

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates

13 – 14 February 2013

Question: AET 124-126

Topic: Australian Consumer Laws

Written: Received from Committee – 22 February 2013

Senator RYAN asked:

124. What is the enforcement record since the implementation of the ACL in terms of the nature of types of breaches, product and service types and enforcement action/investigations consequence for the ACCC and state/territory consumer affairs agencies enforcing the ACL?
125. Where 'systemic breaches', cross-jurisdictional complaints or concerns with the ACL framework have arisen as is where the Commission advises it does it work, what corrective action has the Commission recommended or taken and/or what consequences have arisen resulting from verified concerns?
126. What are the exact statistics on the amount of warranty and refund complaints the ACCC and consumer affairs agencies have received in 2006, 2007, 2008, 2009, 2010 and 2011? Did this amount increase or decrease with the implementation of the ACL?

Answer:

124. The following ACCC enforcement outcomes have been achieved since the commencement of the Australian Consumer Law (ACL) on 1 January 2011:
 - The Federal Court has awarded civil pecuniary penalties of almost \$22 million in relation to consumer protection and fair trade proceedings under the ACL.
 - 103 Infringement Notices issued. Of these,
 - 95 have been paid, with over \$620,000 in infringement notice penalties paid.
 - 2 infringement notices were withdrawn (1 being re-issued)
 - 6 were not paid by the compliance date.
 - Two public warning notices have been issued.
 - Ten substantiation notices have been issued in relation to five matters.
 - Disqualification orders have been obtained against two individuals.
 - Non party redress has been obtained in relation to one court proceeding.
 - 44 traders have been served with Audit Notices in relation to 33 franchisors and 11 horticulture traders.

This information relates to enforcement action undertaken by the ACCC and does not reflect all enforcement activities being undertaken by ACL regulators in relation to country of origin issues. The ACL commenced on 1 January 2011, and is administered and enforced jointly by the ACCC and the State and Territory consumer protection agencies, with the involvement of ASIC on relevant matters.

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125. Questions concerning the ACL framework are policy matters for Treasury. ACL Regulators have the opportunity to raise issues with the ACL framework through various fora, including the Policy and Research Advisory Committee (PRAC), COAG Legislative and Governance Forum on Consumer Affairs (CAF) and Consumer Affairs Australia and New Zealand (CAANZ).

A report on the Implementation of the Australian Consumer Law for the period 2011-12 is available online at http://www.consumerlaw.gov.au/content/Content.aspx?doc=the_acl/implementation.htm. This report provides an update on the work of the Commonwealth and the states and territories in implementing, strengthening and improving the ACL. The report highlights the enhanced coordination between consumer agencies and consistent approaches to consumer issues, in accordance with the *National Consumer Policy Objective*, which was agreed by MCCA (now the COAG Legislative and Governance Forum on Consumer Affairs CAF) on 3 December 2009.

126. Consumer guarantee and warranty and refund (pre 2011) contacts received by the ACCC for the period 2006 – 2012 are provided in the table below.

Contacts	2006	2007	2008	2009	2010	2011	2012
Consumer warranties or guarantees	5,856	7,373	8,845	10,103	10,447	13,132	19,900
Total ACCC contacts	44,212	60,222	74,299	79,442	98,758	146,408	165,536
Proportion of total contacts	13%	12%	12%	13%	11%	9%	12%

Different data recording systems in State and Territory ACL regulatory agencies mean it is difficult to accurately compare cross-jurisdictional data. The ACCC does not maintain detailed statistics from state and territory ACL regulators.

The consumer guarantees provisions of the ACL commenced on 1 January 2011 replacing existing provisions relating to warranty and refunds. Overall consumer guarantees contacts have increased since the inception of the ACL provisions.