I have downloaded the Commonwealth government's two Fact Sheets, providing information about the ACI Review and will attempt to follow the parameters set in them. But please also note, as part of this submission, its covering letter and my earlier correspondence of 19/2/16 to Minister Garrett.

(A) In my background, I repeat the two "events" which occurred in the last 12 months and to which I will refer - by way of example:

1) Late last year (2015), we purchased two medium sized clay Tuscan pots, from Bunnings, and shortly after the pots started crumbling.
2) The claim process was replete with misunderstandings but, within a reasonable time frame (as distinct from my communications with the Minister and CAB) sorted out by reference to Bunnings' Corporate Secretary, in a mutually agreed settlement.
3) We understand the Vietnamese imported clay pots had been taken out of their kiln too soon.
(B) "Single law, multiple regulator model."

I personally reject this model in favour of a single Commonwealth law and regulator model (but with a new regulator to replace the ACC).

(1) By considerable experience, gained over the last 15 years, in dealings with 3 separate Consumer Protection Authorities, has been particularly frustrating and effectively has achieved nothing:
(a) ACC - Commonwealth Government,
(b) OFT - Queensland State Government, and
(c) CAV - Victorian State Government.

(2) The Australian Consumer Protection System relies on cooperation between disparate authorities (State and Commonwealth-based), with each pursuing their own perceived interests.
(a) but, in my experience, none of them fulfills the promised role of consumer protection.
(b) Instead, a common theme, or objective, (if there is any) appears to be to frustrate, and deny any semblance of legitimacy, to individual consumer complaint.
(c) Worse than giving the appearance of biased/proven support of "defendants" (predominantly businesses), is the standard format, government supported, strategy of denial - as if it were a key aspect of bureaucratic training. Consumer legislation does not appear to be capable of being breached against individual consumers by businesses.
(d) I would go further, the presence of government providing genuine consumer protection is farcical. Its integrity can be
(4) Concurrently to making a claim against Bunnings, we complained to CRA who, in contra-indications, advised:
(a) "products may have been 'not of acceptable quality or not fit for the purpose', but
(b) "unable to identify clear breaches of the legislation"

(5) On 14/5/76 we purchased a daphne plant from Bunnings (copy of receipt attached)
(6) It was purchase to an incredible extent (two attached copy of photographs)
(7) The plant cost only $12.98. Therefore
(a) we haven't bothered complaining to Bunnings, and
(b) we cut off the sound root system and put the plant in our garden — hope it survives

Both incidents, so close in temporal terms, reinforce our experience, over the years, of a lack of effective quality control over our product sold by Bunnings — "not of acceptable quality and fit for purpose." We reasonably expect that many others have shared our experiences, even though Bunnings is one of the better reputed retail market operators.

Our "duty" in the way in which Australian Consumer Protection Authorities do not perform their promoted role but, instead, to "victims" such as ourselves, appear to act as "conciliation services" (both Commonwealth and State) albeit with a perceived bias towards the retail merchant and against complainants.
questioned, to the extent that we may all be better off if government did not attempt to provide any facade of consumers protection— at least consumers would more clearly know where they stood and would no longer feel that government financial resources, supported by their taxes, were being squandered. This may seem too pessimistic but I suspect such a view would engender a surprising level of community support.

(3) I am currently experiencing, via the ACCC, the very worst possible bureaucratic impasse, of unbelieveable proportions. My complaint, against toll operators, Transurban and its associate subsidiary, Go Via, concerns a 15% increase in toll fees charged, effective 1/1/15, but without any notification to customers. (Additionally, in my own case, and as an aside, due to a separate change of address fumble, my privacy has been breached with personal account statement details being sent to an incorrect address – the subject of a separate complaint to the Office of the Australian Information Commissioner.)

(a) The ACCC’s “recommended” I approach the Tolling Customer Ombudsman (TCO) who is reportedly funded by just one Toll Company (and its subsidiaries) – Transurban. Subsequent requests to for an explanation of the “recommendation” have been ignored.

(b) But most worrying, and supporting the concerns I have expressed above, I have, since 9/2/16, sent to four letters without receiving any response, not even an acknowledgement of receipt of my correspondence, concerning the unnotified 25% increase in toll charges by Go Via. The only hypothesis, supported by such blatant inaction, is participation in a democratic
new response strategy, undoubtedly not sourced in alone. Perhaps the ACC Review could intervene and help us resolve this communication impasse.

