

Legislative and Governance Forum on
Consumer Affairs
and
Consumer Affairs Australia and New Zealand

Charter 2015-2017

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PART 1

CAF'S ROLE AND OBJECTIVES

1.1 ROLE

The Legislative and Governance Forum on Consumer affairs (CAF) operates to oversee significant collective responsibilities for Ministers set out in legislation, intergovernmental agreements and treaties

Specifically, Ministers on CAF have responsibility for consumer affairs matters from jurisdictions that are signatory to the legislative and governance instruments set out in the CAF Terms of Reference.

CAF's role is to undertake the functions under the Inter-Governmental Agreement for the Australian Consumer Law, the Trans-Tasman Mutual Recognition Act, the Mutual Recognition Act 1992, or delegated by the Council of Australian Governments (COAG) on CAF.

Ministers of Consumer Affairs also discuss matters of mutual interest concerning consumer policy, services and programs.

CAF is supported by Consumer Affairs Australia and New Zealand (CAANZ) which will also:

- promote and advance a consistent and coordinated national and ,where relevant, trans-Tasman approach, to:
 - the development of consumer policy and its implementation;
 - the undertaking of research and the sharing of information on consumer issues;
 - consultation with stakeholders;
 - the administration and enforcement of consumer laws, including the Australian Consumer Law;
 - the resolution of disputes between businesses and consumers;
 - the development of greater cooperation between consumer agencies and the sharing of information and resources where appropriate;
 - the promotion of compliance with consumer laws and building awareness of business obligations to consumers; and
 - the education of consumers about their consumer rights.

1.2 CAF'S AND CAANZ'S OBJECTIVES

The National Consumer Policy Objective is¹:

To improve consumer well-being through consumer empowerment and protection, fostering effective competition and enabling the confident participation of consumers in markets in which both consumers and suppliers trade fairly.

There are six supporting objectives:²

- 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.

1.3 INTERGOVERNMENTAL AGREEMENT

This Charter shall be read as subject to the *Intergovernmental Agreement for the Australian Consumer Law* (2 July 2009) and any other relevant Intergovernmental Agreement entered into by all Australian CAF jurisdictions and any relevant Intergovernmental Agreements entered into by the Australian and New Zealand Governments.

1.4 LEGISLATIVE AND GOVERNANCE FORUM ON CONSUMER AFFAIRS

CAF will:

- as required under relevant Inter-Governmental Agreements signed by COAG and between the Australian and New Zealand Governments, undertake specific functions relating to the administration of consumer protection and fair trading laws; and
- undertake such other functions as agreed by Ministers.

1.4 MEMORANDA OF UNDERSTANDING

Any memoranda of understanding entered into between agencies represented on CAF for the purpose of furthering CAF's strategic objectives shall be read as being subject to this Charter.

¹ MCCA meeting 15 August 2008.

