



Year in Review
2019-20

December 2020

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Mr Shane Rattenbury MLA
Chair
Legislative and Governance Forum on Consumer Affairs
c/- CAF Secretariat The Treasury
Langton Crescent PARKES ACT 2600

Dear Minister

Since its introduction in 2011, the Australian Consumer Law (ACL) has offered significant benefits to the Australian community.

Enforcement and consumer redress provisions have been strengthened and an integrated and harmonised approach is taken across jurisdictions to provide consumer protection.

This collaboration by ACL regulators has meant that Australian consumers receive uniform protections which are effective and fair while at the same time ensuring businesses have consistency in the requirements they must meet wherever in the country they trade, reducing their red tape and compliance costs.

This connected and collaborative approach to consumer protection has been critical in 2019-2020 as regulators, as well as consumers, have been faced with a number of challenges presented during the year.

This included, but was not limited to: the bushfires which ravaged parts of our country in late 2019 and early 2020 which unfortunately, and disappointingly, also led to a surge in fake charity scams; to the significant impacts that the COVID-19 pandemic have, and at the time of writing, continue to present regulators and consumers.

As well as impacting the very fabric of our country, the impacts of COVID-19 has also been observed in the consumer protection space including the impacts on the travel sector, scam activity, the packaging and labelling of hand sanitiser as well as ACL issues including returns and refunds.

All these issues have placed the critical role that regulators play in supporting and protecting consumers in the spotlight as well as the important educative role we play in informing and engaging business and industry to support compliance.

This year's Australian Consumer Law Year in Review 2019-20 is the 10th iteration of this yearly report and the challenges that the year has presented are outlined at the beginning of this report.

In addition, this year's report also details some of the other important work of ACL regulators coordinated activities and focus during the 2019-20 financial year, spanning policy, education, compliance, and enforcement.

This includes:

- strengthening consumer law protections with the ongoing implementation of proposals from the 2017 review of the ACL;
- educational campaigns to support consumer awareness of the safety issues such as button batteries, quad bikes and high-powered magnets as well as informing consumers of gift card reforms, romance scams and enhancing recall effectiveness;
- continuing activity to facilitate the nation-wide Takata airbag recall;
- preventing unfair practices in areas such as contract terms, undue harassment, product claims and misleading conduct;

- supporting vulnerable and disadvantaged consumers through effective action against providers that fail to deliver services or engage in unconscionable conduct; and
- enforcing the ACL proportionately and effectively, achieving a significant \$285 million in fines, penalties, costs and compensation (up from \$97 million in 2018-2019).

As the year has drawn to a close, Australia's consumer protection agencies will continue to reflect on the year that was and improvements that can continue to be made to support consumer protection and redress. Collectively, we also renew our commitment for providing an integrated and collaborative regulatory approach across jurisdictions.

I am pleased to provide this report on behalf of CAANZ.

David Snowden

Chair, Consumer Affairs Australia and New Zealand

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List of Acronyms

ACCC	Australian Competition and Consumer Commission
ACL	Australian Consumer Law
ACL Review	Australian Consumer Law Review
Acquire	Acquire Learning and Careers Pty Ltd
AIPE	Australian Institute of Professional Education Pty Ltd
ASIC	Australian Securities and Investments Commission
BMG	Berwick Motor Group Pty Ltd
CAANZ	Consumer Affairs Australia and New Zealand
CAF	Legislative and Governance Forum on Consumer Affairs
CCI	Consumer credit insurance
COVID-19	Coronavirus pandemic
GSK	GlaxoSmithKline Consumer Health Australia Pty Ltd
Grays	Grays Ecommerce Group Limited
HG Innovations	HG Innovations Pty Ltd
IGA	Intergovernmental Agreement for the Australian Consumer Law
Kimberly-Clark	Kimberly-Clark Australia Pty Ltd
NICS	National Indigenous Consumer Strategy Reference Group
Novartis	Novartis Consumer Health Australasia
OECD	Organisation for Economic Cooperation and Development
QLD	Queensland
QOFT	Queensland Office of Fair Trading
Unique	Unique International College Pty Ltd
WA	Western Australia

Who are we?

CAANZ is Australia's principal national forum for government policy, enforcement cooperation and the coordination of consumer affairs matters. It is comprised of senior officials from the relevant Commonwealth, state, territory and New Zealand government agencies responsible for consumer affairs and fair trading.

CAANZ reports to CAF which consists of Ministers responsible for Consumer Affairs in each jurisdiction. 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. Where possible, it also develops consistent approaches to those issues.

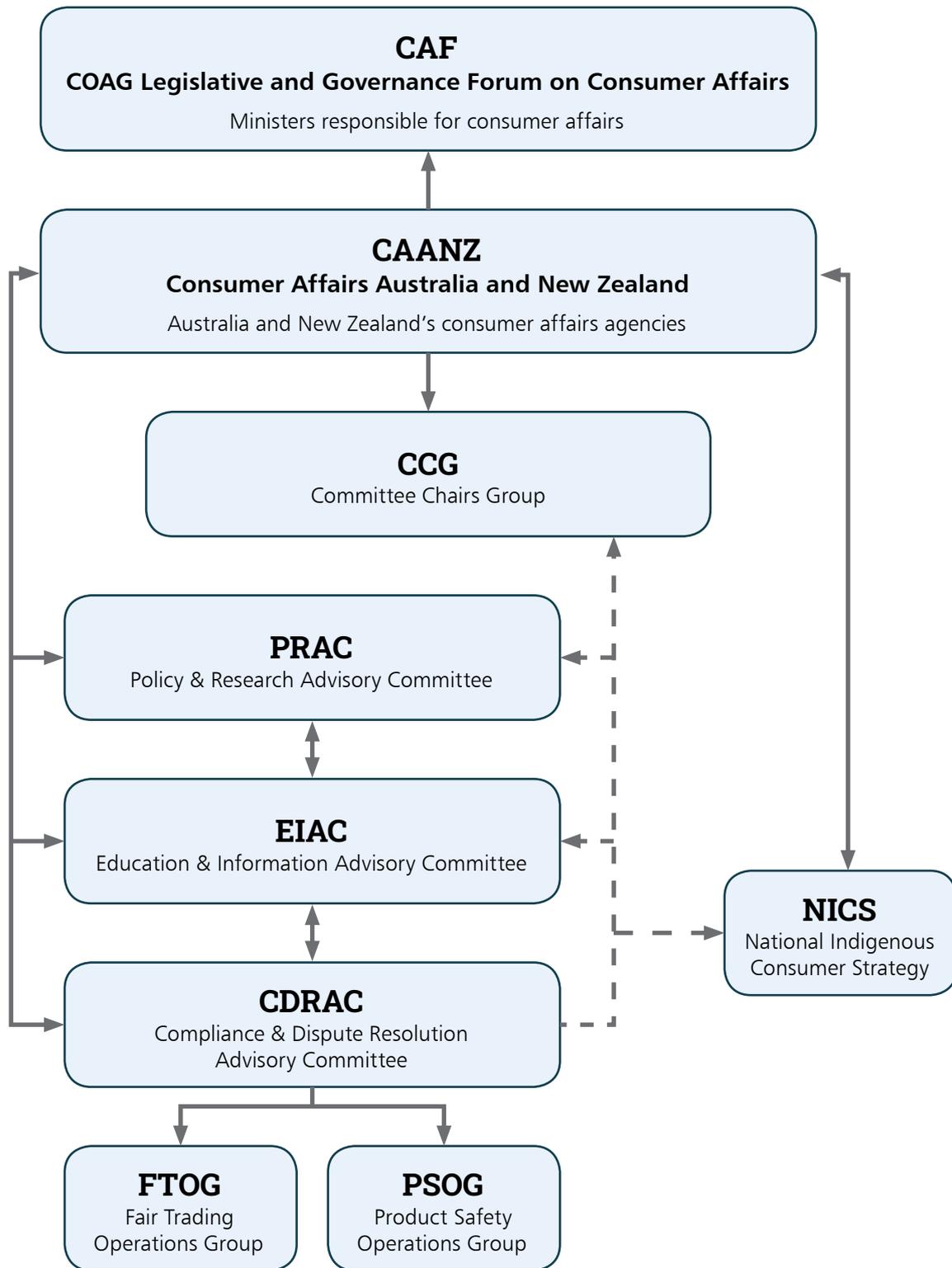
CAF Ministers are responsible for the ACL (which is Schedule 2 to the *Competition and Consumer Act 2011* (Cth) and which is adopted into state and territory fair trading legislation). CAF sets out the 2018–2022 strategic priorities for CAANZ, which includes:

1. Implement the CAF endorsed ACL Review outcomes
2. Take regulatory action with a broad benefit for consumers, focusing on protecting vulnerable consumers and emerging issues
3. Reduce the supply of unsafe products and related services in the Australian market
4. Work with a range of partners to improve compliance with consumer protection laws at local, national and international levels, including through engaging and educating businesses
5. Address emerging issues and conduct regular environmental scans
6. Create a shared digital strategy and data intelligence capability.

In 2019-20 CAANZ received advice, information and other support from three advisory committees and three operations groups:

- The Policy and Research Advisory Committee (PRAC) focuses on the development of common policy approaches to national consumer issues, particularly as they relate to the ACL, and on coordinating the development of any amendments to the ACL. PRAC also conducts national consumer policy research.
- The Education and Information Advisory Committee (EIAC) coordinates national cooperation in conducting education and information activities relating to the ACL and broader consumer issues.
- The Compliance and Dispute Resolution Advisory Committee (CDRAC) coordinates national cooperation in conducting compliance, dispute resolution and enforcement activities relating to the ACL.
- Two operations groups directly support the work of CDRAC, the Fair Trading Operations Group (FTOG) and the Product Safety Operations Group (PSOG), which collaborate across jurisdictions to encourage fair trading by businesses and product safety respectively.
- The National Indigenous Consumer Strategy Reference Group (NICS) is a specific operations group tasked with improving outcomes for Aboriginal and Torres Strait Islander consumers through the development and implementation of national priorities as published in the NICS [Action Plan](#).

ACL Governance Arrangements



What is this report?

This report provides an overview of the key policy, education and enforcement activities undertaken by CAANZ and its committees in 2019-20 to deliver on CAF's current priorities and the objectives of the national consumer policy framework more broadly, as set out in the [Intergovernmental Agreement for the Australian Consumer Law](#).

More recently the COVID-19 pandemic has proven to be a challenging time for many Australians. CAANZ members have established a COVID-19 Urgent Response working group which meets regularly and provides regulators the opportunity to readily share information and coordinate responses to national consumer issues that are emerging as a result of the widespread impacts of the COVID-19 pandemic.

The activities described in each chapter variously involved a mix of: developing policy, educating businesses and consumers about their rights and responsibilities, encouraging traders to comply with the ACL, and undertaking enforcement.

The final chapters comprise key compliance and enforcement statistics across all ACL jurisdictions for 2019-20, and include a list of key enforcement activities undertaken over the year by ACL regulators.

The challenges of 2020

Both regulators and consumers have been faced with a number of challenges presented during the year, including the bushfires which ravaged parts of our country in late 2019 and early 2020 and the significant impacts of the COVID-19 pandemic.

Impacts of the COVID-19 pandemic on consumers and business

The COVID-19 coronavirus pandemic (COVID-19) is having an indelible and enduring impact on consumers and businesses on a national and global scale. Many businesses are facing continuing severe disruption to their operations, particularly those that are within a service industry such as travel, hospitality or live performance.

The impacts of this disruption has given rise to a number of issues being faced by Australian consumers, largely centred on the cancellation, postponement, delayed or non-provision of services and goods.

This, in turn, has resulted in the Commonwealth, State and Territory and New Zealand regulators of consumer law directing a significant portion of their resources to responding to the unprecedented and evolving challenges presented by the pandemic.

ACL regulators have received many thousands of enquiries and complaints from impacted consumers and have moved quickly to address the myriad of concerns arising from the extraordinary economic and social disruption caused by the health crisis.

An early focus of ACL regulators, during the initial stages of the pandemic, was to work together closely to identify, consider, collaborate on, and coordinate responses to the many different consumer matters that were emerging. In March 2020, the members of CAANZ established a COVID-19 Urgent Response Group, made up of all member jurisdictions, to provide a forum

through which rapid and timely discussion, intervention and coordination could occur. The operation of the Urgent Response Group has assisted in the facilitation of a largely consistent and complementary national regulatory approach to issues that have impacted consumers and businesses nationally.

As the effects of the pandemic emerged regulators shared information and messaging to provide advice and guidance to both consumers and business on their rights and obligations under the ACL, business to consumer contracts and jurisdictional specific legislation. Issues of a complex and almost unprecedented nature pertaining to the application of the ACL and other legislation in the context of the pandemic were considered, with the outcomes of those discussions used to inform the related communications and guidance being provided by ACL regulators.

There has also been a significant level of engagement occurring at the national, state and territory levels as regulators have liaised with businesses to provide advice on their obligations and to address areas of concern for consumers. This engagement has included interaction with a broad range of stakeholders including industry



representative bodies, airlines, travel and tour operators and many online travel, accommodation and sales platforms.

ACL regulators have also leveraged the information shared between each jurisdiction to assist in the provision of their respective conciliation and dispute resolution services to negotiate with businesses and in many instances achieving positive outcomes for consumers that may otherwise have not been forthcoming.

While the impacts of COVID-19 have been felt by many different industries, amongst the hardest hit has been the travel industry. To keep Australian's safe the Government imposed restrictions on travel, both domestic and international, which has resulted in consumers being unable to travel. This has caused an unprecedented demand for refunds and other remedies for cancelled, postponed and generally disrupted travel, and subsequently imposed a heavy financial burden on travel agents and operators, airlines and many other businesses operating within the industry. The travel restrictions, and other measures, used to contain the spread of COVID-19 remain in place in many places, and, in the case of domestic travel have been in place longer than was initially anticipated.

In this context, unsurprisingly, an overwhelming majority of COVID-19 related enquiries and complaints received by ACL regulators have been in relation to cancelled or postponed travel and accommodation services.

ACL regulators have worked with travel industry bodies and businesses to address areas of concern, provide guidance on and raise awareness of their legal obligations, and, where necessary, change behaviours, so that consumers have been provided rightful access to remedy entitlements for cancelled or postponed travel.

In an effort to address some of the key concerns relating to cancelled travel due to COVID-19 restrictions the ACCC and ACL regulators issued best practice guidance for the travel industry setting out the industry's obligations under the ACL and also more broadly ACL regulators' best practice expectations. The guidance was provided to travel industry associations for dissemination to their members before its broader public release on 15 July 2020.

While COVID-19 has undoubtedly had a major impact on the travel industry, many other issues affecting consumers have been caused by the pandemic and prompted responses from regulators, which have ranged from engagement and communication to more formal enforcement activity. To name a few key issues, ACL regulators have considered and responded to matters concerning live performance and event cancellations, gym and fitness industry services, product safety matters — particularly in relation to hand sanitiser, face masks and increased scam activity.

As Australia's economy transitions to a period of recovery the ACL regulators of Australia and New Zealand's consumer laws remain committed to the ongoing provision of assistance and guidance to consumers and businesses alike to help meet the ongoing and evolving challenges the pandemic presents

COVID-19 and the travel sector

In response to COVID-19, the ACCC established an internal COVID-19 Taskforce to communicate directly with businesses to educate them about their obligations in relation to cancellations and suspension of services as a result of COVID-19, and consumer remedies. A key part of this was engagement with businesses in the travel sector and coordination with ACL regulators.

The ACCC's COVID-19 Taskforce engaged with many businesses operating within the travel sector in relation to their approach to travel cancellations due to COVID-19.

The ACCC, in conjunction with other ACL regulators, conducted targeted engagement and interventions with businesses which resulted in changed behaviour and consumer redress.

Flight Centre

Following engagement by the ACCC, Flight Centre announced that it will stop charging customers hundreds of dollars in cancellation fees in order to get a refund for travel cancelled due to the COVID-19 pandemic.

Flight Centre refunded thousands of customers who, from 13 March 2020, were charged \$300 per person to get a refund for a cancelled international flight or \$50 for a domestic flight.

This policy also applied to cancellations fees charged by Aunt Betty, Travel Associates, Student Universe, Universal Traveller and Jetescape Travel (trading as Byojet Travel), which are part of the Flight Centre group.

Flight Centre's decision followed weeks of pressure from the ACCC for Flight Centre to improve its treatment of customers during COVID-19 travel restrictions. The ACCC's next steps would have been court action if Flight Centre did not





change its position. The ACCC considered that Flight Centre's changed policy would provide faster relief for consumers than would have been likely to have resulted from any court action.

Qantas

The ACCC raised concerns with Qantas after receiving hundreds of complaints from passengers whose flights were suspended or cancelled due to travel restrictions, but who were given credits by Qantas instead of the refunds they were entitled to. Following this engagement, Qantas committed to contacting its customers to tell them they are entitled to a refund for domestic or international flights cancelled or suspended due to COVID-19 travel restrictions.

Qantas' terms and conditions state that customers with fares booked on any of its domestic and international flights are entitled to have their fare refunded if Qantas makes a significant change to their flight, and Qantas cannot offer another booking which is acceptable to the customer.

The ACCC was concerned that Qantas' communications to customers between 17 March 2020 and 31 May 2020 did not adequately inform them of their right to receive a refund. In some cases, the ACCC considered Qantas' emails may have encouraged these customers to cancel bookings themselves in order to receive a credit when many would have been eligible for a refund.



Better packaging and labelling of hand sanitisers

The ACCC has worked with suppliers to improve the packaging of hand sanitisers and reduce the potential risk of accidental ingestion. The safe and effective use of hand sanitisers is also being promoted by the recent amendments to the information standard for cosmetics which require that product labels disclose the percentage of alcohol and display appropriate warnings.

The rapid onset of the global COVID-19 pandemic in 2020 has resulted in a surge in demand for hand sanitisers worldwide. Hand sanitisers are a key part of the public strategy to help prevent the spread of COVID-19, along with physical distancing, limiting movement and staying at home where possible, isolating when sick, quarantining returning travellers, and wearing masks in public places.

The World Health Organisation recommends alcohol based hand sanitisers that contain at least 60 per cent alcohol are used when soap and water is unavailable. A high alcohol content is important for killing germs and bacteria, however alcohol is extremely flammable and can be harmful if ingested, especially for young children. Poison information centres Australia-wide have reported significant increases of calls in 2020 relating to young children accidentally swallowing hand sanitiser.

