

Year in Review 2018-19

Australian Consumer Law



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Dear Minister

Since its introduction in 2011, the Australian Consumer Law (ACL) has offered significant benefits to the Australian community which have arisen out of strengthened enforcement and consumer redress provisions as well as through an integrated and harmonised approach across jurisdictions to consumer protection. By working together, ACL regulators seek to ensure that consumers in every part of Australia receive uniform protections which are effective and fair.

Every year since the commencement of the ACL, Consumer Affairs Australia and New Zealand (CAANZ) has produced a report to outline the collaborative activities undertaken by Australia's consumer protection agencies aimed at ensuring its effective operation nationally. The report, over time, has evolved from reporting on the introduction and implementation of the ACL in its early years to now focussing on its ongoing operation, development and improvement.

This year's report details some of the highlights of the ACL regulators coordinated activities undertaken during the 2018-19 financial year in policy, education, compliance and enforcement. This work included:

- strengthening consumer law protections with the ongoing implementation of proposals from the 2017 review of the ACL
- assisting in deterring those considering selling fake Australian Aboriginal style art as a genuine article following the successful prosecution of Birubi Art Pty Ltd
- educational campaigns encouraging consumers to be aware of the safety issues concerning a range of products and activities related to summer activities, including the safe use of portable pools, products with button batteries and ladders around the family home
- initiating voluntary recalls for products that were deemed unsafe, including the recall of eyeliner containing lead
- continuing activity to facilitate the nation-wide Takata airbag recall
- instigating changes to the returns and refunds policies of 21 Australian Football League (AFL) and National Rugby League (NRL) clubs which were considered misleading and didn't comply with the ACL
- encouraging compliance within Australia's fundraising sector with their obligations under the ACL
- empowering Aboriginal and Torres Strait Islanders to fight scams by undertaking a national scams awareness campaign
- taking action against three major telecommunications businesses for false or misleading representations in regard to their third party billing practices and in the process gaining penalties of over \$20 million and redress for numerous affected consumers
- enforcing the ACL effectively, achieving over \$97 million in fines, penalties, costs and compensation.

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

David Hillyard
Chair, Consumer Affairs Australia and New Zealand

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List of Acronyms

ACCC	Australian Competition and Consumer Commission
ACL	Australian Consumer Law
ACT	Australian Capital Territory
AFL	Australian Football League
APY	Anangu Pitjantjatjara Yankunytjatjara
ASIC	Australian Securities and Investments Commission
Auslan	Australian Sign Language
CAANZ	Consumer Affairs Australia and New Zealand
CAF	Legislative and Governance Forum on Consumer Affairs
CALD	Culturally and Linguistically Diverse
IGA	Intergovernmental Agreement for the Australian Consumer Law
NDIS	National Disability Insurance Scheme
NICS	National Indigenous Consumer Strategy Reference Group
NRL	National Rugby League
NSW	New South Wales
NT	Northern Territory
QLD	Queensland
QOFT	Queensland Office of Fair Trading
SA	South Australia
UCT	Unfair Contract Terms
VIC	Victoria
WA	Western Australia

Who are we?

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

CAANZ reports to CAF which consists of Ministers responsible for Consumer Affairs in each jurisdiction. CAF's objective is to provide the best and most consistent protection for Australian and New Zealand consumers through its consideration of consumer affairs and fair trading issues of national significance. Where possible, it also develops consistent approaches to those issues.

CAF Ministers are responsible for the ACL (which is Schedule 2 to the *Competition and Consumer Act 2011* (Cth) and which is adopted into state and territory fair trading legislation).

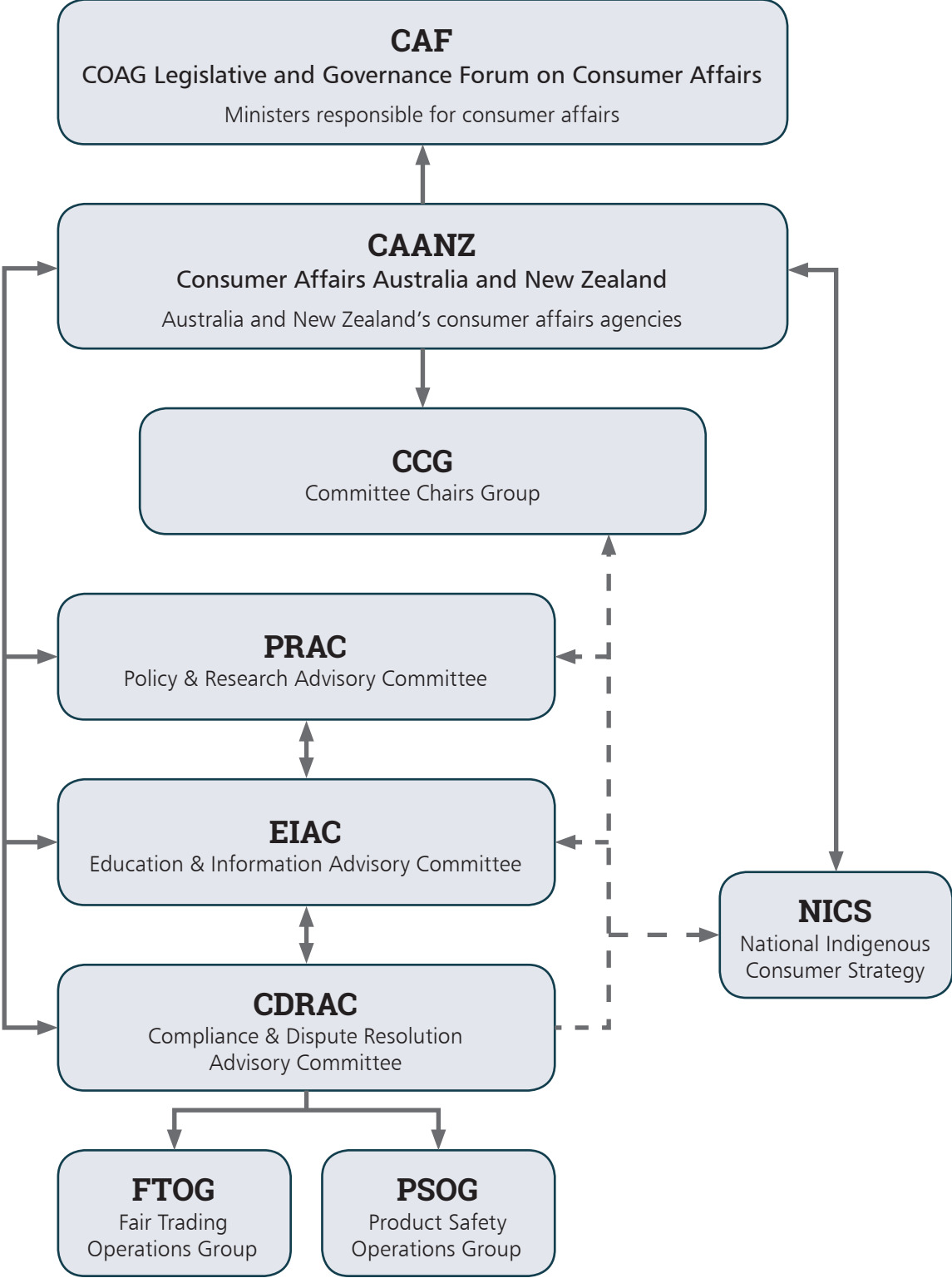
CAF sets out the 2018-2022 strategic priorities for CAANZ, which includes:

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

In 2018-19 CAANZ received advice, information and other support from three advisory committees and three operations groups:

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

ACL Governance Arrangements



What is this report?

This report provides an overview of the key policy, education and enforcement activities undertaken by CAANZ and its committees in 2018-19. It provides an insight into the work completed by policy officers, educators and regulators to refine and enforce the ACL over the course of 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:

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

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

The final chapters comprise key compliance and enforcement statistics across all ACL jurisdictions for 2018-19, and include a list of key enforcement activities undertaken over the year by ACL regulators.

ACL Review strengthens consumer law protections

Implementation of proposals from the 2017 review of the ACL continues.

Effective consumer protections are a key part of a strong economy. The 2017 ACL Review was aimed at enhancing consumer wellbeing and ensuring the consumer law continues to adapt to evolving markets.

In 2018, the Commonwealth legislated the majority of proposals arising from the Review.

The ACCC and ASIC regulators now have stronger investigative powers to ensure consumers and small businesses are protected from the use of unfair contract terms.

Consumers will now have better price transparency when shopping online, as additional fees and charges associated with pre-selected options need to be included in the headline price.

Consumers will also benefit from clarification of how consumer guarantees apply to transported goods. Consumers will no longer bear all of the risks (and associated costs) of poorly-performed shipping and are able to raise issues directly with transport providers.

Clarification of the application of consumer law protections to financial products will ensure consumers are protected when they engage in the financial market.

New guidance will help consumers and traders better understand the concepts of 'unsafe' goods and 'reasonable durability' within the consumer guarantees regime.

Amendments have also simplified the use of evidence in the litigation process for regulators and private individuals. Under the change, private litigants and regulators will be able to rely on factual admissions made in earlier proceedings as evidence in their own case.

Work is also being progressed to implement consumer guarantee reforms already by ministers, including clarifying that multiple non-major failures can amount to a major failure.



Birubi Art Pty Ltd penalised \$2.3m

Following action by the ACCC in October 2018, the Federal Court found that Birubi Art Pty Ltd falsely claimed that products it sold were hand painted by Australian Aboriginal persons and made in Australia. The Federal Court ordered Birubi to pay \$2.3 million for making false or misleading representations about products it sold in breach of the ACL.

Between July 2015 and November 2017, Birubi supplied almost 50,000 boomerangs, bullroarers, didgeridoos and message stones to retail outlets across Australia.

These products featured images, symbols and designs associated with Australian Aboriginal art and words such as 'Authentic Aboriginal Art', 'Hand Painted', and 'Australia', but were all made in Indonesia.

The ACCC argued Birubi should be penalised for its conduct as it would send a strong message to anyone considering selling fake Australian Aboriginal art as a genuine cultural product.

The court noted the importance of the deterrent effect of the penalty imposed not only in relation to economic harms impacting Australian Aboriginal people, but also the social and cultural harms which may flow from businesses misrepresenting the origin of Australian Aboriginal art and artefacts.

The ACCC was also concerned Birubi's actions not only misled consumers, but could clearly cause

offence and distress to Australian Aboriginal people. Engagement in the Australian Aboriginal art industry is extremely important to a significant number of Australian Aboriginal people, especially those in remote regions.

Birubi's misleading conduct had the potential to undermine the integrity of the Australian Aboriginal art industry and reduce opportunities for Australian Aboriginal people. ACL regulators will continue to monitor traders of Australian Aboriginal and Torres Strait Islander art and souvenirs to ensure confidence in the art industry and will take action against those who mislead consumers about the nature of their products.

Conduct affecting Aboriginal and Torres Strait Islander people is an enduring priority for the ACCC. The ACCC recognises that certain conduct in breach of the ACL has the potential to specifically impact on the welfare of Australian Aboriginal and Torres Strait Islander people. The action against Birubi is part of a number of initiatives being undertaken by ACL regulators in relation to Aboriginal and Torres Strait Islander Australians.

Photo: Indigenous artwork on display at the Jellurgal Aboriginal Culture Centre, Gold Coast

Well-informed consumers

Each financial year, CAANZ collaborates on topical consumer-related issues to educate consumers on their rights and responsibilities, as well as the risks associated with certain goods, services and business practices. This section provides an overview of some key educational activities that occurred during 2018-19 which included campaigns on:

- product safety ahead of Christmas and the summer season
- safety tips and warnings for parents and carers on portable pools to prevent young children drowning
- consumers' refund and return rights, and buying sustainable products
- how to avoid unsafe practices during do-it-yourself car maintenance.

'Safe Summer' campaign

This campaign encouraged consumers to have a #safesummer by raising awareness of the safety issues related to the holiday season, including products bought ahead of Christmas, and activities undertaken during warmer weather.

The 'Safe Summer' campaign ran ahead of the Christmas shopping period. It targeted parents and carers with product safety messages about:

- gifts given or received which may contain button batteries
- unsecured televisions or drawers and cabinets which may topple — and reminding them to check these things in holiday accommodation
- unsecured blind and curtain cords, including at holiday accommodation
- portable pool safety, and safe pool storage
- safe trampoline usage
- being aware of banned or recalled products.

The campaign also warned adults about hazards surrounding summertime activities, such as:

- quad bike safety
- ladder safety when doing work around the house.

The Product Safety Australia website www.productsafety.gov.au/safesummer was utilised as the campaign landing page.

The campaign reached over 90,000 people via social media, and over 200,000 via e-newsletters.



'DON'T duck out. Make it SAFE' portable pool campaign

Tragically throughout Australia drowning continues to be a leading cause of accidental death for children aged five years and younger. Every year, at least one child dies from drowning in a portable swimming pool, while many more are hospitalised as a result of a non-fatal drowning. It was these statistics that prompted ACL regulators to partner with the Royal Life Saving Society – Australia (RLSSA) in 2018-19 to remind parents and carers to make portable pools SAFE.

Timed to coincide with the start of the peak portable pool buying season and the warmer summer months, a national education campaign was launched in November 2018 to raise awareness and educate consumers of the dangers associated with using portable pools.

The campaign detailed the risks associated with portable pools products, and, just as importantly, the safeguards needed to prevent drowning in portable pools.

Media launch events were held in Western Australia and Tasmania, with the RLSSA interviewed by more than ten media organisations about the campaign.

With the tagline '*DON'T duck out. Make it SAFE*' the campaign included four key safety messages:

- **Supervise** — actively watch children
- **Act** — learn how to respond to an emergency, including how to administer CPR
- **Fence** — pools with water deeper than 30 cm
- **Empty** — portable pools and store them safely once finished for the day.