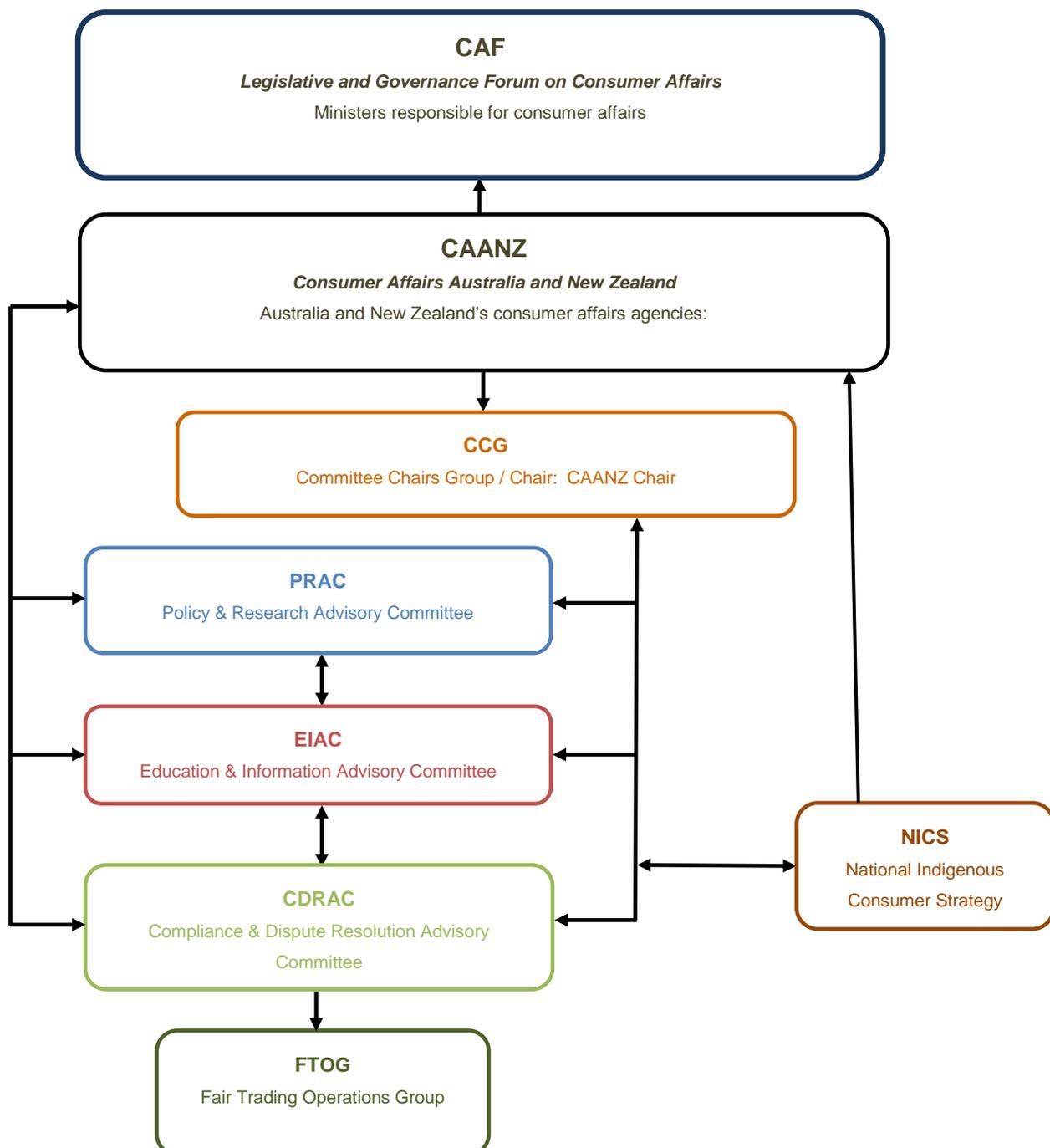
² MCCA/CAANZ Draft Strategy 2010-2012.

PART 2 GOVERNANCE ARRANGEMENTS: OVERVIEW

In carrying out its roles and functions CAF will be supported by:

- CAANZ;
- advisory committees of CAANZ; and
- a permanent secretariat.

Below is a diagram of CAF and CAANZ and their supporting bodies:



2.1 ROLE OF CAANZ

CAANZ will provide primary support to CAF in achieving its strategic objectives by:

1. delivering projects delegated by COAG according to its timeframes and priorities;
2. contributing to the development of new projects in line with CAF's strategic objectives;
3. providing CAF with well researched, thoroughly prepared, and high quality advice;
4. directing and monitoring the work of advisory committees;
5. conducting thorough consultation;
6. developing recommendations in relation to CAF's priority projects that are evidence based and support best practice outcomes and uniformity, harmonisation or consistency;
7. taking the carriage of any responsibilities as directed by CAF; and
8. promote and advance a consistent and coordinated national and ,where relevant, trans-Tasman approach, to:
 - 8.1. the development of consumer policy and its implementation;
 - 8.2. the undertaking of research and the sharing of information on consumer issues;
 - 8.3. consultation with stakeholders;
 - 8.4. the administration and enforcement of consumer laws, including the Australian Consumer Law;
 - 8.5. the resolution of disputes between businesses and consumers;
 - 8.6. the development of greater cooperation between consumer agencies and the sharing of information and resources where appropriate;
 - 8.7. the promotion of compliance with consumer laws and building awareness of business obligations to consumers; and
 - 8.8. the education of consumers about their consumer rights.

