

AUSTRALIA

Annual Report on Consumer Policy Developments

2000

Australia's Consumer Protection Framework

The current Australian regulatory framework for consumer protection is comprised of federal and state/territory consumer protection legislation and some self-regulatory initiatives.

The development of consumer protection regulation rests with the Consumer Affairs Division of the Department of the Treasury and it is part of the ongoing work of the Division to examine the regulatory framework for consumer protection.

The Australian Competition and Consumer Commission (ACCC) is the agency primarily responsible for the enforcement of consumer protection laws in Australia at the national level. In addition, other Commonwealth regulators in the area of consumer protection include the Australian Securities and Investments Commission (financial services), the Australia New Zealand Food Authority (food safety), and the Department of Health and Aged Care (therapeutic goods).

The ACCC's enforcement work is complemented by the work of fair trading authorities in each State and Territory which administer mirror fair trading legislation at the regional level. All these organisations perform a valuable role in providing consumers with access to effective redress in relation to a range of fair trading issues.

The Legislation

The primary piece of consumer protection legislation in Australia is the *Trade Practices Act 1974* ('TPA'), administered by the ACCC. The objective of the TPA, as set out in the legislation, is to:

Enhance the welfare of Australians through the promotion of competition and fair trading and providing for a consumer protection framework.

It contains a range of provisions aimed at protecting consumers and corporations that qualify as consumers. These provisions are contained in Part IVA (unconscionable conduct), Part IVB (Industry Codes), Part V (consumer protection) and Part VA (Liability of Manufacturers and Suppliers for Defective Goods) of the TPA.

More specifically:

- Part IVA of the TPA covers:
 - Unconscionable conduct within the meaning of the unwritten law of the States and Territories (s 51AA)
 - Unconscionable conduct in consumer transactions (s 51AB)
 - Unconscionable conduct in business transactions (s 51AC)
- Part IVB provides for industry codes of conduct to be mandated and enforced.

- Part V of the TPA covers:
 - Misleading and deceptive conduct (s 52)
 - False representations (s 53, 53A, 53B, 53C)
 - Offering gifts and prizes with no intention to provide (s 54)
 - Misleading conduct to which Industrial Property Convention applies (s 55)
 - Bait advertising (s 56)
 - Referral selling (s 57)
 - Accepting payment without intending or being able to supply as ordered (s 58)
 - Misleading statements about certain business activities (s 59)
 - Harassment and coercion (s 60)
 - Pyramid selling (s 61)
 - Unsolicited credit cards (s 63A)
 - Assertion of right to payment for unsolicited goods or services, or for making entry in directory (s 64)
 - Liability of recipient of unsolicited goods (s 65)
 - Country of origin representations (Division 1AA)
 - Product safety and product information (Division 1A)
- Part V Division 2 sets out implied conditions and warranties in all consumer transactions;
- Part V Division 2A sets out the actions against manufacturers and importers of goods that can arise for breaching these implied warranties; and
- Part VA sets out the liability of manufacturers and importers for defective goods.

I. Institutional developments

Amendments to the Trade Practices Act 1974

Part VB of the TPA was amended in 2000 by inserting section 75AYA, creating the offence of misrepresentation of the effects of the New Tax System.

The Treasury Legislation Amendment (Application of the Criminal Code) Bill (the Bill) was introduced in Parliament in 2000 and passed in March 2001. The Bill amends the TPA, clarifying the physical and mental elements of an offence and by clearly stating offences which are of strict liability. The amendments are part of a program of harmonisation of all Commonwealth legislation with the Commonwealth Criminal Code, which will take effect from 15 December 2001.

Review of legislation

Development of legislative amendments arising from the audit of Australia's consumer protection laws continued through 2000. The Consumer Affairs Division of the Department of the Treasury worked with States and Territories to promote uniformity in consumer protection provisions, in particular, the regulation of pyramid selling.

Australian Securities and Investment Commission (ASIC)

In November 2000, the Treasurer announced Mr David Knott as ASIC's new Chairman, and Ms Jillian Segal as Deputy Chair. These appointments took effect on 18 November.

