



Northern Territory Consumer Affairs Annual Report 2014-2015

HIGHWAY
Katherine

Hannah Way

NOEL BUNTINE
MEMORIAL

Protecting Your Identity
Ten Simple Tips

A Guide to Reporting
to the Northern Territory
Law Enforcement
Tribunal

The Hon John Elferink
Attorney-General and Minister for Justice
Parliament House
DARWIN NT 0800

Dear Minister

Re: ANNUAL REPORT 2014-15

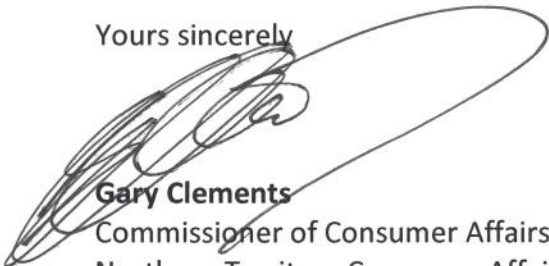
The Department of Attorney General and Justice 2014/15 Annual Report includes performance reporting on Consumer Affairs in conformity with requirements of the *Public Sector Employment and Management Act* and the *Financial Management Act*.

The Commissioner of Consumer Affairs is a statutory officer and is required to report to the Minister annually pursuant to:

Section 12 of the *Consumer Affairs and Fair Trading Act*;
Section 15 of the *Residential Tenancies Act*;
Section 11 of the *Retirement Villages Act*;
Section 14 of the *Business Tenancies (Fair Dealings) Act*; and
Section 20 of the *Caravan Parks Act*;
Part 5A of the *Building Act*.

I have pleasure in submitting to you the Commissioner's report for the year ended 30 June 2015.

Yours sincerely



Gary Clements
Commissioner of Consumer Affairs
Northern Territory Consumer Affairs

22 October 2015

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CONSUMER AFFAIRS

OUTPUT STATEMENT

Provision of a regulatory framework where the community is informed on consumer rights and responsibilities and responsible business conduct is promoted.

PROGRAMS

Promote and regulate responsible business and industry conduct through administration of a regulatory system that protects community interests.

Inform consumers of their rights while assisting conflict situations through dispute resolution processes.

REPORTING STRUCTURE

Northern Territory Consumer Affairs is located within the Department of Attorney General and Justice and reports to the CE in regard to compliance with *the Financial Management Act* and the *Public Sector Employment and Management Act*.

The Commissioner reports directly to the Attorney General and Minister for Justice under statutory appointments pursuant to the following Acts:

Section 12 of the *Consumer Affairs and Fair Trading Act*;
Section 15 of the *Residential Tenancies Act*;
Section 11 of the *Retirement Villages Act*;
Section 14 of the *Business Tenancies (Fair Dealings) Act*; and
Section 20 of the *Caravans Parks Act*;
Section 6 of the *Price Exploitation Prevention Act*
Section 54F (3) of the *Building Act*

LEGISLATIVE RESPONSIBILITIES

Accommodation Providers Act

Building Act – Residential Building Dispute Function

Business Tenancies (Fair Dealings) Act

Caravan Parks Act

Consumer Affairs and Fair Trading Act (including the Australian Consumer Law)

Partnership Act

Price Exploitation Prevention Act

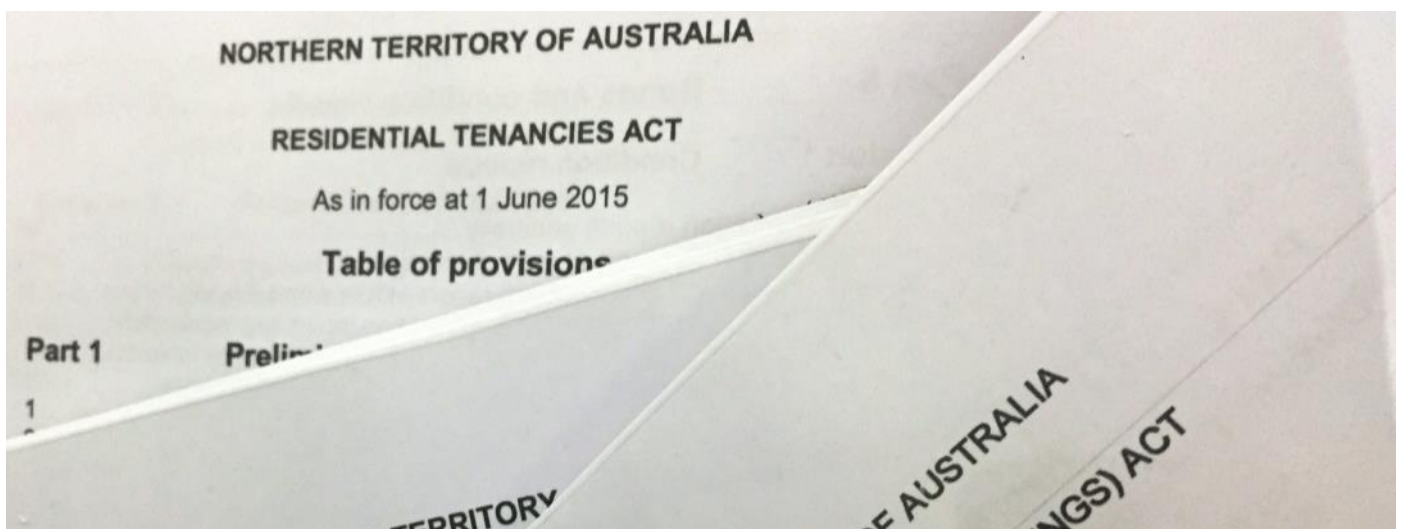
Residential Tenancies Act

Retirement Villages Act

Sale of Goods Act

Uncollected Goods Act

Warehousemen’s Liens Act



HIGHLIGHTS AND MATTERS OF SIGNIFICANCE

RESIDENTIAL TENANCIES

A major change occurred in the Tenancy Unit of Northern Territory Consumer Affairs this year. The establishment of the Northern Territory Civil and Administrative Tribunal (the Tribunal) resulted in all residential tenancy inquiries being heard by the Tribunal.

From 1 January 2015 to 31 May 2015, the Tribunal heard all residential tenancy matters as delegates of the Commissioner of Tenancies. On June 2015, the Tribunal took over full jurisdiction for residential tenancy applications.

Although the inquiries are no longer heard by the Commissioner of Tenancies, Northern Territory Consumer Affairs continues to provide advice and guidance to landlords, agents and tenants in relation to the *Residential Tenancies Act*.

This resulted in the transfer of one dedicated Tenancy Officer from Northern Territory Consumer Affairs to the Tribunal.

The Northern Territory Civil and Administrative Tribunal also took on responsibility for *Caravan Parks Act* inquiries from 1 January 2015.

RESOLVE CASE MANAGEMENT SYSTEM

Northern Territory Consumer Affairs has for many years used an antiquated version of Lotus Notes to record contacts and enquiries. Lotus Notes is no longer a Northern Territory Government supported platform and functionality which carried significant risk in potentially losing historical data. The very basic nature of the database also made it very difficult to provide meaningful data to other Fair Trading agencies or to undertake research into enquiry trends.

The Resolve Case Management System was identified as a suitable platform for data management for all of the Independent Offices within the Department.