2.2 ROLE OF ADVISORY AND CONSULTATIVE COMMITTEES

CAANZ may establish such advisory and consultative committees as are required from time to time to support CAANZ in the attainment of CAF's strategic objectives by:

1. contributing to the development of projects under the direction of CAANZ, including recommending new projects for CAANZ attention;

2. providing CAANZ with well researched, thoroughly prepared, and high quality advice;
3. conducting thorough consultation as requested by CAANZ; and
4. developing recommendations in relation to CAF's priority projects that are evidence based and support best practice outcomes and national uniformity, harmonisation or consistency.

2.3 ROLE OF THE CAF SECRETARIAT

The Secretariat will:

1. provide Secretariat support to CAF, CAANZ, and CAANZ's advisory committees, including assisting the chairpersons and maintaining a well-functioning web-based portal for the recording, sharing and archiving of documents;
2. lead the CAANZ Planning and Budget process for the development and implementation of projects for each financial year;
3. monitor and maintain compliance with the CAF Charter; and
4. at the direction of CAANZ assist in research through the engagement of consultants³.

The Secretariat will carry out its functions independently of any jurisdiction and according to best practice management principles.

2.4 CONFIDENTIALITY

Subject to the applicability of the relevant Commonwealth, State or Territory freedom of information legislation and the New Zealand Official Information Act, unless CAF approval is received, any discussion by or document of CAF, CAANZ, or any committee, sub-committee, working party, officer or agent of CAF shall be confidential Information should not be published without the approval of other members.

³ Suggested by the Productivity Commission.

PART 3

GOVERNANCE ARRANGEMENTS: CAF

3.1 MEMBERSHIP

Membership of CAF consists of all Commonwealth, State and Territory Ministers responsible for consumer policy.

The New Zealand Minister responsible for consumer affairs shall also be a member of CAF.⁴

3.2 CHAIRING

The Chair of CAF will be appointed for a term of one year. The term of the new Chair shall commence on 1 September. The Chair will rotate between jurisdictions in the following order from 1 September 2009:

Western Australia, Australian Capital Territory, South Australia, New South Wales, Queensland, Commonwealth, Northern Territory, Victoria, New Zealand and Tasmania.

3.3 DECISION-MAKING

CAF will, to the extent possible and appropriate, endeavour to reach decisions by consensus.

3.4 ENTITLEMENT TO VOTE

Only a jurisdiction that:

- (a) has, or is proposed to have, legislative authority in a subject matter; or
- (b) contributes resources for the progress of the CAF project,

may vote.

Decisions relating to the Australian Consumer Law will be decided by governments according to the requirements of the *Inter-Governmental Agreement for the Australian Consumer Law* (2 July 2009).

If a jurisdiction has legislative authority in a subject matter to be considered by CAF, but the policy responsibility rests with another Minister in that jurisdiction's government, then that party:

- (a) undertakes to consult within its jurisdiction; and
- (b) will cast a vote on the proposal accordingly.

⁴ As per current protocols 1.1. and 2.1.

3.5 ACCOUNTABILITY AND REPORTING: REPORTING TO GOVERNMENT

Minutes of CAF meetings will be prepared by the Secretariat and settled by the Chairperson. They will be provided to CAF Ministers by the Secretariat at the earliest opportunity but no later than 20 working days of the relevant CAF meeting.

A Meeting Communique and Summary of Decisions arising from the meeting will be developed and made available to Ministers following the meeting.

The CAF Communique is a public document and will be placed on the website consumerlaw.gov.au. The Summary of Decisions document is not a public document.

3.6 ACCOUNTABILITY AND REPORTING: REPORTING TO THE PUBLIC

CAF will prepare a communiqué reflecting meeting decisions for publication, recognising the need for confidentiality with some matters. CAF will publish publicly available materials on its website, including CAF's strategic plan, discussion papers for consultation, and communiqués.

The List of Decisions arising from meetings of Ministers of Consumer Affairs will not be available publicly.

PART 4

GOVERNANCE ARRANGEMENTS: CAANZ

4.1 MEMBERSHIP OF CAANZ

Membership of CAANZ shall consist of the most relevant senior officer of Commonwealth, State and Territory and New Zealand government agencies responsible for consumer affairs or fair trading.

4.2 CHAIRING CAANZ MEETINGS

CAANZ will appoint as Chairperson the member whose Minister is currently Chairperson of CAF. The term shall be the same as that for the Chairperson of CAF.