Late in 2000, an internal management review was announced, and the results of this review were reported in April 2001. One result will be an expanded profile for consumer protection, with the creation of a Consumer Protection National Directorate which will have responsibility for

managing ASIC's consumer protection role.

Ministerial Council on Consumer Affairs (MCCA)

The Consumer Affairs Division, ACCC and ASIC maintained close links with State and Territory consumer affairs and fair trading agencies. Formal links were provided through the Ministerial Council on Consumer Affairs (MCCA).

MCCA's key activities in 2000 included:

- Addressing the problem of payday lenders with the view to bringing them within the provisions of the Uniform Consumer Credit Code;
- A proposal to incorporate mandatory comparison rates into the Uniform Consumer Credit Code;
- An analysis of the appropriateness, efficiency and effectiveness of product recall powers and procedures within Fair Trading portfolios in Australia and New Zealand;
- Further development of nationally uniform product safety legislation;
- National Competition Policy Reviews of credit and trade measurement legislation and legislation governing the operation of travel agents;
- Establishing a working party to develop recommendations for achieving nationally consistent co-operatives legislation;
- Establishing a national working party to examine the extent of problems in the car rental industry across Australia and regulatory options including a mandatory or voluntary code of conduct to address the issue;
- Development of a series of initiatives to address discrimination against women in the motor vehicle industry; and
- Continuing work on reducing inconsistencies, gaps and unnecessary duplication in Australia's consumer protection laws.

Commonwealth Consumer Affairs Advisory Council (CCAAC)

The Commonwealth Consumer Affairs Advisory Council (CCAAC) was established by the Minister for Financial Services and Regulation on 20 May 1999. CCAAC continues to provide the Minister with independent advice on the current or likely impact of Australian market developments on consumers. Particular areas addressed in 2000 included financial services, food safety and consumer education.

International Cooperation Agreements

European Commission

The Consumer Affairs Division continued negotiations with the European Commission on development of an administrative arrangement to share information between Australian agencies including the Consumer Affairs Division, ACCC and ASIC and the Consumer Protection Directorate of the European Commission on consumer policy and protection. The text of the proposed arrangement has been negotiated and it is expected the arrangement will be signed later this year.

United States

On 17 July 2000, the ACCC and the US Federal Trade Commission (FTC) signed a bilateral cooperation agreement for information exchange and enforcement cooperation in relation to consumer protection matters. A further agreement which gives the ACCC access to the US FTC's Consumer Sentinel Database was also entered.

The first agreement – the Cooperation Agreement – provides for enhanced cooperation and information sharing between the FTC and ACCC and will strengthen ties between the two nations on consumer protection matters and enhance cross-border cooperation in the consumer protection area. The second agreement – the Consumer Sentinel Agreement – permits the ACCC to participate in the FTC's Consumer Sentinel system, a database of consumer complaint data that is already used by over 250 law enforcement agencies. The ACCC will be able to obtain and enter information, strengthening the ability of both Australia and the United States to prosecute consumer fraud.

Canada and New Zealand

The ACCC also negotiated a tripartite arrangement with the New Zealand Commerce Commission and Industry Canada signed on 19 October 2000. The arrangement establishes a framework for notification, coordination and cooperation on competition and consumer protection enforcement activities, exchange of information and avoidance of conflict.

Other international activities

The ACCC regularly coordinates and receives study visits to Australia by international delegations and officials who wish to learn about Australia's framework for consumer protection regulation and the ACCC's role, functions and work in enforcing Australia's consumer protection legislation. In 2000, the ACCC hosted delegations from China, Japan, Malaysia, Sri Lanka, Argentina, Sweden, Vietnam, Cambodia, Korea, Chinese Taipei, United States, Papua New Guinea and Thailand.

In 2000, the ACCC also continued to conduct staff exchange and secondment activities with several of its counterparts including the Canadian Competition Bureau, Taiwan Fair Trade Commission, New Zealand Commerce Commission, Malaysian Communications and Multimedia Commission, Korean Fair Trade Commission, Hong Kong Consumer Council and Fijian Department of Fair Trading and Consumer Affairs.