Northern Territory Consumer Affairs went 'live' with the new case management system in mid-August 2014. The new system allows for a greatly enhanced data collection capability as well as having reporting features which allows for quick interrogation of the data.

NATIONAL MEETINGS

The Australian Consumer Law is national legislation that relies on all jurisdictions being involved in providing consistent messages to traders and consumers. Consumer Affairs Officers participated in a variety of national forums and teleconferences over the reporting year to ensure jurisdictions work together in providing protection for consumers as well as enabling staff to maintain an understanding of Australian and New Zealand consumer and market place issues.

These meetings and teleconferences included:

- Legislative and Governance Forum on Consumer Affairs (CAF). The Commissioner attended on behalf of the Minister at each of the meetings held this reporting year;
- Consumer Affairs Australia and New Zealand (CAANZ); which is represented by each of the heads of Consumer Affairs and or Fair Trading Agencies nationally as well as a representative from New Zealand;
- Compliance and Dispute Resolution Advisory Committee (CDRAC); inclusive of a number of working parties;
- Education and Information Advisory Committee (EIAC);
- Fair Trading Operations Group (FTOG);
- National Indigenous Consumer Strategy (NICS);

National Indigenous Consumer Strategy



- Society of Consumer Affairs Professionals (SOCAP) Annual Symposium; and



creating momentum

for sustainable business, fair outcomes for consumers
and helping to prevent and handle complaints

- Australasian Consumer Fraud Task Force (ACTF).

NATIONAL COMMITTEES

NATIONAL INDIGENOUS CONSUMER STRATEGY (NICS)

The National Indigenous Consumer Strategy (NICS) has members from the Commonwealth and all State and Territory Governments plus a number of independent members. The strategy's action plan demonstrates the shared responsibility for ensuring that Australia's performance in Indigenous consumer affairs is continually improved.

Projects and strategies are formed and common issues are discussed that affect Indigenous consumers at a national level. This year's agreed national project focused upon issues surrounding funeral products.

Funeral products are generally a type of funeral insurance where the consumer places money in a funeral bond, purchases a pre-paid funeral or some other form of funeral cover. Unfortunately unscrupulous sales people have historically targeted indigenous communities to sell their product often using high pressure sales tactics.

In some instances funerals costs are already covered by the local Indigenous community; as such the purchase of these products may be a waste of money. With funeral cover contracts, the consumer may pay a lot more than the payment they will eventually receive. For example a consumer may commence the contract at a young age and end up paying significantly more than a funeral would cost. Contracts may have unfair clauses such as, if you miss a payment you may not be entitled to your funeral payment or a refund of your payments.

The project focused on ensuring indigenous consumers were informed about and understood the terms and conditions in these contracts before signing.



EDUCATION AND INFORMATION ADVISORY COMMITTEE (EIAC)

The Education and Information Advisory Committee (EIAC) consists of members from the Commonwealth and all State and Territory Governments and New Zealand. The committee's role is to develop educational resource material for the wider community on issues of consumer interest including the Australian Consumer Law. This material is developed for both the consumer and business sectors.

Northern Territory Consumer Affairs representation on this committee ensures the material developed takes into consideration the demographics of our region and the multicultural aspect of our community.



This year saw a focus on providing educational information to the general public via social media as it is now the more customary and preferred medium to reach the wider public. Most months had an emphasis on a nationally agreed subject. For example January focused on the after Christmas sales and making

consumers aware of their rights in relation to pricing, refunds and consumer guarantees. The slogan for this campaign was "Don't Get Burnt".

AUSTRALIAN CONSUMER LAW GUIDES

With the implementation of the Australian Consumer Law in January 2011 a series of Australian Consumer Law guides were developed to assist business proprietors gain a better understanding of the Law.

The topics of these guides are "Consumer Guarantees", "Sales Practices", "Avoiding Unfair Business Practices" and "Product Safety". As the Australian Consumer Law has been in place for a number of years, the information in these guides were updated with current information and examples of how the Law works in an everyday business sense.



Throughout the reporting period the EIAC working group continued its focus on updating these guides. The revised documents are available on the Northern Territory Consumer Affairs website as well as all other Consumer Affairs and Fair Trading Offices nationally.

Consumer guarantees

A guide for businesses and legal practitioners

The guides are also included in "trader packs" that are provided to businesses throughout the Northern Territory to ensure business proprietors and staff understand their rights and responsibilities when dealing with consumers.

COMPLIANCE AND DISPUTE RESOLUTION ADVISORY COMMITTEE (CDRAC)

Representatives from the Commonwealth and all state and territory governments including New Zealand form this committee. The Compliance and Dispute Resolution Advisory Committee provides a platform where all regulators can discuss compliance, enforcement and dispute resolution issues across a variety of legislation with a prime focus on the Australian Consumer Law. These discussions aid agreement on consistent enforcement, compliance and dispute resolution from a cross jurisdictional perspective.

Working groups are established within CDRAC where it is recognised that an activity or business practice is creating nationally significant consumer detriment.

Representatives from Northern Territory Consumer Affairs were part of several working groups which included, training providers, most complained about businesses, and the Australian Consumer Law Guides. The working groups have nationally agreed outcomes to ensure consistency in tackling matters of national interest.

MEDIA

Northern Territory Consumer Affairs works closely with a range of media formats on both a proactive and reactive basis to ensure Territorian's are aware of a wide range of current issues.



Over the reporting year the Commissioner and/or Deputy Commissioner undertook 57 media interviews on radio, television and in local newspapers.

The Commissioner also participates in a monthly morning talkback segment on ABC radio highlighting recent scams and bringing general consumer awareness messages to consumers and business throughout the Territory.

EDUCATIONAL ACTIVITIES

Northern Territory Consumer Affairs staff provide information sessions and briefings to business and community groups while also attending expo's and open days to inform and educate the community about the legislation administered. The following are some of the events attended this reporting year:

DARWIN DEFENCE DAY EXPO

Northern Territory Consumer Affairs staff attended the Darwin Defence Day Expo which was held at the Darwin Convention Centre. This event was focused toward defence staff and was open to all Defence Force personnel, their families and the general public. The expo was well attended with a diverse range of businesses, departments and community groups represented.



This expo provided an opportunity for Northern Territory Consumer Affairs staff to provide information about our services and for participants to engage directly with staff with specific questions and enquiries.

SUPREME COURT OPEN DAY

The Supreme Court Open Day presented an excellent opportunity for Northern Territory Consumer Affairs to speak with the public. This event was open to the general public and afforded our staff an opportunity to offer information about the services provided by Northern Territory Consumer Affairs through distribution of resource material, publications, guides, fact sheets and promotional merchandise.

The event was well supported with many attendees taking the time to discuss specific issues with staff and to gain information about their rights and responsibilities across the legislation we administer.

INDIGENOUS LIAISON

The Education and Indigenous Liaison role remained vacant throughout the year which adversely affected indigenous liaison activities during this reporting period.

Notwithstanding this vacancy, Northern Territory Consumer Affairs staff continued to provide various indigenous networks with information in relation to indigenous consumer issues.

One of these networks included the Community Legal Education network. The network includes representatives from various local agencies including Northern Territory Legal Aid Commission, Central Australian Aboriginal Legal Aid Service, Australian Securities and Investment Commission, North Australian Aboriginal Justice Agency and the Australian Competition and Consumer Commission.

