



10 February 2022

SUBMISSION ON DECEMBER 2021 CONSULTATION REGULATION
IMPACT STATEMENT ON:
IMPROVING THE EFFECTIVENESS OF THE CONSUMER GUARANTEE
AND SUPPLIER INDEMNIFICATION PROVISIONS UNDER THE
AUSTRALIAN CONSUMER LAW

BACKGROUND

The Queensland Consumers' Association (the Association) is a non-profit organisation established over 40 years ago and which exists to advance the interests of Queensland consumers. The Association's members work in a voluntary capacity and specialise in particular policy areas.

The Association is a member of the Consumers' Federation of Australia, the peak body for Australian consumer groups, and works closely with many other consumer and community groups.

The Association has a particular interest in the resolution of consumer disputes with businesses and welcomes the opportunity to participate in this important consultation.

The contact person is Ian Jarratt, email ijarratt@australiainmail.com

COMMENTS

General

The Association:

- Emphasises the need for any reforms proposed in the Decision-making Regulatory Impact Statement (DRIS) to adequately address consumer needs with failures in the supply of **services** as well as goods and notes that Part B of the Consultation Regulatory Impact Statement (CRIS) largely addresses the supply of **goods**.
- Notes that in addition to the reforms in relation to receiving remedies addressed in the CRIS there is also an urgent need to improve the availability of effective assistance for consumers unable to obtain satisfaction when dealing with businesses themselves. Consumers need much more, and better, help with dealing with disputes from ACL regulators and there is great scope and need for the establishment of more ombudsman schemes. This is a matter of equity in correcting the imbalance of power between consumers and businesses.
- Considers that any legislative changes should include a specific requirement that a public review of their effectiveness be undertaken within 3 years of the full commencement of the changes.

CRIS Policy Options

The Association's views are:

Part A: Receiving remedies policy options

Option 1 - Retain Status Quo

NOT SUPPORTED

Option 2 - No change in legislation but an education and guidance campaign for suppliers, manufacturers and consumers

And could apply either: 1. economy wide, or 2. just related to new motor vehicles

NOT SUPPORTED BUT IF ADOPTED SHOULD BE ECONOMY WIDE

Option 3 - Changing the legislation to prohibit not providing a remedy for consumer guarantee failures, supported by penalties and other enforcement mechanisms

And could apply either: 1. economy wide, or 2. just related to new motor vehicles

SUPPORTED AND SHOULD BE APPLIED ECONOMY WIDE. IT SHOULD ALSO BE ACCOMPANIED BY AN EDUCATION AND GUIDANCE CAMPAIGN FOR SUPPLIERS, MANUFACTURERS AND CONSUMERS.

Just targeting new motor vehicles fails to recognise that consumers also have guarantee problems with many other expensive and complicated purchases such as used motor vehicles, boats, caravans, holidays, travel, etc. Building and construction work is also a major guarantee problem area that is not fully covered by industry specific legislation. For example, in Queensland building work in residential buildings more than 3 stories high (or of a value below \$3,300) is not covered by the Home Warranty Scheme and consumer complaints must be pursued elsewhere.

To maximise the impact of any legislative changes there should also be an education and guidance campaign for suppliers, manufacturers and consumers.

The Association notes that it is proposed that this Option would only apply to "major failures" yet there is very limited discussion in the CRIS of the implications of making the scope so limited. The Association's preference is for the option to apply to any type of failure.

Part B: Supplier indemnification policy options

It is not clear from the CRIS whether Options 2, 3 and 4 would apply to indemnification of all types of ACL guarantee remedies or only to "major failures". The Association has assumed that it would apply to all types.

Option 1 - Retain Status Quo

NOT SUPPORTED

Option 2 - Education and guidance campaign

And could apply either: 1. economy wide, or 2. just related to new motor vehicles

NOT SUPPORTED BUT IF ADOPTED SHOULD BE ECONOMY WIDE

N.B. Regarding Options 3 and 4, we consider that **BOTH** should be implemented because both would be very beneficial and address different needs.

Option 3 -- A prohibition against not indemnifying suppliers, supported by penalties and other enforcement mechanism

SUPPORTED AND SHOULD BE APPLIED ECONOMY WIDE

Option 4 - A prohibition against manufacturers retaliating against suppliers who request indemnification

SUPPORTED AND SHOULD BE APPLIED ECONOMY WIDE