Hand sanitisers in Australia are regulated according to whether they are considered a therapeutic good (regulated by the TGA) or a cosmetic product (regulated by ACL regulators under the ACL). Cosmetic grade hand sanitisers contain only low-risk ingredients and are considered general consumer products that fall under the mandatory information standard for cosmetics.

In 2020 the ACCC became aware of concerns that some suppliers were using packaging for their hand sanitisers resembling food or beverage products, which could present an ingestion risk, particularly to young children. The ACCC has released guidance for suppliers and consumers on the safe use and packaging of hand sanitisers — see [Product Safety Australia website](#). The ACCC released this guidance in conjunction with a coordinated approach with ACL product safety regulators to engage with suppliers of hand sanitisers to encourage them to use appropriate



packaging. This has resulted in a number of new entrants amending packaging and labelling of hand sanitisers.

Due to the urgent need for safe and effective hand sanitisers during the COVID-19 pandemic, the ACCC amended the information standard for cosmetics. The amendments require that product labels display the percentage of alcohol, which is not a requirement under the current standard, and also display appropriate warning labels to safe use and storage away from children.

The minor labelling changes will minimise costs to suppliers while providing a huge benefit to society by helping prevent the spread of COVID-19. The amendments also bring Australia in line with international jurisdictions including the United States and European Union which have similar requirements for disclosure of alcohol content and safety warnings.

This will reduce the supply of ineffective, low alcohol content hand sanitisers in the Australian market.

The ACCC consulted key government and industry stakeholders about the amendments. The states and territories agreed to the amendments, which will strengthen a nationwide approach to compliance and enforcement of the updated standard.

COVID-19 scam activity

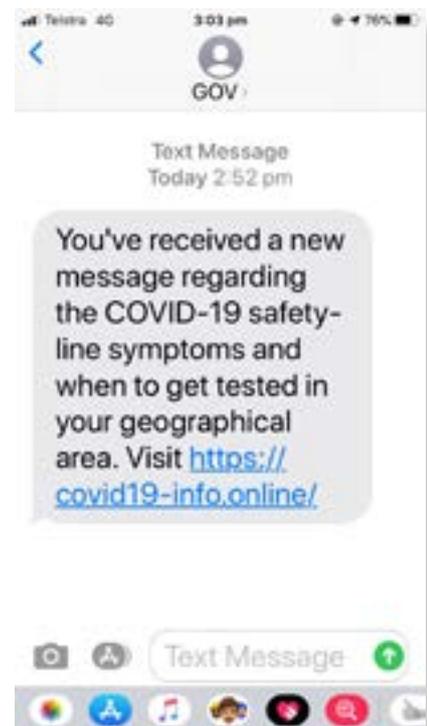
COVID-19 has seen a rise in certain types of online shopping and phishing scams, including sophisticated impersonations of government. A cooperative response across government has prevented much of the potential harm.

Online shopping scams involving fake online stores selling non-existent masks, heavy vehicles and puppies increased substantially during the pandemic. Customers' inability to inspect goods meant these scams were more successful than usual as scammers could plausibly make statements that they were unable to allow buyers to inspect items.

Scamwatch has received record numbers of phishing scam reports during COVID-19, showing that scammers have increased their efforts to obtain Australians' personal identification information. Between April and July 2020, Scamwatch received 12,229 phishing scam reports, compared to 7,230 for the same four month period in 2019. The highest number of phishing scam reports on record were received in April (3153) and then July (3708). Phishing scams focus on obtaining personal information that could be used to make claims from government schemes providing relief from COVID-19, such as the early release of superannuation.

A number of campaigns spoofed senders of 'MyGov', 'Gov' and others, sending typo-free content with malicious links to official sounding websites in bulk to the Australian public. The ACCC and other government departments are working with the Australian Cyber Security Centre to remove the websites linked in the text messages as quickly as possible (within hours in some cases) to prevent harm to Australians.

Government departments, regulators and law enforcement agencies have been meeting regularly, sharing intelligence and coordinating responses to scam activity throughout COVID-19.



Bushfires cause surge in fake charity scams

During the bushfire crisis the ACCC's Scamwatch worked to minimise harm caused by scammers trying to steal money from Australians through fake charity scams. The ACCC worked with charities to identify real from fake or impersonated charities as well as social media and crowd funding platforms to have fake charities removed.

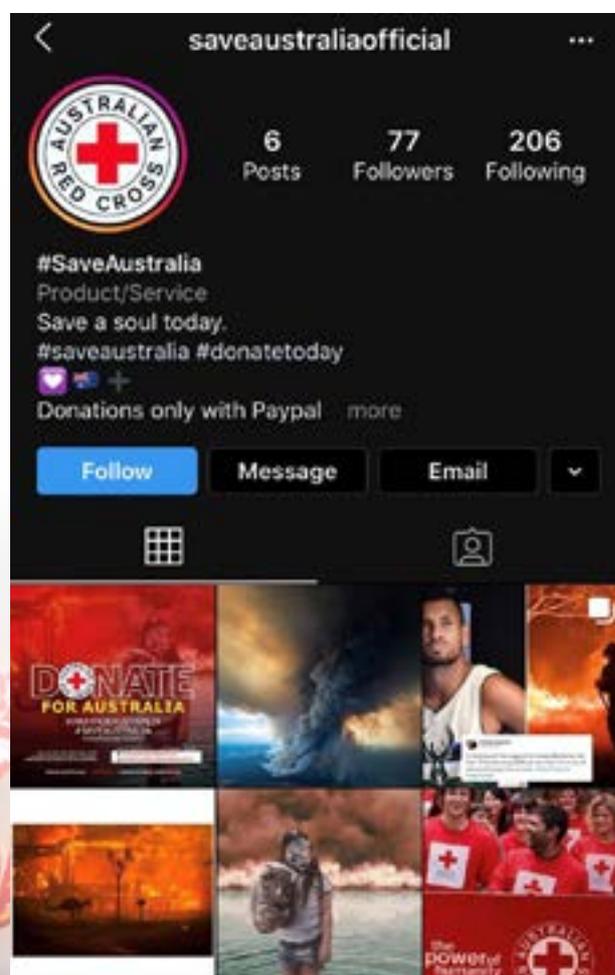
The ACCC responded to scammers attempting to take advantage of the bushfires by opening a dedicated phone line on 7 January 2020. The line answered more than 1000 calls until its closure on 27 March 2020. These calls, coupled with over 370 web reports relating to bushfire scams in the 2019–20 financial year, were responded to by dedicated staff to assist with the whole of government bushfire response effort.

Most bushfire scam related web reports concerned 'fake charity scams' with three main variants. Some reporters expressed doubt that stores were going to donate their stated proportion of profits from sales to charities, others reported that scammers were soliciting donations for fictional charities, and some reported scammers impersonating real charities or even real bushfire victims.

Reports were monitored twice daily, and charities and victims being impersonated by scammers were contacted to ensure the complaints were not being made about legitimate pages. Social media, crowd-funding sites and web hosting providers were also contacted to investigate the reported scams. As a result, scam pages and content were removed from these sites.

The Australian Charities and Not-for-profit Commission's register assisted the public to differentiate real from fake charities. It also enabled quick identification of official contact points for charities being impersonated. The public were regularly referred to an official list of charities collecting funds for bushfire related causes set up by the government.

A sample fake bushfire charity scam page reported to Scamwatch, and quickly removed from Instagram, is pictured below.



Well-informed consumers

Each financial year, CAANZ collaborates on topical consumer-related issues to educate consumers on their rights and responsibilities, as well as the risks associated with certain goods, services and business practices. This section provides an overview of some key educational activities that occurred during 2019–20.

Gift card reforms

Gift cards can be a great present to give to people, offering both convenience and flexibility in their use. However, in the past, many gift card recipients experienced disappointment and financial loss when their gift card expired before it could be used.

To counteract this monetary loss and to make gift cards fairer for consumers, Consumer Affairs Ministers agreed in 2018 to amend the ACL to implement a national scheme for their regulation requiring a minimum three year expiry period for their use, prominent disclosure of expiry information on them and a ban on certain related post-purchase fees and charges.

Leading up to and following the gift card reforms' commencement date of 1 November 2019 a national education campaign was undertaken by ACL regulators informing businesses and consumers of the changes.

Led by Consumer Protection WA, the campaign was conducted over two phases and aimed to reach audiences via unpaid media and editorials; organic and paid social media and content provided on the consumerlaw.gov.au and participating regulators' websites.

Key messaging released in the first phase of the campaign, before the national gift card reforms commenced, encouraged businesses to be aware of their gift card obligations and to be ready for the changes and also informed consumers of the upcoming amended rules.



After the introduction of the reforms, the campaign's second phase messaging was updated to inform businesses that they should, from 1 November, only be selling gift cards that complied with the new requirements. The second phase messaging also raised awareness amongst consumers that they now had a much longer period in which to use a gift card.

Evaluation of the campaign, which ended on 31 December 2019, found it to be quite successful, in particular in regard to its social media audience reach and the extensive unpaid coverage it generated in the broader traditional media.

Romance scams

Each year in the lead up to Valentine's Day, ACL regulators run a campaign to warn consumers about romance scams. While many people already know about romance scams, the 2020 campaign sought to make consumers more alert to the signs that the person they've met online may be a scammer.

Romance scams continue to be of concern to regulators, with over 4,000 dating and romance scam reports to Scamwatch during 2019–20, and over \$37 million in reported losses.

Messaging for this year's campaign centred on some of the tactics used by scammers including:

- creating fake profiles on dating apps and websites
- spending months building up trust before asking their victim for money
- making excuses why they can't meet their love interest in person.

Romance scammers also use avenues outside of dating platforms to connect with people, including social media pages and online games. As the connections are usually established online, primarily digital channels were used to reach the

audience, including via the media, social media, website information and e-newsletters.

The greatest reach achieved for the campaign was through media coverage, and a good level of engagement was also achieved through social media. The media continues to have a high level of interest in reporting on scams generally, with a particularly strong interest in reporting on romance scams around Valentine's Day.

Most of the promotional activities by the ACL regulators included links to the Scamwatch website for further tips and advice to avoid romance scams.



Baby walker safety

In late 2019 the ACCC used social media to alert parents and carers to the dangers posed by the unsafe use of baby walkers.

During 2019–20, the ACCC completed the baby walker strategy with other ACL regulators. The strategy aimed to improve marketplace compliance with the mandatory safety standard for baby walkers. It involved analysing injury data, commissioning consumer research, surveying the market and educating both suppliers and consumers.

Consumer research showed that 32 per cent of parents or carers placed no restrictions on where baby walkers were used. This is concerning as hazards such as steps, stairs or access to hot foods, pose the greatest risk to children. It is estimated that over 100 Australian children present to hospital emergency departments annually as a result of a baby walker incident, with 13 per cent of these presentations resulting in hospital admissions. Admissions are mainly due to head or facial injury caused by falls.

The ACCC developed a [video](#), which was published through Facebook and YouTube. ACL regulators promoted the video through their social media channels. The social media campaign targeted

parents and carers of babies, expectant mothers, people aged 18–35 with interests in family and parenting, reached over 420,000 people and achieved over 49,000 video views.

The video was taken from a first-person perspective. The viewer follows the baby moving around the house in a baby walker in what appears to be a safe home environment. But it's not long before the inquisitive baby faces danger: a hot cup of coffee, a trip hazard and face plant or a fall down a stairway. The video shows that any home can pose hazards to a baby in a baby walker and that the parent or carer must always supervise their child.

The video ends by highlighting safety features of a baby walker that include warnings for safe use and an effective brake mechanism to stop the baby walker tumbling down steps.

The [Product Safety Australia website](#) has more information about baby walker safety.



Enhancing recall effectiveness – a global initiative

While the volume of consumer product recalls continue to rise worldwide, consumer reactions to recalls remain low. ACCC has been working with the OECD and countries around the world to develop strategies that will help address this global issue.

The ACCC continued to support the global work led by the Organisation of Economic and Co-operation and Development (OECD) to enhance the effectiveness of product recalls. [OECD's research](#) revealed that simply calculating a return rate to measure recall effectiveness may not be enough as a recall's performance can depend on many factors ranging from product traceability, price and lifespan to consumer awareness and ease of participation.

In addition to these factors, consumer behavioural biases can further impact the success of a recall. To address these concerns, in 2019, the ACCC actively contributed to the development of two key OECD deliverables:

- the [OECD's Recommendation on Consumer Product Safety](#) which consolidates and updates six OECD legal instruments on consumer product safety, including provisions on product recalls (released July 2020)
- the draft policy guidance on maximising product recall effectiveness.

The policy guidance on maximising recall effectiveness, scheduled for release by end 2020, will highlight the importance of developing recall strategies that take into account behavioural insights. It will also promote a multi-faceted approach to measuring recall effectiveness and a collaborative approach to recall implementation. Once released, it is anticipated that this global guidance will underpin future enhancements to existing local recall guidance.

Recognising the importance of raising recall awareness among consumers and businesses worldwide, the ACCC, in partnership with the OECD and the European Commission, co-led the [2019 OECD global awareness campaign on product recalls](#). The campaign garnered the participation of around 20 international jurisdictions and was also supported by ACL product safety regulators.



OECD GLOBAL AWARENESS CAMPAIGN ON PRODUCT RECALLS
21-25 October 2019
www.oecd.org/info/consumer/product-recalls





Kimberly-Clark flushable wipes

On 15 June 2020, the Full Federal Court dismissed an appeal by the ACCC and found that Kimberly-Clark Australia Pty Ltd (Kimberly-Clark) did not make false and misleading claims that its Kleenex Cottonelle toilet wipes were flushable. This matter was significant as it educated consumers about the dangers of flushing unsuitable products down the toilet.

The ACCC instituted proceedings in the Federal Court against Kimberly-Clark in December 2016 alleging that it made false or misleading representations in relation to ‘flushable’ wipes marketed and supplied in Australia. The ACCC alleged that by labelling these products as “flushable”, consumers would believe the Kleenex wipes products had similar characteristics to toilet paper and would break up or disintegrate in a similar timeframe.

The ACCC relied on evidence from Australian water authorities that face significant problems when non-suitable products are flushed down the toilet as they contribute to blockages in household and municipal sewerage systems, known as “fatbergs”.

In 2019 the trial judge dismissed the ACCC’s case, ruling that to prove its case, the ACCC was required to prove that the Kleenex Wipes had in fact caused or contributed to real harm in particular instances.

On appeal, the ACCC argued that the trial judge had made an error by requiring proof of actual harm, and had failed to consider the ACCC’s evidence as a whole when deciding whether the flushable representation was false or misleading.

The ACCC’s appeal was dismissed as the Full Court found that the ACCC was not able to run a ‘risk of harm’ case on appeal, as it had not done so at trial. The Full Court found that the ACCC’s case at trial required it to prove actual harm caused by the Kleenex Wipes in order for it to succeed.

The Full Court also found that the ACCC had not led evidence to quantify the higher risk posed by the Kleenex Wipes, nor did it prove that the risk was materially greater than toilet paper.

While the ACCC’s appeal was dismissed, the ACCC is pleased that the court action brought attention to this issue, and has made consumers aware that flushing wipes can cause significant blockages to plumbing and sewerage systems, damage to equipment and environmental harm and imposes significant cost of removing fatbergs on water authorities.

This case highlighted that even unsuccessful court action can have a positive impact on markets and increase consumer awareness of important issues.

Winter safety

At the beginning of winter, ACL regulators often run an education campaign to increase consumer understanding and awareness of safety issues relating to products commonly used in winter.

When the weather turns cold, consumers often buy new products and get items out of storage to help them stay warm. In Australia there are recurring injury reports related to products used during winter.

This campaign provided consumers with reminders and tips for the safe use of these products.

Key messages included:

- Winter warmer products may pose a safety risk if they are old, worn or not used properly
- Consumers should always follow the user guide or instructions carefully with any product, but particularly products that could cause scalds or burns
- Consumers can check if a product has been recalled for safety reasons by visiting the Product Safety Australia website.

Products highlighted throughout the campaign included hot water bottles, wheat and heat packs, children's sleepwear, heaters and candles.

Campaign materials, including media releases, e-newsletter articles and organic social media, directed consumers to the winter safety page on the Product Safety Australia website.

Evaluation of the campaign found it to have been successful. The greatest reach was achieved via newsletters followed by social media.



winter safety



Safe and fit for purpose goods and services

ACL regulators take a collaborative approach to help protect consumers from physical harm. This includes regulating the safety of consumer goods and engaging with consumers and businesses to support practices that keep Australians safe.

Small, high powered magnets

During 2019–2020, ACL regulators became aware of several reports of children swallowing small, high powered magnets that were bought online from overseas, resulting in urgent medical treatment. The ACCC pursued a risk mitigation strategy with online platforms to remove unsafe products from sale.

In 2019, ACL regulators became aware of further incidents in New South Wales, Queensland and Victoria where children were hospitalised, some requiring surgery, after swallowing small, high powered magnets.

Small, high powered magnets are commonly supplied as toy, game or novelty goods such as puzzle cubes, jewellery or construction modelling kits. If a child swallows more than one small, high powered magnet, they can stick together across the walls of the child's intestine or other digestive tissue, which can lead to significant internal injuries and even death. These internal injuries have been likened in severity to a gunshot wound. The magnets may also pose a choking hazard to young children. It has been illegal to supply many of these products in Australia since 2012, but a relaxation of overseas regulations seems to have resulted in online suppliers offering them for sale globally.

In response, the ACCC conducted a surveillance program to inspect the presence of banned small, high powered magnets being supplied into Australia. A number of sellers on some online platforms were found to be selling products that exceeded the maximum allowable magnetic flux index set by the [ban](#), and were subsequently [recalled](#).

The ACCC issued a web alert on the [Product Safety Australia website](#), encouraging consumers to exercise caution when buying magnetic balls, by identifying



some key identifiers that consumers should look out for. ACL regulators targeted social media messaging towards both businesses and consumers.

The ACCC engaged with several online platforms to provide further information to sellers on these platforms, who may not be aware of, nor sufficiently understand the requirements of the Australian ban. The ACCC also enlisted the support of online platforms to consider risk mitigation strategies so that banned small, high powered magnets do not end up in the hands of children. Some online platforms have already integrated key identifiers into their filters, which has seen a significant decrease in the number of these products listed online.

ACL regulators continue to inspect the market and test these products for compliance against the ban.

Button battery safety



To address the serious safety risks posed to children by button batteries, the ACCC is developing mandatory safety and information standards which will apply to button batteries and products containing button batteries.

