



**CONSUMERS'
FEDERATION
OF AUSTRALIA**

Developing and promoting
the consumer interest

PO Box 16193
Collins Street West
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20 June 2014

Competition Policy Review Secretariat
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Secretariat,

Re: Consumers' Federation of Australia Submission to the Competition Policy Review Issues Paper

The Consumers' Federation of Australia is pleased to have the opportunity to provide a submission to the Competition Policy Review for your consideration.

About the Consumers' Federation of Australia

The Consumers' Federation of Australia (CFA) is the peak body for consumer organisations in Australia. CFA represents a diverse range of consumer organisations, including most major national consumer organisations. Our organisation members and their members represent or provide services to thousands of Australian consumers.

CFA's member organisations include membership based organisations, organisations that provide information, advice, counselling or assistance to consumers, and organisations that identify regulations or market features that harm consumer interests and propose solutions. A list of CFA's organisational members is available at <http://consumersfederation.org.au/members/cfa-organisational-members/>.

CFA advocates in the interests of Australian consumers. CFA promotes and supports members' campaigns and events, nominates and supports consumer representatives to industry and government processes, develops policy on important consumer issues and facilitates consumer participation in the development of Australian and international standards for goods and services. CFA is a full member of Consumers International, the international peak body for the world's consumer organisations.

The objectives of the Consumers Federation of Australia are:

- To promote the interests of consumers, in particular low income and disadvantaged consumers, through:
- Identifying areas in which the interests of consumers are being adversely affected;
- Advocating policy and law reform changes to benefit consumers;
- Conducting consumer awareness and information programs;
- Liaising with other consumer and community groups to advance the interest of consumers;
- Facilitating consumer responses to government, industry and regulators where specific funding or resources are available; and
- Doing other things to further the interests of consumers.

About this submission

A number of CFA's members have made individual submissions to the Review. This CFA submission does not seek to duplicate the individual submissions of members, but to highlight some high level themes that have been raised by:

- the individual submissions made by CFA members;
- other CFA members who have not had the capacity to provide a written submission to the Review Issues Paper; and
- participants in the recent workshop on the Review that was hosted by CFA and CHOICE, and supported by the ACCC.

This submission addresses some of the specific questions asked in the Issues Paper, but also provides some overview comments relevant to competition law and policy in Australia more broadly.

Competition policy and the consumer interest

It is widely accepted that competition policy and competition law are not goals for their own sake, but are mechanisms for ensuring the (economic) welfare of Australian consumers. CFA strongly supports the need for a broadly based competition policy and competition law that works towards improving consumer welfare. In general terms, competitive markets benefit consumers by driving innovation, greater choice, lower prices and improved quality from producers and suppliers. However, it is the outcome of competitive processes on the experiences and options of consumers that should be the focus of this Review. As we highlight below, there are some circumstances where competitive markets will not, by themselves, advance consumer welfare, either in general or for particular groups of consumers. In these circumstances, expecting competitive markets to deliver, on their own, improved consumer welfare is unrealistic. Instead, attention must also be given to developing and implementing appropriate consumer policy and social policy frameworks.

By way of general principle, it is CFA's view that, in any regulatory or review process affecting goods or services delivered to consumers (including those processes with a competition focus), the following principles need to be taken account of and implemented in order to ensure effective consumer outcomes.

Consumers in Australia are entitled to:

- *affordable and equitable access to essential services*
- *protection from unsafe or unfit products and services*
- *products and services that are sustainable in terms of their environmental effects*
- *fairness*
- *information and education to assist them in making choices in an increasingly complex marketplace*
- *accessible and effective remedies for failures and breaches of the law*
- *active monitoring and enforcement of consumer protection laws*
- *input through representative bodies to policy-making that affects their interests*
- *low income and disadvantaged consumers deserve special protection.*

The importance of the demand side

As discussed above, the primary goal of competition policy is to improve consumer welfare, therefore it is crucial that the Review has a keen focus on the demand side of the markets for consumer goods and services. Competition for its own sake should not be the goal.