The Chairperson of CAANZ shall be responsible for:

1. developing a draft agenda for each meeting in consultation with the Secretariat;
2. directing the discussion and facilitating the resolution of matters dealt with at face-to-face meetings;
3. directing the discussion and facilitating the resolution of matters dealt with out of session;
4. issuing correspondence at the direction of CAANZ; and
5. instructing the Secretariat concerning all meeting arrangements as required.

The Chairperson of CAANZ shall be supported by the Secretariat in carrying out their duties and shall be provided with such additional support as CAANZ shall from time to time agree.

4.3 DECISION-MAKING AT CAANZ MEETINGS

Decision-making by CAANZ will be in accordance with the CAF decision-making process.

Members of CAANZ or their appointees will not generally vote if their jurisdiction is in caretaker mode.

4.4 ACCOUNTABILITY AND REPORTING

Advisory Committees and Consultative Committees will provide a status report at each CAANZ meeting on their committee's workplan and relevant projects included on the operational plan. Advisory Committees and Consultative Committees will also provide a report at each CAANZ meeting against the funding of projects on the Operational Plan.

Draft minutes of CAANZ meetings shall be circulated to CAANZ members by the Secretariat within 20 working days of the CAANZ meeting.

CAANZ will report annual to CAF on the operations of all advisory committees.

PART 5

GOVERNANCE ARRANGEMENTS: COMMITTEE CHAIRS GROUP, ADVISORY AND CONSULTATIVE COMMITTEES AND OPERATIONS GROUPS

5.1 COMMITTEE CHAIRS GROUP (CCG)

The Chairs of CAANZ, advisory committees and consultative committees will meet regularly by teleconference to increase and enhance communication between the committees and to facilitate the efficient management of joint committee issues.

5.2 CREATION OF ADVISORY AND CONSULTATIVE COMMITTEES AND OPERATIONS GROUPS

CAANZ may establish such advisory committees, consultative committees or operations groups as are required from time to time to support CAANZ in the attainment of CAF's strategic objectives.

5.3 TERMS OF REFERENCE OF ADVISORY AND CONSULTATIVE COMMITTEES AND OPERATIONS GROUPS

Each advisory committee, consultative committee and operations group will operate according to its terms of reference. Terms of reference will be developed by the committee and endorsed by CAANZ. Advisory and consultative committees will only work on projects approved by CAANZ or the committee chairperson. Operations groups will only work on projects approved by its directly reporting advisory committee.

5.4 REVIEW OF ADVISORY AND CONSULTATIVE COMMITTEES AND OPERATIONS GROUPS

The operations of each advisory committee and consultative committee and its terms of reference will be reviewed annually by the Committee and submitted to CAANZ for endorsement. The operations and terms of reference for operations groups shall be reviewed annually by its directly reporting advisory committee and submitted to CAANZ for endorsement.

5.5 APPOINTMENTS TO ADVISORY AND CONSULTATIVE COMMITTEES AND OPERATIONS GROUPS

Appointments to advisory and consultative committees and operations group shall be:

1. made by CAANZ from relevant officials from Commonwealth, State, Territory and New Zealand agencies and, in the case of the Product Safety Consultative Committee, Papua New Guinea;

2. based on the person having the skills and expertise required to effectively contribute to fulfilling the committee's terms of reference; and
3. for a period of three years, renewable by CAANZ.

5.6 NATIONAL INDIGENOUS CONSUMER STRATEGY (NICS)

The National Indigenous Consumer Strategy (NICS) and Action Plan are developed by the NICS reference group formed from CAANZ agencies.

The NICS reference group reports directly to CAANZ, mainly through the provision of an annual report. Funding proposals and project briefs are submitted for consideration and approval by CAANZ.

The NICS reference group may also act in an advisory role on Indigenous issues to CAANZ and its sub-committees. The NICS reference group may also request that CAANZ and its sub-committees consider Indigenous-specific issues or projects.

The NICS reference group is to work collaboratively with the CAANZ sub committees on relevant issues and any issues taken to CAANZ are to be endorsed by the relevant committee.

CAF has responsibility for the development and implementation of the NICS Action Plan.

5.7 STAKEHOLDER PANEL

CAANZ may establish a panel of industry and consumer stakeholders to provide advice to CAANZ and its advisory and consultative committees as requested from time to time by CAANZ.

