

## Australia consumer law update

Welcome to the first edition of the Australian consumer law update. It is designed to keep industry associations and businesses across Australia up-to-date with the introduction of the Australian Consumer Law. We plan to issue a number of updates across the coming months.

We are keen to receive your comments, suggestions and feedback to help us improve this update. Forward any questions or comments you may have to [consumerlaw@services.nsw.gov.au](mailto:consumerlaw@services.nsw.gov.au)

### What is the Australian Consumer Law (ACL)?

The ACL is a single, national law concerning consumer protection and fair trading, which applies in the same way nationally and in each State and Territory.

For the first time, consumers have the same protections and expectations about business conduct wherever they are in Australia. Similarly, businesses will have the same obligations and responsibilities wherever they operate in Australia.

The Productivity Commission estimated that this reform could provide benefits to the Australian community of between \$1.5 billion and \$4.5 billion a year.

### Does it replace any existing laws?

The Australian Consumer Law replaces previous Commonwealth, state and territory consumer protection legislation in fair trading acts and the *Trade Practices Act 1974*. The *Competition and Consumer Act 2010* is the new name for the *Trade Practices Act 1974*. The Australian Consumer Law is a schedule to the Competition and Consumer Act.

Aspects of the law are also reflected in the *Australian Securities and Investments Commission (ASIC) Act 2001* to protect consumers of financial products and services.

### What are the major changes?

Changes will vary depending on the trading practices that have previously existed in states and territories. The biggest change is the introduction of a single national set of consumer definitions and provisions, some of which differ from those currently used in the *Trade Practices Act 1974*.

Other key changes affect:

- consumer guarantees (replacing statutory conditions and warranties)
- unsolicited consumer agreements (replacing door-to-door sales and other direct marketing)
- product safety
- lay-bys
- information standards which now apply for goods and services
- unfair contract terms

There will be increased penalties for non-compliance which will be covered separately.

### Who regulates the new law?

Australian courts and tribunals can enforce the law, including those of the states and territories. The regulators of this law include:

- the Australian Competition and Consumer Commission (ACCC)
- the Australian Securities and Investments Commission (ASIC)
- each state and territory consumer protection agency.

Australia's consumer protection agencies will have more enforcement powers under the new law.

### Watch our webinar

Australia's fair trading agencies conducted a free webinar to address the immediate things that businesses need to know about the new consumer law.

[Register online to view the webinar. www.consumerlaw.gov.au](http://www.consumerlaw.gov.au)

## What does this mean for industry associations?

Associations may receive increased contact by businesses requiring information and support in understanding the Australian Consumer Law. We are developing articles for industry associations and trade journals for you to use in material you send to members and place on your website.

A number of industry guides are currently being prepared and we will let you know when these are available.

## What does this mean for business?

As a business, you are responsible for understanding your legal obligations. You may wish to seek legal advice of the impact of the new law on your business practices.

Smaller businesses will find that there are increased penalties under the new law. Corporations which were previously operating under the *Trade Practices Act 1974* will find the penalties similar.

## What does this mean for consumers?

Under the new law, consumers will have the same protection, rights and responsibilities across Australia.

## Resources available

A wide range of resources are being developed to support traders, industry bodies and consumers and will be released progressively from October 2010 including:

- plain English guides
- trader webinars
- email updates
- trade journal articles
- a goods and services smart phone application
- online small business packs.

## National guides now available

The following guides are available online and in print and can be ordered through your state or territory consumer protection agency:

- A guide to the unfair contract terms law (industry booklet)
- Consumers and unfair contract terms (consumer flyer).

Listen to an audio version of [A guide to the unfair contract terms law](#)

You can download the following guides from the [Treasury website](#):

- The Australian Consumer Law: An Introduction
- The Australian Consumer Law: A Guide to Provisions
- An Introduction to the Australian Consumer Law
- Report on Statutory Implied Conditions and Warranties.

## New consumer law website

The Australian Consumer Law website [www.consumerlaw.gov.au](http://www.consumerlaw.gov.au) was launched on 24 September 2010. It provides information about:

- how the ACL is being implemented
- how the ACL will be enforced by Australia's consumer law regulators
- consultation on draft ACL regulations and draft guides
- consumer policy in Australia and internationally.

You can also subscribe to a free ACL Update alert and find out what is happening with upcoming events and consultations.

## For more information

For more information, please visit the [Australian Consumer Law website](#).