Northern Territory Consumer Affairs staff took part in a joint presentation at the Northern Territory Community Legal Education Professional Development Workshop in May 2015.

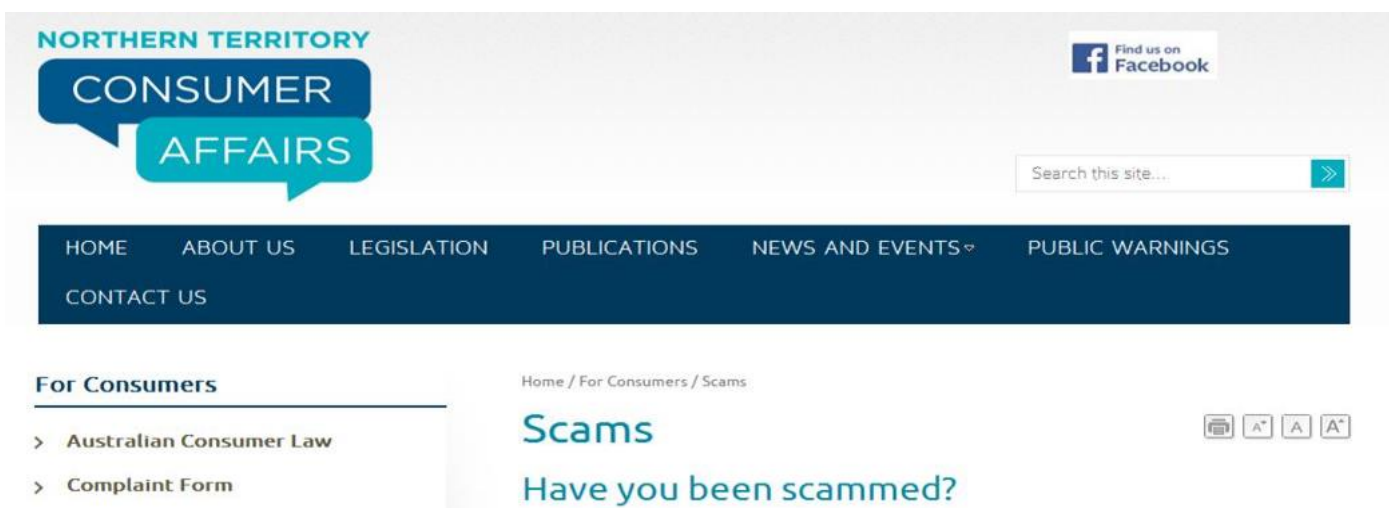


The presentation outlined how Northern Territory Consumer Affairs, the Australian Securities and Investment Commission and the Australian Competition and Consumer Commission assist people in the community. It was a collaborative approach that showed how the three agencies work together to assist vulnerable and disadvantaged members of the community.

CONSUMER AFFAIRS WEBSITE

A popular place for the general public to learn about their rights and responsibilities as consumers, business proprietors, tenants or landlords is on the Northern Territory Consumer Affairs' website. The website contains information about a very broad range of topics including information across the 12 pieces of legislation that Northern Territory Consumer Affairs administers.

The website has many fact sheets that are handy reference materials for consumers, traders, tenants, landlords and other stakeholders. A specific "Indigenous Issues" section provides current topical information about issues important to indigenous consumers including "Avoiding Funeral Plan Rip-offs" and the popular "Be Smart-Buy Smart" booklet.



The "Complaints and Disputes" area has a range of information for consumers about handling issues with traders as well as numerous contact details for other agencies that may be of assistance in a dispute, for example the Financial Ombudsman Service and the Postal Industry Ombudsman.

The website also includes Public Warnings the Commissioner of Consumer Affairs has issued across the year as well as media releases. These can be found under the "News and Events" section of the website.

This year saw warnings about travelling conmen operating in Darwin and a holiday scratchie scam posted on the website.



The continued popularity of the Consumer Affairs website is demonstrated by the increasing number of people that visit the site.

This year a total of **55,032** people accessed the site which was a 20% increase from the previous year.

FACEBOOK

Northern Territory Consumer Affairs added 4 new photos:
Published by Sandy Otto [?] · June 25 ·

The Commissioner of Consumer Affairs is warning NT residents to be aware that there has been a scam mail out that appears to give you the chance to win a large amount of money. The glossy brochure from Flaming Ace Holidays contains two scratchie tickets. The fine print however says that you have pay \$7,000 to win. Throw the brochure in the bin and don't be fooled into contacting this company. More information can be found here: <http://tinyurl.com/p94ks9v>

Flaming Ace Holiday

THIS WEEK

1,008
Post Reach

105
Post Engagement

Recent

- 2015
- 2014
- 2013
- 2012

Social media is an increasingly popular medium to provide information to the general public quickly and efficiently. This medium is particularly helpful to highlight issues such as when reports of “travelling conmen” or “bitumen bandits” are provided to Northern Territory Consumer Affairs by concerned Territorians.

Public warnings on these forms of activities are often shared widely and in some instances have been sighted by nearly 2,000 people. Scam warnings are also popular. We encourage as many people as possible to “like” our page to ensure our early advice and warnings can be broadly shared.

Consumers often ask questions on our page, however while short answers are sometimes provided more complex questions are generally directed to our Call Centre to enable our dedicated staff to provide the best possible advice directly to the individual consumer.

Over the past year our posts have included residential tenancy tips, general consumer tips, scam warnings, community announcements and public warnings. Other consumer protection agencies will often mention Northern Territory Consumer Affairs in their posts particularly in the case of travelling conmen that may be on the move to the Northern Territory from other states.

A total of **20,715** people viewed the Consumer Affairs Facebook posts this year. This clearly evidences the power of social media in providing information in a format that is popular and easy to use in an increasingly mobile environment.

Northern Territory Consumer Affairs
May 28 ·

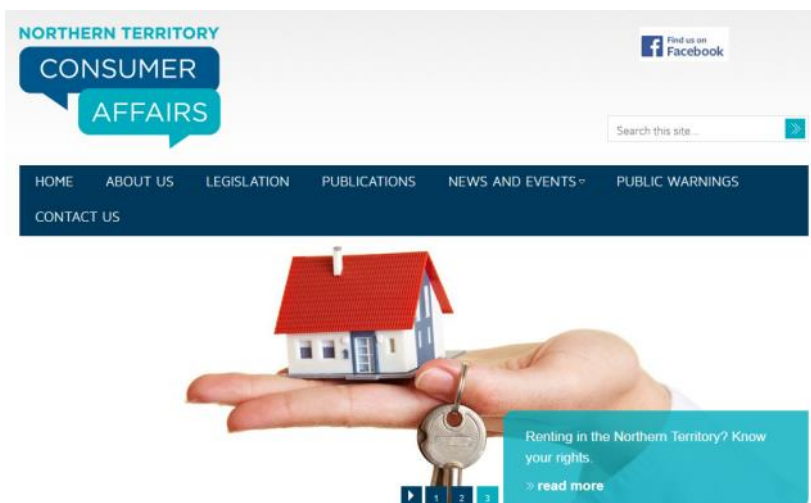
You have worked hard to save some money to buy yourself a big ticket item and you notice that the price to buy it is so much cheaper overseas. It might be cheaper initially but can cost you hundreds if not thousands of dollars if things go wrong. Remember the Australian Consumer Law does not cover items purchased from overseas companies. Be very careful and make sure you do your homework. If you buy locally or from a business within Australia you have will have consumer rights to protect you. Contact Northern Territory Consumer Affairs for more information on consumer@nt.gov.au or 1800 019 319.

