



## **Consumers' Federation of Australia: Consumer Policy Agenda 2013**

The Consumers Federation of Australia (CFA) is the peak body for Australia's consumer organisations. Our 39 organisation members and their members represent or provide services to millions of Australian consumers. There is a list of CFA member organisations at Appendix A.

Consumer organisations include membership based organisations, organisations that provide information, advice, counselling or assistance to consumers, and organisations that identify regulations or market features that harm consumer interests and propose solutions.

CFA and the named member organisations endorse the following broad Agenda for consumer policy in Australia for the 44th Parliament. We urge the incoming Commonwealth government to review this Agenda, engage with consumer advocates on the ideas presented, and implement enabling policies, regulation and legislation as opportunities arise or where urgency requires swift action.

The Agenda has three key themes

### **A. Consumers should be placed at the centre of all decision-making that affects their interests.**

A robust market economy recognises that it should achieve outcomes that are in the interests of consumers. This has been acknowledged by governments including in the National Energy Policy where the explicit goal of the National Electricity Market (NEM) is to promote the long-term interests of consumers. That approach should be extended to all sectors and mechanisms within and outside government strengthened to achieve it.

### **B. Consumers should have ready access to information, advice, assistance and avenues for dispute resolution**

While Australia has made great progress in access to better dispute resolution in some industries including financial services and communications, many consumers are left without adequate access to remedies for wrongful conduct by a business. Improvements are required in the legal assistance system, the provision of non-legal advice services including financial counselling and tenants advice, and in the establishment and refinement of dispute resolution schemes in key markets including motor vehicles.

### **C. Specific problems in particular industries should be fixed**

There are a number of key areas where CFA and its members have identified particular challenges for consumers across the goods and services spectrum. While not an exhaustive list, they represent the current area of focus for the sector and policy solutions that would improve outcomes for consumers.

## A. Put consumers at the centre of decision-making

### The Opportunity

Consumer interests are both diverse and diffuse. They are often drowned out on specific issues by the interests of a particular industry or business. Where this happens, government decisions may be taken that are counter to consumer interests, and may even fail to serve the national economic interest. For these reasons:

- Consumers require mechanisms for their interests to be given due weight in policy debate. For consumer interests to be given due weight, they require government agencies and non-government organisations with the mandate, access and resources to contribute to policy debates and solutions.
- There is likely to be a strong return on investment in recognising the value of information and input to policy development from front-line consumer services and advocacy organisations.
- Organisations that receive funding for the provision of community-based consumer services must be free to advocate for policy changes that benefit consumers, particularly vulnerable consumers, and those on low incomes.

Governments are sometimes tempted to discourage community voices where they are inconvenient in the short term, for example by prohibiting funded community organisations from speaking out on problems they identify while providing services. But community organisations such as financial counsellors, tenants' advocates and others are often best placed to identify and understand the dynamics of emerging or persistent consumer problems. Their advice can be critical to development of robust and fair government policy solutions; open public debate is part of effective policy development. Recognition of the value of their contribution to policy development, combined with public scrutiny of the process, is a mature and confident approach to community involvement and collaborative decision making. The Commonwealth can be a leader in this area as demonstrated for example by the recent adoption of the Not-For-Profit Sector Freedom to Advocate Act 2013 by the Commonwealth Parliament, which protects not-for-profit agencies against "gag clauses".

The terms of reference of major inquiries that impact on the economy and consumer policy generally or in industries providing essential services to consumers including financial services, communications, energy, food and health should include a focus on providing policy advice that serves the long-term interests of consumers. This is particularly critical for regulation reviews. A reduction in red tape should not be sought as an outcome in its own right, but should be balanced with the need to ensure that consumers do not suffer adverse consequences.

In selecting the members of an inquiry panel, every effort should be made to include those with consumer policy experience in the relevant market.

Inquiry budgets should make allocations to assist consumer organisations or representatives to provide submissions or other input into the inquiry.

### How this is achieved

1. Appoint a Minister for Consumer Affairs to ensure consumers have a strong advocate in the development of relevant government policy.
2. Implement the Productivity Commission recommendations to support the basic operating costs of a representative peak national consumer body and establish a national consumer policy research centre.
3. Value and protect community voices that speak up for consumer interests.
4. Ensure the consumer voice is heard as part of major inquiries that impact on consumers by including a person with consumer policy experience on the inquiry panel and providing financial support to consumer representatives to have input into the inquiry.

