



The Consumer

Consumer Affairs

2012



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Fred Holloway
Foundation

DEPARTMENT OF JUSTICE
Alcohol and Other Drugs Tribunal
Consumer Affairs

THE MET BUILDING

Territory Housing

**Consumer Affairs has a new Darwin location!
1st Floor, The Met Building,
13 Scaturchio Street, Casuarina**

**a safe
Territory**

A Territory Government initiative

From the Commissioner of Consumer Affairs

I am pleased to present this issue of 'The Consumer' – the first for 2012. This issue focuses on the successes of the past year under the introduction of the Australian Consumer Law (ACL).

There are a variety of success stories shared over the following pages, ranging from conciliations between consumers and traders, to compliance actions where traders have potentially breached consumer law and we have undertaken actions to change trade behaviour. These stories highlight how the ACL has brought increased protection for consumers by enhancing consumer rights when purchasing goods and services.

Importantly, the ACL has broadened the definition of a consumer; it now sees much of a business's purchases, up to \$40,000, also protected by the law.

Throughout the year, Consumer Affairs staff have been out and about educating businesses and consumers regarding these new rights and responsibilities, ensuring Territorians benefit from this legislation.

The past year has also seen some changes in our role regarding the enforcement of the Product Safety provisions of the ACL; this has been handed to the Australian Competition and Consumer Commission (ACCC). This decision further ensures Northern Territory consumers receive the very best protection under the new legislation



The Residential Tenancy section continues to inform, assist and guide landlords, tenants and property agents in relation to the workings of the *Residential Tenancy Act*. Hearings are held twice weekly and process a significant number of tenancy applications where parties are seeking determinations relating to rental of Northern Territory properties.

Although Northern Territory Consumer Affairs is the smallest consumer affairs office nationally, we continue to bring a high level of

consumer protection for all Territorians. Currently, we are involved in a number of national projects and work closely with other state and territory fair trading agencies, the ACCC and Australian Securities and Investments Commission (ASIC), in ensuring our services are first class. National projects to date have focused on areas such as travelling con men, business adherence to the ACL, Indigenous issues, scams and more.

I trust that you will find this publication of interest and as always, if you hear of any scams or need advice on any area which Consumer Affairs deals with, please don't hesitate to contact us on 1800 019 319, via email to consumer@nt.gov.au or to check our web site at www.consumeraffairs.nt.gov.au.

Gary Clements

Consumer Law alert

Mandatory repair notices

Under the Australian Consumer Law Regulations which commenced 1 July 2011, repairers of certain consumer goods must now give notices to consumers before they accept goods for repair.

The notices apply to the repair of goods that:

- relate to user-generated data (any data that is stored on goods, for example, files stored on a computer, mobile phone, portable music player, games console or digital camera), or
- relate to the use of refurbished goods or parts.

These regulations will keep everyone aware that if they take goods to be repaired which are capable of storing user-generated data, they may lose that data in the repair process.

The regulations also intend to ensure that where a repairer uses refurbished goods or parts in their repairs consumers are made aware of it. The repair notices must use wording required by the regulations.

Further information on repair notices can be found on our website www.consumeraffairs.nt.gov.au or by contacting Consumer Affairs.

For good advice, phone

Consumer Affairs on 1800 019 319

WARRANTY AGAINST DEFECTS – changes to the Australian Consumer Law

From 1 January 2012, suppliers and manufacturers have additional obligations under the Australian Consumer Law (ACL) when providing a voluntary or manufacturer's warranty. This is a promise to the consumer about what the supplier or manufacturer will do if something goes wrong with goods or service. Under the ACL these are known as 'warranties against defects'.

For example, if someone buys an item that comes with a written warranty that says the manufacturer will replace the item if there are certain problems with it within two years of the purchase date, this is a warranty against defects and it must comply with the requirements of the ACL.

A warranty must be in writing and be expressed to ensure that consumers understand the warranty and know how to make a claim. Specific information which must be contained includes:

- the warrantor's name, business address, phone number and email address (if any),
- relevant claim periods or procedures,
- the warranty period (how long the warranty lasts for),
- details of who will bear the expenses associated with a warranty claim, and how the consumer can claim back any expenses incurred and
- the following statement: "Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and for compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be

of acceptable quality and the failure does not amount to a major failure".

