



Australian Government

The Treasury



Consumer voices

Sustaining advocacy and research in
Australia's new consumer policy framework

Issues paper

8 May 2009

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FOREWORD

The Australian Government, with the States and Territories, is undertaking the most far-reaching changes to Australia's consumer laws for a generation. Australian consumers and those that represent them have played a key role in informing Australia's governments about their concerns, problems, desires and expectations in regard to the new consumer policy framework.

These reforms will remake Australia's consumer policy landscape, creating a single national generic consumer law and a more efficient enforcement and administration framework. However, the implementation of the Australian Consumer Law is only a beginning. The Productivity Commission's 2008 made recommendations about ongoing support for consumer advocacy and consumer policy-focused research by Australia's governments. Effective consumer advocacy and consumer-focused policy research is crucial to ensuring that the Australian Consumer Law remains dynamic and world-leading.

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 fostering effective advocacy and research, we also want to ensure that we maintain and encourage ongoing discussion and debate within consumer circles and reap the benefits of a plurality of views.

Consumer policy must also maintain its currency. Effective consumer advocacy and research highlights the issues that affect and concern consumers and assists in ensuring that governments can make sound and timely consumer policy interventions.

With these two things in mind, I seek the views of all interested parties as to how the Australian Government can build on the work of the Productivity Commission and work with our state and territory colleagues, through the Ministerial Council on Consumer Affairs, to find sustainable approaches to support consumer advocacy and consumer policy-focused research in the medium to long term.



The Hon Chris Bowen MP
Assistant Treasurer and Minister for Competition Policy and Consumer Affairs

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REQUEST FOR COMMENTS

The Treasury has developed this issues paper, *Consumer voices: Sustaining advocacy and research in Australia's new consumer policy framework*, to:

- raise issues about government support for consumer advocacy and policy research; and
- seek public and stakeholder comments in relation to these issues.

Responses are requested by 5:00pm on **Friday, 17 July 2009** and can be submitted to:

Consumeradvocacyresearch@treasury.gov.au

or

Consumer Advocacy and Research Issues Paper
Competition and Consumer Policy Division
Treasury
Langton Crescent
PARKES ACT 2600

Phone: 02 6263 2111

Fax: 02 6263 3964

Confidentiality

It will be assumed that submissions are not confidential and may be made publicly available on the Treasury website (www.treasury.gov.au). If you would like your submission, or any part of it, to be treated as 'confidential', please indicate this clearly. A request made under the *Freedom of Information Act 1982* (Cth) for a submission marked confidential to be made available will be determined in accordance with that Act.

GLOSSARY OF TERMS

ACCC	Australian Competition and Consumer Commission
ASIC	Australian Securities and Investments Commission
CCAAC	Commonwealth Consumer Affairs Advisory Council
COAG	Council of Australian Governments
MCCA	Ministerial Council on Consumer Affairs, made up of ministers responsible for consumer affairs from the Australian, New Zealand and state and territory governments.
NEIAT	National Education and Information Advisory Taskforce
PC	Productivity Commission
SCOCA	Standing Committee of Officials of Consumer Affairs, composed of the senior officers of consumer policy and enforcement bodies in Australia and New Zealand.
TPA	<i>Trade Practices Act 1974 (Cth)</i>

THE PURPOSE OF THIS CONSULTATION AND THE WAY AHEAD

In the context of the current, wide-ranging reforms to Australia's consumer policy framework, the Australian Government is seeking the views of interested stakeholders on sustaining consumer advocacy and consumer policy-focused research in the medium to long term.

A sustainable model for supporting consumer advocacy and consumer policy-focused research will form a key part of Australia's new consumer policy framework, which will be fully operational by the end of 2010, when the Australian Consumer Law is implemented nationally and in all States and Territories.

In conducting this consultation, the Australian Government is mindful of the Productivity Commission's recommendation that it:

in consultation with the Ministerial Council on Consumer Affairs, should take the lead role in developing arrangements to provide additional public 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.¹

In considering how it should undertake its lead role in this area, the Government wants a solid information base on which to develop policy proposals for sustaining consumer advocacy and research in the medium to long term, in close consultation with its state and territory colleagues through MCCA between now and the end of 2010.

