



# Australian Consumer Law

## Year in Review 2017-18

March 2019



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# 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 relating to consumer affairs. It comprises senior officials from the Commonwealth, state, territory and New Zealand government agencies responsible for consumer affairs and fair trading.

CAANZ reports to Ministers responsible for Consumer Affairs in each jurisdiction, who together form the **Legislative and Governance Forum on Consumer Affairs**, informally known as CAF. CAF Ministers<sup>1</sup> are responsible for the Australian Consumer Law (ACL) (which is Schedule 2 to the *Competition and Consumer Act 2011* (Cth) and which is adopted into state and territory fair trading legislation).

In 2017-18, CAANZ focussed on the following strategic priorities set by CAF:

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
8. Commence, support and implement the Australian Consumer Law Review (ACL Review).

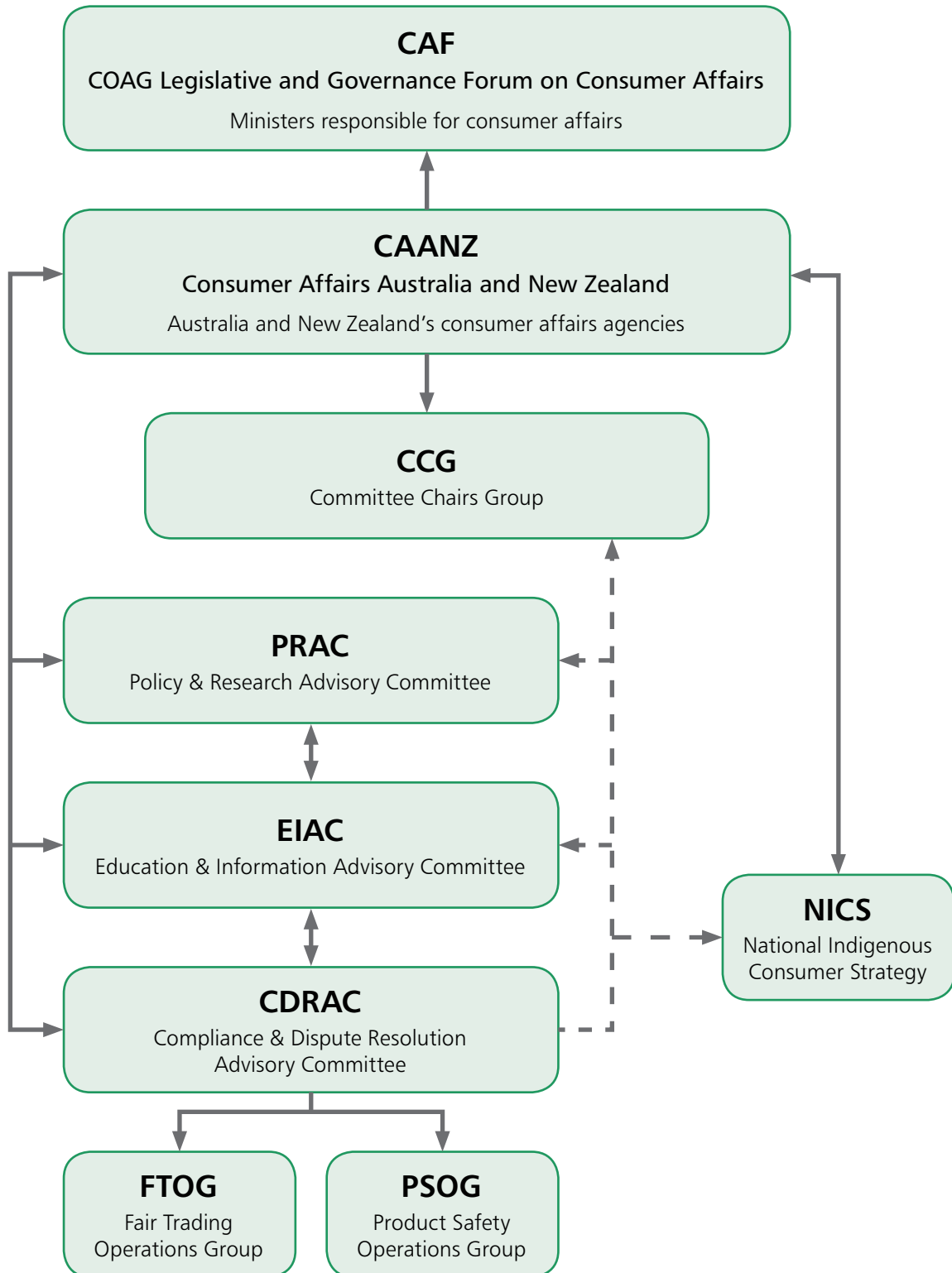
CAANZ receives support from three advisory committees and three operations groups which comprise officials from the Commonwealth and states and territories.

- The **Policy and Research Advisory Committee (PRAC)** develops common policy approaches to national consumer issues under the ACL, coordinates any amendments to the ACL, and 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 on 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 Indigenous consumers through developing and implementing national priorities, which are published in the [NICS Action Plan](#).

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<sup>1</sup> Apart from New Zealand. New Zealand has its own consumer legislation and is a member of CAF consistent with the Australia/New Zealand Closer Economic Relations Trade Agreement.

# ACL Governance Arrangements



# What is this report?

This report provides information on the key policy, education and enforcement activities undertaken by CAANZ and its committees in 2017-18. It provides an insight into the work done by policy officers, educators and regulators to refine and enforce the Australian Consumer Law over the year.

The activities described are typical of the large volume of work undertaken by CAANZ 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 \(IGA\)](#).

These objectives are to:

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

The chapter headings follow the six operational objectives for the national consumer policy framework listed in the IGA:

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
6. to promote **proportionate, risk-based enforcement**.

The activities described under each of the chapter headings variably involve 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 2017-18, and include a list of key enforcement activities undertaken over the year by ACL regulators.





# Compulsory Takata Airbag Recall

The Takata airbag recall is the world's largest automotive recall and the most significant compulsory recall in Australia's history, with over four million affected airbag inflators in over three million vehicles recalled.

Worldwide, there have been 24 reported deaths and more than 300 injuries associated with defective Takata airbag inflators. Tragically in Australia there has been one death and one serious injury reported as resulting from misdeployed defective Takata airbag inflators.



## ACCC Safety Investigation

On 5 August 2017 the then-Minister for Small Business, the Hon. Michael McCormack MP, issued a Safety Warning Notice under section 129 of the Australian Consumer Law (ACL) to warn of the possible risks involved in the use of vehicles containing defective Takata airbag inflators, and announcing an ACCC Taskforce formed to investigate the risks of these inflators and actions taken by manufacturers to address those risks.

Certain types of airbag inflators made by Takata Corporation which use phase-stabilised ammonium nitrate (PSAN) as a propellant are subject to a systemic design defect. Due to the defect, the propellant in Takata PSAN airbag inflators (without a desiccant or with a calcium sulphate desiccant) degrade over time when exposed to high temperatures and humidity. If an affected vehicle is involved in a collision triggering the airbag, it can misdeploy with too much explosive force rupturing the airbag's inflator housing and propelling metal fragments into the vehicle cabin, potentially injuring or killing vehicle occupants.



## Compulsory Recall Notice

Following the ACCC's safety investigation, the ACCC recommended that the Minister issue a compulsory Takata airbag inflator recall notice. On 28 February 2018, the Consumer Goods (Motor Vehicles with Affected Takata Airbag Inflators and Specified Spare Parts) Recall Notice 2018 (Recall Notice) was issued in accordance with section 122 of the ACL by the Minister as it appeared that one or more suppliers of vehicles with defective Takata airbag inflators had not taken satisfactory action to prevent those vehicles from causing what was a reasonably foreseeable risk of injury or fatality to drivers and/or passengers.

The compulsory recall affects a wide range of businesses, including vehicle manufacturers (or Original Equipment Manufacturers), the second-hand vehicle market, auto-recycling businesses, salvage yard operators, auction houses, insurance companies, car hire companies, parallel (grey) importers and Registered Automotive Workshop Scheme (RAWS) operators that import, convert and sell vehicles from overseas fleets to Australian consumers. The Recall Notice categorises Original Equipment Manufacturers and importers of vehicles as 'Suppliers'.

The compulsory recall aims to achieve a more effective, comprehensive and timely replacement of airbag inflators than under voluntary recalls. It also mandates greater consistency across recall actions by Suppliers in specifying the timeframes and the manner in which recall action must occur. It places obligations on Suppliers to:

- Recall and replace all affected airbag inflators as quickly as possible, on a rolling basis, in accordance with priority factors that take into consideration airbags that present the highest safety risk.
- Complete all replacements by 31 December 2020 (unless that date is varied by application to the ACCC).
- Take a range of steps to locate affected consumers and clearly communicate the nature and seriousness of the safety risks.

- Make special arrangements for towing or transporting a vehicle, providing loan or hire cars during the replacement process in certain circumstances.
- Publish a recall database providing a Vehicle Identification Number (VIN) search tool on their websites for consumers to be able to check their vehicles' recall status, including whether their vehicle is under 'active', 'future', 'critical' or 'completed' recall.
- Submit various reports to the ACCC, including a Quarterly Completion Report used to track whether Suppliers are meeting a certain percentage completion targets of replacement.

Suppliers may face penalties under the ACL for non-compliance with the Recall Notice.



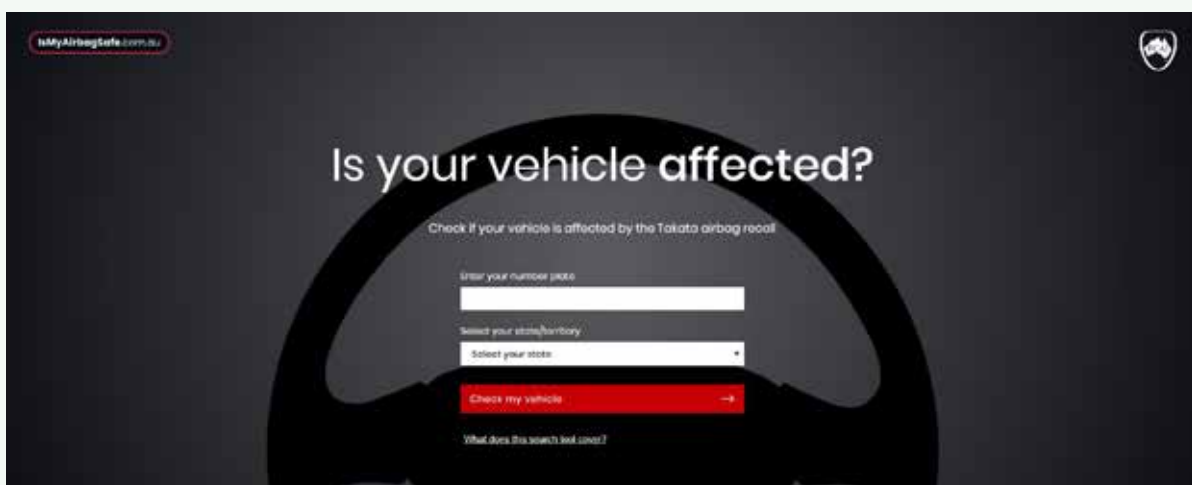
## Stakeholder engagement

*"Faulty airbags? Don't die wondering" national mandatory industry advertising campaign*

Under the compulsory recall, Suppliers were required to submit a Communication and Engagement Plan to the ACCC outlining planned advertising and media activities to notify affected consumers. The Recall Notice allows for joint communications by Suppliers and in June 2018 the Federal Chamber of Automotive Industries (FCAI) was approved by the ACCC as Authorised Representative for 17 vehicle manufacturers to implement a national consumer awareness campaign. The 'Don't die

wondering' campaign has generated extensive mass media and consumer awareness. Key deliverables include the launch of paid television, digital and print advertisements, social media, national and LOTE media activity, and a website ([ismyairbagsafe.com.au](http://ismyairbagsafe.com.au)) vehicle look-up tool that has been accessed 6.4 million times and helped to identify over one million affected vehicles.