Along with media and social media activity the campaign had a trader engagement component which resulted in point-of-sale materials containing the '*DON'T duck out. Make it SAFE*' message, such as shelf wobblers, flyers, posters and stickers, being displayed with, or on, portable pools and associated products at Target, Kmart and Big W stores nationally, and at Clark Rubber, Red Dot, Bunnings, Outback and Toyworld stores in Western Australia. Kidsafe Western Australia also contributed to the campaign by promoting it via its media and social media channels and distributing toy ducks and fridge magnets containing the safety message at community events.



The campaign had an audience reach of over 300,000 overall and more than 50,000 through social media with views of the videos created in support of the campaign in the tens of thousands.

Due to its importance the '*DON'T duck out. Make it SAFE*' message will now be incorporated into the ACL regulators' annual 'Safe Summer' education campaign.

Under the ACL, portable pools and their packaging are required to have labels drawing the buyer's attention to drowning risk, the need for active supervision, proper storage and local fencing laws. ACL regulators enforce product safety labelling laws by carrying out inspections of portable pools at retailers. Suppliers of portable pools failing to comply with the mandatory standard can face hefty penalties.

Campaign supporting savvy and sustainable consumers

Access Canberra grew consumers' awareness of their ACL rights and responsibilities and sustainable consumerism to a new level in 2018, providing engaging information on cards which transformed into parsley after being planted.

Engaging the local community about their consumer rights can be a challenge, particularly at times such as the festive season when there is a saturation of information and advertising in the market.

To cut through messaging and approach, Access Canberra worked closely with their communications colleagues to try a different approach.

The hero of the campaign was an engaging information postcard, printed on cardstock which was not only recycled, but embedded with parsley seeds.

Once it had been read, the consumer could plant it in soil, water it and parsley would then grow. This postcard was supported by a digital media campaign as well as information through other channels.

The project ran in November and December 2018 to remind the community of their rights and responsibilities through the ACL, with a particular focus on returns and refunds, as misunderstandings about these issues at this time of year can be a source of frustration for consumers and retailers alike.

Evaluation of this initiative found the way the information was delivered, through the postcard, drew engagement in ACL matters by the community not seen previously.

The postcards were handed out at various community events and it, coupled with the broader campaign which included toy and product safety, generated conversations in both areas of consumer awareness, by members of the community which otherwise may not have been reached.





Do it yourself (DIY) car safety campaign

In June 2019, the ACCC released a safety campaign which included two videos explaining the correct procedures for common DIY car maintenance tasks, to help raise awareness about the associated dangers.

Around 120 Australians have died as a result of DIY car maintenance accidents since 2000, while many hundreds have been hospitalised due to injury. The ACCC campaign warned consumers to take extra care when repairing vehicles, know the risks and protect themselves, their friends, families and workmates.

Research shows most fatalities happen when the victims are working under a vehicle and using equipment incorrectly. Many fatalities involved the use of vehicle jacks and the vehicle being lifted or supported in the wrong way. Most of the victims were men aged 40 to 49. Injuries range from amputation to fractures and crush injuries.

The ACCC developed two videos for this campaign. The first helps people understand and avoid the common unsafe practices with DIY repairs to help reduce the likelihood of an accident.

The second is an interview with Robinette Emonson, whose husband died after being crushed by his car while working in his garage. Despite suffering this tragic loss, Robinette shared her story to help raise awareness and to share this important message.

The Product Safety Australia website www.productsafety.gov.au/news/diy-car-safety has more information about DIY car safety.



Safe and fit for purpose goods and services

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

- investigations and inspections conducted
- mandatory safety standards reviewed and revised
- regulatory interventions imposed by Commonwealth, state and territory Ministers
- information campaigns:
 - alerting consumers to emerging product safety risks
 - promoting compliance in businesses.

Kohl eyeliners containing lead recalled

After imported eyeliner products were found to have caused lead poisoning in three children, ACL regulators collaborated to ensure suppliers initiated voluntary recalls of the products sold in Pakistani and Indian community stores in Australia.

In June 2018, NSW Fair Trading received information from NSW Health that three children from the same family were diagnosed with lead poisoning after using Hashmi brand kohl eyeliner.

The use of kohl eyeliner has cultural significance in several communities including those of Islamic faith and in the Pakistani and Indian communities.

NSW Fair Trading and NSW Health undertook joint inspections of targeted locations in Western Sydney to locate and purchase suspected non-compliant Hashmi brand cosmetics. The products were believed to be manufactured in Pakistan and imported to Australia.

Testing of the imported cosmetics, including Hashmi Surmi Special and Hashmi Kohl Aswad eyeliners, revealed an undisclosed 84 per cent lead content.

The products also contained high levels of dangerous metals like arsenic, cadmium, chromium and mercury.

Collaboration by ACL regulators throughout Australia and NSW Health resulted in suppliers removing the products from sale and conducting voluntary recalls in August and September 2018, published by the ACCC on the Product Safety Australia website.

Consumer Affairs Victoria conducted inspections of identified Victorian suppliers and subsequently seized over 7,300 of the eyeliners.

NSW Fair Trading published fact sheets in several languages to warn people about the dangers of imported kohl products and to educate them what to do if they have used them.

ACL regulators also provided information about the products to the Australian Border Force to assist with their ongoing checks of imports for prohibited goods.



Huggies Ultra Dry safety investigation

In March 2019, the Queensland Office of Fair Trading (QOFT) led an extensive product safety investigation into Huggies Ultra Dry nappies on behalf of ACL regulators.

In early 2019, reports appeared in the media and on social media indicating significant numbers of parents believed recent batches of Huggies Ultra Dry nappies were causing their babies and toddlers to suffer severe skin problems.

The skin problems ranged from dry rashes and sores to concerns of possible chemical burns, impetigo and contact dermatitis.

Kimberley-Clark Worldwide Inc, the holder of the Huggies trademark, responded to parents by advising there had been no changes to their Ultra Dry product line that would account for the skin reactions being reported.

In response to the community's concerns, the QOFT lead an extensive investigation into the Huggies Ultra Dry product line on behalf of ACL regulators.

As part of its investigation, the QOFT sought independent and accredited testing of the products, including engagement with overseas product safety counterparts.

Following a thorough investigation, the QOFT found no evidence of any systemic safety issues in relation to the design or manufacture of the product that posed an unacceptable safety risk to Australian consumers.

Huggies were fully cooperative throughout the investigation and it was determined the nappies were within safe tolerances for all the aspects they were tested for, including known allergens, pH values, absorbency and breathability.

While there is no mandatory standard for the supply of nappies in Australia, there are a number of international standards and requirements that the testing took into account.

At the conclusion of the investigation QOFT issued a statement explaining the findings. ACL regulators reminded consumers that it was important to follow safe use instructions for any product.

Takata airbags compulsory recall activities

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

During the first 18 months of the recall, good progress has been made with around 75 per cent of affected airbags already been permanently replaced. As the recall progresses, however, it is becoming harder to reach those consumers who have failed to respond to date, either by choice or lack of understanding.

Under the recall notice vehicle manufacturers are required to provide updated recall data to the ACCC each month. Combining this data with a number of risk factors including low response rates and climate data (hot and humid conditions providing an increased hazard), the ACCC identified communities at a higher risk of falling behind national average completion rates.

Culturally And Linguistically Diverse outreach

The ACCC's Takata outreach program targeted the top 25 at-risk postcode regions to raise recall awareness. These communities fell into four regional clusters, all of which have high migrant populations and low socio-economic demographics: South Brisbane, North West Adelaide, South East, and North West Melbourne, and South West Sydney.

The ACCC identified that the most effective strategy was to engage with 'trusted messengers' — key intermediaries with well-established community networks — and enlist their help in urging their communities to act (e.g., libraries, police, community groups).

As part of this initiative, a resource package was distributed including social media content, region specific information, and posters and flyers translated into the following 19 languages: Vietnamese, Arabic, Assyrian, Bengali, Chinese (simple), Chinese (traditional), Hazaragi, Italian, Khmer, Korean, Nepali, Punjabi, Turkish, Urdu, Dinka, Somali, Farsi, Swahili and Dari.

Indigenous outreach

Conduct affecting Indigenous people is an enduring ACCC priority. In the context of the Takata recall, Indigenous people, particularly those living in remote northern Australian communities, may be at a higher risk due to exacerbating factors such as heat and humidity, owning an older vehicle and limited access to vehicle servicing.

Indigenous outreach staff visited the Tiwi Islands, Thursday Island and the Northern Peninsula area, gulf communities of Mornington and Doomadgee, the Anangu Pitjantjatjara Yankunytjatjara (APY) Lands in north-west South Australia and Palm Island in north Queensland to raise recall awareness.

Under the recall notice, vehicle manufacturers must make special arrangements to replace affected airbags on Australian islands, territories and other remote locations. The manufacturers must also bear the cost of these replacement, including any necessary transportation costs in arranging for vehicles to be repaired.



Have you checked your car?

Dangerous Takata airbags are being recalled across Australia.

These airbags can be deadly and need to be replaced. Act now and check if your car is affected.

REPLACEMENTS ARE FREE.

Don't delay—protect yourself, your loved ones and your community.

IsMyAirbagSafe.com.au



Industry advertising campaign

The recall notice required suppliers to submit a Communication and Engagement Plan to the ACCC outlining planned advertising and media activities to notify affected consumers.

The Federal Chamber of Automotive Industries (FCAI), is delivering a joint consumer awareness and advertising campaign as the authorised representative of 17 affected vehicle manufacturers.

The campaign's message, 'Faulty airbags? Don't die wondering', calls on consumers to check if their vehicle is affected by going to www.IsMyAirbagSafe.com.au or

texting 0487 AIRBAG and using the vehicle registration look-up tool to check if their vehicle is affected.

From January to June 2019 the FCAI campaign focused on targeted advertising. This included cinema advertising in the summer holiday period and digital billboards at petrol stations in both metropolitan and regional locations noting increased vehicle traffic over the summer holiday period.

As at 30 June 2019, the look-up tool has been accessed approximately 7.5 million times, with over 1.2 million affected vehicles identified.



Baby walkers strategy

During 2018-19, ACL regulators commenced a strategy to promote baby walker safety. The strategy involved analysing injury data, commissioning consumer research and conducting coordinated surveillance to assess compliance with the mandatory safety standard for baby walkers.

The ACCC led the baby walker strategy with other ACL regulators. The strategy aimed to improve marketplace compliance with the mandatory safety standard for baby walkers.

The safety standard outlines various requirements, including that a baby walker must have a braking mechanism to stop it falling down steps and stairs, be stable to avoid tip overs and include specific warning labels.

Baby walkers were selected for the strategy after high levels of non-compliance with the safety standard were identified during an earlier Organisation for Economic Co-operation and Development online product safety sweep.

At the start of the strategy, emergency department injury data for baby walkers was analysed, finding that majority of children were admitted due to head or facial injuries caused by falls.

The ACCC commissioned market research to better understand the way in which Australian consumers purchased and used baby walkers. Key findings included:

- 31 per cent of parents/carers had experienced or nearly experienced a safety incident with baby walkers
- 32 per cent of parents/carers placed no restrictions on where the baby walker was used
- 14 per cent of purchases were online, and only 14 per cent of those were from offshore traders.



The surveillance component of the strategy included inspections and testing of baby walkers purchased in physical and online stores. Baby walkers in physical stores were found to be largely compliant with the safety standard. In comparison, a number of baby walkers purchased from offshore traders were found to be non-compliant with the performance requirements of the safety standard.

ACL regulators are using the findings of the strategy to develop supplier and consumer education campaigns, which will commence before the end of 2019. The Product Safety Australia website www.productsafety.gov.au has more information about baby walker safety.





Convertible tricycles to be safer

The ACCC's market review of convertible tricycles led to court-enforceable undertakings from Target and Baby Bunting. The mandatory safety standard for prams and strollers was also revised to clarify its application to convertible wheeled products, including convertible tricycles.

The ACCC conducted a market review of convertible tricycles following consumer complaints about some models' similarities to strollers, but lack of equivalent safety features. The review included assessment of a wide range of products with different combinations of features.

In August 2018, the ACCC issued a consumer warning noting that some suppliers had used images or words that gave the impression that their products were suitable for transporting children rather than them being toys that need to be used under supervision. These products did not have the safety features required by the mandatory safety standard for prams and strollers, including parking brakes, tether straps and harnesses.

Following ACCC consultation with industry, the responsible Commonwealth Minister revised the safety standard in February 2019 to clarify the application of the safety standard to convertible wheeled products.

As a result, where a product is a convertible product and that product has a mode designed to transport a child in a seated position, it is a stroller for the purpose of the safety standard. Products of this type may include convertible tricycles and other wheeled vehicles.

In February 2019, the ACCC issued infringement notices to Target Australia Pty Ltd and Baby Bunting Pty Ltd totalling \$37,800 and \$25,200 respectively for selling and marketing unsafe convertible strollers. Both retailers also entered into court-enforceable undertakings, agreeing to stop selling the products unless they meet all relevant mandatory safety standards.

Monitoring the marketplace for unsafe products

To protect Australian consumers during 2018-19, ACL regulators inspected consumer products, assessed mandatory reports of deaths and serious injuries, negotiated and published recalls and updated mandatory safety standards and bans.

ACL regulators continued to work collaboratively on product safety over the 2018-19 period. ACL regulators conducted product safety inspections at 3,995 suppliers nationally, covering 29,194 product lines, including items with button batteries, cots, bean bags and bunk beds. When products were identified as being unsafe or non-compliant with mandatory safety and information standards or bans, ACL regulators ensured products were removed from sale. ACL regulators also negotiated with suppliers to commence voluntary recalls and initiated enforcement action where required.