Having regard to the demand side also requires attention to be given to the lived experiences of consumers. These rarely reflect the model of the rational economic consumer for whom much consumer protection regulation has been designed. The contribution of behavioural economics and behavioural insights to the decision making process of individuals needs to be recognised and integrated into the Review.

In the past, focus on the demand side has concentrated on information disclosure, with extensive disclosure obligations now imposed in many sectors of the economy, including credit, financial services, telecommunications and others. Providing this information is intended to enhance competition, as consumers can use the disclosed information to make purchasing decisions. However, experience with extensive disclosure regimes shows that consumers often find it difficult to make use of the produced material, and it can sometimes have the opposite effect, with information overload and 'confusopoly' making it very difficult for consumers to use the prescribed information.

Further, in many sectors, there is risk that a choice that is originally an optimal choice may quickly become suboptimal through changes in the market and/or the product (including through permitting unilateral variations to the contract). Further, an initially 'good' choice can become poorer through the practice of new and better deals being made available to new customers only, while existing customers are forced to remain on the now less competitive terms. In such an environment, the time and effort that must be invested to

choose the 'best' or even a competitive product, can be quickly wasted, discouraging further efforts in 'activating competition' in the future.

Further, pursuing competitive markets without regard to consumer welfare in the broader sense risks a lack of attention to sectors where competitive markets harm, rather than help consumers and/or do not meet the needs of consumers.

First, it can happen that highly competitive markets, with low barriers to entry and exit, can facilitate the entrance and ongoing presence of rogue traders. This may be particularly the case where the products or services being offered target vulnerable or disadvantaged consumers. While enforcement action against some can eventuate, this can take time, and no regulator can investigate all instances of inappropriate trading behaviour.

Second, competitive markets are not altruistic or concerned to address social or financial exclusion. Neither competition law nor competition policy will require a business to provide products or services to all consumers, or to provide products or services that are not profitable, even though consumers might seek to purchase such products.¹

The case of small loans is pertinent here. Small loans are currently available from some providers in Australia, but they are provided at a price that is unaffordable for many of their customers, and are structured in such a way as to encourage repeat borrowing, further harming the economic position of some customers.²

Mainstream lenders (such as banks) have largely chosen not to offer these types of products, and despite the proliferation of lenders providing small loans, there is little evidence of price competition. Some constraint on the costs of small loans has recently been introduced through recent amendments to the National Consumer Credit Protection Act, however, the proposed cost ceiling was increased following industry concerns, and was set at a level closer to the recommendations of industry representatives, despite the concerns expressed by consumer organisations.³

There are no easy answers or solutions to these problems, but it is critical for the Review to appreciate these limitations on the ability of competition alone to provide widespread consumer and social benefits, and to reiterate that review processes must focus on the long-term interests of consumers, and recognise the diversity of consumers.

¹ See further the discussion of 'competition failure' in Howell, Nicola & Wilson, Therese (2008) [The limits of competition : reasserting a role for consumer protection and fair trading regulation in competitive markets](#). In Parry, Deborah, Nordhausen, Annette, Howells, Geraint, & Twigg-Flesner, Christian (Eds.) *The Yearbook of*

² See for example, Marcus Banks et al, *Caught Short: Exploring the role of small, short-term loans in the lives of Australians*, 2012, p 37 which outlines the extent of repeat borrowing in their survey. Available at <http://www.uq.edu.au/swahs/news/CaughtShortFinalReport.pdf>. See also the discussion in P. Ali, C. McRae and I. Ramsay, 'The politics of payday lending regulation in Australia' (2013) 39 *Monash University Law Review* 411-451, p 426.

³ P. Ali, C. McRae and I. Ramsay, 'The politics of payday lending regulation in Australia' (2013) 39 *Monash University Law Review* 411-451, pp 436-437.

Facilitating consumer engagement in review processes

A successful competition policy in Australia can only be developed if consumer voices are heard in regulatory and policy debates, including ACCC decision-making on authorisations and notifications, and regulatory decision-making in utility industries. While on particular issues, individual consumers may have sufficient interest and capacity to engage with the debates, a consistent approach to consumer engagement must necessarily involve consumer organisations. As the Productivity Commission noted in its report on consumer policy (Vol 2, page 278):

“It is difficult for individual consumers to represent themselves. While some do engage in policy forums — for example, a number of individuals made submissions to this inquiry — people normally leave it to others to represent their views as consumers, and/or may simply trust or hope that their interests as consumers are given due weight by those responsible for government policies.”