Like **Comment** **Share**

FAIR TRADING

Northern Territory Consumer Affairs administers 12 pieces of legislation, keeping our Fair Trading Officers busy with a wide variety of enquires received dealing with various facets of our many pieces of legislation. The majority of enquiries received relate to the *Residential Tenancies Act* and the Australian Consumer Law. Our office receives enquires by telephone, email, our Facebook page, ordinary post and via ‘in person’ contact.

Our Call Centre answers upwards of 50 calls per day. Consumers, traders, landlords and tenants are able to personally attend one of our two offices that are located in Casuarina and Alice Springs to speak directly with a Fair Trading Officer. Clients of Northern Territory Consumer Affairs are also able to access information online via our web page at: <http://www.consumeraffairs.nt.gov.au>



Our web page offers a range of information across all of the areas covered under our jurisdiction while also providing direction to contact other relevant departments if the enquiry does not relate to our legislation.

Northern Territory Consumer Affairs has easy to read Fact and Information Sheets that relate to fair trading, residential tenancy and residential building dispute matters amongst others.

With regard to fair trading complaints, Northern Territory Consumer Affairs offers a conciliation service to parties in

For Consumers

For Businesses

dispute in relation to matters covered under the Australian Consumer Law. If a consumer has attempted to resolve a matter with a trader without achieving a satisfactory result, the consumer is able to lodge a formal complaint with Northern Territory Consumer Affairs.

In this financial year our Fair Trading Officers conciliated **258** formal complaints.

Fair Trading Officers also attended various community events, such as Senior Citizen Days and Defence Expos along with educational visits to community groups such as St Vincent DePaul Society and the Salvation Army. Our Senior Tenancy Officer also delivered educational talks to Real Estate Agents, property managers and private landlords.

A prime focus of our role is also to provide information and educate the general public about their rights and responsibilities under the relevant legislation.

TRADER VISITS

Fair Trading Officers engage traders by conducting face to face visits at their business premises. The purpose of the visits is to provide traders with advice on their rights and responsibilities under the Australian Consumer Law (ACL) and other legislation administered. These visits also provide an opportunity for traders to directly raise any concerns or questions they may have regarding the Australian Consumer Law or other legislation and the manner in which they should deal with enquiries and complaints from consumers. Fair Trading Officers also use this opportunity to offer information sessions for the business staff.

Most business proprietors visited appeared to have well rounded knowledge of the requirements under the Australian Consumer Law and a willingness to try and resolve issues with their customers before matters escalate.

Businesses have also reported the continuation of scams over the past year with a particular focus on unsolicited phone calls and/or emails regarding directory listings and fake orders for products and services. Scammers will seek to target small businesses where there is often limited time to process paper work and the likelihood of processing a fake invoice is increased. These fake invoices often look very legitimate and can be a trap that businesses fall into if they fail to read the document carefully.

Trader packs are also supplied to businesses during these visits. The packs contain information brochures and helpful guides to assist the businesses to operate within the guidelines of the Australian Consumer Law.



TRADER PACKS FOR BUSINESS

A total of **208** businesses were visited throughout the year from Darwin, Palmerston and surrounds, Katherine, Tennant Creek, Nhulunbuy and Alice Springs.

Fair Trading Officers also visited Electorate Officers for the Members of the Legislative Assembly. A folder with a variety of different fact sheets

are provided to Electorate Officers to ensure they have information to provide to constituents and to pass on Northern Territory Consumer Affairs' contact details should their constituents have concerns they would like to discuss.

All Electorate Offices in the Northern Territory have either received a new folder or have had information updated in their existing folders over the reporting year.

ENQUIRY SERVICE AND DISPUTE RESOLUTION

The Northern Territory Consumer Affairs Call Centre is a busy, interesting and challenging workplace. There are a multitude of different types of calls and enquiries made to our officers on a daily basis. These range from the everyday questions about charges for repairs to a motor vehicle over and above a quote; to a consumer having received a call from someone who works on an oil rig in Canada who, *'just can't make it to buy that car from you on 'Gum Tree' so they would like to pay you more than the asking price'*.

During the last financial year our offices received **19,113** enquiries received via phone, email, walk-ins and social media contact.

What fair trading means to me, written by a new Fair Trading Officer

"Before being employed by Northern Territory Consumer Affairs, I had a limited understanding of fair trading legislation in Australia. Since starting my employment, I have deepened my knowledge of the Australian Consumer Law, namely the nine statutory Consumer Guarantees that apply to goods and services, and the consumer protections that apply to unsolicited consumer agreements.

In addition to this, I understand the importance of providing education to consumers, businesses, and real estate agencies. Accordingly, I have discovered that such proactive education is important, as often businesses, consumers, landlords and tenants do not understand their rights and obligations under legislation such as the Australian Consumer Law and the Residential Tenancies Act."

~ Fair Trading Officer, Northern Territory Consumer Affairs.

ENQUIRIES

The Call Centre is the main point of contact for enquiries. Our generic consumer email received 5,476 emails in the last financial year.

All enquiries are handled promptly with the Fair Trading Officers responding to enquiries within 24 hours of receipt.

The Fair Trading Officers seek to obtain as much information as possible from the enquirer in order to provide them with accurate and relevant information. This may involve them asking multiple questions of the enquirer, to ensure that the most appropriate advice is given. Sometimes the enquiry relates to a different Northern Territory Government departments' relevant legislation and in these instances the enquirer may be transferred or referred on to the most appropriate area.

Our Fair Trading Officers advise tenants and landlords on all aspects of the *Residential Tenancies Act* as the majority of our enquiries relate to residential tenancy issues at around 49% of all contacts.

The Senior Tenancy Officer fields some of the more complex tenancy questions while also conducting information sessions for private landlords, property managers and Real Estate Agents focusing on their obligations under the *Residential Tenancies Act*.

Fair trading related enquiries are our next most commonly received, making up 24% of all calls received. The majority of these calls relate to motor vehicles, both sales (new and used) and repairs or servicing.