## **B. Ensure consumers have adequate access to advice, assistance and avenues for redress when faced with consumer problems**

### **The Opportunity**

In most jurisdictions it is difficult and expensive for low-income and vulnerable consumers, and even for many middle-income consumers, to gain access to legal advice and assistance in civil law consumer matters. Access varies across jurisdictions and by area of law. Consumers deserve consistent national access to good quality advice and information, no matter where they live, and assistance with access to justice where they are unable to afford legal advice and representation.

There are publicly funded consumer credit legal services in New South Wales, Victoria, Western Australia and the Australian Capital Territory, a general consumer legal advice centre in Victoria and a national insurance law legal advice service. However, demand outstrips capacity, and consumers do not have equal access across the country. This is a barrier to market efficiency, and can be addressed, at least in part, by Commonwealth intervention. Allocation of sufficient resources to provide for those consumers who cannot afford legal advice will help ensure that the market operates efficiently as it was intended.

Financial counselling is a critical part of this picture, and investment in the sector peak body, Financial Counselling Australia, will avoid many of the social problems associated with chronic debt and hardship. A rolling three-year commitment to national funding for financial counselling, at the current level of funding, is a critical underpinning of an essential social service.

### **How this is achieved**

5. Ensure provision of adequate civil legal services, including community legal centres, with sustainable Commonwealth funding.
6. Create a national network of legal services to provide advice in consumer matters including consumer financial services.
7. Maintain funding for financial counselling services and the national peak body for financial counselling.
8. Ensure a national system of accessible dispute resolution services for motor vehicle disputes (sales and repairs).
9. Ensure there are effective, properly resourced, government-funded Alternative Dispute Resolution (ADR) mechanisms to deal consistently with all consumer complaints not covered by industry-based ombudsmen as recommended by the Productivity Commission in 2008.

## **C. Consumer Protection: sectors of interest**

### **Retail**

#### **The Opportunity**

A marketplace in which informed consumers have the capacity to activate competition through their choices is essential for an efficient economy and to maximise consumer welfare. There are significant problems in parts of both the “bricks and mortar” and online spheres which warrant intervention to promote better competition.

#### *In the supermarket*

Australia’s supermarket sector continues to consolidate, as the major supermarkets extend their reach through new products and aggressive marketing. While consumers stand to benefit from lower prices on selected items, current trends raise concerns about consumer choice and price-based competition into the medium term.

### *Online*

While online retail remains a relatively small proportion of total spending, it is rapidly growing. This presents challenges for Australian consumers in how they interact with online businesses, and also in changing regulations, for example proposals to reduce the threshold at which GST is applied to imports. Online retail has also made the higher prices faced by Australian consumers more apparent, particularly for digital products and services that are identical across borders. The emerging global marketplace for products such as music and movie downloads and software also presents opportunities for Australians to circumvent the virtual walls that sustain higher prices.

### *Unit pricing*

Unit pricing was introduced in supermarkets in 2009 and has provided benefits for consumers. However the present compulsory grocery unit pricing scheme for large supermarkets can be improved by better enforcing the current regulations, where appropriate modifying them, and by extending and improving consumer education. These benefits can be further extended by requiring large hardware stores and large chemist stores to also provide unit price info for relevant packaged products but excluding prescription products.

## **How this is achieved**

10. Undertake continued monitoring of competition in the supermarket sector and ensure that any future regulatory changes promote genuine competition to benefit consumers.
11. Increase consumer access to legitimate cheaper products online through legislative reforms and education on consumers' rights to get around the geo-blocking that sustains higher prices in the Australian market, in line with the recommendations of the Federal Parliament's recent IT pricing inquiry.
12. Ensure Australian consumers are not subject to punitive and disproportionate impacts through the collection of GST on imported goods.
13. Undertake an investigation into the successful grocery unit pricing scheme to consider opportunities to:
  - a. increase the benefits of unit pricing by expanding it to a wider range of retailers and products, including to non-prescription products sold in chemist shops and to hardware stores; and
  - b. increase the usefulness to consumers of unit pricing provided by grocery retailers under the Grocery Unit Pricing Code, including requiring minimum font sizes.

## **Communications**

### **The Opportunity**

Effective communications systems underpin both private and commercial life. They and the products and services made possible by new Information and Communications Technology (ICT) are an increasingly important source of value to all consumers. New ICT services also have an important role in improving both commercial and government services to many in the population. Increased disability access and eHealth are just two of many examples.

