

MINISTERIAL COUNCIL ON CONSUMER AFFAIRS

STRATEGIC AGENDA

August 2008

MCCA was established to advance fair trading and the protection of consumers in the marketplace. Its key objective is to provide the best and most consistent protection for consumers.

Its principal strategies to achieve this objective are to facilitate and encourage:

1. Nationally co-ordinated and consistent policy development and implementation by all jurisdictions, including legislative consistency of major elements of consumer protection law and emerging policy issues. (*Policy and Legislative Harmonisation*);
2. Consistency of policy and enforcement decisions for the suppliers of goods and services within a national marketplace (*Consistent enforcement*);
3. Access to education and information for consumers and suppliers (*Education*);
4. Co-operation and consultation on consumer policy between Australia and New Zealand (*Australia/NZ Co-operation*).
5. Research into consumer concerns and trade practices (*Research*).

Contents

STRATEGY 1 - POLICY AND LEGISLATIVE HARMONISATION.....	2
STRATEGY 2 - CONSISTENT ENFORCEMENT	
STRATEGY 3 - EDUCATION	10
STRATEGY 4 - AUSTRALIA/NZ CO-OPERATION	11
STRATEGY 5 - RESEARCH INTO CONSUMER CONCERNS AND TRADE PRACTICES	12

Strategy 1 — Policy and Legislative Harmonisation

PROJECT	SPONSOR	OBJECTIVE	COMPLETION AND MILESTONES <i>(Changes to completion dates must be noted and contain an explanation)</i>
1.1 Enhanced national consumer policy framework	Commonwealth	<p>Consider the current state of consumer policy and develop options for improvements. The working party will be chaired by Victoria with membership including the Australian Government, South Australia, Queensland, Western Australia and New South Wales. Terms of reference are:</p> <ul style="list-style-type: none"> • Develop options for reform of Australia's Consumer Policy Framework; • Examine current developments in consumer policy, consumer protection frameworks and institutions in comparable economies to inform the work; and • Contribute, as requested, to the productivity Commission Review of Consumer Policy proposed by the Australian Government. 	<p>Ongoing.</p> <p>MCCA Working Party on Consumer Policy discussion papers were submitted to the Productivity Commission in 2007.</p> <p>The MCCA Working Party met in early 2008 to consider the Productivity Draft Report. It was concluded that individual jurisdictions would make submissions, not the Working Party.</p> <p>On 26 March 2008, COAG agreed to the BRCWG, in consultation with MCCA, developing enhanced national approaches to consumer policy by October 2008.</p> <p>MCCA will consider the final report of the PC's Review of</p>

			<p>Australia's Consumer Policy Framework at its meeting on 23 May 2008.</p> <p>MCCA as a whole will need to consider a response to the PC's final report. MCCA will provide a report to the BRCWG on suggested reforms arising from the PC Report.</p> <p>See further - MCCA Paper 4.1 from August 15 2008.</p>
1.2 Review of Australia's Product Safety Framework	Commonwealth	<p>To progress national reform of product safety law and administration.</p> <p>At the 18 May 2007 meeting, Ministers noted the April 2007 decision by the Council of Australian Governments (COAG) that a uniform approach to product safety should be developed by the States and Territories within 12 months.</p> <p>To implement the COAG decision, Ministers agreed that:</p> <ul style="list-style-type: none"> • the draft RIS be completed incorporating the effects of the COAG decision comparing the harmonised model with the status quo and released by 30 June 2007; • the States and Territories in consultation with the Commonwealth agree the principles of the new regime and report to MCCA later in 2007; 	<p>MCCA meeting 23 May 2008: MCCA to consider endorsement of a model for regulatory reform and draft implementation plan.</p> <p>Issue papers to be circulated September 08.</p> <p>See also timetable in Attachment B of MCCA paper - Item 5 of 15 August 2008.</p>

		<ul style="list-style-type: none"> • concurrently an intergovernmental agreement underpinning the legislation be negotiated and agreed; • drafting instructions be agreed in time to report to COAG in April 2008; • a review commence immediately of all existing product safety bans and standards with the aim of achieving greater harmonisation across the Commonwealth, States and Territories. A project team jointly led by Victoria and Queensland will be established to carry this work forward; and <p>On 26 March 2008, COAG asked MCCA, through the Business Regulation and Competition Working Group, to provide a detailed implementation plan by July 2008 to COAG on a national system. COAG further agreed to the Commonwealth assuming greater responsibility for regulating product safety, while the States and Territories could retain the power to impose interim product bans.</p> <p>On 23 May 2008, MCCA agreed to a model for reform of product safety regulatory arrangements. MCCA further agreed that the Commonwealth would lead implementation of the revised arrangements.</p> <p>On 3 July 2008, COAG endorsed the reform model agreed by MCCA.</p>	
<u>1.2 National Credit Policy and Legislation</u>			Milestones:
1.2.1 Uniform Consumer	Victoria (as Chair	1. Amend the Code to clarify its application to	<u>1. Vendor terms Bill -</u>