Unfortunately, however, the capacity for consumer organisations to contribute is often limited. The CFA, for example, as a largely internally/self-funded organisation, is regularly asked for input on competition decisions by regulators, but rarely has capacity to engage in the process. A small number of CFA’s member organisations are specifically funded from the public purse to engage in regulatory processes, but the majority are not.

This is evidenced further in the fact that the list of authors of the 160 submissions to this review released to date shows only three submissions from authors that are known as consumer organisations..⁴ This is not a reflection of a lack of recognition of interest in the review, given that a number of consumer organisations and consumer advocates attended CFA’s workshop on the Consumer Policy Review, across four states.

The constraints on consumer organisations engaging in consumer policy review processes were acknowledged by the Productivity Commission in its 2008 Review of Australia’s Consumer Policy (Vol 1, p 49). The Productivity Commission examined the role of consumer advocacy, and concluded:

“There is a prima facie case for governments to provide some support for these activities [general consumer advocacy]. Given the often large number of constituents that consumer advocacy bodies represent, ‘free rider’ problems are likely to be a greater impediment to private funding than in the business sector. Indeed, it is clear that resourcing constraints have sometimes prevented advocacy bodies from participating in policy development, even when requested by governments to do so.

Provided that there are effective governance arrangements in place to ensure that taxpayer support is well spent (see below), the Commission’s judgement is that

⁴ ACCAN, CHOICE and National Seniors. CFA is aware of one further submission from a consumer organisation that has not yet been publicly released.

there would be a net benefit to the community from an increase in the currently low level of public funding for these advocacy functions.”

The Productivity Commission then recommended that:

“...the Australian Government, in consultation with the MCCA, should take the lead role in developing arrangements to provide additional funding to:

- Help support the basic operating costs of a representative national peak consumer body;
- Assist the networking and policy functions of general consumer advocacy groups; and
- Enable an expansion in policy-related consumer research. (Recommendation 11.3)”

These comments and recommendations apply equally to consumer advocacy in relation to competition policy and competition law.

Unfortunately, to date, this recommendation has not been acted upon by government, and no formal outcome was released following a 2009 discussion paper on models for funding consumer advocacy and consumer research.

The capacity of a significant group of consumer organisations to engage in regulatory processes is likely to be further reduced in the future, as the Government has indicated that federally funded community legal centres will not be permitted to use this funding for policy and law reform activities.

From CFA’s perspective, this is a serious concern. It illustrates a point that governments are sometimes tempted to discourage community voices where they are inconvenient in the short term, for example by prohibiting funded community organisations from speaking out on problems they identify while providing services. But community and consumer organisations are often best placed to identify and understand the dynamics of emerging or persistent consumer problems. Their advice can be critical to development of robust and fair government policy solutions; open public debate is part of effective policy development. Recognition of the value of their contribution to policy development, combined with public scrutiny of the process, is a mature and confident approach to community involvement and collaborative decision making.

Consumer engagement is likely to be particularly critical in processes that are focused on “reducing red tape”. In many of these processes, the impact on business of regulation will be relatively easy to measure, but the impacts on consumers of removing regulation will not often be so easily measured and quantified. Without consumer research, the concerns of consumer and community organisations can often be characterised as anecdotal, and/or qualitative only, and thus are likely to be given less weight in decision making processes. This is even more likely to be the case at the federal level in relation to the new approach to regulation review, which, as we understand it, requires that the cost burden of new

regulation must be fully offset by reductions in existing regulation. This is particularly likely to have a negative impact in new consumer markets, or where markets not currently exposed to competition are opened up to competition. In these circumstances, we are unclear how the offsets can be made if there are no or limited existing regulation. The focus of regulatory review and implementation processes should be on the overall benefit or cost of regulation to the community.

We have annexed an extract from CFA's 2013 Budget submission – "Making markets work better: supporting the consumer voice" - which expands on some of these points.