There are many important consumer issues in this rapidly changing industry. We have singled out three:

Despite the proliferation of alternatives, fixed line voice telephone communication remains very important to consumers. There is no guarantee that fixed line voice quality over the NBN will be as good as current services. Enforceable standards are required to ensure consumers who rely on fixed line voice services are not worse off as their services are transferred from the existing copper network to the NBN fibre network.

Retailers should be required to make rate plans available in machine readable form, and to provide consumers with their usage data in machine readable form on request. These reforms would enable a market to develop in comparison services that would promote competition.

Australia's current copyright regime is outdated and restrictive, denying consumers many reasonable uses of content they legitimately own, and failing to keep pace with new technologies. The Australian Law Re-

form Commission is reviewing Australia's copyright law and has proposed moving to a 'Fair Use' approach that would fairly reward copyright holders without unfairly restricting consumer rights or holding back new technologies.

## How this is achieved

14. Set binding standards for quality of voice calls under NBN.
15. Make it easier for consumers to compare telecommunications plans and find the best deal for their circumstances.
16. Reform Australia's copyright law by moving to a 'Fair Use' approach that fairly rewards copyright holders without unfairly restricting consumers' reasonable use of the content they own or holding back new technologies.

## The financial services system

### The Opportunity

It is fifteen years since the Wallis Inquiry into Australia's financial system. Now is the time for another independent review to revisit the overall policy settings of the financial system, and ensure that consumer interests and outcomes are central to policy and practice.

While Australia did not experience the global financial crisis to the extent of other developed economies, many consumers and investors lost money, and the banking sector became more concentrated. Despite the recent wave of consumer banking reforms aimed at increasing consumer mobility, Australians are still not switching products in significant numbers, particularly beyond the big four banks.

There are a range of important issues facing consumers in financial services, some of which should be addressed as part of the recommended review while others could be the subject of more immediate policy action.

It has become evident in a number of sectors including managed investments and financial advice that product disclosure is insufficient to protect consumer interests.

Recent collapses of debenture companies and other similar schemes indicate a need to better protect consumers and investors, particularly so that these schemes are regulated to the same level as banks where the product is similar.

Superannuation is compulsory, increasingly complex and confusing. It is vital to quality of life in retirement, and given demographic shifts, the quality of living standards of retirees will increasingly define living standards for Australia as a nation.

Given the low levels of engagement with super and the vulnerability of retirees as a group, a well-resourced national consumer organisation with responsibilities for consumer education, advice, referral, and consumer research and policy in relation to the superannuation system would significantly improve consumer outcomes.

The significant take-up of self-managed superannuation funds highlights the lack of consumer protections, such as compensation where there is fraud or theft, compared to retail and industry superannuation funds.

There is a need to ensure that consumer protections are sufficient in the face of evolving markets in areas such as consumer credit, insurance and banking.

Despite recent Reserve Bank rules aimed at limiting credit card surcharges, consumers continue to pay credit card fees well in excess of transaction costs. A national regulator should be empowered to enforce and monitor credit card surcharges to ensure they are reduced to reflect the reasonable costs of transactions.

There should also be a review of component pricing to ensure consumers are able to purchase products at the advertised price using an accessible, convenient payment method, without hidden fees.

## How this is achieved

17. Conduct a review of the financial services system that is balanced and effective including by having consumer interests as a core term of reference, and through having at least one person with expertise in consumer financial markets and an understanding of their impact on consumers appointed to the review body.
18. As part of its wider remit, the Review should be asked to provide advice on the adequacy of relevant regulators' enforcement powers.
19. Promote competition in banking by increasing consumer mobility, accelerating the move to electronic signatures for account switching and revisiting the case for full bank account portability.
20. Empower and resource a national regulator to enforce and monitor limits to credit card surcharges, ensuring they reflect the reasonable costs of using credit cards, and review component pricing to ensure consumers can access goods at the advertised price free of hidden costs.
21. Build on the success of the National Consumer Credit Code by:
  - a. Introducing consistent national debt collection laws that protect consumers ensuring that they are set at no less than the highest standards currently available under state and territory laws;
  - b. Reforming regulation of consumer leases to require lessors to properly disclose the cost of leases and remove unnecessary exemptions for short term and indefinite leases;
  - c. including a general anti-avoidance provision in the Credit Code.
22. Provision of significant capital funding for a new national superannuation consumer centre that would provide consumer education, advice and referral to individual consumers, and provide government with input to policy development arising from the centre's engagement with consumers and research.
23. Protect investors and retirees through regulation of managed investments schemes, mortgage funds, debentures and similar schemes comparable to banking industry regulation, and proper disclosure of the protections lost when going from an APRA-regulated super fund to a self managed super funds.
24. Protect consumers and potential consumers of insurance by:
  - a. a. Implementing the recommendations of the Natural Disaster Insurance Review, particularly the establishment of a national flood risk management framework and to operate a system of premium discounts and a flood risk reinsurance facility, supported by a funding guarantee from the Commonwealth;
  - b. b. Extending unfair contract terms protections to insurance contracts;
  - c. c. Implementing consumer protection in relation to insurance and genetic testing, similar to UK legislation;
  - d. d. Improving access to affordable home and contents insurance regardless of where you live or housing type including by exploring ways to evaluate and act on the recommendations of the pilot for community development insurance/micro-insurance.