Credit Code	of UCCCMC)	<p>instalment lending (eg vendor finance).</p> <ol style="list-style-type: none"> 2. Explore the feasibility of requiring all lenders to offer access to external dispute resolution. 3. Amend the Code to address predatory lending practices encountered in the fringe & other market sectors. [See 1.2.3 below for more detail] 4. Finalise response to the independent review of comparison rates. 5. Develop options to promote and encourage more responsible lending, starting with credit cards. [See 1.2.4 below for more detail] 6. Modernise the scheme of pre-contractual disclosure. 7. Refine the operation of default notices. 8. Consider the need for additional protection for consumers who take out a reverse mortgage or other “equity release” credit products. 9. Review the remedies available to consumers and Government Consumer Agencies in the Code and review the penalty levels. 	<p>Introduced into QLD Parliament 14 April 2008.</p> <p><u>3. Fringe/Predatory lending</u> – Promissory notes covered by Code since 1 November 2007. August 2007 Exposure Bill consultation completed Feb 2008 and roundtable held April 2008. Final proposals and changes to Bill submitted to MCCA May 2008.</p> <p><u>4. Comparison rates - Decision making RIS</u> completed September 2006 & updated April 2008. Options in response to Final RIS submitted to MCCA in May 2008.</p> <p><u>6. Pre-contractual disclosure</u> - New approach to be tested by simulation, survey, qualitative research, comprehension testing etc. Research to be completed by March 2009. Consultancy began January 2008.</p> <p><u>7. Default notice refinements</u> – Parlt Counsel draft received April 2008.</p>
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			COAG agreed 3 July 08 that the regulation of credit would be transferred to the Commonwealth.
1.2.2 National Regulation of Finance Brokers	New South Wales	<p>Develop a model for consistent national regulation of finance and mortgage brokers incorporating the following features:</p> <ul style="list-style-type: none"> • Coverage extended beyond consumer credit to small business and investment credit; • Requirements for brokers to be licensed, and as a condition of licensing to meet minimum competency and probity standards and to belong to an alternative dispute resolution scheme approved by ASIC or other nominated agency; • A contractual relationship with the broker based on refinements to the <i>NSW Consumer Credit Administration Amendment (Finance Brokers) Act</i>; • Broking clients being provided with appropriate remedies including a capacity to stay proceedings for the forced sale of their home where action is being taken against the broker that could result in the home being saved; • Brokers being required to hold professional indemnity insurance and/or contribute to a fidelity fund 	<p>Milestones:</p> <p>Exposure Bill released for Consultation Nov 2007.</p> <p>Report on consultations submitted to MCCA May 2008.</p> <p><u>COAG agreed 3 July 08 that the regulation of credit would be transferred to the Commonwealth.</u></p>

1.2.3 Fringe Credit Providers	Queensland	<p>Amending the uniform <i>Consumer Credit Code</i> (the Code) to provide additional protections to clients of fringe credit providers, including payday lenders. A draft Bill was released on 25 August 2007 for community consultation containing the following proposed amendments. :</p> <ul style="list-style-type: none"> • introduce a prohibition on taking security over household goods; • require credit providers to provide information about direct debit authorities; • clarify disclosure of an annual percentage rate is required for all credit contracts; • prevent avoidance of the code by amending exemptions including the pawnbrokers exemption, broker/credit provider arrangements, misusing business purposes declarations and the bill facilities exemption – due to the urgent need to address exploitation of the bill facilities exemption, this aspect of the amendments will be progressed ahead of the other amendments and is likely to be made before the end of 2007; • enabling review under s.72 (Court may review unconscionable fees and charges) of the Code of unconscionable interest rates as set, all unconscionable fees and charges and interest, fees and charges which in combination are unconscionable; • permitting government consumer agencies to make applications under both ss.70 (Court may reopen unjust transactions) and 72 (Court may review unconscionable fees and charges). 	<p>Milestones:</p> <p>Exposure Bill released August 2007.</p> <p>The Consumer Credit (Bill Facilities) Amendment Regulation (No.1) 2007 was made on 30 November 2007. The Regulation closes a loophole whereby fringe credit providers were avoiding the Code by exploiting an exemption for credit arising out of a bill facility.</p> <p>Regarding the other proposed amendments, on 1 April 2008, UCCCMC conducted a roundtable conference with key industry and consumer stakeholders to discuss (and resolve) issues raised in written submissions to the draft legislation.</p> <p>At their request, stakeholders have also been given further time to develop their own, agreed approach to dealing with abuses of business purpose declarations. A</p>
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			<p>teleconference with stakeholders on this issue was conducted on 18 April 2008.</p> <p>With the benefit of extensive consultation with stakeholders, UCCCMC has refined supplementary drafting instructions for an amended Bill. It is anticipated drafting will commence in the second half of 2008.</p> <p>Recommendations following consultation submitted to MCCA May 2008.</p> <p>COAG agreed 3 July 08 that the regulation of credit would be transferred to the Commonwealth.</p>
1.2.4 Responsible lending by credit card issuers	New South Wales.	To report to MCCA on increasing levels of credit card over commitment and make recommendations to improve responsible lending practices. New South Wales has developed a Consultation Regulatory Impact Statement setting out options for dealing with the perceived problems which has been approved by the Office of Best Practice Regulation.	<p>Completion: 2008</p> <p>RIS will be circulated for MCCA approval to release publicly for comment.</p> <p><u>COAG agreed 3 July 08 that the regulation of credit would be transferred to the Commonwealth.</u></p>

