

Email response from CDRAC received 25 November 2016

I refer to your letter to Rod Stowe dated 18 November 2016, seeking further information from CDRAC in relation to the Productivity Commission's study into Consumer Law Enforcement and Administration.

The following information is provided on behalf of the State and Territory consumer law regulators.

Interim Bans and Compulsory Recalls

Since the commencement of the Australian Consumer Law (ACL), State and Territory consumer law regulators have imposed a total of nine interim bans under the ACL, relating to three product safety issues, being small high-powered magnets, synthetic magnets and hoverboards. I note your request excluded any interim bans issued by the Commonwealth.

The States and Territories have found that the process of imposing an interim ban to have been beneficial for consumers and regulators alike, despite the relatively small number of interim bans imposed since the commencement of the ACL. While the imposition of an interim ban is considered a very serious response by State and Territory regulators, it is generally a quicker and more flexible process than the Commonwealth's process for imposing interim or permanent bans nationally. In practice, interim bans have been introduced by States and Territories to regulate products in the actual marketplace where a dangerous product has been identified and to ensure consumers are made aware of the hazards associated with the products, while allowing the Commonwealth to take the necessary time to consider imposing a permanent ban. ACL regulators have protocols in place for liaising in relation to interim bans, including via CAANZ and the advisory committees (CDRAC, PRAC, PSOG).

Since the commencement of the ACL, State and Territory consumer law regulators have ordered two compulsory recalls under the ACL.

Performance Indicators

The information provided by the Productivity Commission in Attachment A has been amended as follows:

- the list is more appropriately described "ACL Regulator data publicly available", and
- Qld has identified additional information available.

It should also be noted that there may be some differences in the methodology used by each regulator when reporting a particular indicator, to reflect the different operating model for each regulator, so the same indicator may not necessarily be consistent across jurisdictions.

Qld

As a Qld government agency, Qld OFT reports in line with the Queensland Governments Performance Management Framework. This framework provides "*Service standards are intended to demonstrate efficiency and effectiveness. Measures of activity, process, input, quality or equity may be relevant to and retained for internal monitoring by agencies, but are not generally included in the SDS*". As a result the Qld OFT does not formally report *measures of activity* of the type listed in Attachment A of the Productivity Commission's recent correspondence. This doesn't mean the data is not available, rather that, in line with approved reporting requirements, it is not included within the existing reporting frameworks.

While Qld OFT does not **formally** report measures of activity, it does provide information to the public of certain of the types listed by the Productivity Commission in other ways. For example:

- via the Qld Government's Open Data Portal. From the portal, several types of information can be obtained. In terms of the activities listed by the Productivity Commission, of interest include:
 - Number of complaints received (including product and industry codes, location of trader)
 - Number of enforcement actions taken (including type, sections, counts, penalties) - within this are several of the activities listed by the Productivity Commission including infringement notices issued and value, prosecution results, public warnings, enforceable undertakings)
- via the whole of government website
 - Customer feedback
- via the website
 - Enforceable undertaking register
 - Media releases (eg enforcement outcomes, public warnings, prosecution results, number of complaints, top 5)

WA

For many of the indicators listed, WA is able to generate information, but has not been required to do so.

WA List of Legislation

The list of legislation administered by WA Department of Commerce has been adjusted to separately identify the legislation administered by the Consumer Protection division from the legislation administered by the rest of the department. Please see Attachment B.

[NB. An updated attachment B to that accompanying this email was received on 28 November 2016. The updated attachment has replaced the original below. The email of 28 November also included an updated list of legislation administered by the ACL regulators in each jurisdiction. That list has been included in the first CDRAC response, replacing an earlier version (see appendix 1, in Response 1).]

Consent to Publish

The regulators have consented to the publication of this information.

**Attachment B Legislation and subsidiary legislation administered by the
WA Department of Commerce – Consumer Protection Division**