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

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

In 2018-19 the ACCC received 3,425 mandatory reports. Of those, the ACCC:

- automatically referred 1,495 reports to the food regulators
- assessed and actioned 1,930 reports
- referred 96 reports to other regulators following assessment.

During 2018-19, a total of 683 recalls were published for consumer products that were identified as posing a safety risk to consumers.

In 2018-19 the ACCC continued to review and update mandatory standards and bans to ensure they continue to be warranted and effective. This review resulted in the responsible Commonwealth Minister making new or amended mandatory safety standards for:

- disposable cigarette lighters (made February 2019) — the new standard prescribes the requirements for disposable cigarette lighters by allowing compliance with international standards
- prams and strollers (made February 2019) — the amended standard clarifies that strollers include products that can operate in more than one mode, such as a convertible tricycle that converts into a stroller
- children's nightwear (made February 2019) — the amended standard now references the latest version of the voluntary Australian standard
- self-balancing scooters (made April 2019) — the amended standard extends its operation by 24 months to 16 July 2021 and updates references to international standards.

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

- miniature motorbikes (monkey bikes) with unsafe design features on 19 November 2018
- corded internal window coverings on 13 February 2019
- care labelling for clothing and textile products on 16 May 2019.





Unsafe toys removed from sale

Ahead of the busy Christmas trading period, several ACL regulators conducted marketplace inspections of children's toys and other regulated products to remove unsafe products from sale.

ACL regulators visited more than 1,200 suppliers during 2018-19 pre-Christmas inspections, including larger retail chains, discount stores, pop up stalls and markets. Nationally, ACL regulators inspected at least 21,937 product lines that are subject to mandatory safety standards and bans, including toys designed for children up to 36 months of age, projectile toys, aquatic toys, swimming and floatation aids.

The aim of these proactive inspections is to help keep consumers, particularly young children, safe from dangerous and non-compliant products. The main hazard associated with toys designed for children up to 36 months of age is small parts that are either loose, or can separate from the product during play or after wear and tear that could choke or suffocate a young child.

As a result of the inspections and subsequent product testing by accredited testing facilities, a total of 163 product lines were identified as non-compliant with mandatory standards and 11 product lines were identified as non-compliant with bans.

Once products were identified as being non-compliant, ACL regulators negotiated or used their powers to have products removed from sale. ACL regulators also commenced various enforcement actions, with some investigations and court proceedings continuing beyond the 2018-19 period. Early outcomes included issuing:

- 18 infringement notices
- 40 warning letters.

These results demonstrate the focus of ACL regulators on ensuring that toys and products in the marketplace are safe.

The pre-Christmas proactive inspections are one of the many annual and one-off proactive programs that ACL regulators undertook during 2018-19. ACL regulators also monitored the marketplace throughout the year to ensure unsafe products remained off shelves and responded to reports of unsafe products.

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 section provides an overview of:

- changes to returns and refunds policies for AFL and NRL merchandise
- compliance by charitable organisations and commercial fundraisers
- review of unfair contract terms across small business loan contracts, reverse mortgage lending and the buy now pay later industry
- removal of potentially unfair contract terms in the waste management industry
- a court-enforceable undertaking from jewellery business Pandora to review its consumer rights policies and staff training
- changes to ensure consumers have a reasonable period of time in which to use their gift cards before they expire, improve access to expiry information and end unfair fees.

AFL and NRL clubs improve returns and refunds policies

Following an ACCC investigation into various professional sports clubs, 21 AFL and NRL clubs made changes to their returns and refunds policies for their merchandise sales during 2018-19 to ensure they comply with the ACL.

From April 2018, 21 AFL and NRL clubs made claims in their returns and refunds policies that the ACCC considered were misleading. These claims included that items must be unworn, purchased at full price and returned within a specified timeframe to qualify for a remedy, such as a refund.

However, under the ACL, rights to a remedy are not limited to a specific time period, nor are discounted items or used products excluded from ACL consumer guarantees.

Instead, consumers are entitled to their choice of a repair, replacement or refund if a good has suffered a major failure. If the failure is minor, the retailer determines the choice of a remedy. These rights cannot be excluded, restricted or modified by a retailer for any reason.

Some of the AFL and NRL clubs also told consumers they had to provide the original proof of purchase when seeking a remedy. In fact, the ACL does not mandate an original receipt be presented by consumers when exercising their rights.

The ACCC found that each club's statements claimed consumers were only entitled to a remedy in very specific circumstances, when consumers may be entitled to a remedy in many more situations under the ACL.

The changes made by the AFL and NRL clubs in question follow a review of returns and refunds policies of various professional sporting clubs nationwide to check they were compliant with the ACL.



New Gift Card protections

Gift card expiry causes many consumers frustration and financial loss. Recent changes to the ACL ensure that consumers have a reasonable period of time in which to use their cards.

Consumers are increasingly turning to gift cards when they want to provide friends and family with a gift, but also want to give them the ability to choose the gift or are unsure what the recipient would like.

Many gift cards have an expiry date. This can result in gift card holders losing the value of the card when they can't decide what to buy or forget to use the card before it expires. A 2017 survey by the website finder.com.au estimated such losses at around \$70 million annually.

In 2018, Consumer Affairs Ministers agreed to amend the ACL to implement a national scheme for the regulation of gift cards:

- requiring most gift cards and vouchers have a minimum three year expiry period
- requiring prominent disclosure of expiry information on gift cards
- banning certain post-supply fees.

To implement these changes, the Commonwealth Parliament passed the *Treasury Laws Amendment (Gift Cards) Act 2018* in October 2018 and the *Treasury Laws Amendment (Gift Card) Regulations 2018* were registered in December 2018.

The reforms apply to gift cards supplied to consumers on or after 1 November 2019.

As well as having a reasonable period of time before their cards expire, consumers will find it easier to know when their cards expire, through a requirement that expiry information is prominently displayed on cards.

The reforms also ban certain post-supply fees. These include fees that reduce the value of gift cards, such as activation, account keeping and balance enquiry fees. Businesses can still charge their usual transaction fees (such as overseas transaction fees or booking fees), or a fee to replace a lost, stolen or damaged card. They will also be able to charge an upfront fee for the purchase of the gift card.

There are some exceptions to the new laws, such as when gift cards for a good or service are supplied at a genuine discount and those provided for the purposes of customer loyalty programs. For more information on the changes, including a full list of exceptions, visit www.consumerlaw.gov.au/new-gift-card-laws.



Fundraising sector compliance checks

Consumer Affairs Victoria led a national project which encouraged compliance with the ACL and increased awareness of fundraising sector guidance.

Following the publication of ACL guidance for the fundraising sector in December 2017, the 2018-19 project focussed on potential higher-risk activities and participants in the sector, including:

- face-to-face fundraising by commercial fundraisers
- small or recently-registered fundraisers
- charities with low ratings by ChangePath for transparency, finances and privacy, and
- fundraisers targeting Aboriginal and Torres Strait Islander communities.

ACL regulators in QLD and NSW carried out covert face-to-face interactions with commercial fundraisers. These checks identified concerns about information provided to potential donors, such as possible inconsistencies between verbal and written disclosures about the percentages of donations that the charity pays to the commercial fundraiser as a fee, and the percentage of donations that are actually spent on the charitable cause.

Sixteen education letters and three substantiation notices were sent to commercial fundraisers and charities, resulting in commitments to improve disclosures, scripts and staff training and more

self-checks through mystery shopping. ACL regulators also engaged with industry stakeholders about these issues.

ACL regulators in Victoria and ACT conducted reviews of 57 small online, recently registered and low-rated charities to identify misconduct. While there were no compliance issues identified, the checks did reveal that the information on some charities' and fundraisers' websites was vague or out-of-date.

Western Australia's regulator engaged with stakeholders to understand possible fundraising issues affecting Aboriginal and Torres Strait Islander communities, establishing referral processes with ACL regulators and organisations who work with Aboriginal and Torres Strait Islander communities.

The project provided valuable insight into ACL issues affecting the fundraising sector, improved the sector's compliance with the ACL and increased awareness of the fundraising ACL guide.

The ACL guidance for fundraisers can be viewed on the ACL website: consumerlaw.gov.au/resources-and-guides.

Lenders remove unfair contract terms

ASIC has reviewed unfair contract terms across small business loan contracts, reverse mortgage lending and the buy now pay later industry.

On 15 March 2018, ASIC released a report (REP 565) setting out the details of the changes made by the 'big four' banks to remove potentially unfair terms from their small business loan contracts of up to \$1 million. REP 565:

- identifies the types of terms in loan contracts that raise concerns under the law
- provides general guidance to bank and non-bank lenders to help them assess whether loan contracts meet the requirements under the unfair contract terms law.

ASIC is continuing to monitor the four banks' use of the clauses to ensure they are not applied or relied on in an unfair way. Additionally, ASIC is examining other lenders' loan contracts to ensure that their contracts do not contain terms that raise concerns under the unfair contract terms law.

ASIC also considered unfair contract terms as part of its review of reverse mortgage lending for which a report was released in August 2018 (REP 586). The standard form terms and conditions found in reverse mortgage contracts are subject to laws which prohibit unfair contract terms. ASIC found that all five lenders reviewed had contracts that contained potentially unfair terms. For example, all lenders' standard form contractual terms and conditions contained some unilateral variation clauses. This type of clause gives lenders (but not borrowers) a broad discretion to unilaterally vary terms and conditions of the contract, without the consent of the borrower. While they are not necessarily unfair, they are more likely to be so when broadly drafted as they can cause a significant imbalance in the rights of the

lender and borrower. ASIC found that all lenders' terms and conditions contained some unilateral variation clauses that had the potential to be unfair contract terms. ASIC successfully acted to have potentially unfair terms removed from contracts for reverse mortgages.

Finally, in November 2018, ASIC also considered unfair contract terms as part of its first review of the rapidly growing buy now pay later industry (REP 600). ASIC found each buy now pay later provider reviewed included some terms in their standard contracts that were potentially unfair to consumers, including terms that:

- like those found in REP 586, gave the buy now pay later provider a very broad unilateral discretion to vary the contract
- provided a very broad range of circumstances in which a consumer will be regarded to be in 'default' on their arrangement
- limited and excluded the liability of provider for goods or services supplied by the merchant
- held the consumer liable for unauthorised transactions, even when the provider knows or suspects the transaction may be unauthorised
- very broadly indemnified the provider against losses, costs, liabilities and expenses.

All lenders subject to ASIC's reports have made changes to their contracts in response to ASIC's feedback to ensure that they do not contain terms that may be unfair.

Waste businesses remove potentially unfair contract terms

Following an ACCC investigation into the use of unfair contract terms in the waste management industry in December 2018, some waste management companies reviewed and amended potentially unfair contract terms in their standard form contracts.

In December 2018 Visy Recycling, Cleanaway Pty Ltd and Suez Recycling & Recovery Pty Ltd agreed to make changes to the price variation clauses in their standard form contracts. These clauses had previously allowed them to unilaterally increase prices in specified circumstances and impose penalties on consumers who wanted to exit their contracts before the end of the contract term.

The ACCC took the view that these clauses in Visy Recycling's, Cleanaway's and Suez's previous contract terms were likely to be unfair within the meaning of the ACL.

Visy Recycling, Cleanaway and Suez co-operated with the ACCC in its investigation.

In April 2019, Veolia Environmental Services (Australia) Pty Ltd and Bingo Commercial Pty Ltd also agreed to remove potentially unfair contract terms from their small business contracts. After Veolia and Bingo amended their contracts the ACCC wrote to

waste management industry bodies reminding them of their obligations and encouraging them to check their contracts for unfair terms.

When a court declares a contract term to be unfair, the court has the power to declare the terms will be void and not enforceable.

The current laws preventing businesses from including unfair contract terms in dealings with consumers were introduced in 2010. These laws were extended to standard form contracts with small businesses in November 2016, which acknowledged that similarly to consumers, small businesses often had limited bargaining power when engaging with larger businesses for goods and services.

The ACCC's investigation will provide an important deterrent to any large business which may attempt to shift unreasonable risk onto a smaller business through the use of unfair contract terms.

Pandora misled consumers on rights

In March 2019, the ACCC accepted a court-enforceable undertaking from jewellery business Pandora to review its consumer rights policies and staff training. Pandora also acknowledged it is likely to have contravened the ACL by making misleading representations to consumers about their consumer guarantee rights.

The ACCC received complaints that Pandora staff told consumers with faulty products that it did not provide refunds and that Pandora's warranty policy overrode consumer guarantee protections.

The ACCC found that Pandora's website contained confusing or inaccurate information on consumer guarantee rights.

According to the ACL, consumer rights to a repair, replacement or refund cannot be excluded, restricted or modified by a business' warranty policy. If consumers have purchased a product that has a

major fault, they can request a full refund from their place of purchase.

Pandora acknowledged that it may have misled consumers about their consumer guarantee rights to refunds and that by doing so they likely breached the ACL.

Businesses must not mislead consumers, intentionally or not, about the nature of their consumer rights. The ACCC's investigation will ensure that more suppliers are conscious of their obligations under the ACL, and do the right thing by their consumers.

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 section describes some of the measures taken by ACL regulators and policy makers in 2018-19 to prevent or overcome actions by traders to take advantage of those who are potentially vulnerable.

VET FEE-HELP provider penalised \$26.5m

Empower Institute, a private education college, was found to be engaging in unconscionable and misleading or deceptive conduct by the Federal Court following ACCC and NSW Fair Trading investigations. Meanwhile, the ACCC continues to pursue education providers with similar business models, such as Captain Cook College.

The ACCC is prioritising enforcement action in relation to private colleges engaging in conduct targeting vulnerable consumers. Two case studies: Empower Institute (Empower), with assistance from NSW Fair Trading, and Captain Cook College — highlight the ACCC's continuing work to protect consumers.

