



Australian Financial  
Counselling & Credit  
Reform Association



Australian  
Privacy  
Foundation



Brotherhood of St Laurence  
Working for an Australia free of poverty



caxon legal centre inc.  
*unlocking the law*



consumer  
action  
law centre



Consumer Credit  
Legal Centre NSW

CONSUMERS SA

FCRC  
Financial & Consumer  
Rights Council Inc.

FOOTSCRAY  
COMMUNITY  
LEGAL  
CENTRE INC.

Insurance  
Law  
Service

Money Help

helping you deal with money & debt

QUEENSLAND  
CONSUMERS  
ASSOCIATION

wacoss  
Western Australian  
Council of Social Service Inc.

# CONSUMER ADVOCACY

# 2010 ELECTION PLATFORM

*effective industry regulation*

*social justice*

*representation*

*safe products*



# INTRODUCTION

This election challenge has been developed by consumer advocates across Australia from many organisations, and represents key issues for Australian consumers.

Australian consumers are badly under-represented in policy formation and general political debate - and they deserve to be heard.

We challenge the major parties - the Greens, the Liberal party, the Labor party, and the Nationals, to meet this challenge and commit to addressing the twelve points raised in this document.

Australian consumers continue to be poorly served by key industries. These include utilities, telecommunications, insurance, and air travel.

Social justice remains out of reach for low-income and other vulnerable consumers, which prevents them from fully participating in the consumer economy.

Vulnerable consumers need protection against financial exploitation, and assistance to cope with ever increasing cost of living pressures, and complex products and markets.

Finally, all Australians deserve to have their health protected by simple consumer protection measures. These include adequate food labelling, and the adoption of the precautionary principle in the regulation of chemicals.

Simply put, Australian consumers deserve:

- 1. Representation**
- 2. Effective industry regulation**
- 3. Social justice**
- 4. Safe products**

When the Consumers Federation of Australia issued its election challenge in 2007, it contained four key measures that have since been met.

These were:

- 1. The implementation of national unfair contract terms law**
- 2. The appointment of a Federal Minister for Consumer and Competition Policy**
- 3. The creation of a single national framework for the regulation of consumer credit**
- 4. National, uniform regulation of residential tenancy databases**

These are all positive developments, and will serve Australian consumers well into the future.

But there is still a long way to go.

# 1

## REPRESENTATION

---

### Give consumers a voice

Commit to funding a strong, independent research and advocacy body to represent Australian consumers.

---

Australian consumers need a government-funded research body to deliver impartial analysis and advice on policy development.

This would help to address the critical lack of consumer focused research, and provide a counter-weight to industry influence in public policy debates. Australia's consumers are bigger than any industry - yet their interests are often overlooked.

A well funded peak body would also connect consumer and community organisations across the country, to share knowledge about systemic consumer issues and build advocacy capacity.

This, in turn, will lead to better policy outcomes for all.

If the customer is always right—then they deserve to be heard.

**Develop super complaints laws and empower regulators to undertake market studies**

The importance of consumers' experience in markets is recognised in countries such as the UK where consumer organisations are able to make super complaints and regulators are empowered to undertake industry wide market investigations.

The reality is that poor market behaviour is not confined to individual entities, but sometimes pervades entire industries. In such cases, traditional complaints handling and enforcement powers do not allow regulators to adequately protect consumers, and prevent them from taking industry wide action to improve market function.

---

In the United Kingdom, the Office of fair Trading (OFT) has market studies and investigations powers under UK competition and consumer protection laws. These are referred to as "diagnostic tools".

Diagnostic tools complement the OFT's preventative tools (such as guidance and consumer education), advocacy tools (such as government advice and encouragement to business and consumers to use private redress mechanisms) and enforcement tools (such as undertakings and court action).