## National Campaign: Faulty airbags? Don't die wondering



Source: [ismyairbagsafe.com.au](http://ismyairbagsafe.com.au)



Source: ismyairbagsafe.com.au; video available at <https://youtu.be/RLYfjRgHal>

## Takata Interagency Group — outreach and advocacy activities

The ACCC, through the Takata Interagency Group, is working in close consultation with state and territory road transport authorities (RTAs), state and territory ACL Regulators, the Commonwealth Department of Infrastructure, Regional Development and Cities, Australian Financial Security Authority and Austroads, to progress a number of initiatives to increase consumer awareness and enhance the effectiveness of the compulsory recall.

- A key initiative is consideration by road traffic authorities of registration sanctions for vehicles fitted with high risk defective Takata critical 'alpha' airbag inflators. At the time of publication, several jurisdictions have implemented registration sanctions and the ACCC will continue to work closely with jurisdictions in implementing these around the country.
- The Australian Financial Security Authority implemented updates to the Personal Property Securities Register's search certificate providing consumers and industry with information about whether a vehicle is affected by the Takata recall. Please visit [www.ppsr.gov.au](http://www.ppsr.gov.au) for further information.
- In partnership with Australian Consumer Law regulators, the ACCC is developing an industry surveillance and outreach program to be rolled out in each state and territory. The ACCC will consider appropriate compliance and enforcement action in accordance with the [ACCC's Compliance and Enforcement Policy and Priorities](#).

## Further information

The ACCC is assessing and monitoring compliance with the compulsory recall and continues to participate in stakeholder engagement activities to educate consumers and industry about their rights and obligations under the Recall Notice.

Further information about the compulsory recall, including frequently asked questions and answers for consumers and for Suppliers, is available at [www.productsafety.gov.au/recalls/compulsory-takata-airbag-recall](http://www.productsafety.gov.au/recalls/compulsory-takata-airbag-recall).



Source: ismyairbagsafe.com.au

# 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 share information with consumers on topical consumer issues each year. Key activities in 2017-18 included campaigns on:

- ticket reselling
- festivals and events
- gift cards
- consumer guarantees

## Ticket reselling in Australia

Fair access to event tickets is important to Australian consumers: in 2016 over 18 million tickets were sold to live performances in Australia. But during 2017-18 increasing reports of highly inflated prices in secondary ticket markets prompted CAANZ, its committees and the ACL regulators, to investigate the market, educate consumers about their rights, engage with stakeholders, and take action under the ACL.

## Ensuring consumers know their rights

To address problems and consumer confusion, a national campaign was run to improve consumers' understanding and awareness of the secondary ticket selling market.

Through a range of digital channels, we reminded consumers:

- ticket resellers offering second-hand and resale tickets to consumers are not aligned with the official ticket seller for an event
- to be wary of online search results, as ticket resellers often appear before the link to the official ticket seller
- to always check the artist or event's official verified pages for the authorised ticket sellers
- to check the terms and conditions of ticket reselling websites, and if they have any buyer protections in place
- to report any suspicious activity to the site if they believe a seller may not be selling a legitimate ticket.

The project had strong online engagement. This included a Twitter poll run pre- and post- campaign



which aimed to reinforce that consumers should contact the ticketing agency first with their concerns.

Questions and comments received via social media during the campaign showed that ticket reselling was an ongoing issue.



## Regulatory changes to give consumers more information

Commonwealth Treasury, on behalf of CAANZ, undertook a detailed look at consumer detriment in the secondary market for event tickets and considered whether regulatory changes were required to address it. Consumers and industry participants engaged enthusiastically in a consultation process as part of a Regulatory Impact Assessment during November and December 2017. The Treasury received 16 formal submissions, 377 informal consumer comments, and met with a number of affected stakeholders.

As a result of this process, in August 2017 CAF endorsed a proposal to compel ticket resale websites to disclose the original 'face value' of tickets being sold on their platforms. This will help consumers make informed choices about buying tickets on the secondary market.

A copy of the Decision Regulation Impact Statement, which details the analysis of each regulatory option considered, is available on the [Office of Best Practice Regulation website](#).

## Public warnings

Viagogo AG is an online ticket reseller based in Switzerland which operates via the website [viagogo.com/au](#). Fair trading regulators across Australia have been collaborating in an attempt to get commitments from Viagogo to improve consumer outcomes.

In August 2017, ACL regulators in New South Wales, Queensland, South Australia, Tasmania, and Western Australia issued public warnings about Viagogo after receiving complaints from consumers alleging delayed delivery of tickets, events being cancelled, heavily marked-up prices, hidden fees, and failure to provide refunds.

Public warnings to consumers about using Viagogo also reinforced educational messages to consumers to ensure they were aware of their rights under the ACL should an event not deliver what was promised or advertised.



## Taking action

On 28 August 2017 the ACCC commenced action against Viagogo for alleged misleading or deceptive conduct regarding the price of tickets on its online platform by failing to disclose substantial fees.

The ACCC alleges that Viagogo failed to disclose significant and unavoidable fees in their upfront prices and promoted itself as an authorised ticket seller by using the word 'official' in online advertising for its website. The ACCC also alleges that Viagogo misled consumers by making representations on its website that tickets to certain events were scarce and likely to run out soon, without disclosing that this "scarcity" referred to tickets on its website only.

The ACCC is seeking declarations, injunctions, pecuniary penalties, corrective publication orders, orders for a compliance program and costs. The court hearing was held on 29 and 30 October 2018 and judgment was reserved.

## Festivals and events

Festivals and other popular public events are high-risk activities for organisers that can also bring significant risks for consumers.

Events can be subject to major changes or cancellation due to inclement weather, natural disasters, venue suitability, regulator permits, and product (un)availability. Organisers must plan every aspect of the event well to cater for the number of tickets sold, in addition to managing those risks that are often out of their control. ACL regulators continue to educate both consumers and organisers on managing the risks involved and consumers' rights when things go wrong.

## Educating consumers

An expanded education campaign was run in 2017-18 to cover all festivals and events, built on the 2016 music festivals education campaign.

It aimed to increase consumers' understanding of the risks involved in purchasing tickets to festivals or events.

measure overall behaviour changes in consumers, the campaign will be repeated in future years to reinforce the messages.

The predominantly digital campaign reached consumers with a range of messages that focused on consumer rights relating to:

This campaign was complemented by an education campaign for event organisers.

- if a festival or event is cancelled
- if the event goes ahead but is significantly different from what was advertised
- claiming compensation from the business for consequential losses (which may include travel costs) due to cancellation of a festival or event.

The campaign had strong online engagement. While it is difficult to



## Pop-up events

'Pop-up' events, such as music, wine and food festivals held in open space venues, are high-risk for organisers. After a number of high-profile event failures, NSW Fair Trading led a national project focussing on this market sector.

Education was crucial to achieving good conduct in the marketplace, with 241 event organisers receiving written education material about the ACL, particularly focussed on their consumer guarantee obligations.

consumers' experiences or complete event failures, coupled with event organisers failing to offer consumers timely and appropriate redress under the ACL.

Regulators spoke with a number of event organisers and ticket platforms about several higher risk issues, and engaged with key industry associations.

The project also gave regulators a better understanding of the issues that need to be monitored and the types of actions that may work best in future, with only a small number of businesses identified for possible investigation.

The project had a positive effect on the marketplace. Only 6 per cent of the events finalised within the project period involved significant issues affecting

# Gift card expiry dates

In 2017-18 CAANZ developed nationally consistent rules about gift card expiry dates.

Many consumers experience disappointment from an expired gift card. The new reforms developed in 2017-18 will give consumers the certainty of a three year minimum expiry, will require the gift card expiry date to be prominently displayed and will ban 'post purchase fees', which erode the value of gift cards after purchase.

On 18 October 2018 the reforms passed the Federal Parliament. The reforms will apply to gift cards supplied from 1 November 2019, providing a 12 month transition period for the industry to comply. The maximum penalty for non-compliance with the new requirements will be \$30,000.

Some types of cards and activities will be exempt from the requirements of a three year minimum expiry period, ban on post-purchase fees and the disclosure requirements.

The exemptions include: temporary marketing activities, free promotional cards, time-limited goods and services and pre-owned cards. The exemptions allow day-to-day business activities to occur and minimise compliance costs.



A copy of the Decision Regulation Impact Statement, which analyses the costs and benefits of each regulatory option considered, is available on the [Office of Best Practice Regulation website](#).







## Reforms to the consumer guarantees framework

Consumers and small businesses will benefit from changes to the ACL's consumer guarantees framework following CAANZ consultation on reform options in early 2018. Consumers will have greater clarity about their rights when a good has multiple failures and stronger protections when buying extended warranties. More of the purchases made by small businesses will also be covered by the ACL's consumer guarantees.



These reforms arose from the review of the Australian Consumer Law undertaken in 2017 and a regulation impact statement setting out various proposals was prepared for consultation with interested stakeholders. The consultation was undertaken in April 2018 and brought the insight and expertise of a broad cross-section of the community into this critical stage of policy decision-making.

Organisations and entities lodged about 50 written submissions, and individual consumers made around 30 submissions and comments. Commonwealth Treasury also met with around 50 stakeholders at bilateral and roundtable meetings, supported by a number of other CAANZ members.

Three of the proposals were supported by CAF and will become law:

- extending consumer guarantee coverage to more small business purchases, by increasing the threshold in the definition of 'consumer' from \$40,000 to \$100,000
- clarifying that multiple 'non-major' consumer guarantee failures in a good can amount to a major failure, entitling the consumer to a refund
- enhancing disclosure and introducing a cooling-off period for extended warranties.

A copy of the Decision Regulation Impact Statement is available on the [Office of Best Practice Regulation website](#).





# 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:

- inspections conducted
- mandatory safety standards introduced and reviewed
- regulatory interventions 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 2017-18 to help protect Australian consumers:

- 3,255 mandatory reports were received by the ACCC from suppliers about serious injury or death, with 1,555 referred to other regulators and 1,700 assessed by the ACCC.
- The Commonwealth Minister responsible for product safety issued a compulsory recall for Takata airbags, the world's largest automotive recall and the most significant recall in Australian history (see page 9).
- Inspections were conducted of wholesalers, retailers, and online suppliers against at least 26 mandatory safety standards, bans or product types, which identified 23 non-compliant types of products that were voluntarily recalled by suppliers.
- National projects were progressed, including the National Toppling Furniture Strategy and the safety strategy for consumer products containing button batteries.
- 296 voluntary recalls were assessed and published by the ACCC, relating to general consumer goods (plus an additional 295 recalls for specialist products such as automotive, food and therapeutic goods).
- The ACCC released its first standalone product safety policy setting out the principles adopted to prioritise and address product safety risks.
- New mandatory safety standards were introduced and existing mandatory standards reviewed, often adopting trusted overseas standards, including:
  - Baby bath aids
  - Sunglasses and fashion spectacles
  - Vehicle support stands
  - Portable ramps for vehicles
  - Recovery straps for motor vehicles
  - Basketball rings and backboards
  - Vehicle trolley jacks
  - Swimming and flotation aids
  - Self-balancing scooters.

## Thermomix

In April 2018 the Federal Court of Australia ordered Thermomix In Australia Pty Ltd (Thermomix) to pay penalties totalling \$4,608,500 for making false or misleading representations and misleading the public in relation to its Thermomix kitchen appliances. The ACCC initiated these proceedings against Thermomix in June 2017.

The Court held that Thermomix breached the ACL by making false or misleading representations to certain consumers through its silence about a safety issue affecting its TM31 appliance, which the company knew about.