Harnessing the ability of consumers to activate competition

As has been noted by many commentators,⁵ effective competition needs consumers to activate competition through the ways in which they make purchasing decisions. In the past, there has been a strong reliance on information disclosure as a mechanism to assist consumers to activate competition. However, as discussed above, there are significant limitations to the practicality and useability of mandatory disclosure documents. While not suggesting a move away entirely from mandated disclosure, CFA believes that opportunities for more personalised information should be explored. It is here that there is potential for the data currently held by service providers and/or government agencies can play a role. For example, data on an individual's actual use of a particular service in the past (eg a mobile phone service) could be used to compare different offerings, and generate an individual overall cost for that individual of the different offerings. Access to an individual's own "big data" in a useable form can therefore be a way of harnessing the potential of technology to allow consumers to use personalised information to activate competition.

Access to consumers' own data may not be sufficient where the comparison with available product offerings is at all complex. Thaler and Tucker⁶ have proposed measures to encourage the businesses in markets with complex rate plans to release up to date data on current offerings to the public domain to allow third parties to develop price comparison tools that would further assist consumers to determine the most suitable deal for them and thus better drive competition (by among other things combatting 'confusopoly').

Health and safety, environmental and occupational-based regulations

While CFA is supportive of efforts to reduce or eliminate *unnecessary* regulation, again, we wish to highlight that the primary concern in any regulatory review should be about the impact on the interests of consumers and the overall community benefit. A reduction in red

⁵ See for example, Louise Sylvan, Deputy Chair, Australian Competition and Consumer Commission, Consumer Affairs Victoria Lecture, 2006, available at: <https://www.accc.gov.au/system/files/The%20interface%20between%20consumer%20policy%20and%20competition%20policy.pdf>

⁶ Smarter formation Smarter Consumers Harvard Business Review January 2013 <http://hbr.org/2013/01/smarter-information-smarter-consumers/ar/1>.

tape should not be sought as an outcome in its own right, but should be balanced with the need to ensure that consumers do not suffer adverse consequences.

Further, the Review should recognise that occupational restrictions and restrictions covering health and safety for the sale of goods have an important role to play in increasing consumer confidence that they can engage in markets safely. Without appropriate regulatory protections, consumers may make decisions *not* to engage in a particular market.

For example, the introduction of the National Consumer Credit Protection Act required many players in the consumer market to be licensed, some for the first time. This licensing process, while obviously imposing costs on market participants, and creating a barrier to entry, is necessary given the economic harm that can be caused by inappropriate practices, and provides consumers with some confidence about the standards of finance and mortgage brokers among others. A further benefit is that such licensing can give consumers confidence to extend their purchasing decisions to smaller or new players, as at least some minimal standards in relation to competence and quality can be guaranteed.

Competition Reform in infrastructure sectors

CFA acknowledges that some consumer benefits have come about as a result of competition-related reforms in these sectors. However, this has not always been the case, and we reiterate the importance of considering, and involving, consumers in the development and implementation of reform proposals. In particular, consumer protection mechanisms need to be built into reform processes, and not added on as an afterthought. Similarly, investment in mechanisms to ensure that consumers who are vulnerable or disadvantaged are not left behind in relation to essential and near essential services need to be built into the framework at the start of the process.

Competition reform in human services

CFA believes that any proposal to introduce new or further competition in human services, including the health and education sectors, needs to proceed with caution, and with the long-term interests of consumers of all backgrounds, skills, resources and capabilities in mind. Health and education are sectors that are crucial to ensuring reasonable standards of living, opportunity for advancement, and financial security for all members of the Australian community. Increased support for private sector involvement in these sectors may risk a division of standards, so that those who have the means can purchase better standards, while the residual system is not equitably supported. Equity of access to appropriate, high quality services, and not just competition and choice, needs to be a key focus of governments in these sectors.

Further, introducing further competition may in some parts of the sector may result in an increased transfer of risk to individuals. The risk of making a 'wrong' choice in health or education can have significant long-term consequences. CFA believes that it is not appropriate or fair to pass on those risks in the absence of an appropriate, and high

standard, safety net in public services, and an appropriate consumer protection framework. Genuine consultation with community organisations directly involved in these sectors will also be paramount if changes are to be made.