Empower Institute

Empower was a provider of VET FEE-HELP Diploma courses that cost up to \$15,000 per course. Empower marketed and sold these courses to consumers in remote communities and low socio-economic areas, including Aboriginal and Torres Strait Islander communities.

Between March 2014 and October 2015, Empower enrolled more than 6,000 new students from around Australia. Many students had poor literacy or numeracy skills and were signed up using incentives such as free laptops and cash, unaware they were incurring a significant debt.

In September 2018, the Federal Court ruled that Empower's practices were unconscionable and misleading or deceptive. In September 2019, the court ordered Empower pay \$26.5 million in

penalties, the highest ever imposed for breaches of the ACL. The court also ordered Empower to repay more than \$56 million for funding it had received to provide the courses.

Captain Cook College

The ACCC also instituted Federal Court proceedings against Captain Cook College, alleging systemic unconscionable conduct and misleading or deceptive conduct in breach of the ACL.

The ACCC alleges that from September 2015, Captain Cook College removed consumer safeguards from its enrolment and withdrawal processes for online courses to improve its financial performance.

Approximately 5,500 affected consumers have VET FEE-HELP debt, totalling over \$60 million. Around 98 per cent of those 5,500 consumers failed to complete any part of the course they were enrolled in, and around 86 per cent never even logged in to their online course.

In its proceedings against Captain Cook College the ACCC is seeking pecuniary penalties, declarations, corrective notices, adverse publicity orders, finding of fact orders and orders requiring the implementation of a consumer law compliance program.

Empowering Indigenous Australians to fight scams

'If it's too good to be true, always think twice'. That was the headline the National Indigenous Consumer Strategy (NICS) 2018 national project used to increase scam awareness amongst Indigenous Australians.

One of the current priorities for NICS is scams. In 2018, NICS focused their attention on this insidious practise to help empower Indigenous consumers to identify and fight back against scams.

Based on advice received from respected Indigenous Elders about communication best-practices, ACL regulators selected outreach visits to Aboriginal and Torres Strait Islander communities as the best way to communicate scam awareness. ACL regulators completed many outreach visits to Indigenous communities around the country to spread the scam awareness messaging, including to Wujal Wujal in Queensland and in Belyuen in the Northern Territory. Fridge magnets were left with communities so consumers had ready access to the ACCC's Indigenous Infoline to report scams after outreach visits were completed. The visits were supplemented with a social media campaign.



Talkin' Together about the ACL and NDIS

NSW Fair Trading worked collaboratively with five external partner organisations to co-design and co-deliver an innovative engagement program about the ACL to people with a disability.

Our partner organisations represented a diverse range of communities, including Aboriginal and Torres Strait Islander, culturally and linguistically diverse, intellectual disability, and mental health.

The partners nominated clients to be trained as peer educators and work alongside NSW Fair Trading staff, co-delivering 121 information sessions about consumer rights, and educating more than 1350 people about how the ACL applies to NDIS contracts.

External evaluation of the project recognised the positive outcomes for partner organisations, peer educators and seminar participants.

Resources produced as part of the project include a range of digital stories where peer

educators share their experiences and top tips for using consumer rights. Videos have been translated into six community languages, and the co-design and consumer rights messages are also available in Auslan. A toolkit has been created for other organisations looking to utilise the peer-to-peer model for engaging with traditionally hard to reach communities.



Oticon Australia Pty Ltd and Sonic Innovations Pty Ltd penalised \$2.5m

In November 2018, the Federal Court ordered hearing aid retailers Oticon Australia Pty Ltd (Oticon) and Sonic Innovations Pty Ltd (Sonic) to pay penalties totalling \$2.5 million for misleading pensioners through newspaper advertisements for hearing aids sold by AudioClinic and HearingLife clinics.

Oticon and Sonic admitted that the advertisements contained false and misleading representations about hearing aids available to pensioners under the Australian Government Hearing Services Program.

The misleading representations were that there was a time limit for consumers to have their hearing tested to qualify for the free hearing aids, that the free hearing aids included features which were in fact an extra cost, and that any user of the hearing aid would no longer miss any conversations when this may depend on a person's individual circumstances.

In addition to paying penalties of \$2.5 million, the court ordered by consent that Oticon and Sonic offer refunds to consumers who purchased ConnectLine and SoundGate3 accessories, publish a corrective notice in a nationally circulated newspaper, and establish an ACL compliance program.

This investigation was important for the ACCC as many of the pensioners targeted by the advertisements were vulnerable due to their age and hearing loss. The misleading representations by Oticon and Sonic created a false sense of urgency for these consumers to book a hearing test and led them into a sales process based on incorrect information.

Contraventions of the ACL which involve vulnerable and disadvantaged consumers, including some older Australians, is an enduring enforcement priority for the ACCC. The decision from the Federal Court sends a strong message to the hearing aid industry about the importance of ensuring all representations to consumers are accurate and not misleading.

High Court dismisses ASIC appeal in APY Lands book up case

On 12 June 2019, the High Court of Australia dismissed ASIC's appeal against the decision of the Full Federal Court in an ASIC action against Mr Lindsay Kobelt for unconscionable conduct.

Mr Kobelt was the former owner and operator of Nobby's Mintabie General Store in remote South Australia. He provided a system of book up to his consumers, most of whom were Aboriginal residents of the APY Lands (Anangu people).

The book up system allowed consumers to purchase goods and second hand motor vehicles on credit. In return, Mr Kobelt required consumers to provide him with their debit cards, PINs and details of their income. He then used their cards and details to withdraw all, or nearly all, of the consumer's money from their bank account on or around the day they were paid. On 17 August 2018, the High Court

granted ASIC special leave to appeal from the Full Federal Court's finding that Mr Kobelt had not engaged in unconscionable conduct.

Four Judges of the High Court found that Mr Kobelt's book up system was not unconscionable. The remaining three Judges dissented. The High Court upheld the finding of the Federal Court that Mr Kobelt engaged in unlicensed credit activity.

ASIC will continue to work collaboratively on law reform and to educate providers and consumers on fair and legal ways in which book up can be provided.

Providing accessible and timely redress to consumers

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

This section provides examples of actions taken by ACL regulators in 2018-19 to secure redress for consumers:

- billed by telecommunications providers for third party services they had not agreed to buy
- who did not receive campervans they had paid for
- overcharged for vehicles purchased at auction on their behalf.

Telecommunications sector – third party billing refunds and penalties

The ACCC took action against three major telecommunications providers for their third party billing practices, known as Premium Direct Billing, gaining penalties of \$20 million and obtaining redress for hundreds of thousands of affected consumers.

Multiple telecommunication companies, such as Telstra, Optus and Vodafone, have operated automatically enabled Premium Direct Billing services in recent years allowing customers to purchase digital content from third-party developers that sell their content outside usual app marketplaces like Google Play or the App Store. However, charges were automatically applied to customers' pre-paid or post-paid mobile accounts, often without customers' consent or knowledge.

Following ACCC action, in April 2018 and February 2019, Telstra and Optus were forced to pay penalties of \$10 million after admitting to making false or misleading representations to customers in relation to their Premium Direct Billing services.

The court held that Telstra and Optus misled customers when they charged them for digital content, such as games and ringtones, which they unknowingly purchased. The behaviour continued despite numerous complaints regarding the service.

The companies also failed to put adequate safeguards in place to verify customers' identities and referred complaints to third parties. Many consumers then encountered difficulties cancelling purchases and obtaining refunds from third parties.

In addition to the court penalties, Telstra has refunded \$9.3 million to 72,000 customers. Optus has refunded around \$8 million to 240,000 customers.

In July 2019, Vodafone also admitted to making false or misleading representations about their third-party billing service, which was modified earlier than Telstra or Optus' service. Vodafone has given a court-enforceable undertaking relating to the billing service and will contact and refund impacted consumers. The ACCC continues to monitor Vodafone's compliance with the order.

The ACCC's action is a reminder to other companies that money made by misleading consumers will need to be refunded.

Gidget Retro Teardrop Camper Pty Ltd ordered to refund over \$1m

Following an investigation by the Queensland Office of Fair Trading (QOFT), a Brisbane based manufacturer of custom-made retro-style campers was ordered to pay more than \$1 million in compensation and fines for accepting payment from dozens of consumers for campervans then failing to supply them.

Dozens of grey nomads and camping enthusiasts had their holiday plans affected when Gidget Retro Teardrop Camper Pty Ltd (Gidget) took their deposits, but failed to deliver their new campervans.

Glenn Stuart Wills, who operated Gidget, was found guilty of seven counts of receiving payment for campervans, but failing to supply them within a reasonable time, a clear breach of the ACL.

In November 2018, Mr Wills was fined \$6,000 plus costs of \$5,000, and ordered to pay \$20,000 compensation to one customer.

This followed an earlier prosecution of the company by QOFT in March 2018, when it was found guilty of 11 similar offences and fined \$100,000 plus substantial compensation for consumers.

The QOFT launched an investigation after receiving complaints from 11 consumers who had paid deposits to Gidget between June 2015 and March 2017 but experienced significant delays in receiving their campervans.

Gidget was placed into liquidation on 16 February 2018, leaving a further 56 consumers out of pocket and without their ordered campervan. Fourteen of those consumers were based in the United States of America.

The QOFT sought compensation for the 11 complainants which sparked the investigation, and for 56 other consumers who had also suffered financial loss due to Gidget's actions.

The court ordered Gidget to pay compensation of \$896,865.60 AUD to Australian consumers and a further \$196,895.39 USD to US consumers.

The magistrate noted that the company had ignored customer complaints until the QOFT became involved, and said the outcome of the matter needed to serve as a warning to other businesses to follow through and deliver goods and services as promised.





AFS Corporation Pty Ltd and directors ordered to compensate consumers

AFS Corporation Pty Ltd, trading as Brisbane Dealer Auctions and The Cartel Dealers, and its directors Andrew Fraser-Scott and Dylan Ackroyd-Laycock, pleaded guilty to numerous breaches of consumer protection legislation following a Queensland Office of Fair Trading (QOFT) investigation. Their actions resulted in over \$400,000 in fines and compensation.

The QOFT began investigating the trader in 2017 after receiving complaints from three consumers regarding their dealings with AFS Corporation.

Mr Fraser-Scott and AFS Corporation advertised that they could save consumers money by sourcing and buying suitable vehicles on their behalf from motor dealer auctions at wholesale prices.

However, once they secured a vehicle they added significant undisclosed charges to the wholesale price before selling it to the consumer. These charges always brought the price up to equal or close to the consumers' pre-stated maximum bid. In one case a consumer was charged 109 per cent more than the cost of the vehicle.

In another case they advised a consumer that someone was bidding against them on a particular vehicle to encourage the consumer to increase their maximum price. The car was actually bought by negotiation, not auction.

QOFT's investigation found Mr Fraser-Scott accepted payment for registration and transfers that he failed to complete and identified a number of state-based motor dealer legislation breaches.

The court heard Mr Ackroyd-Laycock had provided consumers misleading contract terms relating to services being provided and the licence status of the corporation.

Mr Fraser-Scott pleaded guilty to 66 breaches of the ACL and 11 breaches of state-based legislation and Dylan John Thomas Ackroyd-Laycock pleaded guilty to 12 breaches of the ACL and one breach of state-based legislation.

Mr Fraser-Scott was fined \$30,000 and Mr Ackroyd-Laycock \$2,500. AFS Corporation was fined \$20,000 and ordered to pay \$33,269 in compensation to affected consumers.

These amounts were in addition to \$108,476 in redress the trader had already agreed to pay as a result of QOFT negotiations on behalf of consumers, and a further \$215,051 paid to consumers as a result of the state-based offences (as at 1 September 2019).

In total, the bill for the motor dealers' actions was more than \$409,000.

Proportionate, risk based enforcement

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

This section provides an overview of key enforcement activities undertaken in 2018-19. ACL regulators expect that the introduction of tougher penalties for breaches of the ACL from 1 September 2018 should help to discourage unscrupulous suppliers from egregious behaviour.

Viagogo misled consumers

The Federal Court ruled that ticket-reselling website, Viagogo AG, made multiple false or misleading representations to consumers on its platform. The ruling highlights the need for businesses to ensure their systems comply with the ACL and for consumers to ensure they are wary of misleading claims by online platforms.

Following ACCC action, in April 2019, the Federal Court found ticket-reseller Viagogo made false or misleading representations and engaged in conduct liable to mislead the public when reselling entertainment, music and live sport event tickets, in breach of the ACL.

The court found Viagogo misled consumers in multiple ways. The first involved claiming tickets to certain events were scarce, for example by claiming that 'less than 1 per cent' of tickets were remaining, to create urgency. However, this claim only referred to tickets available on its resale platform and did not include tickets available elsewhere.

The second misleading practice was Viagogo using the word 'official' in its online advertisements. As a result, consumers were misled into thinking they were purchasing tickets from an official site, when in fact Viagogo is a ticket resale website.

Finally, the court also found that from 1 May 2017 to 26 June 2017, Viagogo's website claims drew consumers in with a headline price but failed to sufficiently disclose additional fees or specify a single price for tickets. The additional fees included a 27.6 per cent booking fee that applied to most tickets.

According to the ACL a business must not, in trade or commerce, engage in conduct that is misleading or deceptive, or likely to mislead or deceive.

The court will determine penalties and orders against Viagogo at a later date. This is another example of ACL regulators taking action to ensure overseas based companies selling to Australian consumers abide by the ACL.

Additionally, consumer affairs ministers have agreed to put new disclosure obligations on ticket resale websites. This will ensure Australian consumers can make more informed choices about buying event tickets.

Digital Marketing Solutions Pty Ltd and director penalised \$3.15m

The online electronics retailer (trading as Android Enjoyed and Camera Sky) and its director were penalised a total of \$3.15m after repeatedly failing to supply goods and repair defective goods.