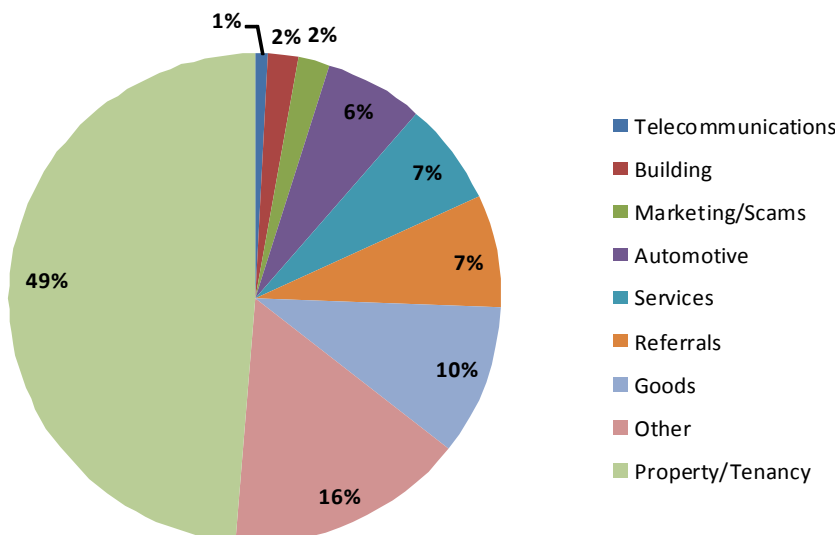
A common enquiry relates to mechanics having repaired a vehicle or performed repairs without the consumer’s consent and then charging them extra for this. If a quote is given for a particular job, then the trader has an obligation to maintain the cost provided within that quote. If repairs or parts are going to cost more than the original quote, or if services are required above the original quote, traders are obligated to advise the consumer and to obtain approval before starting the additional work and passing on the extra costs. It is always advisable to obtain a written quote before approving work and if that quote is to be amended, also request that in writing.

ENQUIRY TRENDS

Telephone calls made to the Northern Territory Consumer Affairs Call Centre are the main point of contact for consumers, traders, landlords, tenants and other clients, with the call centre receiving 12,824 telephone calls over the reporting year.

The Northern Territory Civil and Administrative Tribunal (NTCAT) took over the processing of applications under the *Residential Tenancies Act* (RTA) from 1 January 2015 however notwithstanding this change our call centre remained responsible to respond to calls seeking advice on residential tenancies. The Fair Trading Officers answer enquiries relating to issues covered under the *Residential Tenancies Act*; however, once a tenant or landlord wishes to lodge an application, they are directed to the Northern Territory Civil and Administrative Tribunal to follow their direction and processes.

Phone Calls



Many clients prefer to attend the Darwin and Alice Springs offices in person, over the past year we received an increase of ‘walk-ins’ to a total of **813**. This was an increase of 12% over the previous reporting year.

Consumers often make enquiries where they may have purchased an item that they either no longer want or they have simply changed their mind about. In this case, Northern Territory Consumer Affairs will advise that with any change of mind purchases the trader is not obligated to provide a refund. The trader is only obligated to provide a refund, exchange or repair if the item is found to be faulty or does not perform as advised.

Some traders have their own refunds and returns policies and may choose to provide a refund or credit if the consumer changes their mind. It is worth asking a trader about their refund policy at the time of purchasing an item.

Who gets to choose the remedy is also dependent on whether the problem is found to be a major or minor fault. If the fault is something that can be repaired easily, the trader has the choice to replace, refund or repair. The fault is considered major if the item cannot be repaired easily, cannot be repaired in a reasonable time frame, the item is significantly different from the sample provided or cannot perform as described. In these cases the consumer has the right to choose a refund, replacement or repair.

The majority of enquiries regarding fair trading matters relate to consumer guarantees. This could refer to a consumer purchasing a faulty item or that the item does not work or perform as they were advised it would by a trader. Enquiries regarding automotive repairs and new and used vehicles remained the highest percentage of consumer guarantee calls at 33%.

There are also enquiries that are received in both the Darwin and Alice Springs offices that are not related to the legislation administered by Northern Territory Consumer Affairs. In these instances our Fair Trading Officers refer the person to the correct department or organization for appropriate assistance.

If an enquiry ends in a referral after detailed advice or information is provided, these calls may also be recorded. There were **780** referral calls reported this year. Of those calls, referrals were directed to organisations such as the Financial Services Ombudsman, the Telecommunications Industry Ombudsman and to providers of independent legal advice.

COMPLAINTS PROCESS

DISPUTE RESOLUTION

Where a trader and a consumer are in dispute, Northern Territory Consumer Affairs offers a conciliation service in relation to matters that relate to the legislation administered by us. A consumer can lodge a formal complaint if they have a dispute with a trader in relation to goods purchased or services provided. Complaints can be lodged in person, via email, post or fax. During this financial year, **258** formal complaints were received.



Motor vehicle sales and repairs

An industry guide to the Australian Consumer Law



It is a requirement that the consumer has attempted to negotiate an outcome with the trader in the first instance. If not already undertaken it is recommended that the consumer writes to the trader with the detail of the complaint and their request for redress. If the trader does not assist or does not offer the consumer what they consider to be a reasonable remedy, then a formal complaint can be lodged.

Once received, the formal complaint is assessed to ensure that it is justified and the relevant supporting documentation is received.

The formal complaint may not be accepted if the trader has complied with the requirements of the Australian Consumer Law or the complaint is in relation to the behaviour of the trader, for example poor customer service.

When the complaint is accepted, the details of the parties and the complaint are entered into the Resolve case management system.

Although the trader cannot be forced into participating or into taking action, most are willing participants where an outcome that is satisfactory for both parties is often obtained.

If several cases of trader behaviour in breach of legislation are found, the details of the complaints and enquiries are forwarded to the Compliance Unit for further investigation and possible action to ensure the trader's actions are rectified.

COMPLAINTS PROCESS OUTCOMES

The Fair Trading Officers who manage complaints provide advice to both parties during the conciliation process and act in an unbiased manner in an attempt to resolve the complaint.

Regardless of any advice given to either party, the process is a voluntary one and it will ultimately be up to the consumer to accept any offer from a trader. Likewise, Northern Territory Consumer Affairs is unable to force a trader into a course of action that the consumer may see as fit.

The following are examples of some of the cases that have been dealt with this year.



1. A consumer purchased a new vehicle however it had numerous mechanical faults within the first few months of ownership. The consumer stated that he had paid to have additional accessories fitted however these accessories had been fitted to his vehicle incorrectly. The vehicle had been damaged when the trader had attempted to fit the accessories to the vehicle with the incorrect parts. Furthermore, the consumer advised that the vehicle “rattled” and “vibrated” when being driven.

The trader had inspected and assessed the vehicle a number of times and was unable to successfully diagnose the source of the rattle and vibration.

The consumer was frustrated and disappointed with his new vehicle and the lack of assistance and clear communication from the trader. The consumer requested that the rattle and vibration be diagnosed and repaired within two weeks or the dealership either refunds him the full purchase price or provides him with a replacement vehicle.

The trader responded to Consumer Affairs approach advising that the matter had been investigated extensively but it would now be escalated to the manufacturer’s senior managers.

The trader undertook further diagnostics of the vehicle following which the manufacturer made an offer to replace the vehicle (including the additional accessories purchased by the consumer). The consumer accepted this and received a replacement vehicle.

The Fair Trading Officer facilitated the negotiations and the delivery of the new vehicle. These negotiations included informing the trader of their obligations under the Australian Consumer Law.

2. A local coffee shop owner came to Northern Territory Consumer Affairs after many months of persevering with a refrigerator that was simply not keeping sandwiches and cakes at a cool enough temperature.

The broader definition of a “Consumer” under the Australian Consumer Law meant that Consumer Affairs could assist the local trader with her refrigerator and its poor performance. It was apparent by the time Northern Territory Consumer Affairs became involved, both the Alice Springs supplier of the refrigerator and the coffee shop proprietor were both frustrated with the situation. The local supplier was dealing with a manufacturer who had not been very helpful to date and the coffee shop proprietor was patiently allowing the local trader to attempt a number of options in an effort to rectify the faulty refrigerator.

