Consumer Affairs Victoria considered that Penguin Australia, by publishing *The Whole Pantry*, engaged in misleading and deceptive conduct and made false and misleading representations in breach of the ACL.

As well as the \$30,000 contribution, Penguin Australia has agreed to a three year compliance, education and training program for staff, which it began in July 2015.

Case study 17 — High Performance Corporation Pty Ltd and MotorOne Group Pty Ltd

On 28 October 2015, Consumer Protection WA accepted an enforceable undertaking that took effect in all jurisdictions to stop the sale of, and secure refunds for consumers who bought a device that was supposed to reduce rust and corrosion by as much as 80% in motor vehicles but fails to do so. Computerised Electronic Corrosion Inhibitor Units (CECI Units) were marketed as being able to 'drastically reduce the rate at which rust forms in motor vehicles'. However, Consumer Protection believes there was no basis for such claims and has entered into an enforceable undertaking under the ACL with distributors High Performance Corporation Pty Ltd and MotorOne Group Pty Ltd. Further action with up to nine other suppliers is currently pending.

In February 2016, the Queensland Office of Fair Trading warned consumers that certain types of electronic rust inhibitors for motor vehicles may still be found in vehicles across the State, despite being previously recalled. A voluntary recall of the rust inhibitors was performed nationwide in June 2012 for products that were sold between 30 September 2008 and 31 December 2010. The recall was undertaken due to the inhibitors failing to have a fuse fitted which can, under some circumstances, cause the electrical wiring to overheat and catch fire.

This new warning was issued after a Queensland consumer's motor vehicle caught fire, with

one of the recalled rust inhibitors thought to be the cause. The car was not running at the time, and fortunately the fire was quickly extinguished before it could spread and cause further damage. However, this highlighted the fact the inhibitor devices are constantly active and pose a danger – even when a vehicle is not running. Products that were included in the recall were sold under the following brand names:

- Motor One Ruststopper
- Computerised Corrosion Inhibitor
- Defense Pak Electronic Corrosion Inhibitor
- Six Star Computerised Electronic Corrosion Inhibitor

The public warning urged consumers, particularly those who had purchased a second hand vehicle where the original owner may have fitted the car with an electronic rust inhibitor during the 2008 -2010 period, to check they did not have one of the recalled products.

Substantiation and infringement notices

Case Study 18 — Woolworths Limited



Source: Office of Fair Trading (Queensland)

The Queensland Office of Fair Trading (OFT) received a consumer complaint about a misleading discount voucher circulated by a number of Woolworths supermarkets located in Queensland.

The voucher represented “20% off all meat purchases” without clarification about which products qualified for the discount. The consumer purchased pork from the meat section (butchery) and chicken from the delicatessen. However, the 20% discount was only applied to the pork.

Subsequent investigation by the OFT revealed the voucher did not provide any terms and conditions in relation to the offer nor did it clarify what type of meat qualified for the discount, making it reasonable for a consumer to assume that it applied to all types of meat for sale within the store. When initially contacted by the OFT, Woolworths explained they did not believe the representation was misleading on the basis the image of two butchers standing behind a selection of red meat indicated the special applied only to the meat (butchery) sections of their stores.

The OFT found the representation to be misleading and a \$102,000 Civil Penalty Notice under the ACL was issued, and was subsequently paid by Woolworths. Additionally, the OFT intervention resulted in Woolworths including wording on their vouchers for later promotions stating the discount “must be spent in one transaction on purchases from the Meat Department”.

Public warning notices

Case Study 19 — Mr Wade Hill trading as Xtreme Trailers and Truck Bodies

In October 2015, the Queensland Office of Fair Trading (OFT) warned the public not to deal with Xtreme Trailers and Truck Bodies after a number of complaints were received from consumers who had been told their trailer would be completed within 8 to 12 weeks if they paid the full purchase price in advance, but had not received their goods.

Mr Hill also provided consumers with assurances that by paying in advance he would add extras to their purchase for no charge or at a discounted price. In one instance the trader offered a consumer a significant discount if they paid cash in advance.

The Queensland OFT found that on occasions Mr Hill was overseas when he accepted orders, falsely informing consumers he was at his business building trailers. It also found the trader had in fact been evicted from its business premises and no longer appeared to be trading, yet its website remained fully operational, including being capable of taking further payments from consumers.

Subsequent to the issue of the warning, the OFT continued to investigate the complaints lodged and pursue breaches of the ACL. On 30 June 2016, the trader was fined \$45,000 and ordered to refund a total of \$353,377.55 to 16 affected consumers.