(4) Such experiences should help to explain any reluctance to support a single law (always a compromise?) multiple operated model. Repetition of experiences, mirroring those previously outlined, destroys consumer "victim" confidence in the existing confusing multi-jurisdictional structure. It is out of control, as is the Commonwealth's regulatory authority, the ACC.

But, by dispensing with the unnecessary extra layer of state based complexity, then through leading the States' Crown Consumer Protection Authority to the Commonwealth (as happened at Federation with taxation powers), the opportunity presents itself to review, and simplify, the whole process into one, on a meaningful Consumer Protection premise. But I must emphasise this would, of necessity, involve abandoning the present bureaucratically controlled (not independent) Commonwealth Government's ACC and replace it with a structure and process that actually looks after the interests of Australian consumers. Thus the current laws, and their administration are totally ineffective, through bureaucratic mismanagement by Government Authorities. There is no doubt that the existing law is not sufficiently flexible to address new and emerging issues – its only answer is "No", without explanation, a well established bureaucratic negative strategy.
C. Failure of the National System / framework to address new
and emerging issues.
Structure and process of the recommended single law and
regulator model — replacement, improvement or revision
of that multiple regulator model.

(1) The law may well be operating as intended, by both
State and Federal levels of Government, through a well
trained bureaucracy, albeit negatively so, and which ensures
the intended role of consumer protection is constantly
threatened. But it can be repeatedly demonstrated, even if
unadvisedly, that the consumer law is not operating as
intended by its drafters, ostensibly to protect the interests
of individual Australian consumers. It should also be
obvious to “Victims” of the present system / structure, that
it is precipitated, and relies for its continued existence, on
imposing “unnecessary red tape” ostensibly designed as a
deliberate official strategy to negatively impact on the risk of
consumer detriment, even perhaps deliberately enhancing such
detriment.

(2) I can only hope, and trust, that the ACR Review will not
be effectively controlled by those same bureaucrats, responsible
for its comprehensive shortcomings — the Review’s independence
must be assured, especially as the multi-regulator model
is not administering or enforcing the law in the way
intended, or at least promoted, in the interests of protecting
consumer “victims.”

I cannot overemphasise my concern that the “multiple
regulator” model is not, and CANNOT, be effective and
efficient in supporting a single national consumer policy
framework. Common sense dictates that a well designed, and supported/sourced, single regulator model can be effective and efficient in supporting a single national consumer policy framework – provided it is properly designed and administered in the interests of consumer protection.

(3) The promised objectives of the current national consumer policy framework are "motherhood" and vague statements, not supported by anecdotal evidence – an hypothesis which should be independently and rigorously investigated by the ACC Review. In terms of actual practical applications, including outcomes that don't support consumer interests, the aims of the "framework" are nothing short of nonsense – any pretense of adherence should be universally condemned.

To repeat these "aims", in the context of the present analysis presents a stark contrast to the published words, i.e.

"improve consumer well being (?!) through consumer empowerment (?!) and protection, to foster effective competition and to enable the confident participation of consumers in markets in which both consumers and suppliers trade fairly" (a dream ?! – otherwise why the need for regulation ?).

(4) This national consumer framework (policy), in addition to its numerous "aims" also reportedly boasts as being supported by six operational "objectives". As I have indicated, in my view, and my experience, the interests of consumer "victims" are shrouded, if not ignored, thus clearly negating any questions of compliance with all six "objectives." But I wish to comment upon the last two
"Objectives", not only in relation to present, and past, failures to achieve such "objectives" but also their relevance to any future ACC system model.

5. To provide accessible and timely redress where consumer detriment has occurred.

If consumer authority policy (State or Federal) is to dispatch individual complaints, as previously outlined, then any question as to whether consumer detriment has occurred is irrelevant. If therefore, follows, by definition, if no consumer detriment has occurred, there is no need to provide accessible and timely redress, for something that is not acknowledged as having ever happened. However, that such an objective in a desirable outcome is not in question and should therefore be incorporated in any revised consumer protection structure and process to emerge from the Review.

6. "to promote proportionate, risk based (?) enforcement." Such an "objective" concerns fairness and equity, though "risk based" assessment, let alone "enforcement," is a loose and imprecise phrase capable of more than one interpretation. Of course, any concept of "enforcement" under the ACC in an actual "hollow" / "empty" How can a system that is extremely biased towards "defendants" be able to "promote" enforcement. Ultimately, if forced to the wall, I understand the Consumer Protection Authorities (now more like a "failed" Conciliation Service whose primary duty would be to promote dispute resolution through e.g. mediation, failure of which would result in the issuing of an "no resolution" certificate. But, I have
never experienced a Consumer Protection Authority making a
decision/determination and imposing a penalty. Thus there is
an avoidance of any question of enforcement.