Following an investigation by NSW Fair Trading, the retailer and its director Yuen Ho Wong were found by the Supreme Court of NSW on 4 April 2019, to have contravened the ACL on numerous occasions. The court ordered pecuniary penalties of \$2.25m against the company and \$900,000 against Mr Wong.

Between January 2017 to July 2018, NSW Fair Trading received 637 consumer complaints on purchases made through Android Enjoyed and Camera Sky websites.

NSW Fair Trading investigations also found that the supplier made false or misleading representations to consumers that the goods purchased online were in stock and would be provided within a specified time frame. However, in many cases the goods were not in stock and could not be provided as promised. Complaints received indicated that on numerous occasions, Android Enjoyed and Camera Sky failed to supply mobile phones, cameras and camera accessories within a reasonable time or did

not supply them at all. The company further failed to repair defective goods and failed to provide a refund within a reasonable time.

Android Enjoyed has appeared on NSW Fair Trading's Complaints Register on 17 occasions since it was first published in July 2016 and appeared on the register for eight consecutive months between November 2017 and June 2018. (Suppliers generating 10 or more complaints with NSW Fair Trading in a calendar month will be published on the Complaints Register.)

The company and its director have had a long history with NSW Fair Trading, as well as being the subject of complaints in most other states and territories.

The court also disqualified Mr Wong for two years from being a director of a corporation. The sanctions the court has imposed are particularly significant given the challenges of dealing with internet-based suppliers who have a limited physical presence in Australia.





Financial Circle Pty Ltd penalised almost \$9 million

In November 2018, the Federal Court ordered a Melbourne-based financial services and credit business to pay penalties of \$8,980,000 after it engaged in numerous contraventions of financial services, credit and consumer protection laws.

Financial Circle Pty Ltd offered personal loans to consumers of up to \$5,000 that could only be obtained if the consumer agreed to receive and implement financial advice. The advice typically recommended purchasing personal insurance products and switching superannuation providers.

Financial Circle received significant fees from the consumer's superannuation once consumers implemented the advice.

Financial Circle also received ongoing commission payments from the insurers. This process often resulted in a substantial erosion — in many cases up to 30 per cent — of the client's superannuation balances.

The court found that Financial Circle:

- made false and misleading representations and engaged in misleading and deceptive conduct

- engaged in unconscionable conduct
- breached its licensee obligations under its Australian financial services licence
- engaged in a credit activity without a licence authorising it to engage in that activity.

In addition to ordering that the company pay pecuniary penalties, the Federal Court ordered that it be permanently restrained from:

- carrying on a financial services business
- providing credit or entering into a credit contract as a credit provider.

The court also made orders requiring the company to pay ASIC's costs. On 19 November 2018, ASIC cancelled Financial Circle's Australian financial services licence and Australian credit licence.

Metricon Homes Pty Ltd penalised \$50,400

In September 2018, Metricon Homes Pty Ltd (Metricon) paid \$50,400 in penalties after ASIC issued four infringement notices for misleading advertising aimed at first home buyers.

Metricon's '2K on your way' advertisements appeared in radio, print, outdoor, electronic and online formats throughout Victoria, Queensland and South Australia between July 2017 and February 2018. They created the impression that consumers who qualified for the first home owner grant could obtain Metricon's HomeSolution house and land package with a \$2,000 deposit.

However, consumers were still required to fund the balance of the prescribed 5 per cent deposit (approximately \$30,000 on a typical \$600,000 loan, but could be as much as \$41,000 on a \$825,000 package). This additional amount was financed through an unsecured personal loan, typically through one of Metricon's associated finance brokers.

Any disclaimer in the advertisements was not prominent enough to effectively qualify the dominant message of Metricon's advertising. Consumers had to navigate through links on Metricon's website to the HomeSolution landing page where eligibility conditions were listed in small font at the bottom of that page.

ASIC issued four infringement notices to Metricon for the misleading advertising aimed at first home buyers.

In response to ASIC's investigation, Metricon withdrew the concerning advertising and ceased promoting its '2K on your way' offer. Metricon's payment of the infringement notices is not an admission of guilt.

Volkswagen Group Australia to comply with consumer guarantees

In September 2018, the ACCC accepted a court-enforceable undertaking from Volkswagen Group Australia (Volkswagen) to improve compliance with its consumer guarantee obligations under the ACL.

The Volkswagen undertaking was part of the ACCC's ongoing work to seek responses from manufacturers to the ACCC's concerns about industry-wide non-compliance with consumer guarantees.

Volkswagen undertook to include a '60-day policy', where it will offer refunds or replacements without the need for a consumer to demonstrate a major failure, if a defect prevents a vehicle from being driveable within the first 60 days after purchase.

Volkswagen also undertook to review past complaints, and offer refunds, replacements or repairs to consumers where consumer guarantees rights were not honoured. Volkswagen has also committed to providing consumers with written reasons when a remedy requested by a consumer is not agreed to.

Volkswagen's commitments under the undertaking went beyond existing ACL obligations and reflected a recommendation of the ACL Review with respect to failures within a short period of time.

Volkswagen's undertaking is one of a number of outcomes the ACCC has achieved in the last two years to create change in the new car industry. This includes action taken against Ford and the court-enforceable undertakings accepted from Holden and Hyundai. This action by the ACCC reinforces the message to the industry as a whole about the importance of building the necessary processes to ensure continuous compliance with the ACL consumer guarantees.



Key compliance and enforcement statistics

During 2018-19, ACL-related compliance and enforcement actions* by ACL regulators nationally included:



The key statistics dating back to 2014-15 are:

Year/Actions	2014-15	2015-16	2016-17	2017-18	2018-19
Infringement notices	\$1,032,528	\$902,886	\$289,965	\$825,200	\$419,640
Court action fines	\$994,665	\$711,400	\$1,260,409	\$49,847,560	\$44,106,100
Court action costs	\$1,837,195	\$122,165	\$686,717	\$729,723	\$2,746,404
Compensation awarded**	\$14,080,503	\$2,963,849	\$473,501	\$282,362,706	\$31,133,169
Civil pecuniary penalty orders	\$23,808,000	\$15,642,000	\$17,477,400	\$36,232,500	\$16,716,200
Community benefit payments***	-	-	-	\$47,575,000	\$2,500,000

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

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

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

Key enforcement activities

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

The enforcement activities highlighted in this appendix relate exclusively to outcomes achieved in 2018-19 under the ACL. This does not reflect the duration of this enforcement activity, which may have commenced in prior years but reached resolution in 2018-19. Note also that the outcomes presented in the tables are a selection based on those previously published by ACL regulators.

Infringement notices

The tables below detail a selection of ACL-related infringement notices issued by regulators during 2018-19, noting that several jurisdictions are prevented by law from publishing the recipients of infringement notices (so infringement notices in these tables may be under reported) and that payment of an infringement notice is not an admission of guilt.

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

Date	Detail
16 July 2018	Cruisin Motorhomes Pty Ltd — total penalties \$12,600 Alleged breach of the excessive surcharge provisions.
19 July 2018	MyRepublic Pty Ltd — total penalties \$25,200 Alleged false or misleading representations about NBN performance.
20 July 2018	Revtech Media Pty Ltd — total penalties \$25,200 Alleged false or misleading representations about energy prices.
25 September 2018	Fitness First Australia Pty Ltd — total penalties \$12,600 Alleged breach of the excessive surcharge provisions.
26 September 2018	Australian Hearing Services — total penalties \$37,800 Alleged false or misleading conduct in connection with the supply of hearing services to consumers.
2 October 2018	Metricon Homes Pty Ltd — total penalties \$50,400 Alleged misleading advertising aimed at first home buyers regarding a home lending package. (See the Metricon Homes story on page 34 of this report.)
16 October 2018	Lloyd's Auctioneers and Valuers Pty Ltd — total penalties \$37,800 Alleged breach of the excessive surcharge provisions.
22 October 2018	Ozwear Connection Pty Ltd — total penalties \$25,200 Alleged false or misleading representations about country of origin claims.
28 November 2018	Supré — \$12,600 civil penalty notice Alleged false or misleading representations about the price of goods.

Date	Detail
10 December 2018	Wiggle Limited — total penalties \$12,600 Alleged false or misleading representations about consumer guarantee rights.
24 December 2018	Westfarmers Kleenheat Gas Pty Ltd — total penalties \$25,200 Alleged false or misleading representations about gas prices.
15 February 2019	Baby Bunting Pty Ltd — total penalties \$25,200 Alleged selling and marketing of unsafe products. (See the convertible tricycles story on page 19 of this report.)
22 February 2019	Target Australia Pty Ltd — total penalties \$37,800 Alleged selling and marketing of unsafe products. (See the convertible tricycles story on page 19 of this report.)
9 May 2019	HostPlus Pty Ltd — total penalties \$12,600 Alleged misleading claims about offering independent advice.

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

Conduct	Total infringement notice values
Product Safety	\$41,260
Unsolicited Consumer Agreements	\$9,360
Wrongly Accepting Payment	\$6,500
False or misleading representation	\$5,000

Enforceable undertakings

The table below details a selection of ACL-related court-enforceable undertakings entered into during the 2018-19 period.

Date	Detail
1 July 2018	<p>John Farrugia, Mary Rose Farrugia, Rosemarie Farrugia and David John Farrugia t/as Spend A Penny</p> <p>Commitment to comply with product safety obligations and implement a written product safety compliance program.</p>
3 July 2018	<p>Commonwealth Bank of Australia — CBA made a \$1.25 million community benefit payment</p> <p>Commitment to change the way it distributes superannuation products to its customers, in particular to prevent it from distributing Essential Super together with its fact-finding process (Financial Health Check). CBA staff allegedly acted outside of their authorisation in providing personal advice to customers about their superannuation.</p>
5 July 2018	<p>Australia and New Zealand Banking Group — ANZ made a \$1.25 million community benefit payment</p> <p>Commitment to change the way it distributes superannuation products to its customers, in particular to prevent it from distributing Smart Choice Super together with its fact-finding process (A-Z Review). ANZ staff allegedly acted outside of their authorisation in providing personal advice to customers about their superannuation.</p>
31 July 2018	<p>Emall Pty Ltd and Shaoming Zhang</p> <p>Commitment to comply with product safety obligations and implement a written product safety compliance program.</p>
8 August 2018	<p>Gardenia Home Garden Décor Pty Ltd, Ducco Pty Ltd, Ho (Denis) Keng Teo and Darren Minh Duc Nguyen</p> <p>Commitment to comply with product safety obligations and implement a written product safety compliance program.</p>
8 August 2018	<p>Nicholas Daniel Cimesa t/as PRM Fabrication Engineering</p> <p>Commitment to not accept payment for goods or services and then fail to provide those goods or services within a reasonable time and to pay compensation by agreed date.</p>
27 August 2018	<p>Husqvarna Australia Pty Ltd</p> <p>Commitment to not enforce any unfair contract terms and remove them from new agreements, ensure full compliance with the Franchising Code of Conduct and implement and maintain an ACL compliance program for a period of three years.</p>
6 September 2018	<p>Volkswagen Group Australia Pty Ltd</p> <p>Commitment to engage an independent expert to review all relevant consumer complaints in the preceding 12 months, review its complaint handling system, review its ACL compliance program and review its dealer training material and the Dealer Warranty Handbook to ensure they comply with the ACL. Also to update its website, develop an online tool to assist customers to search and identify information about technical issues with their vehicle and available fixes, email consumers about their consumer guarantee rights within 30 days of purchasing a vehicle, review online and hard copy logbooks for representations that may contravene the ACL, undertake a myself shopping program to monitor compliance and provide annual reports to the board. '(See the Volkswagen Group Australia story on page 35 of this report.)</p>
27 September 2018	<p>Australian Hearing Services</p> <p>Commitment not to engage in false or misleading conduct and to publish corrective notices on the Hearing Help Facebook page, send corrective letters to all consumers who received a renewal reminder letter and implement an ACL compliance program.</p>

Date	Detail
11 December 2018	<p>Wiggle Limited</p> <p>Commitment to implement an ACL compliance program to ensure that its staff are not misleading consumers about their rights to remedies under the ACL.</p>
14 December 2018	<p>Qantas Airways Limited</p> <p>Commitment to conduct a comprehensive review of its policies, compliance program, website and booking systems to ensure they are compliant with the ACL, update internal policies, notify relevant employees of their obligations, publish clear information on its website, conduct a past complaint review and implement a complaint review process to ensure future compliance. This commitment is to ensure they are not misleading consumers about their consumer guarantee rights, including remedies that consumers may be entitled to in the event of flight delays or cancellations</p>
14 December 2018	<p>Tiger Airways Australia Pty Limited</p> <p>Commitment to conduct a comprehensive review of its policies, compliance program, website and booking systems to ensure they are compliant with the ACL, update internal policies, notify relevant employees of their obligations, publish clear information on its website, conduct a past complaint review and implement a complaint review process to ensure future compliance. This commitment is to ensure they are not misleading consumers about their consumer guarantee rights, including remedies that consumers may be entitled to in the event of flight delays or cancellations.</p>
14 December 2018	<p>Jetstar Airways Pty Ltd</p> <p>Commitment to conduct a comprehensive review of its policies, compliance program, website and booking systems to ensure they are compliant with the ACL, update internal policies, notify relevant employees of their obligations, publish clear information on its website, conduct a past complaint review and implement a complaint review process to ensure future compliance. This commitment is to ensure they are not misleading consumers about their consumer guarantee rights, including remedies that consumers may be entitled to in the event of flight delays or cancellations.</p>
14 December 2018	<p>Virgin Australia Airlines Pty Ltd</p> <p>Commitment to conduct a comprehensive review of its policies, compliance program, website and booking systems to ensure they are compliant with the ACL, update internal policies, notify relevant employees of their obligations, publish clear information on its website, conduct a past complaint review and implement a complaint review process to ensure future compliance. This commitment is to ensure they are not misleading consumers about their consumer guarantee rights, including remedies that consumers may be entitled to in the event of flight delays or cancellations.</p>
26 February 2019	<p>Veronica Shnoudi</p> <p>Commitment to comply with product safety obligations and implement a written product safety compliance program.</p>
27 February 2019	<p>Baby Bunting Pty Ltd</p> <p>Commitment to not supply or offer convertible strollers unless they comply with the Mandatory Standard and they have obtained written evidence and to implement an ACL compliance program. (See the convertible tricycles story on page 19 of this report.)</p>
27 February 2019	<p>Target Australia Pty Ltd</p> <p>Commitment to not supply or offer convertible strollers unless they comply with the Mandatory Standard and they have obtained written evidence and to implement an updated ACL compliance program. (See the convertible tricycles story page 19 of this report.)</p>
4 March 2019	<p>Lost (SA) Pty Ltd and Loucas Kounnas</p> <p>Commitment to comply with product safety obligations and implement a written product safety compliance program.</p>