Acts	48
Subsidiary legislation	45

Legislation	Regulation
1. Associations Incorporation Act 2015	1. Associations Incorporation Regulations 2016
2. Auction Sales Act 1973	2. Auction Sales Regulations 1974
3. Business Names Act 1962	3. Business Names Regulations 1962
4. Business Names (Commonwealth Powers) Act 2012	
5. Charitable Collections Act 1946	4. Charitable Collections Regulations 1947
6. Chattel Securities Act 1987	5. Chattel Securities Regulations 1988
7. Churches of Christ, Scientist, Incorporation Act 1961	
8. Commercial Tenancy (Retail Shops) Agreements Act 1985	6. Commercial Tenancy (Retail Shops) Agreements Regulations 1985
9. Competition Policy Reform (Taxing) Act 1996	
10. Competition Policy Reform (Western Australia) Act 1996	
11. Co-operatives Act 2009	7. Co-operatives Regulations 2010
12. Credit Act 1984	8. Credit (Regulation of Loan Contracts) Regulations 1993 9. Credit Regulations 1985
13. Credit (Administration) Act 1984	10. Credit (Administration) Regulations 1985
14. Credit (Commonwealth Powers) (Transitional and Consequential Provisions) Act 2010	
15. Credit (Commonwealth Powers) Act 2010	
16. Debt Collectors Licensing Act 1964	11. Debt Collectors Licensing Regulations 1964
17. Decimal Currency Act 1965	
18. Disposal of Uncollected Goods Act 1970	12. Disposal of Uncollected Goods Regulations 1971
19. Distress for Rent Abolition Act 1936	
20. Dividing Fences Act 1961	13. Dividing Fences Regulations 1971

21. Employment Agents Act 1976	14. Employment Agents Regulations 1976
22. Fair Trading Act 2010* *Also applies the text of the Australian Consumer Law as a law of Western Australia	15. Fair Trading (Advisory Committees) Regulations 2011 16. Fair Trading (Infringement Notices) Regulations 2012 17. Fair Trading (Permitted Calling Hours) Regulations 2015 18. Fair Trading (Product Information Standard) Regulations 2005 19. Fair Trading (Retirement Villages Code) Regulations 2015
23. Finance Brokers Control Act 1975	20. Finance Brokers Control (General) Regulations 1977
24. Fremantle Buffalo Club (Incorporated) Act 1964	
25. Hire-Purchase Act 1959	21. Hire Purchase (General) Regulations 1975
26. Land Valuers Licensing Act 1978	22. Land Valuers Licensing Regulations 1979 23. Licensed Valuers Code of Conduct 2016
27. Limited Partnerships Act 1909	24. Limited Partnerships Rules 1909
28. Metric Conversion Act 1972	
29. Motor Vehicle Dealers Act 1973	25. Motor Vehicle Dealers (Infringements) Regulations 2002 26. Motor Vehicle Dealers (Licensing) Regulations 1974 27. Motor Vehicle Dealers (Prescribed Vehicles) Regulations 1974 28. Motor Vehicle Dealers (Sales) Regulations 1974
30. Motor Vehicle Repairers Act 2003	29. Motor Vehicle Repairers Regulations 2007
31. New Tax System Price Exploitation Code (Taxing) Act 1999	
32. New Tax System Price Exploitation Code (Western Australia) Act 1999	
33. Personal Property Securities (Commonwealth Laws) Act 2011	30. Personal Property Securities (Commonwealth Laws) Regulations 2012
34. Petroleum Products Pricing Act 1983	31. Petroleum Products Pricing Regulations 2000
35. Petroleum Retailers Rights and Liabilities Act 1982	32. Petroleum Retailers Rights and Liabilities Regulations 1982
36. Real Estate and Business Agents Act 1978	33. Real Estate and Business Agents (General) Regulations 1979 34. Real Estate and Business Agents and Sales Representatives Code of Conduct 2016
37. Residential Parks (Long-stay Tenants) Act 2006	35. Residential Parks (Long-stay Tenants) Regulations 2007
38. Residential Tenancies Act 1987	36. Residential Tenancies Regulations 1989

39. Retail Trading Hours Act 1987	37. Retail Trading Hours Regulations 1988 38. Retail Trading Hours (Holiday Resorts) Regulations 2012
40. Retirement Villages Act 1992	39. Retirement Villages Regulations 1992
41. Sale of Goods (Vienna Convention) Act 1986	
42. Sale of Goods Act 1895	
43. Settlement Agents Act 1981	40. Settlement Agents Regulations 1982 41. Settlement Agents' Code of Conduct 2016
44. Street Collections (Regulation) Act 1940	42. Street Collections Regulations 1999
45. Sunday Entertainments Act 1979	43. Sunday Entertainments Regulations 2006
46. Transfer of Incorporation (HBF and HIF) Act 2009	
47. Travel Agents Act 1985	44. Travel Agents Regulations 1986
48. Western Australian Aged Sailors, Soldiers and Airmen's Relief Fund Act 1932	45. Western Australian Aged Sailors, Soldiers and Airmen's Relief Fund Regulations 2009