Civil penalties

Case Study 20 — Reckitt Benckiser (Australia) Pty Ltd

In March 2015, the ACCC instituted proceedings in the Federal Court against Reckitt Benckiser (Australia) Pty Ltd concerning misleading representations in connection with the sale and promotion of its Nurofen Specific Pain products.

ACCC investigations found that retail prices of Nurofen Specific Pain products were almost double those of Nurofen's standard ibuprofen products, but each product contained the same active ingredient: ibuprofen lysine 342 milligram. This is also the same active ingredient as regular ibuprofen gel capsules. Reckitt Benckiser claimed that 'each product was formulated to treat a particular type of pain' and that 'each product solely or specifically treated a particular type of pain'. However, ibuprofen cannot directly target specific types of pain.

ACCC instituted proceedings against Reckitt Benckiser for the misleading claims it made about its Specific Pain products. ACCC considered the conduct to be more than just a technical breach of the ACL given the company stood to make substantial profits from its misleading claims.

In December 2015, the Federal Court found that Reckitt Benckiser had made misleading representations on the packaging of each Nurofen Specific Pain product and on its website. The Court ordered that Reckitt Benckiser remove the Nurofen Specific Pain products from retail shelves within three months, publish website and newspaper corrective notices, implement a consumer protection compliance program and pay the ACCC's costs.

In April 2016, the Court ordered Reckitt Benckiser to pay a pecuniary penalty of \$1.7 million,

finding that the conduct was longstanding and widespread. Whilst the Court could not quantify the actual contravening profit, it found that Reckitt Benckiser intended to make substantial profits from the conduct. The Court found that consumers suffered potential monetary loss due to the premium price attached. Reckitt Benckiser admitted that it had engaged in the contravening conduct and consented to the orders made by the Court.

ACCC has appealed the decision because it claims the penalty does not reflect the seriousness of the breach and will not deter large companies from breaching consumer laws. The case is ongoing.

Case Study 21 —Product Safety Enforcement Action: Safety Issues in Woolworths Homebrand Products

In February 2016 the Federal Court ordered Woolworths Limited to pay total penalties of \$3.057 million for breaches of the ACL relating to safety issues with Homebrand products sold in Woolworths supermarkets and Big W and Masters stores.

The ACCC instituted proceedings against Woolworths in September 2014, alleging that Woolworths made false or misleading representations about the safety of certain products and that it failed to file mandatory reports as required by the ACL once it had become aware that serious injury or illness may have been caused by certain Woolworths products.

The products that were considered to have safety issues were:

- the Abode 3L Stainless Steel Deep Fryer
- Woolworths Select Drain Cleaner 1L
- Homebrand Safety Matches (10 boxes per pack)
- Woolworths Home Collection Padded Flop Chair
- Masters Home Improvement Folding Stepping Stool.

The Federal Court declared that Woolworths had engaged in misleading and deceptive conduct and in some cases had made false or misleading representations about the safety of the five Homebrand products. In addition to penalties Woolworths was ordered to implement an upgraded product safety compliance program, publish on its websites a link to product safety requirement information, publish details of recalled products on the Woolworths supermarket smartphone application and pay a contribution of \$50,000 to the ACCC's costs.

Woolworths consented to the orders.

Criminal penalties

Case Study 22 — Bustamove Removals & Interstate Relocation Specialists

In 2015, NSW Fair Trading issued two public warnings about Mr Christopher Wayne Stanley Boyce, trading as Bustamove Removals and Interstate Relocation Specialists for accepting payment without properly providing services, failing to arrive to pick up the items, losing items, and delivering broken and damaged items. On 28 April 2016, Mr Christopher Wayne Stanley Boyce, trading as Bustamove Removals and as Interstate Relocation Specialists, was successfully prosecuted under the ACL and ordered to pay \$80,000 in fines, \$1,360 in costs and \$26,061 to ten victims.

Case Study 23 — DNL Security Australia Pty Ltd

On 21 April 2016, the Melbourne Magistrates' Court fined a company and its director a total of \$59,000 for misleading consumers into enrolling in training courses that were advertised as job advertisements.

Ljupco (Lou) Petrovski, and DNL Security Australia Pty Ltd were each charged with 59 offences under the ACL, including 46 offences relating to conduct likely to mislead people seeking employment.

Consumer Affairs Victoria took action against Mr Petrovski and the company after receiving complaints that the advertisements for employment were published as a means of attracting people to enrol in training and other employment-related services. This is commonly known as 'bait and switch' advertising.

Between February 2014 and July 2015, DNL Security Australia published 46 advertisements for employment on the website jobsearch.gov.au. In promoting its services, the company and Mr Petrovski were found to have made various false and misleading representations to candidates.