The company knew from 7 July 2014 there was a potential risk of injury to users caused by the lid lifting and hot food and/or liquid escaping from the mixing bowl before that food and/or liquid had settled. Thermomix continued to supply and promote its product until 6 September 2014 and did not notify consumers until 23 September 2014 that there was a known safety issue.

Thermomix also admitted that it failed to comply with mandatory reporting requirements on 14 occasions for injuries arising from the use of Thermomix appliances.

Source: CHOICE

## G8Safe swimming pool latches

In February 2018, NSW Fair Trading negotiated the voluntary recall of non-compliant lockable gate latches for swimming pool fences sold exclusively through all Bunnings Warehouse stores across Australia.

The products do not comply with Australian Standards as the gate latch may lock when the gate is open, causing the gate to remain in the open position so the gate will not be an effective swimming pool barrier for young children.

Statistical evidence shows that majority of drownings in private swimming pools involve children under the age of 5 years and inadequate pool fencing is a major contributing factor to drownings.

Following negotiation by NSW Fair Trading in March 2018, the supplier voluntarily recalled four versions of this product nationally: SafeTech Top Pull Latch, SafeTech TriLatch, G8Safe Top Pull Latch and G8Safe TriLatch.

Both Choice and Royal Life Saving Australia reported on the product recall, including information for



consumers who may have an affected product and the importance of promoting safe, compliant products for pool safety.

NSW Fair Trading is also the NSW swimming pool regulator and they developed communications to certifiers alerting them to the product recall. This communication included why the products weren't compliant, what certifiers and councils do if they inspect a pool barrier with a non-compliant latch, and advice to consumers.

## Toppling furniture

ACL regulators continued to undertake coordinated surveillance and education activities to promote the availability and use of anchoring devices for furniture, as part of the National Toppling Furniture Strategy, which is running over a two-year period until March 2019.

The strategy aims to raise awareness of toppling furniture and televisions with consumers and encourage retailers and suppliers to provide anchors and warnings with the supply of furniture that may pose toppling hazards.

In July 2017 ACL regulators surveyed over 200 retail stores to assess their adherence to the National Retail Association's *Best Practice Guide for Furniture and Television Tip-Over Prevention*.

ACL regulators wrote to several retailers about the survey findings and ways in which these retailers could better adhere to the best practice safety initiatives outlined in the guide.

In June 2018 the ACCC and Kidsafe conducted a joint safety awareness campaign on toppling furniture. The campaign included the release of a video featuring the parents of toddler Blake Shaw, who was



killed when a freestanding bookcase fell on him in August 2016. ACL regulators promoted the campaign through their social media channels to ensure the key safety messages were circulated as broadly as possible.

## Decorative alcohol-fuelled devices

In July 2017 the Commonwealth Minister imposed a mandatory safety standard which requires all decorative alcohol-fuelled devices (ethanol burners) sold to be installed in a fixed position or meet minimum footprint and weight measurements to improve stability and safety.

In addition, the devices were required to pass a stability test, contain warning labels and include features to improve safety when refuelling. This replaced a national interim ban, which had been imposed in March 2017.

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.

Surveillance was conducted shortly after the introduction of the mandatory safety standard to assess compliance. A total of 172 stores were surveyed and decorative alcohol fuelled devices were found in 21 stores. Fourteen product lines were identified as not complying with the mandatory standard. Two product lines were recalled and 12 product lines were withdrawn from sale as a result of this surveillance. The product lines withdrawn from sale had not been sold to consumers.





## Button battery safety

ACL regulators continued to coordinate their activities as part of the two-year National Strategy for Improving the Safety of Button Battery Consumer Products, which commenced in September 2016.

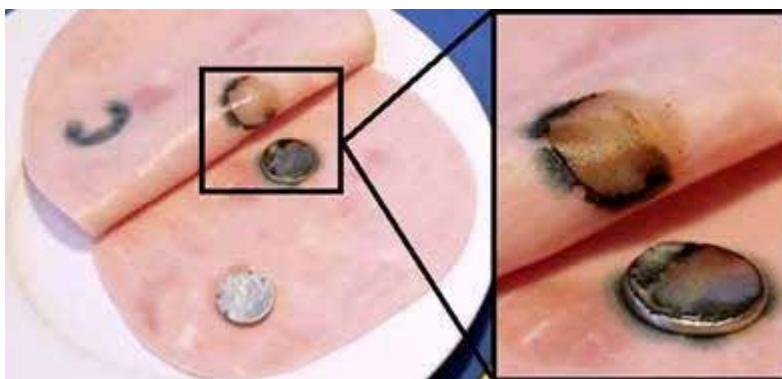
In late 2017 ACL regulators undertook coordinated surveillance to assess products containing button batteries against the voluntary safety principles contained in the *Industry Code for Consumer Goods that Contain Button Batteries*.

ACL regulators contacted suppliers of the products that were assessed as not conforming with the code to educate them about button battery hazards and to outline actions they could take to ensure the supply of safer products, including recall action.

Since commencement of the strategy, suppliers have undertaken more than 20 voluntary recalls (covering more than 40 items, including minor style variations) following identification of button battery hazards.

As noted in last year's report, around 20 children visit an emergency department in Australia each week following suspected ingestion of a button battery. Button batteries can become stuck in a child's oesophagus or elsewhere in their system and burn through soft tissue in as little as two hours, causing serious illness or death. In Australia, two children have died from button battery related injuries.

ACL regulators continue to work collaboratively and prioritise efforts to reduce the risk from button batteries. This includes undertaking in 2018-19 a follow-up on the national strategy in order to evaluate and assess if self-regulation has sufficiently reduced the risk to children, or whether there is a need for regulatory intervention for general consumer goods.



Button batteries can burn flesh



# 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:

- a misrepresentation of consumers' rights under the ACL consumer guarantees
- an investigation into misleading claims about the benefits of a skin cream
- activities undertaken to reduce the incidence of consumers being misled about inauthentic Indigenous art.

## Apple Inc.

In 2017-18 the ACCC's Federal Court action against Apple Pty Ltd and Apple Inc. (collectively, Apple) in relation to representations it made about consumers' rights under the Australian Consumer Law, was finalised with Apple Inc. fined and agreeing to other improvements.

On 19 June 2018 the Federal Court ordered Apple Inc to pay a penalty of \$9 million for making false or misleading representations to customers with faulty iPhones and iPads about their rights under the Australian Consumer Law.

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 or amended by suppliers.

The ACCC's case against Apple related to an update to iPhones and iPads that, in some circumstances, caused an iPhone or iPad that had been repaired by a third party to become inoperable. The error was sometimes referred to as 'error 53'. Apple

Inc admitted that it had represented to at least 275 Australian customers affected by error 53 that they were no longer eligible for a remedy from Apple if their device had been repaired by a third party.

Apple Australia has also provided the ACCC with a court enforceable undertaking to improve staff training, audit information about warranties and the ACL on its website, and improve its systems and procedures to ensure future compliance with the ACL.

The court's finding against Apple confirms that a consumer can have a component of a device serviced, repaired, or replaced by someone other than the manufacturer and doing so will not, by itself, extinguish the consumer's right to a remedy for non-compliance under the consumer guarantees.

This means consumers can continue to access repair services from third parties that may be offered at a lower cost than the manufacturer without losing these important rights.

## Sun Beef Pty Ltd

In June 2018, Sun Beef Pty Ltd, trading as SunUltima, was fined by the Brisbane Magistrates Court following a Queensland Office of Fair Trading (QOFT) investigation. A consumer complained about a newspaper advertisement for a 5ml SunUltima Skin Cancer Cure for \$560 — with claims the product is “a natural herbal derived skin cancer cure”.

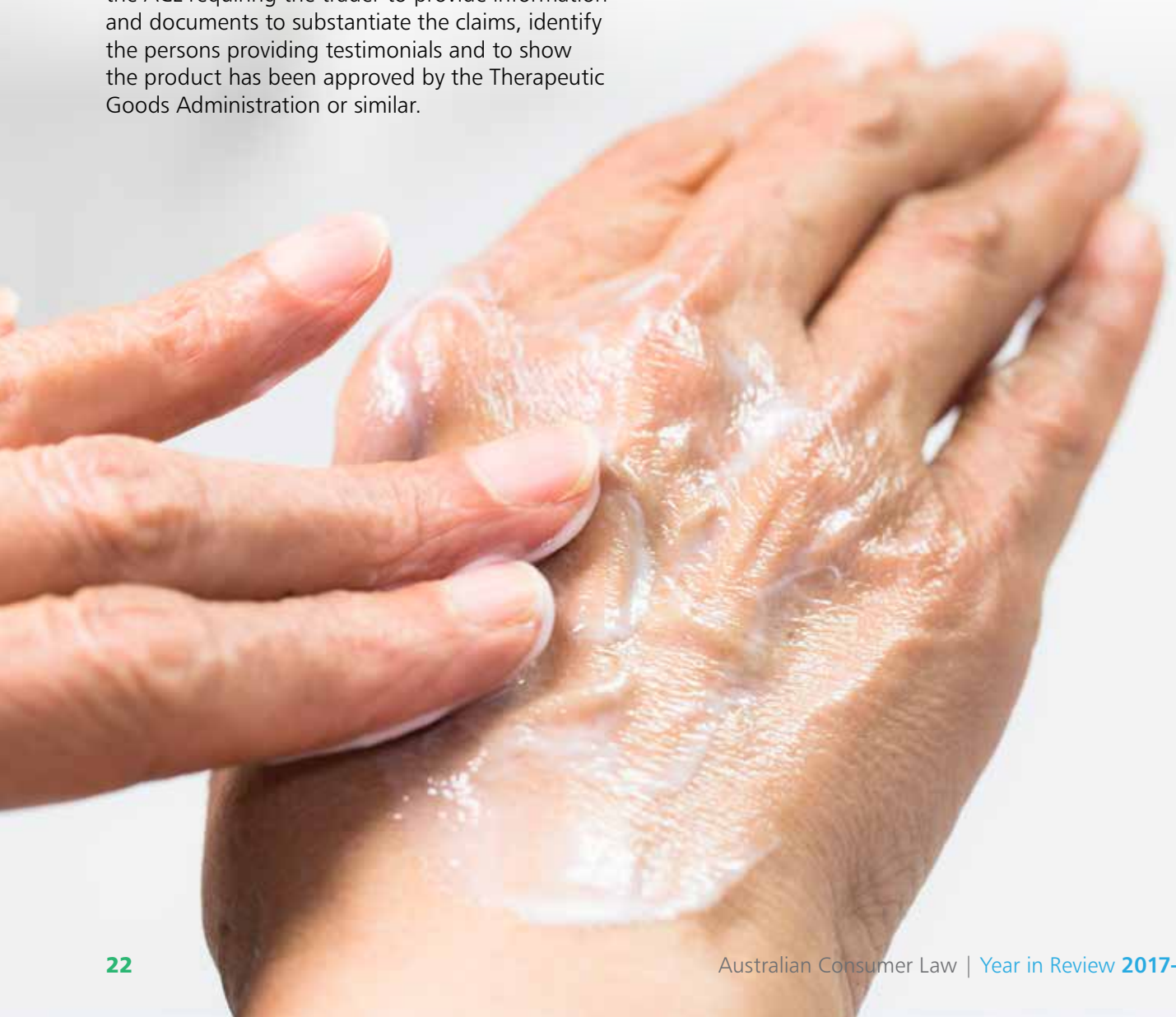
SunUltima’s website made representations relating to the SunUltima product which included claims the product can be used to treat and cure cancer. It also provided details of testimonials from three people alleging SunUltima had cured their cancer. The consumer was of the opinion the claims were not true.

The QOFT commenced an investigation as it was concerned the trader was misleading vulnerable consumers, many of whom may be desperate for a cure, that the SunUltima product was a cure for skin cancer.