The year 2000 also saw the commencement of the ACCC's International Internship Program. This program enabled an officer from the Department of Trade, Commerce and Industry in Samoa to work as an intern at the ACCC for approximately one year. The aims of the ACCC's International Internship Program are:

- to contribute to the development of competition, consumer protection and utility regulation policies and initiatives internationally;
- to enhance the ACCC's links with its international counterpart agencies;
- to enable participants to develop a sound knowledge of the legislation relevant to the functioning of the ACCC; an understanding of competition, consumer protection, pricing and utility regulation issues; an awareness of the political, commercial and social environments and the management framework in which the ACCC operates; and

- for those parties to positively contribute to the operation of the ACCC through the completion of work placements in various branches of the Commission.

The program is being run again in 2001 involving participants from the Papua New Guinea Consumer Affairs Council and the Zambian Competition Commission.

II. Product safety

Product safety recalls

Under the TPA, companies conducting safety related voluntary recalls are required to notify the Commonwealth Minister responsible for Consumer Affairs. In 2000, there were 390 safety related voluntary recalls conducted in Australia relating to: therapeutic goods (165), vehicles (96), toys (7), electrical (19), food (39), and other products (64).

Product Safety Recalls Web Site

The new Product Safety Recalls Website, "Products Recall Australia" at www.recalls.gov.au was launched in November 2000. The new site lists all current safety related recalls being conducted in Australia as notified under the Trade Practices Act and by State and Territory regulators. The new site operates on a searchable database and provides up to date information on product recalls to both consumers and suppliers.

Product safety and information standards

During 2000 new proposed mandatory standards were developed for bunk beds and baby walkers. These are expected to be introduced in late 2001. Reviews of mandatory standards were also completed for children's cots and pedal bicycles.

ACCC Activities

The ACCC has responsibility for the enforcement of mandatory product safety and information standards and bans on unsafe products. At present there are twenty consumer product safety standards, three consumer product information standards and nine bans. The ACCC also has responsibilities in respect of the product liability provisions of the TPA.

The ACCC takes a pro-active approach to its responsibilities in the area of product safety and liability involving enforcement action, promoting and monitoring compliance and research and analysis. Random market surveys are conducted on a strategic risk management basis. In addition, several products such as car jacks, sunglasses and cots were targeted during the year to secure a greater level of compliance. For example, ACCC offices around the country last year surveyed retail outlets to ensure warning labels were present on vehicle and trolley jacks. While many products complied fully, a number of jacks were recalled from the market and their suppliers required to provide undertakings to the court to improve their compliance.

Advice to Industry

The ACCC also continued to issue guides to standards for a wide range of products in 2000 including: bean bags, balloon-blowing kits, cosmetics and toiletries ingredient labelling, elastic luggage straps, exercise cycles, paper patterns, pedal bicycles and care labelling for clothing and textile products. These guides contain information about the standards that apply to each product as well as guidance for retailers and suppliers to ensure that the goods they stock comply. The

guides also give consumers a better idea of what to look for if they suspect a product does not meet a particular standard.

Product safety in e-commerce

The ACCC is also currently examining issues in relation to product safety and the Internet. It can be difficult for consumers to determine whether products meet minimum safety standards when shopping on the Internet. The ACCC has initiated a project to look into how such information can be displayed and jurisdictional issues in the enforcement of mandatory safety standards.

III. Protection of the economic interests of consumers

Self-regulation / codes of conduct

Independent Taskforce on Industry Self-Regulation

The independent Taskforce on Industry Self-Regulation appointed by the Government completed its inquiry into aspects of self-regulation in Australia. The Taskforce report was released on 13 December 2000.

As part of the Government's response to the Taskforce report, a specialist website has been launched at <http://www.selfregulation.gov.au> containing information and policy advice on self-regulation.

The financial services sector

ASIC continued to chair a working group to extend the application of the Electronic Funds Transfer (EFT) Code of Conduct to new technologies. The Working Group released a second discussion paper and draft revised Code in January 2000, and a large number of comments were received. (The final revised EFT Code was released in April 2001.)