Mr Petrovski was fined \$26,550 and ordered to provide refunds of \$430, while DNL Security Australia was fined \$32,450. Mr Petrovski and the company were each ordered to pay costs of \$1,360.

Case Study 24 — Rawinia Hayes trading as Amazing 4D Imaging

On 7 July 2015, Consumer Protection WA successfully prosecuted a woman who admitted supplying incorrect ultrasound images of unborn babies to six expectant mothers. Rawinia Hayes, trading as Amazing 4D Imaging of Eaton (near Bunbury), pleaded guilty to six charges of accepting payment but failing to supply goods or services, in breach of the ACL. Ms Hayes was fined \$6,000 and ordered to pay costs of \$3,411. Ms Hayes admitted that she had supplied ultrasound images to the six consumers that were not images of their unborn babies, but denied her actions were intentionally misleading.

Case Study 25 — Peter John Nulty, P.J. & P.T. Nulty Pty Ltd and Mirage RV Pty Ltd

On 13 April 2016, a Sunshine Coast trader, Peter John Nulty and his companies P.J. & P.T. Nulty Pty Ltd, and Mirage RV Pty Ltd, were ordered to pay \$140,000 in fines by the Maroochydore Magistrates Court after being charged by the Queensland Office of Fair Trading with failing to supply camper trailers paid for by consumers.

The court heard Mr Nulty took payments from eight consumers between late-2013 and mid-2014 for camper trailers. The consumers were given a series of delivery dates but they were not met and refunds were not provided. Mr Nulty was also ordered to pay \$317,939.61 in restitution to the eight affected consumers.

In sentencing, the court considered Mr Nulty's failure to cooperate with the Queensland OFT's investigation and that Mr Nulty continued to take payments from consumers knowing he could not supply the camper trailers because a fire had damaged his business premises.

Damages and injunctions

Case Study 26 — Combined Systems CS Pty Ltd, Earth8 Construction Pty Ltd & Combined Solutions Pty Ltd

On 12 November 2015, Goce (also known as George) Sekuloski and three of his companies, Combined Systems CS Pty Ltd, Earth8 Construction Pty Ltd and Combined Solutions Pty Ltd were ordered by the NSW Supreme Court to comply with the consumer guarantee provisions of the ACL, and to establish and maintain proper selling and marketing practices and compliance and complaint handling systems.

NSW Fair Trading sought an injunction against Mr Sekuloski and the companies following a long history of consumer complaints about unlawful practices by him and companies of which he was a sole director, including not supplying goods and supplying goods that were defective, poor quality or did not match their advertised description.

Along with the Supreme Court orders, Mr Sekuloski and his companies were also ordered to pay \$7,630.74 compensation to nine consumers, as well as costs of the Supreme Court proceedings.

Case Study 27 — David James Donald

On 12 May 2016, Consumer Affairs Victoria (CAV) obtained an interim injunction against David James Donald after he continued to contravene the ACL relating to unsolicited consumer agreements. This follows similar action CAV took against him in late 2015 which resulted in the Supreme Court of Victoria ordering him to pay \$5000 in legal costs and \$1750 in refunds and damages to an elderly consumer. The consumer was one of many elderly Victorians who contacted CAV about Mr Donald's high pressure sales tactics and poor workmanship in relation to cleaning services.

Mr Donald is a door-to-door trader offering carpet, curtain and upholstery cleaning services across Victoria. After continued contraventions relating to unsolicited consumer agreements, CAV obtained another interim injunction which restrains Mr Donald from entering into any unsolicited consumer agreements until the matter returns to court in August 2016.

TAKING ACTION FOR CONSUMERS IN FINANCIAL SERVICES

ASIC is the regulator with primary responsibility for the ACL for credit and financial services. This includes banking, insurance, financial advice, investments and superannuation. ASIC has achieved some significant outcomes for consumers of financial services. Many matters that raise concerns under the ACL also contain potential breaches of other legislation, such as the *National Consumer Credit Protection Act 2009* (National Credit Act) and the *Corporations Act 2001*.

Case Study 28 — TAL Direct Pty Limited trading as InsuranceLine

TAL Direct Pty Limited, trading as InsuranceLine, paid a penalty of \$10,200 after ASIC issued an infringement notice for false or misleading television advertisements promoting its income protection product.

ASIC was concerned that the representations in the advertisements were false or misleading, as they were likely to give the impression that a person off work for five weeks due to eligible ill-health would be entitled to a benefit from the product for the entire five weeks. In fact, such a person's claim would be subject to a minimum waiting period of at least 14 days. Further to that, ASIC was concerned that consumers would be under the impression that they would be entitled to receive at least part of any benefits to which they were entitled during the five weeks they were off work. However, the product's Product Disclosure Statement specified that claimants would be paid a month in arrears.