What information would the Government like to receive?

Consumer advocacy

In relation to consumer advocacy issues, the Government is seeking views on:

- the effectiveness of existing institutional frameworks for consumer advocacy, within the Australian Government and the governments of the States and Territories;
- ways in which support for consumer advocacy can be facilitated and improved;

1 Productivity Commission 2008, *Review of Australia's Consumer Policy Framework*, Final Report, Canberra (PC 2008), Rec. 11.3.

- the effectiveness of Australian Government consumer policy consultation processes, and whether other mechanisms for making consumer views known to governments might be more effective; and
- the effectiveness of existing government support (including financial support) for consumer advocacy, and ideas as to how such support can more effectively be sustained through the medium to long term.

Consumer policy-focused research

In considering consumer policy-focused research, the Government is seeking views on:

- current gaps in the consumer policy evidence in Australia;
- approaches to provide an effective mix of advocacy-focused, and objective qualitative and quantitative, consumer policy research; and
- the effectiveness of existing government support (including financial support) for consumer policy-focused research, and ideas as to how such support can more effectively be sustained through the medium to long term.

CHAPTER 1

THE NEW AUSTRALIAN CONSUMER POLICY ENVIRONMENT

COAG's consumer reforms

From now until the end of 2010, Australia's consumer policy framework will undergo its most significant overhaul in 25 years. The reforms will include:

- a new national consumer law – the Australian Consumer Law – which will be consistent across all Australian jurisdictions; and
- new national enforcement powers and arrangements for cooperation and collaboration between Australia's consumer agencies, including the Australian Competition and Consumer Commission, the Australian Securities and Investments Commission and the State and Territory offices of fair trading.

The Australian Consumer Law will strengthen consumer protections, making them more relevant to our rapidly evolving consumer markets, and, for the first time:

- all Australians will enjoy the same basic consumer protections wherever they live and wherever they shop in Australia;
- all Australian businesses – whether they operate in just one town, or across the entire nation – will have one set of consumer protection laws with which to comply; and
- all Australian consumer agencies will have common enforcement powers. They will take effective, consistent action at the local, state or national levels to protect consumers.

The reforms will create a fair and certain market nationally, and allow consumers to have confidence that they can call on the same protections wherever they are, in their dealings with every Australian business. They also represent an important contribution to the development of a seamless national economy, and were agreed by the Council of Australian Governments at its 2 October 2008 meeting.

The Productivity Commission's recommendations

On 11 December 2006 the Productivity Commission commenced an inquiry into Australia's consumer policy framework. The PC was asked to report on ways to improve the coordination of consumer policy development, the harmonisation of consumer laws and their administration across jurisdictions in Australia, and the removal of regulatory duplication and inconsistency. The PC presented its final report to the Government on 30 April 2008, and it was tabled in the Australian Parliament and published on 8 May 2008.

During the course of its work, the PC received 262 written submissions from Australian, State and Territory government bodies, businesses, consumer representatives and the public,

and conducted six rounds of public hearings in Sydney, Melbourne and Canberra. It also published a draft report in December 2007.² Submissions were received and public hearings conducted following the publication of the draft report, which the PC took into account when producing its final report and recommendations.³

In Recommendation 11.3 of its report, the PC recommended a range of proposals to provide additional support for consumer advocacy and research. In doing this, it sought to achieve a balance between the range of views provided to it as part of its consultation process. However, the Government, in considering the Commission's recommendations, must also address a key concern, which is the sustainability of ongoing support for consumer advocacy and consumer policy-focused research over the medium to long term.

Recommendation 11.3⁴

Within the broader consumer policy implementation framework agreed to by COAG, the Australian Government, in consultation with MCCA, should take the lead role in developing arrangements to provide additional public 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.