Secondary boycotts

CFA does not make any comment about the need for the secondary boycott provisions in the CCA. However, we are strongly of the view that organisations should be able to publicly disclose relevant information about business, or particular products and services, with a view to influencing consumers' purchasing decisions. Consumers are entitled to make purchasing decisions according to wider criteria than just the price, terms and conditions and quality of particular products or services. For some consumers, environmental, fair trade, and animal welfare considerations are very relevant to their purchasing decisions, and consumer and community organisations and individuals should not be prevented from providing relevant information or analysis that can help to make decisions based on this, or other criteria that may be important to the consumer (subject to the normal constraints against unlawful activities and misleading information).

Industry codes of conduct

The experience with codes of conduct with a focus on consumer protection outcomes (in contrast to codes with a focus on the relationships between businesses) is a mixed one from the consumer perspective. Some codes have worked well, and provided additional consumer protections and facilitated competition, while others have been little more than window dressing, or have been limited in their effectiveness by poor rules, and/or little attention having been paid to administration, compliance and enforcement arrangements.

The code framework is also a highly varied one, with different regulatory arrangements for codes in different sectors (compare specific recognition of codes in the financial services, telecommunications, and energy sectors, and the provision for mandatory codes in the CCA); different types of codes (including voluntary, prescribed and mandatory codes); and different levels of uptake of the opportunity to develop and implement industry codes.

CFA is of the view that well-designed and appropriately supported, monitored and enforced voluntary codes can provide important additional protections for consumers (and in some cases small businesses), and that mandatory codes can, in some cases, be an acceptable alternative or complement to legislation. However, the appropriateness or otherwise of using industry codes, to deliver consumer protection and competition outcomes is highly context dependent.

For example, the mandatory code of conduct for the unit pricing by retailers of packaged grocery products, introduced in 2009 by regulation, was intended to greatly increase grocery price transparency and competition between manufacturers and between retailers by making it much easier for consumers to compare the values and prices of all types of grocery products. However, due to a variety of factors, including lack of specificity in the

regulation about what constitutes ‘prominent’ and ‘legible’, insufficient compliance monitoring and enforcement by the ACCC, and lack of consumer education, CFA considers that the full potential of this code to deliver major improvements in consumer protection and competition have not yet been achieved.

In the financial services sector, ASIC’s Regulatory Guide 183 ‘Approval of codes of conduct in the financial services sector’ sets out an appropriate framework for ensuring that industry codes do make a positive addition to the regulatory framework for consumer protection. In particular, CFA agrees with ASIC’s view of codes as set out in its regulatory guide:

We believe that codes sit at the apex of industry self-regulatory initiatives. To us, a code is essentially a set of enforceable rules that sets out a progressive model of conduct and disclosure for industry members that are signed up. Codes should therefore improve consumer confidence in a particular industry or industries. (ASIC RG183.2).

However, there may be other provisions or approaches from other sectors that could also be added to ASIC’s framework.

A consistent approach to consumer protection codes is needed, with consistent standards associated with developing and implementing industry codes that have an impact on consumer policy. Further, governments should not accept or support industry codes as an alternative to legislation unless, as a minimum:

- The code is likely to have substantial coverage of the relevant industry/sector;
- There have been adequate code development, approval and review processes;
- The code imposes rules that add to, or flesh out, existing legal protections;
- There are adequate compliance monitoring and enforcement processes and adequate resourcing of those processes.

There may be other minimum standards that should be included, following a review and consolidation of code guidance across different sectors.

Further, in relation to mandatory codes under the CCA, there is a need for the framework to encompass additional sanctions for non-compliance, and for reviews to be conducted by parties independent of industry and government.

Regulators and enforcement

CFA strongly supports the retention of competition and consumer protection functions within the ACCC. There are considerable synergies that arise from co-locating the two policy areas, and these would be at risk if the functions were separated across two agencies.

