

Australian Consumer Law —in essence



The Australian Consumer Law will be implemented in three stages.

1 The first stage encompasses new provisions for the *Trade Practices Act 1974* dealing with unfair contract terms and the introduction of a number of new remedies and powers, including:

- civil pecuniary penalties
- disqualification orders
- infringement notices
- substantiation notices
- public warning powers
- redress for non-party consumers.

2 The second stage of the ACL implementation covers best practice reforms; the proposed legislation is expected to be introduced in the first sitting of the Australian Parliament in 2010 and to be passed by June that year.

This legislation will bring together the current consumer protection provisions of the Trade Practices Act and best practice reforms adapted from state and territory fair trading legislation. These best practice reforms will cover things such as door-to-door sales, telemarketing, lay-by sales, pyramid selling and offering gifts and prizes.

Other reforms contained in the proposed legislation include introducing:

- a new national product safety system
- the remaining ACL provisions, which will be drawn from existing consumer protection provisions of the Trade Practices Act.

A Productivity Commission review found a need to improve Australia's fragmented and inconsistent product safety policy framework. In future, permanent bans and mandatory standards will only be made by the federal minister, but state and territory administrations will continue to enforce the regulations and will retain their ability to implement temporary bans of up to 120 days.

It is expected that the ACL will reduce the amount of product safety regulation by around two-thirds, providing a much simpler regulatory framework for business.

A 'harmonisation' process will identify which existing state and territory standards and bans should become national in future.

Another important legal change will be the introduction of a mandatory reporting requirement. Under the new legislation, suppliers will be required to advise the Australian Competition and Consumer Commission when a product is associated with the serious injury or death of a person.

3 By December 2010 the states and territories will have introduced and passed application laws, and are expected to apply the reforms under the time frame agreed by the Council of Australian Governments. It is anticipated that the Australian Consumer Law will be fully implemented by 1 January 2011.