1.3 Residential Tenancy Databases	Queensland	<p>Investigate and report on the role and operation of Residential Tenancy Databases (RTD) and the extent of the RTD use in Australia;</p> <p>Examine the existing framework for regulating the use of RTDs, highlighting key issues relevant to tenants and other market participants such as RTD operators, real estate agents and landlords; and</p> <p>It is proposed to implement uniform national model legislation.</p> <p>An officer has now been appointed in the Queensland Department of Justice and Attorney-General and commenced in May 08. That officer will develop a plan with an aim that this work be completed within 12 months.</p>	Completion: August 2009
1.4 National Consistency for Co-operatives Legislation	New South Wales	<p>To facilitate co-operatives operating on an interstate basis through nationally consistent co-operatives legislation.</p> <p>The proposed <i>Australian Uniform Co-operative Laws Agreement</i> is currently being considered by jurisdictions for signature out of session.</p> <p>An initial draft of template legislation is being revised to be consistent with a new national model for template legislation. The extra time required for this will prevent template legislation being available for enactment in 2008.</p>	<p>A proposed <i>Australian Uniform Co-operative Laws Agreement</i> is being considered by MCCA.</p> <p>2008 - Australian Uniform Co-operative Laws Agreement signed.</p> <p>2009 - Template legislation enacted in host jurisdiction</p>

Strategy 2 — Consistent Enforcement

2.1	SCOCA	Consistent enforcement will be carefully considered as a part of the national consumer policy framework reforms.	Ongoing
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Strategy 3 — Education

3.1	National Indigenous Consumer Strategy	NSW	To prepare, in consultation with stakeholders, a five year National Indigenous Consumer Strategy, covering the Terms of Reference approved by MCCA/SCOCA.	<p>Strategy launch 1 September 2005, then ongoing for five years.</p> <p>All jurisdictions have agreed to endorse and release the report out of session (D08/0008M).</p> <p>Report release September 2008.</p>
3.2	Consumer Education and Information	SCOCA	<p>Through the Education and Information Taskforce:</p> <ol style="list-style-type: none"> 1. Identify and develop major national behaviour change programs; 2. Liaise with other Committees to advise them on the development and implementation of national education and information campaigns; 3. Provide advice to MCCA and SCOCA on the development and implementation of such national programs, once they are agreed to; and 4. Establish and maintain an accessible bank of research, evaluations, strategies, campaign creative 	<p>Completion: Ongoing</p> <p>The Taskforce will provide SCOCA with an out of session paper in September 2008.</p> <p>Surveys received from other committees re their priorities for 2008/09 for consideration by NEIAT.</p> <p>Request for quotation developed for secondary research on statutory</p>

		<p>concepts, publications and other resources that can assist other resources that can assist other states in the development and implementation of their own education and information activities.</p>	<p>warranties and refunds to assist with identifying issues(s) for specific primary research. Once primary research is completed on the specific issue a behavioural change program would be developed. Secondary research to be completed by July 2008.</p> <p>NEAIT has deferred work on mobile phones from agenda in response to concerns raised by SCOCA.</p> <p>WIKI to be used for research database. To be running by June 2008.</p>
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Strategy 4 — Australia/NZ Co-operation

<p>Cooperation between New Zealand and Australia is important to the development of a single trans-Tasman economic market. Australia and New Zealand are co-operating on a number of key Trans Tasman issues, including the implementation of Australia's National Trade Measurement System, the Review of Australia's Product Safety System, and the Review of Australia's Consumer Policy Framework.</p> <p>Australia has in place legislation to provide for information sharing between the Australian Competition and Consumer Commission and the New Zealand Commerce Commission. New Zealand is progressing similar legislation. Over the last year there has been close co-operation on a number of product safety matters with close sharing of information and the adoption of joint strategies.</p>	<p>Completion: Ongoing</p>
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Strategy 5 — Research Into Consumer Concerns and Trade Practices

5.1 Consumer Policy Research	Commonwealth (Treasury)	To provide information to improve the ability of policymakers to make appropriate, timely and effective policy decisions. [Objective to be revised]	On hold pending the consideration of Productivity Commission recommendations 11.2/11.3.
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