

Monage, Stephen

From: Nick Behrens [nick.behrens@tcci.com.au]
Sent: Monday, 1 November 2004 1:16 PM
To: Product Safety Submissions
Cc: Petrovic, Margaret
Subject: Review of Australian Consumer Product Safety System

Please find attached a letter prepared earlier this year that relates to Consumer Product Safety in Tasmania.

This is particularly relevant to the Review of Australian Consumer Product Safety System and is provided as TCCI's comment and submission.

Kind regards

Nick Behrens

<<040210consumer protection laws.pdf>>

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10 February 2004

Melanie Archer
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Dear Melanie

Re: Consumer Product Safety In Tasmania

Thank you for the opportunity to comment on the Consumer Product Safety in Tasmania Discussion Paper.

The Tasmanian Chamber of Commerce & Industry (TCCI) is Tasmania's peak business organisation and seeks to work with Government and other groups to shape Tasmania's economic and social environments in a way which promotes business growth and community prosperity.

TCCI directly represents in excess of 1,800 businesses employing over 60,000 Tasmanians that range across the entire State, in every industry sector and of all business sizes.

At the outset the TCCI wishes to highlight the difficulty it has had in responding to the discussion paper. The difficulties are not related to the process that the Department of Justice and Industrial Relations has used but rather the issue itself.

To date the TCCI has received minimal feedback from business on the current issue. TCCI believes the current Review is timely in that we are interested in hearing how the laws are working in relation to business compliance issues and whether further legislative action is really required.

Quite simply Consumer Product Safety is not a subject that the Chamber hears an enormous amount on from its membership. Indeed the TCCI was unaware of any major issues of concern arising from the Sale of Hazardous Goods Act 1977, Flammable Clothing Act 1973 or the Goods (trade Descriptions) Act 1971.

However, this is not to say that there are not any shortcomings with the existing three pieces of legislation. Indeed the Chamber would be delighted to include an article prepared by your Office requesting feedback on the matter in the Tasmanian Business Reporter (circulation 17,500), Tasmania's business newspaper.

The TCCI does however have a number of general observations that it wishes to make in relation to consumer protection in Tasmania.

Consumer Protection

TCCI recognises that consumer protection laws, policies and practices limit unsafe products thereby helping to build consumer confidence. This enhances the relationship between businesses and consumers in commercial transactions and results in increased business.

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For this reason Tasmanian businesses support the need for consumer protection policies which provide consumers with valuable information regarding the products they are purchasing, and protection from unsafe products.

TCCI believes there are four key elements to providing a balanced consumer protection framework:

- Information - Consumers need relevant and reliable information to make informed decisions about available products and services.
- Protection - Consumers must feel that the Government has in place a legal framework that will protect them.
- Redress - Consumers must also have ready access to redress for occasions when disputes arise about whether the terms of a sale have been met.
- Cost - Minimal compliance costs should be imposed on business.

Principles of Consumer Protection

TCCI's overall objective is to achieve consumer protection policies which are consistent with the following principles:

- capable of producing favourable consumer outcomes by ensuring that consumers are not misled, deceived or harmed as a result of products or advertising;
- designed to make the market more competitive by providing no undue restrictions on market participants or the products they offer and ensuring markets are open to the widest possible participants;
- focused so that it provides protection to consumers in a cost-effective way without unduly impacting on the competitive process. Accordingly a cost-effective regulatory system requires:
 - a presumption in favour of minimal regulation
 - an allocation of functions amongst regulatory bodies which minimizes overlaps, duplication and conflicts;
- any regulatory framework must have the flexibility to cope with changing institutional and product structures without losing its effectiveness; and
- the appropriate regulatory agencies should be accountable and subject to regulatory reviews of efficiency and effectiveness.

Policy Objectives

The policy objectives of consumer protection laws and regulations should be to ensure that consumers are not misled, deceived or harmed as a result of a commercial transaction. Consumers therefore have the right to expect:

- certain quality, performance and safety standards from goods and services purchased; and
- information provided with goods and services to be accurate and instructs the safe use of the product.

Wherever possible non-regulatory or co-regulatory options should be explored as alternative models for intervention. Where regulatory approaches to consumer protection are deemed necessary, the design of such models should aim to minimise the costs involved to business and deliver tangible benefits to the consumer.

Within this framework, Tasmanian businesses support a regulatory framework that provides consumers with adequate protection but believes it essential that this protection be balanced with the needs of business. This includes a need for regulation to be effective and flexible.

To achieve this balance it is essential that:

governments recognise that most businesses have an incentive not to intentionally harm consumers; and
before new consumer polices are introduced, or existing regulations amended, there is a need for extensive consultation with business to ensure that the changes will achieve the desired outcome, and will not impose undue costs on business and therefore upon consumers.

The Policy Framework

Tasmanian businesses also expect a balanced, transparent, and equitable approach from the enforcement agency. Moreover, a high degree of regulation has the potential to significantly deter investment. Wherever possible the regulatory agency should adopt an educative approach and facilitate good practice, rather than actual enforcement.

TCCI is also strongly supportive of national uniformity in Consumer Product Safety legislation

Competition

TCCI supports the National Competition Policy framework as an integral part of Australia's essential microeconomic reform process. The framework ensures that consumers are provided with an efficient and market priced service or product.

In a competitive environment the free operation of an economic system will generally ensure production of high quality goods and services, and the lowest possible prices for consumers.

Product Standards

The adoption of mandatory standards should be limited to instances where there is an issue of overwhelming public health and safety and should not occur without extensive consultation with industry to ensure that this is the most appropriate method of achieving the desired outcome.

Industry is supportive of the development of product standards as a method of providing consumer protection. Mandatory standards, in some circumstances, can also be an effective method of ensuring consumers are accorded minimum product safety.

Conclusion

The Tasmanian Business Community requires further consultation should this process conclude that further legislative action is needed in this area. To this end we wish to be consulted on any future amendments.

I would be pleased to expand upon any point raised within this correspondence.

Yours sincerely



Nick Behrens
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