Button batteries pose a severe injury risk, particularly for young children. When lodged in the body and in contact with bodily fluid, button batteries can burn through tissue and cause catastrophic bleeding. Serious injury can occur in as little as two hours. In Australia and globally, there is a growing record of injuries and deaths from button batteries.

In 2019, the ACCC determined that supplier self-regulation through the adoption of the voluntary [Industry Code for Products Containing Button Batteries](#), was not meaningfully reducing the risk of injury or death to children from exposure to button batteries.

The Australian Government issued a Safety Warning Notice on button batteries in March 2019, which highlighted the serious risk posed by button batteries and the importance of developing a regulatory solution.

To address the continuing risk, button batteries were identified as one of the ACCC's Product Safety Priorities for 2020. Relying on information from the button battery national strategy combined with information and data compiled during the ACCC's safety investigation, the ACCC is building a case for stronger regulation in Australia.

Currently, there is no mandatory regulation in Australia that horizontally addresses the hazards associated with button batteries across all consumer goods. Button batteries are present in a wide range of consumer products. An appropriate regulatory solution needs to capture the wide variety of products containing button batteries.

The ACCC is developing proposed:

- safety standards for button batteries to be sold in child resistant packaging and products containing button batteries to have secure battery compartments
- information standards for warnings and information to be made available to enable consumers to make informed purchasing choices about button batteries and products containing them, as well as to raise consumer awareness of the presence and hazards of button batteries.

The proposed safety and information standards are expected to significantly reduce the risk of children gaining access to and ingesting button batteries.

In considering various regulatory options, the ACCC has consulted widely with key stakeholders across various sectors, to ensure that the approach adopted is appropriate to address the risk.

The ACCC completed several public consultations including a [Button Battery Safety Issues Paper](#) released in August 2019 and a [Button Battery Safety — Assessment of regulatory options — Consultation paper](#) released in March 2020.

The ACCC also undertook targeted consultation with a broad range of stakeholders that provided submissions, including industry representative bodies, battery and product manufacturers and retailers, individual consumers, academics, hospitals and health professionals and government agencies.

Quad bikes required to provide better protection

Of all consumer products not subject to an Australian design, safety or performance standard, quad bikes were the leading cause of fatalities in Australia. An ACCC led inter-departmental taskforce investigated their safety for 18 months, culminating in the making of the *Consumer Goods (Quad Bikes) Safety Standard 2019*.

A quad bike (also known as an all-terrain vehicle or ATV) is an off-road motorised vehicle that travels on four wheels, with a seat designed to be straddled by the operator and handlebars for steering control.

The quad bike's design makes them inherently unstable and significant co-ordination, strength, judgement and experience are required to achieve safe operation.

The safety standard for quad bikes was made on 10 October 2019 and took effect the following day. The purpose of the standard is to reduce the risk of fatality or injury associated with the use of quad bikes, particularly when they roll over. On average there are 15 deaths per year and an estimated six people present to an emergency department every day due to injuries.

The safety standard has two stages:

Stage 1: 11 October 2020

All new quad bikes, and imported second-hand quad bikes must:

- meet certain design requirements in the US or European Standards
- be tested for lateral static stability and display the angle at which it tips onto two wheels on a hang tag at the point of sale
- have a durable label affixed, visible and legible when the quad bike is in operation, alerting the operator to the risk of rollover, and must include rollover safety information in the owner's manual.

Stage 2: 11 October 2021

All new, and imported second-hand general use model quad bikes must:

- be fitted with, or have integrated into the design, an operator protection device
- meet certain minimum stability requirements.

Consumers should also take additional safety precautions — including wearing helmets, undertaking safety training, and prohibiting children from operating adult quad bikes.

Stage 1 requirements took effect on 11 October 2020 and are now mandatory. ACL regulators will seek to ensure compliance with the safety standard, including by taking enforcement action where appropriate.

Takata airbags compulsory recall

The compulsory recall notice for Takata airbags commenced on 1 March 2018, with all affected airbags required to be replaced or otherwise accounted for by 31 December 2020.

There have been 30 deaths and over 330 injuries worldwide reported as associated with faulty Takata airbags. The Takata compulsory recall is to protect Australian vehicle occupants from the serious risk of injury or death if a faulty Takata airbag in their vehicle ruptures when the airbag system deploys following a vehicle collision. An overview of key compliance and enforcement activities is below.

Mercedes-Benz Court Enforceable Undertaking

Suppliers of vehicles in Australia are required to replace faulty Takata airbags, with replacement of higher risk airbags prioritised.

Following ACCC concerns, Mercedes-Benz acknowledged it had failed to initiate recall of certain Mercedes-Benz vehicles with faulty Takata airbags between June and November 2018, due to spare parts availability, in accordance with the timeframe required by the Takata compulsory recall notice.

The ACCC was concerned that this may have contravened the ACL and exposed consumers driving the vehicles to serious safety hazards. The cars were fitted with dangerous Takata airbags and many of the vehicles affected should have been prioritised for urgent replacement due to their age, exposure to heat and humidity, or location of the airbag inflator.

Mercedes-Benz undertook to follow a revised schedule to rectify affected vehicles, provide free hire cars or alternative transport for owners of the highest risk vehicles and communicate directly with affected consumers regarding the risk associated with faulty Takata airbags in their vehicles.

Mercedes-Benz also undertook to ensure it notifies the ACCC early of any future anticipated failure to initiate recalls, ensure its recall database correctly reflects the recall status of Mercedes-Benz vehicles, and keep records of consumer complaints relating to the recall.

The ACCC's action reinforces the importance of compliance with the Takata compulsory recall notice and the ACL to protect Australian consumers.

Infringement Notices

Three corporations Grays Ecommerce Group Limited (Grays), Berwick Motor Group Pty Ltd (BMG) and HG Innovations Pty Ltd (HG Innovations) paid penalties totalling \$63,000 after the ACCC issued infringement notices in relation to advertising or selling vehicles with faulty Takata airbags under active recall. Selling vehicles under active recall is prohibited by the Takata compulsory recall notice and the ACL. The ACCC takes alleged breaches of the ACL of this kind very seriously.

BMG and HG Innovations each paid a penalty of \$12,600 after the ACCC issued each of them with one infringement notice for selling a vehicle under active recall.

In the case of BMG, the ACCC had reasonable grounds to believe that BMG, through its agent Grays, sold a vehicle which was under active recall and contained a high risk alpha airbag. The ACCC was particularly concerned about this alleged conduct, as alpha airbags have a very high risk of rupture, which can cause serious injury or death. The ACCC also had reasonable grounds to believe HG Innovations, through its agent Grays, supplied a vehicle which was under active recall.

Grays paid penalties totalling \$37,800 after the ACCC issued three infringement notices to it. The ACCC had reasonable grounds to believe that Grays had made false or misleading representations by advertising three vehicles for sale that were under active recall.

Outreach and surveillance

The ACCC is working jointly with ACL regulators on outreach and surveillance of the automotive industry, particularly motor vehicle dealers, auction houses and spare parts businesses to increase awareness of obligations under the Takata compulsory recall notice and to address compliance issues. We will report on the outcomes of this program in the year 2020-21.

Monitoring the marketplace for unsafe products

To protect Australian consumers during 2019–20, ACL regulators inspected consumer products, assessed mandatory reports of deaths and serious injuries, negotiated and published recalls and updated mandatory safety standards and bans.

ACL regulators continued to work collaboratively on product safety over the 2019–20 period. ACL regulators conducted product safety inspections of 5,045 suppliers nationally, covering 168,390 product lines, including cosmetics, toiletries, DEHP in children’s plastic items, aquatic toys, projectile toys and toys for children under three. When products were identified as being unsafe or non-compliant with mandatory safety and information standards or bans, ACL regulators ensured products were removed from sale. ACL regulators also negotiated with suppliers to commence voluntary recalls and initiated enforcement action where required.

An example of this involved many ACL regulators undertaking inspections in the lead-up to the 2019 Christmas period. Regulators visited 1,516 suppliers and inspected 23,487 product lines including toys designed for children up to 36 months of age, projectile toys and sunglasses. As a result, 3.5 per cent of product lines did not comply with a mandatory standard or ban, resulting in 780 product lines being removed from sale, 44 recalls, 11 penalty infringement notices, 82 warning letters and two successful prosecutions.

Under the ACL, the ACCC has primary responsibility for certain actions within the national product safety regime, including:

- receiving and actioning mandatory reports of death or serious injury from suppliers
- publishing consumer product recalls on the Product Safety Australia website
- implementing and reviewing mandatory safety standards and bans.

In 2019–20 the ACCC received 3,025 mandatory reports of death or serious injury from suppliers.

Of those, the ACCC:

- automatically referred 1,310 reports to food regulators
- assessed and actioned 1,711 reports
- referred 92 reports to other regulators following assessment.

During 2019–20, a total of 633 voluntary recall notifications were published for consumer products that were identified as posing a safety risk to consumers.

In 2019–20 the ACCC continued to review and update mandatory safety standards and bans to ensure they continue to be warranted and effective. This review resulted in the responsible Commonwealth Minister making new or amended mandatory safety standards for:

- miniature motorbikes (made December 2019) — the new standard prescribes design, construction and performance requirements for miniature motorbikes, as well as accompanying safety warnings and user manuals
- aquatic toys (made June 2020) — the amended standard prescribes design, construction and warning requirements for aquatic toys
- projectile toys (made June 2020) — the amended standard prescribes design, construction and labelling requirements for projectile toys.

The ACCC also published consultation papers as part of their review of the following mandatory safety standards and information standards:

- cosmetic ingredient labelling information standard on 14 November 2019
- portable fire extinguishers mandatory safety standards on 20 September 2019.

Preventing unfair practices

By prohibiting certain practices and regulating contracts in some circumstances the ACL establishes norms of conduct that help to prevent the consumer harm caused by unfair practices.

Bendigo and Adelaide Bank unfair contract terms

Certain terms within small business contracts used by Bendigo and Adelaide Bank were declared unfair.

Following ASIC's release of a report ([REP 565](#)) in March 2018 setting out details of changes made by the 'big four' banks to remove potentially unfair terms from their small business loan contracts, ASIC reviewed some of Bendigo and Adelaide Bank's small business contracts.

ASIC's review focused on terms that:

- provided the bank with the unilateral right to vary the terms of the loan without consent of the small business or their guarantor
- enabled the bank to consider trivial matters to be an event of default — eg providing the incorrect date of birth of a director
- made the customer liable for loss incurred by the bank even if it was not caused by the customer
- shifted the burden of proof to the customer in proceedings related to the contract (a conclusive evidence provision).

Following ASIC's investigation, ASIC took action against Bendigo and Adelaide Bank in the Federal Court of Australia. The Court declared that certain terms in six small business contracts used by Bendigo and Adelaide Bank and same terms appearing in other standard form small business contracts, were unfair.

As a result:

- the unfair terms were void from the outset, not from the time of the court's declaration
- the Court ordered that the contracts be varied by replacing the unfair clauses with new clauses following successful negotiations between ASIC and Bendigo and Adelaide Bank.

ASIC is continuing to examine other lenders' loan contracts to ensure that their contracts do not contain terms that raise concerns under the unfair contract terms law.

Panthera penalised for undue harassment

On 17 March 2020, the Federal Court ordered that Panthera Finance Pty Ltd (Panthera) pay \$500,000 in penalties for unduly harassing three consumers over debts they did not owe and for misleading one of the three consumers.

The Federal Court held that Panthera harassed three consumers to pay disputed debts despite being advised that they were not liable for the debts and, in the case of two of these consumers, placed an incorrect default listing on their credit rating files.

The Court also ruled that Panthera misled one of the consumers by telling them they needed to pay Panthera \$100 to have a default listing removed from their credit file, even though the credit default listing was incorrect and could have been removed for free under the Privacy Act.

The Federal Court ordered Panthera to pay \$500,000 in penalties.

This case follows action against another debt collection agency ACM Group Ltd in December 2018, who were ordered to pay \$750,000 in penalties for misleading, harassing, coercive and unconscionable pursuit of underpaid debts from two vulnerable consumers.

Together, these two cases and further work undertaken by ASIC provide a warning to the industry to ensure that businesses comply with the ACL when seeking to recover debts, especially in regard to vulnerable or disadvantaged consumers.

Both the ACCC and ASIC are responsible for consumer protection in the debt collection industry. The two agencies work closely and have developed guidelines to assist creditors, collectors and debtors to understand their rights and obligations, and to ensure that debt collection activity is consistent with consumer protection laws.





Ashley & Martin unfair contract terms

In October 2019, the Federal Court ordered hair loss business Ashley & Martin to refund consumers who had terminated their contracts on medical grounds.

Ashley & Martin typically signed consumers to 12 month hair loss treatment programs, the Personal RealGROWTH Program, requiring them to pay for all of their treatment before they received, or could properly consider, medical advice.

Under one of the relevant terms, consumers had only two days to consider medical advice provided at a consultation with an Ashley & Martin doctor. Consumers who did not cancel their contract within those two days were required to pay the entire price of their treatment.

Ashley & Martin's terms meant that consumers were penalised for stopping their hair loss treatment even if they developed adverse side effects from the medication that meant they could no longer continue their program.

The ACCC instituted proceedings in November 2017, alleging that, from November 2013 to at least November 2017, all three of the standard form contracts that Ashley & Martin used to sign consumers up to its Personal RealGROWTH Program contained unfair terms.

In September 2019, the Federal Court found that all three contracts contained unfair terms. However, under current legislation the court cannot impose penalties on companies that use unfair terms.

In October 2019, the Federal Court ordered Ashley & Martin to refund consumers who had:

- cancelled their treatment because they did not have the opportunity to receive medical advice
- cancelled their treatment because of the medical advice they had received
- cancelled their treatment because they had developed side effects from the treatment that meant they could no longer continue the program.

Over 25,000 consumers were affected by the unfair terms across Ashley & Martin's three standard form contracts.

On 6 November 2020, CAF agreed to strengthen the existing unfair contract term protections in the ACL.

- this will help reduce the prevalence of unfair terms in standard form contracts, providing a fairer and more efficient allocation of risk
- it will also improve consumer and small business confidence when entering into standard form contracts.

GSK and Novartis penalised over product claims

In May 2020, the Federal Court ordered Novartis Consumer Health Australasia (Novartis) and GlaxoSmithKline Consumer Health Australia Pty Ltd (GSK) to pay \$4.5 million in penalties for making false and misleading representations in the marketing of Voltaren Osteo Gel and Voltaren Emulgel pain relief products.

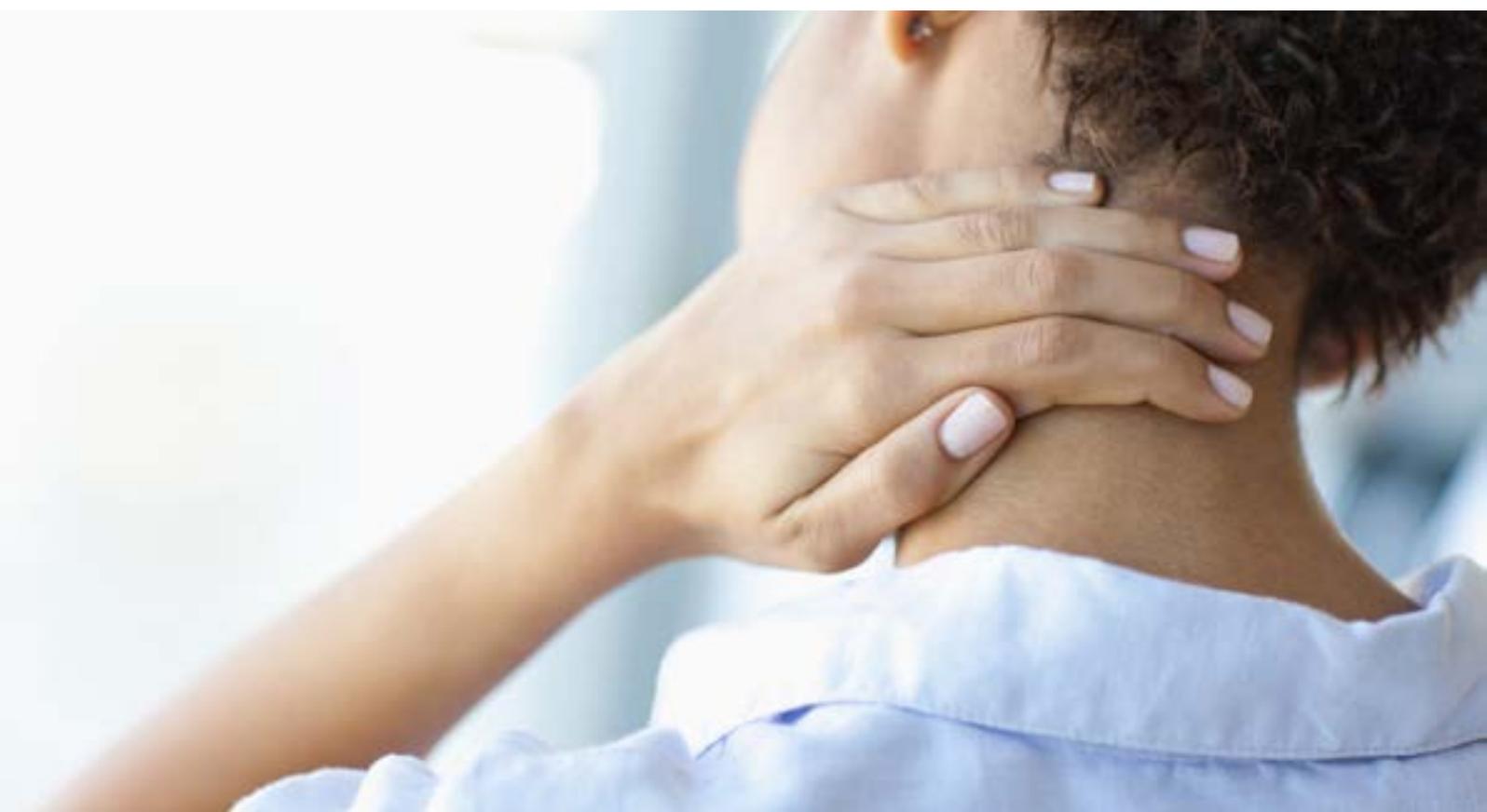
In May 2019, the Federal Court had accepted admissions by GSK and Novartis that they made false or misleading representations in the marketing of Voltaren Osteo Gel and Voltaren Emulgel pain relief products.