D. Pro Vadis?

I must be mindful not to promote ideas and changes over
matters on which I have no expertise. But the review should be
very concerned about the widespread, and well known, failures
and shortcomings of the present ACC system and its need for
not only review but, I suggest, complete overhaul.

(a) "The national consumer policy framework aims to:

improve consumer well-being through consumer empowerment
and protection, to foster effective competition and to enable
the confident participation of consumers in markets in
which both consumers and suppliers trade fairly."

In my view this is such an obtuse, motherhood, clumsy
declaration as to be effectively worthless/meaningless. The
existing extant consumer protection system has been conceptual to
such an extent observably "fail" on all counts canvassed in
the "aims". As well as being too vaguely expressed, perhaps the
"aim" is projected at a level that is unattainable by
Government and its bureaucrats responsible for maintaining
the system. As a priority, a "first cut" review of such an
"aim" would appear to be paramount.

(b) The six subsidiary supporting "objectives", as distinct from the
"aims" they support (does aim = "objective" or is there a shade
of difference between 2 separate and distinguishable Concepts?)
I repeat, if achievable, are good strategic pursuits to attain. But, again, under the present AER "co-operative" system, these objectives appear to be unsustainable, within the existing democratic parameters, imposed and managed by governments (State and Federal), in part, because:

(i) "the national consumer policy framework is not sufficiently flexible to address new and emerging issues," and

(ii) "...the law is not operating as intended and does not address the risk of consumer detriment let alone doing so without imposing unnecessary red tape."

(c) From my experience, as the existing AER system is obviously "not working," a complete rethink is necessary. The "aims," and subsidiary "objectives" need to be revisited and, as a minimum, are in need of "fine tuning." But, and more importantly, the whole system needs to be dismantled and rebuilt from the bottom up, incorporating, inter alia:

(i) The States cede their consumer protection powers to the Crown, to the Commonwealth Government, thus simplifying communication channels. At present these appear to be at an impasse eg. my complaint against Go Via (a subsidiary of Transurban), for increasing toll charges by 35%, effective 1/1/15, without notification or explanation;

* I joined Go Via when living in Queensland and in July 2014 it was taken over, without my knowledge, by Transurban (reportedly a Victorian organization set up by the Kennett government.)

* After moving permanently to Victoria I still:

- receive account statements from Go Via, a Queensland Co.
- which was owned by Queensland Notionsways Management PLC
— who have automatic deductions, for topping up my account, from my credit card.

所以我因此向联邦政府的 ACCC 投诉，因为他们没有回复我的信件。

(ii) 但 ACCC 作为个体消费者的“受害者”，表现得如此消极，“无所作为”的行为与它的州级同行类似。记住，ACC 从未回复过我的信件近半年。

如果 ACCC 在我的观点中，应该被解散，且应该从头开始（而不是从官僚体制）——我们又是在“养肥狼”。

如果这不是一个实质性的重组，而是受损害的消费者在没有任何消费者保护机构的情况下，作为“受害者”将无法被误导到投诉一个无效的监管机构，但可能立即考虑其他选择，包括直接申诉（而不是更好，如果不是的话？）

(iii) 但新自由主义的消费者保护组织/机构必须避免破坏 ACCC 现有纠纷解决的声誉。对于个别案件/投诉，如果新的联邦机构被称作“委员会”或“委员会”，它必须是具有权力去调查、并能作出决定的。相关“信息”（包括调查报告，不一定是所谓的“信息”）以及相关的罚款或赔偿——罚款和行政赔偿。
(iv) Appeal provisions would have to be considered and perhaps this brings into play the concept of an Appeal Tribunal incorporating self-representation and no awarding of costs. But overall, the new regulatory authority would, in high profile / large cases, involving multiple complaints and perhaps defendants, have to retain the right to pursue action still under the new legislative umbrella, within the judicial system and incorporating a formal appeal process through an appropriate jurisdiction. But the example of my personal burnings experience perhaps suggests the collating of a number of small individual cases involving statutory breaches by the same business, and then perhaps escalating the issue of penalties / punishment. A thought - such potential dilemmas could perhaps be resolved by a "single law, dual regulator" Commonwealth model.
E. Concluding case studies - Anecdotal “information”

To reinforce many of the concerns that I have expressed, it is perhaps appropriate, and instructive, to briefly visit the circumstances of a recent airline communication incident, that resulted in observable harm to consumers/customers and which, unentotally, I understand, has been often repeated. The penalties applied, for alleged contract (unweighted) breaches, whether intentional or not, are too often excessive eg. excess baggage charges by commercial airlines. Such practices are not usually covered in any written contract and are penalties imposed by airlines on vulnerable stranded customer “victims.” Such practices must be stopped. If Consumer Protection authorities are incapable of doing this, perhaps resolution of the problem will require special, separate Commonwealth legislation. But to be administered by whom? Perhaps by a new Commonwealth “single law, single Federal regulator”?

