

SECOND READING SPEECH

Australian Consumer Law (Tasmania) Bill 2010

Mr Speaker, I move that the *Australian Consumer Law (Tasmania) Bill 2010* be read a second time.

On 11 December 2006, the Productivity Commission commenced an inquiry into Australia's consumer policy framework. The Commission was asked to report on:

- ways to improve the coordination of consumer policy development; and
- the 'harmonisation' of consumer laws and their administration across jurisdictions; and the removal of regulatory duplication and inconsistency.

The Productivity Commission presented its final report in April 2008 and recommended the introduction of a single national generic consumer law.

On 2 October 2008, the Council of Australian Governments (COAG) agreed to a new consumer policy framework comprising:

- a single national consumer law (based on the existing consumer and product safety divisions of the *Trade Practices Act 1974*); and
- best practice in state and territory consumer laws.

In July 2009, the Tasmania Premier signed an Intergovernmental Agreement to implement the new Australian Consumer Law. The Agreement also sets out a process to ensure that the law and enforcement remain consistent across jurisdictions.

Mr Speaker, the *Australian Consumer Law (Tasmania) Bill 2010* gives effect to one of the most significant consumer law reforms in Australia's history.

For the first time, consumer law will be identical across the Commonwealth and in all states and territories and will treat Australia as a single market.

Earlier this year the Commonwealth Parliament passed two Acts establishing the Australian Consumer Law:

- the *Trade Practices Amendment (Australian Consumer Law) Act (No.1) 2010*, which received Royal Assent on 14 April 2010; and
- the *Trade Practices Amendment (Australian Consumer Law) Act (No.2) 2010*, which received Royal Assent on 13 July 2010.

The second of these Commonwealth Acts renames the *Trade Practices Act 1974* as the *Competition and Consumer Act 2010*. It will commence on 1 January 2011.

The Australian Consumer Law is a 'template' law which exists as Schedule 2 of the *Competition and Consumer Act 2010* of the Commonwealth.

The Australian Consumer Law (Tasmania) Bill will 'apply' this template law as a law of Tasmania, ensuring that the new law is applied consistently across Australia.

Mr Speaker, I will now outline the main features of the Australian Consumer Law.

The Australian Consumer Law (ACL) includes the existing consumer and product safety provisions in the Commonwealth's *Trade Practices Act (TPA)*.

These provisions of the TPA mirror Tasmania's current consumer protection laws which prohibit misleading or deceptive conduct, unconscionable conduct, false or misleading representations, unsolicited sales, pyramid schemes and harassment and coercion.

These existing safeguards, have been modified, where necessary, to reflect best practice. However, consumer protection laws

have been significantly 'enhanced' under the Australian Consumer Law.

Comment [a1]: Not sure why underlined or "enhanced" is in quotes

- The ACL extends consumer protection for 'unfair contract terms' in a similar form to law currently available to consumers in Victoria. For the first time, Tasmanian consumers will have protection from unfair contract terms. Consumers and regulators will be able to take action against contract terms that cause detriment or a substantial likelihood of detriment to consumers.

The unfair contract terms provisions will apply to 'standard-form contracts' like those consumers use to sign for their utilities, mobile phones and bank accounts.

- The ACL establishes a new 'guarantee regime' based on New Zealand legislation and experience. These new statutory guarantees replace the existing system of implied conditions and warranties.

When a consumer buys goods or services, the ACL will provide that they have guaranteed rights, for example:

- that the supplier has the right to sell the goods;
- that the goods are of acceptable quality; and match their description; and
- that repairs and spare parts are reasonably available.

The ACL also provides guarantees with respect to the supply of services:

- that the services are carried out with due care and skill.
- that services are fit for the purpose that the consumer makes known to the supplier; and
- that services will be provided within a reasonable time.

Remedies will be available to consumers where goods or services fail to meet these guarantees, including refunds, repairs and replacements. In certain circumstances damages will also be available against suppliers and manufacturers.

The new requirements also apply to representations that businesses may make about consumer guarantees, ensuring that consumers receive accurate information and can make effective choices.

- The ACL will include new rules that apply to 'lay-by' sale agreements. These new rules will cover the basic elements of lay-by transactions and will be new law in Tasmania.
- Under the ACL, consumers will be entitled to receive evidence of their transactions in the form of a written receipt.

Businesses will be required to provide consumers with a proof of transaction for transactions over \$75 or upon request for lesser amounts. If a consumer requests it, a business will also be required to provide an itemised bill for services.

- The laws in relation to 'door to door' trading and other forms of direct selling have also been improved by the ACL. Importantly, door-to-door salespeople will be banned from contacting households after 6.00 p.m. The door to door trading hours in Tasmania currently extend to 8.00 p.m.

The ACL contains provisions that harmonise the product safety regime for consumer goods and services related to the supply, installation or maintenance of consumer goods.

The Australian Consumer Law includes enforcement powers and remedies which will also operate in Tasmania. A national approach will be taken to the enforcement of the Australian Consumer Law between the State Fair Trading Offices and the Australian Competition and Consumer Commission.

Mr Speaker, implementation of the new Australian Consumer Law will deliver significant benefits for Tasmanian consumers:

- enhanced consumer protection and fair trading laws;
- enhanced enforcement powers and redress mechanisms; and
- a new national product safety regime.

Under the *National Partnership Agreement* to deliver a 'Seamless National Economy', all jurisdictions have agreed to commence the ACL no later than 1 January 2011.

The implementation of the Australian Consumer Law from 1 January 2011 will fulfil Tasmania's commitment under the National Partnership Agreement.

Comment [a2]: Little awkward?

Implementation will move Australia closer to a key element of the Council of Australian Governments' national business and regulatory reform agenda, which is the realisation of a 'Seamless National Economy'.

Mr Speaker, I commend the *Australian Consumer Law (Tasmania) Bill 2010* to the House.