From January 2012 to March 2017, Novartis and then GSK marketed Osteo Gel as being specifically formulated and more effective than Emulgel in treating osteoarthritis related pain and inflammation even though both had the same active ingredients.

Novartis' and GSK's claims were particularly concerning because they set recommended retail prices for Osteo Gel above that of Emulgel, by up to 16 per cent, and the gels were often displayed next to each other at pharmacies and grocery stores. Therefore, consumers were potentially misled into paying more for an identical product believing it was more effective.

Novartis' and GSK's conduct continued after the ACCC's successful action against the makers of Nurofen for similar conduct involving its pain relief products.

This penalty serves as a warning to all businesses that misleading consumers into thinking that products are specifically formulated to treat or target certain conditions when this is not the case can lead to serious consequences.



STA Travel penalised for misleading travellers

In April 2020, the Federal Court ordered travel services provider STA Travel to pay \$14 million in penalties for misleading MultiFLEX Pass purchasers about their ability to change flight dates without paying additional fees.

The ACCC had instituted proceedings against STA Travel in March 2019, alleging that STA Travel had been making false or misleading representations about MultiFLEX Passes since 2011.

In the Federal Court, STA Travel admitted to making false or misleading representations about MultiFLEX Passes, and was ordered by the court to pay \$14 million in penalties.

STA Travel admitted it had represented to consumers that, by purchasing a MultiFLEX Pass, they could change their flight date without incurring any additional fees or charges, when in fact, STA often charged consumers hundreds of dollars to change their flight dates despite them having bought a MultiFLEX Pass.

In many cases, STA Travel's charges were not reflective of additional fees imposed by the airline.

For example, in almost a quarter of cases where a customer was charged extra by STA Travel, the amount was more than double the additional airfare and tax imposed by the airline.

In 12 per cent of cases, STA Travel charged MultiFLEX Pass customers to make a change to a flight although the airline itself had not charged STA Travel anything at all for the change.

The MultiFLEX Pass cost up to \$149 to purchase upfront. Between 2015 and 2019, STA Travel estimates it sold on average approximately 16,000 MultiFLEX Passes per year. STA Travel estimated that between 2015 and 2019, the sale of MultiFlex Passes contributed on average \$1.6 million in revenue per year.



Meeting the needs of vulnerable and disadvantaged consumers

ACL regulators and policy makers take steps to protect consumers from unscrupulous traders that prey on vulnerability or disadvantage, and implement programs for consumers that may need additional support to help them make appropriately informed purchasing decisions.

Charging fees for paper bills

Some businesses charge an extra fee to customers who receive paper bills in the post. This means that there is a risk that consumers may be negatively impacted, including people on a low income or without internet access, end up paying more on their bills for essential services and other household costs.

An education campaign ran during 2017–18 encouraging consumers to avoid fees for paper bills by either switching to electronic billing or contacting their providers to request a fee exemption. The campaign was run again during 2019–20 to further promote awareness of how to avoid paper billing fees.

More traditional communication channels were again used to reach vulnerable groups including:

- consumers on a low income
- seniors
- people living in regional areas
- Aboriginal and Torres Strait Islander peoples.

Information was disseminated via promotional postcards, media releases, social media and editorials in popular publications. Additional stakeholders were contacted as part of this follow-up campaign, inviting them to help share the campaign messages.

The campaign by ACL regulators complemented the industry-led campaign to increase the number of consumers who are exempt from fees for paper bills.



Fictitious home deposit scheme

In November 2019, a Queensland man was ordered to pay more than \$147,000 after he misled dozens of consumers with a fictitious home deposit scheme.

Kent Paul Scarborough, of Burleigh Waters on the Gold Coast, operated Brilliant Asset Management Pty Ltd and BAM Finance Pty Ltd, also trading as Noble and Cormack.

He was investigated by the Queensland Office of Fair Trading (QOFT) after the organisation received complaints from three consumers.

He was found to have been operating a scheme whereby consumers believed they were making regular payments for a home deposit. The consumers were issued with a certificate, allegedly valued at up to \$40,000, that could be used to buy a property anywhere in Australia.

A total of 268 consumers entered into the scheme and lost between \$20 and \$11,000. Twenty-seven of those consumers assisted the OFT in its investigation into Mr Scarborough.

The majority of these were vulnerable and disadvantaged consumers who couldn't ordinarily afford to get into the housing market.

No-one was successful in obtaining finance to purchase a home as no bank or financial institution would accept the certificates.

The terms and conditions of the scheme were drawn up by Mr Scarborough, without legal counsel, and attempted to deny consumers their rights under the ACL.

Additionally, when consumers tried to cancel their agreements Mr Scarborough, relying on the terms and conditions, advised them they were not entitled to a refund and were obligated to pay the instalments for another 60 days.

Mr Scarborough was fined \$50,000 by the court and ordered to pay restitution of \$97,925 to the twenty-seven affected consumers.





Bupa Aged Care penalised for failure to deliver services

In May 2020, the Federal Court ordered the aged care provider Bupa Aged Care Australia to pay \$6 million in penalties and pay compensation to all current and past residents affected by its failure to deliver certain services.

From April 2013 to June 2018, residents at 20 of Bupa's aged care homes in NSW, Victoria, Queensland, and Tasmania paid for a package of extra services, which often amounted to thousands of dollars annually.

Ninety-five of these extra services were either only partially provided or not provided at all by Bupa, despite being included in the agreements between Bupa and residents.

These services included:

- specialised gardens or rooms specifically designed to assist those living with dementia
- fully equipped physiotherapy rooms
- talking book libraries, to assist people who are blind or who have visual, physical, or reading disabilities
- separate external buildings available for leisure activities
- hot breakfasts
- travel escorts for outside appointments
- individually controlled heating and cooling.

The offer of these services may have played a part in residents and their families choosing a particular Bupa facility. Bupa's failure to provide services for which it accepted payment likely lessened the quality of life of the aged care residents in Bupa's care.

The ACCC commenced its investigation after Bupa self-reported this conduct. The ACCC instituted proceedings in April 2019, alleging that Bupa had made false or misleading representations about the extra services that it would provide to residents. The ACCC took this case to court despite Bupa's self-reporting, because Bupa's conduct impacted substantial numbers of elderly and vulnerable consumers for a significant period of time.

In May 2020, the Federal Court ordered Bupa to pay \$6 million in penalties for making misleading representations and wrongly accepting payments for the extra services.

The Court also ordered Bupa, by consent, to compensate all affected current and past residents. Bupa will pay compensation to thousands of residents for extra services either not delivered at all or only partly delivered, dating back to November 2011. Bupa estimates that it will pay around \$18.3 million in compensation for the conduct.

VET FEE-HELP providers engaged in unconscionable conduct

Australian Institute of Professional Education Pty Ltd (AIPE) was found to be engaging in misleading or deceptive conduct and to have implemented a system of unconscionable conduct when enrolling consumers into online diploma courses. Another provider, Unique International College Pty Ltd (Unique) was also ordered to pay \$4.165 million in penalties for similar conduct.

The ACCC and the Commonwealth Department of Education and Training commenced proceedings against Unique in October 2015 and AIPE in March 2016 following a joint ACCC and NSW Fair Trading investigation.

The ACCC always prioritises conduct that impacts vulnerable and disadvantaged consumers. In the VET FEE-HELP matters it was found that many of these providers targeted consumers in remote communities and low socio-economic areas, including Indigenous communities, in NSW, VIC and QLD.

Some of the consumers had poor literacy skills, and others could not use a computer or did not have an internet connection. Many of the students enrolled were unlikely to be able to complete the courses, but would have been left with significant student debt.

The ACCC and the Commonwealth have previously obtained judgments ordering Acquire Learning and Careers Pty Ltd (Acquire) to pay penalties of \$4.5 million in May 2017 and Cornerstone Investments Aust Pty Ltd, t/a Empower Institute (Empower) to pay a record \$26.5 million in penalties and repay \$56 million to the Commonwealth in September 2019. Altogether, the ACCC has so far achieved total penalties of \$35.165 million against VET FEE-HELP providers.

The ACCC still has ongoing proceedings against Productivity Partners Pty Ltd t/a Captain Cook College and Phoenix Institute of Australia.

Unique

In October 2019, the Federal Court ordered \$4.165 million in penalties against Unique for engaging in unconscionable conduct against five consumers, making false or misleading representations to four of these consumers, and breaching the unsolicited consumer agreements provisions in relation to six consumers.

The Court had previously found that Unique had engaged in this conduct when it enrolled these consumers in VET FEE-HELP funded courses, costing up to \$22,000 and also found Unique lured some of these consumers with the offer of free laptops to derive revenues from the Commonwealth to the detriment of consumers.

AIPE

In November 2019, the Federal Court found that training college AIPE engaged in misleading or deceptive conduct and had implemented a system of unconscionable conduct when enrolling consumers into online diploma courses between January 2013 and December 2015 under the former VET FEE-HELP loan program.

The Court found that AIPE breached the ACL when it signed up consumers without assessing their suitability for the course, offered consumers “free” laptops as inducements and failed to explain the VET FEE-HELP debt they would incur by enrolling. AIPE also paid substantial commission to third party agents and recruiters to enrol consumers in courses and did not provide adequate training and failed to properly monitor them.



Providing accessible and timely redress to consumers

An important part of the ACL is the consumer guarantees for goods and services, coupled with the remedies available to consumers when suppliers fail to meet one or more of the guarantees. Regulators will take action when suppliers misrepresent consumers' rights, particularly when this affects disadvantaged or vulnerable consumers. Many state and territory regulators also assist consumers to resolve their disputes with suppliers.

Regulator puts pause on unscrupulous dog breeder

In July 2019 a Toowoomba dog breeder was ordered to pay over \$15,000 in fines and compensation following an investigation by the QOFT.

Veronica Leigh Micallef, sole operator of Veraicon Kennels, accepted deposits from three consumers for the purchase of Australian Terrier puppies. The animals were represented as being due to be born between late July and early August 2017.

After accepting payment, the trader later contacted the three buyers to let them know the puppies did not survive due to an emergency C-Section. The trader offered each of the consumers either a refund or to be placed at the top of the list for the next litter.

Each of the consumers chose a refund but found this to be a hollow statement as Ms Micallef failed to supply any reimbursement and stopped all contact.

The QOFT's investigation highlighted that the cost of marketplace issues involving pets involves more than money.

While the financial cost was an out of pocket burden to the complainants, each also had a significant emotional investment in the matter.

QOFT investigations determined that no vet in the area had performed the claimed C-Section on a breeding dog registered to Ms Micallef in the relevant period. The investigation determined the pups from the original litter did not suffer mishap and were likely sold to other consumers.

The dog breeder pleaded guilty and was convicted in the Toowoomba Magistrates Court of three counts of accepting payment and failing to supply goods within a reasonable time under the ACL. They were ordered to pay \$14,500 in fines and \$1,750 in compensation to the affected consumers.





Festival refunds a hard bargain for young consumers

The Queensland Office of Fair Trading secured refunds in excess of \$50,000 for over 200 consumers after inquiries into a multi-city festival.

A hip-hop festival was scheduled to take place in August 2019 across three locations, Brisbane, Sydney and Melbourne. The event was rescheduled to January 2020 but in late December 2019 it was cancelled.

In a statement to consumers, the New South Wales-based organisers said the festival was axed due to unforeseen circumstances and artist availability.

The event organiser stated via social media and email that refunds would be processed within seven days of the cancellation however, the QOFT was still receiving complaints from consumers in July 2020.

Of the consumers who lodged complaints over the seven-months from December 2019, 65 per cent identified in the 18-24 age range, and a further 15 per cent were under 18.

The consumers reported that when they tried to contact the company they received either automated responses, or no response at all.

QOFT established a temporary team to manage the large number of complaints, engage with the affected consumers, and provide advice targeted to this younger demographic about their consumer rights and responsibilities.

For example, QOFT identified a trend that the complainants expected their refund would be automatically returned to their bank account by the trader but they did not check, or keep checking each month, their bank statements to see if it had occurred.

Throughout the QOFT's inquiries the trader was cooperative but slow to process refunds.

Refunds ranged from \$98 to a high of \$760. In total, \$54,000 in redress was obtained by QOFT.

Increased ACL coverage for business transactions

In June 2020, the Treasury Laws Amendment (Acquisition as Consumer — Financial Thresholds) Regulations 2020 were made, which will increase the threshold for the definition of consumer under the ACL from \$40,000 to \$100,000 from 1 July 2021.

Many of the ACL's protections, including the consumer guarantees, apply only when goods and services are supplied to a 'consumer', as defined in section 3 of the ACL.

Two of the definitions for 'consumer', section 3(1)(b) and 3(1)(c) respectively, relate to goods being of a kind acquired for personal, domestic or household use or consumption, or where the goods consisted of a trailer or vehicle acquired for use principally in the transport of goods on public roads.

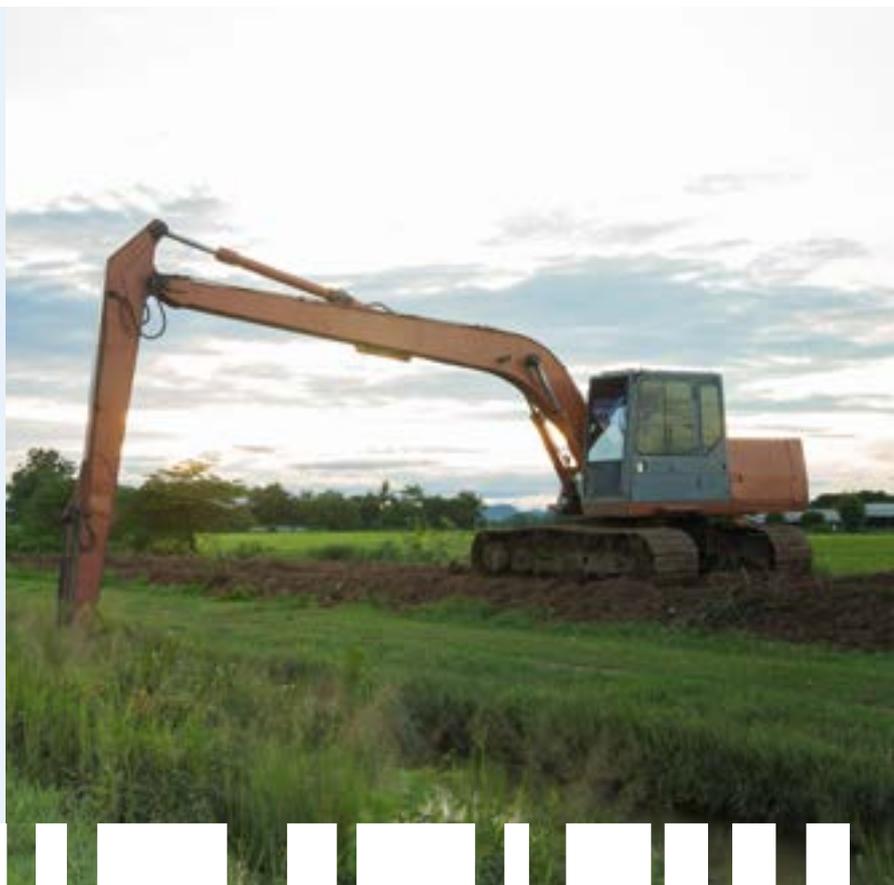
The third definition in section 3(1)(a) stipulates that a buyer of goods will be a consumer if the purchase price does not exceed \$40,000. The threshold also applies to services under section 3(3)(a). The effect of the threshold is to apply some ACL provisions to

certain business transactions within the threshold value. The threshold does not apply to the other two definitions.

This threshold was last increased from \$15,000 to \$40,000 in 1986 under the precursor to the ACL, the *Trade Practices Act 1974*. The ACL Review 2017 (the Review) found the level of protection afforded to consumers had eroded over time as the decline in the real value of the threshold meant that certain purchases once covered under the ACL were no longer covered. Recommendation 15 of the Review proposed that the threshold amount be increased to \$100,000, to broadly account for inflation in the cost of goods and services since 1986.

A practical example of this increased protection is explained below.

Georgina purchases a new \$85,000 excavator for use in her family-owned farming business. Under the previous threshold, the price of the excavator exceeds the \$40,000 threshold, meaning Georgina would not qualify as a consumer under the threshold definition. Where the price exceeds the threshold, Georgina would only meet the definition of consumer if the excavator fell under the other aforementioned definitions under section 3(1)(b) and (c), which in her case it would not. As such, under the previous threshold Georgina would not have been able to rely upon the ACL protections for consumers. However, the increased threshold means Georgina is now able to rely on those protections, seeing as her excavator was purchased for less than \$100,000.





Shed seller penalised for failure to supply

Following action taken by Consumer Protection WA, a Western Australian shed sales business and its sole director were ordered to pay almost \$77,000 in fines, compensation and costs by the Perth Magistrates Court for taking substantial deposits from consumers for sheds but then not providing them.

Shed Systems Pty Ltd, formerly operating in the Perth suburbs of Malaga and Northbridge, and its sole Director, David Walter Ah Chee, were each fined \$12,000 on 16 August 2019, after pleading guilty to six charges under the ACL for accepting payment for goods but failing to supply them within a reasonable time.

Under the ACL businesses must not accept payment for products or services if they do not intend to supply them; they intend to supply materially different products or services or they know, or should have known, they would not be able to supply the products or services within the timeframe indicated, or if no timeframe was provided, within a reasonable time.

Shed Systems was ordered to pay prosecution costs of \$5,976.65 and Mr Ah Chee was ordered to pay a total of \$46,936.69 in compensation to four consumers, with two additional affected consumers already receiving civil court orders in their favour.

The six consumers paid their deposits between April 2015 and December 2015, with five not receiving anything and demands for refunds made to the business being ignored. The sixth consumer was supplied only parts of the ordered shed but not the whole shed.

Consumer Protection WA used the judgement to issue a timely reminder to consumers to be careful when paying large amounts of money upfront for products and work of this nature and to only pay a small amount at first and then make progress payments as materials are delivered and after various stages of work are completed.



Significant compensation for mis-sold consumer credit insurance

On 13 May 2020, ASIC announced it had secured over \$160 million in compensation for consumers sold junk consumer credit insurance.

In July 2019 ASIC issued Report 622 *Consumer credit insurance: Poor value products and harmful sales practices* ([REP 622](#)). The review found that the design and sale of consumer credit insurance (CCI) had consistently failed consumers and highlighted the very low value of CCI products and the unfair way they are promoted and sold to consumers.

