

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates

13 – 14 February 2013

Question: AET 127-130

Topic: Right to Repair/Lemon Laws

Written: Received from Committee – 22 February 2013

Senator RYAN asked:

127. Since the commencement of the ACL, how many complaints has the ACCC received from consumers about defective where a 'lemon law' might result in the consumer being permitted to return the goods?
128. Have sellers generally made a concerted effort to remedy any product defects? Is there a need for 'right to repair' provisions for significant durable consumer goods?
129. What does the ACCC perceive to be the pros and cons of an implementation of 'lemon laws' and/or 'right to repair' provisions with respect to cars? Have and with whom has the Commission been consulting with in relations to these propositions?
130. Does the ACCC perceive the ACL to sufficiently address issues relating to lemon products and reasonable opportunities to repair significant durable consumer goods? Is the ACL more or less effective than the 'lemon laws' in other jurisdictions (for example, in America)?

Answer:

127. The ACCC does not maintain data that would readily identify matters that might be classified as being able to be resolved by 'lemon' laws.

ACCC data identifies those matters where consumers inquire about their rights for remedies when they purchase products that are not of acceptable quality. In 2012, the ACCC received 12 595 contacts in relation to concerns with products not of acceptable quality.

It is not possible to identify contacts that relate only to goods with major faults. The nature of a fault is often subjective and a matter of dispute between consumers and traders.

128. The ACCC does not maintain quantitative data about the volume and types of remedies that are being provided by suppliers across retail sectors relating to product defects. Accordingly, the ACCC is unable to comment in general terms about whether sellers are making concerted efforts to remedy product defects.

The ACCC does note, however, that there continues to be increasing levels of awareness among the retail sectors about their ACL obligations, including the obligation to provide remedies for faulty products pursuant to the consumer guarantees regime contained in the Australian Consumer Law (ACL). This is evident from the information received by the ACCC, in the context of its liaison and awareness raising activities, from a range of traders and retail industry stakeholders. The ACCC continues to work closely with businesses and consumers to raise awareness about their ACL related rights and obligations.

The consumer guarantees framework currently provides for a right to repair (and other remedies) for most goods should they not meet one or more of the consumer guarantees.

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Durability is one factor that is considered in determining whether a good has met the consumer guarantee of acceptable quality. Goods will be of acceptable quality if a reasonable consumer, fully aware of the goods' condition (including any defects) would find them:

- fit for all the purposes for which goods of that kind are commonly supplied
- acceptable in appearance and finish
- free from defects
- safe; and
- durable.

This test takes into account the nature of the goods, the price paid for the goods, any statements about the goods on any packaging or label, any representation made about the goods by the supplier and any other relevant circumstances.

129. The ACL includes a consumer guarantees regime, which applies broadly to most goods and services sold throughout Australia.

The ACL includes a consumer guarantee that goods will be of acceptable quality. Goods will be of acceptable quality if a reasonable consumer, fully aware of the goods' condition (including any defects) would find them:

- fit for all the purposes for which goods of that kind are commonly supplied
- acceptable in appearance and finish
- free from defects
- safe; and
- durable.

This test takes into account the nature of the goods, the price paid for the goods, any statements about the goods on any packaging or label, any representation made about the goods by the supplier and any other relevant circumstances.

130. The ACCC considers that the broad definition of 'acceptable quality' is likely to address concerns with 'lemon products'. The ACCC is unable to make a comparison with lemon laws in other jurisdictions at this stage.