With the assistance of Northern Territory Consumer Affairs, a new replacement refrigerator was provided by the local supplier. The supplier sourced the replacement from another manufacturer to ensure the consumer received what they had paid for. The supplier moved to source his products from an alternative manufacturer who is both providing a better product and is a back- up service when problems arise.

In situations such as this where a manufacturer or trader is not willing to provide appropriate consumer guarantees, a trader engagement process is initiated to ensure the manufacturer or trader is properly informed of their responsibilities under the Australian Consumer Law.

3. A consumer purchased a smart phone based on advertisements and statements made about the product by the manufacturer and trader that it was, “waterproof,” and that “this highly durable phone is both waterproof and dust resistant (only in freshwater up to 1.5 m for 30 minutes)”.

Shortly after the purchase the consumer used the smartphone to take a number of photographs in water to a depth of no more than 30 cm and not exceeding 30 minutes.

The consumer reported to Northern Territory Consumer Affairs that after taking the photographs, the handset stopped working. The consumer claims that he lodged a warranty claim with the manufacturer via the retailer, however the claim was denied and the manufacturer stated “water ingress was not covered under the manufacturer’s warranty”.

A Fair Trading Officer wrote to the trader outlining the consumer’s claims highlighting their responsibilities under Australian Consumer Law. Upon receipt of the correspondence a representative of the trader investigated the matter further. The representative found that some of the testing that should have been carried out had not actually occurred. Consequently, the report on which the decision to deny the consumer’s claim was incorrect.

As a result the trader provided the consumer a full refund of the amount of the cost of the handset. Clearly it was the manufacturer’s lack of understanding of the Australian Consumer Law that created this dispute.

4. A consumer advised Consumer Affairs that upon returning a hire vehicle to the agreed location he noted that the car hire business had debited several hundred dollars more than the contracted amount from his credit card.

The consumer had contacted the business immediately to enquire about this charge and was informed that it was in relation to damage to a mirror. The consumer adamantly denied this damage. The consumer advised that no vehicle condition reports had been carried out at the time that he collected or returned the vehicle. The consumer was advised by the business to write to their insurance unit, which he did three times without response.

The Fair Trading Officer wrote to the trader requesting evidence of the damage to substantiate the trader's claims.

The consumer advised that shortly after the correspondence had been sent to the trader he received a full refund of the overcharged amount and in addition to that, a voucher for a free day's car hire. The consumer advised that the trader apologised for the inconvenience that he had experienced but failed to provide an explanation as to why it had occurred.

The trader was further informed of their rights and responsibilities under the Australian Consumer Law.

5. A consumer who was having issues obtaining repairs for an air conditioner that was still covered under warranty lodged a formal complaint to have the matter conciliated. The air conditioning unit had been independently inspected and the consumer was advised the issue was a fault with the installation and not a manufacturing fault. The consumer had tried to contact the contractor who had installed the unit, however had been unsuccessful in having them attend to assess the air conditioning unit and pipework that had been installed.

A Fair Trading Officer formally wrote to the contractor and advised of the consumers claims. The contractor responded by attending to the consumer's property and replacing pipework. Once this was complete it was found there was still an issue with the air conditioning unit as there appeared to be a leak. The contractor assisted the consumer in requesting the unit be replaced under warranty as there was a failure of one of the components on the outside unit, and not a fault with the installation.

In this instance it appears the fault had been incorrectly diagnosed which caused delays in having the matter resolved.

The Fair Trading Officer assisted both parties to understand their rights and responsibilities under the Australian Consumer Law and facilitated successful negotiations in order to resolve this matter. The consumer received a new, replacement air conditioner and the matter was resolved.

RESIDENTIAL TENANCIES



The *Residential Tenancies Act* (the Act) is administered by Northern Territory Consumer Affairs under the direction of the Commissioner of Tenancies. Residential landlords and tenants in the Northern Territory must abide by the requirements of the Act which includes the Department of Housing and its public housing tenants.

Landlords and tenants, who are in dispute, will often contact Consumer Affairs to seek advice and guidance. These disputes are often resolved with the assistance of the Senior Tenancy Officer who will seek to inform the parties of their rights and responsibilities under the Act and seek to conciliate the matter.

During the first six months of the reporting year, matters that could not be resolved through conciliation would proceed to an application being made to the Commissioner of Tenancies to have the matter heard. These hearings are generally referred to as Inquiries. Inquiries can often be of a simple nature and easily resolved however, in some cases they can be very complex. Complex matters can involve situations where a landlord is seeking compensation for a range of issues under the *Residential Tenancies Act*. Compensation may also be sought by a tenant where reported maintenance issues have never been attended to by the landlord and the tenant is seeking recompense for loss of amenities. Complex matters may take several inquiries to resolve as more information is often sought from the parties in dispute to enable an informed decision to be made.

Over the period from 1 July 2014 to 31 December 2014, **370** applications were received.

On 1 January 2015, the Northern Territory Civil Administrative Tribunal (NTCAT) became responsible for dealing with applications received under the *Residential Tenancies Act*.

From 1 January 2015, until 31 May 2015 applications were heard by NTCAT staff as delegates of the Commissioner of Tenancies; **419** applications were received during this period. From 1 June 2015, the NTCAT took over full jurisdiction of all residential tenancy applications and the resultant inquiries.

Even though the actual applications for the last six months of the reporting period were dealt with by the Northern Territory Civil Administrative Tribunal, our call centre was kept very busy with a total of **5,637** residential tenancy telephone calls received. Of the calls that the Alice Springs office received, 72% related to residential tenancy matters.

49% of calls received by Northern Territory Consumer Affairs relate to residential tenancy matters.

It should be noted that the rental market has softened quite considerably from around October/November 2014. This has resulted in landlords being reluctant to take actions against tenants where they may be in breach of the *Residential Tenancies Act* or a Tenancy Agreement.

Landlords appear to take the option of trying to resolve the matter between the parties rather than proceeding to an inquiry, where the tenancy may be terminated and the landlord would be required to find a new tenant. It is also noted that rents have dropped during the last six months of the reporting period. This has resulted in tenants being able to negotiate cheaper rents once a tenancy has come to an end.

From January 2015 the Senior Tenancy Officer provided information sessions to property managers and private landlords in Darwin and surrounding areas, Katherine, Tennant Creek, Alice Springs and Nhulunbuy. The information covered landlords and tenants' rights and responsibilities under the *Residential Tenancies Act* with a specific focus on sections of the act that are most often asked about and pertinent to the audience. Feedback received from attendees at the information sessions indicated that these sessions have been a great success.

In total **36** real estate agencies, staff from the Department of Housing and private landlords have participated in these information sessions.

BUSINESS TENANCIES

Northern Territory Consumer Affairs administers the *Business Tenancies (Fair Dealings) Act* that protects business and/or retail tenants. Most retail or commercial tenancies are caught by this Act, however there are some exemptions including retail leases that are granted by the larger airports throughout the Northern Territory.