CCI provides cover for consumers if they are unable to meet their minimum loan repayments due to unemployment, sickness or injury or to pay the outstanding loan balance upon death. CCI is optional and has been sold by lenders with credit cards, personal loans and home loans.

ASIC's review found that:

- CCI is extremely poor value for money
- CCI sales practices caused consumer harm
- consumers were incorrectly charged for CCI
- many lenders did not have consumer-focused processes to help consumers in hardship make a claim under their CCI policy.

In May 2020, ASIC announced the final tranche in over \$160 million in compensation being paid to over 434,000 consumers where:

- lenders sold CCI policies to consumers who were ineligible to claim or unlikely to benefit or need cover
- lenders used pressure selling or other unfair sales tactics, such as making false representations, in selling CCI to consumers
- consumers were incorrectly charged for CCI or their claims were incorrectly declined
- lenders had inadequate consumer-focused processes to help consumers in hardship, or trustees of deceased estates, who had a CCI policy to lodge a claim
- consumers received no, or very little, value from the CCI product.

Since the release of ASIC's report ([REP 622](#)) in July 2019, all eleven lenders in the review are no longer selling CCI with credit cards, personal loans, or home loans.

ASIC is continuing to investigate the suspected misconduct of several entities involved in the CCI product market, with a view to taking enforcement action.

TEG Live to refund consumers

Following an ACCC investigation, TEG Live Pty Limited (TEG Live) has committed to refunding over \$5 million to about 5000 consumers who bought approximately 20,000 tickets to watch basketball games featuring the USA men's national basketball team in August 2019.

From March 2018, Teg Live promoted basketball games in which the USA national team played the 'Boomers', the Australian national basketball team, on 22 and 24 August 2019 in Melbourne and the Canadian national basketball team on 26 August 2019 in Sydney.

In April 2020, TEG Live provided the ACCC with a court enforceable undertaking to refund affected consumers. TEG Live admitted it made false or misleading claims about seating at the games held in Melbourne and acknowledged the ACCC's concerns that it may have breached the ACL by misleading consumers about which USA national basketball team players would be playing, or would be available to play, in the games.

When promoting these games, TEG Live used a picture of an American basketball stadium showing the floor-level seats would be tiered. In fact, the seats at the Melbourne games were not tiered and many consumers had obstructed views.

The ACCC also considers that TEG Live may have misled consumers when it advertised the games using names and images of high profile USA players like LeBron James and Kevin Durant that did not ultimately play in the games, when it did not have reasonable grounds in most cases for representing to consumers they would play or be available to play.

In accepting the court enforceable undertaking, the ACCC's primary goal was to enable consumers to receive a refund. This provided a faster outcome than court action to 5000 consumers, who would receive their refunds before the end of July 2020.



Proportionate, risk-based enforcement

While regulators prefer to help suppliers comply with the ACL through education and proactive engagement, they will use the compliance powers and enforcement remedies in the ACL when necessary. ACL regulators work together on national issues to ensure suppliers receive consistent and proportionate national enforcement.

This section provides an overview of key enforcement activities undertaken in 2019–20. ACL regulators expect that the introduction of tougher penalties for breaches of the ACL from 1 September 2018 should help to discourage unscrupulous suppliers from egregious behaviour.

2 Frogz in Oz and director penalised

On September 2019, the Cairns Magistrates Court penalised a former travel agent and his company \$81,345 in fines and consumer compensation for failing to supply travel services.

Following an investigation by the QOFT Dominique Jean Marie Gerson, and his travel agency 2 Frogz in Oz Pty Ltd, trading as Rendez-Vouz Fute, were found guilty of nine charges under the ACL of failing to supply services to consumers.

Between November 2017 and February 2018, Rendez-Vouz Fute accepted payments from consumers for holiday tours, vehicle hire and accommodation. In April 2018 a Rendez-Vouz Fute employee emailed consumers to advise that the company was no longer trading, his employment had been terminated, and Mr Gerson had moved to France.

Despite their repeated attempts, the consumers were unable to contact Mr Gerson or obtain refunds.

Mr Gerson, who is a French citizen and who had returned to France at the time of the hearing, did not attend.

The Court ordered Mr Gerson and his company to pay \$15,000 and \$45,000 respectively, and to pay \$21,345 in compensation to six affected consumers.





Injunction issued against Amanda Stichbury

On 2 August 2019, the Federal Circuit Court in Brisbane issued an injunction against Ms Amanda Stichbury, owner of Accommodation Find Pty Ltd, Internet Find Pty Ltd, and Special Days Pty Ltd.

The injunction was issued for fake billing practices which breach the unsolicited consumer agreement provisions of the ACL.

Fake billing, or unsolicited billing, is the practice of requesting businesses to pay invoices for services that have not been ordered.

The injunction permanently prevents Ms Stichbury from directly or indirectly engaging in the conduct nationally in the future.

Prior to this injunction, she was prosecuted by the QOFT for fake billing activity in 2014 and 2017. In those matters she operated under various trading names and solicited payments from businesses nation-wide.

All up, Ms Stichbury has paid \$68,000 in financial penalties since 2014, however that didn't deter her continuing to conduct her fake billing practices, resulting in the OFT taking stronger enforcement action and the Federal Circuit Court issuing the injunction.

If she fails to comply with the injunction it may lead to more serious consequences, including jail.

CommInsure penalised for hawking offences

CommInsure has conducted a remediation program to refund over \$12 million for unfair life insurance sales and was fined \$700,000 for hawking offences.

During ASIC's review of direct life insurance ([REP 587](#)) ASIC identified concerning sales practices by CommInsure for its accidental death insurance product, including the following:

- a large number of consumers cancelled their policies during the cooling-off period or within six months of the policy being sold, suggesting consumers may have felt pressured to buy the policy then realised they did not want it or could not afford it
- inadequate or unclear product descriptions
- the short time for completing sales in as little as eight minutes, raising concerns about how the consumer could have made an informed decision about a complex insurance product
- sales representatives often selected the level of cover on behalf of the consumer, further reducing the likelihood that consumers were getting cover that met their needs.

After ASIC raised these concerns, CommInsure identified similar concerns with the telemarketing of a range of other life insurance products sold on its behalf by a telemarketing firm between 2010 and 2014. As a result, CommInsure has conducted a remediation program and has refunded over \$12 million to around 30,000 customers.

On 19 November 2019, CommInsure pleaded guilty at the first available opportunity to 87 counts of offering to sell insurance products in the course of unlawful, unsolicited telephone calls, contrary to the Corporations Act (known as "hawking"). These calls were made between October and December 2014, through a telemarketing firm as an agent of CommInsure.

The Court convicted CommInsure of the offences and fined them \$700,000.





Volkswagen ordered to pay record \$125 million in penalties

In December 2019, the Federal Court ordered Volkswagen to pay \$125 million in penalties, after it declared, by consent, that Volkswagen made false representations about compliance with Australian diesel emissions standards.

Volkswagen vehicles contained 'Two Mode' software, also known as 'defeat devices' that changed the vehicles' nitrogen oxide (NOx) emissions depending on conditions.

Volkswagen admitted that, when switched to 'Mode 1' for the purposes of emissions testing, the software caused its vehicles to produce lower NOx emissions, but when driven in on-road conditions, the vehicles switched to 'Mode 2' and produced higher NOx emissions.

Volkswagen also admitted that, when it sought approval to supply and import more than 57,000 vehicles into Australia between 2011 and 2015, it did not disclose to the Australian Government the existence of 'Two Mode' software.

Volkswagen further admitted it made false representations when applying for the vehicles to be published on the Australian Government's Green Vehicle Guide website, resulting in the vehicles receiving higher ratings than they were entitled to.

The ACCC commenced proceedings in September 2016, alleging Volkswagen engaged in misleading or deceptive conduct and made false or misleading representations.

In December 2019, the Federal Court ordered Volkswagen pay \$125 million in penalties, which is the highest total penalty order ever made by a court for contraventions of the ACL.

This penalty follows new laws introduced in 2018, that allowed for the maximum penalties are now the higher of \$10 million, three times the profit or benefit obtained or, if this cannot be determined, 10 per cent of turnover.

Volkswagen has appealed the court's decision on the amount of the penalty.



Court action against Trivago

In January 2020, the Federal Court found that Trivago breached the ACL when it made misleading representations about hotel room rates both on its website and television advertising.

From at least December 2016, Trivago represented that its website would quickly and easily help users identify the cheapest rates available for a given hotel.

However, Trivago in fact used an algorithm which placed significant weight on which online hotel booking site paid Trivago the highest cost-per-click fee in determining its website rankings and often did not highlight the cheapest rates for consumers.

The Court ruled that this representation was misleading and also found that Trivago's hotel room rate comparisons that used strike-through prices or text in different colours gave consumers a false impression of savings because they often compared an offer for a standard room with an offer for a luxury room at the same hotel. Trivago was also

found to have misled consumers to believe that the Trivago website provided an impartial, objective and transparent price comparison for hotel room rates.

Trivago has appealed this judgement and the proceedings are ongoing.

However, the Federal Court decision provides a warning to comparison websites and search engines to be careful with representations made to consumers about the benefits of their search functions where the ranking or ordering of results is based or influenced by advertising.

Lime e-scooters addresses safety concerns

In June 2020, the ACCC accepted a court-enforceable undertaking from scooter rental company Lime Network Pty Ltd to address concerns regarding misrepresentations about the safety of its Generation 2 model scooters, and to comply with product safety reporting obligations.

In certain circumstances, Lime's Gen 2 e-scooters would apply excessive brake force, or locking, occurring on the front wheel, causing it to stop suddenly. As a result, consumers suffered serious injuries including broken bones and damaged teeth. The ACCC considered Lime misrepresented to consumers that its Gen 2 e-scooters were safe to use, when in fact Lime did not disclose to consumers this safety issue that it was aware of.

Misrepresenting the safety of a product can have serious consequences. Businesses must disclose known issues so consumers can take precautions if they choose to use the products.

The ACCC was also concerned that Lime failed to comply with key product safety reporting requirements under the ACL. Lime failed to notify the Commonwealth Minister about firmware updates it

applied to its e-scooters which addressed the safety issue, and failed to report at least 50 injuries arising from its Gen 2 e-scooters in Australia and overseas.

Notifying the Government of any death, serious injury or serious illness associated with a consumer product, and action taken to address a product safety hazard, are mandatory requirements for businesses under the ACL.

Lime acknowledged its conduct was likely to have contravened the ACL, and admitted that each time it failed to report a serious injury it breached its ACL reporting obligations.

Lime now supplies only Gen 3 models of e-scooters for hire, and has implemented a comprehensive compliance program to address any future safety issues or defects that could affect its scooters.

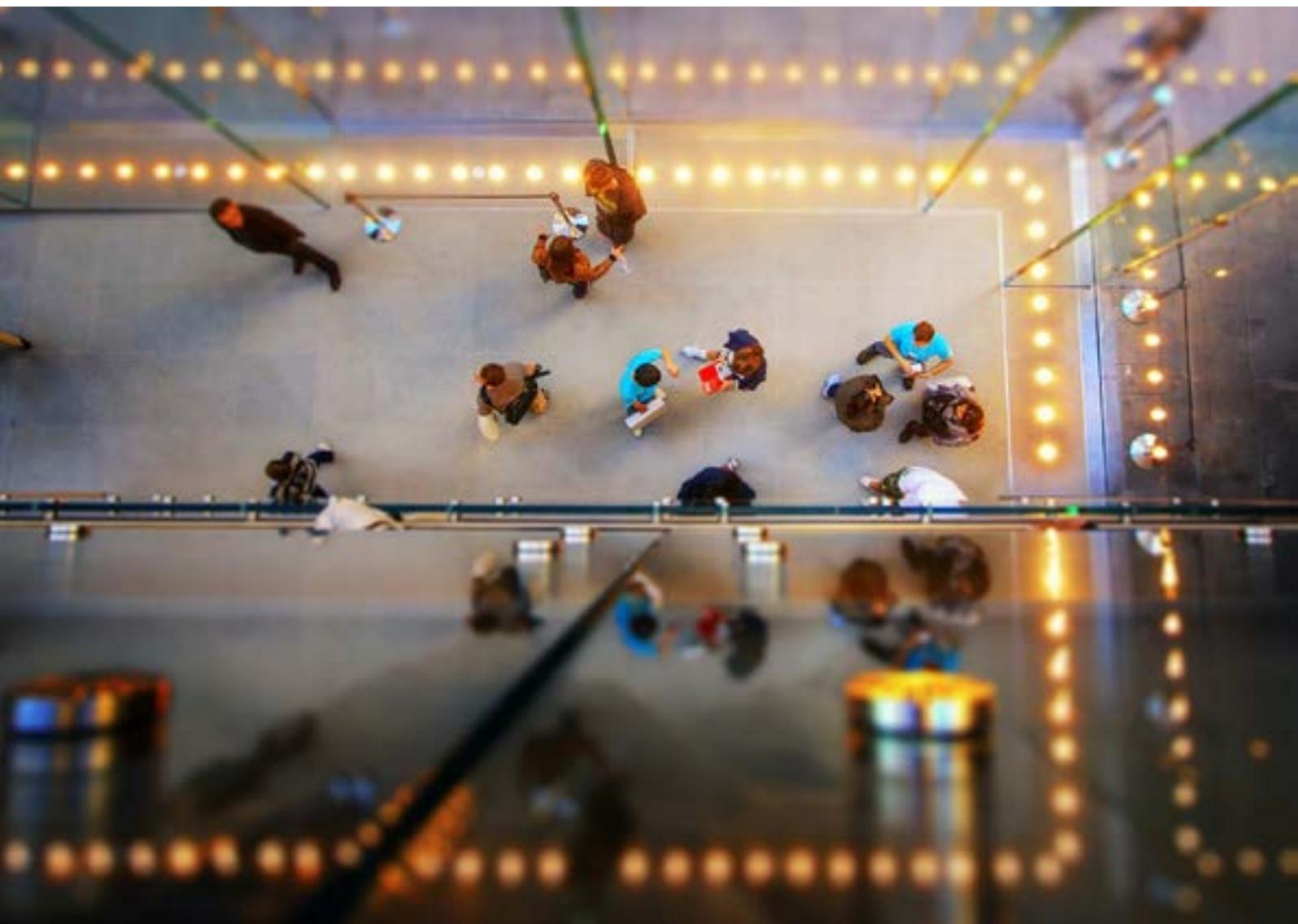


Working better together

Most provisions in the ACL commenced in January 2011, almost 10 years ago. In that time, ACL regulators have improved how we collaborate to support consumers and businesses across Australia understand their rights and obligations.

During the past year, Commonwealth, state and territory regulators have reviewed the [Australian Consumer Law Memorandum of Understanding](#), signing a new agreement with updated provisions that will help regulators share information about emerging issues, develop and prioritise national responses for dispute resolution, compliance and enforcement, education and national reforms. The agreement also promotes trans-Tasman cooperation on consumer law issues with the continuing involvement of the New Zealand Commerce Commission and the New Zealand Ministry of Business, Innovation and Employment.

Another outcome of the collaboration between ACL regulators is the development of national product safety priorities. The ACCC identified its Product Safety Priorities for 2020 through a process that involved collating national intelligence and consultation with state and territory regulators. As a consequence, the [resulting priorities](#) have been adopted by ACL regulators as national product safety priorities, guiding the work of the national committees including the Product Safety Operations Group.





VIP Sheds penalised

Tasmanian prosecution of former company directors of VIP Sheds Pty Ltd for wrongly accepting payment for goods or services, and failing to supply those goods or services within an agreed or reasonable timeframe.

VIP Sheds Pty Ltd was an Australian owned company which sold prefabricated sheds, garages and carports. The sheds were fabricated in Victoria and sold nationally. The company had outlets in Launceston in Tasmania and Laverton in Victoria. VIP Sheds Pty Ltd were placed into liquidation in 2016 leaving more than 250 consumers with unsatisfied orders for shed kits. The Director of Consumer Affairs and Fair Trading via Consumer, Building and Occupational Services (CBOS) began receiving complaints from consumers in 2016 and began investigation in 2017. Thirty one consumers lodged formal complaints with CBOS and infringement notices totalling \$95,480 were issued in response to those complaints.

The liquidator advised that VIP customers ranked alongside other unsecured creditors and were unlikely to receive any funds on winding up. Despite this, CBOS continued to take against the former directors, Carl and Cassandra Dobson. Mr and Ms Dobson elected to have the infringement notices heard in court and in response a prosecution brief was prepared by the Office of the Director of Public Prosecutions.

On the 17 March 2020, the former company directors pleaded guilty in the Hobart Magistrates' Court to all 31 charges. Upon the order of the Magistrate the defendants were required to appear in person to enter their plea, and the parties were made to provide representation in relation to the former directors' financial circumstances. Victim impact statements from disaffected parties were also provided for consideration prior to sentencing.

Penalty; Convictions were recorded against both former company directors and compensation orders to the victims in the amount of \$245,472 were made. No pecuniary penalty orders were imposed on the basis of the requirement to prioritise compensation for consumers under the ACL.

In his sentencing comments, the Magistrate highlighted the importance of general deterrence in sentencing in relation to consumer law prosecutions and noted that the priority for the sentencing outcome should be compensation orders for the affected consumers.

Sony penalised for misrepresenting gamers' rights

In June 2020, the Federal Court ordered that Sony Interactive Entertainment Network Europe pay \$3.5 million in penalties for making false or misleading representations about consumers' ACL rights in relation to faulty PlayStation games.

The UK-headquartered company told Australian consumers that Sony was not required to refund consumers for a faulty game once the game had been downloaded, or if 14 days had passed since it was purchased.

Under the ACL, consumer guarantee rights do not expire after a digital product has been downloaded and do not disappear after 14 days or any other arbitrary date claimed by a game store or developer.

The Federal Court held that Sony made false or misleading representations on its website and in dealings with Australian consumers about their ACL rights.

The Court also declared Sony breached the ACL by telling one consumer that Sony did not have to provide a refund unless the game developer

authorised it, and by telling another consumer that Sony could provide a refund using virtual PlayStation currency instead of money.

The ACL provides that consumers may obtain their choice of a repair, replacement, or a refund in the event of a major failure. Any refunds must be given in cash or money transfer if the consumer originally paid in one of those ways, and not a store credit or equivalent.

