



# ACCI POLICY STATEMENT

## CONSUMER PROTECTION POLICY

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Commerce and industry recognises that consumer protection laws, policies and practices limit fraudulent, misleading and unfair commercial conduct thereby helping to build consumer confidence. This enhances the relationship between businesses and consumers in commercial transactions and results in increased business to consumer activity. For this reason business supports the need for consumer protection policies which provide consumers with valuable information regarding the products they are purchasing and protection from unfair behaviour.

There are four key elements to providing a balanced consumer protection framework:

- information - consumers need relevant and reliable information to make informed decisions about available products and services;
- protection - consumers must feel that the Government has in place a legal framework that will protect them from those who may treat them unfairly;
- redress - consumers must also have ready access to redress for occasions when disputes arise about whether a deal has been fair; and
- cost - minimal compliance costs should be imposed on business.

### PRINCIPLES OF CONSUMER PROTECTION

ACCI's overall objective is to achieve consumer protection policies which are consistent with the following principles:

- capable of producing favourable consumer outcomes by ensuring that consumers are not misled, deceived or harmed as a result of products or advertising;
- designed to make the market even more competitive by:
  - providing no undue restrictions on market participants or the products they offer;
  - ensuring markets are open to the widest possible participants; and
  - addressing information and transaction cost problems.
- focused so that it provides protection to consumers in a cost-effective way without unduly impacting on the competitive process and, where it does, to be subject to a public benefit test. A cost-effective regulatory system requires:
  - a presumption in favour of minimal regulation; and
  - an allocation of functions amongst regulatory bodies which minimises overlaps, duplication and conflicts.
- any regulatory framework must have the flexibility to cope with changing institutional and product structures without losing its effectiveness; and

- the appropriate regulatory agencies should be accountable and subject to regulatory reviews of efficiency and effectiveness.

## POLICY OBJECTIVES

The policy objectives of consumer protection laws and regulations should be to ensure that consumers are not misled, deceived or harmed as a result of a commercial transaction.

Consumers therefore have the right to expect:

- certain quality, performance and safety standards from goods and services purchased;
- protection from misleading and deceiving practices such as false advertising claims; and
- information provided with goods and services to be accurate and instruct the safe use of the product.

Wherever possible non-regulatory or co-regulatory options should be explored as alternative models for intervention. Where regulatory approaches to consumer protection are deemed necessary, the design of such models should aim to minimise the costs involved to business and deliver tangible benefits to the consumer.

Within this framework, commerce and industry supports a regulatory framework that provides consumers with adequate protection but believes it essential that this protection be balanced with the needs of business. This includes a need for regulation to be effective and flexible.

To achieve this balance it is essential that:

- governments recognise that most businesses have an incentive not to intentionally mislead or deceive consumers;
- before new consumer polices are introduced, or existing regulations amended, there is a need for extensive consultation with business to ensure that the changes will achieve the desired outcome and will not impose undue costs on business and therefore upon consumers. It is also essential that a Regulatory Impact Statement be conducted at the earliest stage of policy development in respect to any changes; and
- business not be required to provide information to regulatory agencies about their ingredients or production methods unless these activities or ingredients have been deemed unsafe, or that by providing information about a process that this will assist consumers to make a more informed choice.

## THE POLICY FRAMEWORK

The Australian Competition and Consumer Commission (ACCC) is currently responsible for administering the *Trade Practices Act 1974* and the *Prices Surveillance Act 1983*. The Acts cover anti-competitive and unfair market practices, mergers or acquisitions of companies, product safety/liability and third party access to facilities of national significance.

The ACCC's role in consumer protection, however, is as a regulator and an enforcement agency. The ACCC therefore should not have responsibility for the development of consumer protection policies. It is a fundamental principle of good government that there be a clear division of responsibility between regulatory agencies and those agencies responsible for policy development. Moreover, it is a conflict of interests for the same agency to be responsible for developing laws and regulations as well as enforcing those laws.

There can be no justification for regulation of prices or interference in a competitive market by an external regulatory body. Businesses, where they are constrained by competition, should be free to offer goods and services for sale at the prices that they determine. However, where there exists a monopoly or a significant degree of market power limited

intervention to promote competition, or to deter the abuse of that power, by a regulatory body may be justified.

Business also expects a balanced, transparent and equitable approach from the enforcement agency. Moreover, a high degree of regulation has the potential to significantly deter international investment in Australia. Wherever possible the ACCC should adopt an educative approach and facilitate good practice, rather than ‘trial by media’ or adopting a ‘name and shame’ approach to enforcement.

## Competition

National Competition Policy (NCP) remains a key element of Australia’s microeconomic reform strategy, oriented towards reducing, if not eliminating, unjustifiable barriers to competitive efficiency.

Business acknowledges the NCP guiding principles recognise restraints on competition can lead to net public benefit, although these first must be subject to examination in open, transparent, rigorous public inquiry processes.

In determining ‘public benefit/interest’ ACCI regards the primary considerations as international competitiveness and economic efficiency and growth. However, ACCI notes other considerations identified in the Competition Principles Agreement include sustainable development, social welfare and equity, industrial relations, regional development and the interests of consumers.

ACCI supports the National Competition Policy framework as an integral part of Australia’s essential microeconomic reform process. The framework ensures that consumers are provided with an efficient and market priced service or product. It also ensures that anti-competitive regulatory regimes are reviewed and only retained where there is a demonstrable public interest benefit.

Furthermore, in a competitive environment the free operation of an economic system will generally ensure efficient allocation of productive resources, production of high quality goods and services and the lowest possible prices for consumers. However, despite the obvious disadvantages associated with excessive regulation, in markets characterised by a lack of competition or monopoly power, there can be a limited case made for regulation designed to promote competition or to deter the abuse of power.

## Product Standards

The adoption of mandatory standards should be limited to instances where there is an issue of public health and safety and should not occur without extensive consultation with industry to ensure that this is the most appropriate method of achieving the desired outcome. Industry is supportive of the development of product standards as a method of providing consumer protection. Mandatory standards, in some circumstances, can also be an effective method of ensuring consumers are accorded minimum product safety.

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