

Australian Consumer Law

Year in Review

2016-17



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1. Letter to the Chair of CAF, The Hon. Guy Barnett MP

March 2018

The Hon Guy Barnett MP
Chair
Legislative and Governance Forum on Consumer Affairs
c/- CAF Secretariat
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Minister,

The Australian Consumer Law (ACL) is Australia's first nation-wide consumer protection law, introduced in 2011. Since that time, the Legislative and Governance Forum on Consumer Affairs (CAF) and Consumer Affairs Australia and New Zealand (CAANZ) have sought to continuously improve Australia's consumer protection regime.

CAANZ reached a significant milestone in that journey with the release of the broad-reaching Australian Consumer Law Review (ACL Review) in March 2017.

In each year since the ACL commenced, CAANZ has produced a progress report on the implementation of the ACL, designed to outline the coordinated activities of ACL regulators in policy and research, education and information, and compliance and enforcement.

The ACL Review provided CAANZ with an opportunity to consider its public engagement and the accessibility of its published materials. To that end, this report is the first 'Australian Consumer Law Year in Review', covering 2016-17. It performs a similar function to the progress reports, but focuses on the ACL's ongoing operation and development rather than implementation. The report also has a refreshed and more accessible format.

Readers will find information on a range of initiatives that ACL regulators, collaborating through CAANZ, pursued in 2016-17, including the following:

- Concluded the first review of the ACL since its commencement (following a year-long public review process)
- Expanded on the Do Not Knock initiative to empower more Indigenous consumers, and remind door-to-door traders of their obligations
- Implemented a campaign to educate consumers of the risks associated with music festivals and their rights when things go wrong
- Delivered on its commitment to provide clarity regarding free range chicken egg claims, with the Information Standard coming into effect on 26 April 2018 following a one-year transition period
- Launched an updated Product Safety Australia website for suppliers and consumers to find all product safety information, including recalls, in a single place
- Engaged in a project to assess Australian suppliers' compliance with the mandatory standard for household cots
- Oversaw new business-to-business unfair contract term protections coming into force, providing small businesses with a 'fair go' in their contracting
- Secured outcomes in the enforcement of the ACL, including over \$20 million in penalties, fines, costs and compensation.

This report highlights consumer affairs regulators' efforts in their administration of the ACL and their broader commitment to the continuous improvement of Australia's consumer protection regime.

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



Dale Webster
Chair, Consumer Affairs Australia and New Zealand

2. Who are we?

This report has been prepared by Consumer Affairs Australia and New Zealand (CAANZ). CAANZ is Australia's principal national forum for government policy, enforcement cooperation and coordination in respect of consumer affairs. It is composed of senior officers of Commonwealth, state, territory and New Zealand government agencies responsible for consumer affairs and fair trading.

CAANZ has been undertaking a set of strategic priorities for 2015-17, set by the Legislative and Governance Forum on Consumer Affairs:

1. Provide more targeted education and greater access to information and tools that support empowered, self-sufficient consumers;
2. Collaborate with other bodies to engage and protect vulnerable consumers;
3. Identify, understand and respond to emerging market innovations and their impact on regulatory regimes;
4. Better leverage the compliance and enforcement outcomes of regulators;
5. Create an annual integrated strategy for nominated areas of concern and signal these to the market;
6. Extend collaborative relationships with regulatory bodies and other relevant stakeholders;
7. Develop mechanisms for more effective data collection and analysis; and
8. Commence, support and implement the Australian Consumer Law Review (ACL Review).

In 2016-17 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 Australian Consumer Law (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)** focuses on national cooperation and coordination for education and information activities relating to the ACL and consumer issues more generally.
- The **Compliance and Dispute Resolution Advisory Committee (CDRAC)** focuses on national cooperation and coordination for 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)**, focussing specifically on fair trading and product safety respectively.
- The **National Indigenous Consumer Strategy Reference Group (NICS)** is a specific operations group tasked with improving outcomes for Indigenous consumers through the development and implementation of national priorities as published in the [NICS Action Plan](#).

3. What is this report?

This report is a highlight of activities undertaken by CAANZ during 2016–17. The report replaces the previous [ACL Implementation Progress Reports](#) produced from 2011 to 2016, focusing on the ACL's ongoing operation and development rather than implementation. This report includes an overview of the delivery of the ACL Review Final Report as well as a number of case studies highlighting work undertaken by all of the advisory committees and operations groups listed above.

The chapters in the report are based on the six operational objectives in the [Intergovernmental Agreement for the Australian Consumer Law](#). These objectives are:

1. to ensure that consumers are sufficiently well-informed to benefit from and stimulate effective competition;
2. to ensure that goods and services are safe and fit for the purposes for which they were sold;
3. to prevent practices that are unfair;
4. to meet the needs of those consumers who are most vulnerable or are at the greatest disadvantage;
5. to provide accessible and timely redress where consumer detriment has occurred; and
6. to promote proportionate, risk-based enforcement.

4. Delivery of the ACL Review Final Report

When the ACL commenced operation on 1 January 2011, it represented a landmark national reform, establishing for the first time a common set of consumer rights and obligations.

In 2016-17, CAANZ concluded the first review of the ACL since its commencement, following a yearlong public review process. The review found that the ACL has been good for both consumers and businesses. It also set out a clear, evidence-based program of reform to ensure the ACL remains relevant into the future.

Findings of the Review

The key finding of the review undertaken by CAANZ was that the introduction of the ACL has been good for both consumers and business. Consumers are more empowered, business compliance costs have reduced and there are fewer disputes. In short, this important microeconomic reform has substantially benefitted Australia.

The review also identified opportunities for reform to make the ACL even more effective. In particular the review identified reforms to strengthen the consumer guarantees and product safety protections and ensure the ACL and its penalties for non-compliance keep pace with contemporary circumstances.

In the areas where CAANZ identified a need for the ACL to be improved, CAANZ put forward proposals for reform. In other areas, CAANZ noted feedback on issues in the market and recommended that it would be better to assess any legislative changes when the law has matured and public understanding has developed.

The Final Report identified 19 legislative proposals, four non-legislative actions and seven priority areas for further investigation.



19 Legislative proposals

The legislative proposals relate to areas where CAANZ identified that the law could be improved. The proposals vary in scope and complexity and address specific protections, as well as administration and enforcement.



4 Non-legislative actions

The non-legislative actions are steps regulators and policy agencies can take to improve transparency, clarify the intent of the law and provide greater public understanding of the law. These include guidance on the application of the ACL to fundraising and guidance on the meaning of unsafe and reasonable durability.



7 Future Projects

The future projects are priority areas for further investigation, as CAANZ is not yet in a position to make specific reform proposals. These include consideration of a product safety database and investigation of the application of the consumer guarantees to purely digital products.



A Cooperative Review Process

An important element of the ACL's success is the joint administration carried out by Commonwealth, state and territory regulators. The ACL Review followed this example, drawing on the expertise of the entire CAANZ membership to conduct a broad-reaching review of the ACL.

The review was led by the ACL Review Secretariat, a cross-jurisdictional group including representatives from a number of ACL regulators. Drawing on a range of skills and experience, the Secretariat conducted an extensive review process, including:

- over 160 submissions to the Issues Paper released for consultation in March 2016;
- over 100 submissions to the Interim Report released for consultation in October 2016; and

- face-to-face meetings with over 130 stakeholders across Australia.

The review assessed the effectiveness of the ACL provisions, including the ACL’s flexibility to respond to new and emerging issues. The review also considered the extent to which the national consumer policy framework had met the objectives set by the Council of Australian Governments when it established the Intergovernmental Agreement for the Australian Consumer Law (IGA) in 2009 and the application of ACL provisions that are mirrored in the *Australian Securities and Investments Commission Act 2001* (the ASIC Act).

The review ran concurrently with a Productivity Commission study of the arrangements for administering and enforcing the ACL.

Drawing on a Diverse Evidence Base

In addition to significant public consultation, the review also drew on the Australian Consumer Survey 2016 (ACS). The ACS involved 5,408 consumer surveys and 1,210 business surveys, which were conducted in November 2015 and February 2016 respectively. The ACS looked at trends in consumer and business perceptions, behaviours and experiences as well as areas of consumer detriment and areas of burden to business. The key findings are included on page 6 of the ACS (and summarised in the infographic below).