QOFT sent Sun Beef a Substantiation Notice under the ACL requiring the trader to provide information and documents to substantiate the claims, identify the persons providing testimonials and to show the product has been approved by the Therapeutic Goods Administration or similar.

Sun Beef failed to comply. Following a lengthy and difficult pre-trial and court process, Sun Beef was fined \$10,000, with orders for \$1,500 for professional costs, \$92.55 court costs and an order under the ACL for Sun Beef to substantiate the claims or provide explanation as to why it cannot within 10 days.

Due to the seriousness of the claims made by Sun Beef and the detriment to consumers if they relied upon them, the QOFT published a media statement in July 2018 to provide a specific warning to consumers about the risk and dangers associated with this product.







## Authentic Indigenous art

In Australia, consumers purchasing Indigenous souvenirs, arts and craft must not be misled into believing a product is 'authentic' or 'genuine' when it is not. Traders who sell these products must be able to substantiate their claims to fulfil their obligations under the ACL. Two ACL regulators took action in 2017-18 to address this deceptive conduct.

As part of an ongoing proactive compliance program to reduce the risk of unethical behaviour affecting consumers during the Commonwealth Games, the Queensland Office of Fair Trading conducted two operations in 2017–18 in relation to Indigenous souvenirs and art.

One of the operations focused on art galleries, the other on retail souvenir shops.

In total, 156 spot check inspections were conducted:

- 46 targeted art galleries and warehouses
- 110 targets tourist businesses, such as souvenir stores, which sell Indigenous styled souvenirs.

Twelve matters were referred for further investigation, which resulted in seven product lines being removed from sale. These products were removed by the traders as they were not able to substantiate representations being made, primarily concerning how, or where, the goods were produced.

Overall, the results of the operations were encouraging and show most Queensland traders selling Indigenous souvenirs and art are willing to cooperate with the QOFT to ensure their obligations are being met.

In March 2018 the ACCC commenced proceedings against Birubi Art Pty Ltd (Birubi) alleging false or misleading representations that certain Aboriginal cultural objects (including boomerangs and didgeridoos) that it sold to retailers were made in Australia or hand made by an Australian Aboriginal person when that was not the case.

In October 2018 the Federal Court found that Birubi had engaged in misleading or deceptive conduct and made false or misleading representations in breach of sections 18, 29(1)(a) and 29(1)(k) of the Australian Consumer Law (ACL) in relation to its conduct.

The ACCC's work to detect false or misleading representations in the Indigenous art sector is ongoing and involves working closely with relevant stakeholders to detect potential breaches of the ACL.



Indigenous artwork on display at Jellurgal Aboriginal Cultural Centre, Gold Coast.

# Meeting the needs of vulnerable and disadvantaged consumers

Some consumers may need additional support to help them make appropriately informed purchasing decisions and to protect them from the small number of traders that may prey on vulnerability or disadvantage. This report describes some of the measures taken by ACL regulators and policy makers in 2017-18 to prevent or overcome actions by traders to take advantage of those who are potentially vulnerable.

## Imagine That Photography

Imagine That Photography Pty Ltd, a mobile photography business trading from major shopping centres around Australia, agreed to cancel agreements and refund consumers who entered into layby agreements between 1 July 2015 and 31 October 2017 and did not receive important information about laybys and cancellation, following a Queensland Office of Fair Trading (QOFT) investigation.

QOFT found the business did not provide appropriate information regarding layby terms and conditions, including how a consumer might terminate the layby agreement. In addition they made misleading representations about refund rights, denying them to consumers who wished to validly cancel an agreement.

An enforceable undertaking required Imagine That Photography to acknowledge its obligations under the ACL by correcting all advertising and agreements, and by releasing any consumer who wished to cancel an agreement and who had been placed on a debt recovery plan by the business.

The business was also required to write to all consumers who entered into a direct debit agreement to advise them they were entitled to cancel their agreement and receive a refund.

The conduct of Imagine That Photography was first raised with the QOFT by the Indigenous Consumer Assistance Network (ICAN), after a number of Indigenous consumers were affected by the actions of the business and had contacted ICAN for assistance. ICAN is a not for profit organisation which provides consumer education, advocacy and financial counselling services to Indigenous consumers.

As part of the undertaking, Imagine That Photography provided a payment of \$5,000 to ICAN.

Consumer Protection agencies from New South Wales, Victoria, Western Australia and South Australia worked with the Queensland Office of Fair Trading during the investigation.





## Charging fees for paper bills

As businesses shift towards electronic billing, some are charging their customers a fee to receive a paper bill. Often these bills relate to essential services which increases the overall cost for people on a low income or without internet access, including vulnerable groups such as seniors, Indigenous and regional Australians.



While some service providers have exemption schemes in place, many consumers aren't aware of these, and information on the schemes is difficult to access without the internet. A national campaign led by South Australia encouraged consumers to avoid paper billing fees by either switching to electronic billing or requesting a fee exemption from their suppliers.

More traditional communication channels were used to reach the target audience including media releases, editorials in popular publications, printed posters, postcards, and working with organisations that have direct contact with the affected groups. Messages were also posted via social media to encourage consumers to let their family and friends know about the exemptions.

The campaign was well received by consumers and stakeholders for its simple messaging to help consumers save money on their household bills.

## Extending fee exemption programs

In light of ongoing concerns about the effect of paper billing fees on vulnerable and disadvantaged consumers, CAANZ also investigated options to address the problem.

In November 2017, Commonwealth Treasury, on behalf of CAANZ, consulted with affected stakeholders on a Regulation Impact Statement that set out the problem and possible solutions. Treasury received a large number of submissions, of which 56 were publicly released.

Treasury held meetings with several key stakeholders to better understand the issues, including consumer advocates and businesses. Feedback from these discussions and submissions were considered and reflected in a [Decision Regulation Impact Statement](#) (available on the Office of Best Practice Regulation website).

On 26 October 2018, CAF Ministers agreed to give businesses a strict twelve-month period to increase subscription to their existing fee exemption programs. Businesses will be expected to have at least 30 per cent of their customers who receive paper bills covered by an exemption program by the end of 12 months. Should this target not be reached CAF Ministers have said that they will favourably consider a complete ban on charging fees to receive paper bills.

## Debt management firms

ASIC led a consumer education campaign to raise awareness of the costs and potential risks or debt management firms (DMFs) following growing concerns about services offered.

DMFs offer a range of services to consumers experiencing financial difficulty including credit repair, negotiating with creditors, and advising and arranging formal debt agreements.

With no uniform legislative framework applying to DMFs, an education campaign was undertaken in 2017-18 to raise awareness of the costs and potential risks involved in using DMF services, and to increase consumer awareness of alternatives — which are often at no cost — to DMFs.

The campaign targeted financially stressed and vulnerable consumers seeking credit. A national digital communications campaign using social media, stakeholder and local media networks was used to maximise reach.



The campaign was successful in reaching a high number of consumers. Traffic to the ASIC MoneySmart website increased significantly during and immediately after the campaign period as consumers sought access to information and guidance on dealing with credit repair and debt management issues.

## Getting back to the community

To better support Indigenous consumers, the National Indigenous Consumer Strategy (NICS) comprising the ACCC, ASIC, state and territory fair trading agencies and several non-government organisations including the Indigenous Consumer Assistance Network (ICAN), has focused on listening to community needs.

The current NICS Action Plan prioritises, amongst other things, building agency capacity specific to Indigenous consumers' needs. NICS members recognise the importance of ensuring their engagement with Indigenous Australians is respectful, culturally appropriate and meaningful.

Putting this priority into practice involved NICS holding its 2018 annual meeting in the Indigenous community of Yarrabah, Far North Queensland. The annual meeting centred around what were termed 'listening sessions' where prominent community elders and traditional owners spoke to NICS members about a number of topics including:

- How should we properly yarn with First Nations people in order to build strong, ongoing relationships?
- How can we better serve Indigenous communities through understanding and acknowledging a community's history?
- How can we improve access for First Nations people to consumer and financial services information, knowledge and ultimately, empowerment?

- How can we better engage with First Nations people in order to record their story as a witness for evidential purposes, and reduce barriers to the justice system?

The meeting also included a visit to the Yarrabah Museum and Art Centre and a locally catered 'yarnin' session' and afternoon tea which was opened to the community at large. The initiative was a great success and received positively by NICS members and the Yarrabah community.



NICS members visiting the Yarrabah Museum and Art Centre



## Remediation for add-on insurance

During 2017-18 ASIC secured \$124 million in refunds for consumers who were sold add-on insurance in car yards that were of little or no value.

Add-on insurance is sometimes offered to consumers purchasing a new or used car to cover risks to the car, such as tyre and rim insurance, or consumer credit insurance.

In 2016, ASIC released three reports covering its review of the sale of add-on insurance through car dealers, which found that the insurance is expensive, of poor value and provides consumers very little or no benefit. For further information see:

[ASIC REP470 - Buying add-on insurance in car yards](#)

[ASIC REP471 - The sale of life insurance through car dealers](#)

[ASIC REP492 - A market that is failing consumers](#)

Alarmingly, ASIC also found that add-on insurance products suffered from various defects that often made them unsuitable for the needs of the consumers to whom they were sold. For example, products were poorly designed, claim payouts were low relative to premiums (and less than the amount paid in commissions to intermediaries selling these products) and the sales process inhibited sound decision-making.

Given the nature and scope of ASIC's findings, it pursued a remediation program against some insurers (including Allianz, Swann Insurance, Suncorp, QBE) whose design and sale of a range of add-on insurance products was failing consumers.

As part of this remediation program, ASIC has to date obtained refunds for over 210,000 consumers with a total remediation pool of \$123 million. This includes refunds for those consumers who were sold policies that meant that they were over-insured, sold policies that they would be ineligible to claim for, or were sold policies that were inadequate for their needs.

ASIC has also negotiated improvements by insurers to the sale and design of their add-on insurance products. It is continuing to monitor the industry to test whether these improvements are being maintained.



# 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. State and territory regulators also assist consumers to resolve their disputes with suppliers.

This report provides examples of actions taken by regulators to secure redress in 2017-18 for consumers:

- affected by poor life insurance sales practices
- misled by false promises about home maintenance and improvements
- who did not receive the internet connections they paid for.

## ClearView

In 2018 ASIC secured \$1.5 million in refunds from a life insurer for poor life insurance sales practices.

Life insurance companies may sell their products to consumers through 'direct' channels (i.e. by outbound telemarketing), inbound phone calls from consumers, online or face-to-face (e.g. through bank branches). These products are sold with general advice (meaning a consumer's individual circumstances are not considered), or with no advice (meaning only factual information is given).

During 2017-18 ASIC conducted a review of sales practices and product design in the direct life insurance industry and found that the sales conduct in the industry was linked to poor consumer outcomes.

ASIC also raised concerns with ClearView Life Assurance Limited (ClearView) about its life insurance sales practices. An ASIC review of ClearView's calls found it used unfair and high-pressure sales practices when selling consumers life insurance policies by phone. These sales were made directly to consumers, without personal financial advice.

ASIC's review raised concerns that between 1 January 2014 and 30 June 2017, when selling over

32,000 life insurance policies direct to consumers, 1,166 of which were to consumers residing in high Indigenous populated areas who were unlikely to have English as their first language, ClearView sales staff:

- made misleading statements about the cover, the premiums, and the effect of any of the consumer's pre-existing medical conditions
- did not clearly obtain consumer consent to purchase the cover before processing the premium payments
- used pressure sales tactics to sell the policies.

In response to ASIC's concerns, ClearView agreed to provide full and partial refunds to consumers, offer a sales call review to other eligible consumers and remediate if there was evidence of poor conduct, engage an independent expert to provide independent assurance over the consumer remediation program, and cease selling life insurance to consumers without personal financial advice.

# Affordable Home Improvements

Matthew Geoffrey Rixon, a Brisbane based tradesman, undertook unlicensed fencing, decking and minor building works. The work was generally of inferior quality or incomplete. Mr Rixon was sentenced to 18 months jail after multiple investigations by New South Wales and Queensland regulators.