Diagnostic tools are used by the OFT when:

*market forces cannot overcome...threats to consumer welfare, for example because some sellers are unconcerned about repeat business and reputation, where there are structural or behavioural barriers to free competition, or where consumers and harmed businesses are unable to gain redress themselves.<sup>1</sup>*

At present, the ACCC lacks formal tools for doing a more in-depth assessment of a market, as distinct from taking enforcement action against an individual entity.

A super-complaints mechanism would support new market studies and investigations powers, and is based on the model in the UK Enterprise Act 2002.

---

1 Office of Fair Trading, Annual Plan 2007–08, March 2007 at 8.

Under this model, designated consumer advocacy organisations are given the authority to make “super-complaints” systemic consumer issues with whole industries - and the ACCC would then have the power to undertake accountable regulator action on those issues.

---

### **Guarantee access to affordable energy and water**

Commit to a genuine consumer focus to guide the ongoing development of Australia’s energy and water markets.

---

Australia’s consumers risk losing access to some of the most basic necessities of life—affordable energy and water.

The debate on energy and water is currently dominated by industry, and is conducted largely without independent consumer input.

Consumer advocates have been restricted by government from freely participating in Federal energy and water policy making.

The government must commit to ensuring that consumer interests in energy and water are adequately represented and that the interests of consumers—including vulnerable consumers—are given priority over corporate interests in building the nation’s sustainable energy and water future.

---

### **Guarantee affordable, accessible and safe telecommunications.**

Create a Consumer Standard for telecommunications, and redefine the Universal Service Obligation to guarantee affordable and accessible mobile phone and broadband services.

---

Australian consumers suffer from expensive products and poor quality customer service in telecommunications. Misleading advertising is rife and service offerings are shrouded in a haze of fine print and unfair, onerous and confusing fees, charges, and conditions.

The outmoded industry self-regulation approach has allowed this situation to continue for too long.

It needs to be replaced with a single, enforceable industry-wide Consumer Standard within the framework of an economy-wide prohibition on unfair conduct.

Consumers urgently need the Australian Communications and media Authority (ACMA) to be a more active regulator in communications. They should step up or the job should be given to someone else.

As people rely more on mobile phones, and as the roll out of the National Broadband Network (NBN) gets underway, we need to re-define the Universal Service Obligation to include a guaranteed affordable and accessible mobile phone and broadband service, as is occurring elsewhere in the world.

Consumers need a guarantee that they will not be worse off because of the transition to the NBN.

Consumers also need a guarantee that the privacy of their communications and online activity will be protected to the highest possible standard

---

**National legal profession reform that provides consistent and enhanced consumer protection across the country.**

The legal profession is currently self-regulated by various state and territory based practice boards. This system is out-dated, and does not provide acceptable outcomes for consumers.

Australians deserve a national legal Ombudsman.

---

Consumers of any good or service should have affordable access to an independent umpire to hear their complaint. There is no good reason why the legal industry should fail to provide access to such a service - yet that is what it does.

It is time for national legal Ombudsman that meets established benchmarks for consumer dispute resolution.

The Ombudsman must have the capacity to make determinations that are binding on practitioners and deal with the vast majority of consumer disputes.

This includes providing a real alternative to complex and expensive cost assessment procedures for consumers. It must be able to make decisions up to at least \$100,000 for consumer disputes and cost disputes, with no external appeal rights for lawyers.

---

**A fair go for consumers in the insurance industry.**

Insurance is a essential product for the Australian consumers, and helps to manage risk.

However, regulation of the insurance industry is often developed with excessive influence from insurance companies and a lack of consideration of the interests of consumers.

---

There is an urgent need to address unfairness in the insurance industry, and act against the use of harsh or unfair terms in insurance contracts. For technical reasons the insurance industry has recently won an effective exemption from unfair contract laws which will otherwise operate economy wide. There is no reason why the insurance industry should have such an exemption - consumers deserve fairness in all contract terms, including insurance.

In addition, Australian consumers need::

**1. Better protection from under-insurance.**

It is time for the industry to replace sum insured policies with total replacement policies, as a start.