This decision affirmed that Australian consumers who buy digital products online have exactly the same rights as they would if they made the purchase at a physical store, regardless of where the supplier is located.





Plumbing business fined for false advertising

In December 2019, a plumbing business and its director were ordered to pay \$130,000 in fines following enforcement action undertaken by Access Canberra.

Between 2016 and 2018, Your Local Plumbing Group Pty Ltd published advertisements under multiple business names in the Yellow Pages and across a range of local newspapers, falsely representing that its services were supplied by businesses that were unrelated to Your Local Plumbing Group.

Your Local Plumbing Group also falsely represented that it had been in operation in Canberra for at least 25 years, or in some cases 30 years, when in fact it had only been in operation since 2015 at the earliest.

The ACT Supreme Court ordered Your Local Plumbing Group pay a \$100,000 penalty for making false and misleading representations, and engaging in misleading and deceptive conduct.

The Court further ordered Your Local Plumbing Group's sole director and shareholder, Mr Shameer Khan, pay a \$30,000 penalty for being knowingly concerned in the contraventions.

Orders were also made for corrective advertisements across newspapers and websites, as well as the implementation of an Australian Consumer Law compliance program for a period of three years. Your Local Plumbing Group and Mr Khan are restrained from making the same or similar representations in future advertisements for a period of five years, whether in connection to these or other plumbing businesses.

Key compliance and enforcement statistics

During 2019–20, ACL-related compliance and enforcement actions* by ACL regulators nationally included:



The key statistics dating back to 2015–16 are:

Year/Actions	2015–16	2016–17	2017–18	2018–19	2019–20
Infringement Notices	\$902,886	\$289,965	\$825,200	\$419,640	\$930,140
Court action fines	\$711,400	\$1,260,409	\$49,847,560	\$44,106,100	\$197,347,660
Court action costs	\$122,165	\$686,717	\$729,723	\$2,746,404	\$212,672
Compensation awarded**	\$2,963,849	\$473,501	\$282,362,706	\$31,113,169	\$78,632,520
Civil pecuniary penalty orders	\$15,642,000	\$17,477,400	\$36,232,500	\$16,716,200	\$7,741,000
Community benefit payments***	-	-	\$47,575,000	\$2,500,000	\$10,000

* Actions taken under the ACL, or under the ACL with other legislation.

** As a result of court actions, enforceable undertakings and other ACL related negotiations.

*** Where an entity has agreed to make a community benefit payment to address misconduct. This is sometimes used where remediation to affected consumers would be difficult to calculate, or might be difficult to pay as small amounts to a higher number of consumers, but to ameliorate that misconduct. (First reported for the 2017–18 period.)

Key enforcement activities

ACL regulators have responsibility for ensuring a safe and fair marketplace — they have a broad remit and rely on industry specific legislation to complement the enforcement of the ACL. Enforcement activity is considered on a case-by-case basis with respect to whether the offence is best actioned under industry specific legislation or the ACL. Information about additional enforcement activities that do not fall under the ACL is available in regulators’ annual reports (see other performance metrics).

The enforcement activities highlighted in this appendix relate exclusively to outcomes achieved in 2019–20 under the ACL. This does not reflect the duration of this enforcement activity, which may have commenced in prior years but reached resolution in 2019–20. Note also that the outcomes presented in the tables are a selection based on those previously published by ACL regulators.

Infringement notices

The tables below detail a selection of ACL-related infringement notices issued by regulators during 2019–20, noting that several jurisdictions are prevented by law from publishing the recipients of infringement notices (so infringement notices in these tables may be under reported) and that payment of an infringement notice is not an admission of guilt.

The first table lists those infringement notices where the recipients can be identified by ACL regulators.

Date	Detail
5 July 2019	CovaU Pty Ltd — \$12,600 Alleged misleading claims about discounts available on energy plans
11 July 2019	M2 Energy Pty Ltd trading as Dodo Energy — \$37,800 Alleged misleading claims about discounts available on energy plans
29 July 2020	Big Warehouse Pty Ltd trading as Big Warehouse Spares — \$12,600 Alleged misleading claims about consumer guarantee rights in relation to spare parts
29 August 2019	BVivid Pty Ltd — \$12,600 Alleged misleading claims regarding transitioning to NBN
5 September 2019	BVivid Pty Ltd — \$12,600 Alleged breach of unsolicited consumer agreement provisions
15 October 2019	Oz Design Furniture Pty Ltd — \$12,600 Alleged false or misleading representations about ‘was/now’ pricing comparisons
16 October 2019	Plush — Think Sofas Pty Ltd — \$12,600 Alleged false or misleading representations about ‘was/now’ pricing comparisons
16 October 2019	Koala & Tree Pty Ltd trading as Koala Living — \$12,600 Alleged false or misleading representations about ‘was/now’ pricing comparisons
16 October 2019	Flight Centre Travel Group Limited — \$252,000 Alleged misleading advertisement of a \$250 voucher promotion
18 October 2019	ESR Group Holdings Pty Ltd trading as Early Settler — \$12,600 Alleged false or misleading representations about ‘was/now’ pricing comparisons

Date	Detail
11 November 2019	Hai Feng International Pty Ltd trading as Big Red Jacks Tools & Equipment — \$12,600 Alleged breach of vehicle jack mandatory safety standard
20 November 2019	Melanie Raw trading as Zahakai — \$1,200 fine + victims of Crime levy totalling \$2,520 Accepted payment for goods and failed to supply in a reasonable time frame
20 November 2019	Melanie Raw trading as Zahakai — \$1,200 fine + victims of Crime levy totalling \$2,520 Accepted payment for goods and failed to supply in a reasonable time frame
29 November 2019	Streamotion Pty Ltd trading as Kayo Sports — \$12,600 Alleged misleading representations of consumers' eligibility for a subscription offer
9 December 2019	Snap Send Solve Pty Ltd — \$12,600 Alleged misleading representations about the functions of its website and mobile app that allows consumers to report local issues such as damaged footpaths and potholes to relevant authorities
18 December 2019	Berwick Motor Group Pty Ltd — \$12,600 Alleged selling of vehicle under active recall as part of the compulsory Takata recall.
24 December 2019	Outdoor Supacentre Pty Ltd — \$63,000 Alleged misleading representations about 'was/now' pricing comparisons
6 January 2020	Grays Ecommerce Group Limited — \$37,800 Alleged advertising of vehicles for sale under active recall as part of the compulsory Takata recall.
7 January 2020	TF Apparel Pty Ltd — \$12,600 Alleged false or misleading representation about consumer guarantee rights
28 January 2020	HG Innovations Pty Ltd — \$12,600 Alleged selling of vehicle under active recall as part of the compulsory Takata recall.
4 March 2020	B.A.R. Group Pty Ltd — \$12,600 Alleged misleading representations about the running power of a portable generator
8 May 2020	Queensland Yoghurt Company Pty Ltd — \$12,600 Alleged misleading representations about the presence of gelatine as an ingredient

The second table summarises the conduct covered by infringement notices where the recipients cannot be identified by ACL regulators (noting some infringement notices may not be reportable in this table either).

Conduct	Total infringement notice values
False or misleading representations/conduct	\$137,040
Wrongly accepting payment	\$51,660
Unsolicited Consumer Agreements	\$51,700
Product Safety	\$92,500

Enforceable undertakings

The table below details a selection of ACL-related court-enforceable undertakings entered into during the 2019/20 period.

Date	Detail
9 July 2019	<p>Dodo Services Pty Ltd</p> <p>Commitment to provide refunds of excess data charged and allow cost free contact exit to consumers who signed up to a 10GB plan during the period in which Dodo made false or misleading representations that the plan was “perfect for streaming” for certain mediums when this was not the case.</p>
15 July 2019	<p>Vodafone Hutchison Australia Pty Ltd</p> <p>Commitment to refund consumers who had previously complained to Vodafone and the TIO and have not been fully refunded, contact customers charged for the most problematic third party content providers (Gamifive, Browser Games, Jamster, Play Planet, iGirls, Waala Mobile and iFortune), refund customers who apply for a refund where they had unintentionally purchased that content without their knowledge or consent, and to deal directly with future complaints in good faith. The ACCC carried out its investigation, and obtained the enforceable undertaking, under a delegation of ASIC’s powers.</p>
30 July 2019	<p>Big Warehouse Pty Ltd</p> <p>Commitment to make changes to its website, provide compensation to eligible consumers, and to cease making false or misleading representations as to the availability of stock and their compatibility with certain appliances, wrongly accepting payment and making false or misleading representations as to consumers’ right to a refund.</p>
2 August 2019	<p>Mitolo Group Pty Ltd</p> <p>Commitment to not enter into, or offer to enter into, any standard form contract within the thresholds of the business to business unfair contract terms provisions of the ACL, with a grower for the supply of commercial ware potatoes on terms which are less favourable overall than those set out in the template agreement at Annexure “A” to the undertaking. Amongst other matters, the agreement set out in Annexure A provides growers with the opportunity to sell potatoes to other parties if growers are not satisfied with the price they have received from Mitolo.</p>
13 August 2019	<p>Saipol Technologies Pty Ltd</p> <p>Commitment to review representations made in all promotional correspondence and advertising material to ensure they do not contravene the ACL, establish and implement a compliance program to minimise the risk of future breaches and maintain this for three years.</p>
9 September 2019	<p>BVivid Pty Ltd</p> <p>Commitment to provide redress for affected consumers by allowing them to terminate their contract without penalty and obtain a refund of any termination fees already paid, commission an independent review of all policies, practices and procedures relating to its sales and transfer methodology to ensure compliance with the ACL and a commitment to implement any recommendations from that independent review. BVivid also provided a commitment to introduce a compliance program which includes annual ACL training, implement a complaint handling system for ACL complaints and implement procedures for recording and storing all telemarketing calls that conclude in any agreement with consumers.</p>

Date	Detail
19 September 2019	<p data-bbox="454 286 662 320">Kent Scarborough</p> <p data-bbox="454 331 1388 454">Commitment for a period of five years that he will ensure representations made concerning the supply of goods or services are not false or misleading, and not make false or misleading representations to consumers concerning the existence, exclusions or effect of any condition, right or remedy.</p>
15 October 2019	<p data-bbox="454 465 710 499">Target Australia Pty Ltd</p> <p data-bbox="454 510 1388 712">Commitment to publish a notice on its website asking customers to contact Target if they believe their complaints or concerns about faulty Sony PlayStation consoles raised between January 2017 and August 2017 were not addressed properly, to reconsider the position of customers who contact Target to ensure they are offered a remedy consistent with Target's obligations under the ACL, and to review and improve its ACL compliance program and its refunds and returns policies and procedures for faulty electronic products.</p>
15 October 2019	<p data-bbox="454 723 933 757">Woolworths Group Limited trading as BIG W</p> <p data-bbox="454 768 1388 981">Commitment to publish notices on its website and in-store asking consumers who purchased products from BIG W (including Dyson branded products) that they believe are faulty to bring the items into a BIG W store along with proof of purchase to receive a remedy consistent with the consumer guarantees rights under the ACL, create an 'Australian Consumer Law' webpage that includes an easy to read explanation of a consumer's rights under the ACL and to review and improve its ACL compliance program.</p>
31 October 2019	<p data-bbox="454 992 1252 1025">ZeniMax Media Inc, ZeniMax Europe Limited and ZeniMax Australia Pty Ltd</p> <p data-bbox="454 1037 1388 1216">Commitment to provide refunds to Australian consumers who contacted ZeniMax between 24 November 2018 and 1 June 2019 to request a refund in relation to their purchase of a Fallout 76 game, amend its customer service documents and scripts to ensure they do not contain any inaccurate or misleading representations about consumer guarantee rights under the ACL, and commit to implementing an ACL compliance program.</p>
13 January 2020	<p data-bbox="454 1227 758 1261">Outdoor Supacentre Pty Ltd</p> <p data-bbox="454 1272 1388 1417">Commitment to cease and refrain from engaging in misleading was/now pricing conduct, place corrective advertising on the 4WD Supacentre website and maintain it for 30 days, review all advertising material, establish and implement a compliance program, and maintain and implement the compliance program for a period of three years.</p>
3 February 2020	<p data-bbox="454 1429 694 1462">Andrew Peter Barclay</p> <p data-bbox="454 1473 1388 1597">Commitment that for a period of 5 years from the date of acceptance, he will not, in trade or commerce conduct, supply or offer for supply any services for the advertising, promotion, organising and conduct of any entertainment event of public festival of any kind in NSW.</p>
12 February 2020	<p data-bbox="454 1608 1189 1641">Your Local Plumbing Group Pty Ltd & Mr Shameer Khan — \$130,000</p> <p data-bbox="454 1653 1388 1865">In December 2019, the ACT Supreme Court made orders by consent that Your Local Plumbing Group Pty Ltd pay a \$100,000 penalty for making false and misleading representations, and engaging in misleading and deceptive conduct, in relation to the advertising of plumbing services in the ACT in contravention of the Australian Consumer Law. The Court also ordered by consent that Your Local Plumbing Group's sole director and shareholder, Mr Shameer Khan, pay a \$30,000 penalty for being knowingly concerned in the contraventions.</p> <p data-bbox="454 1877 1388 1966">As part of the consent orders, the Commissioner for Fair Trading also accepted a court enforceable undertaking from YLPG to establish and maintain an Australian Consumer Law compliance program for a period of three years.</p>

Date	Detail
18 February 2020	<p data-bbox="464 293 919 315">Mercedes — Benz Australia / Pacific Pty Ltd</p> <p data-bbox="464 338 1382 734">After Mercedes — Benz failed to initiate the recall of C Class and E Class vehicles with an Affected Takata Airbag Inflator, in accordance with its approved recall initiation schedule (RIS), Mercedes Benz committed to offer a loan vehicle or alternative transport to affected consumers in certain circumstances, provide early notification to the ACCC where it becomes aware that it has failed to (or is likely to fail to) initiate recall in accordance with its approved RIS, including details of the circumstances and steps to mitigate risks for consumers. Mercedes — Benz also provided a commitment that the Mercedes-Benz Recall Database will, to the extent reasonably possible, reflect the recall status of all affected vehicles and that it will track and keep records of consumer complaints to Mercedes-Benz and its authorised dealers and the management of those complaints and provide reports to the ACCC as required under the Recall Notice, and that it will communicate directly with affected consumers by letter, where consumer contact details are available, attaching a statement approved as part of the undertaking.</p>
25 March 2020	<p data-bbox="464 757 1241 779">Hunter Products Pty Ltd — \$10,000 donation to Royal Life Saving Australia</p> <p data-bbox="464 801 1382 887">Failing to display warning labels on the retail packaging of portable spas has prompted the supplier to introduce strict new quality assurance procedures and donate \$10,000 to Royal Life Saving Australia.</p>
26 March 2020	<p data-bbox="464 909 695 931">1300 Australia Pty Ltd</p> <p data-bbox="464 954 1382 1294">Commitment to conduct a review of previous complaints and refund excessive termination fees, place a corrective notice on its website and implement a compliance program. 1300 Australia also provided a commitment to amend current and future agreements to ensure 1300 Australia cannot terminate a contract only due to a customers' failure to notify them of a third party's use of a Phonenumber, ensure customers can terminate the agreement with 3 months' notice after the initial contract period at no charge, ensure termination fees are limited to 3 months' fees under the contract where the contract is terminated with less than 3 months' notice after the initial contract period, ensure customers have 30 days to rectify a breach of the contract before 1300 Australia can terminate it, ensure the administration fee charged for late payment is limited to \$25, and ensure 1300 Australia is required to give customers 30 days' notice prior to a renewal.</p>
6 April 2020	<p data-bbox="464 1317 632 1339">TEG Live Pty Ltd</p> <p data-bbox="464 1361 1382 1615">Commitment to refund the ticket price to all consumers who purchased floor-level seats for a Melbourne game on or after 18 June 2018, refund the ticket price to all consumers who purchased tickets to one of the specified games on or after 15 August 2018 but did not attend that game and who requested a refund from TEG Live, Ticketmaster or Ticketek before the game on the basis that one or more of the USA players featured in advertising would not be playing at it, include prominent disclosures in advertising regarding player participation and seating and for three years, report to the ACCC annually on any advertising which referenced individual players who did not participate in the event.</p>
1 May 2020	<p data-bbox="464 1637 632 1659">Bloomex Pty Ltd</p> <p data-bbox="464 1682 1382 1794">NSW Fair Trading accepted Enforceable Undertakings against on-line florist Bloomex Pty Ltd requiring improved business practices and auditable internal governance to ensure ACL compliance, review and refund of complainants for previous 12 months in instances where consumer guarantee protections have not been met.</p>
11 May 2020	<p data-bbox="464 1816 1318 1872">Rami Emmanuel Yacoub Michael — Combined court enforceable undertaking and assurance under the <i>Fair Trading Act 1987</i></p> <p data-bbox="464 1895 1382 1973">Assurance to the Commissioner to comply with sections 6 and 30 of the Building Work Contractors Act 1995 and an undertaking to the Commissioner to comply with section 158(5) of the Australian Consumer Law (SA).</p>

Date	Detail
14 May 2020	<p data-bbox="464 293 911 315">In Touch Fashions & Gifts Pty Ltd — \$1000</p> <p data-bbox="464 338 1374 506">In Touch Fashions and Gifts Pty Ltd, trading as ‘In Touch Imports’, and its director acknowledged offering items for sale that did not meet mandatory information standards. The director agreed personally, and on behalf of the company, not to be involved in the supply of products that are banned, or that do not comply with relevant safety and information standards. In Touch Fashions and Gifts Pty Ltd and its director agreed to pay \$1,000 to the Victorian Consumer Law Fund.</p>
1 June 2020	<p data-bbox="464 528 1086 551">Electronics Boutique Australia Pty Ltd (trading as EB Games)</p> <p data-bbox="464 573 1374 685">Commitment to provide refunds to consumers who had contacted EB Games to request a refund for the Fallout 76 game due to faults during the period 14 November 2018 to 31 October 2019 but were denied refunds, and amend its current ACL compliance program, and maintain and continue to implement it for a period of three years.</p>
2 June 2020	<p data-bbox="464 707 632 730">NBN Co Limited</p> <p data-bbox="464 752 1374 1122">Commitment to not send or publish communications that represented to consumers that their existing phone and/or internet services will be disconnected when this is not the case, reimburse consumers for early contract termination costs, equipment costs or related costs such as postage if they want to switch back to the TransACT VDSL2 Network, send a corrective letter to each ACT premises where the TransACT VDSL2 Network is available and where NBN Co sent its disconnection letters, issue corrective notices via the Canberra Times, publish a corrective notice on the NBN Co website, ensure that new disconnection communications being sent to areas where NBN Co knows there is an alternative network includes a statement identifying the existence of any relevant alternative networks, pay the TPG Group (which owns the TransACT Network) at least \$20,000 for its costs associated with correcting NBN Co’s disconnection communications, reimburse any other alternative networks for incurred costs in similar circumstances, and establish and implement a compliance program.</p>
16 June 2020	<p data-bbox="464 1144 695 1167">Lime Network Pty Ltd</p> <p data-bbox="464 1189 1374 1379">Commitment to publish a statement about the undertaking on its website and in an email to users of the Lime App, supply only Gen 3 or later model e-scooters if Lime recommences operations in Australia, take timely actions to address any safety issues or defects affecting its e-scooters, including by directly and prominently notifying users of any safety hazards as soon as it becomes aware, and implement a comprehensive compliance program containing improved injury reporting systems and stringent product safety procedures.</p>

Public warnings (including safety warnings)

The table below details a selection of ACL-related public warnings issued during 2019–20, noting they are not always issued under sections 129(1) and 223 of the ACL where regulators have similar provisions in their local legislation.