CAANZ also commissioned the Queensland University of Technology (QUT) to undertake a study of consumer policy frameworks in comparable countries (such as the European Union, the United Kingdom, United States, Canada and Singapore). The QUT study provided a strong point of reference to compare many of the Final Report’s findings.

CAANZ ensured a broad of experts were consulted, including using Mindhive, which is an online platform for policy professionals exchanging views.

The ACL Review Secretariat posed three challenges:

- digital content and consumer protection;
- product innovation and safety regulation; and
- increasing awareness of consumer rights.

The insightful responses to the policy challenges contributed to the development of CAANZ’s findings and proposals.



Implementing the Findings

The Final Report outlined a reform package for consumer affairs ministers to consider. For legislative proposals, the report also set out a staged implementation process under which:

1. legislative reforms that are well-developed and do not require formal regulatory impact assessment would be implemented first; and
2. reforms that require further development ahead of preparing legislative proposals will be fully developed so that they can be put to ministers at a later date for decision.

As regulator actions do not require legislative change, they do not necessarily require formal ministerial approval and are able to commence as priorities.



Australian Consumer Survey 2016

The Australian Consumer Law (ACL) commenced on 1 January 2011. The first Australian Consumer Survey was conducted by EY Sweeney shortly before the commencement of the ACL and repeated in 2016 to identify trends in consumer and business awareness, behaviour, consumer detriment and business burden in terms of compliance costs.

Decrease in consumer problems

Consumers who experienced at least one problem in the last 2 years



Average number of consumer problems per month reported by businesses



Decrease in business compliance costs

Annual business compliance costs down by \$3.5b



56% of businesses believe the ACL has had a positive impact on their compliance with the law (42% in 2011)

Awareness of consumer protection laws remains high

90% consumers and **98%** businesses aware consumer protection laws exist

57% businesses believe the ACL has had a positive impact on their understanding of their obligations & responsibilities

54% consumers believe the government provides adequate information and advice about consumer rights & responsibilities (38% in 2011)

believe the government provides adequate information and advice about consumer rights & responsibilities

Consumers feel more empowered to resolve disputes

Consumers that took action to resolve their problem



84% consumers believe the government provides adequate access to dispute resolution services

58% consumers and **84%** businesses agree government provides adequate access to dispute resolution services (49% in 2011) (62% in 2011)

70% of businesses agree most disputes end up with a fair outcome (50% in 2011)

Consumers believe there is more rigorous enforcement of the law

Consumers believe the law adequately protects them



45% consumers believe the government is proactive in preventing breaches (40% in 2011)

51% consumers believe businesses that treat consumers unfairly will be detected (47% in 2011)

42% consumers believe business that treat consumers unfairly will be adequately penalised (39% in 2011)

EY Sweeney | **australian consumer law**

Sample 2011 5,315 consumer & 1,210 business surveys
2016 5,408 consumer & 1,210 business surveys

Source: The Australian Government the Treasury and EY Sweeney

5. Well-informed consumers

To equip consumers with knowledge of their rights and of the risks posed by certain products or business practices, CAANZ collaborates to present a range of campaigns in each financial year. This report provides an overview of a number of key activities:

- assistance provided to Indigenous communities dealing with increasing numbers of door-to-door salespeople;
- a campaign informing consumers of their rights when music festivals do not run as planned;
- campaigns alerting consumers to safety risks associated with ladders and toppling furniture; and
- a legislative change clarifying what is meant by a “free range” egg.

Do Not Knock informed communities | Yarrabah, Queensland

Building on previous successes the Do Not Knock initiative was expanded in 2016-17 to empower more Indigenous consumers and remind door-to-door traders of their obligations.

In 2015-16 the ACCC, Queensland Office of Fair Trading (QOFT), and the Indigenous Consumer Assistance Network (ICAN) developed a framework to work in partnership with Aboriginal Councils to help them protect their communities from unscrupulous door-to-door traders.

The initiative was driven by numerous reports about the activities of itinerant traders in remote areas and the result was the launch of the nation’s first ‘Do Not Knock informed (DNKi)’ community in Wujal Wujal in April 2016.

The DNKi initiative has three main objectives:

1. Remind visiting door-to-door traders they have obligations under the ACL, including permitted hours of trade and consumer cooling off rights.
2. Alert door-to-door traders that they are not to approach a residence displaying a Do Not Knock sticker.
3. Empower Indigenous consumers through knowledge, confidence and contacts to enable them to enforce their ACL rights.

The DNKi initiative involves prominent roadside signage installed on the access roads into the community and the distribution of free ‘do-not-knock’ stickers for every resident.

Following the inaugural DNKi launch in Wujal Wujal several other Queensland Indigenous communities have become DNKi, including Yarrabah community, south of Cairns, in May 2017.

The ACCC and QOFT are working together to provide access to the benefits of being DNKi for other Queensland Indigenous communities.



Yarrabah is
‘Do not knock’ informed

YOU MUST NOT approach any place displaying a ‘Do not knock’ notice

You must comply with all obligations in the Australian Consumer Law including permitted **hours of trade** and consumer **cooling off** rights. The Yarrabah community works closely with consumer protection regulators. Consumer rights will be enforced by reporting unlawful conduct.

An initiative of the Yarrabah Aboriginal Shire Council, Australian Competition and Consumer Commission, Queensland Office of Fair Trading and the Indigenous Consumer Assistance Network (ICAN). ACCC Indigenous hotline—1300 303 343.



Source: Queensland Office of Fair Trading

Music festivals

In 2016-17 ACL regulators implemented a campaign to educate consumers of the risks associated with music festivals and their rights when things go wrong.

Music festivals are high-risk business ventures, susceptible to major changes or cancellations due to a unique set of planning challenges such as inclement weather, natural disasters, venue suitability and artist availability.

“ACL Regulators implemented a campaign to increase the understanding and awareness of consumers aged 18–34 about the risks of buying tickets to music festivals.”

In the event of music festival cancellations, consumers risk being left out of pocket for the ticket (often by \$300 or more), as well as potential consequential losses for travel and accommodation. In addition to music festival cancellations, other issues include the failure to refund all or part of the ticket price when the performance at the festival materially changes – for example the main act is no longer performing.

ACL Regulators implemented a campaign to increase the understanding and awareness of consumers aged 18-34 about the risks of buying tickets to music festivals.

Key messages included:

- Under the ACL, a business cannot accept payment and then fail to deliver what they said they would. If a music festival or other event is cancelled, ticket-holders are entitled to a full refund from the company that sold them the ticket.
- If the event goes ahead but is significantly different from what was advertised, ticket-holders may also have a right to a refund on the ground that they were misled or deceived, or because they would otherwise not have agreed to buy the ticket in the first place had they known the line up – or any other important feature – would change so much.

Through a mix of social media and online advertising consumers were made aware of how they could mitigate risks associated with music festivals and what their rights were when a music festival was cancelled.

The campaign achieved high levels of engagement, reaching large numbers of the target audience as well as older demographics.

Ladder Safety Matters

The national campaign ‘Ladder Safety Matters’ chronicled the stories of ladder fall victims to encourage older Australians to think about ladder safety.

Injury data reviewed by ACL regulators shows that ladder-related injuries have increased in frequency, especially among men aged over 60. Most ladder-related injuries occurred while doing DIY and maintenance work at home.

The national ladder safety campaign, ‘Ladder safety matters’, featured the stories of three ladder fall victims and chronicled their fall, recovery and life after their ladder injury. Dr Roodenburg of the Intensive Care Unit of Melbourne’s Alfred Hospital provided first-hand accounts of the serious impacts ladder falls can have.

The campaign encouraged older Australians to stop and think before using a ladder. It aimed to remind older men to practise safe ladder use, to check their ladder was still in good working order, and replace it if necessary.

Post-campaign research found that the campaign reminded the target audience of the dangers of using a ladder, and the importance of paying attention to ladder safety behaviours.



Source: Queensland Office of Fair Trading

Information Standard for Free Range Egg Labelling

In 2016-17 CAANZ delivered on its commitment to provide clarity regarding free range chicken egg claims.

The new free range egg labelling information standard gives Australians more information about the eggs they buy, so they can make an informed choice when choosing between available brands.

On 26 April 2017 the *Australian Consumer Law (Free Range Egg Labelling) Information Standard 2017* was registered under the ACL. The standard will come into force on 26 April 2018, following a year-long transition period. It will provide consumers with more certainty as to the meaning of the words 'free range'. The standard was the result of the extensive consultation that was undertaken by the Policy and Research Advisory Committee (PRAC).