The commencement of this requirement under the ACL was deferred until 1 January 2012 to allow enough time for businesses to prepare by reviewing, revising and reprinting warranty documentation.

REMEMBER

Consumers also have rights under consumer guarantees, where suppliers must fix a problem when goods fail to meet a consumer guarantee, even if the consumer does not have a warranty or extended warranty or, in certain circumstances, where the goods are out of warranty. Read more about the Australian Consumer Law on the Consumer Affairs website or at www.consumerlaw.gov.au



FAIR TRADING

Real success stories

When you go shopping you should get a 'fair go'. You have the right to get a good quality product that does what the shop or the manufacturer says it will do. The Australian Consumer Law guarantees your rights when you buy goods and services. This includes rights to repairs, replacements, refunds and other compensation.

You have rights even if the retailer does not say you have a warranty or if you get an extended warranty. When you buy goods or services, you automatically get certain guarantees. Whoever sold you the goods or services, or made the goods, must honour these guarantees and any other warranty or promise they have made.

During the year, our Fair Trading Officers have resolved a large number of complaints. Here are just a few.



Wrong TV

A consumer had moved interstate and complained when a removals company delivered the wrong television.

Even though the television looked similar to her own, it did not have her details etched on the back, unlike all her other electrical items.

After contacting Consumer Affairs, a Fair Trading Officer was able to arrange a mutual agreement between the parties concerned, with the consumer receiving monetary compensation.

When you purchase any valuable items ...

It's an excellent idea to etch your details on the back to protect your goods.

Beware shopping online

A consumer ordered a made-to-order dress over the internet and provided her specific measurements as requested. However, when the dress arrived, the consumer found it was not the same as the one she had ordered.

She contacted the supplier to resolve the issue but she wasn't able to get a refund or even have the dress adjusted to meet her measurements.

The consumer then got in touch with us and spoke to a Fair Trading Officer. This resulted in a full refund for the customer. The consumer was very appreciative of this outcome.

All consumers should be cautious when purchasing over the internet as not all these purchases are covered under Australian Consumer Law, particularly overseas purchases.





Rough and tough GPS

Let-down enthusiast

A motor vehicle enthusiast (who took pride in his car by making sure it was kept out of direct sunlight for extended periods and maintained it in accordance with the manufacturer's guidelines) noticed it had developed a defect just outside the warranty period.

The dealership where he bought the car had closed so he approached another dealership of the same make to have the defects addressed. He was then referred to the manufacturer, but was still unable to get any satisfactory outcome from them.

Considering the nature of the defect and a reasonable expectation that the interior of a new car would last longer than four years, the owner contacted Consumer Affairs where he lodged a complaint. A Fair Trading Officer contacted the manufacturer and was able to reach an agreement where the repair to the interior of the vehicle was covered by the manufacturer.

A consumer bought a GPS in 2011. After a few weeks it developed a small air bubble underneath the screen. The consumer approached the trader who referred the matter to the manufacturer, stressing "it was out of [his] hands".

The manufacturer deemed the defect cosmetic and refused to repair or replace the item, saying "cosmetic damage is not covered under warranty".

The consumer lodged a complaint with Consumer Affairs. Considering the advertisement on the GPS, describing it as rough and tough, it appeared the product was unable to fulfil its description. This point was raised with the manufacturer, who then replaced the customer's GPS at no cost.

'Would you like your receipt?'
 You may have noticed that some stores have started asking this after a transaction.
 Remember – your receipt is your proof of purchase, which you must show if you want to claim a refund.

Consumer Affairs takes all complaints seriously and aims to resolve disputes through a conciliatory and impartial approach.

However, redress is not always achieved in all cases. Despite similarities, all complaints are assessed on their own merit and evidence provided will assist in determining the outcome during the conciliation process.



SCAMS – they never go away!

Unfortunately, Territorians are still being SCAMMED! As today's technology and the internet keep developing and improving, so do the methods scammers use to relieve you of your hard-earned money.

Always keep the old saying in mind – “if it sounds too good to be true, then it probably is”. Everyone is trying to find a good deal and that is what scammers prey on. Just remember to be mindful of what you respond to and keep your private information secure.

There are many scams out there, but to help you out we've listed some examples of recent scams.