Part of the latter funding component should be used to establish and support the operation of a dedicated National Consumer Policy Research Centre (NCPRC), with the remainder provided as contestable grants for research on specified consumer policy issues. An independent review of the effectiveness of the NCPRC in delivering beneficial research outcomes should be conducted after five years.

The new funding arrangements should be subject to appropriate guidelines and governance requirements to help ensure that taxpayer support contributes to high quality advocacy and policy research in priority areas, and that the national interest is appropriately represented.

Policy development under the new consumer policy framework

The reforms acknowledge the continuing role of the States and Territories in consumer policy and the enforcement and administration of consumer laws. This shared policy function will require ongoing dialogue between the Australian Government and the governments of the States and Territories.

While this is so, the Australian Government will have a key role in relation to the new framework, as the Australian Consumer Law will be implemented as part of the Australia's principal market regulation law: the *Trade Practices Act 1974*. The Australian Government

2 Productivity Commission 2007, *Review of Australia's Consumer Policy Framework*, Draft Report, Canberra (PC 2007a).

3 PC 2008, <http://www.pc.gov.au/projects/inquiry/consumer/docs/finalreport>.

4 PC 2008 Rec. 11.3. The remainder of the PC's recommendations are set out in its Final Report.

will also soon assume responsibility from the States and Territories for the regulation of consumer credit laws, following on from the referral of financial services regulation in 2001.

With the new national policy paradigm in mind, MCCA agreed to a new national consumer policy objective, on 15 August 2008:

To improve consumer wellbeing through consumer empowerment and protection, fostering effective competition and enabling the confident participation of consumers in markets in which both consumers and suppliers trade fairly.⁵

MCCA further agreed that this overarching objective should be supported by six operational objectives for consumer policy:

- to ensure that consumers are sufficiently well informed to benefit from and stimulate effective competition;
- to ensure that goods and services are safe and fit for the purposes for which they were sold;
- to prevent practices that are unfair;
- to meet the needs of those consumers who are most vulnerable or are at the greatest disadvantage;
- to provide accessible and timely redress where consumer detriment has occurred; and
- to promote proportionate, risk-based enforcement.

This new national policy objective highlights the importance of effective engagement in the policy development and implementation process by consumer and business representatives. Also acknowledged by ministers at the 15 August 2008 MCCA meeting was the importance of evidence-based policy, supported by robust research and effective stakeholder advocacy. Ministers proposed that the Commonwealth would work with the States and Territories to further develop the effectiveness of consumer representation and consumer policy research nationally.

The Australian Government's approach to consumer policy

Across the Australian Government, consumer policy issues are the responsibility of a large number of ministers, each of whom may have concerns about the welfare of consumers in respect of specific sectors of the economy. However, the concerns of the Minister for Competition Policy and Consumer Affairs, and the Treasury, focus on three key things:

- the administration and enforcement of Australia's generic consumer laws;
- ensuring the broad consistency of Australia's national sector-specific consumer laws and coordinating consumer policy across the Australian Government; and

⁵ MCCA Communiqué (15 August 2008) (MCCA 2008), http://www.consumer.gov.au/html/download/MCCA_Meetings/Meeting_20_15_Aug_08.pdf.

- cooperating and collaborating with the consumer policy and enforcement agencies of the States and Territories to achieve national outcomes for consumer issues and problems with a national dimension.

The Treasury's objective is to improve the wellbeing of the Australian people by providing sound and timely advice to the government, based on objective and thorough analysis of options, and by assisting Treasury ministers in the administration of their responsibilities and the implementation of government decisions. A key element of Treasury's policy function lies in obtaining the views of and information about consumers, so as to identify, consider and address consumer policy problems effectively.

In fulfilling its consumer policy functions, as well as its broader functions, the Treasury applies some basic principles to policy making called the Wellbeing Framework⁶, which 'is a grassroots statement of [Treasury's] mission, encompassing market, non-market, material and intangible components'.⁷ These principles draw on widely recognised economic principles, but also allow for consideration of non-economic concerns and issues in the policy development process.⁸ In considering the effectiveness of consumer advocacy and research, the Treasury applies the Wellbeing Framework.