ASIC organised a half-day forum to discuss the need for improved disclosure of transaction fees for banks, building societies, and credit unions. As a result of this forum, the Transaction Fee Disclosure Working Group was established. The objective of the group is:

"to provide consumers with the opportunity to better understand the transaction fee structures applying to their account so that they can make informed choices."

The Working Group held a number of meetings during 2000, working towards the development of agreed principles for better disclosure. (A draft *Guide to Good Transaction Fee Disclosure for Banks, Building Societies, and Credit Unions* was released for comment in April 2001.)

During 2000, ASIC conducted its second monitoring exercise for compliance with the Banking, Building Society, and Credit Union Codes of Practice and the EFT Code of Conduct, covering the period 1 April 1999 to 31 March 2000. A report of the results, released in February 2001, showed generally high levels of compliance, although the incidence of complaints had increased significantly in some areas.

During 2000, independent reviews of the Code of Banking Practice and the Credit Union Code of Practice were announced. ASIC made detailed submissions to both of these reviews, identifying areas where changes or improvements in the Codes were needed.

In August 2000, ASIC formally approved the General Insurance Code of Practice. Under the

Insurance Act 1973, all insurers providing consumer lines of insurance must belong to a code that has been approved by ASIC.

Enforcement activities in the financial services sector

ASIC took a large number of enforcement actions during 2000 under the consumer protection provisions of the ASIC Act, the Corporations Law, and industry specific legislation.

Major or typical activities included:

- actions to improve the quality of investment advice;
- actions to protect vulnerable consumers;
- actions to prevent misleading statements and conduct;
- stopping unlicensed investment advice on the Internet;
- stopping illegal cyber investment officers;
- actions against insurance agents and brokers who misuse client funds; and
- actions to recover consumers' funds, often through class actions.

ASIC has a number of regulatory tools for dealing with contravention of the legislation it administers. These include administrative solutions, such as enforceable undertakings, and civil and criminal litigation. In each matter, the most appropriate set of tools will be used to meet the enforcement goals of:

- stopping the illegal conduct;
- ensuring consumer redress;
- deterring others from engaging in similar conduct;
- punishing wrongdoing; and
- removing dishonest operators from the marketplace.

Surveillance activities

In September 2000, ASIC launched a surveillance and enforcement campaign following a surge in the number of complaints relating to promoters of computer share trading software. It had concerns that some promoters provide unlicensed financial advice, and/or make misleading or deceptive representations about their products.

ASIC conducted a review of online broking websites. We analysed Internet stockbroking, now used by many thousands of investors to buy and sell shares. We focused on whether order taking and processing was clearly explained, whether the identity of the broker was clear, and what was said about service and complaint handling arrangements. The report of the survey was released in August 2000.

ASIC took surveillance action to ensure that registered general insurance brokers belong to an external complaints resolution scheme, as required by legislation. It wrote to 85 brokers that were not members of the relevant scheme, the Insurance Brokers Dispute Resolution Facility, or had not renewed their IBDF membership. As a result of the campaign, more than 85 per cent of

those contacted joined or renewed their membership of IBDF; ASIC suspended the registration of one broker who has not joined IBDF, and the remaining brokers were not required to join the scheme because they did not conduct any domestic or personal insurance business.

ASIC also surveyed brokers to ensure that brokers appointed approved auditors, as is required by legislation. An approved auditor is a registered company auditor who is independent and has been provided with a unique registration number by ASIC.

In September 2000, ASIC announced a project to check whether investment advisers and licensed dealers who provide advice to retail investors are members of alternative dispute resolution schemes. The results of the project were announced in February 2001 – 419 advisers joined the relevant scheme following the ASIC action. ASIC was continuing to follow up 116 advisers that did not respond to the survey.

In June, ASIC released a report 'Consumer Understanding of Flood Insurance', which resulted from a national project reviewing insurance policies, sales processes, and recent experiences with insurance coverage for floods. The report found that consumers may not know how to find out if they need cover for flood damage, or may not know that flood and other storm damage are often treated differently by insurers, and that flood damage may not be covered at all. The report also found that insurance sales representatives might not be adequately trained to provide information or to answer consumer questions about flood cover.