Online scam pharmacies



Scam pharmacies use the internet to offer you medicine at very cheap prices without the need for a prescription from a doctor. These scams are harmful not only financially, but also to your health. Most of them are designed to steal your credit card information and some even download software onto your computer, like key loggers and spyware.

If you do actually receive the products you've ordered from a scam pharmacy, there is no guarantee they are the real thing. You could be putting your own health or that of your families at risk. The ingredients may not be what you think they are.

Remember there are legitimate online pharmacies. Real businesses will have their full contact details listed and will also require a valid prescription before they send out any prescribed medication. Checkout Scamwatch at www.scamwatch.gov.au for more information about this and other scams.

Travelling con men

Door-to-door salesmen and home maintenance scams

The dry season is fast approaching so be wary of door-to-door sellers. It can be difficult to differentiate a scammer from a real seller, but if the deal being offered is too good to be true, then it probably is!

Some legitimate traders and businesses use door-to-door selling as a way of promoting their goods or services directly to people, but so do the scammers.

Travelling con men will usually try to sell you services like home maintenance, which can include roofing, asphaltting or bitumen laying, window cleaning and gardening services. They might even try to sell you water purification systems. Normally, they'll tell you it's a one-off deal so they need the money up front or you will miss out on the massive savings.

Door-to-door scams involve promoting goods or services that are not delivered or are of very poor quality.

NT Consumer Affairs is working alongside all other fair trading agencies to combat these scammers. If you are aware of a travelling con man, contact NT Consumer Affairs on 1800 019 319

TIPS

To minimise the amount of unsolicited mail you get, register with Australian Direct Marketing Association (ADMA)
Do Not Mail service at www.adma.com.au

To minimise the number of telemarketer calls, register with Do Not Call at www.donotcall.gov.au

Report a scam
to Consumer Affairs

Tenancy advice

Moving out of home

Lots of young people seek their independence and want to move into a place of their own. For those young people, first things first – save your money, as it will initially cost you.

Up-front costs:

- the bond (which is normally equivalent to four weeks rent) is given to the landlord or the agent and placed in trust to cover any damage done to the residence or to cover rental debts. If the property is returned at the end of the lease in good order and you have no outstanding rental arrears, you should get it back,
- next is rent – normally you will be required to pay two weeks rent in advance and don't forget, it will also cost you to connect electricity, telephone lines and internet.

Before you move out of home, complete a budget just to make sure you can afford the rental property. Don't forget to take into consideration the cost of electricity, food, telephone, internet, entertainment, car costs or travel costs and incidentals. This will give you a better idea about whether you can afford to move out and what type of rental property you can afford.

If you can't afford to rent your own place, another option you have is to share a rental property. If you do and you contribute to the bond, make sure your name is on the receipt. If only one person's name is on the receipt and they move away (overseas, interstate) at the end of the lease you are not entitled to the bond if your name is not on the receipt.

You will also need to work out with the other tenants how the rent, electricity, telephone and internet are going to be shared and paid.

For more information about landlord and tenant rights and responsibilities contact Consumer Affairs to obtain a free copy of 'A Guide to Renting in the Northern Territory'.

Condition reports

Tenants and landlords have rights and responsibilities when it comes to rental properties. Although there are many requirements under the *Residential Tenancy Act*, one of the main issues that can be of concern is the requirement of the landlord to conduct an ingoing condition report. This process includes:

- inviting the tenant to attend the ingoing condition inspection (if the tenant does not want to attend that's fine, but they should be asked),
- the ingoing condition report is to be completed and given to the tenant within three business days of the tenant taking possession of the property,
- the ingoing condition report is to be signed by the landlord,
- the tenant has the right to make amendments to the ingoing condition report and must return the amended report within five business days to either the landlord or the agent (if not returned by the tenant the condition report as compiled by the landlord or agent is deemed to be the official condition report),
- the landlord or the agent has five business days to either accept or refuse the amendments,



- if both parties cannot agree with the ingoing condition report, either party may make an application to the Commissioner of Residential Tenancies to conduct an ingoing inspection report, and
- when accepting a property condition report ensure you have thoroughly noted any amendments.

Lease breaks

A tenant who intends to break a lease where a fixed term of occupancy is in place, needs to be aware that they are breaking a contract. The consequences of this may include:

- continuing to pay rent for a property they are no longer living in for a considerable period of time,
- paying for advertising until the landlord or agent has found a suitable tenant,
- possibly paying a lease break fee, and
- paying for the premises to be maintained until a new tenant is found.