Treasury's Wellbeing Framework

The Wellbeing Framework comprises five elements against which public policy issues can be assessed:

- the opportunity and freedom that allows individuals to lead lives of real value to them;
- the level of consumption possibilities available to the community over time. This includes both market and non-market goods and services such as voluntary and community work, the quality of the physical environment, health and leisure;
- the distribution of these consumption possibilities, including among different groups within society, across geographical regions and across generations;
- the overall level and allocation of risk borne by individuals and, in aggregate, by the community; and
- the level of complexity confronting Australians in making decision about their lives.

6 Treasury 2008, *Who we are and what we do*, Commonwealth of Australia, <http://www.treasury.gov.au/contentitem.asp?NavId=025&ContentID=1308>.

7 Henry, K 2007, 'Connecting consumers and the economy: the big picture', closing address to the National Consumer Congress, Melbourne, 15 March 2007, http://www.treasury.gov.au/ncc/content/download/Presentations/Transcripts/connecting_consumers_and_the_economy.pdf.

8 For further detail about Treasury's approach to consumer policy issues, see Hally-Burton, S, Shirodkar, S, Winckler, S and Writer, S 2008, 'Harnessing the demand side: Australian consumer policy', *Treasury Economic Roundup*, Issue 4, pages 91-118, http://www.treasury.gov.au/documents/1451/PDF/07_Australian_Consumer_policy.pdf.

CHAPTER 2

CONSUMER ADVOCACY

What are 'consumer' views?

All Australians are consumers. In 2007-08, domestic consumption represented 55 per cent of Australia's GDP, signifying not only the importance of consumer welfare to the effectiveness of our economy, but also the critical importance of consumer confidence in well-functioning markets. This is now being tested as Australia's economic circumstances adapt to the impacts of the global financial and economic crisis.

Over the past 20 years, Australia's governments have been concerned with the importance of well-functioning markets in guaranteeing Australia's economic success. They have introduced wide-ranging reforms to improve competition and reduce inefficiency, to benefit consumers through providing greater choice, better protection and cheaper goods and services. Much of this effort has been concentrated on the supply side of markets, ensuring that there is effective competition and improved market efficiency. More recently, attention has also focused on the demand side of markets, by ensuring that consumers can have the protections they need, when competition is not enough to guarantee their wellbeing.

In these circumstances, the views of consumers and information about the impact of reforms on them are critically important. Where reform is based on regulatory impact analysis, the potential impact of reforms on consumers and business is not only necessary, but essential. Businesses are generally very effective in ensuring that their interests are communicated and understood by governments, and they can provide a lot of supporting data based on their business activities. The same does not hold true for consumers.

The impact of potential reforms on consumers is often not well understood. Consumer issues can be clouded by a focus on qualitative evidence and a lack of quantitative evidence about the impacts – positive and negative – on consumers of particular problems, practices and potential changes that affect them. There are a range of basic impediments to governments obtaining a fully representative 'consumer' view. This is because:

- there is no one consumer viewpoint, but a wide range of interests, concerns and motivations;
- individual consumers have different issues and may not share their concerns with others;
- it can be difficult for groups of like-minded consumers to resource their activities; and
- consumer issues are often linked to or part of wider social, economic and political concerns, and can be overshadowed by these.

Issues

What existing institutional frameworks, at both the national and state levels, can consumers utilise to make their views known?

How can Australia's governments facilitate more effective presentation and advocacy of consumer views?

What is 'consumer advocacy'?

Consumer advocacy takes a wide range of forms. Often, it is concerned with the interests of individual consumers, focusing on the resolution of specific issues and complaints relating to the provision of goods and services. However, it is also concerned with the representation of the views of wider consumer interests in dealing with specific business practices and policy making processes, and in debates on wider economic, political and social issues.

In a government context, consumer advocacy enables consumers to provide meaningful input into, and influence over, government policies that affect them both directly and indirectly. In all cases, it is designed to improve individual or collective consumer wellbeing, albeit often with specific political, economic and social objectives in mind.