ACCC activities

The ACCC is increasingly looking at codes of conduct, charters and voluntary standards as a light-handed, market sensitive means of gaining compliance with the TPA. In 1999-2000 the ACCC's role became one of providing feedback in code reviews rather than having a central place in their development.

In 2000 the ACCC was involved in development / review of the various codes of the Internet Industry Association (including the ISP Code of Conduct) and codes of conduct involving the fruit juice industry, Australian Pharmaceutical Manufacturers Association, the marketing of IVF services, the Jewellery Association of Australia, and the Australian Communications Industry Forum.

The ACCC also continues to facilitate interpretive work on the TPA involving all stakeholders and publishing guidelines based on this work.

Enforcement of the TPA

In general, the ACCC seeks compliance with the consumer protection legislation it administers by a range of means including litigation, administrative settlement (including the acceptance of court enforceable undertakings), promotion of self-regulation, compliance programs, information and liaison.

Targeted enforcement activity by the ACCC accounts for approximately 60 per cent of work in relation to gaining compliance with the consumer protection provisions of Part V of the TPA. Most matters involve various types of misleading and deceptive conduct. The potential threat of enforcement activity is generally enough to ensure compliance by many industry participants.

Each year the ACCC receives approximately 60 000 complaints and undertakes some 400 major investigations. It must therefore be strategic in its response to those enquiries. The ACCC's enforcement strategy is achieved through:

- appropriate case selection;
- professional and efficient investigation and assessment of potential breaches;
- the use of measured enforcement responses to relevant conduct;
- strategic assessment of priority areas; and
- liaison and cooperation with other relevant law enforcement agencies.

The ACCC has a range of responses available to it in any enforcement action from informal warnings and administrative settlements to court enforceable undertakings and civil or criminal based enforcement actions. Fines can be imposed by a court of up to \$200 000 for a corporation and \$40 000 for an individual for a breach of a consumer protection provision. Injunctions, corrective advertising and damages can also be ordered.

Some examples of cases handled in 2000 include the following:

Chronic Fatigue Syndrome (CFS) Cure case: concerned allegations that the defendant had made false and misleading representations about the benefits of using a probiotic as a cure for CFS. The Court has recently found that such misleading and deceptive claims had been made and ordered that the defendant restrain from the conduct, give refunds to consumers and participate in a compliance program.

Crowded Planet: concerned the supply of contraceptives over the Internet. The ACCC alleged that the defendant engaged in misleading and deceptive conduct in not informing the public that it is illegal to supply or purchase prescription drugs over the Internet. Interim orders for corrective advertisements were ordered on 9 November 2000. A failure to comply with these orders led to contempt orders on 2 February 2001 and a jail sentence for the defendant.

Galaxy Imports (NSW) Pty Ltd: concerned labelling of packaged olives that made misleading country of origin claims. The company agreed to change the labelling on a number of its packaged processed olives to remove misleading statements after concerns raised by the ACCC. The company also provided court enforceable undertakings including relabelling stock, corrective advertising, refunds to consumers and a compliance program.

Cash Return Mercantile Pty Limited and Sharyn McCaskey: concerned allegations of undue harassment and coercion and misleading conduct in the collection of debts. This was the first case taken by the ACCC under section 60 of the TPA. The Court granted injunctions restraining future conduct and ordered that the defendants attend a compliance seminar, publish a notice in a regional newspaper and pay the ACCC's costs.

National Mutual Health Insurance Pty Ltd: concerned allegations of misleading and deceptive conduct in the advertising of health insurance. In June 2000, National Mutual removed the commercials from broadcast and gave court enforceable undertakings that it would provide more information to consumers through revised television commercials and a leaflet for the public. It also agreed to provide refunds to consumers that were misled.

ASIC Activities

The EFT Working Group, chaired by ASIC, continued to work towards revising the EFT Code so that it is technology neutral, and applies to all forms of electronic banking. A second discussion paper and draft revised Code was released in January 2000. (The final revised EFT

Code was released in April 2001.)

During 2000, ASIC held two successful conferences on e-commerce, where we explored some of the issues for regulators, businesses, and consumers in a world when more and more financial services are delivered or transacted electronically.

