



The push for reform

The proposed reforms to Australia’s consumer laws collectively represent the most significant developments in consumer legislation since the enactment of the Trade Practices Act in 1974. The major change is the introduction of a national law for consumer protection—the new Australian Consumer Law (ACL).

While the Commonwealth, state and territory laws now covering fair trading and consumer protection matters across Australia share many common features, they vary across jurisdictions—for example, Victoria is the only state that has introduced prohibitions against unfair contract terms.

The consumer protection provisions of the *Trade Practices Act 1974* will form the basis of the ACL, supplemented by best practice provisions in existing state and territory consumer laws.

In light of this change, the Productivity Commission reviewed Australia’s consumer policy framework. In presenting its findings, the PC found there were strong grounds for reform:

In a number of respects, Australia’s consumer policy framework is sound. It provides a broad platform for consumer protection for most products and services. But it has some systemic deficiencies which impair its effectiveness and which limit its capacity to adapt to emerging issues.

However, the PC noted that there were:

... inconsistencies, gaps and overlaps in the law, and also in the enforcement of the law, arising from the inappropriate split of responsibilities between national, state and territory government.

According to the PC, its recommended changes to the consumer policy framework would generate an estimated additional benefit to the community of between \$1.5 billion and \$4.5 billion a year, representing an average benefit of \$542 for each Australian household.

In October 2008 the Council of Australian Governments agreed to move forward with a single national consumer law as part of the national partnership agreement to deliver a seamless national economy.

The objective of the new national consumer policy framework is to improve consumer wellbeing through consumer empowerment and protection, to foster effective competition and to enable the confident participation of consumers in markets in which both consumers and suppliers trade fairly.

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The Trade Practices Amendment (Australian Consumer Law) Bill—the first stage of the ACL reform package—came before the Australian Parliament in June 2009:

The ACL is to be based on the TPA, drawing on the recommendations from the Productivity Commission ... and best practice in existing state and territory consumer laws, and will specifically include a national unfair contract terms provision, a new national product safety legislative and regulatory framework and new penalties, enforcement powers and consumer redress options.

Explanatory memorandum
Trade Practices Amendment
(Australian Consumer Law) Bill 2009, p. 4.

The legislation was then referred to the Senate Economics Legislation Committee, which subsequently recommended that it be passed. The legislation was passed by the House of Representatives in October 2009 and must now be considered by the Senate.

Over the past 30 years, consumer markets have changed considerably and consumers now have very different expectations of what markets should deliver and how they should operate.