The scope of consumer advocacy activities in Australia

At present, consumer advocacy activities directed to governments are generally undertaken by individual consumers, independent not-for-profit bodies (which cover a wide range of associations and interest groups), government-funded bodies and government agencies. These advocacy bodies represent a wide range of approaches, including:

- bodies with a general social policy focus, such as the Brotherhood of St Laurence, the Country Women's Association and New South Wales's Public Interest Advocacy Centre;
- bodies with a general consumer policy and advocacy focus like the Consumers Federation of Australia, CHOICE – the Australian Consumers Association, Victoria's Consumer Action Law Centre and the Queensland Consumers' Association;
- bodies with a specific consumer or social policy concern, like the Tenants' Union of Tasmania, the Allergy, Sensitivity & Environmental Health Association of Queensland and the Multicultural Disability Advocacy Association of NSW; and
- bodies which link their consumer advocacy to specific services, including community legal centres and other advice services.

In many cases, governments provide some funding to these bodies, or have established specific bodies to provide a consumer voice in some sectors, like the newly established Australian Communications Consumer Action Network (ACCAN), Victoria's Consumer Utilities Advocacy Centre and Western Australia's Small Business Advocacy Service.

Government agencies also advocate consumer interests, within their remit to act in a way which promotes the welfare of Australian consumers. Australia's consumer agencies are often vocal in advancing and protecting the interests of Australian consumers through their

enforcement and education activities and through supporting the activities of consumer representative bodies.

Within the Australian Government, the ACCC's function is to '[promote] competition and fair trade in the market place to benefit consumers, business and the community'⁹ and to achieve this, it has an express legislative function in relation to the dissemination of information, law reform and research.¹⁰

What should consumer advocacy achieve in a policy context?

Consumer advocacy plays an important role in improving consumer wellbeing by raising public awareness of consumer issues and problems, educating consumers, supplying them with information to better inform their choices, and providing legal representation.

Consumer advocacy also plays an important role in government policy making through its contribution to empowering consumers and ensuring their confident participation in markets by enabling them to influence government policies directly and indirectly. Such influence can take many forms and includes:

- engagement in policy debates and discussions, through the media, conferences and other public forums;
- providing government and enforcement agencies with information, including complaints, about consumer issues and problems that may warrant government policy intervention;
- providing government policy agencies with input into policy development, implementation and review processes; and
- engagement in the legislative process through lobbying and engagement with parliamentary consultative processes.

Effective input into policy development is a particularly powerful mechanism as it leads to better, more robust consumer policies that are less susceptible to revisions over the longer term and which result in improved consumer wellbeing.

Consumer advocacy in an Australian Government context

There was significant public and stakeholder interest in the consultation paper entitled *An Australian Consumer Law: Fair Markets – Confident Consumers*, developed by the Standing Committee of Officials of Consumer Affairs and published on 17 February 2009.¹¹ While that paper attracted 101 submissions from a wide range of stakeholders, only 13 came from consumer advocacy bodies, and fewer from individual consumers.

As noted by the PC, there are various avenues by which consumer representatives can provide input into consumer policy development, including making submissions in response

9 See <http://www.accc.gov.au/content/index.phtml/itemId/54137>.

10 See section 28 of the TPA.

11 See <http://www.treasury.gov.au/contentitem.asp?NavId=014&ContentID=1484>.

to consultation papers such as this one.¹² In developing consumer policies, the Australian Government seeks to obtain a balanced range of views, but notes that it is often the case that consumer interests are underrepresented. In many cases, policy officials will take specific steps to ensure that consumer representatives are aware of policy initiatives and consultation processes, so that they may make their views known.¹³

The Australian Government also provides a range of formal mechanisms through which consumer representatives can make their views known about general consumer policy issues. In mid-2008 the Minister for Competition Policy and Consumer Affairs reformed the Commonwealth Consumer Affairs Advisory Council to refocus its functions and membership to advise him more effectively on consumer affairs issues. CCAAC includes consumer representatives within its membership.¹⁴

CCAAC's terms of reference

The terms of reference of CCAAC are to:

- consider issues, reports and papers referred to it by the Minister and report to the Minister on their consumer policy implications, and in doing so take account of the need for well-functioning markets with confident consumers;
- identify emerging issues affecting Australian markets and consumers and draw these to the attention of the Minister; and
- when considering consumer policy issues, take account of the competition and other relevant economic implications of consumer policy issues.