Date	Detail
2 July 2019	Ryan Torabi trading as Five Star Washer Repairs — Public warning notice issued under section 48 of the Fair Trading Act Accepted payments for repair services to washing machines but had failed to complete the repairs, return the washing machines, or refund consumers.
5 August 2019	Gtek Solutions Pty Ltd Warning for consumers not to deal with telemarketing company Gtek Solutions after a number of complaints were received from people who report being pressured and harassed into accepting promotional office products.
19 September 2019	Raymond Goodall t/as The Force in Smash Repairs Warning for WA consumers not to deal with a Bayswater panel beater who had taken money from customers but failed to complete the work.
24 September 2019	Snezanna Mladenis and Scott Ingram t/as AAA Transporters Warning to WA consumers to stay clear of a vehicle transport business.
26 September 2019	Gordon German t/as Green Oval Experience Warning to WA consumers regarding Gordon German, trading as Green Oval Experience formerly operating as an auto parts store in Canning Vale, who had been accepting payments for motor vehicle parts that had not been supplied.
4 October 2019	Nicole Bromage and Jacklene Toor t/as Travel 2 Go and No Frills Travel Warning WA consumers of the actions of a Facebook travel agency not providing flights as purchased to consumers and advising of related conciliation and investigation activities.
7 October 2019	Samsung top loader washing machines Safety warning concerning more than 6,600 dangerous Samsung top loader washing machines that had been recalled yet remained in WA homes.
1 November 2019	Mr Daniel Michael Cartwright (ABN 36 363 119 860) t/as Cartwright Landscaping, Black Dice Landscaping The Commissioner for Fair Trading issued a public warning notice about Mr Daniel Michael Cartwright (ABN 36 363 119 860) trading as Cartwright Landscaping, Black Dice Landscaping, Blue Diamond Landscaping, and Roush Garden Renovation within the ACT. The Commissioner had reasonable grounds to suspect that Mr Cartwright may have contravened the Australian Consumer Law when he allegedly accepted deposits for landscaping goods and services but either did not supply the goods or services, or supplied goods and services that were materially different to what had been paid for.
15 November 2019	Jason Paul Murray and J.P. & K.M. Murray Pty Ltd (JPKM), trading as Brisbane Motor Imports Warning consumers to avoid doing business with the car parts supplier and his company after several complaints about taking payments from consumers and not supplying them with the product they have paid for.

Date	Detail
5 December 2019	Surge in solar system installations Warning concerning the growing rate of WA households installing solar PV systems being mirrored by a growing rate of complaints to Consumer Protection.
19 December 2019	Darren and Leanne Jarvis t/as Hub 9 Pty Ltd / The Rattan Collective Warning concerning a home furnishing store based in NSW taking orders and payments on its website but not providing their goods or a refund.
23 December 2019	Matthew Geoffrey Rixon also known to operate under the aliases Matthew Douglas or Matt Douglas Warning consumers not to deal with the trader. Mr Rixon has been known to take money from consumers without completing the contracting work he has agreed to undertake. Mr Rixon remains unlicensed to undertake building work in Queensland and consumers should avoid dealing with him.
21 April 2020	Mr Shervin Kalimi Chadorch Warning for consumer not to deal with Mr Shervin Chadorch a contractor for the Car Buying Agency Pty Ltd which operates as a broking service, sourcing motor vehicles for consumers.
21 April 2020	A.C.N 632571532 Pty Ltd t/as Dos Facio Design, Urban Couture Pty Ltd and Thomas Towhidi Warning for consumers not to deal with Thomas Towhidi who promotes the sale and supply of boutique interior furniture, homewares and contemporary European designs. Consumers complained that they were faced with significant delays in the supply of goods paid for and in obtaining refunds.
24 April 2020	Auto Transporters Pty Ltd (AAA), MV Transporters Pty Ltd and VTrans Pty Ltd and their directors Snezana Mladenis and Scott Ingram Warning businesses and consumers against dealing with three transport companies who operate from the Gold Coast and Broadmeadows, Victoria. The three traders are vehicle shipping and transportation companies that operate throughout Australia and have a history of taking consumers' money and not supplying the service they guaranteed at the time the booking was made.
7 May 2020	Investment advertising Public warning about investment advertising that compares fixed-term investment products to bank term deposits
21 May 2020	Jobseekers misled by 'introductory' construction industry courses Warning concerning jobseekers being potentially misled by a company offering "introductory" online safety training courses.
1 June 2020	Ms Zora Nawaz and Beastwear Pty Ltd t/as Beastwear Warning for consumers not to deal with Ms Zora Nawaz or Beastwear Pty Ltd who promote the design, sale and supply of custom-made sports and performance clothing. Consumers complained items ordered and paid for in advance are not delivered or are significantly delayed.
2 June 2020	Alwyn Robert Healy t/as R.E.A.C.T.Air Warning concerning WA air conditioning salesman.
18 June 2020	Mr Shervin Kalimi Chadorch, Director of Car Buying Agency Pty Ltd Warning for consumers not to deal with Mr Shervin Chadorch, sole director of The Car Buying Agency Pty Ltd. The complainants received invoices purporting to be from large car dealerships which included Mr Chadorch's personal bank account number.

Date	Detail
19 June 2020	Tyson John Vacher t/as John Vacher Psychology Warning to consumers seeking mental health services about a North Fremantle man who was masquerading as a psychologist and making false or misleading statements on his website jvpsychology.com regarding his experience and qualifications.
26 June 2020	Don't mistake hand sanitiser for food or drink Warning to treat hand sanitiser with caution, especially around children.

Court outcomes

The table below details a selection of ACL-related court outcomes during 2019–20, noting some matters may continue past 30 June 2020 for penalties, relief, sentencing and appeals. Note also that the composition of the reported amounts may differ from case to case (for example, some are inclusive of compensation and court costs in addition to a primary fine). More information is available in ACL regulators' reports and media releases.

Date	Detail
5 July 2019	Woolworths Group Limited — Case Dismissed The Federal Court found that Woolworths' environmental claims that its 'W Select eco' range of disposable plates, bowls and cutlery were "biodegradable and compostable" were not false or misleading. On 5 August 2020, the ACCC commenced an appeal against this decision.
10 July 2019	James Gibbs — 10 years imprisonment Sentenced to 10 years imprisonment with a non-parole period of seven years for theft and other dishonesty offences.
11 July 2019	Mohayya Pty Ltd — \$7,000 Trader was convicted for failing to comply with safety standards: 'Super Weapon' and 'Military Style Shoot Game'.
12 July 2019	Veronica Leigh Micallef, sole operator of Veraicon Kennels — \$14,500 in fines and \$1,750 in compensation Convicted of three counts of accepting payment and failing to supply goods.
2 August 2019	Mitolo Group Pty Ltd — Contract terms declared unfair The Federal Court declared that certain terms of contracts between Australia's largest potato wholesaler, Mitolo Group Pty Ltd, and potato growers entered into between December 2016 and February 2018 were unfair contract terms and therefore void. (This case also involved alleged contraventions of other legislation administered by the ACCC).
12 August 2019	Cory Thomas McEvoy — \$10,000 in fines and \$300 in compensation Took payment for the supply and installation of a pool fence but did not complete the job. A conviction was recorded.
13 August 2019	Kelvin Raymond Kendall and Kendalls Aggregates — \$64,850 in fines, penalties and compensation Convictions for failing to meet the obligations for unsolicited door-to-door trading.
16 August 2019	Judith Eleanor, sole operator of Covers Décor — \$5,842 in fines, costs and compensation Found guilty of wrongly accepting payment.
16 August 2019	David Walter Ah Chee t/as Shed Systems Pty Ltd — \$76,913.34 A company and its Director have been ordered to pay a total of almost \$77,000 in fines, consumer compensation and costs by the Perth Magistrates Court after taking substantial deposits from WA consumers for sheds but then failing to supply them.
21 August 2019	James Pepper and Innovate Projects Pty Ltd — \$9,750 Convicted and fined for carrying on a business as a building work contractor without a licence, performing building work without a policy of building indemnity insurance in force, accepting an unauthorised deposit, accepting payment for services and failing to provide the services within a reasonable time and making a false or misleading representation about sponsorship, approval or affiliation.

Date	Detail
22 August 2019	Peter Todd Hynes (aka Garay) — 18 months imprisonment Convicted and sentenced to an aggregate term of imprisonment of 18 months to commence on 28 July 2019 and expiring on 27 January 2021 with a non-parole period of 6 months.
30 August 2019	Scott Peter Allen, director of Formula Ford Experience Australia Pty Ltd — \$22,500 in fines and \$1,899 in compensation Scott Peter Allen pleaded guilty to two charges of accepting payment and failing to deliver services. Formula Ford Experience Pty Ltd was found guilty of three offences.
30 August 2019	Dufty Minhinnick and Belinda McFarland t/as Niche Concrete Services — \$19,215 Two people behind a concrete business have been fined \$6,000 each by the Perth Magistrates Court and ordered to pay \$7,215 in compensation to three consumers who paid deposits but did not receive any concrete supplies.
4 September 2019	Dominique Jean Marie Gerson, sole director of 2 Frogz in Oz Pty Ltd, trading as Rendez-Vous Fute — \$81,345 in fines and compensation Found guilty of nine charges of failing to supply services to consumers.
6 September 2019	LG Electronics Australia Pty Ltd — \$160,000 The Federal Court imposed \$160,000 in penalties on LG Electronics Australia Pty Ltd for making misleading representations to two consumers about their consumer guarantee rights.
12 September 2019	Anthony Lee Francis — \$15,000 Trader was convicted and fined for accepting payment and not supplying the goods/services in time.
20 September 2019	Cornerstone Investments Aus Pty Ltd (trading as Empower Institute) — \$26.5 million in penalties and to repay \$56 million in Commonwealth funding The Federal Court ordered \$26.5 million in penalties against Empower Institute after the Court had previously found in September 2018 that Empower engaged in a system of unconscionable conduct when it enrolled consumers in VET FEE-HELP funded courses, as well as finding that Empower had engaged in misleading or deceptive conduct and breached the unsolicited consumer agreement provisions of the ACL. The Court also ordered Empower to repay more than \$56 million to the Commonwealth for funding it had received to provide the VET FEE-HELP courses.
23 September 2019	Ultra Tune Australia Pty Ltd — \$2.014 million The Full Federal Court upheld aspects of an appeal by Ultra Tune Australia Pty against a Federal Court decision in January 2019, and dismissed other aspects. The Full Court affirmed the Federal Court's earlier decision that Ultra Tune had breached the Franchising Code of Conduct and engaged in misleading and deceptive conduct, but reduced the total penalties imposed against Ultra Tune from \$2.6 million to \$2.014 million.
24 September 2019	James Bartlett t/as Aftermarket Jeep Parts Australia — \$19,083 A Perth-based online business that took money from consumers for Jeep parts and accessories and either failed to supply them or took a very long, unreasonable amount of time, has been fined \$16,000 in a case brought by the Commissioner for Consumer Protection.
27 September 2019	Kylelen Pty Ltd t/as Why Walk Autos — \$19,000 Motor dealer was convicted and fined for false or misleading representations about goods.

Date	Detail
10 October 2019	<p>Hoskins Maroondah Pty Ltd — \$899,550</p> <p>The Federal Court of Australia found that Hoskins Maroondah Pty Ltd, also known as Hoskins Real Estate Croydon, failed in its obligations under the Australian Consumer Law by engaging in misleading and deceptive conduct, making false and misleading representations, and engaging in unconscionable conduct. Hoskins Maroondah and its director, Mr Brent Robert Peters, were required to pay \$860,000 in penalties, \$29,550 in compensation and \$10,000 in court costs. Declarations and injunctions were obtained against both parties.</p>
11 October 2019	<p>Danielle Nancy Whitaker, sole director of Accouter Pty Ltd trading as Airmaze — \$124,806 in fines and compensation</p> <p>Pleaded guilty to seven counts of failing to supply goods within a reasonable time.</p>
11 October 2019	<p>TPG Internet Pty Ltd — Case dismissed</p> <p>The Federal Court dismissed the ACCC's case against TPG, finding that representations made by TPG about prepayments customers had to make in its internet, home telephone and mobile plans were not false or misleading, and that a term in its contracts which allowed TPG to keep prepaid funds when customers exited their plans was not unfair. The ACCC appealed this decision in November 2019. (On 30 July 2020 the Full Federal Court handed down judgment dismissing the ACCC's appeal.)</p>
11 October 2019	<p>Siuosavaii Sam Maiava t/as Fair Dinkum Tree Services — \$5,307.50</p> <p>A tree lopper who accepted payment to cut down six trees but only chopped off branches on one has been fined \$3,000 after pleading guilty to breaching the Australian Consumer Law.</p>
14 October 2019	<p>Corey Mark Poole — \$10,000 in fines and \$950.50 in compensation</p> <p>Pleaded guilty for accepting payments from three consumers but failing to supply their services within the specified periods of time.</p>
14 October 2019	<p>Nicholas James Ellis — three years imprisonment to be served by way of Intensive Corrections Order</p> <p>Sentenced to three years imprisonment to be served by way of Intensive Corrections Order for making false or misleading statements to obtain money from clients and fraudulent misappropriation of client funds.</p>
18 October 2019	<p>Thermoguard Roofing Restoration Pty Ltd and its sole director, Robert Waine Taylor — \$24,699 in fines, court costs and compensation</p> <p>Charged with accepting payment but failing to supply goods and services.</p>
24 October 2019	<p>Ashley & Martin — Contract terms declared unfair and consumer redress ordered</p> <p>Earlier, on 4 September 2019, the Federal Court found hair loss treatment business Ashley & Martin's terms in three standard form contracts to be unfair contracts terms. The terms become void. On 24 October 2019, the Federal Court subsequently ordered Ashley & Martin to refund money paid by consumers as a result of the unfair terms contained in its 'Personal RealGROWTH Program' hair loss treatment program.</p>
31 October 2019	<p>Unique International College Pty Ltd — \$4.165 million</p> <p>The Federal Court ordered \$4.165 million in penalties against Unique International College Pty Ltd for engaging in unconscionable conduct against five consumers, making false or misleading representations to four of these consumers and breaching the unsolicited consumer agreements provisions in relation to six consumers.</p>
15 November 2019	<p>Kent Paul Scarborough, who operated Brilliant Asset Management Pty Ltd and BAM Finance Pty Ltd, also trading as Noble and Cormack — \$147,925 in fines and compensation</p> <p>Pleaded guilty to making false representations.</p>

Date	Detail
15 November 2019	<p>Byron Vince and The Queensland Academy Pty Ltd — \$42,000 in fines and \$3,930 compensation</p> <p>Each were convicted on five counts of making false representations.</p>
19 November 2019	<p>Mathew Alwan — 12 months imprisonment to be served by way of Intensive Corrections Order</p> <p>Sentenced to 12 months imprisonment to be served by way of Intensive Corrections Order for making false and misleading statements to NAB in relation to 24 home loan applications.</p>
21 November 2019	<p>Benjamin McVilly t/as BDM Carpentry — \$10,687</p> <p>Benjamin Dean McVilly, trading as BDM Carpentry of Caversham, was fined a total of \$5,000 on three charges of accepting payments for carpentry materials and installation but failing to supply them. He was ordered to pay costs of \$3,287. Mr McVilly failed to pay refunds, and so he was also ordered to pay compensation to the three affected consumers totalling \$2,400.</p>
22 November 2019	<p>Walter Vermeulen t/as Ratio Design — \$10,977.20</p> <p>Walter Steven Vermeulen, trading as Ratio Design, was fined \$8,000 on one charge and \$2,000 on a second charge of accepting payment for goods and services but failing to supply them in breach of the Australian Consumer Law. He was also ordered to pay legal costs of \$977.20.</p>
27 November 2019	<p>Richard Brown Glacken and Glacken & Associates Pty Ltd — \$54,000 in fines and \$3,930 compensation</p> <p>Richard Brown Glacken, pleaded guilty to six breaches of the ACL and his company Glacken & Associates Pty Ltd pleaded guilty to three breaches. A conviction was recorded against Glacken & Associates Pty Ltd.</p>
28 November 2019	<p>Australian Institute of Professional Education Pty Ltd — Awaiting penalty judgement</p> <p>The Federal Court found that training college Australian Institute of Professional Education Pty Ltd engaged in misleading or deceptive conduct and implemented a system of unconscionable conduct when enrolling consumers into online diploma courses between January 2013 and December 2015 under the former VET FEE-HELP loan program.</p>
2 December 2019	<p>Optus Internet Pty Ltd and Optus Mobile Pty Ltd — \$6.4 million</p> <p>The Federal Court ordered Optus to pay \$6.4 million in penalties for making misleading claims to consumers about home internet disconnections.</p>
6 December 2019	<p>Your Local Plumbing Group Pty Ltd & Mr Shameer Khan — \$130,000</p> <p>In December 2019, the ACT Supreme Court made orders by consent that Your Local Plumbing Group Pty Ltd pay a \$100,000 penalty for making false and misleading representations, and engaging in misleading and deceptive conduct, in relation to the advertising of plumbing services in the ACT in contravention of the Australian Consumer Law. The Court also ordered by consent that Your Local Plumbing Group's sole director and shareholder, Mr Shameer Khan, pay a \$30,000 penalty for being knowingly concerned in the contraventions.</p> <p>The Court also ordered Your Local Plumbing Group to publish corrective advertisements in local publications and on each of its business websites, as well as establish and maintain an Australian Consumer Law compliance program for a period of three years. Your Local Plumbing Group and Mr Khan are restrained from making the same or similar representations in future advertisements for a period of five years, whether in connection to these or other plumbing businesses.</p>