Since 2012, NSW Fair Trading has issued a total of five public warnings about Matthew Rixon and his companies. He accepted work under dozens of aliases including Matt Geoffrey, Matthew Ewing, Duke Property, Andrew Gough, Patrick James Harding, and Patrick Harding, plus different business names including Affordable Home Improvements, Rixco Fencing, Rixco Group, Rixco Constructions, Deck A Day, Quality Building Solutions and Affordable Home Services.

In April 2013, the NSW Supreme Court permanently banned Mr Rixon from working in the home building industry. In September 2013 Rixon was charged with breaching those orders and a year later was given a suspended sentence of 18 months jail. However, within five months of being sentenced, Rixon accepted \$10,000 from an Allawah man to carry out fencing work that was never finished.

On 18 August 2017, Mr Rixon, who had misrepresented himself as a company director and licensed tradesman, was found guilty on five counts of wrongly accepting payment under the ACL by the Brisbane Magistrates Court following a Queensland Office of Fair Trading investigation. The Court ordered Mr Rixon to pay \$25,000 in fines and \$4,141 in restitution to consumers.

A conviction was recorded. In sentencing, the Court considered Mr Rixon's previous history of similar offending in NSW, his failure to repay victims and noted the offending was 'clearly a scam'.



In this instance, Mr Rixon had advertised his unregistered business, Affordable Home Improvements, in newspapers, offering home maintenance, repairs and fence building services. Mr Rixon accepted deposits from consumers for home maintenance or fencing contracts, but never started the work. The consumers tried to contact Mr Rixon, but were unable to do so as the company name and Australian Business Number displayed in the advertisements did not exist.

In February 2018, Mr Rixon was arrested in Queensland and extradited to NSW after the NSW Supreme Court issued a bench warrant on 12 January when he failed to appear in Court. In March 2018, Mr Rixon was sentenced to 18 months jail for contempt of court for breaching NSW Supreme Court orders made in April 2013 that permanently banned him from working in the home building industry.



## NBN internet service providers

The ACCC has accepted a number of court enforceable undertakings from internet service providers (ISPs) to provide remedies to consumers who could not receive the internet connection they paid for.

In 2017-18 the ACCC accepted eight court enforceable undertakings from Dodo, M2, Primus, iiNet, Internode, TPG, Optus and Telstra. These undertakings related to an industry-wide problem identified by the ACCC that customers were being misled about the speeds available on advertised plans and paying for speeds that could not be delivered on their National Broadband Network (NBN) connection.

The undertakings required the ISPs to offer remedies to, or directly compensate, customers who were misled or paying for a service that could not be delivered on their connection. In total, the undertakings covered redress for approximately 75,000 customers.

The ACCC accepted these undertakings as a proportionate way to deal with a systemic industry wide problem and to ensure that a remedy was provided to consumers as quickly as possible. The ACCC also engaged with all the ISPs to set

expectations on future representations and practices in order to achieve long-term industry change

The ACCC also commenced and concluded action against Optus Internet Pty Ltd. The ACCC had alleged that it had made false or misleading representations by writing to its customers to advise it would disconnect their Hybrid Fibre Coaxial (HFC) service within a specified time period, as the NBN was coming to their area. Optus further represented that its customers would need to connect to Optus NBN to continue receiving internet service when the transition occurred.

However, Optus was not contractually allowed to cancel the customers' services in the timeframes it gave to customers. Further, its HFC customers were able to select any ISP to provide their internet services when the NBN transition occurred. On 23 May 2018 the court ordered Optus Internet Pty Ltd to pay a penalty of \$1.5 million.

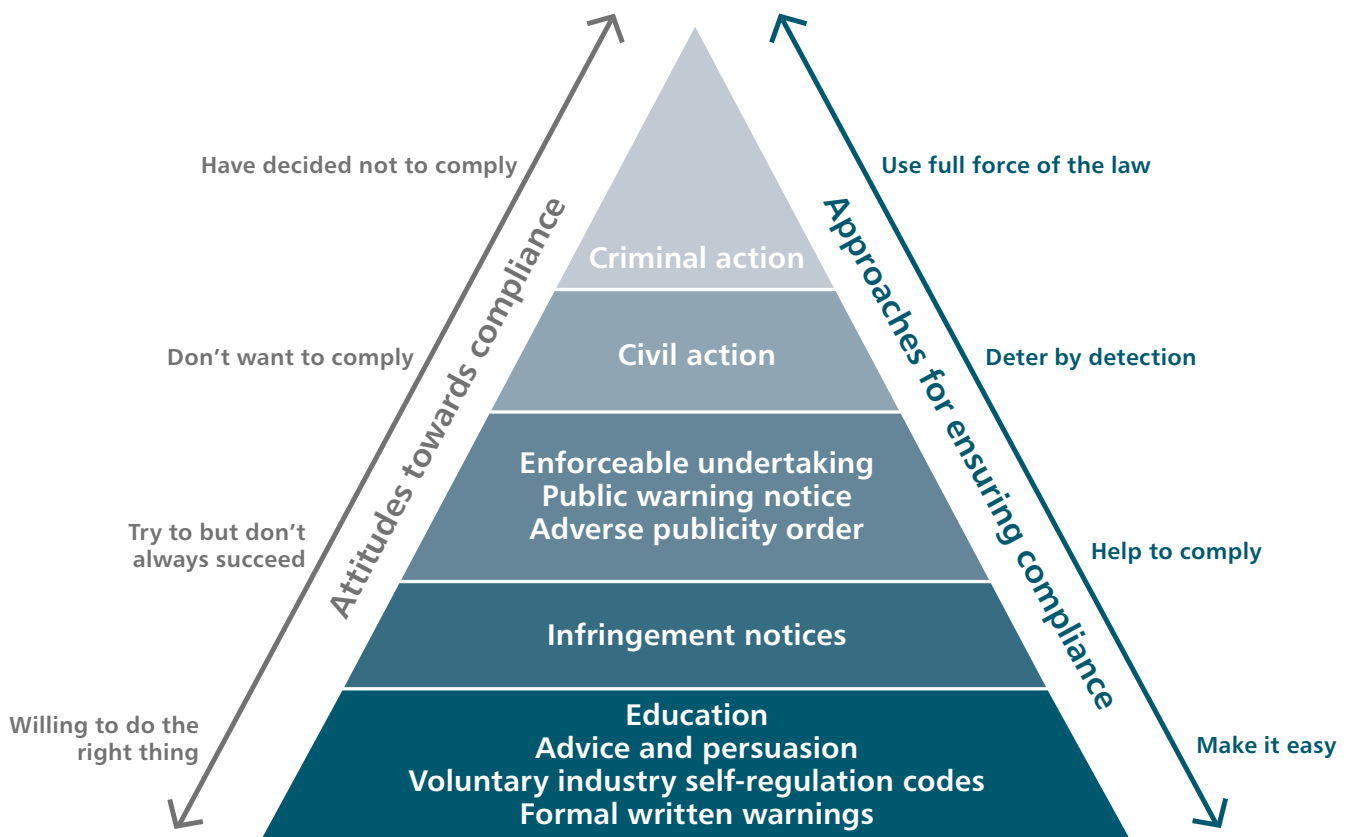


# Proportionate, risk based enforcement

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 report provides an overview of key enforcement activities undertaken in 2017-18. It expects that the introduction of tougher penalties for breaches of the ACL from 1 September 2018 should help to discourage unscrupulous suppliers from egregious behaviour

## Compliance and enforcement options



Source: ACL Compliance and enforcement guide, 2017

# Tougher penalties for ACL breaches

Businesses that breach the ACL from 1 September 2018 will risk substantial new penalties that take back every dollar gained from breaching the law, and more.

The maximum penalty for a corporation is now the greater of \$10 million, or three times the value of the benefit obtained from the breach (if this can be determined), or 10 per cent of the annual turnover (if the value of the benefit cannot be determined). For an individual, the maximum penalty is now \$500,000.

Previously, the maximum penalties in the ACL were \$1.1 million for corporations and \$220,000 for individuals.

The [2016-17 ACL Review](#) found that these penalties were insufficient to deter unlawful conduct that could be highly profitable. CAF Ministers agreed to these changes in 2017.

These changes are designed to stop unscrupulous businesses treating penalties as a mere 'cost of doing business'.

# Ford litigation and undertakings from key car manufacturers

The ACCC finalised action against Ford Motor Company of Australia (Ltd) (Ford) and accepted court enforceable undertakings from Hyundai and Holden requiring them to improve their Australian Consumer Law compliance.

Ford has also undertaken to provide customers with access to more information about their cars, including the history of manufacturing defect repairs performed on their vehicles

- offering consumers a refund or replacement without the need for them to demonstrate a major failure, if a defect prevents a vehicle from being driveable within 60 days of the date of purchase.

The ACCC also accepted court enforceable undertakings from Hyundai and Holden in the 2017-18 financial year. These undertakings require Hyundai and Holden to improve their compliance with the ACL consumer guarantee obligations. Holden's undertaking also went beyond ensuring compliance with the current ACL consumer guarantee obligations and commits Holden to measures in line with recommended changes to the ACL, being:

- clarifying in its internal compliance training program that multiple minor failures of a vehicle may constitute a major failure

The ACCC considered that these undertakings, alongside the Ford litigation, set expectations for the market and are likely to lead to better industry practices across the board.





## LuxStyle and Digital Sourcing

The ACCC issued a public warning notice concerning an online trader sending unsolicited goods to consumers.

In December 2017 the ACCC issued a public warning notice concerning the overseas-based online retailer Digital Sourcing ApS (Digital Sourcing), formerly known as Lux International Sales ApS (LuxStyle).

The December warning notice followed a March 2017 public warning notice about the conduct of LuxStyle. LuxStyle allegedly sent unsolicited goods to consumers then demanded payment for the goods. The company changed its name to Digital Sourcing on 1 October 2017.

The public warning notice alleges that LuxStyle: sent unsolicited goods to Australian consumers; demanded payment for the unsolicited goods; continued to make demands for payment to

consumers who refused to pay; threatened to refer (and in some instances actually referred) the matter to a debt collection agency. The ACCC alleges that this conduct is likely to breach the Australian Consumer Law

The public warning notice was issued as a proportionate, timely response to conduct being undertaken by an overseas-based retailer in circumstances where the legal processes to prevent the conduct would be limited and slow. The public warning notice, and subsequent press coverage, allowed consumers to take the necessary steps to protect themselves against the conduct.

## Wealth and Risk Management Pty Ltd

In 2018 the Federal Court ordered penalties totalling \$750,000 against three Melbourne-based companies for numerous contraventions of financial services and consumer protection laws.

Financial services and consumer protection laws exist to ensure that financial service providers act in the best interests of consumers and to protect vulnerable consumers who may be at greater risk of financial harm from poor advice.

In 2017 ASIC commenced proceedings against Wealth and Risk Management Pty Ltd, Yes FP Pty Ltd and Jeca Holdings Pty Ltd as well as a former director of the companies, Joshua Fuoco. These companies offered and gave cash payments to financially vulnerable consumers in connection with the provision of financial advice. This involved:

- advertising 'fast cash' to consumers with poor credit histories seeking loans
- requiring consumers to receive and implement financial advice that recommended switching their superannuation and taking out 'high end' insurance

- charging advice fees that were paid out of consumers' superannuation funds and received upfront and trailing insurance commissions.

These practices often resulted in a substantial erosion of the consumer's superannuation balances. The Federal Court found that the companies breached a number of financial services laws, including the obligation to act in a consumer's best interests, and not engage in unconscionable conduct.

In addition to the pecuniary penalties ordered, the Court ordered that the companies be restrained from carrying on a financial services business for 18 years. Mr Fuoco was also restrained from providing financial services for 10 years and ordered to pay \$650,000 as a penalty and \$100,000 towards ASIC's costs.