Landlords and tenants often contact our office for advice in cases where there is a dispute over a potential eviction or rent owed. In some of these cases there has been an attempt to settle the dispute by the parties however this is not always successful. Where the parties refuse to participate in further conciliations an applicant may apply to the Commissioner of Business Tenancies for a Certificate of Failure to Resolve a Retail Tenancy Claim, in doing so they can then take the other party to court to seek a judgement about their claim.

This year we received a total of **five** applications to the Commissioner of Business Tenancies. All of the applicants requested a Certificate due to a failure in resolving a business tenancy claim and an acknowledgement that conciliation would be ineffective.

There were **25** enquiries relating to business tenancies received over the reporting period.

COMPLIANCE

The compliance unit monitors and responds to consumer protection issues and the detection of regulatory breaches across the legislation administered by Northern Territory Consumer Affairs.

With a focus on emerging issues, identified risks and market place trends Consumer Affairs delivers effective compliance outcomes and enforcement where appropriate in line with its compliance and enforcement policy.

We continue to work closely with other Australian Consumer Law (ACL) regulators at a national level to identify cross border activity and instances of non-compliance while also contributing to national and State/Territory compliance and consumer protection projects. The following represents some of the key compliance cases actioned during 2014-2015:

FUNERAL SERVICE PROVIDERS

Funeral service providers came to the attention of Northern Territory Consumer Affairs following complaints that local funeral services were not providing a proper breakdown of costs or an itemised account for funeral services in breach of their obligations under the Australian Consumer Law.



Investigations evidenced that this appeared to be a systemic issue within the local industry. Work was undertaken with the Australian Funeral Directors Association, of which all Northern Territory funeral directors are members, to educate industry stakeholders.

Direct trader engagement led to most traders immediately amending their practices to achieve compliance with their statutory obligations, while one trader was placed on notice to adhere to the

requirements within a specified timeframe. All traders have since complied with the requirements of the Australian Consumer Law.

UNSOLICITED SALES ACTIVITIES

Northern Territory Consumer Affairs received intelligence regarding a trader operating door-to-door in Indigenous communities throughout Darwin and rural Northern Territory. The trader was identified as travelling into these communities to engage in the unsolicited sales of electronic goods, often enticing consumers into signing on-going payment plans and contracts.

Compliance published a number of alerts on social media to raise consumer awareness and engaged with the trader to educate them about their responsibilities under the Australian Consumer Law. Compliance is continuing to scrutinise consumer reports and is working with community stakeholders to ensure effective monitoring and compliance by this trader.

COLIN THOMPSON TRADING AS ESOTERIC MIND SPECIALIST AND THE ADDICTION DOCTOR

Compliance has, in conjunction with the Health and Community Services Complaints Commission, conducted a lengthy investigation and engagement into the trading practices of Mr Colin Thompson, trading as the Esoteric Mind Specialist and The Addiction Doctor.

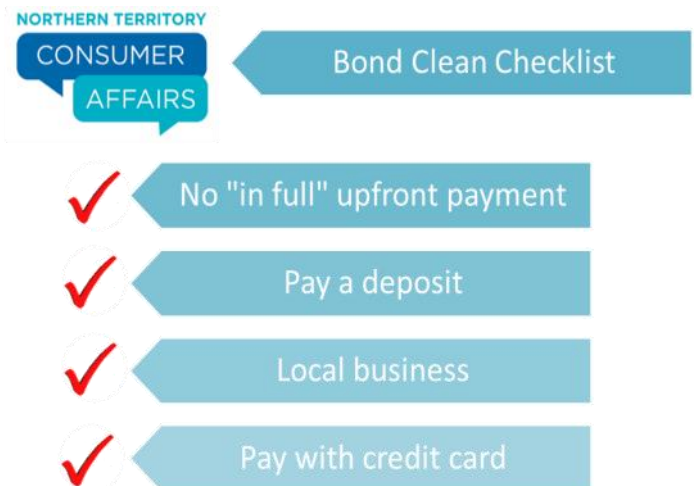
Mr Thompson describes himself as a Mind Communicator and claims that he has the ability to instantly and permanently cure people of a range of medically incurable ailments as well as addictions, including smoking. His promotional material and website detail could potentially mislead consumers in breach of the Australian Consumer Law.

On-going trader engagement has sought to educate Mr Thompson about the necessity of ensuring that his representations to the public are truthful and are able to be substantiated.

BOND CLEANING BUSINESSES

Compliance has seen a resurgence of complaints against bond cleaning businesses that advertise and book on-line. Northern Territory Consumer Affairs published a series of warnings through social media to alert the public to the dangers of using these kinds of services and the difficulty of recouping losses when things go wrong.

Northern Territory Consumer Affairs has continued to receive complaints and enquiries throughout early 2015 with regard to a particular trader and is investigating these claims with a view towards future enforcement action.



VET-FEE HELP PROVIDERS

A major focus of Compliance activity in early 2015 has been VET-FEE Help Training Providers and the tactics used by them to solicit new students. Trader engagement was commenced after intelligence was received that representatives were going door-to-door soliciting for online education courses and targeting low income and non-English speaking applicants.



Further investigation revealed that the conduct was wide spread, with similar activities on-going throughout the Northern Territory as well as across West Australia. Northern Territory Consumer Affairs has taken a lead role in gathering evidence for a national working party and liaising with interstate and national enforcement agencies throughout the reporting year.

COMPLIANCE TRADER ENGAGEMENT PROGRAM

The Trader Engagement Program aims to encourage better business practices and an ongoing self-regulatory approach to facilitate a fair and competitive marketplace.

During the year this program was adopted by Consumer Affairs based on a model undertaken by other Australian Consumer Law regulators and endorsed by the national Compliance and Dispute Resolution Advisory Committee (CDRAC).

The program targets businesses with a high volume of Consumer Affairs contacts and places the onus on businesses to focus on the root cause of identified issues to reduce consumer problems as well as to lower cost to government and business through reduced regulatory intervention.

Through a process of meeting with businesses, outlining concerns and monitoring progress against agreed action plans, this initiative has met with some success including:

ALLEGED MISREPRESENTATIONS IN ADVERTISING

In 2014-2015 Compliance engaged with several traders to educate them about their responsibilities and to assist them to amend their online and print advertising to ensure compliance with the Australian Consumer Law.

Positive results were achieved with three businesses that were approached about amending their promotional materials following consumer complaints about the accuracy and factual content of their advertising.

Two of these businesses agreed to amend potentially misleading aspects of their advertising which were brought to Compliance's attention by consumer enquiries, while the third agreed to honour a consumer's order after incorrect advertising on their website resulted in the consumer being misled about the price of a product.

PV SOLAR INDUSTRY

The solar industry has continued to be a focus for Northern Territory Consumer Affairs in 2014-2015 after serious consumer detriment was uncovered within the Northern Territory in the previous reporting year.



Work has shifted to a national approach, with a national working party being convened to gather intelligence and assess the level of complaints being received across jurisdictions.

Northern Territory Consumer Affairs has continued to respond to complaints from consumers' primarily surrounding warranty issues related to the technical failure of solar systems including panels and inverters.

The inherent solvency of various solar companies continues to be a major concern, with several businesses going into administration, restructure or liquidation, often leaving consumers with no possibility of redress.

ITINERANT TRADERS

Northern Territory Consumer Affairs' continues to combat unlawful trading by itinerant traders and travelling con men that target vulnerable groups of consumers. Unlawful traders offering services including bitumen laying, line marking and roof painting were reported in the past year.