ASIC also continued to develop relevant policy on e-commerce, including:

- An interim policy statement on Internet discussion sites. The policy statement covers web-based bulletin boards, where individuals post information about investment products and services, and explains the circumstances in which these services will be regulated by ASIC.
- An ASIC Policy Proposal Paper seeking comments on proposals to allow fully electronic distribution of life insurance and superannuation products.

In late 2000, ASIC commenced a project looking at account aggregation services and the potential consumer issues, including disclosure, privacy, liability for unauthorised transactions and other losses, and complaints handling processes.

ASIC continued to take enforcement action in e-commerce matters, using the resources of the Electronic Enforcement Unit. This included a joint investigation with the US Federal Trade Commission in a matter involving unsolicited spam emails that 'ramped up' stock. The investigation resulted in successful prosecutions on the grounds of making statements or disseminating information that was false or misleading and likely to induce the purchase of securities, by way of transmission of electronic mail messages and posting messages to Internet websites.

Financial Services Reform legislation

During 2000, ASIC provided input and assistance into the Financial Services Reform legislative proposals being developed by the Department of the Treasury. The proposed Financial Services Reform Bill will introduce a harmonised licensing and disclosure regime for financial services providers, and will provide important benefits for consumers.

A copy of the Bill is available at

<http://www.treasury.gov.au/default.asp?main=publications/Bills,ActsAndLegislation/CorporateLawEconomicReformProgram/FinancialServicesReformBill2001/index.asp>

Consumer protection in electronic commerce

Consumer Affairs Division, the ACCC and ASIC participated in activities of the OECD Committee on Consumer Policy, in particular, the joint conference in the Hague on Alternative Dispute Resolution in Electronic Commerce in December 2000.

Following an extensive national consultation process, involving both written submissions and workshops, a Model Code for Traders in Electronic Commerce, entitled *Building Consumer Sovereignty in Electronic Commerce: A Best Practice Model for Business* was released in May 2000.

The release of the Model, which focuses on trader responsibilities, was accompanied by consumer information in the brochure *Ten Things to Check Before Shopping on the Internet*.

The Best Practice Model can be accessed at www.ecommerce.treasury.gov.au

The Best Practice Model constitutes Australia's implementation of the OECD Guidelines for Consumer Protection in the Context of Electronic Commerce.

APEC Electronic Commerce Steering Group (ECSG)

Consumer Affairs Division and ACCC staff participated in the first discussion of consumer protection issues in APEC at a Workshop in July 2000. Both public officers and private sector representatives attended the Workshop the goal of which was to promote a better understanding of how to achieve a level of consumer protection in electronic commerce and to identify how a more seamless legal and regulatory framework in the APEC region can be achieved.

Following the Workshop, the ECSG agreed to a number of future actions including: to conduct an analysis of the laws, codes and practices of APEC economies in consumer protection in e-commerce; to develop a consumer protection database / information sharing system; and to form an action group to conduct the work program and report back to the ECSG (coordinated by the NZ Ministry of Consumer Affairs).

Enforcement action

Optus Internet & Excite@home offered the ACCC enforceable undertakings under section 87B of the TPA in November 2000. The term 'unlimited' was removed from all advertisements (including on-line advertisements), due to its misleading nature. The facts were that the 'unlimited' Internet access was in fact limited by an 'acceptable user policy'. Refunds were provided to customers whose accounts had been deleted under the acceptable user policy, and clarification of the terms was sent to all current and prospective customers.

Domain Names Click'n'Go settled the ACCC's concerns about passing off its business as an ICANN accredited registrar, by sending corrective letters to all affected consumers in April 2000.

Enforcement cooperation

Internet Sweep Day

Sweep days are a regular activity of the International Marketing Supervision Network (IMSN), and have enjoyed an increasing level of success since the first in 1997. The statistics on compliance assist agencies in targeting their efforts in their local jurisdictions, and a strong compliance message is sent on a global level to consumers and businesses alike.

IV. Consumer education and information

Improving and Centralising Marketplace Information

Online initiatives

Consumers Online

www.consumersonline.gov.au is the Government's 'one-stop-shop' for consumer information and is the first coordinated response at centralising consumer information in categories that are relevant to the consumer. Since its launch in May 1996, the Web site has averaged 2,500 hits per

day and was a semi-finalist in the Australian Financial Review Internet Awards 2000.