## Energy

### The Opportunity

Most studies forecast that household energy prices will continue to rise, impacted by a range of factors including network costs and wholesale prices. Energy bills form a disproportionately high slice of the outgoings of low-income and vulnerable consumers. The National Electricity Market (NEM) is complex, and that complexity is increasing, making it virtually impossible for consumers to engage with the market as it was intended, to ensure only the best products and services would survive. Better market regulation could make it easier for consumers to compare energy plans and tariffs, and find the best deal for their circumstances, thus better meeting the NEM's goal of maximising consumers' interests.

Energy retailers, as providers of an essential service, need a social licence to operate. Their business models must consider the needs of all consumers, particularly those with a limited, and in some cases declining, capacity to pay. This will require government oversight through regulation to ensure provision of essential energy services no matter the personal circumstance of the consumer, with particular sensitivity to those experiencing long-term financial hardship.

Numerous inquiries have found that better regulation of monopoly elements of supply is needed, including appeals mechanisms.

## How this is achieved

25. Empower consumers to make good choices about their energy usage/costs.
26. Require energy retailers to assist households in becoming more energy efficient.
27. Retain and improve current regulations for energy efficiency and demand-side participation.
28. Ensure all Australians on low incomes receive equal assistance with their electricity and gas bills, and remove inconsistencies between States and Territories on concessions and rebates.
29. Act on the recommendations from the Expert Panel on limited merits review, and particularly the recommendation for a fairer and more efficient framework for review of electricity and gas distribution network pricing decisions.
30. Proceed with the establishment of a National Energy Advocacy Body as currently approved in principle by the Standing Committee on Energy and Resources following further consultation with consumer advocacy organisations.

## Ethical and sustainable consumption

### The Opportunity

Consumers have the right to choose the goods and services that meet their needs, and that includes making choices which go beyond consideration of price and quality and consider the impacts associated with the production and consumption of those goods and services. Research suggests that more than 80% of Australian consumers would like to take account of environmental sustainability, social sustainability and/or animal interests when they make their purchasing decisions.

Policy settings should ensure that provision of accurate information to consumers is prioritised, and is readily available to consumers who need it. Consumer confidence is at risk where ethical claims are inconsistent or misleading, and that risk to confidence will often justify intervention such as mandatory standards and/or enforcement action.

Free-range products have emerged as a particular area of consumer concern in regards to ethical consumption, particularly around free-range egg standards. Free range eggs are the fastest-growing category in the egg market, making up close to 40% of all sales, but the lack of an agreed, national and enforceable definition means that there is no consistency in free range standards. This means consumers who buy these products can't have confidence they are getting what they pay for.

### How this is achieved

31. Ensure consumers have access to clear information about ethical, environmental and safety features of products allowing them to make choices consistent with their preferences.
32. Create a mandatory national standard for free-range eggs that is based on robust, independent evidence and supported by animal welfare experts.

## Food

### The Opportunity

Consumers should be able to access safe, nutritious and affordable food, and make informed choices about what they eat. However, food labelling is either insufficient or confusing in a range of areas. Food origin is a priority concern for many consumers. Although country of origin labelling is mandatory for most food for retail sale, the terminology used is generally vague and poorly understood by consumers. Front of pack nutrition labelling is also a priority and there is a strong consumer demand for interpretive labelling that translates the complex, numerical information on the back of pack into a format that appears on the front of pack and can be easily understood, at-a-glance. A star rating system has been developed that is backed by key government, consumer and public health stakeholders but will only be valuable to consumers if it is adopted widely by industry or mandated by government.