5.8 CHAIRING

Each advisory committee shall be chaired by a CAANZ member. The appointment of a chairperson will be made by CAANZ and be for a two year term. As far as is possible, having regard to the roles of the advisory committees and the capacities of individual jurisdictions, the chairing of advisory committees should be rotated amongst jurisdictions.

Each consultative committee shall be chaired by a jurisdictional representative in accordance with terms determined by CAANZ at the time the consultative committee is established.

Each operations group shall be chaired by a jurisdictional representative in accordance with terms determined by its directly reporting advisory committee and endorsed by CAANZ.

5.9 ACCOUNTABILITY AND REPORTING

Advisory and consultative committee reports will be a standing item on the agenda for CAANZ for its face-to-face meetings. A written report concerning the status of all advisory and consultative committee projects will be prepared by the Committee chairperson and discussed against the agenda item.

The reporting from operations groups shall be provided to CAANZ through its directly reporting advisory committee.

Advisory and consultative committees will prepare and update their workplans following each teleconference which details the ongoing and routine work of that Committee. The updated workplans will be distributed to the Committee Chairs Group (CCG) before each CCG monthly teleconference.

PART 6

CAF/CAANZ SECRETARIAT

6.1 LOCATION AND STAFFING

The Secretariat shall be provided by the Commonwealth.

6.2 FINANCIAL CONTRIBUTIONS

The Secretariat will be funded by the Commonwealth, States and Territories. Contributions will be based on the Commonwealth accepting 30 per cent of the total cost and using estimated population as the basis for cost sharing between the States and Territories.

The Secretariat will prepare an annual budget in line with the proposed operating expenses for the following financial year. The budget for the Secretariat will be approved by CAANZ.

6.3 PLANNING AND BUDGET MEETING

The Secretariat will manage all aspects of the CAANZ Planning and Budget process as set out in the “Planning and Funding Protocols for CAANZ Strategic Projects”, including the preparation of agenda, meetings papers, financial reports and collation of project proposals.

The Secretariat works with the CAANZ chairperson in the preparation, facilitation and running of the Planning and Budget meeting.

The CAANZ operational plan is updated by the Secretariat following the Planning and Budget meeting and incorporates the national, significant, funded and non-funded projects CAANZ has endorsed.

6.4 RECORDING

The Secretariat will track and record incoming and outgoing expenditure for funded projects included on the operational plan.

6.5 REVIEW

The Secretariat will be reviewed annually by CAANZ. CAANZ shall review the CAF Finance Report at each CAANZ meeting except the CAANZ meeting immediately preceding a CAF meeting. The CAF Finance Report is prepared by the Secretariat.

PART 7

STRATEGIC AND OPERATIONAL PLANNING

7.1 STRATEGIC PLANNING

CAF and CAANZ will adopt and maintain a strategic agenda. The strategic agenda will be a living document and subject to ongoing review and development.

Every three years a review of the strategic plan shall be a CAANZ project and a new strategic agenda created.

In addition to broad policy objectives and CAF's performance against those objectives, the review should consider CAF's structure and the structure of its supporting committees and secretariat, funding, and the frequency of meetings

7.2 OPERATIONAL PLANNING

CAF's operational plan is prescribed by the legislative and governance instruments set out in the CAF Terms of Reference.

CAANZ's operational plan identifies the projects to be pursued in accordance with CAF's strategic objectives and their priority in the forthcoming year. CAANZ will endorse the operational plan as part of its strategic planning. The operational plan will be developed by CAANZ with the assistance of the Secretariat. CAANZ Agendas will be based on the operational plan.

The operational plan will be a living document and subject to ongoing review and development.

The Secretariat will review the CAANZ operational plan as part of the preparation for the annual CAANZ Planning and Budget meeting. The Secretariat will work with Advisory and Consultative Committees to determine which projects should be on the operational plan. The draft operational plan is to be endorsed by CAANZ following the Planning and Budget meeting.

The operational plan will be reflected in the CAANZ and advisory and consultative committee agendas.

A project will be removed from the operational plan:

1. upon completion;
2. upon CAANZ determining that the matter is no longer of (national) significance; or
3. upon the failure of CAANZ to agree outcomes.