The information standard requires eggs labelled as 'free range' to be laid by hens that had meaningful and regular access to the outdoors and were able to roam and forage on that outdoor range. It also requires that the laying hens be subject to a stocking density of 10,000 hens or fewer per hectare.

In addition, for the first time, the disclosure of the producer's actual stocking density will be compulsory on all labels and signs of eggs that claim to be free range. This will allow consumers to easily compare free range egg brands and to make decisions according to their own preferences.



Source: The Treasury

Toppling Furniture

ACL regulators implemented a campaign targeting parents to convey the dangers of unsecured furniture.

Tragically, at least one child dies every year in Australia from domestic furniture and televisions toppling over. ACL regulators implemented a campaign to generate awareness about the risk of unsecured furniture and appliances and encourage the installation of furniture anchors in Australian homes.

Campaign messaging targeted parents, grandparents and carers as well as furniture retailers. Consumers were encouraged to anchor furniture to prevent it from toppling over and to consider safety when buying furniture. Suppliers were also encouraged to implement the best-practice guidelines, developed by industry stakeholders in coordination with the National Retail Association. These initiatives included ways of making furniture more stable, securing it with anchors, and alerting consumers to the dangers via warning labels and in-store signage at the point of sale.

The campaign messages were promoted using a mix of video, social media, digital advertising, public relations and stakeholder communication channels. Strong engagement was achieved through the video and parenting-related Facebook pages.



Secure furniture safely!

Source: NSW Fair Trading

6. 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. This report provides overviews of:

- a number of key cases finalised in the year;
- mandatory standards imposed by Commonwealth, state and territory ministers; and
- information campaigns alerting consumers to emerging product safety risks.

Significant activities to keep Australian consumers safe

ACL regulators undertook a range of activities during the 2016-17 financial year to help protect Australian consumers:

- 3007 mandatory reports were received by the ACCC from suppliers about serious injury or death, with 1482 referred to other regulators and 1525 assessed by the ACCC.
- The ACCC launched an updated Product Safety Australia website (www.productsafety.gov.au) for suppliers and consumers to find all product safety information, including recalls, in a single place.
- Emerging issues with consumer goods were assessed and actioned, including interim bans on alcohol-fuelled burners.
- National projects were progressed, including on household cots and the national button battery strategy.
- 264 voluntary recalls were published relating to general consumer goods (plus others for specialist products such as automotive, food and therapeutic goods).
- Regulators continued to monitor the recalls of Infinity cable.
- Significant court cases were finalised and initiated, including:
 - Ozsale – children’s nightwear – \$500,000 penalty (ACCC);
 - Daiso – projectile toys, toys for children up to and including 36 months of age, elastic luggage straps, sunglasses and fashion spectacles – \$1,000,000 penalty (Victoria with assistance from NSW and Queensland); and
 - Thermomix in Australia – proceedings launched (ACCC).
- New mandatory safety standards were introduced and existing mandatory standards reviewed, often adopting trusted overseas standards, including:
 - a new standard for self-balancing scooters (hoverboards);
 - a new standard for elastic luggage straps;
 - an updated standard for children’s nightwear;
 - an updated standard for babies’ dummies; and
 - the renewal of the standard for portable soccer goals.

Decorative alcohol-fuelled devices

Following three product recalls, at least 105 injuries and 36 house fires, ACL regulators worked together to implement interim bans on decorative alcohol-fuelled devices (also known as ethanol burners).

Alcohol-fuelled devices are designed for domestic use and are used primarily to improve the ambience of the home. There are three common types of alcohol-fuelled devices: those that require installation in a fixed position, those that are freestanding, and those that are designed to sit on top of furniture.

They produce a flame using alcohol such as methylated spirits or ethanol in liquid or gel form. They are especially dangerous when being refuelled because the flame is sometimes invisible and the fuel can explode if poured on an open flame or hot surface. Many portable table-top devices were less stable and were more easily knocked over, spilling fuel and flames.



Regulators contacted suppliers and undertook marketplace surveillance to ensure devices covered by the interim bans were removed from sale.

A national interim ban was imposed in March 2017 when the state and territory bans expired, allowing the Commonwealth to consult with stakeholders about options for a permanent framework for regulating the devices.

The Commonwealth Minister ultimately imposed a mandatory safety standard in July 2017, which requires all devices sold to be installed in a fixed position or meet minimum footprint and weight measurements, plus pass a stability test, contain warning labels and include features to improve safety when refuelling.



Source: Queensland Office of Fair Trading

Household Cots

During 2016-17, ACL regulators engaged in a project to assess Australian suppliers' compliance with the mandatory standard for household cots.

Regulators regularly assess the marketplace to ensure suppliers selling consumer goods regulated under mandatory standards are complying with those standards.

Building on previous compliance and enforcement work, the focus of the household cots project was Australian online suppliers of cheaper cots. The ACCC coordinated six state and territory regulators to purchase 12 household cots from 12 different suppliers across three states, commissioning laboratory testing against the standard.

All 12 products were found to be non-compliant in some way. Regulators negotiated voluntary recalls for four of the products after testing revealed they posed serious safety risks to consumers.

Regulators also conducted assessments on 618 products in 356 brick-and-mortar stores across Australia. Only 14 (2%) of those products were found to be non-compliant with the standard, mostly relating to missing labelling or unsafe product dimensions.



Button Battery National Strategy

Each week, an estimated 20 children visit an emergency department in Australia with suspected exposure to button batteries. ACL regulators commenced a national strategy to protect young children from the risk of serious injury or death posed by these batteries.

Button batteries are found in many common household devices. If a young child swallows a button battery it can get stuck in their oesophagus or elsewhere in their system, and burn through soft tissue in as little as two hours, causing serious illness or death.

“In September 2016, regulators commenced a national two-year strategy for improving the safety of consumer products powered by button batteries, complementing other initiatives by regulators, suppliers and consumer groups.”

In Australia, two children have died from button battery related injuries.

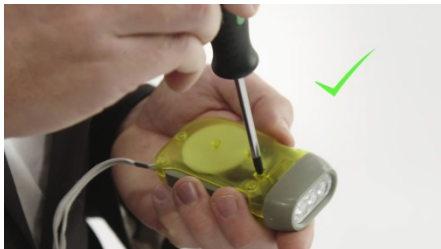
In September 2016, regulators commenced a national two-year strategy for improving the safety of consumer products powered by button batteries, complementing other initiatives by regulators, suppliers and consumer groups. Regulators will be collecting evidence to inform regulatory and other approaches to improve button battery safety.

A significant part of the strategy involves regulators conducting marketplace surveillance to identify and assess consumer products powered by button batteries, as well as button batteries themselves.

Products are being assessed against the *Industry Code for Consumer Goods that Contain Button Batteries*, developed by retailers, associations, and product safety consultants with input from the ACCC and state and territory consumer safety regulators.

The Industry Code recommends that suppliers of consumer goods include safety features, such as battery enclosures requiring the additional use of a tool to gain access to the batteries. Other aspects include child resistant packaging for batteries, to minimise opportunities for young children to swallow batteries.

The initial marketplace surveillance resulted in suppliers voluntarily removing button battery-powered products from sale, recalling products and updating labelling on products.



Source: ACCC

Toys for children up to and including 36 months of age

The Federal Court found that a retailer sold toys for young children and several other products that failed to comply with relevant mandatory safety or information standards.

Toys suitable for young children must comply with a mandatory standard to avoid choking hazards and other hazards, given the tendency for young children to mouth toys (including broken parts of toys).

On 23 June 2017, the Federal Court found that Daiso Industries (Australia) Pty Ltd supplied projectile toys, elastic luggage straps, sunglasses and fashion spectacles, cosmetics and toys for children up to and including 36 months of age that did not meet the relevant mandatory safety or information standards. This followed an investigation by Consumer Affairs Victoria, assisted by NSW Fair Trading and the Queensland Office of Fair Trading.

There was disagreement about whether the toys were “toys for children up to and including 36 months of age, being objects manufactured, designed, labelled or marketed as playthings” within the meaning of the mandatory standard.

Justice Moshinsky found that it would undermine the purpose of the consumer safety regime if product safety standards were not applied to toys with which children have meaningful play, notwithstanding whether the children use the toys as intended.

The majority of Daiso’s toys had disclaimers that the toys were for children of ages above 3 years old. However, Justice Moshinsky found that these disclaimers were not sufficient because they were in very small print, were not prominent enough or could not be interpreted as a disclaimer.