Similarly, so-called “white van sales” were a regular feature of consumer reports; advising of sub-standard electronic goods being sold for cash in car parks and public spaces.

An early intervention approach by publishing early warnings to reports of the presence of such traders assists in the minimisation of potential harm to consumers.

The effective use of various communication sources including social media and radio talkback has enhanced community awareness of the risks posed by travelling con men.

COMPLIANCE FOCUSED NATIONAL COMMITTEES

In conjunction with other consumer protection agencies, Consumer Affairs collaborated on several national compliance projects including:

CREDIT CARD CHARGEBACK NATIONAL PROJECT

The implications of credit card chargebacks impacts consumers in all jurisdictions. Given the remarkable growth of online retailing, chargebacks have become a more common and appropriate remedy in the resolution of consumer complaints.

With a view to generating a unified approach to chargeback enquiries, research has been conducted to generate a better understanding of the mechanisms and processes involved. This research will promote the efficient handling of consumer complaints and improving consumer outcomes.

Ultimately, the national working group will create and publish a comprehensive, readily accessible suite of tools about the chargeback process which will improve the dispute resolution process across all jurisdictions.



MOST COMPLAINED ABOUT BUSINESSES NATIONALLY

This working group seeks to gain an understanding of the most problematic businesses nationally as identified from complaint data provided by Australian Consumer Law regulators.

Analysis of consumer contacts assists in identifying businesses who may be non-compliant with consumer protection legislation, with poor business practices or who exhibit behaviour that leads to consumer dissatisfaction.

Analysis of business data will be used to inform recommendations about the most appropriate response to complaints, drawing upon the suite of compliance and enforcement options available to ACL regulators.

Data will also be used to develop and implement a framework to tackle the 2014-2015 most complained about businesses to be applied on an on-going basis. This will ensure that the conduct of businesses that place a significant demand on Australian Consumer Law regulators' resources is analysed and actioned as appropriate.

COMPLIANCE STATISTICS

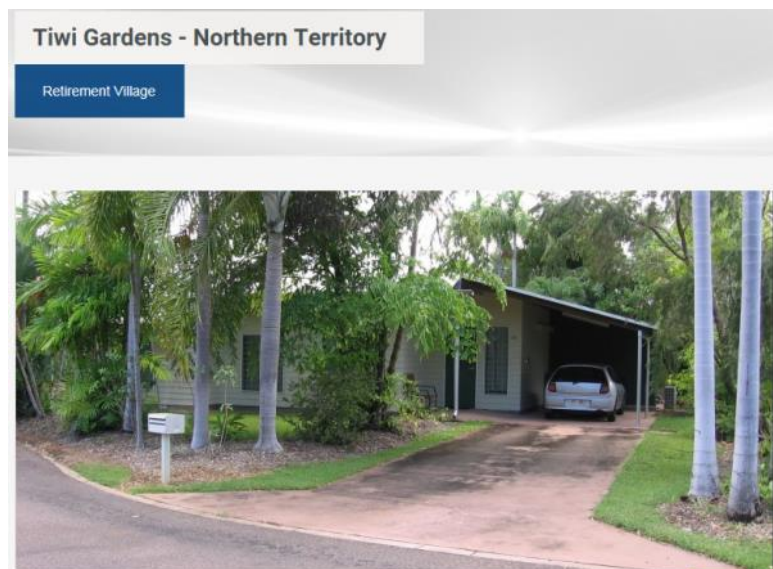
Investigations conducted	42
Investigations concluded	34
Complaints referred to other organisations	8
Traders placed on notice	2
Investigations referred for prosecution	0
Infringement Notices issued	1
Public Warnings issued	0
Trader Engagement	12
Compliance education provided	9

RETIREMENT VILLAGES ACT

The *Retirement Villages Act* in the Northern Territory is administered by Northern Territory Consumer Affairs.

Advice and assistance is provided to both residents and operators of retirement villages by Northern Territory Consumer Affairs. In this reporting period four people contacted the call centre to seek advice about retirement village issues. The advice provided related to a range of matters, however in the main

callers were directed to seek independent legal advice due to the contractual nature of the enquiries.



The Commissioner of Consumer Affairs and the Deputy Commissioner meet regularly with senior staff from the Masonic Homes Tiwi Village. The close relationship with Tiwi Village has ensured that the senior village staff are fully aware of their responsibilities under the Act.

CARAVAN PARKS ACT

Caravan parks in the Northern Territory are regulated by the *Caravan Parks Act*. This Act is administered by Northern Territory Consumer Affairs. The Call Centre received **six** calls during the 2014/15 financial year in relation to caravan parks. These related to what constitutes a caravan park and what process should be adhered to when terminating a residency.

No applications were received during the reporting period.

A further **two** telephone calls were received from owners of caravan parks who were concerned about a particular park offering camping sites to the public. The concerns raised related to competition created for caravan parks already operating in the area who were unable to match the low site fees offered by this park and whether there were sufficient amenities and resources available to cope with waste management and environmental issues. This was not a matter regulated by this Act.

RESIDENTIAL BUILDING DISPUTES

Northern Territory Consumer Affairs provides advice and assistance to owners and builders in regard to the *Building Act's* Residential Building Dispute Function, and the related *Building (Resolution of Residential Building Work Disputes) Regulations*.



The regulations provide an avenue for owners to seek resolution of disputes relating to residential building work. During this financial year, over 200 telephone enquiries were received relating to residential building disputes. The majority of these enquiries related to new building work that had not yet been completed whereupon the owners and the builders became in dispute over the delays in completion with some parties choosing to cease all communication with each other. The primary reason that the relationship between consumer and builder breaks down is due to a lack of communication.

Other enquiries received this reporting year related to work yet to be completed before the handover of the property to the owner or defects found within the warranty period. A total of 12 formal applications were received this reporting year.

Northern Territory Consumer Affairs offers mediation and conciliation services for residential building dispute matters with in-house qualified mediators facilitating those sessions. This process involves the applicant and the respondent attending pre-conciliation and conciliation conferences and agreeing to participate in a negotiated agreement process with the intention to come to a mutual agreement to resolve the dispute.

An example of a residential building dispute successfully conciliated related to non-structural defects found within the warranty period. The owner did not buy the property directly through the builder, and the builder did not believe that they had to remedy the defects. The builder was provided information about their obligations under the Act whereupon he agreed to participate in a negotiated agreement process. This involved two pre-conciliation conferences resulting in both parties agreeing to undertake certain actions which saw the “defect list” being resolved within a few weeks. Both the owner and the builder were happy with the outcome saving both costs in potential lengthy court action.

OTHER STATUTORY RESPONSIBILITIES

The Commissioner of Consumer Affairs is the statutory officer responsible for a number of pieces of legislation that government has directed, through the Administrative Orders, the responsibility for management of these pieces of legislation is placed within the Department of Business.

The Commissioner has also delegated authority for a number of tasks to staff within the Department of Business. The following are Acts or Regulations of this nature:

Associations Act

Commercial and Private Agents Licensing Act

The Consumer Affairs and Fair Trading Act—Parts 10 and 14

Consumer Affairs and Fair Trading (Tow Truck Operators Code of Practice Regulations).

Northern Territory Consumer Affairs

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