However, CFA believes that the ACCC needs additional powers, including the ability to undertake market inquiries where competition may not exist, or may not be effective in delivering outcomes for consumers; and the ability to accept, and act upon, supercomplaints from specified consumer organisations. Both of these powers have been available to consumer protection regulators in the United Kingdom, and they provide an important additional mechanism for examining and addressing competition and consumer protection issues.

I wish to acknowledge the work of the CFA Executive in the preparation of this submission and in particular, Nicola Howell.

We wish you well with your deliberations. Any queries regarding our submission should be directed to chair@consumersfederation.org.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jo Benvenuti', written in a cursive style.

Jo Benvenuti

Chair

Consumers Federation of Australia

Appendix: The case for supporting a national consumer peak body

Public support for funding consumer advocacy

In its 2008 *Review of Australia's Consumer Policy* (Vol 1, p 49), the Productivity Commission examined the role of consumer advocacy, and concluded:

There is a prima facie case for governments to provide some support for these activities [general consumer advocacy]. Given the often large number of constituents that consumer advocacy bodies represent, 'free rider' problems are likely to be a greater impediment to private funding than in the business sector. Indeed, it is clear that resourcing constraints have sometimes prevented advocacy bodies from participating in policy development, even when requested by governments to do so. Provided that there are effective governance arrangements in place to ensure that taxpayer support is well spent (see below), the Commission's judgement is that there would be a net benefit to the community from an increase in the currently low level of public funding for these advocacy functions.

The Productivity Commission then recommended that:

...the Australian Government, in consultation with the MCCA, should take the lead role in developing arrangements to provide additional funding to:

- Help support the basic operating costs of a representative national peak consumer body;
- Assist the networking and policy functions of general consumer advocacy groups; and
- Enable an expansion in policy-related consumer research. (Recommendation 11.3)

In a 2011 report on the water sector, the Productivity Commission reiterated its support for funding consumer advocacy, and recommended that COAG progress the implementation of measures in line with recommendation 11.3 above (Productivity Commission, *Australia's Urban Water Sector*, Report 2011, Recommendation 8.3).

Other government officials have also recognised the importance of consumer advocacy and consumer representation. For example, the Hon Chris Bowen MP, then Assistant Treasurer and Minister for Competition and Consumer Policy, explained on 8 May 2009 that:

A range of consumer voices, articulating the concerns, interests and aspirations of Australian consumers at the heart of government, is not only desirable, but essential to the long term integrity of consumer policy in this country.

In addition, the vast majority of submissions to the Government's 2009 Discussion Paper *Consumer Voices - Sustaining Advocacy and Research in Australia's New Consumer Policy Framework* were supportive of funding a national peak consumer advocacy body.

A peak body supports but is different from consumer focussed government agencies

The Productivity Commission and others recognised that consumer advocacy must be independent of government and industry if it is to provide the expected benefits to the community.

This submission recognises that governments have made significant investments in other bodies and processes to support consumers - in particular in regulatory bodies such as ASIC and the ACCC, and via the work undertaken by the Consumer Affairs Forum and its related officials' Working Groups.

Those organisations develop consumer policy, enforce and ensure compliance with consumer laws, promote competitive and fair markets, and advise and educate consumers. However, these organisations do not replace the need for independent consumer advocacy. For example,

- The role of government agencies in enforcing consumer protection law, whilst crucial to effective consumer protection, is very different to the role of an advocate for an individual problem and the broader public interest in that problem
- The role of a regulator is to enforce the existing law rather than publicly advocate for reform of that law
- Government consumer protection activity and research can be driven by specific jurisdictional government priorities and concerns.

A funded CFA would complement and add value to the work of government agencies, by:

- Publicly advocating the broader consumer interest and the need for reform
- Being able to say things and raise issues that a regulator or government body cannot
- Drawing on CFA members' service delivery experience, which provides a more detailed understanding of issues affecting consumers than is available to regulators and government consumer protection agencies. CFA members are a valuable resource of accurate, first-hand information on consumers' experience in the marketplace, identifying emerging market failures, and raising new issues.

There are gaps in the Australian consumer advocacy landscape

There are already important consumer advocacy activities in Australia. Consumer advocacy organisations have achieved significant benefits for consumers over many years. However, existing consumer advocacy is often fragmented and does not provide complete coverage of consumer issues. There is also scope for improved coordination.