## Eco Boss Pty Ltd

On 12 March 2018, Samuel Edward Newnham and Adrian James Campbell, directors of Eco Boss Pty Ltd, were ordered to pay over \$579,579 in fines, compensation and court costs by the Southport Magistrates Court after a QOFT investigation.

Mr Newnham and Mr Campbell pleaded guilty to 11 counts of making false and misleading representations. The Court heard between October 2015 and June 2016 Eco Boss Pty Ltd sold 'exclusive' distribution licences for the sale and installation of a particular brand of smoke detection technology in different locations within Australia.

Mr Newnham and Mr Campbell told interested purchasers they had an agreement with a UK-based company to sell territorial licences within Australia, producing a false contract with the UK company to deliberately mislead potential distributors. As a result the 11 affected purchasers were under the impression they had bought exclusive distribution

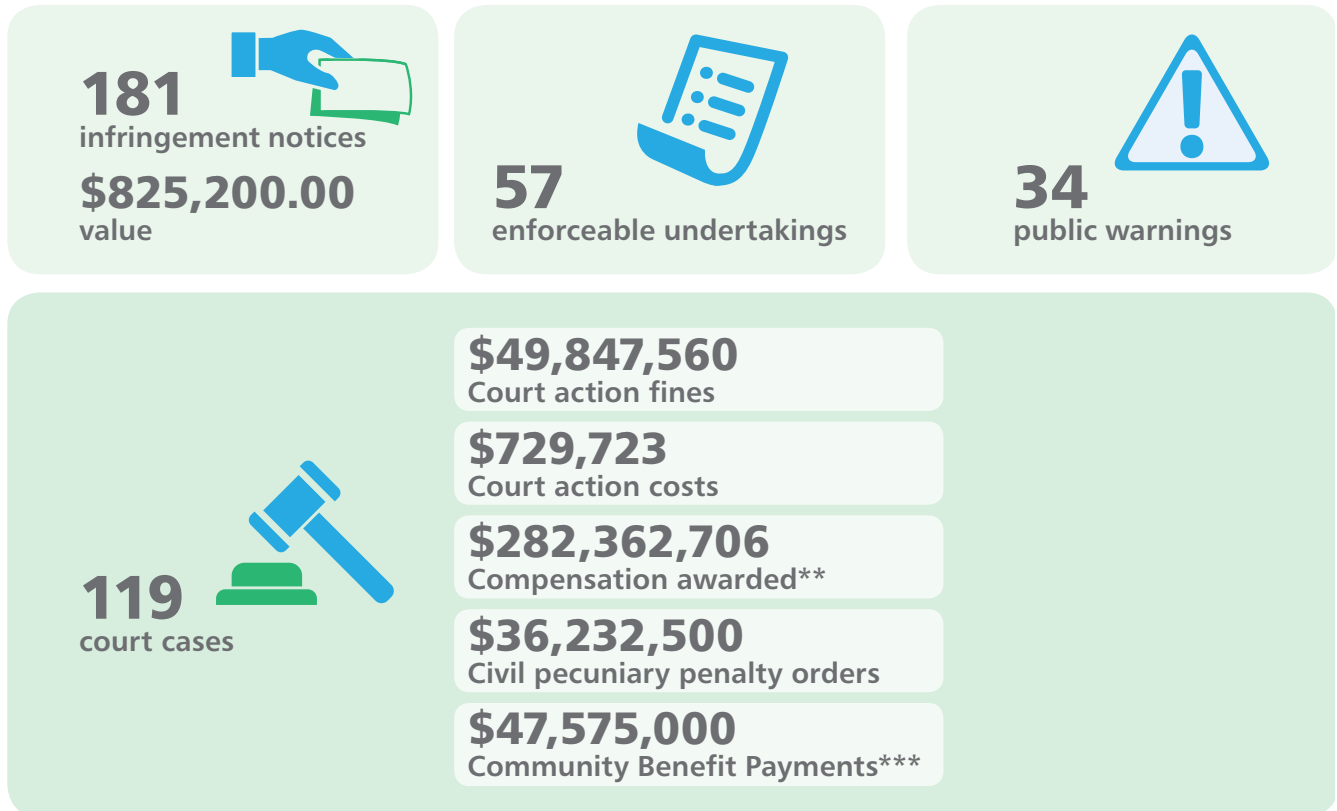
rights in specified areas. In sentencing, the Court considered Mr Newnham's and Mr Campbell's level of manipulation, the significant financial detriment their actions had on the affected purchasers and their lack of remorse.

Neither Mr Newnham nor Mr Campbell appeared in court. Eco Boss Pty Ltd was fined \$250,000. Mr Newnham was fined \$40,000 and ordered to pay \$102,200 in restitution to affected distributors and \$89.90 in court costs. Mr Campbell was fined \$85,000 and ordered to pay \$102,200 restitution and \$89.90 in court costs. A conviction was recorded against Mr Campbell.



# Key compliance and enforcement statistics

During 2017–18, ACL-related compliance and enforcement actions\* by ACL regulators nationally included:



The key statistics dating back to 2013-14 are:

Year/Actions	2013-14	2014-15	2015-16	2016-17	2017-18**
Infringement notices	\$600,930	\$1,032,528	\$902,886	\$289,965	\$825,200
Court action fines	\$661,949	\$994,665	\$711,400	\$1,260,409	\$49,847,560
Court action costs	\$236,699	\$1,837,195	\$122,165	\$686,717	\$729,723
Compensation awarded	\$1,065,162	\$14,080,503	\$2,963,849	\$473,501	\$282,362,706
Civil pecuniary penalty orders	\$15,916,500	\$23,808,000	\$15,642,000	\$17,477,400	\$36,232,500
Community benefit payments	-	-	-	-	\$47,575,000

\* 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.

# 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 2017-18 under the ACL. This does not reflect the duration of this enforcement activity, which may have commenced in prior years but reached resolution in 2017-18. 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 2017-18, 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.<sup>2</sup>

Date	Outcome
25 July 2017	Lululemon Athletica Australia Pty Ltd paid penalties totalling \$32,400 following the ACCC issuing three infringement notices for alleged false or misleading representations about consumer guarantee rights.
25 July 2017	Financial Choice Pty Ltd paid two ASIC infringement notice penalties totalling \$21,600, after making misleading representations in marketing emails sent to consumers and on its website
25 July 2017	Solar marketer Oz Solar Needs Pty Ltd fined for door to door trading breach in Indigenous communities
17 November 2017	Red Balloon Pty Ltd paid penalties totalling \$43,200 following the issue of four infringement notices by the ACCC for alleged breaches of the new excessive payment surcharges laws in the Competition and Consumer Act 2010.
22 November 2017	Hive Empire Pty Ltd paid a penalty of \$10,800 following the issue of an infringement notice by the ACCC for alleged false or misleading claims about the number of health insurance policies it compares.
22 November 2017	AAMI paid \$43,200 in penalties after ASIC found it had made false or misleading statements on its website and in radio advertisements for home insurance.
28 November 2017	Volkswagen Financial Services paid a penalty of \$216,000 after ASIC issued 20 infringement notices for alleged misleading statements made by VWFS as part of its '1% you can't ignore' advertising campaign.
19 February 2018	Clear Credit Solutions Pty Ltd has paid penalties of \$21,600 after ASIC issued two infringement notices alleging that Clear Credit had made false or misleading representations on its website and in the scripts used by sales consultants when dealing with consumers.
5 March 2018	Activ8me paid a penalty of \$12,600 after the ACCC issued an Infringement Notice for alleged false and misleading representations.
27 March 2018	RAA Insurance Limited (RAA) has paid \$43,200 in penalties after ASIC issued four infringement notices for misleading representations made in television advertisements aired in South Australia.
29 March 2018	A New Farm real estate agent and agency fined a total of \$12,960 by the Queensland Office of Fair Trading for making false and misleading representations.

<sup>2</sup> Note: some jurisdictions are prevented by law from publicly reporting on infringement notices and as a result, notices may be under reported.

Date	Outcome
24 May 2018	Fox Symes Pty Ltd has paid a total of \$37,800 in penalties for making potentially misleading statements in its advertising.
5 June 2018	Jenny Craig Weight Loss Centres Pty Ltd paid \$37,800 in penalties following the ACCC issuing three infringement notices for alleged false or misleading representations in breach of the Australian Consumer Law.
13 June 2018	ASIC enforcement action against Bananacoast Community Credit Union Pty Ltd has resulted in four infringement notices totalling \$50,400 for potentially misleading statements in several online advertisements, as well as remediation to affected consumers.
20 June 2018	Dreamz Pty Ltd paid \$37,800 in penalties for alleged false or misleading representations after the ACCC issued three infringement notices.

# Enforceable undertakings

The table below details a selection of ACL-related court-enforceable undertakings entered into during the 2017-18 period.

Date	Person / entity making undertaking
11 July 2017	JRW Property International Pty Ltd
14 July 2017	Raminderjot Bedi
14 July 2017	Australia National Institute of Business Pty Ltd
3 August 2017	GM Holden Ltd
18 September 2017	Stanley Po-Ting Hsu
18 September 2017	Stanley Creative Retail Pty Ltd
18 September 2017	Brisbane Retail Investment Pty Ltd
18 September 2017	Indooroopilly Retail Investment Pty Ltd
10 October 2017	Marc David Heasman
11 October 2017	Advanced Hair Studio Pty Ltd
3 November 2017	Australian Unity Health Limited
8 November 2017	Telstra Corporation Limited
20 November 2017	Bloomex Australia Pty Ltd
28 November 2017	West Aust Couriers Pty Ltd
11 December 2017	Optus
13 December 2017	BXT International Ltd
13 December 2017	TCF Global Ltd
15 December 2017	101 Residential Pty Ltd
15 December 2017	MRK Distributor Pty Ltd
19 December 2017	Belkin Limited
20 December 2017	TPG Internet Pty Ltd
21 December 2017	Faavevesi Isaako
4 January 2018	James Follows
16 January 2018	Imagine That Photography Pty Ltd
2 February 2018	Fire Combat Australia Pty Ltd
8 February 2018	Hyundai Motor Company Australia Pty Ltd
12 February 2018	Peleguy Distributions Pty Ltd
26 February 2018	Purplebricks Australia Pty Ltd
27 February 2018	NETGEAR Australia Pty Ltd
20 March 2018	iiNet Limited
20 March 2018	Internode Pty Ltd
23 March 2018	Dodo Services Pty Ltd
23 March 2018	Primus Telecommunications Pty Limited
23 March 2018	M2 Commander Pty Ltd
27 March 2018	Cardtronics

Date	Person / entity making undertaking
26 April 2018	Ford Motor Company of Australia Limited
3 May 2018	HP PPS Australia Pty Ltd
30 May 2018	Wilson Security Pty Ltd
1 June 2018	Fitbit (Australia) Pty Limited
6 June 2018	Wisdom Properties Group Pty Ltd
6 June 2018	Gemwide Trading Pty Ltd
19 June 2018	Apple Pty Ltd
25 June 2018	Joel McLeod (Luxury Concreting Pty Ltd trading as C&J Decorative Concrete)
29 June 2018	Australia Manolite Pty Ltd