On 6 December 2017, Daiso was ordered to pay \$1 million in penalties, pay costs of \$160,000, implement a compliance plan, and pay the disposal and destruction costs of goods purchased by regulators.

Children’s nightwear

In 2016 the Federal Court ordered a penalty of \$500,000 against a supplier of children’s nightwear which did not comply with the mandatory safety standard relating to fire hazards.

Children can suffer serious burns when their nightwear catches fire, so it is crucial for parents to know how flammable their children’s nightwear is. The mandatory safety standard for children’s nightwear exists to ensure that consumers have accurate information about flammability.

On 30 August 2016, the Federal Court ordered Ozsale Pty Ltd (Ozsale) to pay penalties totalling \$500,000 for supplying children’s nightwear which did not comply with the Australian mandatory safety standard. This followed an ACCC investigation.

Ozsale is a membership-based online retailer predominantly selling clothing which is sourced by purchasing excess inventory from mostly overseas suppliers. Ozsale sold over 200 non-compliant garments to Australian consumers and had over 11,000 non-compliant garments available for supply to Australian consumers.

Ozsale admitted in joint submissions to the court that it supplied five styles of nightwear on various dates between February 2014 and October 2015 that failed to meet the mandatory safety standard for children’s nightwear:

- the Sleep Sack, Orange Superhero Pyjamas and Absorba Bodysuit, where the fire-hazard warning labelling was absent;
- the Joules Junior Pyjamas and Babycottons Pyjamas, which had the wrong type of fire-hazard warning label; and
- the Orange Superhero Pyjamas, which were not compliant with requirements relating to mass of the fabric and length of trims.

Ozsale also admitted it did not have adequate procedures in place to ensure that the children’s nightwear it offered for sale complied with the mandatory safety standard.

7. 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. This report provides an overview of:

- activities undertaken in the automotive sector under the ACL and industry specific legislation;
- an ongoing program empowering Indigenous consumers in remote communities to deal with door-to-door salespeople; and
- a legislative change that expanded unfair contract term protections to small businesses in business to business contracts.

Automotive Sector

In 2016-17 ACL regulators undertook a range of activities in the automotive sector to protect consumers.

In addition to the ACL, regulators also used industry-specific legislation to protect consumers, including action under ASIC consumer credit and financial services legislation, and actions by regulators to stamp out odometer wind-backs.

- The ACCC conducted a market study of the new car retailing industry, involving extensive consultation during 2016-17. The study focused on present and emerging competition and consumer issues in the industry, including: consumer guarantees and warranties; access to repair and service information and post-sale service arrangements; and fuel consumption, emissions and car performance. The final report was released in December 2017.
- In September 2016, Queensland man Paul Mladenis was fined \$17,000 for winding back odometers and unlicensed motor dealing. In April 2017, Paul and Snezana Mladenis were again fined \$30,000 for odometer wind-backs and unlicensed dealing.
- In September 2016 and March 2017, the ACCC instituted Federal Court proceedings against the manufacturers of Audi and Volkswagen vehicles in relation to vehicle emission claims.
- On 12 September 2016, ASIC released a report into add-on insurance sold through car dealers, finding consumers were being sold expensive products that provided very little or no benefit. It also found that consumers were being subjected to a sales environment with pressure selling, very high commissions and conflicts of interest.
- In December 2016, Fadi Ahmad El Osman was sentenced to three years imprisonment for winding back 974,153 kilometres on 8 cars and falsifying service records on vehicles in NSW.
- In February 2017, ASIC accepted an enforceable undertaking from Inhouse Finance Group (Sydney) Pty Ltd, involving a refund of over \$400,000 to 177 consumers after they were forced to buy a warranty product which meant annual interest charges exceeded the applicable 48% cap.
- In June 2017, ASIC found Virginia Surety Company Inc. improperly sold consumer credit insurance policies through car yards and was required to refund over \$330,000 to more than 500 consumers.
- 240 voluntary recalls relating to motor vehicles were published on the Product Safety Australia website during the 2016-17 period, helping to alert consumers to important safety issues.

It's OK to walk away

This program used community engagement as well as print and digital media to empower consumers in remote Indigenous communities to deal with high pressure sales scenarios.

Each year the National Indigenous Consumer Strategy Reference Group (NICS) focuses on a priority issue with targeted compliance supported by a campaign aimed at empowering Indigenous consumers around a particular aspect of consumer law. While one of the NICS' member agencies takes a lead role in coordinating the project, the broader messaging is leveraged through the wider NICS membership group.

The 2017 national project 'It's OK to walk away' is an initiative led by the WA Department of Commerce. The project seeks to address the challenges faced by Indigenous consumers in remote communities from unsolicited, high-pressure and unscrupulous sales tactics.

The project involved targeted consumer empowerment messaging using a rap song, social media, short videos, and printed material combined with community outreach visits.

At the end of the project, evaluation found that the campaign helped equip the target audience with the information they needed to better deal with high pressure sales, and the compliance work undertaken identified specific trader behaviour that will be investigated further.



Source: ACCC

New protections for small businesses from unfair contract terms

Business-to-business unfair contract term protections came into force in 2016-17, providing small businesses with a 'fair go' in their contracting.

The extension of these protections recognises that small businesses often face the same vulnerabilities as consumers when offered 'take it or leave it' contracts. The new laws are designed to restore time and resources back to Australia's two million small businesses, allowing them to invest in their business' success rather than navigating a costly and time-consuming maze of standard form terms.

Unfair contract terms can come in a variety of forms and can be used to unfairly shift risks to a party who may not be well placed to manage them. For example, they may permit one party to unilaterally vary terms, limit their obligations, terminate or renew the contract, levy excessive fees on outstanding monies, or affect the availability of redress.

“The new laws are designed to restore time and resources back to Australia’s two million small businesses, allowing them to invest in their business’ success rather than navigating a costly and time-consuming maze of standard form terms.”

Under the new laws, if a court or tribunal finds that a term is 'unfair', the term will be void—this means it is not binding on the parties.

The rest of the contract will continue to bind the parties to the extent it is capable of operating without the unfair term. The extended protections apply to standard form contracts entered into or renewed on or after 12 November 2016.



8. Meeting the needs of vulnerable and disadvantaged consumers

Some consumers may need additional support to make appropriately informed purchasing decisions and to protect them from the small number of traders that may play on any vulnerability or disadvantage they may possess. This report provides an overview of ACL regulators' education campaign to raise awareness among consumers with disabilities of various consumer law matters.

Consumers with disability

Coinciding with the rollout of the National Disability Insurance Scheme (NDIS), ACL regulators implemented a national education campaign targeting consumers with disabilities, their carers and businesses.



Source: ACCC

The campaign aimed to educate consumers with disabilities (CWD), their carers and businesses providing goods and services under the NDIS, about their rights and obligations under the Competition and Consumer Act 2010 (Cth) (CCA) and the ACL.

Prior to the NDIS, disability funding was given directly to providers by governments, or services were delivered by governments directly. The NDIS provided many CWD for the first time with the opportunity to exercise choice in purchasing decisions relating to their disability needs. At the same time, many disability service providers faced open competition for the first time.

ACL regulators engaged with the disability sector in developing the resources, particularly regarding the format and accessibility options that would specifically assist CWD. Campaign resources included a number of educational guides and two videos. These were available in a number of formats including online, hard copies, Text-to-Speech, braille, transcripts, Auslan and audio options for the videos.

The educational resources resonated with the target audience, reflected in the feedback provided by the disability sector to ACL regulators.

9. Providing accessible and timely redress to consumers

An important part of the ACL is the set of consumer guarantees for goods and services, coupled with the remedies available to consumers when suppliers fail one or more of the guarantees. Regulators have taken action when suppliers misrepresent consumers' rights, particularly when this impacts disadvantaged or vulnerable consumers. State and territory regulators also assisted consumers to resolve their disputes with suppliers.

This report provides an overview of:

- outcomes secured by ASIC for consumers impacted by misconduct in the finance and insurance sectors;
- proceedings pursued by the ACCC against Apple Pty Limited relating to representations made to consumers about their rights; and
- ACL regulators' national project to engage with some of Australia's 'most complained about businesses'.

Financial services and insurance sectors

ASIC continued to utilise the consumer law provisions in the *Australian Securities and Investments Commission Act 2001* (ASIC Act) to protect consumers from misconduct in the financial services and insurance sectors.