ASIC considered the fine print in the advertisement, including 'Waiting periods, payout periods, limitations and exclusions apply', was insufficient to correct any misleading impression created on any viewing, due to its lack of details, clarity and prominence.

Case Study 29 — Superannuation Warehouse Australia Pty Ltd

Superannuation Warehouse Australia Pty Ltd (SWA) provides online accounting and administration services for self-managed superannuation funds (SMSF). Between 22 January 2014 and 8 May 2015, SWA made statements offering "Free SMSF Setup" on the homepages of two websites that it operated.

On 10 April 2014, ASIC issued an infringement notice to SWA in respect of the "Free SMSF Setup" advertisement on one of the websites. SWA failed to pay the penalty of \$10,200 specified in the infringement notice. ASIC conducted further investigations and issued a civil penalty proceeding in the Federal Court of Australia.

The court found and SWA admitted in the proceeding, that the statements on SWA's websites offering "Free SMSF Setup" were false, misleading and deceptive because they represented that SWA would set up SMSFs with an individual as trustee at no cost. In fact, the free SMSF setup service required an applicant to authorise SWA to act as administrator of the SMSF; and as a result of that appointment, agree to pay SWA's monthly administration fees.

In addition, between 22 January 2014 and 5 August 2014, applications for SMSF set up with

a corporate trustee required a payment of \$950 to be made to SWA, without this fact being clearly and prominently stated on the websites where “Free SMSF Setup” was advertised. The Federal Court concluded that in the circumstances the set up was not free. SWA was ordered to pay a civil penalty of \$25,000.

SWA also consented to declarations and orders requiring it to implement a compliance program, post notices on the websites about the proceedings and notify consumers who applied to SWA for the free SMSF setup service about the proceedings.

TAKING ACTION FOR VULNERABLE AND DISADVANTAGED CONSUMERS

A national priority of ACL regulators is to assist vulnerable consumers as they engage with the marketplace, and to respond to unfair trade practices. Although regulators set their own priorities annually, they are jointly committed to target conduct at a national level, especially where the conduct affects vulnerable consumers. Most compliance and enforcement action, whether it is taken individually or coordinated nationally, benefits other jurisdictions as the activities of many businesses cross state borders.

Many of the previous case studies feature important and significant action for vulnerable and disadvantaged consumers in 2015-16. The following examples further demonstrate the work of ACL regulators for vulnerable and disadvantaged consumers.

Case Study 30 — Unconscionable conduct and misleading claims in the vocational education and training sector

The NSW Fair Trading-led national project into Training Providers identified a number of concerns about conduct impacting on vulnerable consumers.

In 2015, as a result of extensive investigations, the ACCC instituted proceedings against several Australian private colleges for unconscionable conduct, false or misleading representations and misleading or deceptive conduct in breach of the ACL. The conduct concerned representations the colleges made to prospective students about Commonwealth Government VET FEE-HELP loans.

VET FEE-HELP is a loan to help eligible students enrolled in vocational education and training courses. Under the scheme, the Commonwealth Government initially loans the money to the student and then the student pays back those fees once they earn more than a specified amount in a financial year. Education providers can offer students VET FEE-HELP loans if they have been approved to do so.

In 2015, the ACCC became aware of complaints that, in an effort to increase their enrolment numbers and therefore their profits, private colleges were leading potential students to believe that the courses were free. Many students were not aware that the money was a loan that must be repaid to the government once their income reaches a specific level. Many of these sales were also unsolicited, with many of the private colleges using door-to-door salespeople and telemarketing to reach the consumers.

The private colleges and their agents appeared to be targeting disadvantaged and vulnerable

consumers, including jobseekers, high school students, Indigenous consumers in rural areas and those with low levels of literacy and numeracy skills.

The ACL plays an important role in protecting consumers against businesses that make these types of misleading claims. It also protects consumers' rights when businesses engage in unsolicited sales techniques such as door-to-door sales and telemarketing. It particularly protects consumers who have a level of disadvantage in the market place. A priority area for the ACCC in 2015–16 has been the rights of Indigenous, disadvantaged and vulnerable consumers.

In 2015 the ACCC launched a joint investigation with NSW Fair Trading and worked with other federal and state agencies, including the Department of Education and Training, the Australian Skills and Quality Authority, the Australian Taxation Office and other state based agencies and consumer protection bodies.