During 2001, the final year of the consumer information program, the Division will continue to develop www.consumersonline.gov.au and introduce initiatives to assist young consumers.

Offline initiatives

Consumer Dispute resolution schemes and Complaint Handling Organisations

In November 2000, the Government continued its successful directory of Consumer Dispute resolution schemes and Complaint Handling Organisations, which was delivered to community intermediaries and consumer organisations throughout Australia.

Targeted delivery of consumer information resources

During 2000, Consumer Affairs Division continued to fulfil its commitments under the three-year Consumer Information Programme. Honouring its commitment to target resources for disadvantaged consumers, the Government released *Country Focus*, a resource kit with information about issues affecting rural consumers. The Government also released *Attract More Customers*, a brochure for businesses that encouraged wider use of Internet and phone technologies to improve consumer choice in regional areas.

Publication reprints during 2000 included *Keeping Baby Safe*, *Safe Toys for Kids* and the *Little Black Book of Scams*.

ASIC Activities

In July 2000, ASIC released the discussion paper *Educating Financial Services Consumers*, as part of the consultation process for developing its consumer education strategy. ASIC's annual stakeholder forum in November also focused on consumer education issues. A final consumer education strategy will be released in 2001.

Specific consumer education initiatives during 2000 included:

- In March, the launch of a specific consumer website (Watchdog, subsequently renamed Fido, www.fido.asic.gov.au). Content on Fido is updated regularly and is continuing to expand.
- Continued promotion of the Gull Awards, containing true stories about outrageous financial scams submitted by consumers. The best 'Gull' each month wins a prize.
- Regular consumer alerts – including alerts on spam scams, share trading software, and tips for high tech investors.
- In December, launch of the Financial Information Directory, a comprehensive online catalogue of consumer education resources produced by consumer, industry and government organisations about financial products and services.
- Investor forums – public meetings that give information to consumers and investors about investing and other financial services issues.

ACCC activities

The ACCC has a continuing commitment to maintaining substantial information and guidance programs for the general community and, as needed, for specific target audiences. Legislative changes for example in relation to Australia's New Tax System, together with other recent developments in the economy, have considerably increased these responsibilities.

In 2000, a number of new publications were issued including:

- guidelines and related publications on the New Tax System pricing issues;
- guides to the ACCC's information gathering powers and its policies on using information in the course of regulatory and enforcement activities;
- guides to the application of the TPA to the real estate industry, travel promotion, country of origin claims and advertising in the health services industry.
- new procedural guidelines on the ACCC's public registers and its approach to confidentiality issues;
- plain language guidelines on the ACCC's new roles in energy, transport and telecommunications;
- a wide range of product safety publications;
- a special edition of the regular 'Update' publication in June 2000, focussing on e-commerce issues, including a checklist to help consumers assess web sites; and
- 'Internet Auctions', a brochure to educate consumers about the main risks associated with shopping at on-line auction sites.

In addition, the ACCC's Internet home page continues to grow rapidly and has become an important adjunct to the ACCC's range of paper publications. As well as basic information about the work of the ACCC, the site includes on-line versions of main publications, on-line text of media releases and other public statements, drafts and discussion papers on which public comments are sought and links to related sites.

In 2000 the ACCC also continued to give high priority to developing cooperative ventures with business, consumer and government organisations especially where they afford access to established networks or target audiences. In particular, the ACCC continued to devote significant resources to its small business outreach and New Tax System information programs to provide business with the information necessary to comply with the TPA.

V. Redress and complaints facilities

Consumer complaints and enquiries about goods and services purchased in Australia are generally handled by State and Territory government consumer affairs/fair trading agencies. These agencies deal with issues such as credit, door-to-door sales, refunds and exchanges. Other government bodies, such as the Small Claims Courts also provide dispute resolution services to consumers.