ASIC administers the ACL as it applies to the supply of credit and financial services under the ASIC Act. ASIC has utilised ACL provisions and other legislative provisions it administers to obtain important outcomes for consumers during 2016-17:

ASIC administers the ACL as it applies to the supply of financial services and insurance under the *Australian Securities and Investments Commission Act 2001*. ASIC has utilised ACL provisions and other legislative provisions it administers to obtain important outcomes for consumers during 2016-17:

- In March and June 2016, ASIC commenced proceedings in the Federal Court against Australia New Zealand Banking Group Limited (ANZ) and National Australia Bank (NAB), respectively, for unconscionable conduct and market manipulation in relation to their involvement in setting the bank bill swap rate. In November 2017, the court made declarations that each of the banks had engaged in unconscionable conduct and ordered them to each pay a civil penalty of \$10m. ANZ and NAB also agreed to give ASIC enforceable undertakings that they will pay a further \$20m to be applied to the benefit of the community. ASIC has similar proceedings on foot with Westpac Banking Corporation and Commonwealth Bank of Australia (CBA).
- In September 2016, ANZ agreed to refund \$28.8 million in fees and interest to 376,570 retail accounts and 17,230 business accounts after it charged fees for customers scheduling payments to their own accounts, in contravention of the bank's terms and conditions. ANZ reported the matter to ASIC.
- On 12 October 2016, ASIC published its review of the life insurance sector's handling of claims. The review found that, while life insurers are paying the considerable majority of claims, there are significant shortcomings in a number of areas of life insurance claims handling, and there is a clear need for public reporting on life insurance claims outcomes – both at an industry and individual insurer level.
- In February 2017, ASIC announced Bankwest (a division of the CBA) had refunded over \$4.9 million to approximately 10,800 customers after failing to link offset accounts to mortgages and overcharging interest. Bankwest reported the matter to ASIC.
- On 23 March 2017, ASIC released the findings of its investigation into the life insurance business of CommInsure (the trading name of The Colonial Mutual Life Assurance Society Limited). The investigation identified policies contained out of date medical definitions that had the effect of limiting claims. CommInsure had since updated some definitions and would make payments to affected customers.



Apple Pty Limited's consumer guarantee representations

The ACCC commenced Federal Court proceedings against Apple Pty Limited relating to its representations about consumers' rights under the Australian Consumer Law.

In April 2017, the ACCC commenced proceedings in the Federal Court against Apple Pty Limited and its US-based parent company, Apple Inc. Following an investigation, the ACCC alleged Apple made false, misleading, or deceptive representations about consumers' rights under the ACL.

“Consumer guarantee rights under the ACL exist independently of any manufacturer's warranty and cannot be voided by suppliers.”

Under the ACL, there are 'consumer guarantees' regarding the quality, suitability for purpose and other characteristics of goods and services, and consumers are entitled to certain remedies at no cost where goods and services do not comply with the consumer guarantees. Consumer guarantee rights under the ACL exist independently of any manufacturer's warranty and cannot be voided by suppliers.

The ACCC alleges Apple represented to consumers with faulty products that they were not entitled to a free remedy if their Apple device had previously been repaired by third party 'unauthorised repairers'.

However, the ACCC maintains having a component of the Apple device serviced, repaired, or replaced by someone other than Apple cannot, by itself, extinguish the consumer's right to a remedy for non-compliance with the consumer guarantees. Further, denying a consumer their consumer guarantee rights simply because they had chosen a third-party repairer not only impacts those consumers but can dissuade other customers from making informed choices about their repair options including where they may be offered at lower cost than the manufacturer.

The ACCC is seeking pecuniary penalties, injunctions, declarations, compliance program orders, corrective notices and costs.

Most complained about businesses national project

ACL regulators continued engaging with 15 of the 21 most complained about businesses to assist them to improve their practices and reduce complaints.

This project commenced in 2015, with regulators identifying 21 businesses generating a higher number of contacts from consumers (including complaints and enquiries) that may be suitable to participate in a voluntary engagement process.

Regulators have been engaging with 15 of those businesses, discussing their contact numbers and the issues identified in the contacts, to assist them to improve their business practices and reduce the number of consumer contacts to regulators. This includes improving both the core business of delivering goods and services, and improving complaint handling processes to identify issues early and provide appropriate remedies to consumers, in line with the ACL consumer guarantees, without the need for consumers to contact regulators.

The initial engagements occurred throughout 2016, followed by 12 months of post-engagement monitoring that has now concluded, often involving follow-up meetings with the businesses.

Interim findings include that most participating businesses view the engagements under the project as a positive way to discuss existing or emerging consumer issues in the marketplace with ACL regulators. Businesses that provided a written commitment to improve practices generally experienced higher levels of contact reductions as a result of their business improvements.

ACL regulators have also benefitted from valuable industry insights not available in the public domain, including transaction volumes that put contact numbers into perspective, and have built stronger relationships with businesses to aid complaint resolution processes, including improved response timeframes.

10. Proportionate, risk-based enforcement

Summary

While regulators prefer to assist suppliers to comply with the ACL through the provision of educational material and a willingness to engage with suppliers, regulators will use the compliance powers and enforcement remedies in the ACL when necessary. Regulators liaise on national issues to ensure suppliers get consistent and proportionate national enforcement.

This report provides an overview of key enforcement activities as well as:

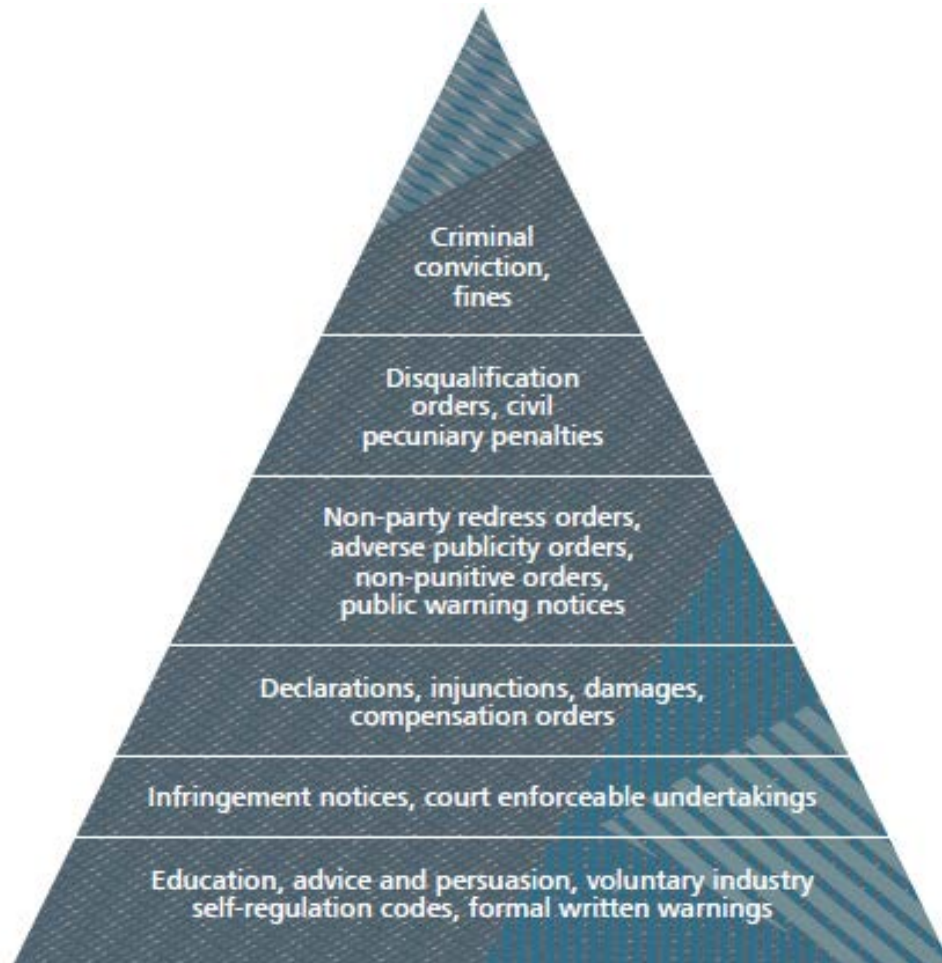
- regulators' actions to protect consumers from misconduct in the retail energy sector, including by suppliers of solar panel systems; and
- outcomes secured against several vocational education and training providers for breaches of the ACL.