Date	Detail
22 March 2019	<p data-bbox="432 253 695 286">Pandora Jewelry Pty Ltd</p> <p data-bbox="432 300 1426 387">Commitment to review and update as necessary its ACL compliance program, policies and procedures relating to exchanges, repairs and refunds, ACL training material and customer complaints handling system. (See the Pandora story on page 25 of this report.)</p>
1 April 2019	<p data-bbox="432 409 852 443">Hutchinson Ports Australia Pty Limited</p> <p data-bbox="432 456 1374 517">Commitment to not enforce or rely on unfair contract terms in Terminal Carrier Access Agreements.</p>
9 April 2019	<p data-bbox="432 535 1273 568">Robert Davey, as Trustee for the Davey Family Trust t/as One Stop Inspections</p> <p data-bbox="432 582 1382 642">Commitment to not make false or misleading representations concerning the business, One Stop Inspections, or any other name it may trade under.</p>
7 June 2019	<p data-bbox="432 660 1227 694">Mason Migration Pty Ltd t/as Mason Migration; Director Rebecca Mason</p> <p data-bbox="432 707 1430 768">Commitment to repay consumers \$20,955 for a range of services which were not supplied, under a payment plan supervised by Consumer Protection WA.</p>
19 June 2019	<p data-bbox="432 786 847 819">Ali Mohammed Razaee Ghavamabadi</p> <p data-bbox="432 833 1445 920">Commitment to not make a false or misleading representation that goods are of a particular standard, quality, value, grade, composition, style or model or have had a particular history or use.</p>

Public warnings (including safety warnings)

The table below details a selection of ACL-related public warnings issued during 2018-19, noting they are not always issued under sections 129(1) and 223 of the ACL where regulators have similar provisions in their local legislation.

Date	Detail
5 July 2018	Bloo Moons Pty Ltd t/as Ahoy Buccaneers Warning for people who are owed refunds from a Broome-based cruise business Ahoy Buccaneers which went into voluntary administration.
5 July 2018	Scams targeting Perth's Chinese community Warning residents in Perth's eastern suburbs to be aware of a pest controller who is reportedly giving misleading information in order to boost his business.
9 July 2018	Jack Younes Warning consumers not to deal with Jack Younes after he was convicted and fined over home building and consumer law offences. Conduct included accepting payment and not supplying the service.
12 July 2018	Facebook fake lottery sting Warning WA Facebook users receiving messages from people who they thought were friends encouraging them to claim lottery prizes, but instead have ended up being duped into paying thousands of dollars in supposed fees and taxes to scammers.
12 July 2018	Sun Beef Pty Ltd t/as SunUltima Warning consumers about a product its seller claims will cure skin cancer after the business failed to produce any evidence that it works.
14 July 2018	Travelalot Warning consumers about Lance Martin t/as Travelalot following high complaint levels received for failure to provide refunds, misrepresentations and accepting payment without intending to supply.
26 July 2018	Product safety alert over imported Hashmi eyeliners containing lead Warning WA consumers to be on the look-out for imported cosmetic eyeliners that contain 84 per cent lead and are being taken off store shelves throughout Australia. (See the Kohl eyeliners story on page 14 this report.)
3 August 2018	Allan James Piggott Warning consumers not to deal with Allan Piggott, as he was continuing to commit offences despite three prosecutions in 2013, 2015 & 2018. Conduct included accepting large cash deposits for landscaping, paving and concreting and not supplying the service.
18 August 2018	Andrew John Paul t/as AAA Roofing Warning consumers after complaints about a failure to provide refunds, misrepresentations, accepting payment without intending to supply, and no response from the trader.
11 September 2018	Melbourne Luxury Car Hire Pty Ltd Warning consumers about a car hire business allegedly failing to return security deposits and offering contracts with unfair contract terms.
27 September 2018	Perth car dealer loses \$65,000 to an invoice payment scam Warning businesses after a Perth motor vehicle dealership has lost \$65,000 after being stung by a 'man in the middle' scam involving the payment of an invoice to a bank account that had been changed.

Date	Detail
11 October 2018	<p>Scammers use cute puppy pics to lure their victims</p> <p>Warning consumers about fake puppy advertisements appearing on websites, online trading sites and social media platforms that feature cute photos and cheap prices, making them irresistible to puppy buyers.</p>
26 October 2018	<p>Dominion General Group of Companies Pty Ltd t/as Mr Solar</p> <p>Warning consumers after complaints the trader has taken payment for supply and installation of solar systems but have allegedly either not supplied goods or services or supplied goods and services materially different from those which payment was accepted.</p>
9 November 2018	<p>Alpak Trade Pty Ltd t/as Fremantle Water Beads — recall of water absorbing balls</p> <p>Warning consumers that a national voluntary recall has been issued for water absorbing balls sold by a WA supplier as a toy which may pose a danger to children. The supplier, Alpak Trade Pty Ltd t/as Fremantle Water Beads, agreed to withdraw the water expandable polymer balls or water beads from the marketplace, but many of the products have already been sold in WA.</p>
22 November 2018	<p>Illegal back of van dodgy electronics sales</p> <p>Warning consumers about illegal sellers of dodgy electronics from the back of a white van capitalising on pre-Christmas shopping.</p>
13 December 2018	<p>RSMS Visa Service Pty Ltd t/as ARVS. Mr Seong Ho & Mr Edward Kang</p> <p>Warning consumers following numerous complaints the business was offering visa and immigration services to consumers, but was not supplying the services after being paid.</p>
18 December 2018	<p>Freedom Marine Services</p> <p>Warning consumers not to deal with Freedom Marine Services and its Director Deborah Barron, primarily involved in the sale and repair of new and second-hand boats and trailers. Alleged conduct included misleading consumers over the sale date and price of boats consigned and being charged for repairs that were not carried out.</p>
21 December 2018	<p>Follow manufacturer's instructions when installing items — Safety warning — hidden dangers of attaching items around your home</p> <p>Warning WA consumers about the risks of attaching or hanging items around their homes, in the wake of a young man's tragic death in Subiaco this month after a brick pier collapsed on an attached hammock.</p>
24 December 2018	<p>Storm damage</p> <p>Warning consumers that storms causing significant damage are often followed by scammers who try to take advantage of vulnerable consumers.</p>
15 February 2019	<p>CDA Fencing Pty Ltd & Matthew Geoffrey Rixon</p> <p>Warning consumers once again, after multiple court proceedings and further complaints, that Mr Rixon allegedly accepted deposits from customers and failed to complete the agreed work or provide refunds.</p>
21 February 2019	<p>Fake Italian leather jacket scam warning Design Versace / Gian Fashion Designer</p> <p>Warning Perth consumers of an Italian man making false claims about the origin and quality of the product, and not providing a ten business day cooling off period for unsolicited sales.</p>
1 March 2019	<p>Justin Glenn Hopper t/as Hopper Blinds</p> <p>Warning consumers not to deal with the trader after consumers alleged after paying a 50 per cent deposit, the trader either failed to complete the work in a reasonable time or didn't complete any work at all.</p>

Date	Detail
7 March 2019	<p>Scott John Moore / Great Directions Pty Ltd</p> <p>Warning consumers not to deal with Scott Moore, previously the Director of Great Directions Pty Ltd, a company now in liquidation, following complaints. Consumers were allegedly offered hair loss treatment and skin rejuvenation services, the trader accepted upfront payments, but consumers were unable to schedule the services.</p>
20 March 2019	<p>True Filter Group Pty Ltd</p> <p>Warning consumers not to deal with online retailer True Filter Group, a company that supplies water systems and accessories through three websites. Alleged conduct of the business included supplying generic products in place of genuine brand name products, delays in the supply of goods and issues with returns.</p>
27 March 2019	<p>Knightly Corporation Pty Ltd t/as Launch Film Productions — Consumers concerned about wedding photographer closure (Launch Film Productions)</p> <p>Warning consumers about the investigation into the closure of a Wangara wedding photography business which has alarmed many consumers concerned about receiving their photos and videos.</p>
28 March 2019	<p>Travelling conmen in roofing scam (Best Choice Home Improvements)</p> <p>Warning consumers following reports of conmen who knock on doors of unsuspecting home owners, convincing them that urgent roof repairs are required to their homes. They then charge exorbitant rates and either do not carry out the work or perform a sub-standard job.</p>
30 March 2019	<p>Safety warning notice — Button batteries</p> <p>Warning consumers and suppliers about the possible risks of button batteries. Button batteries pose a serious hazard to children. If swallowed, in addition to presenting a choking hazard, a button battery can get stuck in a child's throat and cause a chemical reaction that burns through tissue causing catastrophic bleeding.</p>
31 March 2019	<p>Open flued gas heaters</p> <p>Warning consumers about four models of open flued gas heaters after they failed safety testing. Consumers who own any of the identified heater models are being warned not to use the heaters until they have been tested by the supplier.</p>
5 April 2019	<p>Matthew Geoffrey Rixon and CDA Fencing Pty Ltd</p> <p>Warning consumers not to deal with the trader following complaints from consumers who made payments to entities controlled by Mr Rixon for fencing and other building works. Mr Rixon is not a licensed builder and does not perform the work he is paid to do.</p>
13 April 2019	<p>Warning about a pyramid scheme, Gifting Mandala, targeting WA women</p> <p>Warning consumers about an illegal pyramid scheme that targets WA women and masquerades as a support network.</p>
2 May 2019	<p>Sound the alarm on unlicensed security installers</p> <p>Warning WA consumers about the risks of using unlicensed security installers; consumers may be unknowingly inviting criminals into their home.</p>
2 May 2019	<p>Ethanol burner ban reminder following serious incident in Perth</p> <p>Warning consumers that certain table-top decorative alcohol-fuelled (ethanol) burner models have been banned, after a burner exploded.</p>
3 May 2019	<p>Photographer of new-born babies a cause for consumer concern (Melissa Sheed Photography)</p> <p>Warning consumers about a business that specialises in taking photos of new-born babies following complaints about unacceptable delays in supplying the images to parents.</p>

Date	Detail
6 May 2019	<p data-bbox="432 253 1286 315">Small businesses ripped off by seller of food vans and trailers (Cody Williams / CLC Fabrications)</p> <p data-bbox="432 331 1449 421">Warning small business owners not to deal with the seller of food vans and trailers who has accepted more than \$70,000 from small business operators but has failed to supply them or provide refunds.</p>
9 May 2019	<p data-bbox="432 439 791 472">Switch on to gas heater warning</p> <p data-bbox="432 488 1422 551">Warning consumers about the risks of gas heaters; if they are faulty, poorly maintained or misused they can leak carbon monoxide (CO) gas, which can be lethal.</p>
16 May 2019	<p data-bbox="432 566 943 600">Unsafe airbags could lead to rego cancellation</p> <p data-bbox="432 616 1442 705">Warning car owners to check whether they have faulty Takata airbags as the Department of Transport exercises its powers to cancel vehicle licences if owners do not respond to notices to replace deadly Alpha airbags. (See the airbags story on page 16 of this report.)</p>
27 June 2019	<p data-bbox="432 723 863 757">Andrew Laundry t/as as Creative Scapes</p> <p data-bbox="432 772 1433 835">Warning consumers not to deal with unlicensed trader after complaints they allegedly took payments and did not supply the services or refund payments.</p>

Court outcomes

The table below details a selection of ACL-related court outcomes during 2018-19, noting some matters may continue past 30 June 2019 for penalties, relief, sentencing and appeals. Note also that the composition of the reported amounts may differ from case to case (for example, some are inclusive of compensation and court costs in addition to a primary fine). More information is available in ACL regulators' reports and media releases.

Date	Detail
12 July 2018	Fayka Al- Mouhajer Retailer supplied goods that did not comply with safety standards, a red & blue Spiderman light up wand, the offence was proven with no conviction recorded.
13 July 2018	Servcorp Ltd & Ors The Federal Court declared, by consent, that 12 terms in standard form contracts used by Servcorp are unfair and therefore void. Servcorp will also establish an unfair contract terms compliance program for its Australian business.
20 July 2018	Luke Glassford sole trader of East Coast Tyre and Auto — total fine \$2,000 plus court costs Pleaded guilty to two counts of wrongly accepting payment for goods he failed to supply.
26 July 2018	Wholesale Partners Pty Ltd — \$7,500 Company was convicted and fined \$7,500 for falsely represent standard, quality etc of goods.
31 July 2018	Meriton Property Services Pty Ltd — total penalties of \$3 million The Federal Court ordered Meriton to pay penalties for manipulating TripAdvisor reviews.
1 August 2018	Unnamed — Couple fined \$21,000 for selling vehicles with odometers wound-back Redcliffe couple who bought and sold vehicles without a licence, used false names and wound-back odometers were fined a total of \$21,000 by the Perth Magistrates Court.
7 August 2018	Peter Wotton and Simplified Installs Pty Ltd (in liquidation) t/as Adelaide Pools and Patios — Fined \$175,000, total compensation \$58,964.40 & disqualification order from managing companies for 7 years. Convicted and fined for carrying on a business as a building work contractor when not authorised by licence and for accepting payment then failing to supply goods or services within a reasonable time frame.
16 August 2018	Yi Zhao Supplied goods that did not comply with safety standards. Offence was proved but no conviction recorded; placed on a good behaviour bond.
20 August 2018	Origo & Co Pty Ltd — total penalties \$355,000 Ordered to pay a penalty plus contribute to costs for selling or offering for sale items that did not meet the relevant safety or information standards.
24 August 2018	H.J. Heinz Company Australia Ltd — total penalties of \$2.25 million The Federal Court ordered Heinz to pay penalties for making a misleading health claim that its Little Kids Shredz products were beneficial for young children.
6 September 2018	Habibullah Hussaini t/as Donya Product — \$5,500 Convicted and fined \$5,500 for supplying good that do not comply with safety standards.