Once the investigations were completed, the ACCC (and in some matters the Commonwealth on behalf of the Department of Education and Training) instituted proceedings against:

- Unique International College Pty Ltd (Unique), which sells VET FEE-HELP diploma courses using face-to-face marketing, including door-to-door sales;
- Phoenix Institute of Australia Pty Ltd (Phoenix), which sold VET FEE-HELP funded courses in New South Wales, Victoria, Queensland, Northern Territory and Western Australia between January and October 2015;
- Community Training Initiatives Pty Ltd (CTI), which assisted Phoenix by providing administrative support and processing enrolment forms;
- Cornerstone Investment Australia Pty Ltd trading as Empower Institute (Empower), which marketed and sold VET FEE-HELP funded courses to consumers in New South Wales, Western Australia, Victoria, Queensland and South Australia. Between March 2014 and October 2015 Empower enrolled over 10 000 new students in its Diploma courses and received over \$90 million from the Commonwealth in respect of those enrolments;
- Acquire Learning & Careers Pty Ltd (Acquire), which is a broker of education services that markets on behalf of Registered Training Organisations (RTOs) that offer vocational courses under the VET FEE-HELP system; and
- Australian Institute of Professional Education Pty Ltd (AIPE), which markets and provides courses in Queensland, New South Wales and Western Australia.

In relation to the private colleges, the ACCC and the Commonwealth sought declarations, injunctions and orders for the repayment of course fees paid by the Commonwealth to the private colleges in respect of any VET FEE-HELP loans cancelled by the court order, as well as costs.

The cases against Unique, AIPE, Phoenix, CTI, Acquire and Empower are ongoing.

The ACCC also investigated Careers Australia Group Limited, which is one of the largest private training providers in Australia. Careers Australia's marketing agents marketed and

sold its courses to consumers across Australia, including through door-to-door sales and telemarketing. In addition to misrepresentations over course fees and employment opportunities, Careers Australia also offered inducements such as free iPads if students signed up for courses.

In May 2016, the ACCC accepted a court enforceable undertaking from Careers Australia Group Limited. Careers Australia has cancelled at least 12,130 of these student enrolments and either repaid or partially repaid to the Commonwealth amounts totalling at least \$44.3 million. This includes cancellations made in the course of the ACCC investigation, with further repayments of \$4.9 million to be made and \$110 million in future funding withheld after the cancellation of enrolments, for a total saving to Government of around \$160 million. Careers Australia also admitted some of its marketing agents breached the ACL by making false or misleading representations and engaging in unconscionable conduct.

Case Study 31 — Presto Property Solutions Pty Ltd and Rowan Amanda Lines

Three groups of consumers who agreed to take part in rent-to-buy deals in order to purchase property will receive a total of \$70,000 in compensation as a result of successful Supreme Court action by Consumer Protection WA. The promoter of the deals, Presto Property Solutions Pty Ltd, admitted to making false and misleading representations to the three prospective buyers/tenants that the promoter owned the properties and no bank loan would be required for the purchase. Such misrepresentations breach the ACL. Rent-to-buy schemes target people who do not qualify for home loans through traditional means. Buyers agree to pay rent to the seller in return for being able to purchase the property at a later date. The deal usually involves paying a substantial deposit as well as additional regular payments above the rent, which is intended to go towards eventual purchase of the property.

Alongside the Supreme Court action against Presto and its Director Rowan Amanda Lines, on 16 September 2015, Presto and Ms Lines agreed to a Court-enforceable undertaking with Consumer Protection WA, valid for two years, which places restrictions on representations they can make to potential purchasers of rent-to-buy schemes. Presto and Ms Lines cannot represent to potential vendors that she or the company will actually purchase the properties and acquire the freehold title to the properties when they do not; that she or the company own the property, unless they are in fact the owner of the freehold title of the property; and representing to potential buyers that they can purchase the property without a bank loan, unless there are reasonable grounds to make that claim.

CONSUMER PRODUCT SAFETY

Summary

In 2015-16, consumer agencies took action to improve safety outcomes for consumers and assist businesses to understand their safety responsibilities. This work was coordinated through FTOG and CDRAC as CAANZ disbanded the Product Safety Consultative Committee (PSCC) at the end of 2014-15. ACL regulators collaboratively conducted projects to improve consumer product safety, including campaigns to raise awareness of the dangers of button batteries and toppling furniture.

Consumer agencies addressed a range of other safety issues during the year. These included the ongoing recalls of Infinity electrical cable and certain Samsung washing machine models, as well as an interim ban on self-balancing scooters prior to the establishment of a mandatory safety standard.

In June 2016, it was agreed that a new committee, the Product Safety Operations Group (PSOG), should be formed.

COORDINATING SAFETY OUTCOMES FOR CONSUMERS

At the end of 2014-15, CAANZ disbanded the PSCC and the responsibility for coordinating the consumer product safety work of the ACL regulators was shared amongst the other committees. Operational coordination was pursued through FTOG and strategic issues through CDRAC.