## Public warnings (including safety warnings)

The table below details a selection of ACL-related public warnings issued during 2017-18, 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
13 July 2017	<a href="#">Drive Beyond</a>
26 July 2017	<a href="#">Misleading pest controller</a>
7 August 2017	<a href="#">Anthony Michael Gliddon</a>
8 August 2017	<a href="#">Parents and carers warned baby neck floats are dangerous</a>
11 August 2017	<a href="#">Illegal sellers of electronic equipment</a>
27 August 2017	<a href="#">Viagogo</a>
30 August 2017	<a href="#">Port View Restaurant closure</a>
11 September 2017	<a href="#">Builders — misleading advertising</a>
15 September 2017	<a href="#">Oz Lotto Service — unlicensed lottery</a>
19 September 2017	<a href="#">Property related cyber scam</a>
5 October 2017	<a href="#">Parents warned of unsafe, non-compliant, car seats available for sale online</a>
5 October 2017	<a href="#">Butane lighter recall</a>
10 October 2017	<a href="#">Homeowners and renovators warned about the dangers of unsafe ladder use</a>
10 October 2017	<a href="#">Get it On Holiday scratchie scam</a>
20 October 2017	<a href="#">Travelling traders</a>
2 November 2017	<a href="#">Shawn Ragno / Shawn Ragno Stone Installations</a>
23 November 2017	<a href="#">TDC Landscaping</a>
24 November 2017	<a href="#">Property sale scam</a>
11 December 2017	<a href="#">Parents warned of unsafe products identified in the lead up to Christmas</a>
15 December 2017	<a href="#">Puppy scams</a>
19 December 2017	<a href="#">Goldman Pintex Management Pty Ltd</a>
19 December 2017	<a href="#">Solar Orb Pty Ltd</a>
20 December 2017	<a href="#">Digital Sourcing/Lux International Sales</a>
4 January 2018	<a href="#">Quality Home Care and Maintenance</a>
11 January 2018	<a href="#">SAS Tree Services</a>
18 January 2018	<a href="#">Mermaid tails and fins warning</a>
24 January 2018	<a href="#">Trevors Landscape Services/Liven your Landscape</a>
1 February 2018	<a href="#">iTunes scam</a>
2 February 2018	<a href="#">Matthew Geoffrey Rixon</a>
15 February 2018	<a href="#">iTunes scam</a>
15 February 2018	<a href="#">Luxuride Pty Ltd / Nicolas Ngo</a>
5 March 2018	<a href="#">Gambling Scam in Bali</a>
20 March 2018	<a href="#">Sextortion' scams</a>
29 March 2018	<a href="#">Hayes Auctioneers</a>



Date	Subject of warning
19 April 2018	Tax scams
2 May 2018	Luxuride Pty Ltd / Nicolas Ngo
14 May 2018	Raymond El-Safadi aka Mohammad Hussein
23 May 2018	Ali Faraj and Pro Master Painting and Maintenance
31 May 2018	Digital Marketing Solutions
3 June 2018	A Living Workshop (pyramid scheme)
6 June 2018	Peter Todd Hynes / Captain Trade Group
26 June 2018	Scott Dwyer, Premium Collectables
28 June 2018	Back of van sales

## Court outcomes

The table below details a selection of ACL-related Court outcomes during 2017-18, noting some matters may continue past 30 June 2018 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
6 July 2017	Adam Peachy has been convicted and fined \$16,000 for accepting payment and not supplying the goods or services in time.
25 July 2017	The Federal Court has ordered Snowdale Holdings Pty Ltd (Snowdale) to pay penalties totalling \$750,000 for making false or misleading representations that its eggs were 'free range'.
28 July 2017	Braden Douglas Tagg, trading as XRO Racing, pleaded guilty to accepting payment for goods and failing to supply them under the ACL. He was fined \$6,000 and a conviction was recorded.
1 August 2017	Mazin Alkiaat, operating as W.A. Auto and Parts, was fined \$30,000 and ordered to pay \$350.35 in costs by the Perth Magistrates Court on 28 July 2017 for selling four vehicles that had their odometers wound-back.
8 August 2017	Isaac Comer has been convicted and fined \$4000 for falsely representing a person having a sponsorship.
10 August 2017	Ming Ying Lam has been convicted & fined \$12,000 for failure to comply with safety standards.
18 August 2017	Matthew Geoffrey Rixon was found guilty on five counts of wrongly accepting payment under the ACL. He was fined \$25,000, ordered to repay \$4,141 to 5 consumers, and a conviction was recorded.
22 August 2017	A Wangara patio tradesman who took payments from consumers but failed to do the work has been ordered to pay a total of \$27,975 in fines, compensation and costs by the Perth Magistrates Court.
25 August 2017	Tui Philip Roberts of Kiwiana Relocations was ordered to pay a total of \$8,685 in fines, restitution and court costs after being found guilty of failing to supply removalist services to two Queensland consumers.
29 August 2017	A Brunswick-based company that supplied banned miniature motorbikes has been ordered to pay a penalty of \$10,000 for failing to meet the product safety provisions of the Australian Consumer Law (Victoria).
30 August 2017	Federal Court today ordered Get Qualified Australia Pty Ltd (GQA) to pay an \$8 million penalty for multiple breaches of the Australian Consumer Law (ACL) and its sole director, Mr Adam Wadi, to pay a penalty of \$500,000.
1 September 2017	Charlene Dalia Marie Tipene, of online children's clothing store Boy Jungle, pleaded guilty to failing to supply goods within a specified timeframe. She was fined \$3,000 and ordered to pay a total of \$676 in compensation to nine affected consumers.
7 September 2017	A young businessman who supplied black tie waiters for private functions has been ordered by the Perth Magistrates Court to pay almost \$7,500 in fines, compensation and costs for taking payments from clients but failing to turn up.
11 September 2017	BB Toyman Pty Ltd, trading as My Toys and Hobbies pleaded guilty to one charge of supplying goods that do not comply with safety standards, was fined \$10,800 and a conviction was recorded.
12 September 2017	A Ballajura fencing contractor who took money from consumers but failed to deliver was ordered by the Joondalup Magistrates Court to pay almost \$16,000 in fines, compensation and costs on 8 September 2017.
15 September 2017	Keith John Lawson, trading as unregistered business Simply Elegant Solutions, was found guilty of failing to supply goods or services under the Australian Consumer Law, fined \$9,000, and ordered to pay \$3,000 restitution.
21 September 2017	Siosiana Telesia Ungounga has been convicted & fined \$6,000 for accepting payment and not supplying the goods or services in time.

Date	Outcome
21 September 2017	Tevita Tiliti Ungounga has been convicted & fined \$6,000 for accepting payment and not supplying the goods or services in time.
28 September 2017	Annabelle Natalie Gibson (also known as Belle Gibson) has been ordered to pay \$410,000 after the Federal Court of Australia found that she and her company, Inkerman Road Nominees Pty Ltd (ACN: 164 850 748) — in liquidation, engaged in unconscionable conduct relating to the sale of Ms Gibson’s book and app, The Whole Pantry.
18 October 2017	The Federal Court has declared, by consent, that eight terms in the standard form contract used by JJ Richards & Sons Pty Ltd (JJ Richards) to engage small businesses are unfair, and therefore void.
23 October 2017	Westech Surfacing Pty Ltd was fined a total of \$4,300 at the Narrogin Magistrates Court on 18 October 2017. Westech Surfacing Pty Ltd was charged with one count of misleading representation to a consumer regarding the price of services and four counts in relation to unsolicited consumer agreements.
25 October 2017	The Federal Court has ordered penalties totalling \$750,000 against MSY Technology Pty Ltd, MSY Group Pty Ltd, and M.S.Y. Technology (NSW) Pty Ltd (MSY Technology) for misrepresenting consumers’ rights to remedies for faulty products.
2 November 2017	Joe Michael Tadrosse convicted & fined \$6,000 for accepting payment and failing to provide services within a reasonable time or at all.
6 November 2017	Colin Richard Thompson t/a Esoteric Mind Specialist - Mr Thompson was permanently restrained from conducting business in the NT relating to mind communication and supernatural healing to cure medical conditions and addictions.
13 November 2017	Samer Hraiki has been convicted & fined \$12,500 for accepting payment and not supplying the goods or services in time.
22 November 2017	Fair Group Global/Fair Financial/Bluebell Conveyancing Australia
23 November 2017	Mazin Alkiaat, formally operating as W.A. Auto and Parts, was banned for two years from holding a dealer’s licence or repair business licence, or managing a company that holds a licence, by the State Administrative Tribunal after being found guilty of selling vehicles with wound-back odometers. This follows his July 2017 conviction in the Magistrates Court.
27 November 2017	Mahmoud Mohsen convicted & fined \$500 for falsely representing guarantee and/or warranty.
30 November 2017	The Federal Court has ordered penalties totalling \$380,000 against Aveling Homes Pty Ltd (Aveling) for engaging in conduct liable to mislead the public in connection with two online review websites.
4 December 2017	A real estate agency in Melbourne’s east will pay \$160,000 after it admitted to engaging in misleading and deceptive conduct and making false and misleading representations about the sale of land.
6 December 2017	A national retailer that sold unsafe and insufficiently labelled products to Victorian, New South Wales and Queensland consumers has been ordered to pay \$1 million by the Federal Court of Australia.
14 December 2017	A real estate agency in Melbourne’s east will pay \$880,000 after the Federal Court of Australia found it engaged in misleading or deceptive conduct and making false or misleading representations about property sales.
9 January 2018	Debra Lee Durrington, the owner of now defunct Travel Experience Charters Towers, pled guilty and was fined \$10,000 to five counts of wrongly accepting payment, was ordered to pay \$24,011 in compensation to three affected consumers, and a conviction was recorded.
16 January 2018	Sharon Lucille Bennett, owner of Serenity Bridal Boutique, pleaded guilty to four counts of failing to supply wedding and bridesmaid dresses within a specified timeframe. Ms Bennett was fined \$14,000 and ordered to pay \$1850 in refunds to four affected consumers.
17 January 2018	Brett Maxwell Smith convicted & fined \$2,400 for accepting payment and not supply goods/ services in time

Date	Outcome
29 January 2018	The Federal Court fined Channic, Cash Brokers and Mr Hulbert a total of \$776,000 and ordered the payment of ASIC's costs of \$420,000 after finding in proceedings brought by ASIC that Channic and Cash Brokers breached the National Credit Act, engaged in unconscionable conduct and entered into unjust transactions.
6 February 2018	A fencing contractor has been fined \$2,000 by the Perth Magistrates Court and ordered to pay compensation of \$1,000 to a Gooseberry Hill consumer after taking a deposit but failing to do the work.
7 February 2018	Stephen Graeme May, owner of Willow Creek Mews retirement village, was fined \$5,000 and ordered to pay \$1,938 in costs by the Perth Magistrates Court for failing to provide specific information to prospective residents prior to them signing contracts.
8 March 2018	National variety goods retailer The Reject Shop Ltd has been penalised \$140,000 after admitting that it contravened the product safety provisions of the Australian Consumer Law (Victoria) by selling projectile toys that did not meet the relevant Australian Safety Standard
12 February 2018	The Federal Court has ordered Letore Pty Ltd (Letore) to compensate victims of a permanent residency program, which was operated by Clinica Internationale Pty Ltd (Clinica), for amounts they paid to Clinica.
12 February 2018	Tyson John Hanley, trading as an unregistered business '540 Fabrications and Fencing', was found guilty of four counts of failing to supply goods to customers under the ACL, fined \$12,000, ordered to refund the effected consumers \$6,032, and a conviction was recorded.
16 February 2018	Stephen Joseph Mellor pleaded guilty to two charges of accepting payments for interior design services which he failed to provide. Mr Mellor was fined \$12,500, ordered to return \$1,750 to two affected consumers.
1 March 2018	A solar panel dealer has been fined \$3,000 by the Perth Magistrates Court and ordered to pay compensation of \$7,500 for breaching the Australian Consumer Law (ACL).
2 March 2018	Matthew Geoffrey Rixon has been sentenced to 18 months jail for contempt of court
8 March 2018	A tradie who accepted payment but failed to complete the work has been fined \$7,500 by the Fremantle Magistrates Court and ordered to pay compensation of \$6,600 to three clients. Adam Lodge, trading as Southwestern Roofing and Building Maintenance, was also ordered to pay costs of \$1,000 after pleading guilty to three charges of failing to supply all services within a reasonable time.
12 March 2018	Peter Stuart Mitchell, trading as Burleigh Cars, pleaded guilty to two counts of accepting payment without supplying services and one count of making a false representation under the ACL.
12 March 2018	A landscaper who took large deposits from consumers but failed to supply materials or complete the work has been fined \$4,000 by the Perth Magistrates Court and ordered to pay a total of \$18,114 in consumer compensation.
12 March 2018	Eco Boss Pty Ltd, Samuel Edward Newnham and Adrian James Campbell pleaded guilty to 11 counts of making false and misleading representations under the ACL and were ordered to pay over \$579,579 in fines and compensation.
20 March 2018	ABG Pages Pty Ltd - The Federal Court has ordered that online business directory service ABG Pages Pty Ltd (ABG) pay a \$300,000 penalty for breaching the Australian Consumer Law.
20 March 2018	Luke Garry Faucett t/as Faucetts House Haulage convicted & sentenced to 100 and 250 hours of community service to be served concurrently for accepting payment and not supply goods/ services in time.
20 March 2018	Lawrie Phillips pleaded guilty to one charge of making false or misleading representations under the ACL. Mr Phillips was fined \$10,000, and ordered to pay \$1750 in compensation.
11 April 2018	The Federal Court of Australia has ordered Thermomix In Australia Pty Ltd (Thermomix) to pay penalties totalling \$4,608,500 for making false or misleading representations and misleading the public in relation to its Thermomix kitchen appliances.

