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Consumer Law Enforcement and Administration
Productivity Commission
GPO Box 1428 Canberra City ACT 2601

The Retail Council welcomes the opportunity to contribute to the Productivity Commission's current inquiry into *Consumer Law Enforcement and Administration*.

As referred to in your Issues Paper for this inquiry, there is another related review currently being undertaken by Consumer Affairs Australia and New Zealand (CAANZ). This review is looking more broadly at the operation and adequacy of the Australian Consumer Law (ACL). The Retail Council has made a submission to the CAANZ review and engaged in discussions with the panel undertaking the review.

Two of the recommendations the Retail Council made to the CAANZ review are also applicable to the narrower Productivity Commission inquiry, which is focused on the effectiveness of the multiple regulator model in supporting a single national consumer policy framework.

Retail Council members generally have good working relationships with the various regulators of the ACL and the nature of their large size means they are in regular contact with all the relevant bodies.

The Retail Council has two high level suggestions about how the administration of the ACL could be improved. These include dealing with concerns about the consistency of operation and enforcement of the ACL.

The system of consumer protection in Australia is unusual in that it is a national law but it is administered by individual state and territory governments. The experience of Retail Council members is that while the laws are national, the application of them is not always consistent across the jurisdictions.

Inconsistency in product safety across jurisdictions

One of the key benefits of the ACL is that it is a national system. This is particularly beneficial for national retailers who operate business models that cross state boundaries. The regulation of the system, however, is done at a state level via state-based authorities. In addition, there are also other state-based regulators, such as the electrical safety regulators, that are involved in some aspects of overseeing the ACL. If these various ACL regulators react to safety concerns at different paces, then it can create in confusion amongst customers and retailers.

The hoverboard situation that emerged in early 2016 is a good case study of the impact of regulators responding out of synch with each other. Hoverboards were a popular purchase for Christmas 2015 but only a few weeks later a number of house fires occurred which were linked with the recharging of hoverboards. Rather than using a national approach, states and territories reacted to these events at different paces which resulted in different rules for sales in different states and territories. For example, Victoria's electrical safety regulator issued a public warning on Jan 5 2016 and some specific

hoverboards were recalled. In contrast a national ACCC-led interim ban on hoverboards that did not meet certain safety standards was not introduced until March 2016. This regulatory inconsistency, combined with extensive media coverage about the dangers of the hoverboards, created confusion amongst customers and retailers about the safety status of hoverboards.

Different responses to product safety matters from different jurisdictions also creates the potential of a competitive disadvantage if a retailer in one state is prohibited from selling a product but a competitor in another state can continue to sell the item.

Recommendation: Product safety alerts or recalls should be issued at national level only to improve consistency and reduce confusion for consumers.

Need for improved consistency across state and territories

As national retailers, Retail Council members deal with consumer advice and advocacy groups in multiple states and territories. Our members report that there are differences between these agencies in terms of the advice provided to consumers, how investigations are conducted and how matters are resolved.

Our members report that consumers can get different advice for the same failure or issue depending on the state-body they speak to. This means customer concerns take longer to resolve than is needed because the customer can start the process with unrealistic expectations about the remedy they will be offered. It also undermines the operation of the ACL itself which should treat all consumers and retailers the same no matter where they reside or operate.

The undertaking of investigations is also variable between states. Retail Council members report that the level of information provided by some state bodies when investigating matters is excellent but in other states it is not sufficient to quickly respond to customer concerns and resolve the issue.

Consistency and service levels for consumers could be improved if state bodies worked together to develop a national best practice model for providing information to consumers, conducting investigations and resolving disputes.

Recommendation: State regulatory authorities should work together to develop a best-practice protocol to ensure matters are resolved as quickly as possible for all consumers in all states.

Should you have further questions about the matters raised in this letter, please contact our Sydney office.

Kind Regards

Peter Birtles
Chairman