7.3 PROJECT PLANNING AND DELIVERY

CAF shall create and deliver projects in accordance with its Terms of Reference and strategic objectives. CAF may be referred projects by COAG and other inter-governmental bodies. These projects must be prioritised and the strategic and operational plans updated to reflect these new priorities as they arise and evolve.

Project planning will be the responsibility of CAANZ with the assistance of the Secretariat. Each projects agreed by CAANZ shall have a project plan using the Project Proposal Template.

Each project plan should address or identify:

- purpose of the project;
- rationale for the project;
- background of the project;
- the project's objectives – with strategic priority does it align to;
- project phases – research, planning, implementation and evaluation;
- timeframe of the project including the expected date for completion; and
- the budget and resources required to complete the project;

With the development of the ACL it is possible that CAF may be delegated regulatory and administrative roles pursuant to the Intergovernmental Agreement for the Australian Consumer Law.

CAANZ may delegate a project for development by one jurisdiction or a working party comprised of officers from two or more jurisdictions.

PART 8 PROCEDURES

8.1 FREQUENCY OF MEETINGS

Meetings of CAF and all sub-committees should be held at a time and frequency that supports CAF's strategic agenda and operational plan.

There will be at least one face-to-face CAF meetings held each year as agreed to by CAF

Unless otherwise determined by CAANZ, there will be at least three face-to-face CAANZ meetings held each year.

The frequency of meetings of advisory committees will be determined by CAANZ in consultation with the advisory committees on an annual basis.

The frequency of meetings of consultative committees will be determined by the chairperson of each consultative committee.

8.2 MEETING LOCATIONS

CAF and CAANZ meetings shall be held in the jurisdiction of the Chairperson unless otherwise agreed to by CAF or CAANZ members

8.3 MEETING ARRANGEMENTS

Meetings of CAF and its sub-committees will be arranged by the Secretariat on the approval of the relevant Chairperson.

In the case of face-to-face meetings of CAF and CAANZ, the Secretariat will be assisted by the host Jurisdiction, which will be responsible for arranging the meeting venue and accommodation. The host Jurisdiction is the jurisdiction represented by the CAF Chairperson.

The date and location of each CAF meeting will be confirmed and published at least three months in advance. Unless otherwise determined by CAANZ, the date and location of each CAANZ meeting will be confirmed and published at least six weeks in advance.

Where possible the Secretariat will work with host jurisdictions to determine proposed CAF and CAANZ dates for the following year.

8.4 DEVELOPMENT OF CAF AGENDAS AND PROVISION OF AGENDA PAPERS

The CAF agenda will contain issues that are directly relevant to the legislative and governance instruments on the CAF Terms of Reference or issues of regional or national interest that Ministers of Consumer Affairs place on the agenda.

Ministers may direct officials to undertake work or research through one of the sub-committees.

Agenda papers are required by the Secretariat at least two weeks prior to a CAF meeting.

8.5 DEVELOPMENT OF CAANZ AGENDAS AND PROVISION OF AGENDA PAPERS

An item can be included in the CAANZ agenda if it is added by a CAANZ member, is listed within the CAANZ operational plan or is referred by a Minister of Consumer Affairs. The process for a project being added to the operational plan is described in the section on 'operational planning' above.

Agenda papers are required by the Secretariat at least two weeks prior to a CAANZ meeting.

8.6 DEVELOPMENT OF ADVISORY/CONSULTATIVE COMMITTEE AND OPERATIONAL GROUP AGENDAS

Advisory and consultative committee and operational group agenda items will be determined by the Chairperson of the committee. Agenda items must be consistent with the role, terms of reference and workplan of the relevant committee.

8.7 ATTENDANCE AT CAF AND CAANZ MEETINGS

In the event that a CAF or CAANZ member is unable to attend a meeting, they will appoint a person to attend a meeting in his or her place. The person so appointed may act as a member of CAF or CAANZ (whichever is relevant) and exercise the voting rights of the member they are representing.

In cases where members are unable to attend personally due to resourcing or availability reasons teleconferencing or video conferencing facilities will be available on request.

8.8 CONSIDERATION OF MATTERS 'OUT OF SESSION'

CAF, CAANZ and advisory and consultative committees may agree to deal with matters 'out of session', assisted by the use of teleconferencing, videoconferencing, the extranet, and email.