It is in the tenant's best interest to work with the landlord or agent in identifying a suitable tenant and to give as much lead time as they can before leaving the tenancy. If the tenant is facing financial hardship it is in their best interest to contact Consumer Affairs for further information.

For good advice contact Consumer Affairs on

www.consumeraffairs.nt.gov.au

Know Your Rights

Consumer Affairs participated in the Alice Springs Know Your Rights Expo Community Information Day in conjunction with Seniors Month.

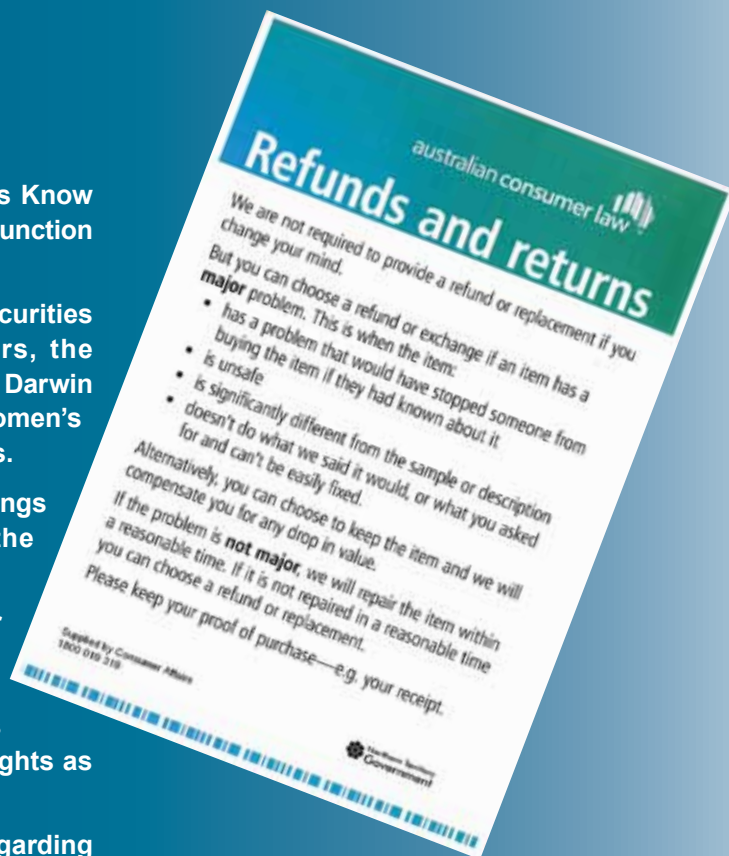
The event included displays from the Australian Securities and Investment Commission, Consumer Affairs, the Australian Competition and Consumer Commission, Darwin Community Legal Service and Central Australian Women's Legal Service plus a number of other organisations.

The information stalls were set up on the Alice Springs Town Council lawns to allow easy access for the community to the stall holders.

Alice Springs Consumer Affairs Regional Officer George James spoke with the seniors about the role of Consumer Affairs, particularly how the Australian Consumer Law provided additional rights to consumers, the impact on business and their rights as consumers as well as traders under the Act.

Other topics covered included consumer rights regarding unsolicited consumer agreements, consumer guarantees and scams.

This event created a great deal of discussion about consumer rights and responsibilities.



'THE CONSUMER'

How to get your copy or a copy for a friend!

To receive your free electronic or paper copy of 'The Consumer' please contact Consumer Affairs. Email consumer@nt.gov.au or SMS 0401 116 801 and ask to be placed on the mailing list. You can also telephone 08 8935 7720 or 1800 019 319 or write to The Consumer Editor, Consumer Affairs PO Box 40946 Casuarina NT 0811.

'The Consumer' is available free online at www.consumeraffairs.nt.gov.au

You can also collect a copy personally by calling into Consumer Affairs on the 1st Floor of The Met Building, 13 Scaturchio Street, Casuarina. If you live in Alice Springs you can visit us on Level 1 Belvedere House, corner Bath Street and Parsons Street, Alice Springs.



For further information log onto our website: www.consumeraffairs.nt.gov.au, email consumer@nt.gov.au or write to Consumer Affairs, PO Box 40946 Casuarina NT 0811