

TRADE PRACTICES BILL 1975

EXPLANATORY MEMORANDUM

(Circulated by the Attorney-General,  
the Honourable Kep. Enderby, Q.C., M.P.)

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This Bill seeks to amend the Trade Practices Act 1974 in three respects -

- . to prohibit the sending of unsolicited credit cards (clause 6)
- . to ensure that contracts that are excepted by section 51 of the Act are not made unenforceable by sub-section 45(1) of the Act (clause 3)
- . to permit consumer product safety and information standards to be prescribed so as to exclude from their operation goods intended for use outside Australia (clauses 4 and 5).

Unsolicited Credit Cards

2. The unsolicited sending of credit cards is to be prohibited. Credit cards may only be sent pursuant to a written request by the person who is liable upon use of the card, or to replace a card which has been previously requested in writing, or properly used, by the person liable upon use.

3. A 'credit card' is defined to include all articles (including tokens, cards or documents) intended

for use in obtaining cash, services or goods or other property on credit.

4. A breach of this provision is an offence punishable, as provided by section 79 of the Act, on conviction

- by a body corporate, a fine not exceeding \$50,000
- by any other person, a fine not exceeding \$10,000 or imprisonment not exceeding 6 months.

#### Operation of Section 51

5. Section 51 provides that, in considering contraventions of the Part, regard shall not be had to specified classes of conduct (e.g. conduct specifically authorized by another Act).

6. Sub-section 45(1) provides that certain contracts in restraint of trade or commerce, made prior to the commencement of the provision, are unenforceable.

7. The amendment seeks to ensure that a contract which is excepted by section 51 is not made unenforceable by sub-section 45(1).

#### Product Safety and Information Standards

8. Sections 62 and 63 of the Act authorize the making of Regulations to prescribe consumer product safety and information standards.

9. The amendment enables such Regulations to exclude from their operation goods intended for use outside Australia.

Such an exclusion may be necessary, for example, when there would otherwise be incompatibility with either standards set by importing countries or standards set for exports under Australian Exports Regulations.