**2. Measures to encourage take-up of insurance products by low-income consumers.**

Low-income consumers are often dangerously under-insured, yet can least afford to be. Measures to improve take-up include more appropriate products, and flexible payment options—amongst others.

---

**Protect consumers of air travel.**

The airline industry has grown rapidly in recent times, especially with the advent of low cost carriers.

This has made the market much more complex, and presents a number of challenges for consumers around understanding pricing, terms and conditions, policies and practices.

Particular consumer problems have emerged around bait advertising, single pricing, unfair contract terms and poor complaints handling.

---

Consumer protection in air travel is urgently needed.

The Government should commit to the establishment of clear, comprehensible enforceable standards of consumer protection for disputes between airlines and customers. Amongst other things, standards should cover pricing, promotions and advertising, special needs, and terms and conditions - such as charges that can or cannot apply for changing bookings.

In addition, consumers require an external independent airline Ombudsman to maintain consumer confidence in the industry by helping consumers resolve their disputes in a fast and efficient way, and to improve dispute resolution and practices inside individual airlines.

# 3

## SOCIAL JUSTICE

---

### Commit to a national interest rate cap

NSW, QLD and the ACT all prohibit harmful payday lending through the application of an all-inclusive interest rate cap of 48% APR.

In other states and territories, the payday lending industry operates virtually unchecked, charging interest rates of up to 1,000% APR.

The Commonwealth government now has responsibility for the regulation of consumer credit.

The government **must** commit to the implementation of a comprehensive, all-inclusive national interest rate cap.

---

High-cost short term loans (or “payday loans” as they are sometimes called) have boomed in Australia in recent years, trapping vulnerable Australian consumers in harmful debt spirals.

These loans are often accessed by desperate, low-income consumers, who feel they have nowhere else to go. The annualised interest rates for such loans can range from 400% to above 1000%, and consumers often struggle to repay the initial loan - which can lead to repetitive and ongoing borrowing.

High-cost short term loans are illegal across most of Europe, and the trend in the United States is to curb the industry by implementing state-based, comprehensive interest rate caps.

There is no reason why Australia has to have high-cost short term loans.

We already prohibit this industry across much of the country, and we cannot afford to lose that protection. Nor should Australian consumers in other states and territories be denied equivalent protection to those in NSW, QLD and the ACT.

As the Commonwealth Government moves to implement phase two of the National Consumer Credit Protection Act, Australian consumers deserve a commitment to the implementation of a comprehensive, national interest rate cap.

Low-income consumers do not deserve to be locked into ongoing, harmful high-cost debt.

**Save the cap!**

---

**Commit to assisting consumers to build financial resilience and well being, and provide more services for those struggling to cope.**

Cost of living pressures, household debt and over-commitment are growing problems in Australia.

Recent improvements to consumer credit laws (including responsible lending obligations), and consumer law more generally, are welcome and long overdue.

However, the government must not step away from helping to build financial resilience, and providing support for those who are struggling to cope.

This includes low-cost finance alternatives, consumer credit legal advice, and financial counselling. Maximum benefit can be achieved by adopting an integrated approach to the delivery of these services.

At the moment however, these services are delivered in a fragmented way and there is markedly different access and resourcing across Australia

---

Government should commit to a comprehensive program to support consumers in relation to debt and consumer credit issues.

The package should include:

**1. Continued funding to support programs and services that build financial resilience and well-being.**

These include savings incentive schemes, ‘no interest loan schemes’ and programs that work with consumers to improve money management skills.

**2. Measures to encourage consumers to take early action to resolve debt and other financial programs.**

With adequate resources, community agencies would be well placed to identify consumers likely to have problems and offer them assistance to access support services. Credit providers should also be encouraged to identify consumers in financial difficulty.