Key activities

During 2016-17, regulators have undertaken a range of activities to ensure suppliers are complying with the ACL:

- Actioning national strategic priorities identified by the Council of Australian Governments' Legislative and Governance Forum on Consumer Affairs.
- Reviewing and updating the *ACL Compliance and enforcement* guide.
- Sharing information about jurisdictional priorities.
- Sharing information about emerging national compliance issues and working together to respond to these, including implementing a lead agency approach on many matters.

The 'hierarchy' of consumer law enforcement



Source: ASIC



Energy sector and solar panels

During 2016-17, ACL regulators finalised actions to protect consumers from misconduct in the retail energy sector, including by suppliers of solar panel systems.

- In August 2016, Green Engineering Pty Ltd was fined \$15,000 by the Perth Magistrates Court for breaching the unsolicited consumer agreement provisions in the ACL when selling solar panels, following an investigation by WA Consumer Protection.
 - In October 2016, Unleash Solar Pty Ltd (in liquidation) and its director Dionysios Perdikoyiannis were ordered by the Federal Court to pay penalties of \$535,000 for false and misleading representations about the financial benefits of installing solar panels and their failure to supply goods, after an investigation by WA Consumer Protection.
 - In December 2016, a company formerly known as Clean Energy Enterprises Pty Ltd was fined \$30,000 by the Perth Magistrates Court and ordered to pay legal costs for misleading consumers about the requirement to conduct an 'anti-island' test on their solar panel installation, following an investigation by WA Consumer Protection.
 - In January 2017, Puresol Pty Ltd and director Daniel Victor Leverett were fined \$30,000 by the Bunbury Magistrates Court and ordered to pay costs for false and misleading claims about their solar panel system, after an investigation by WA Consumer Protection.
 - In February 2017, former directors of Polaris Solar Pty Ltd (liquidated) were fined and ordered to pay costs in relation to their involvement in the company taking money from consumers during the 10-day cooling off period and the use of the Housing Industry Association Inc. logo without permission. The company was convicted in 2015 following an investigation by WA Consumer Protection.
 - In June 2017, Lumo Energy Australia Pty Ltd paid a \$10,800 infringement notice issued by the ACCC for allegedly making false and misleading statements about energy savings.
-



Vocational education and training sector

Building on cooperation investigations ACL regulators achieved outcomes against a number of training providers acting in breach of the ACL.

In 2015-16, ACL regulators participated in a national project on training providers. During that period, regulators commenced investigations in the vocational education and training (VET) sector, with many focused on the marketing of VET courses funded by the former VET FEE-HELP scheme.

In 2016-17, regulators obtained a number of outcomes from those investigations:

- In March 2017, the Australian Vocational Learning Centre Pty Ltd entered into Court-enforceable undertakings, admitting to engaging in false and misleading representations, unconscionable conduct and breaches of the unsolicited consumer agreement provisions of the ACL, and agreeing to cancel enrolments and repay VET FEE-HELP funding to the Commonwealth. This followed an ACCC investigation.
- In April 2017, Ozzy Fortune Group Pty Ltd, directors Dannis Arora and Rohit Arora, and employees Palwinder Singh, Raman Kumar and Ernest Fernandes entered into court-enforceable undertakings, agreeing to pay penalties totalling \$430,000 following an investigation by the Queensland Office of Fair Trading into marketing in NSW and Queensland.
- On 30 May 2017, the Federal Court ordered Acquire Learning and Careers Pty Ltd to pay penalties of \$4.5 million for engaging in unconscionable conduct, making false or misleading representations and breaching the unsolicited consumer agreement provisions in the ACL. This was following an ACCC investigation. In April 2017, Acquire Learning was placed into voluntary administration.
- On 27 June 2017, the Federal Court found Get Qualified Australia Pty Ltd made false or misleading representations and engaged in unconscionable conduct in its supply of services to consumers seeking recognition of their prior learning to gain qualifications. This was following an ACCC investigation. Get Qualified Australia Pty Ltd was later ordered to pay an \$8 million penalty and its sole director to pay a \$500,000 penalty. Get Qualified was placed into liquidation on 17 March 2017 and did not defend the case at trial on 28 March 2017.
- On 30 June 2017, the Federal Court found Unique International College Pty Ltd (Unique) engaged in unconscionable conduct and made false and misleading representations, following a joint investigation by the ACCC and NSW Fair Trading. The Court found Unique deliberately targeted consumers from disadvantaged and vulnerable groups, including regional Indigenous communities in NSW. Note that Unique has since appealed the Court's finding and the ACCC has cross-appealed in relation to alleged conduct in Victoria and Queensland.

2016–17 Key Statistics – Compliance and Enforcement

During the 2016–17 period, ACL-related compliance and enforcement actions by ACL regulators nationally included:

Activity*	Number	Value
Infringement notices	89	\$289,965
Enforceable undertakings	49	
Public warnings	35	
Court cases	158	
Court action fines		\$1,260,409
Court action costs		\$686,717
Compensation awarded**		\$473,501
Civil pecuniary penalty orders		\$17,477,400

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

** As a result of court action or enforceable undertaking negotiations.

Compliance and enforcement key statistics since 2013–14

Year/Actions	2013–14	2014–15	2015–16	2016–17
Infringement notices	\$600,930	\$1,032,528	\$902,886	\$289,965
Court action fines	\$661,949	\$994,665	\$711,400	\$1,260,409
Court action costs	\$236,699	\$1,837,195	\$122,165	\$686,717
Compensation awarded	\$1,065,162	\$14,080,503	\$2,963,849	\$473,501
Civil pecuniary penalty orders	\$15,916,500	\$23,808,000	\$15,642,000	\$17,477,400

Appendix of 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.

The enforcement activities highlighted in this appendix relate exclusively to outcomes achieved in 2016-17 under the ACL. This does not reflect the duration of any such enforcement activity, which may have commenced in prior years but reached resolution in 2016-17. Note also that the outcomes presented in the tables are a selection based on those previously published by regulators.

Infringement notices

The table below details a selection of ACL-related infringement notices issued by regulators during the 2016-17 period, noting that several jurisdictions do not publish the recipients of infringement notices and that payment of an infringement notice is not an admission of guilt.¹

Date	Outcome
11 July 2016	Unilever and Smith's each paid a penalty of \$10,800 for misleading healthy food representations
19 July 2016	Palace Cinemas was issued with an infringement notice of \$10,800 by the ACCC over concerns with online ticket pricing
28 July 2016	Ozsale paid a \$10,800 penalty for alleged consumer guarantee misrepresentation
4 August 2016	Stockland North Lakes Pty Ltd, part of Stockland Corporation Limited, paid a penalty of \$10,800 for misleading representations with property advertising
29 August 2016	Spotlight paid a fine of \$10,800 for misleading 'was/now' pricing and product placement
8 September 2016	Bosisto's paid a penalty of \$10,800 for allegedly false or misleading tea tree oil claims
4 September 2017	Two former directors of VIP Sheds, Mr Carl Dobson and Mrs Cassandra Dobson, were issued 31 Infringement Notices with a total value of \$95,480 (\$47,740 for each) for committing offences under the ACL
16 September 2016	Charles Tyrwhitt paid a \$10,800 penalty for an alleged false or misleading 'was/now' pricing representation
30 September 2016	Coronis Caloundra paid a fine of \$10,800 for misleading a buyer about the future development potential of a Kings Beach property
7 March 2017	Hoyt's Food paid a penalty of \$10,800 for alleged false and misleading 'Oregano' representations
13 June 2017	Energy retailer Lumo Energy Australia Pty Ltd paid a penalty of \$10,800 for an infringement notice issued by the ACCC
13 June 2017	Sprint Telco Pty Ltd, a telecommunications provider, paid a penalty of \$10,800 for an infringement notice issued by the ACCC

¹ Note: some jurisdictions are prevented by law from publicly reporting on infringement notices.

Enforceable undertakings

The table below details a selection of ACL-related court-enforceable undertakings entered into during the 2016-17 period.

