

# Australian Consumer Law Interim Report

Submission by Dr Nick Seddon

I refer to my earlier submission which covered 4 areas:

1. Consumer education about consumer guarantees.
2. The definition of consumer in section 3.
3. Contributory fault in misleading conduct cases.
4. Ensuring governments are bound by the ACL, particularly section 18.

## **Consumer education about consumer guarantees**

In relation to item 1, I note that the Interim Report draws attention to the fundamental objective of ensuring that consumers are sufficiently well-informed to benefit from the ACL. There are frequent references to access to information about the ACL throughout the Interim Report with various approaches and issues discussed.

My submission drew attention to section 66 (Display Notices). There is no mention of s 66 at all in the Interim Report. In short, there is a mechanism already in place for enhancing consumer knowledge about the consumer guarantees which in most cases would focus on the point of sale.

Section 66 has to be implemented by ministerial action (a determination). There may be administrative and financial difficulties in implementing section 66. For example, the power is given to the Commonwealth minister and it may not be clear that the determination could operate at state and territory level. However, readers of the Interim Report are not aware of the pros and cons of implementing section 66.

My submission is that the final report should deal with section 66.

## **Ensuring governments are bound by the ACL, particularly section 18**

In relation to my item 4, there is no discussion of this problem in the Interim Report. The issue is that all governments in Australia are very substantially exempt for the operation of not just the ACL but the *Competition and Consumer Act 2010* (Cth). This is in contrast to the position in New Zealand where the government is substantially bound by the *Fair Trading Act 1986* (see section 4).

Perhaps this was considered by the Committee to be in the too-hard basket. There is discussion in the Interim Report about non-profits and charities and whether they are bound by the ACL. I would have thought that government as a participant in the market place was at least as important. It seems to me that this elephant cannot be ignored.

At the very least, the Committee could draw attention to the problem and recommend that it be further examined.