The ACCC also has a Consumer Consultative Committee, with membership drawn from a wide range of consumer representative bodies, to advise it on consumer issues.¹⁵

Issues

Do existing Australian Government consumer policy consultation processes allow consumer representatives an effective opportunity to participate?

How could these processes be improved?

What other formal mechanisms could be used to provide consumer views to governments?

¹² PC 2008 II.275.

¹³ PC 2008 II.277. The PC noted: 'several consumer organisations indicated that they are often pro-actively approached by governments (and sometimes industry bodies) to provide input into policy processes'.

¹⁴ See:

<http://assistant.treasurer.gov.au/DisplayDocs.aspx?doc=pressreleases/2008/054.htm&pageID=003&min=ceb&Year=2008&DocType=0>; and

http://www.treasury.gov.au/content/consumer_affairs.asp?ContentID=270&titl=Consumer%20Policy.

¹⁵ See <http://www.accc.gov.au/content/index.phtml/itemId/800732>.

The role of the States and Territories

The States and Territories play a major role in consumer policy and enforcement, and they will continue to do so under Australia's new consumer policy framework. State and Territory governments all provide support for consumer advocacy activities in their jurisdictions through a range of models, some of which are described in this paper.

A key role facilitated by Australia's consumer policy agencies is the hosting of forums for the exchange of ideas on consumer policy issues. For example, the members of MCCA share the hosting of the National Consumer Congress¹⁶ and individual agencies host many other forums, such as:

- the National Consumer Credit Conference in 2003 and 2004 (hosted by Consumer Affairs Victoria)¹⁷;
- the National Toy Summit in 2008 (hosted by the Queensland Office of Fair Trading)¹⁸;
- the ACCC's 2008 'Know your rights' seminar for consumers, conducted in conjunction with Western Australian Government agencies,

as well as many sector-specific seminars seeking views on current reform proposals.

Through MCCA, the Australian Government is committed to further developing consumer representation nationally¹⁹, and as part of this will work with the States and Territories. In doing so, the Australian Government would like to better understand the existing models of government support provided to consumer representatives at the State and Territory level.

Issues

Which models for supporting consumer advocacy by the States and Territories have proven particularly effective? Please provide evidence to support your views.

How can consumer advocacy be supported more effectively?

Existing Australian Government support for consumer advocacy

The Australian Government does not currently provide funding to any consumer representative body for general consumer advocacy. However, the Government does support a wide range of specific consumer advocacy functions.

16 The NCC was hosted by Victoria in 2004 and 2006, NSW in 2005, the Australian Government in 2007, Western Australia in 2008 and South Australia in 2009.

17 See <http://www.consumer.vic.gov.au/CA256F2B00224F55/page/Publications-Conference+%26+Seminar+proceedings-Credit+Debt+%26+The+Consumer?OpenDocument&1=80-Publications~&2=960-Conference+%26+Seminar+proceedings~&3=0-Credit+Debt+%26+The+Consumer~> and <http://www.consumer.vic.gov.au/CA256F2B00224F55/page/Publications-Conference+&+Seminar+proceedings-2nd+National+Consumer+Credit+Conference?OpenDocument&1=80-Publications~&2=960-Conference+%26+Seminar+proceedings~&3=0-2nd+National+Consumer+Credit+Conference~>.