Date	Person / entity making undertaking
27 July 2016	Ozsale Pty Limited
9 November 2016	Fishpond Limited
12 January 2017	O'Brien Real Estate Pty Ltd and Jerry Caleca
12 January 2017	L&L Dardha Real Estate Pty Ltd (trading as Hocking Stuart Yarraville)
13 January 2017	CTM Australia and Xi Lian Kaing
16 January 2017	Digital Skies Marketing, Solutions Pty Ltd and Director Yuen Ho Wong, and www.androidenjoyed.com, www.CameraSky.com.au and www.klukkur.com
25 January 2017	Village Real Estate (Newport) Pty Ltd, Martin John Rankin and Hussein Saad
6 February 2017	Chuan Jiang (trading as Kawaii \$2.80 / Everything Elizabeth / Kawaii Fashion)
24 February 2017	Sunil and Rani SURI (trading as All in One Discount Store)
24 February 2017	Gay Irwin (trading as Get a Bargain)
28 February 2017	Michael Sklovsky Pty Ltd (trading as Ishka), Toby Lepoer Darvall and Michael Gregory Weigall Sklovsky
16 March 2017	College House Management Pty Ltd
16 March 2017	UniLodge Australia Pty Ltd
28 March 2017	Next Gen Real Estate Pty Ltd (t/a Harcourts Wantirna) and Achilles Mantos
5 April 2017	Ozzy Fortune Group Pty Ltd (trading as Your Green Planet) and Director Dannis Arora and Manager Rohit Arora
12 April 2017	Sean Joseph Nelson of Paskeville, SA
24 April 2017	Ozzy Fortune Group Pty Ltd and its directors Dannis Arora and Rohit Arora, and its employees Palwinder Singh, Raman Kumar and Ernest Fernandes
1 May 2017	Phone City Pty Ltd and its Directors Xia Dong (Alan) Pan, Jianghuang (Paul) Lin and Yi (Yvonne) Yu
4 May 2017	Waimea Pty Ltd (trading as Cheap as Chips)

Public warnings (including safety warnings)

The table below details a selection of ACL-related public warnings issued during the 2016-17 period, 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	Subject of warning
31 August 2016	Robert James Wallace trading as Mustang Stables
1 September 2016	Christopher Johnson or Rexhep / Amazing Concrete Services
6 September 2016	Digital Skies Group Pty Ltd
7 October 2016	Her Fashion Box Pty Ltd
2 November 2016	Blake Ball / Balls Walls Construction
24 November 2016	Ethanol burner safety warning (Qld)
28 November 2016	Fit 'n' Go, Seven Hills
21 December 2016	Interim ban on sale of portable decorative alcohol-fuelled burners (NSW)
20 December 2016	Pre-Christmas retail audit removes unsafe toys from sale
23 December 2016	Yo-yo balls
4 January 2017	Drowning risk for inflatable air loungers being used in water
20 January 2017	Aftermarket Jeep Parts Australia / James Bartlett
1 February 2017	Extra Mile Movers
17 February 2017	Portable ethanol burner ban extended (WA)
23 February 2017	Cameron James Kube trading as Mountain View Landscaping; Straight-Up Fencing Hobart; Kingborough Fencing; Hobarts Affordable Fencing; Smooth Pailing Fencing
24 February 2017	Asbestos Audit Pty Ltd or its director, Mark Dougal Rentoul
2 March 2017	Lux International Sales ApS (a company based in Denmark that trades under the name LuxStyle)
14 March 2017	Unwanted sales tactics in relation to internet services
16 March 2017	Product safety ban on portable ethanol burners (SA)
27 March 2017	Safety warning following child treadmill accident (WA)
29 March 2017	Autoline Sydney and Advant Automotive
4 April 2017	Serious safety risk to young children from treadmills (Qld)
5 April 2017	Sam Robinson (also known as Bassam Marouche)
20 April 2017	Dangers of toppling furniture
28 April 2017	LuxStyle
4 May 2017	Three styles of wooden cot sold online through eBay by supplier Emall Pty Ltd
7 June 2017	'Happy birthday to you' musical candles



Date	Subject of warning
21 June 2017	A strangulation risk to young children from blind and curtain cords
23 June 2017	Fidget spinners

Court outcomes

The table below details a selection of ACL-related Court outcomes during the 2016-17 period, noting some matters may continue past 30 June 2017 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 regulators’ reports and media releases.

Date	Outcome
12 July 2016	Green Engineering (Vic) Pty Ltd were convicted and fined more than \$100,000 for trading without a plumbing licence and various breaches of the ACL
20 July 2016	LKS Lifestyle Solutions Pty Ltd (trading as Advanced Pool and Spas) and its sole director, Lauren Kate Smith, were fined \$10,000, with a further \$5,000 fine for engaging in conduct that breached Victorian consumer and building laws
21 July 2016	Mohammad Baqir Hussaini trading as Beauty Gift Variety convicted and fined \$2,050 (comprising \$400 fine, \$340 court costs, \$1,310 purchase and testing costs) for supplying goods that do not comply with safety standards
21 July 2016	Acceler8 Group Pty Ltd (in liquidation, traded as Bali D’Luxe), was fined \$50,000
26 July 2016	Marlo Woods (Australia) Pty Ltd and its sole director, Choung Heng Taing, were fined \$30,000 for contraventions of product safety standards
26 July 2016	Christopher John Brocklebank (trading as Perth Evaporative Air and Gas Services) was fined \$9,000 for taking deposits from three consumers but failing to deliver the goods
28 July 2016	Ming Ying Lam convicted and fined \$3,325 (comprising \$1,600 fine, \$340 court costs, \$1,280 testing costs and \$105 purchase costs) for supplying goods that do not comply with safety standards
29 July 2016	Graeme David Orchard, sole director of Carpadiem Pty Ltd (traded as Techro, both deregistered) was ordered to pay more than \$23,500 in fines and restitution for wrongly accepting payment and failing to supply goods and services
2 August 2016	Mr Hammalian was found guilty of wrongly accepting payment for landscaping services and ordered to pay a total of \$23,800 in fines and restitution
8 August 2016	Barret James Carver of Absolute Flooring was ordered to pay more than \$27,000
18 August 2016	Daniel Chung Keat Leong was convicted and fined \$20,000 for making false and misleading representations in job advertisements
19 August 2016	Howard George Kodra was ordered to pay \$5,000 for duping local businesses to pay to participate in bogus exhibitions
19 August 2016	Brendan Lansley was convicted and fined \$500 for engaging in debt collection whilst being a prohibited person
23 August 2016	Mithila Domingo was fined \$4,000 for falsely representing a car’s odometer reading in online advertisements
25 August 2016	Suy Hong Tang, also known as, Belinda Tang convicted and fined \$845 (comprising \$500 fine, \$85 court costs, \$260 compensation) for supplying goods that do not comply with safety standards
30 August 2016	Ozsale was fined \$500,000 for selling non-compliant children’s nightwear
1 September 2016	Luke Vincent Rigby convicted and fined \$4,085 (comprising \$4,000 fine, \$85 court costs) for accepting payment and not supplying goods or services in time
1 September 2016	Green Engineering Pty Ltd was fined \$15,000 for offering contracts which restrict consumer rights