During 2000, the Government continued to produce its successful *Directory of Consumer Dispute Resolution Schemes and Complaint Handling Organisations*. The Directory is a practical reference guide for individual consumers and organisations that advise consumers and small business. It includes contact details and background on a wide range of dispute resolution schemes and complaint handling organisations, as well as State and Territory consumer affairs and fair trading agencies and industry associations.

A version of the directory is available at <http://www.consumersonline.gov.au>

In addition, the Government has committed to assessing how it can best support the development of effective dispute resolution mechanisms for electronic commerce.

ASIC activities

In 2000, ASIC approved the General Insurance Enquiries and Complaints scheme as an approved ADR scheme. The proposed Financial Services Reform Bill (tabled in Parliament in April 2001) will make it compulsory for financial services licensees that offer retail services to belong to an approved ADR scheme, so it is expected that the number of applications for approval will increase during 2001.

ACCC activities

'Slam a scam'

The ACCC has recently developed the capacity to receive complaints online about Internet traders that potentially breach the consumer protection principles in Part V of the TPA. The facility is an invaluable tool for monitoring trends in online behaviour, quick enforcement and educative responses to emerging issues and determining agency priorities for pro-active investigation in this sector.

The ACCC also encourages businesses to provide mechanisms for adequate and responsive complaint handling and industry based dispute resolution. Such mechanisms ensure that many disputes can be resolved without the need for ACCC involvement.

VI. Consumer issues related to other policy areas

Price exploitation under the New Tax System

The ACCC has a major role in relation to Australia's New Tax System arising from legislative amendments. These amendments give the ACCC transitional responsibilities to ensure consumers are not exposed to greater than necessary price rises from the introduction of the Goods and Services Tax and benefit from reductions in indirect tax.

During 2000, the ACCC worked closely with the Government, business and consumer associations to prevent profiteering and to monitor price movements. As part of this role, the

ACCC issued guidelines on the New Tax System and misleading conduct and pricing issues. The ACCC also developed a range of publications for business and consumers and was active in enforcement action against a number of businesses for misrepresentations and anticipatory price increases in relation to the New Tax System changes.

A particular recent focus has also been the ACCC's petrol price monitoring program. This program has involved extensive monitoring of around 4,000 retail petrol stations throughout Australia. The ACCC will continue to examine movements in prices over the coming months to seek to ensure that the fall in international prices and the improvement in the exchange rate is passed on to consumers.

Food regulation

The ACCC has made submissions to a number of the Australia New Zealand Food Authority (ANZFA) related reviews associated with a revised Food Standards Code. In particular, the ACCC participated in an expert advisory committee on Regulation and Enforcement of Health Claims and provided ongoing advice on competition issues in relation to the Draft Protocol for Compliance and Draft Amendments to Standard A18 – Foods Produced using Gene Technology.

The submissions made have centred on reduced reliance on prescriptive regulation, support for appropriate self-regulation, and the use of the TPA to provide universal base level protection to consumers and food producers / suppliers.

Competition law enforcement work

The competition provisions of the TPA are also critical to protecting the interests of consumers as it is recognised that anti-competitive conduct has the effect of reducing consumer choice and increasing prices. The ACCC was also active in enforcing the restrictive trade practices provisions of the TPA in 2000. Domestic and international cartel activity was a priority area. One major case in 2000 concerned market-sharing and price fixing arrangements in the installation of fire alarms and sprinklers. Evidence gathered in the case indicated that consumers paid in excess of 10 per cent more for the products in question due to the operation of the cartel. The Court awarded penalties totally \$A14 million. Competition issues in e-commerce are also becoming of increasing importance to the ACCC and will continue to be an area of interest in the future.

Electronic Competition Issues

The ACCC commenced policy research work, investigating the competition implications of B2B cooperative arrangements such as 'e-hubs'. Due to the rapid growth of the B2B side of the Internet, this is a priority for the ACCC.

Electronic Investigations

The ACCC has participated in Internet Investigations Training hosted by the Federal Trade Commission in the USA. The ACCC will be hosting training in the local State and Territory Fair Trading forums, and attending further training in computer forensics in order to develop a high level of expertise in this area. Basic forensic training will be given to all investigators in the ACCC in the long term, with an on-line training manual to be developed during 2001.