18 See <http://www.fairtrading.qld.gov.au/national-toy-summit.htm>.

19 See MCCA 2008.

Examples of Australian Government support for consumer advocacy

Financial literacy

Commonwealth Financial Counselling Program: In the 2008-09 Budget, the Government put aside \$20 million over four years for increased financial counselling to assist people in managing their finances. This funding doubled the size of the program.

FIDO website: ASIC, the consumer protection regulator for financial services, maintains this website that assists consumers in making better financial decisions by providing them with reports, information about financial products, tips and safety checks, and warns consumers of financial scams.

Understanding Money: This website was established by the Australian Government in June 2005 to give consumers the opportunity to increase their financial knowledge and better manage their money.

Communications

Australian Communications Consumer Action Network: ACCAN was formed on 6 August 2008 to provide a more powerful voice in the development of telecommunications policy and industry processes. Its purpose is to enhance consumer advocacy, reduce duplication, maintain and enhance existing skills and diversity of representation, and undertake research and analysis from a consumer perspective.

Consumer representation grants: Section 593 of the *Telecommunications Act 1997* provides for grants to assist consumer bodies in representing the interests of consumers in relation to telecommunications issues. \$800,000 is available for allocation in 2008-09.

Youth

Australian Youth Forum: In the 2008-09 Budget, the Government allocated \$8 million over four years to establish a new Australian Youth Forum, the primary communication channel between the Government and the young people of Australia, to give young Australians a strong voice.

Community services, health and ageing

National Disability Advocacy Program: In 2008-09, approximately \$12.6 million in funding was offered under this program to 63 organisations operating across Australia to assist people with disability to overcome barriers that impact on their daily life and their ability to participate in the community.

National Aged Care Advocacy Program: This national program funded by the Australian Government aims to promote the rights of people receiving Australian Government-funded aged care services, and funds aged care advocacy services in each State and Territory.

Types of support available for consumer advocacy

Consumer representative bodies are generally reliant on a range of sources of financial and other support, all of which are potentially subject to change over time. Each of these support options has its own advantages and drawbacks and many consumer bodies use a mix of them to support their work. The types of support include:

- **Voluntary contributions:** Many individuals generously contribute their time, money, information, and goods and services to consumer advocacy activities on a voluntary basis, providing many organisations with a wide range of experience and expertise.

The Queensland Consumers' Association operates through the support of its members in volunteering their time and expertise. Many consumer service providers, such as Citizen Advocacy, operate with a significant volunteer component.

While many consumer groups obtain resources predominantly from voluntary contributions by individuals, it may take some time to mobilise sufficient resources – which often may be only temporary – and the appropriate knowledge and capability required by a consumer organisation. Having said that, volunteers often see their work as highly rewarding and their contributions are valuable. A study of Illawarra Citizen Advocacy²⁰ revealed, for example, a much higher total time devoted to advocacy than could be provided by equivalent expenditure on paid advocacy.

These organisations are often independent and self-directed, but these important features of their roles can be compromised due to a lack of organisational resources.

- **Self-funded activities:** Consumer organisations can fund their advocacy and related activities through trust funds, membership fees, magazine and internet service subscriptions and sales of information services and product reports and reviews. This reflects, in many cases, the market for consumer-relevant information.

Consumer representatives that are largely self-funded include the Consumers' Federation of Australia (through membership fees and voluntary contributions) and CHOICE – the Australian Consumers Association (membership fees and through the sale of a wide range of consumer services).

The advantages of self-funding include the relative certainty that resources are unlikely to be diluted over a given period of time and ensuring the independence of the organisation. While an initial outlay of resources is often required to establish activities that will generate funding, an organisation that establishes such activities has scope to benefit from expanding the scale of its operations.

- **Philanthropic funding:** Some consumer advocates obtain funding from philanthropic sources. In some cases these may be privately endowed charitable enterprises or business funding based on corporate social responsibility obligations. Grants may be linked to specific purposes or be awarded as part of contestable funding processes. Community groups, for instance, receive contributions from banks and other sources to provide

²⁰ Martin, B 2003, 'Citizen advocacy and paid advocacy: a comparison', *Interaction* 17(1), pages 15-20.

