

JOINT COMMUNIQUÉ

MEETING OF MINISTERS FOR CONSUMER AFFAIRS

Friday 6 July 2012

Commonwealth, State, Territory and New Zealand Ministers responsible for fair trading and consumer protection met in Adelaide, South Australia, today.

Members of the Council are:

Hon John Rau MP (South Australia - Chair)
Hon David Bradbury MP (Commonwealth)
Hon Anthony Roberts MP (New South Wales)
Hon Michael O'Brien MP (Victoria)
Hon Jarrod Blieje MP (Queensland)
Hon Simon O'Brien MLC (Western Australia)
Mr Simon Corbell MLA (Australian Capital Territory)
Hon Nick McKim MP (Tasmania)
Hon Daniel Knight MLA (Northern Territory)
Hon Simon Bridges MP (New Zealand)

Apologies were received from the Hon Michael O'Brien MP (Victoria), the Hon Daniel Knight MLA (Northern Territory), the Hon Simon O'Brien MLC (Western Australia), the Hon Jarrod Blieje MP (Queensland), Mr Simon Corbell (Australian Capital Territory) and the Hon Simon Bridges MP (New Zealand).

The Legislative and Governance Forum on Consumer Affairs' (CAF'S) objective

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

CAF was previously the Ministerial Council on Consumer Affairs (MCCA).

The Australian Consumer Law

Ministers welcomed improvements to the Australian Consumer Law.

Ministers were pleased to announce the significant work that had been undertaken in implementing the Australian Consumer Law, which had provided a number of important benefits to Australian consumers and businesses such as:

- The national Travelling Con-Men campaign, resulting in 38 travelling con-men leaving Australia;
- A national coordinated approach to support travelling consumers following the grounding of Tiger Airways and Qantas, and those affected by Air Australia going into administration;

- A rapid and targeted response to an increase in enquiries and complaints about the online group buying market with the introduction of activities to raise awareness of the benefits and risks for consumers and small businesses; and
- The development of a national DIY vehicle maintenance safety education campaign.

Product safety work in the OECD's Working Party on Consumer Product Safety

Ministers welcomed the recent work of the OECD's Working Party on Consumer Product Safety.

The Working Party provides a valuable forum for Australian consumer agencies to engage with partner economies regarding product safety issues. In particular, the Working Party is developing a global portal of product recalls, which will be launched in October 2012. The portal will provide Australian consumer agencies and consumers with access to information regarding product safety issues world-wide.

Co-operatives National Law

Ministers reaffirmed their commitment to national cooperative laws in this the International Year of Cooperatives.

Ministers noted that the Initial Legislation required for the regulatory scheme under the *Australian Uniform Co-operative Laws Agreement*, the *Co-operatives (Adoption of National Law) Act 2012 (NSW)*, was passed by the NSW Parliament as the host jurisdiction and received assent on 18 May 2012. This Act contains the national template, the *Co-operatives National Law*.

States and Territories would either apply this Law, or alternative legislation consistent with that Law, in their jurisdiction.

It is anticipated that draft National Regulations to support the Co-operatives National Law will be available for national consultation with stakeholders during the second half of 2012. NSW will coordinate the national consultation on behalf of the working party of officials. NSW has targeted the making of the National Regulations before the end of 2012, subject to the approval of the final draft of those Regulations by the Consumer Affairs Forum Ministers.

Review of Benchmarks for Industry-based Customer Dispute Resolution Schemes

Ministers discussed the Benchmarks for Industry-based Customer Dispute Resolution Schemes (Benchmarks) that were issued by the then Commonwealth Minister of Customs and Consumer Affairs in August 1997. Ministers considered that it would be timely for the Benchmarks to be reviewed for ongoing relevance and possible enhancement. Ministers agreed that officials from the Commonwealth and New Zealand will review the Benchmarks with the oversight of the Commonwealth Consumer Affairs Advisory Council.

COAG Principles on the Imposition of Director's Liability Provisions to National Laws.

Minister's supported the application of the COAG Principles on the imposition of directors' liability provisions to national laws that CAF is responsible for.

Other Consumer Affairs Issues

Ministers also discussed a number of other consumer affairs issues which include:

- Gift Cards
 - Variable Direct Debits
 - Shelf Pricing
 - Bunk Bed Regulation
 - Evaporative Air Conditioners
 - Group Buying
 - Pay Day Lenders
 - Petrol Price Board Signage
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- Consumer Protection in Travel Services

Ministers present at the Meeting of Ministers for Consumer Affairs acknowledged the Travel Compensation Fund (TCF) had played an important role in protecting consumers in the past. However, Ministers agreed that the TCF could not continue to be the primary vehicle for consumer protection in the travel market. There have been both fundamental changes in the market and recent legislative arrangements entered into between the States, Territories and Commonwealth, in particular the strengthened legislative protections under the Australian Consumer Law (ACL).

Ministers also noted that the current arrangements are not satisfactory. In particular, only about a third of affected consumers have any redress under the scheme and more money is being spent on the administration of the scheme than is being paid out to consumers.

There has been extensive consultation about the role of the TCF over the last 4 years following concerns about coverage of the market and the relevance of the TCF for consumer protection. A range of options has been identified but there has been a general acceptance that the current system is a significant regulatory burden with declining benefit. Ministers also note that the larger jurisdictions signalled that in the absence of an agreed transition plan, they would withdraw from the TCF. This may mean that the TCF may no longer be viable.

Ministers have received from officials a draft plan of transition from the existing arrangements to ensure that consumers continue to be protected in the travel market. Ministers intend to release a draft transition plan and invite comments and suggestions from interested parties. Ministers committed to consultation with all interested parties, including industry and consumer groups during the development of the final transition plan.

Ministers agreed to receive a final transition plan with the intention that the plan be determined at the December meeting of Consumer Affairs Ministers in Sydney in December 2012.

- Consumer values related to Food Labelling

Ministers noted a report on general issues from the Commonwealth regarding food labelling. It was resolved by Ministers that State, Territory and Commonwealth ACL enforcement agencies be asked to focus on greater cooperation to increase enforcement and prosecution activity. This work will be led by South Australia, New South Wales and the Commonwealth. Ministers agreed that

the ACCC communicate with the retail sector with a view to warning them of the consequences of prosecution for breach of the ACL.

Ministers also agreed to keep food labelling laws under review and in particular any legal issues arising from prosecutions.

Ministers noted a strong interest on this issue in light of consumer concern around food labelling and the perception of failure in the market place

Ministers agreed to receive a report on this issue at the December meeting of Consumer Affairs Ministers in Sydney.

CAF's principal strategies

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

1. Nationally coordinated and consistent policy development and implementation by all jurisdictions, including legislative consistency of major elements of consumer protection law and emerging policy issues (*Policy and Legislative Harmonisation*);
2. Consistency of policy and enforcement decisions for the suppliers of goods and services within a national marketplace (*Consistent Enforcement*);
3. Access to education and information for consumers and suppliers (*Education*);
4. Co-operation and consultation on consumer policy between Australia and New Zealand (*Australia/NZ Co-operation*); and
5. Research into consumer concerns and trade practices (*Research*).