Date	Outcome
2 September 2016	<u>John Trevor Dobson, the sole operator of Ozpeopletrace, was ordered to pay \$3,645 in fines and restitution for breaches of the ACL</u>
13 September 2016	<u>Nathan Todd Kerrins, the sole director of 'Fix My Home Australia Pty Ltd' (trading as The Trusted Group), was fined \$13,000 for wrongly accepting payment for goods and services</u>
22 September 2016	<u>Joseph Anthony Wholesale Pty Ltd (trading as Joseph Anthony Bespoke) was fined a total of \$20,200 for accepting payments but failing to supply the goods and was ordered to pay compensation to four consumers amounting to \$7,665</u>
3 October 2016	<u>Unleash Solar Pty Ltd (in liquidation) was ordered to pay \$390,000 and its sole director Dionysios Perdikiyiannis was fined \$145,000 for multiple contraventions</u>
20 October 2016	<u>Samuel Matthew Dennis was convicted and fined \$3,085 (comprising \$3,000 fine, \$85 court costs) for accepting payment and not supplying goods or services in time</u>
21 October 2016	<u>Paul David Smith was fined \$20,000 for making false and misleading representations</u>
27 October 2016	<u>Phillip Duong trading as Phillip Duong Fencing convicted and fined \$2,585 (comprising \$2,500 fine, \$85 court costs) for accepting payment and not supplying goods or services in time</u>
31 October 2016	<u>Sean Robert Weinthal of Wanneroo, an employee of a business formerly trading as Manageable Tree Services, was ordered to pay \$7,000 in a fine and costs</u>
2 November 2016	<u>ADG Windows (trading as Australian Double Glazing) and its sole director John Stanley Heath were ordered to stop entering into agreements to supply windows and doors for the next five years, except on a payment on delivery basis</u>
10 November 2016	<u>Mohamad Hassan convicted and fined \$3,085 (comprising \$3,000 fine, \$85 court costs) for accepting payment and not supplying goods or services in time</u>
17 November 2016	<u>Super Kid Star Pty Ltd convicted and fined \$12,935 (comprising \$12,000 in fines, \$935 court costs) for possessing goods that do not comply with safety standards and supplying goods that do not comply with safety standards</u>
17 November 2016	<u>Linlin Chen convicted and fined \$5,925 (comprising \$5,500 in fines, 425 court costs) for possessing goods that do not comply with safety standards</u>
25 November 2016	<u>Anthony George Riordan (traded as Joseph Anthony Bespoke, now closed) was fined \$16,000</u>
30 November 2016	<u>Rhyce Daniel Power (traded as Nitro Concrete and Powercrete, both unregistered) was fined \$3,500</u>
8 December 2016	<u>Xue Tong Wang convicted and fined \$17,585 (comprising \$17,500 in fines, \$85 court costs)</u>
14 December 2016	<u>International Marketing Solutions Pty Ltd (trading as Free Power Solutions) was ordered to pay \$57,770 in fines and restitution for accepting payment and failing to supply solar system products and installation services</u>
21 December 2016	<u>James Rees Houston, the sole director of JRH Commercial Property Maintenance, was ordered to pay more than \$18,000 in fines and compensation for wrongly accepting payment for handyman services but failing to supply</u>
22 December 2016	<u>ACN 158 148 951 Pty Ltd (formerly known as Clean Energy Enterprises Pty Ltd) was fined \$30,000 for misleading consumers and defying laws relating to cold calling</u>
23 December 2016	<u>Valve was fined \$3 million for misrepresenting gamers' consumer guarantee rights</u>
23 December 2016	<u>Solar H C Pty Ltd (trading as Affordable Home Comfort) and sole director Maxwell Raymond Healy were ordered to pay a total of \$187,258.8 in fines, costs and compensation</u>

Date	Outcome
12 January 2017	<u>David James Donald was ordered to cease trading for five years and pay more than \$17,000 in refunds, damages, penalties and costs</u>
27 January 2017	<u>Amanda Jane Stichbury was fined \$10,000 and three corporations (Accommodation Find Pty Ltd, Internet Find Pty Ltd and Special Days Pty Ltd) of which she was the sole director were fined a total of \$40,000</u>
27 January 2017	<u>Puresol Pty Ltd (traded as Mysol WA) and director Daniel Victor Leverett were fined a total of \$30,000</u>
30 January 2017	<u>Wadih Charbel Kayrouz convicted and fined \$15,510 (comprising \$15,000 fine, \$510 court costs) for accepting payment and not supplying goods/services in time</u>
5 February 2017	<u>Matthew John Baird convicted and fined \$3,085 (comprising \$3,000 fine, \$85 court costs) for accepting payment and not supplying goods/services in time and publishing false misleading material to obtain advantage</u>
14 February 2017	<u>Andrew Laundry (trading as Aj's Contracting and Creative Renovations & Demolitions) was convicted and fined \$11,000 and ordered to pay a compensation of \$11,150 for breaches of the ACL and trading without a building licence</u>
20 February 2017	<u>Christopher Adem Miles, owner of online toy store 'Toy Palace', was fined \$4,000</u>
22 February 2017	<u>David Jackson was convicted and fined \$12,500 for breaches of the ACL and trading without a licence. He was also ordered to pay a compensation of \$7,750.</u>
23 February 2017	<u>Daniel Murray Howard was fined \$6,000 for accepting payment and not supplying goods or services and ordered to pay a customer \$2,150 in compensation and pay a cost of \$3,800 to Consumer Protection for prosecuting him</u>
27 February 2017	<u>Jarrad Graeme Hand, director of Polaris Solar Pty Ltd (voluntarily wound up), and a man who stopped being a director in 2014 were fined \$1,500 and ordered to pay court costs of \$622.25</u>
14 March 2017	<u>Simon Richard Johnston, owner of Easy Building systems, was ordered to pay more than \$37,000 in fines and restitution for failing to supply services</u>
17 March 2017	<u>Cassandra Nicole Cooney convicted and fined \$5,425 (comprising \$5,000 fine, \$425 court costs) for accepting payment and not supplying goods/services in time</u>
20 March 2017	<u>Deepak Verma was fined more than \$10,000 for making false and misleading statements and failing to supply services</u>
23 March 2017	<u>Aytekin Habiboglu offences proven, no conviction recorded for accepting payment and not supplying goods/services in time</u>
24 March 2017	<u>Tom Edmonds was ordered to pay a \$50,000 global penalty and \$60,000 compensation for breaches of the ACL</u>
27 March 2017	<u>William Roch (trading as PJ's Home Maintenance and Improvements) was fined \$18,000 and ordered to pay \$9,130 for compensation plus costs</u>
6 April 2017	<u>Joanne Margaret Day, director of liquidated company Getaway Escapes Pty Ltd, was ordered to pay more than \$36,000 in fines and restitution for breaching the ACL</u>
10 April 2017	<u>Golden Bay Properties Pty Ltd (trading as Jumbuck Wool Insulation) was fined \$18,000 for misleading consumers about the quality rating and standard of one of its products</u>
24 April 2017	<u>Kenneth Andrew Read, the owner of Winning Edge Custom Saddles, was fined \$4000 by for breaching the ACL</u>
18 May 2017	<u>James Strain Richmond, who operated an unregistered business known as Belfast Removals, was fined \$4,000 and ordered to pay \$500 in restitution for wrongly accepting payment</u>

Date	Outcome
30 May 2017	A Melbourne phone book publisher was fined \$40,000 for creating a fake debt collection company to coerce payments from its advertising clients
31 May 2017	Adam Mallas convicted and sentenced to 12 months imprisonment for accepting payment and not supplying goods/services in time, being a second or subsequent offence. (Also sentenced to 9 months imprisonment for offences under the Home Building Act 1989.)
1 June 2017	GTA Australia Pty Ltd (in administration) and sole director Kristopher Corbett were fined a total of \$7,500 and ordered to pay consumer compensation of \$4,700 for cold-calling contracts
5 June 2017	Behzad Kashan convicted and fined \$500 for accepting payment and not supplying goods/services in time

Court cases initiated

The table below details a selection of ACL-related Court action commenced during the 2016-17 period, noting that some jurisdictions do not publish court action details until they are concluded.

Date	Action
9 November 2016	ACCC has taken action against Mr Dhruv Chopra alleging contempt of court
1 December 2016	ACCC has taken action against MSY alleging misrepresentation of consumer guarantees
6 April 2017	ACCC has taken action against Apple alleging misleading consumer guarantee representations
11 May 2017	Consumer Affairs Victoria has begun civil proceedings against Melbourne South Eastern Real Estate Pty Ltd – trading as Barry Plant (Mount Waverley), Barry Plant (Oakleigh) and Barry Plant (Whealers Hill), in the Federal Court of Australia, for alleged contraventions of the ACL
16 June 2017	ACCC has taken action against Thermomix alleging it contravened several provisions of the ACL in relation to its appliances



Other performance metrics

Additional performance metrics and outcomes published by regulators can be found in their 2016-17 annual reports:

- ACCC: <https://www.accc.gov.au/publications/accc-aer-annual-report>
- ASIC: <http://asic.gov.au/about-asic/corporate-publications/asic-annual-reports/>
- ACT: <http://www.cmd.act.gov.au/functions/publications/2016-17annualreport>
- NSW: http://www.fairtrading.nsw.gov.au/ftw/About_us/Publications/Annual_reports.page
- NT: <https://justice.nt.gov.au/attorney-general-and-justice/justice-publications/annual-reports>
- QLD: <http://www.justice.qld.gov.au/corporate/publications/annual-report/2016-17-djag-annual-report>
- SA: <https://www.agd.sa.gov.au/resources/reporting-and-disclosures/annual-reports>
- TAS: <http://www.justice.tas.gov.au/annual-report>
- VIC: <https://www.consumer.vic.gov.au/about-us/annual-report>
- WA: <https://www.commerce.wa.gov.au/corporate/annual-reports-0>