Date	Detail
20 December 2019	<p>Volkswagen AG — \$125 million</p> <p>The Federal Court ordered Volkswagen AG to pay \$125 million in penalties, after it declared by consent that Volkswagen breached the ACL by making false representations about compliance with Australian diesel emissions standards. The penalty imposed is currently the highest ever penalty awarded under the ACL. (Volkswagen has since appealed the amount of the penalty imposed.)</p>
21 January 2020	<p>Trivago — Awaiting appeal judgement</p> <p>The Federal Court found Trivago breached the ACL when it made misleading representations about hotel room rates both on its website and television advertising. The Court found that Trivago represented that its website would quickly and easily help users identify the cheapest rates available for a given hotel, when in fact Trivago used an algorithm which placed significant weight on which online hotel booking site paid Trivago the highest cost-per-click fee in determining its website rankings, and often it did not highlight the cheapest rates for consumers. (Trivago appealed the Court's decision in March 2020. Judgment was reserved.)</p>
24 January 2020	<p>Geowash Pty Ltd — \$4.2 million in penalties, \$1 million in redress</p> <p>The Federal Court ordered \$4.2 million in penalties against former carwash and detailing franchisor Geowash Pty Ltd, its director Sanam Ali and its franchising manager Charles Cameron for breaches of the ACL and Franchising Code of Conduct. This included penalties of \$1.045 million against Ms Ali and \$656,000 against Mr Cameron. The Court also ordered Ms Ali and Mr Cameron to pay \$1 million as partial redress to franchisees for the losses they suffered as a result of the conduct. Both individuals were also disqualified from managing corporations in Australia, with Ms Ali disqualified for five years and Mr Cameron for four years. This followed an earlier finding by the Court in February 2019 that Geowash had breached the ACL and the Franchising Code of Conduct. (In February 2020, Ms Ali and Mr Cameron appealed the Court's decision against them. The appeal is still to be heard.)</p>
24 January 2020	<p>Kim Russell t/as Scrappy Kapers — \$20,233</p> <p>Convicted for accepting payments from five consumers but failing to supply the products either within a reasonable time, or at all.</p>
29 January 2020	<p>Nicholas Ngo t/as Luxuride</p> <p>A luxury car consignment company and its Director have been permanently banned by the State Administrative Tribunal (SAT) from ever holding a motor vehicle dealers' licence in WA after the car yard closed down owing many of its clients substantial amounts of money and making false or misleading statements to owners regarding the true sale price of their vehicles under the Australian Consumer Law.</p>
7 February 2020	<p>Mark Edward Straw t/as C.C. Renoes — \$14,585.50</p> <p>Mark Edward Straw of Warnbro (formerly High Wycombe), trading as C.C. Renoes, was convicted in his absence, by way of a written plea, of three charges of accepting payments from consumers but failing to begin or complete the work and one charge of making false or misleading representations.</p>
11 February 2020	<p>Jamie Douglas Bishop t/as Busselton Cement Products — \$9,652.20</p> <p>A cement business owner has been fined \$4,500 by the Busselton Magistrates Court and ordered to pay \$3,000 in compensation to three of his clients after pleading guilty to accepting deposit payments but failing to deliver the goods or services.</p>
20 February 2020	<p>Peter John Murray, director of Peters Cabins Pty Ltd — \$30,000 in fines and \$50,836 compensation</p> <p>Found guilty of accepting a deposit payment for a cabin but failing to supply it and associated services. A conviction was recorded.</p>

Date	Detail
24 February 2020	<p>Jon Paul Lewis, operator of JPL Fencing — \$19,099 in fines, court costs and compensation</p> <p>Found guilty of three counts of failing to supply goods and services within a specified or a reasonable period of time. A conviction was recorded.</p>
28 February 2020	<p>Randall Bartram trading as RGB Property Maintenance — \$1,400 fine</p> <p>Convicted for breaches including carrying on a business as a building work contractor without a licence and accepting payment for services and failing to provide the services within a reasonable time.</p>
17 March 2020	<p>Panthera Finance Pty Ltd — \$500,000</p> <p>The Federal Court ordered that Panthera Finance Pty Ltd pay \$500,000 in penalties for unduly harassing three consumers over debts they did not owe and for misleading one of the three consumers.</p>
17 March 2020	<p>Jonval Builders Pty Ltd; Hacienda Caravan Park Pty Limited & John Allan Wilmott — \$2,329,225 Compensation Orders</p> <p>Declaratory and compensatory orders in excess of two million dollars were made by the Supreme Court of New South Wales, Common Law Division, under the Australian Consumer Law against Jonval Builders Pty Ltd & Others for engaging in misleading and deceptive and unconscionable conduct in the sale of relocatable homes.</p>
17 March 2020	<p>Cassandra and Carl Dobson former Directors of VIP Sheds Pty Ltd — \$245,472.50 Compensation orders</p> <p>31 charges for wrongly accepting payment in breach of section 158 of the ACL. Charges laid against the former directors of VIP Sheds Pty Ltd who had management and control of the company. Parties plead guilty to the 31 charges. Conviction recorded and compensation orders under section 68 of the Sentencing Act totalling \$245,472.50 issued.</p>
3 April 2020	<p>Youngs WA Pty Ltd — \$10,667.50</p> <p>A Victoria Park used car dealer has been fined \$10,000 by the Perth Magistrates Court for making misleading claims when advertising a car for sale.</p>
24 April 2020	<p>STA Travel Pty Ltd — \$14 million</p> <p>The Federal Court ordered that STA Travel Pty Ltd pay \$14 million in penalties for making false or misleading claims when advertising its MultiFLEX Pass product. STA Travel advertisements included statements that consumers who bought this add-on product could change their flights without paying fees or charges, when in fact STA often charged consumers hundreds of dollars for changing their flights.</p>
12 May 2020	<p>Bupa Aged Care Australia Pty Ltd — \$6 million</p> <p>The Federal Court ordered that Bupa Aged Care Australia Pty Ltd pay \$6 million in penalties for making misleading representations and wrongly accepting payments for extra services not provided or only provided in part to residents at 20 aged care homes. The Court also ordered Bupa, by consent, to compensate all affected current and past residents.</p>
13 May 2020	<p>John Gordon Steele Trading as Johnny's Home Maintenance Service — fines and compensation totalling \$6,100</p> <p>Convicted for carrying on a business as a building Work Contractor when not authorised by licence, for accepting payment for services but failing to supply all the services within a reasonable time, and for failing to attend a Compulsory Conciliation Conference.</p>

Date	Detail
28 May 2020	<p>GlaxoSmithKline Consumer Healthcare Australia Pty Ltd (GSK) and Novartis Consumer Health Australasia Pty Ltd (Novartis) — \$4.5 million</p> <p>The Federal Court ordered that GSK and Novartis pay \$4.5 million in penalties for making false or misleading representations in the marketing of Voltaren Osteo Gel and Voltaren Emulgel pain relief products.</p>
29 May 2020	<p>Bendigo and Adelaide Bank — Declaration of unfair terms</p> <p>The Federal Court of Australia declared that certain terms in six small business contracts used by Bendigo and Adelaide Bank and same terms appearing in other standard form small business contracts, were unfair.</p>
2 June 2020	<p>Andrew James Laundry t/as Creative Scapes — 7 months 3 weeks imprisonment (incorporating theft charges) plus compensation \$23,061</p> <p>Convicted for carrying on a business as a building Work Contractor when not authorised by licence, and for accepting payment for services but failing to supply all of the services within a reasonable time.</p>
5 June 2020	<p>Sony Interactive Entertainment Network Europe Limited — \$3.5 million</p> <p>The Federal Court ordered Sony Interactive Entertainment Network Europe Limited to pay \$3.5 million in penalties for making false and misleading representations on its website and in dealings with Australian consumers about their ACL rights.</p>
5 June 2020	<p>Commonwealth Bank of Australia — \$5 million</p> <p>Ordered by the Federal Court to pay penalties for CBA's failures of their AgriAdvantage Plus Package, including failing to provide product benefits, interest rate discounts and bonus interest on savings to consumers who were entitled to them.</p>
11 June 2020	<p>Quantum Housing Group Pty Ltd — \$750,000</p> <p>The Federal Court ordered Quantum Housing Group Pty Ltd to pay \$700,000 in penalties for making false or misleading representations relating to the National Rental Affordability Scheme (NRAS), a government affordable housing initiative. The Court also ordered Quantum's director, Cheryl Howe to pay \$50,000 in penalties for being knowingly concerned in Quantum's breaches of the ACL. Ms Howe was also disqualified from managing a corporation for three years. (The Court did not find that Quantum engaged in unconscionable conduct. The ACCC has subsequently appealed that aspect of this decision, in the 2020–21 financial year.)</p>
15 June 2020	<p>Kimberly-Clark Australia Pty Ltd — Appeal dismissed</p> <p>The Full Federal Court dismissed an appeal by the ACCC and found that Kimberly-Clark Australia Pty Ltd did not make false and misleading claims by representing its Kleenex Cottonelle toilet wipes were flushable.</p>
22 June 2020	<p>Security Fencing Australia Pty Ltd — \$11,805.50</p> <p>A security fencing company and its Director have been fined a total of \$6,000 by the Rockingham Magistrates Court and ordered to pay compensation and court costs of \$5,805.50 after taking a deposit from a consumer but failing to supply.</p>
28 June 2020	<p>Sean Robert Weinthal t/as West Coast Trees</p> <p>The Supreme Court of Western Australia has overturned the acquittal of a Perth tree lopper and convicted him on six charges of breaking consumer law related to an unsolicited sale after a successful appeal by Consumer Protection Western Australia.</p>

Other outcomes

Date	Detail
11 July 2019	<p data-bbox="459 409 1375 472">Wayne Saman and Freedom Financial Consultants Pty Ltd — Permanent banning and cancellation of Australian credit licence respectively</p> <p data-bbox="459 483 1375 607">Banned from engaging in credit providing financial services and engaging in credit activities and company Australian credit licence cancelled due to Mr Saman’s involvement in business practices that were fraudulent, misleading or otherwise improper.</p>
17 July 2019	<p data-bbox="459 618 1375 656">Uber Eats</p> <p data-bbox="459 667 1375 837">Following ACCC engagement, Uber Eats has agreed to amend its contract terms with restaurants to clarify that restaurants will only be responsible for matters involved in delivery of food within their control such as incorrect food items or incorrect and missing orders. Under the amended contracts, restaurants will also be able to dispute responsibility for any refunds to customers and Uber Eats will reasonably consider these disputes.</p>
18 July 2019	<p data-bbox="459 848 1375 887">M2 Energy Pty Ltd (trading as Dodo)</p> <p data-bbox="459 898 1375 1021">In addition to the payment of an infringement notice, Dodo also committed to refunding affected consumers the amount equal to the difference between the market rates and the equivalent standing offer rates on all bills paid during the time period in question.</p>
18 July 2019	<p data-bbox="459 1032 1375 1070">CovaU Pty Ltd</p> <p data-bbox="459 1081 1375 1205">In addition to the payment of an infringement notice, CovaU also committed to refunding affected consumers the amount equal to the difference between the market rates and the equivalent standing offer rates on all bills paid during the time period in question.</p>
2 August 2019	<p data-bbox="459 1216 1375 1254">Amanda Stichbury</p> <p data-bbox="459 1265 1375 1386">The Federal Circuit Court in Brisbane issued an injunction against Ms Amanda Stichbury for breaches of the unsolicited consumer agreement provisions of the ACL. The injunction permanently prevents Ms Stichbury from directly or indirectly engaging in the conduct in the future.</p>
5 August 2019	<p data-bbox="459 1397 1375 1435">Robert Shane Michael — Permanent banning</p> <p data-bbox="459 1447 1375 1525">Banned from providing financial services due to misconduct including dishonestly borrowing money from clients’ SMSF accounts and using them for personal expenditure.</p>
25 October 2019	<p data-bbox="459 1536 1375 1574">Emma Maree Radke — Permanent banning</p> <p data-bbox="459 1585 1375 1621">Banned from providing financial services due to dishonest conduct.</p>
7 November 2019	<p data-bbox="459 1632 1375 1695">Tim Zheng and Element Finance Group Pty Ltd — Temporary banning and cancellation of Australian credit licence respectively</p> <p data-bbox="459 1706 1375 1803">Banned from engaging in credit activities for three years and Australian credit licence cancelled due to acting recklessly in providing false documents in support of four loan applications.</p>
21 November 2019	<p data-bbox="459 1814 1375 1852">Telstra Corporation Limited</p> <p data-bbox="459 1863 1375 1946">Telstra advised the ACCC that it had failed to check the maximum broadband speeds of 180,000 Telstra or Belong services which moved to a higher-speed tier plan as required under a 2017 court-enforceable undertaking.</p> <p data-bbox="459 1957 1375 2074">Telstra has since committed to contacting all affected customers and refunding those who have been paying for the higher speeds but not receiving them. It will also pro-actively move consumers to a lower speed NBN plan if they are not receiving any benefit from being on a higher speed tier NBN plan.</p>

Date	Detail
5 December 2019	<p data-bbox="459 286 678 315">Coles Group Limited</p> <p data-bbox="459 331 1380 479">Coles Group Limited will pay Norco Co-operative Limited (Norco) around \$5.25 million for distribution to its dairy farmer members. The payments follow an ACCC investigation into whether Coles fully passed on to Norco a 10 cents per litre (cpl) price rise it charged consumers for Coles branded fresh milk, as it claimed it would do in Coles' marketing materials.</p>
11 December 2019	<p data-bbox="459 495 837 524">Travis Truter — Permanent banning</p> <p data-bbox="459 539 1380 600">Banned from engaging in credit activities and providing financial services due to the provision of false documents in support of loan applications.</p>
24 January 2020	<p data-bbox="459 616 837 645">Nicholas Ellis — Permanent banning</p> <p data-bbox="459 660 1380 748">Banned from providing financial services and engaging in credit activities for making false or misleading statements to obtain money from clients and fraudulent misappropriation of client funds.</p>
7 April 2020	<p data-bbox="459 763 837 792">James Gibbs — Permanent banning</p> <p data-bbox="459 808 1380 869">Banned from having any involvement in financial services and credit activities due to dishonest conduct.</p>
3 May 2020	<p data-bbox="459 884 821 913">Flight Centre Travel Group Limited</p> <p data-bbox="459 929 1380 1077">Following weeks of pressure from the ACCC's COVID-19 Taskforce, Flight Centre announced it will stop charging customers hundreds of dollars in cancellation fees in order to get a refund for travel cancelled due to the COVID-19 pandemic. Flight Centre also refunded thousands of customers who, from 13 March, were charged \$300 per person to get a refund for a cancelled international flight or \$50 for a domestic flight.</p>
4 May 2020	<p data-bbox="459 1093 917 1122">Scott John Morrison — Temporary banning</p> <p data-bbox="459 1137 1380 1225">Banned from providing financial services for seven years due to being involved in certain contraventions by Olive Financial Markets Pty Ltd where it engaged in misleading or deceptive conduct and made false or misleading statements.</p>
22 May 2020	<p data-bbox="459 1240 933 1270">General Motors Holden Australia NSC Pty Ltd</p> <p data-bbox="459 1285 1380 1404">General Motors Holden Australia NSC Pty Ltd has committed to negotiate with its dealers in good faith about compensation for Holden's withdrawal from the Australian market, as required under the Franchising Code of Conduct and ACL. This commitment followed pressure from the ACCC.</p>
19 June 2020	<p data-bbox="459 1420 710 1449">Qantas Airways Limited</p> <p data-bbox="459 1464 1380 1637">The ACCC's COVID-19 Taskforce engaged with Qantas regarding concerns that Qantas' communications to customers between 17 March 2020 and 31 May 2020 did not adequately inform them of their right to receive a refund for travel cancelled due to COVID-19. Following this engagement, Qantas contacted consumers to tell them they are entitled to a refund for domestic or international flights cancelled or suspended due to COVID-19 travel restrictions.</p>
19 June 2020	<p data-bbox="459 1653 598 1682">Winemakers</p> <p data-bbox="459 1697 1380 1930">The ACCC contacted a number of large winemakers following its 2019 wine grape market study, which had highlighted that a number of winemakers were using standard form grape supply agreements which contained contract terms that appeared to be unfair. Following the ACCC's investigation, several winemakers agreed to change contract terms covering contractual disputes with growers, as well as terms relating to wine grape quality assessments. Some winemakers will also amend terms that allowed them to make unilateral changes to supply contracts, including one-sided termination rights.</p>

Date	Detail
25 June 2020	Nike Inc Following engagement with the ACCC, Nike Inc changed its Australian online check out page so customers are alerted that they may be charged an international transaction fee. The ACCC is concerned that retailers may be engaging in misleading and deceptive conduct if Australian consumers are given the overall impression that the transaction is processed here, when it is actually processed outside of Australia.
26 June 2020	Anthony 'Tony' David Wynd — Permanent banning Banned from providing financial services given Mr Wynd's connection with Financial Circle Pty Ltd's misleading and deceptive conduct and position at Financial Circle Pty Ltd, which was ordered by the Federal Court to pay \$8.98 million for making false and misleading representations and engaging in misleading and deceptive conduct.

Other performance metrics

Additional performance metrics and outcomes published by regulators can be found in their 2019–20 Annual Reports:

- ACCC [ACCC and AER Annual Report 2019–20](#)
- ASIC [ASIC Annual Report 2019–20](#)
- ACT [Chief Minister, Treasury and Economic Development Directorate 2019–20](#)
- NSW [Department of Finance, Services and Innovation Annual Report 2019–20](#)
- NT [Northern Territory Consumer Affairs Annual Report 2019–20](#)
- QLD [Department of Justice and Attorney-General Annual Report 2019–20](#)
[Office of Fair Trading Outcomes Report 2019–20](#)
- SA [Attorney-General's Department 2019–20 Annual Report](#)
- TAS [Department of Justice Annual Report 2019–20](#)
- VIC [2019–20 Consumer Affairs Victoria Annual Report](#)
- WA [Department of Mines, Industry, Regulation and Safety Annual Report 2019–20](#)