Throughout 2015-16, regulators continued to work together on strategies to improve safety outcomes for consumers by coordinating recalls, national and international surveillance, education campaigns and research. ACL regulators worked together to ensure that national surveillance activities produced successful outcomes in relation to domestic issues, while the ACCC collaborated with international agencies in a coordinated sweep of online shopping websites.

In the absence of the PSCC, regulators worked more closely with EIAC in designing education and outreach activities. Education campaigns continued to be significant outcomes, such as the awareness campaign on toppling furniture informing both consumers and suppliers about the risks associated with unstable furnishings.

PRODUCT SAFETY OPERATIONS GROUP (PSOG)

As an adjunct to the June 2016 CDRAC meeting, members with a stake in product safety attended a workshop and agreed that a product safety new committee (PSOG) should be formed. PSOG will coordinate national projects agreed by CDRAC through normal budgeting and planning processes, and will also deliver initiatives collaboratively with EIAC and PRAC to the extent practical if the issue is urgent.

The Committee held its inaugural meeting in October 2016.

Multijurisdictional coordination

Case Study 32 — Samsung washing machine recall

Samsung issued a recall on six models of their top-loader washing machines due to a risk of moisture penetrating electrical connectors causing a potential fire hazard. The affected machines have led to 87 fires causing external damage, of which two were machines that Samsung technicians had reworked earlier in the recall.

In July 2015, NSW Fair Trading announced a mandatory recall for affected machines. At the time the recall remedy rate was 51 per cent and Samsung had been delivering the voluntary recall nationally.

The ACCC investigated reports that some consumers who owned a recalled machine were offered a repair but not a replacement or refund. Given NSW Fair Trading's role in leading the recall, the ACCC worked closely with them during its investigations into misrepresentations about available remedies to ensure that consumers' safety concerns were addressed.

As of July 2016, the total remedy rate for the recall was 79 per cent.

Case Study 33 – National Infinity electrical cable safety recall

A national voluntary recall is underway to remediate premises installed with approximately 2970 kilometres of substandard Infinity electrical cable.

The national voluntary recall involves 24 suppliers and is in addition to a compulsory recall administered by NSW under NSW electrical laws. The NSW compulsory recall covers 25 smaller suppliers responsible for supply of a further 1121 kilometres of cable.

The recalls are coordinated by the ACCC on behalf of a Taskforce of state and territory regulators (made up of electrical safety regulators, consumer agencies and building regulators) and an Industry Reference Group.

As of March 2015 the results of the recall were disappointing, with only 5 per cent being identified or recovered. In June 2015 the ACCC commenced an awareness-raising strategy urging consumers to take action to return the cable. In January 2016 the ACCC coordinated nationwide distribution of a bulletin to all licensed electricians and builders advising them of their obligations and potential liabilities if they do not take appropriate action to remediate cable they supplied or installed.

Monthly suppliers' progress reports showed that, as of June 2016, 50 per cent of the cable under voluntary recall has been located and replaced, rendered safe or scheduled for remediation.

The Taskforce approach became necessary when it was identified that in some states and territories the electrical safety regulator had either inadequate or no recall powers to remedy one of the biggest electrical safety challenges Australian regulators have ever seen. In the absence of an effective national law, it was necessary to form the Taskforce to develop and implement an appropriate response.

A list of frequently asked questions about the recalled cables, including specific questions for electricians, builders and suppliers, is available at www.accc.gov.au/update/infinity-cables-frequently-asked-questions.

Surveillance and education

Case Study 34 — International online sweep

The ACCC led a coordinated international sweep of online shopping websites in May 2015. The sweep investigated the availability of unsafe products from suppliers online. Twenty five countries participated in this project, including Australia, New Zealand, Canada, Chile, Japan, Korea, Turkey, and 17 member states from the European Union. A total of 1,162 individual websites were visited.

During the sweep, participants surveyed online shopping websites to identify any banned or recalled products that were available for sale, non-compliant product labelling, and products with potential unsafe design features and compliance issues.

The results from the online sweep were presented at the OECD Ministerial Meeting on the Digital Economy held in Cancun, Mexico, in June 2016. It was revealed that overall only 26 per cent of products surveyed were considered compliant. Many online suppliers of regulated products are either unaware of product safety regulations or apparently unconcerned about supplying compliant products.

The ACCC recommended that strategies to address identified issues in online product safety be considered collectively by a consortium of interested stakeholders.

Case study 35 — Christmas 2015 toy safety checks

The Queensland OFT checked close to 7,200 product lines in more than 290 stores across the state, with a particular focus on toys for children aged under three years and toys with magnets.

