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Simon Cohen
Chair
Consumer Affairs Australia and New Zealand

By email: ACLReview@treasury.gov.au

ALNA Submission on the Interim Report on the Australian Consumer Law Review 2016

The Australian Lottery and Newsagents' Association (ALNA) welcomes this opportunity to comment on the Interim Report on the Australian Consumer Law Review and we thank Consumer Affairs Australia and New Zealand for the opportunity to do so.

The Australian Lottery and Newsagents' Association (ALNA) is the peak body representing over 3000 small businesses who sell lottery and newsagency products.

Overall position

ALNA is of the view that the ACL generally works well as a nationwide legislative regime and it is a great model in a federation. ALNA does however have some concerns about the administration and access to private redress.

ALNA makes the following comments on relevant Questions set out in the Interim Report.

1.2.3 Fund raising activities and the ACL.

ALNA does not favour any exemptions, even charities.

1.2.4 Who is protected under the ACL?

ALNA favours small business transactions being protected and would support an increase from \$40,000.00 to \$100,000.00. We would however add though, that in some cases \$100,000.00 is still low, for instance trucks and owner drivers as we have examples of in our industry.

There is a good case to have no limit, as all business is entitled to expect that a supplier stand behind their product.

The other issue is the exclusion of goods that are resold or to be used up. That exclusion is no longer appropriate.

Generally, all purchasers should be protected.



1.2.6 Interaction between the ACL and the ASIC Act

ALNA is of the view that the inclusion in the ASIC Act of the specific consumer protection protections is warranted.

2.3.2 Unconscionable conduct and publicly listed companies.

ALNA is of the view that publicly listed companies should not be excluded. There should at this point in time be no exemption or exclusions.

2.4 Unfair contracts in business dealings

ALNA is of the view that the UCT law needs time to settle down but we have one issue of concern.

The B2B UCT was cobbled on to the consumer UCT and as a result there are anomalies. Most of these can be reviewed later but there is one of real concern to small business. This is the fact that the upfront price is excluded. Whilst this is understandable in the initial contract, there is a problem when contracts are rolled over or renewed. This is when serious issues may arise for small businesses, when they are captive and may have little or no option but to accept. In these circumstances the upfront price should be considered.

2.4.6 Monetary penalties

The UCT laws should be able to be enforced the same way as any of the ACL provisions.

2.4.7 Representative action by regulators

ALNA considers that the regulators should have the powers to compel evidence in representative actions.

3.1.4 Access to remedies

ALNA would support any move to make access to remedies more effective including improving the so called follow on or coat tails regime. Harper made some recommendations and these have been accepted by the Government but more is needed.

A Court decision that someone has been in breach should be accepted by any other Court and then the issue is simply causal link and quantum of damages. Simply accepting admissions is not enough as these are usually very narrow and qualified.

4.1.6 Application of consumer guarantees to the online environment

ALNA is of the view that the auction exemption in consumer guarantees should be removed altogether and especially where the consumer cannot properly inspect the goods.

We are happy to elaborate on the above.



Yours sincerely,

A handwritten signature in black ink, appearing to read 'Ben Kearney'. The signature is fluid and cursive, written over a white background.

Ben Kearney

National Policy Manager

Australian Lottery and Newsagents' Association

PO Box 585 Ulverstone TAS 7315

E: ben@anf.net.au P: 0417144994



NOTE: *The Australian Lottery and Newsagents' Association (ALNA) is a recent rebrand and refresh of the Australian Newsagents' Federation (ANF) identity.*