Date	Outcome
11 April 2018	Max Gaylord Grant t/as MEK Building convicted & fined \$5,000 for accepting payment not supply goods/services in time.
12 April 2018	The Federal Court has ordered Pental Limited and Pental Products Pty Ltd (together, Pental) to pay penalties totalling \$700,000, for making false and misleading representations about its White King 'flushable' toilet and bathroom cleaning wipes.
12 April 2018	Former Noodle Box franchisee convicted for engaging in illegal phoenix activity: Ms Amy Timko, of Spreyton, Tasmania, has been convicted and sentenced after pleading guilty to two counts of fraudulent conduct under the <i>Corporations Act 2001</i> .
18 April 2018	James Rees Houston, sole proprietor of JRH Commercial Property Maintenance, was found guilty of one count of failing to supply services under the ACL, was fined \$15,000, ordered to pay \$2,300 in compensation to the affected consumer and a conviction was recorded.
20 April 2018	Valve had sought special leave to appeal from the decision of the Full Federal Court in December 2017, which upheld the trial judge's ruling that Valve had breached the Australian Consumer Law (ACL) when selling to Australia users, and that it pay a \$3 million.
26 April 2018	Federal Court has declared, by consent, that Ford Motor Company of Australia Limited (Ford) engaged in unconscionable conduct in the way it dealt with complaints about PowerShift transmission (PST) cars and ordered Ford to pay \$10 million in penalties.
26 April 2018	The Federal Court has today ordered Telstra to pay penalties of \$10 million for making false or misleading representations to customers in relation to its third-party billing service.
26 April 2018	The Federal Court has found that credit repair business Malouf Group Enterprises Pty Ltd (Malouf Group) and its director Jordan Francis Malouf breached the Australian Consumer Law by making false and misleading representations and by engaging in unconscionable conduct.
9 May 2018	Braden Douglas Tagg, trading as XRO Racing, was found guilty of three counts of accepting payment for goods and failing to supply them under the ACL, was fined \$40,000, ordered to refund \$4,416 to the affected consumers and a conviction was recorded.
15 May 2018	The Federal Court of Australia ordered a \$2 million penalty against Thorn Australia Pty Ltd's (Thorn's) Radio Rentals for contravening its responsible lending obligations.
17 May 2018	Qin Qin convicted & fined \$800 for fail to comply with safety standards, Airlines Flash Electric A380 Air Bus; Future Passenger Plane.
22 May 2018	Blake Ball, trading as Balls Walls Constuction(sic), was fined \$5,000 on 21 May 2018 after pleading guilty to three charges under the Australian Consumer Law for wrongly accepting payment from two consumers who had provided part-payment for the construction of limestone retaining walls at their homes.
23 May 2018	The Federal Court has ordered Optus Internet Pty Ltd (Optus) to pay penalties of \$1.5 million for making misleading representations to customers about their transition from Optus' HFC network to the National Broadband Network (NBN).
24 May 2018	Ming Ying Lam convicted & fined \$24,000 for fail to comply with safety standards, Minion Dave; Hello Kitty Happy Little Drummer; Minnie Mouse; Senior Aviation 787 Flash Electric Plane.
31 May 2018	Sarkis Charles Moussa convicted & fined \$500 for fail to comply with safety standards — Combat Set; Army Green Gun; Marksman Combat Rifle; Soft bullet gun.
7 June 2018	John Frederick Waters, sole trader of Ocean Road Queensland, was fined \$50,000 and ordered to repay \$105,664 after pleading guilty to two counts of wrongly accepting payment for goods that he failed to supply under the ACL.
8 June 2018	Aron Stirling Denny was found guilty of one count of wrongly accepting payment for goods and failing to supply them under the ACL after failing to deliver 20 custom sports team shirts.
8 June 2018	Mr Walker, trading as 'Across Country Removals', pleaded guilty to one count of wrongly accepting payment for a service under the ACL and ordered to pay more than \$9,000 in fines and compensation after failing to deliver belongings from Moree to Darwin.

Date	Outcome
11 June 2018	Hilton Holder, sole trader of online retailer Pretty Neat Stuff pleaded guilty to one count of breaching ACL by failing to supply goods paid for within a specified timeframe, was ordered to pay more than \$10,000 in fines and compensation and a conviction was recorded.
13 June 2018	Success Resources Australia Pty Ltd, a personal and business development seminar organising company, was fined \$5,000 and ordered to pay \$1,000 in costs by Perth Magistrates Court on 8 June 2018. It was found guilty of failing to provide services within a reasonable time, or at all, after receiving full payment.
13 June 2018	Sun Beef Pty Ltd, trading as SunUltima, operated by directors Colin Uebergang and Anthony Roger Asmus, failed to comply with a notice issued by the OFT which was seeking to substantiate claims about its product curing skin cancer.
18 June 2018	Kurt Russell Thomas, was found guilty of three charges of taking money and failing to supply goods or services under the ACL. He was fined \$12,000 and ordered to pay restitution of \$3,445 to 3 effected consumers.
19 June 2018	Apple Pty Ltd & Apple Inc — The Federal Court ordered Apple Inc (Apple US) to pay \$9 million in penalties for making false or misleading representations to customers with faulty iPhones and iPads about their rights under the Australian Consumer Law (ACL).
29 June 2018	Mr Amaranti appeared before the Perth Magistrates Court on 29 June 2018 charged with seven counts of dishonest conduct. He entered a plea of guilty and has been committed to the District Court.
15 July 2018	The Federal Court has ordered that Domain Corp Pty Ltd and Domain Name Agency Pty Ltd (also trading as Domain Name Register) pay combined penalties of \$1.95 million for breaching the Australian Consumer Law.

## Other outcomes

Date	Action
20 July 2017	The Rental Guys has paid \$100,000 to regional customers after ASIC found they failed to meet their responsible lending obligations when renting white goods and furniture.
26 July 2017	MyState Bank Limited, a Tasmanian bank, has refunded more than \$230,000 in over-charged interest and fees to more than 1,040 customers with mortgage offset accounts.
2 August 2017	QBE Insurance (Australia) Ltd (QBE) will refund more than 35,000 add-on insurance customers up to \$15.9 million they paid for insurance bought through car dealerships where the insurance provided little or no benefit.
10 August 2017	ASIC has confirmed an additional \$10.5 million in compensation for 160,000 superannuation customers who were affected by breaches within the OnePath group between 2013 and 2016.
14 August 2017	The Commonwealth Bank (CommBank) will refund over 65,000 customers approximately \$10 million, after selling them unsuitable consumer credit insurance (CCI).
24 August 2017	Following a commitment to further review their small business loan contracts, the big four banks have now agreed to specific changes with ASIC to eliminate unfair terms from their contracts.
9 November 2017	Citibank will refund more than \$3.3 million to around 39,500 current and former customers for failing to refund customers when credit card accounts were closed with an outstanding credit balance.
9 November 2017	Citibank has refunded around 4,000 current and former customers more than \$1 million after misstating the bank's obligations around unauthorised transactions on customers' accounts.
29 November 2017	Youi has refunded 102 consumers approximately \$14,000 in total, and will pay \$150,000 as a community benefit payment to the Financial Rights Legal Centre's Insurance Law Service, after ASIC raised concerns about its home and car insurance sales practices.
14 December 2017	Westpac will provide 13,000 owner-occupiers who have interest-only home loans with an interest refund, an interest rate discount, or both. The refunds amount to \$11 million for 9,400 of those customers.
18 December 2017	CommInsure will pay \$300,000 towards a consumer advice service and have its advertising sign-off processes independently reviewed after ASIC raised concerns about certain instances of its life insurance advertising.
19 December 2017	Swann Insurance will offer to refund 67,960 customers \$39 million paid for add-on insurance products bought through car and motorbike dealerships that were of low or no value.
19 December 2017	National Australia Bank Limited has refunded \$1.7 million to 966 home loan customers after it failed to properly set up mortgage offset accounts.
21 December 2017	Hallmark General Insurance Company Ltd (trading as Latitude Insurance) will provide refunds of approximately \$1.1 million to 905 customers after it mis-sold consumer credit insurance.
17 January 2018	Suncorp will refund 41,428 add-on insurance customers \$17.2 million for insurance bought through car dealerships that provided little or no value to consumers.
17 January 2018	Allianz Australia Insurance Limited will refund \$45.6 million to 68,000 customers for add-on insurance sold through car dealerships that were of little to no value.
18 January 2018	National Warranty Company will refund approximately \$4.9 million to 6,367 car warranty customers because its commission incentives breached the prohibition on conflicted remuneration in the <i>Corporations Act 2001</i> .
23 January 2018	ASIC has announced a package of regulatory outcomes against Thorn Australia Pty Ltd's consumer leasing businesses Radio Rentals, RR and Rentlo Reinvented, to address past poor conduct and protect future customers.
6 February 2018	ClearView Life Assurance Limited will refund approximately \$1.5 million to 16,000 consumers after ASIC raised concerns about its life insurance sales practices.

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Date	Action
7 February 2018	Westpac has provided around \$11.3 million in remediation to around 3,400 credit card customers after ASIC raised concerns about its credit card limit increase practices.
22 March 2018	TAL Direct Pty Ltd (TAL) will offer refunds totalling \$900,000 to 1,200 Insuranceline branded funeral insurance customers.
24 May 2018	Cash Converters pays \$650,000 due to poor debt collection practices, ASIC found that as a result of poor internal controls and policies Cash Converters routinely breached Regulatory Guide Debt collection guideline.

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# Other performance metrics

Additional performance metrics and outcomes published by regulators can be found in their 2017-18 annual reports:

- ACCC: <https://www.accc.gov.au/publications/accc-aer-annual-report/accc-aer-annual-report-2017-18>
- ASIC: <http://asic.gov.au/about-asic/corporate-publications/asic-annual-reports/>
- ACT: <https://www.cmtedd.act.gov.au/functions/publications/2017-18annualreport>
- NSW: <https://www.finance.nsw.gov.au/publication-and-resources/annual-reports>
- NT: <https://justice.nt.gov.au/attorney-general-and-justice/justice-publications/annual-reports>
- QLD: <https://www.justice.qld.gov.au/corporate/publications-policies/reports/annual-report/2017-18-djag-annual-report>  
<https://publications.qld.gov.au/dataset/c6c2dacb-d22f-4cdf-9312-0e6941a1f2b0/resource/37bf6c0-67ba-4488-8901-2c3ba5d6cf07>
- 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>