Forty product lines were removed from sale. Following further testing and corrective action by suppliers, six product lines were cleared but 34 will not be seen on shelves again.

A wide range of stores were inspected, from the larger established chains through to discount stores, pop-up shops and markets. Tested products included finger paints, ethylene vinyl acetate (EVA) foam toys, projectile toys, portable pools and soft plush toys.

There is still some scope for improvement by businesses in the retail and import sectors, and the OFT will continue to work with these traders to make sure they are complying with the safety standards for toys in Australia.

Case Study 36 — Nightingale Electrics Pty Ltd

A former Altona North company has been penalised \$60,000 for supplying a range of banned goods including miniature motorbikes (also known as monkey bikes) and other

goods which did not comply with Australian safety standards.

Consumer Affairs Victoria took action in the Federal Court of Australia seeking orders that Nightingale Electrics Pty Ltd be restrained from selling or supplying unsafe or banned goods.

The court ordered that Nightingale Electrics Pty Ltd pay a \$60,000 fine and that the company and its director, Mr George Anderson, pay court costs of \$15,000.

This action followed successful Supreme Court proceedings against Nightingale Electrics in 2007.

Case Study 37 — Toppling furniture

A falling bookcase, wardrobe, chest of drawers or television can kill or seriously injure a child and anchoring furniture can ensure the safety of many modern furnishings in Australian homes.

In 2014, the ACCC comprehensively reviewed the toppling furniture safety issue and decided that it was necessary to improve consumer awareness of the hazard. The ACCC and all ACL regulators worked together through EIAC to help drive responsible industry practices.

In the last year, the ACCC has:

- developed and released a safety video highlighting the risks to suppliers and consumers, and explaining how to avoid them: *Toppling furniture safety - anchor it and protect a child*
- completed an information mail out to more than 3,500 suppliers
- supported a national education campaign with other Australian Consumer Law Regulators.

ADDRESSING NEW AND EMERGING SAFETY ISSUES

Some of the key work that ACL regulators undertake in the product safety area is ensuring that they are responsive to new and emerging product safety issues.

Case Study 38 — Self-balancing scooters (Hoverboards)

The ACCC alerted the public to safety hazards with self-balancing scooters in early December 2015. Self-balancing scooters are more commonly known as hover-boards.

The former Commonwealth Minister for Small Business and Assistant Treasurer imposed an interim ban on unsafe hover-boards on 18 March 2016 because of the risk of injury or death from house fires. The ACCC reviewed the interim ban twice and, based on its recommendations, the Minister extended it twice.

The ACCC also consulted on longer term regulatory options and on 17 July 2016, the

Minister made a mandatory safety standard under the ACL to ensure the ongoing safety of hover-boards. The safety standard will last for two years and the ACCC is working with state and territory electrical safety regulators about the fire risks with these products.

Case study 39 — Button batteries

Ingestion of button batteries can lead to serious internal injuries and death. In Australia two children have died from button battery injuries and an estimated 20 children visit an emergency department each week due to a suspected swallowed or inserted button battery.

In 2013 four-year-old Summer Steer died after ingesting a button battery. On 3 November 2015 the Queensland Coroner released the findings of the inquest into her death. The Coroner recommended the regulation of button batteries and button battery powered consumer products.

The ACCC assisted industry to prepare a guide for suppliers, which was released in 2016. The ACCC is also continuing to work with stakeholders to raise awareness of the hazard and to improve packaging and labelling of relevant consumer products.

The ACCC led development of a voluntary Industry Code for suppliers and a two-year national button battery safety strategy, which both commenced in July 2016.

APPENDIX 1 — AUSTRALIA’S CONSUMER POLICY FRAMEWORK

Summary

To support the ACL, Australia’s governments and their consumer agencies have made formal agreements and administrative arrangements to provide for a cooperative and coordinated approach to the enforcement and policy development of the ACL.

THE NATIONAL CONSUMER POLICY OBJECTIVE

Australia’s consumer policy framework is informed by the *National Consumer Policy Objective*, which was agreed by the former MCCA² on 3 December 2009. The *National Consumer Policy Objective* is:

[t]o improve consumer wellbeing through consumer empowerment and protection, fostering effective competition and enabling confident participation of consumers in markets in which both consumers and suppliers trade fairly.³

The Objective is supported by six operational objectives (see Table 2 for the implementation of these objectives by CAANZ committees):

- to ensure that consumers are sufficiently well-informed to benefit from and stimulate effective competition;
- to ensure that goods and services are safe and fit for the purposes for which they were sold;
- to prevent practices that are unfair;
- to meet the needs of those consumers who are most vulnerable or are at the greatest disadvantage;
- to provide accessible and timely redress where consumer detriment has occurred; and
- to promote proportionate, risk-based enforcement.