Date	Detail
11 September 2018	Cain Robert Padman (Priority Fencing and Constructions) — total fine \$3,000 Convicted, fined and ordered to provide refunds to two customers for breaching the Victorian domestic building contract and consumer laws.
11 September 2018	Christopher John Darker / Solar Technology — \$45,355 WA solar business fined a total of \$16,000 by the Perth Magistrates Court and ordered to pay compensation to consumers amounting to \$29,355 after accepting money but failing to supply the goods.
18 September 2018	Jonothan Nathan Leahy director of Obihaka Pty Ltd t/as Tropical Lifestyle Living, The Granny Flat and Timber Cabin Superstore — ordered to pay \$10,000 Pleaded guilty to three counts of accepting payment for goods and failing to supply.
18 September 2018	Robert James Wallace t/as Hidden TV — \$15,000 Convicted and fined \$15,000 for accepting payment not supply goods/services in time.
18 September 2018	Robert James Wallace t/as Mustang Stables — \$24,000 Convicted and fined \$24,000 for accepting payment not supply goods/services in time.
19 September 2018	Cornerstone Investments Australia Pty Ltd (t/as Empower Institute) — \$26.5 million penalty and to repay \$56 million in Commonwealth funding The Federal Court found Empower engaged in unconscionable and misleading or deceptive conduct and made false or misleading representations when enrolling consumers into diploma courses. (See the VET FEE-HELP provider story on page 26 of this report.)
19 September 2018	Unique International College Pty Ltd — awaiting penalty judgement The Full Federal Court upheld an appeal by Unique and dismissed a cross appeal by the ACCC and the Commonwealth (on behalf of the Department of Education and Training) that it did not engage in a system of unconscionable conduct regarding the enrolments of vulnerable consumers into diploma courses. The earlier finding that Unique engaged in misleading and deceptive conduct and unconscionable conduct in relation to five consumers stands.
20 September 2018	PAG (WA) Pty Ltd t/as Xoticar / Myhung Nguyen / Zeljko Grujin — Ban State Administrative Tribunal upheld the Commissioner's decision to restrict a car dealership specialising in consignment sales and a salesperson/manager from conducting consignment sales. The dealership, its director and its manager to face 16 charges under the <i>Motor Vehicle Dealers Act 1973</i> (WA) and four charges under the ACL. (See entry for 30 May 2019 in this table.)
2 October 2018	Equifax Australia Information Services and Solutions Pty Ltd — total penalties of \$3.5 million The Federal Court ordered Equifax to pay penalties for misleading and deceptive conduct and unconscionable conduct in relation to credit report services. The Court also ordered, by consent, that Equifax establish a consumer redress scheme allowing affected consumers to seek refunds for a 180 day period.
18 October 2018	Mitchell Cole — \$10,000 Convicted and fined \$10,000 for accepting payment and not supplying goods/services in time.
18 October 2018	Mohammad Amir, t/as Enchanted Films and Dyno Media — \$10,150 Wedding photographer/videographer fined \$4,500 by the Perth Magistrates Court and ordered to pay \$5,650 in compensation for supplying promised photo and video packages either too late or not at all.

Date	Detail
18 October 2018	<p>Nexo Build Pty Ltd — \$8,000</p> <p>Company was convicted and fined \$8,000 for accepting payment but not supplying goods/services in time.</p>
19 October 2018	<p>Waisea Volavola Varani sole director of Varani Holdings Pty Ltd — total fine \$19,000 and \$16,616 compensation</p> <p>Found guilty on two counts of failing to supply goods and services.</p>
24 October 2018	<p>Ludovico Abbate t/as Adelaide Roller Door and Shutter Repairs — Fined \$1,000 & total compensation \$1,050</p> <p>Convicted and fined for carrying on a business as a building work contractor when not authorised by licence and breaching the ACL by accepting payment and failing to supply goods or services within a reasonable time frame.</p>
31 October 2018	<p>Costantinos Gounas t/as One Way Supplies — Fined \$6,000 & total compensation \$9,698</p> <p>Convicted and fined for accepting payment and failing to supply goods or services within a reasonable time and breaching section 8A(4) of the <i>Fair Trading Act 1987</i> by failing to attend two Compulsory Conciliation Conferences.</p>
1 November 2018	<p>Oticon Australia Pty Ltd & Sonic Innovations Pty Ltd — total penalties of \$2.5 million</p> <p>The Federal Court ordered Oticon and Sonic to pay penalties for misleading pensioners through newspaper advertisements for hearing aids sold by AudioClinic and HearingLife clinics. The Court also ordered, by consent, that Oticon and Sonic offer to refund consumers who purchased specified accessories, publish a corrective notice in a national newspaper and establish an ACL compliance program. (See the Oticon Australia and Sonic Innovations story on page 28 of this report.)</p>
5 November 2018	<p>Financial Circle Pty Ltd — \$9 million in penalties</p> <p>Ordered by the Federal Court to pay penalties for engaging numerous contraventions of financial services, credit and consumer protection laws. (See the Financial Circle story on page 34 of this report.)</p>
7 November 2018	<p>State Demolition & Civil Works (NSW) Pty Ltd — \$1,200</p> <p>Convicted and fined \$1,200 for accepting payment and failing to supply services within a reasonable time</p>
14 November 2018	<p>Xibo Zhu sole director of Sunrise Imports Pty Ltd — \$175,000 plus costs</p> <p>Pleaded guilty of four counts of supplying and possessing consumer goods that had been permanently banned or did not meet mandatory safety standards under the ACL.</p>
14 November 2018	<p>Anthony Cameron t/as Wood Shapers Furniture — fined \$7,500 & total compensation \$2,400</p> <p>Convicted and fined for carrying on a business as a building work contractor when not authorised by licence and for accepting payment and failing to provide goods or services within a reasonable time.</p>
15 November 2018	<p>Glenn Stuart Wills, Gidget Retro Teardrop Camper Pty Ltd — More than \$1 million in fines, compensation and court costs</p> <p>Found guilty of seven counts of receiving payment and failing to supply within a reasonable time. (See the Gidget Retro Teardrop Camper story on page 30 of this report.)</p>

Date	Detail
15 November 2018	<p>We Buy Houses & Rick Otton — total penalties of \$18 million</p> <p>The Federal Court ordered record penalties against We Buy Houses (\$12 million) and sole director Rick Otton (\$6 million) for making false or misleading representations about how people could create wealth through buying and selling real estate. Mr Otton was banned from managing corporations in Australia for ten years and both he and We Buy Houses permanently restrained from further involvement in the supply or promotion of services concerning real property transactions or investment.</p>
21 November 2018	<p>Phillip Nanasi of Future Designs Pty Ltd t/as Future Designs — fined \$9,000</p> <p>Convicted and fined for carrying on a business as a second hand vehicle dealer when not authorised by licence and making a false or misleading misrepresentation that the company was the holder of a current licence.</p>
30 November 2018	<p>Melbourne South Eastern Real Estate Pty Ltd — \$720,000</p> <p>Ordered to pay a penalty plus costs for engaging in misleading or deceptive conduct and making false representations about property sales.</p>
6 December 2018	<p>Murray Goulburn Co-operative Co Ltd & Gary Helou — total penalties of \$200 000</p> <p>The Federal Court ordered former Murray Goulburn Managing Director Gary Helou to pay penalties for being knowingly concerned in false or misleading claims about farmgate milk prices. Mr Helou also undertook to not be involved in the dairy industry for three years.</p>
7 December 2018	<p>Mitchell Craig Grisbrook t/as Elite Trees — \$6,000</p> <p>Tree lopper fined \$6,000 and ordered to pay costs of \$887 by the Perth Magistrates Court for breaching his customers' consumer rights to a cooling off period.</p>
7 December 2018	<p>Landmark Operations Limited (t/as Seednet) — total penalties of \$1 million</p> <p>The Federal Court ordered Seednet to pay penalties for making false, misleading and deceptive claims in a factsheet for its barley variety known as 'Compass'.</p>
14 December 2018	<p>Luxuride Pty Ltd/ Nicholas Ngo — \$90,000</p> <p>Vehicle dealership which specialised in selling luxury motor vehicles on consignment and its Director have been fined a total of \$90,000 by the Perth Magistrates Court for breaking laws designed to protect consumers. The ACL was breached on six occasions when false or misleading representations were made to vehicle owners regarding the sale price which enabled the dealership to gain a higher profit. Company and director were also were convicted of 23 offences under the <i>Motor Vehicle Dealers Act 1973</i> (WA)</p>
20 December 2018	<p>Medibank Private Limited — appeal dismissed</p> <p>The Full Federal Court dismissed an appeal by the ACCC against an earlier Federal Court judgement in relation to Medibank. The ACCC alleged Medibank made false, misleading or deceptive representations and engaged in unconscionable conduct in relation to its failure to notify Medibank's, and its subsidiary ahm's, members of its decision to limit benefits for in-hospital pathology and radiology services, despite representing across a number of its communication and marketing materials that it would.</p>
21 December 2018	<p>ACM Group Ltd — total penalties of \$750,000</p> <p>The Federal Court ordered ACM Group Ltd to pay penalties for misleading, harassing, coercive and unconscionable conduct in pursuit of unpaid debts from two vulnerable consumers.</p>
21 December 2018	<p>Shaun Anthony Clarkson and Signman Says Pty Ltd — fined \$15,000 and \$1,301 compensation</p> <p>Found guilty of three counts of accepting payment and failing to supply goods and services within a reasonable time.</p>

Date	Detail
27 December 2018	Domain Register Pty Ltd Ordered to offer a \$249 each refund to more than 9,800 consumers for engaging in misleading and deceptive conduct in relation to domain name registrations.
14 January 2019	Ali Faraj also known as Ali Mousselmani, Kamil Kassem and Kamil Mousselmani — fined \$60,000 and \$193,500 compensation Found guilty of one count of making false representations about holding a Queensland Building and Construction Commission (QBCC) builders licence and found guilty of three counts of accepting payment and failing to supply goods and services within a reasonable time.
14 January 2019	Robert Rad — \$3,000 Convicted and fined \$3,000 for accepting payment and not supplying goods/services in time.
14 January 2019	Luxury Design Construction Pty Ltd — \$10,000 Company was convicted and fined \$10,000 for accepting payment and not supplying goods/services in time.
18 January 2019	Ultra Tune Australia Pty Ltd — total penalties of \$2,604,000 The Federal Court ordered Ultra Tune to pay penalties for breaching both the Franchising Code and the ACL for failing to act in good faith and making false or misleading representations to a prospective franchisee about the price of a franchise.
29 January 2019	David Emery t/as DK & IE Projects and D1One — \$51,207 Property developer fined \$25,000 by the Perth Magistrates Court and ordered to pay consumer compensation totalling \$26,207 after pleading guilty to accepting payment but failing to supply the goods and services.
6 February 2019	Optus Mobile Pty Limited — total penalties of \$10 million The Federal Court ordered Optus to pay penalties for its treatment of customers who unknowingly purchased games, ringtones and other digital content through its third-party billing service. Optus has also committed to contacting potentially impacted customers who complained about the services and have not already received a refund, and those customers who Optus identifies as having been incorrectly charged. (See the telecommunications sector story on page 29 of this report.)
7 February 2019	Leo Richard De Carlo — \$1,500 Convicted and fined \$1,500 for accepting payment and not supplying goods/services in time.
11 February 2019	Geowash — awaiting penalty judgement The Federal Court found former hand car wash and detailing franchisor Geowash acted unconscionable, made false or misleading representations and failed to act in good faith in breach of the Franchising Code and the ACL.
12 February 2019	Smart Dollar Pty Ltd t/as Smart Dollar (Warrawong) — \$12,000 Convicted and fined \$12,000 for supplying consumers goods that do not comply with safety standards.
13 February 2019	Wens Bros Trading Pty Ltd and Wen Hui Xu — total penalties \$415,000 The company and its director breached the ACL's product safety provisions and was ordered to pay penalties plus costs.
14 February 2019	Troy Jacobs t/as Alloy Roofing Pty Ltd — \$10,900 Perth gutter repair and roofing business and its sole director ordered to pay a total of \$14,400 in fines, compensation and costs at Perth Magistrates Court for taking money for services from a consumer but failing to deliver.