1. The disgraceful, recent, end of control, ultra viro any specific contractual arrangement (oral if not written), unfair etc. (I am biased!); airline penalty imposition, involved, inter alia:

(a) Two passengers, my stepdaughter and granddaughter (who had just turned 21)

(b) a 257/16 12.20 am return flight from Denpasar, Bali to Melbourne (copy of tickets attached)

(c) with the notorious, and cheap, Tiger Airlines, and

(d) Australian carrier Virgin Airlines (Bali to Sydney) and Tiger again (Sydney to Melbourne) (copy of tickets attached)
(2) The passengers were denied "sooking", as their flight had "shifted earlier":

(3) A review of the ticket by family members elicited the same reaction i.e. the flight was scheduled to leave on 25/3/78 at 12:20 am.

(4) Tiger Airlines put a different interpretation on the ticket wording and insisted that missing the flight was the fault of the consuming "victim". At best the wording on the ticket is misleading.

(5) Tiger Airlines' staff, at the booking desks, advised the passengers that they would have to pay for another ticket each to return to Australia on a future flight.

(6) But here's the "nub". They were also advised by staff at the booking desks that "Tiger" policy was not to issue one way tickets, but only return free tickets which they would have to purchase (without any discount) per flight with no right to dispute.

(7) My step daughter and her daughter, the "passengers", immediately had to look out alternate arrangements. They ended up purchasing one way tickets, again at undervalued prices, on a Virgin airline flight due to leave at 10:25 pm on 25/3/78 but flying to Sydney, not Melbourne.

(8) Such unconscionable behaviour will lead to a claim (no doubt disputed and refused) to Tiger Airlines for a refund of the Virgin (bare to Sydney) and Tiger (Sydney to Melbourne) fares. A concurrent complaint to the ACC (or should it be EAV - they "pass the buck" between each other) will seek and no doubt unsuccessfully so, a determination that Tiger was in blatant breach of consumer protection legislation, and its actions should attract appropriate financial penalties - both fines and compensation and damages for the consumer "victims".

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Past experience tells me that the 'standard format' Commonwealth response, through its ACC, will be "no breach" or representation the complaint, and associated claim, to CAT (the beginning of the circular denial of responsibility I get out of jail sad).

(4) Such an "experience," in many ways, mirrors my personal experience, with Dishies, in the mid 1990s, an experience I shall never forget, and which, due to its nature, could not, but should have been able to, be referred, at least as complaints, to Commonwealth Consumer Protection authorities. There were two "victims," myself and the Dishies employee.

(a) I had booked a TAA flight home, from Melbourne to Queensland (Gold Coast) - for "family emergency" reasons, serious enough for me not to appear in a Victorian Supreme Court hearing at which I was the applicant. But I tried to board on the flight, earlier to that on which I had booked. I approached the TAA flight desk, but was (incorrectly as it turned out) advised that there were no seats available on the "current" flight which was leaving shortly.

(b) In view of the urgency of my return home, I had no alternative but to purchase another ticket from the competing airline, Airans. I approached the Airans booking office and the officer, instead of selling me a ticket, on being advised of my circumstances, and without question, checked his computer screen and established that there was a seat available on the earliest TAA flight, that was deemed to me by TAA airport management.

(c) The Airans booking clerk, and compassionately so, directly booked me onto a seat in the TAA flight, rather than "overSELL" another Airans ticket to myself.
(a) When TAA airport management realized what had happened, I was embarrassingly confronted by TAA's airport manager, in the boarding queue. But on my reminding him that I was recovering from heart surgery (indeed), he backed off. I flew back to my home on the Gold Coast, in that earlier TAA flight.

(b) Unfortunately, I subsequently ascertained that the sensitive, helpful and sympathetic airport administration officers had been "fired" for helping me. In consumer protection terms, I ask — what right did he have, including within the existing TAA scheme — yet another reason for dismantling the scheme, and replacing it with a structure that can "actually" and positively help consumer victims, and those who help such victims.

Quo Vadis?

Alan Chalmers