² Now the Legislative and Governance Forum on Consumer Affairs (CAF).

³ Ministerial Council on Consumer Affairs (2009). A new approach to consumer policy: Strategy 2010-2012, page 4.

Table 2: Alignment of operational objectives with CAANZ committees

National operational objective	EIAC	CDRAC	PSOG
... ensure well informed consumers ...	Improving consumer understanding of the ACL		
... ensure that goods and services are safe...			Coordinating national strategies to reduce the risk of product related injury and death Achieving compliance with Australia's product safety system
... prevent practices that are unfair ...	Supporting and promoting compliance activities	Achieving compliance with the ACL	
... meet the needs of vulnerable consumers ...	Assisting consumers as they engage with the marketplace	Responding to unfair trader practices	
... provide accessible and timely redress ...		Closer integration of compliance and enforcement operations	
... promote proportionate, risk-based enforcement ...		Identifying and responding to emerging consumer issues	

INTERGOVERNMENTAL AGREEMENT FOR THE AUSTRALIAN CONSUMER LAW

The development and administration of the ACL is governed by the *Intergovernmental Agreement for the Australian Consumer Law* (IGA), which was signed by COAG on 2 July 2009. The IGA provides for the operation of the ACL through arrangements for:

- the implementation and future amendment of the ACL; and
- the administration and enforcement of the ACL.

The full text of the ACL is set out in Schedule 2 of the *Competition and Consumer Act 2010* and in Acts in each state and territory

The ACL was implemented through the following Commonwealth legislation, which commenced on 1 January 2011:

- *Trade Practices Amendment (Australian Consumer Law) Act (No.1) 2010;*
- *Trade Practices Amendment (Australian Consumer Law) Act (No.2) 2010;* and
- *Trade Practices Amendment (Australian Consumer Law) Regulations 2010.*

The ACL was then applied by each state and territory through their own Acts, namely:

- the *Fair Trading (Australian Consumer Law) Amendment Act 2010* (ACT);
- the *Fair Trading Amendment (Australian Consumer Law) Act 2010* (NSW);
- the *Consumer Affairs and Fair Trading Amendment (National Uniform Legislation) Act 2010* (NT);
- the *Fair Trading (Australian Consumer Law) Amendment Act 2010* (QLD);
- the *Statutes Amendment and Repeal (Australian Consumer Law) Act 2010* (SA);
- the *Australian Consumer Law (Tasmania) Act 2010* and *Australian Consumer Law (Tasmania) (Consequential Amendments) Act 2010* (TAS);
- the *Fair Trading Amendment (Australian Consumer Law) Act 2010* (VIC); and
- the *Fair Trading Act 2010* (WA).

AUSTRALIA'S CONSUMER AGENCIES

Australia has two national consumer agencies: the Australian Competition and Consumer Commission and the Australian Securities and Investments Commission. Each state and territory also has its own consumer agency:

- New South Wales Fair Trading within the NSW Department of Finance and Services;
- Consumer Affairs Victoria, within the Victorian Department of Justice;
- the Queensland Office of Fair Trading, within the Queensland Department of Justice and Attorney-General;
- the Western Australia Department of Commerce — Consumer Protection;
- the Consumer and Business Services Division, within the SA Attorney-General's Department;
- Tasmanian Consumer, Building and Occupational Services, within the Tasmanian Department of Justice;
- Access Canberra, within the ACT Chief Minister, Treasury and Economic Development Directorate; and
- NT Consumer Affairs, within the NT Department of the Attorney-General and Justice.

In New Zealand, consumer law enforcement responsibilities lie with both the New Zealand Ministry of Business, Innovation and Employment (for some specific issues) and the New Zealand Commerce Commission.

Each of these agencies also has a range of other statutory and regulatory functions which it must fulfil under the laws of each jurisdiction, in addition to their responsibilities for general consumer protection and fair trading matters.

The ACL Memorandum of Understanding

In July 2010, Australia's consumer agencies agreed to a Memorandum of Understanding (MoU) for the administration and enforcement of the ACL. The MoU is a comprehensive framework which builds on a previously limited range of often informal arrangements which were not universal among the jurisdictions. The MoU makes arrangements for:

- enforcing the ACL, including the exchange of information and intelligence;
- informing the general public and educating consumers and businesses about the ACL;
- monitoring compliance with the ACL, including market surveillance;
- specific arrangements relating to the administration of the national product safety system; and
- ongoing reporting and review of the administration and enforcement of the ACL, including specific arrangements to report to CAF.