Date	Detail
15 February 2019	Haoran Lu — fined \$700 Pleaded guilty to two counts of obstructing inspectors under the <i>Fair Trading Act 1989</i> .
22 February 2019	Moses Gozdiff t/as Roof Repairers SA — 12 months good behaviour bond in the sum of \$200 Convicted for carrying on a business as a building work contractor when not authorised by licence and accepting payment and failing to supply goods or services within a reasonable time.
22 February 2019	James Charles Andronicos former owner of Work From Home Australia — total fine \$30,000 and \$27,736 compensation and \$2,925 in legal and court costs Found guilty on four counts of accepting payment and failing to supply goods and two counts of making misleading representations.
28 February 2019	AJEM Designer Kitchens & Renovations Pty Ltd — \$9,000 Convicted and fined \$9,000 for accepting payment and not supplying goods/services in time.
12 March 2019	Kylie Elizabeth Sommer, t/as Inspired Paving; Scott Sommer — \$44,987 Wanneroo couple involved in a landscaping business fined \$12,000 by the Perth Magistrates Court and ordered to pay a total of \$32,987 in compensation for taking deposits but not commencing or completing the work.
13 March 2019	Craig Anthony Wood owner of Suzuki Performance and Racing — total fine \$20,000 and \$9,295 compensation Found guilty of one count of accepting payment and failing to supply goods or services within a reasonable time.
14 March 2019	John Trevelyan Radonic former owner of Workwear and Boots Discount Direct, and Signature Uniforms — total fine \$10,000 Pleaded guilty to 20 counts of wrongly accepting payment.
15 March 2019	Australian Private Networks Pty Ltd (t/as Activ8me) — total penalties of \$250,000 The Federal Court ordered Activ8me to pay penalties for making false or misleading representations and not displaying a single price when advertising its internet services.
27 March 2019	Amaysim Energy Pty Ltd (t/as Click Energy) — total penalties of \$900,000 The Federal Court ordered Click Energy to pay penalties for making false or misleading marketing claims about potential discounts available to Victorian and Queensland consumers. Click Energy was also ordered to send each affected customer a notice correcting the claims and implement an ACL compliance program.
27 March 2019	Semir Jasic — fined \$10,500 & total compensation \$1,200 Convicted and fined for carrying on business as a second hand vehicle dealer when not authorised by licence and interfering with an odometer. Also breached the ACL by making false and misleading representations that vehicles were of a particular standard or had a particular history.
27 March 2019	Luke Lorraine — fined \$24,500 & total compensation \$2,593.77 Convicted and fined for carrying on business as a second hand vehicle dealer when not authorised by licence and interfering with an odometer. Also breached the ACL by making false and misleading representations that vehicles were of a particular standard or had a particular history.

Date	Detail
4 April 2019	<p>Digital Marketing and Solutions Pty Ltd t/as Android Enjoyed and CameraSky and Yuen Ho Wong — \$3,150,000</p> <p>The Supreme Court of NSW granted an injunction restraining the traders from advertising goods as in stock and/or available when that is not true; from supplying goods that are not of acceptable quality or are not fit for purpose; from making false or misleading representations about orders, repairs and refunds; and from supplying electrical goods and articles prohibited from sale under NSW electrical safety laws. The court ordered pecuniary penalties of \$2,250,000 against the company and \$900,000 against Mr Wong and disqualified Mr Wong from being a director of a corporation for two years. (See the Digital Marketing story on page 33 of this report.)</p>
5 April 2019	<p>Pervez Iqbal and Jutt Brothers Pty Ltd t/as Statewide Pools — fined \$17,500 & total compensation \$10,700</p> <p>Convicted and fined for failing to obtain building indemnity insurance on 14 occasions and breached the ACL by making a false or misleading representation regarding a right or remedy.</p>
9 April 2019	<p>Jacob Anthony Moratti — total fine \$7,000</p> <p>Pleaded guilty to one count of failing to supply services within a reasonable time.</p>
10 April 2019	<p>Micheal Arrow — total penalties \$46,200</p> <p>An unregistered builder who contravened Victorian consumer and domestic building contract laws was ordered to pay penalties and refrain from certain conduct.</p>
12 April 2019	<p>Jason Paul Murray and J.P. & K.M. Murray Pty Ltd t/as Brisbane Motor Imports — \$101,000 in fines and restitution</p> <p>Pleaded guilty to six charges of accepting payment and failing to supply goods.</p>
18 April 2019	<p>Viagogo AG — awaiting penalty judgement</p> <p>The Federal Court found ticket reseller Viagogo made false or misleading representations and engagement in conduct liable to mislead the public when reselling entertainment, music and live sport event tickets. (See the Viagogo story on page 32 of this report.)</p>
23 May 2019	<p>Frankii Swim Pty Ltd — \$30,000</p> <p>Bikini business fined \$30,000 after being prosecuted for misleading customers about refund and returns rights.</p>
27 May 2019	<p>Andrew Fraser-Scott, Dylan Ackroyd-Laycock, and AFS Corporation Pty Ltd t/as Brisbane Dealer Auctions and The Cartel Dealers — \$52,500 in fines, \$33,269 in court ordered compensation, \$108,476 refunded to consumers through OFT conciliation, and a further \$215,051, as at 1 September 2019, reimbursed to consumers via the Agents Financial Administration Fund</p> <p>Pleaded guilty to 11 breaches of the <i>Motor Dealers and Chattel Auctioneers Act 2014</i> and 66 breaches of the ACL. Mr Fraser-Scott and his company accepted payment for registration and transfers that he failed to complete, traded unlicensed and failed to maintain a business transaction register as required by law. The company advertised it could save customers money by buying a car on their behalf directly from wholesale auctions, but misrepresented the price paid and overcharged consumers. (See the AFS Corporation story on page 31 of this report.)</p>
30 May 2019	<p>Jetstar Airways Pty Ltd — \$1.95 million</p> <p>The Federal Court ordered Jetstar to pay penalties for making false or misleading representations about consumer guarantee rights. Jetstar will also review consumer complaints concerning flight delays or cancellations during the period of April 2017 to May 2018 and offer refunds or other remedies to consumers who would have been entitled to those remedies.</p>

Date	Detail
30 May 2019	<p>PAG (WA) Pty Ltd, t/as Xoticar; Director Zeljko Grujin — \$31,500</p> <p>PAG (WA) Pty Ltd, t/as Xoticar of Welshpool and Mr Zeljko Grujin each pleaded guilty to a total of seven contraventions of the <i>Motor Vehicle Dealers Act 1973</i> (WA) and two breaches of the ACL at the Perth Magistrates Court. The ACL was breached when false or misleading representations were made to vehicle owners about the sale price, so the dealership could make higher profits.</p>
10 June 2019	<p>Riley Lance Martin and Exchange Travel Pty Ltd t/as Travelalot — total fine \$1,500</p> <p>Pleaded guilty to wrongly accepting payment and failing to supply a service.</p>
11 June 2019	<p>Marcel Ivan Shears sole operator of Isabella’s Passion and Blush Bras and Lingerie — total fine \$8,000 and \$1,643 compensation</p> <p>Found guilty of three counts of failing to supply goods and four counts of making false or misleading representations.</p>
12 June 2019	<p>Lindsay Kobelt — court dismissal of appeal</p> <p>The High Court dismissed ASIC’s appeal in a case concerning book-up practices and unconscionable conduct. (See the APY Lands book up story on page 28 of this report.)</p>
14 June 2019	<p>Nathan Charles Bogan sole proprietor of Nate Scapes — total fine \$10,000 and \$2,359 compensation</p> <p>Found guilty of one count of wrongly accepting payment and failing to supply services.</p>
26 June 2019	<p>Birubi Art Pty Ltd — total penalties of \$2.3 million</p> <p>The Federal Court ordered Birubi (in liquidation) to pay penalties for making false or misleading representations that products it sold were made in Australia and hand-painted by Australian Aboriginal people when they were not. (See the Birubi Art story on page 9 of this report.)</p>
28 June 2019	<p>Kimberly-Clark Australia Pty Ltd — case dismissed</p> <p>The Federal Court found that Kimberly-Clark did not mislead consumers about the suitability of its wipes to be flushed down the toilet in describing its products as ‘flushable’ on product packaging and its website.</p>

Other outcomes

Date	Detail
2 July 2018	<p>Warrnambool Cheese and Butter Company Holdings Limited</p> <p>Warrnambool Cheese and Butter altered terms in its milk supply agreements and milk supply handbook following engagement with the ACCC regarding potentially unfair contract terms.</p>
5 July 2018	<p>Danny Merhab and Samar Merjan — Permanent banning</p> <p>Banning from engaging in credit activities and providing financial services due to the provision of false and misleading loan documents.</p>
11 July 2018	<p>Rabih Awad — Temporary banning</p> <p>Banning for seven years from engaging in credit activities and providing financial services due to the provision of false and misleading loan documents.</p>
26 July 2018	<p>Marten Pundun — Permanent banning</p> <p>Banned from engaging in credit activities after an ASIC investigation found he knowingly or recklessly gave false documents and information to help his clients obtain home loans.</p>
16 August 2018	<p>AFL & NRL clubs returns and refund policies</p> <p>Twenty-one AFL and NRL clubs made changes to their returns and refund policies in relation to merchandise sales after the ACCC raised concerns they were not compliant with the ACL. (See the AFL and NRL clubs story on page 22 of this report.)</p>
7 September 2018	<p>Aussie Broadband removes misleading advertising statements</p> <p>NBN provider Aussie Broadband removed statements across its advertising which described its broadband services as ‘congestion-free’ in response to concerns raised by the ACCC.</p>
28 September 2018	<p>Telstra ‘Premium Direct Billing’ refunds</p> <p>As of September 2018, Telstra has refunded \$9.3 million to 72,000 customers it misled in relation to its ‘Premium Direct Billing’ third-party billing service. This is in addition to at least \$5 million in refunds paid by Telstra or third parties to Telstra’s customers during the operation of the service.</p> <p>These refunds follow an April 2018 Federal Court order that Telstra pay penalties of \$10 million for making false or misleading representations about charges for digital content such as games and ringtones. (See the telecommunications sector story on page 29 of this report.)</p>
8 October 2018	<p>Mathew Alwan — Permanent banning</p> <p>Banned from providing financial services due to dishonest conduct.</p>
30 November 2018	<p>Financial Circle Pty Ltd — Licence cancellation</p> <p>Licence cancelled due to engaging in unconscionable conduct. (See the Financial Circle story on page 34 of this report.)</p>
3 December 2018	<p>Dairy industry</p> <p>Brownes Food Operations, Lion Dairy & Drinks, Norco Co-operative Limited, Parmalat Australia and Fonterra Australia agreed to amend specific terms in their milk supply agreements to address ACCC concerns these terms were unfair to dairy farmers.</p>

Date	Detail
3 December 2018	<p>Waste management industry</p> <p>Visy Paper Pty Ltd (t/as Visy Recycling), Cleanaway Pty Ltd and Suez Recycling & Recovery Pty Ltd reviewed and amended potentially unfair contract terms in their standard form contracts following an ACCC investigation into the use of unfair contract terms in the waste management industry. (See the waste management industry story on page 25 of this report.)</p>
23 January 2019	<p>Navigation businesses cease misleading advertising statements</p> <p>Garmin Australasia Pty Ltd, TomTom ANZ Pty Ltd & MtTac Australia Pty Ltd (t/as Navman) agreed to stop using 'lifetime' claims in their advertising relating to consumer navigation products after the ACCC raised concerns these statements were potentially false, misleading or deceptive.</p>
6 February 2019	<p>Optus 'Premium Direct Billing' refunds</p> <p>As of February 2019, Optus had refunded about 240,000 customers it misled in relation to its 'Premium Direct Billing' third-party billing service. The ACCC understands Optus has paid about \$8 million in refunds and third party providers another \$13 million. (See the telecommunications sector story on page 29 of this report.)</p>
25 February 2019	<p>James Sheehan — Permanent banning</p> <p>Banned from providing financial services due to dishonest conduct.</p>
21 March 2019	<p>Anneliese Ada Willmott — Permanent banning</p> <p>Banned from providing financial services due to dishonest, misleading or deceptive conduct.</p>
2 April 2019	<p>Stevedoring industry</p> <p>DP World Australia, Hutchinson Ports Australia & Victoria International Container Terminal amended their contracts with land transport businesses after the ACCC raised concerns that certain terms in each of these agreements may be unfair contract terms.</p>
17 April 2019	<p>Keith Douglas Bowker — Temporary banning</p> <p>Banned from providing financial services for six years due to misleading or deceptive conduct.</p>
23 April 2019	<p>Rodney Peters — Temporary banning</p> <p>Banned from providing financial services for six years due to misleading or deceptive conduct.</p>
5 June 2019	<p>Phillip Emidio Bruni — Permanent banning</p> <p>Banned from providing financial services due to dishonest, misleading or deceptive conduct.</p>
18 June 2019	<p>Murray Graham Davies — Permanent banning</p> <p>Banned from providing financial services and engaging in credit activities due to dishonest conduct.</p>
25 June 2019	<p>M.V Napoleone & Co Pty Ltd (t/as Red Rich Fruits)</p> <p>A trader in apples, pears and other fresh fruits agreed to change its horticulture produce agreements with growers after the ACCC raised concerns the agreements contained unfair contract terms and terms which did not comply with the Horticulture Code.</p>

Other performance metrics

Additional performance metrics and outcomes published by regulators can be found in their 2018-19 Annual Reports:

- ACCC: [ACCC and AER Annual Report 2018-19](#)
- ASIC: [ASIC 2018-19 Annual Report](#)
- ACT: [Chief Minister, Treasury and Economic Development Directorate 2018-19](#)
- NSW: [Department of Customer Service \(formerly Department of Finance, Services and Innovation\) Annual Report 2018-19](#)
- NT: [Northern Territory Consumer Affairs Annual Report 2018-19](#)
- QLD: [Department of Justice and Attorney-General Annual Report 2018-19](#)
[Office of Fair Trading Outcomes Report 2018-19](#)
- SA: [Attorney-General's Department 2018-19 Annual Report](#)
- TAS: [Department of Justice Annual Report 2018-19](#)
- VIC: [Consumer Affairs Victoria Annual Report 2018-19](#)
- WA: [Department of Mines, Industry Regulation and Safety Annual Report 2018-19](#)