As the Productivity Commission recognised, the gaps in consumer advocacy have an adverse impact on the quality and effectiveness of national consumer policy

- Many consumer organisations are funded for service delivery (information, advice, casework), and have limited or no resources available for policy development and advocacy
- Engagement on consumer issues is disparate across policy areas, because of the differing numbers and resources of consumer groups. (For example, there are at least ten consumer organisations engaged in credit/ financial services policy, but only one or two involved in home building policy and food policy)
- In the absence of a coordinating mechanism, responses from consumer organisations can be fragmented and/or overlapping, weakening their impact in the face of strong, well-resourced, industry participation
- Consumer organisations (including CFA) receive large numbers of government and industry requests for submissions, participation or consumer representation that simply cannot be met. Appendix 2 lists some of the recent requests to CFA that we have had to decline
- Apart from CFA there is no national body to coordinate policy input on consumer issues or to develop a national policy position that is informed by the experiences of grass-roots consumer organisations.

As a result:

- Government and industry calls for consumer input or representation on consumer issues go unanswered
- The consumer voice in many consumer policy debates is muted or non-existent, and in almost all cases, is overshadowed by well-resourced industry voices
- Consumer policy development is often not informed by the data and experiences of community and consumer organisations and their clients
- Consumer policy outcomes are not as effective as they might otherwise be, to the detriment of consumers and businesses.

An appropriately funded CFA would significantly decrease the gaps and improve consumer policy outcomes.

The need for government support

Since 1996, CFA has received no government funding. Annually it receives a small amount from Standards Australia, to manage the costs and appointment of consumer representatives to a range of Standards technical committees. CFA also receives a small amount from the Australian Securities and Investments Commission's Consumer Advocacy Panel to support its communications with members and friends.

In recent years, CFA has explored other potential sources of funding. CFA members now pay an annual membership fee, reflective of their annual revenue. In 2012, the total revenue received from fees was \$10,250. This is used to improve member services, fund Executive meetings and meet compliance costs such as audit fees. Although CFA expects to increase its membership, membership fees are never likely to be sufficient to enable CFA to engage in policy advocacy, research or greater member services. Most of our member organisations have limited budgets - and some of them constraints on how those budgets can be spent - which prevent CFA generating any more revenue from its membership than it does currently.

Other potential sources of funding are very limited:

- There are no grant-making bodies able to support national consumer advocacy
- It is generally considered that industry funding of policy advocacy has inherent conflicts of interest that cannot be overcome. Impacts on the effectiveness of advocacy either through self-censorship or direct intervention are all but inevitable
- Philanthropic giving in Australia tends to be focussed on short term, discrete projects rather than having the capacity to support and sustain community based organisations.

The Productivity Commission recognised that there are limited sources of revenue to support a national consumer peak body, hence its recommendation that this question rightly belonged with the Australian Government, in consultation with MCCA (now the Consumer Affairs Forum).

The Treasury 2009 Issues Paper *Consumer Voices* was concerned to ensure that funding for consumer advocacy and research was sustainable, an objective CFA strongly supports. Although there may be risks in reliance on government funding, we take the view that support for effective consumer advocacy is a matter of public interest and so a responsibility that appropriately rests with Government. Furthermore we consider that the risks in Government funding can be mitigated, for example through a partnership approach between State and Territory Governments and the Commonwealth Government. Given the shared government responsibilities exemplified by the work of the Consumer Affairs Forum such an approach is appropriate for other reasons.

The cost of government support for consumer advocacy is greatly outweighed by its benefit. A 2011 Australian Consumer Survey estimated that in 2009/10 it cost Australians \$14.2 billion each year to deal with consumer problems, based on the direct costs they incurred and the time they spent dealing with those problems². This estimate does not include the costs incurred by consumers who took no action to deal with their problems.

Government support for consumer advocacy (through funding CFA) will ultimately lead to

better consumer policy, with reductions in the number and extent of consumer problems, and in the costs of taking action to deal with any problems.

The annual funding sought by CFA represents 0.09% of the cost to the economy estimated by the Treasury's Australian Consumer Survey.