Regulation of health and nutrition claims on food products is critical to ensure consumers are not misled. While a new government standard will ensure that health claims are restricted to healthy foods, nutrition claims can continue to be made on products that are high in saturated fat, sugar and sodium. Another problem with the new standard is that companies can determine whether there is sufficient evidence behind new health claims with no scrutiny by the food standards agency.

### How this is achieved

33. Clearer and more meaningful terminology for food country of origin labelling.
34. Widespread and consistent introduction of interpretive front of pack nutrition labelling.
35. Improved regulation of health and nutrition claims on food products.
36. Consistent, national and enforceable standards for organic food.
37. Mandatory labelling of palm oil as an ingredient in food.

## Housing

### The Opportunity

The cost of housing is the single biggest cost of living issue in Australia today. Compared to other expenditure items, housing costs comprise the biggest share of household budgets – accounting for 18 per cent of household spending on average. While the average household expenditure is 18 per cent, over 720,000 low-to-middle-income households pay more than 30 per cent of their income in housing – what we call ‘housing stress’, and more than 460,000 households spend more than half their income on housing costs. The high cost of housing puts pressure on other areas of essential spending, like food, healthcare, transport and the costs of education. There is simply not enough low-cost rental housing in Australia. Between 1997 and 2007 the number of public housing properties in Australia shrunk by 30,000. During this same time the population grew by over 2 million. Despite the significant, but one-off investment in social housing through the Nation Building Stimulus package, Australia still has fewer public housing units than in 1996. Overall there is less low-cost rental housing to go around.

### How this is achieved

38. Make affordable housing a key goal of government policy and act on that goal with strategies to address rental affordability and change the housing investment tax arrangements that drive up house prices.
39. Provide adequate funding for tenancy advice and advocacy services in all jurisdictions.
40. Establish a national network of Homeless Persons’ Legal Services that are accessible to all homeless people.

## **Legal services**

### **The Opportunity**

The regulation of legal services is not uniform, and largely focuses on the needs of the profession rather than the needs of consumers. This has given rise to a number of problems from a consumer perspective.

The dispute resolution system is confused and inaccessible, and rarely sufficiently independent from professional associations. It is not consistent with the well-established decision-making principle of “fair and reasonable in the circumstances”, does not provide sufficient avenues of advice for consumers and has no capacity to address systemic failure to comply with legal and professional requirements. Disciplinary action focuses on the individual practitioner, and generally ignores systemic issues such as processes, management style, or tasks given to inexperienced legal staff by a firm which may be the source of the problems.

In most States and Territories fidelity funds exclude cover for any funds provided to solicitors for investment purposes and have significant discretion, for example in relation to maximum amounts paid or whether a claimant must take legal action to recover monies first.

### **How this is achieved**

41. Establish a national legal services ombudsman as part of a package of measures to achieve better resolution of complaints against legal practitioners and with powers to identify and tackle systemic issues.
42. Set a national minimum standard for legal profession fidelity funds.

## Appendix A: CFA Member Organisations

The following are the full voting members of Consumers Federation of Australia. CFA also has a number of associate organisation members and individual members. The organisations marked with an asterisk have specifically endorsed this statement. Further endorsements will be indicated on our web site at [www.consumersfederation.org.au/election2013](http://www.consumersfederation.org.au/election2013).

- Australian Consumer Communications Action Network\*
- Australian Privacy Foundation
- Brotherhood of St Laurence
- Cairns Community Legal Centre
- Caxton Legal Centre
- Centacare Catholic Family Services
- CHOICE\*
- Consumer Action Law Centre\*
- Consumer Credit Legal Service WA
- Consumers Association of South Australia\*
- Consumers Utilities Advocacy Centre\*
- Darwin Community Legal Service
- Ethical Consumers Australia\*
- Financial and Consumer Rights Council
- Financial Counselling Australia
- Financial Counselling Hunter Valley Project
- Financial Counselling Service and Consumer Law Centre of ACT (CARE Inc)
- Financial Counsellors Association of QLD
- Hobart Community Legal Service
- Home Economics Institute of Australia QLD
- Illawarra Legal Centre
- Incolink Foundation Fund
- Indigenous Consumer Assistance Network
- National Association of Community Legal Centres (NACLC)\*
- National Information Centre on Retirement Investments
- Public Interest Advocacy Centre
- Public Transport Users Association
- Queensland Consumers' Association\*
- Redfern Legal Centre
- Salvation Army Moneycare
- South Australian Financial Councillors Association
- Tasmanian Council of Social Service
- Townsville Community Legal Service
- WA Council of Social Service