3. **Funding for a specialist consumer credit legal service in each state, increased funding for financial counselling and funding for specialist lawyers to meet particular high priority needs for legal advice on credit and debt issues, including the needs of Indigenous consumers.**

South Australia, the Northern Territory and Tasmania have no specialised consumer legal service, and demand far exceeds supply for services in Queensland, New South Wales, the Australian Capital Territory, Western Australia and Victoria.

Additional funding provided to financial counselling services during the Global Financial Crisis should become recurrent. Demand for financial counselling far exceeds supply and these services are filling a clear and ongoing need. Finally, a commitment must be made to continue to fund the Australian Financial Counselling and Credit Reform Association (AFCCRA) as a peak body for financial counselling in Australia. Currently, funding for AFCCRA is confirmed to June 2011.

---

### **Help consumers make ethical and sustainable choices.**

Many consumers want to make choices that are good for the environment, promote fair trade or protect animal rights—but it is often too hard for them to do so.

Consumers are not provided with enough information about the products they buy, and misleading claims are not policed.

---

Government should develop strategies to support a range of labelling and certification schemes on issue that matter to consumers. This includes taking action against schemes that mislead consumers.

The ACCC should be given additional resources to more thoroughly investigate green claims and extend their work to all ethical claims. The onus should be on the company making the claim to hold relevant proof.

Finally, government should fund a Centre for Sustainable and Ethical Production and Consumption.

While not a certification body, the Centre would work with industry and consumer groups to make it easier for consumers to make sustainable and ethical choices. It would help importers and retailers understand how to source and market ethical and sustainable products, and help them check what they are being told by overseas suppliers. The Centre would work with consumer groups to provide and promote consumer information

# 4

## SAFE PRODUCTS

---

**Commit to a food labelling system that helps consumers make informed choices and protects them from short and long term health risks.**

Current food labels don't tell consumers the full story about the food they eat. They don't tell us everything we need to know about additives used, organic status, GM content, country of origin, or the use of nanotechnology.

Nor does current food regulation support the battle against obesity and disease.

---

Consumers are bombarded with marketing claims about the supposed benefits of some unhealthy, highly processed foods. Consumers need to be able to make healthy choices at a glance and not be misled by exaggerated marketing claims.

Government should commit to a food labelling policy that puts the first priority on consumers' health and their right to know.

We need:

- a decision making culture based on the precautionary principle
- an end to dubious 'health claims' on unhealthy foods
- a requirement to list hidden ingredients such as palm oil and trans fats and to provide better information about additives and allergens
- traffic light labels for fats, sugars and salt to make it easier to avoid foods that contribute to diabetes, heart disease and obesity.
- consistent and credible standards for 'organic' and 'free range' claims
- full labelling of foods that contain GM ingredients or ones derived from nanotechnology

Government should also commit to effective enforcement of food laws by a single national regulator.

---

## **A precautionary approach at the heart of chemical regulation.**

Australian consumers are not adequately protected from the use of harmful chemicals. It is not acceptable to wait until a product is shown to be dangerous, before you regulate.

If a chemical reaches the market, consumers have a right to assume that it is proven to be safe.

---

Chemical regulation needs an overhaul to ensure effective products reach the market while at the same time protecting the health and safety of consumers and the environment.

The Government must commit to:

- 1. A new national regulator** responsible for both pre and post registration regulation of chemicals including control of use.
- 2. New regulatory tools** that ensure chemicals removed from the market in other countries are not allowed in Australia.
  - **No data no market** (i.e. firm data cut-offs and stipulations on the sourcing and types of acceptable data to allow regulatory decisions to be made in a timely manner).
  - **Sunset registrations** (i.e. chemicals to receive a time-limited registration of 10 years, after which their suitability is reviewed against modern science).
  - **Substitution of softer chemicals** (where new, effective, softer chemicals exist, then old chemicals should be withdrawn and replaced with these softer options).
- 3. Better labelling** of chemicals. Labels should be approved for a defined period and require updates. They should be clear, short and appropriate to users.
- 4. More and better funding** for chemical regulation including independent third party collection of industry fees and levies and global budget setting.