No Interest Loan Schemes, and there are many examples of community advice centres that receive philanthropic funding via grants.

The scope of philanthropic funding is also considerable, with around 350 trusts and foundations operating in Australia that provide funding for non-profit enterprises.²¹ Most philanthropic funds have a policy of refusing funding for recurrent projects.²²

- **Government funding:** All Australian governments provide funding to sector-specific consumer advocacy bodies. The types of funding provided vary and can include contestable grants, recurring grants, specific purpose funding, in-kind support (such as accommodation or resources) and matched funding. The Victorian Credit Legal Service, Consumers Health Forum of Australia and Consumer Action Law Centre, for example, receive funding from the Victorian Government.

Reliance on a single source of funding has considerable risks, as it means that an organisation can become dependent on a resource that could be taken away. For example, government funding, in any form, has several inherent risks. Governments change, economic and political circumstances shift, budgetary priorities alter and public policies evolve. All of these things can mean that the provision of funding cannot be guaranteed, either in a particular form or over the medium term.

Issues

What role does government support play in consumer advocacy at the national and state levels and how effective is it?

What models for government support of consumer advocacy are effective? Please provide evidence to support your views.

Are there problems associated with current models? If so, what are they?

Having regard to the existing government support for consumer advocacy, how can such support for consumer advocacy be sustained over the medium and long term?

21 Philanthropy Australia 2007, *The Australian Directory of Philanthropy 2008/2009*, 14th edition, Philanthropy Australia, Melbourne.

22 Consumer Affairs Victoria 2006, *Consumer Advocacy in Victoria*, Research Paper No. 7, Consumer Affairs Victoria, Melbourne.

CHAPTER 3

POLICY-RELATED CONSUMER RESEARCH

Consumer policy research

The role of evidence in consumer policy making

All Australian governments operate within a best practice regulatory context. In doing so, they use evidence:

- to identify the nature and scope of policy problems;
- to decide whether there is a need for policy intervention;
- to consider the costs and the benefits of policy options for addressing these policy problems, including regulatory and non-regulatory means; and
- to support their ultimate policy decisions.²³

Effective consumer policy reflects a solid information base. Just as governments benefit from effective consumer advocacy, they acknowledge the important role of objective research in making informed, empirically based decisions in developing consumer policy.

What evidence is relevant to consumer policy making?

The PC identified a range of core policy concerns which can be addressed through research and highlighted a series of suggestions from submissions on areas that might usefully be explored in more detail.²⁴ In many cases, these issues would provide a more robust evidence base for consumer policy action, and would also assist in identifying policy problems more clearly.

Some key issues where Australian consumer policy might benefit from additional research being undertaken within Australia include:

- **Consumer detriment:** A key concern of consumer policy is addressing consumer detriment arising from harmful, exploitative or problematic conduct by traders, product safety issues or the effect of existing laws. However, a key problem with consumer policy has been how consumer detriment can be more accurately identified and quantified. Indeed, a lot of consumer advocacy concerns itself with qualitative issues, such as the impact of specific practices on a limited range of individuals, and attempts to extrapolate this evidence across the wider population.

²³ For further information on best practice regulation requirements within the Australian Government, see <http://www.finance.gov.au/obpr/proposal/ria-guidance.html>.

²⁴ PC 2008 II.284-285.

The challenge of quantifying and defining consumer detriment effectively is well understood, and a considerable amount of work has been done in this area in the United Kingdom, the European Union and the United States.²⁵

- **The merits of policy action, and of alternative policy options:** In determining which policy option to pursue, or indeed, whether to engage in any policy intervention, the relative merits of the alternatives must be assessed. In comparing policy options, it is appropriate to consider the respective advantages and disadvantages of each option; the strengths, weaknesses, opportunities and threats associated with various options; and whether a particular policy intervention provides a higher net benefit to the community than alternative policy responses.
- **The nature of consumer behaviour, and the influences that may impact on it:** Consumers tend to make good choices most of the time and are better informed than policy makers about their own situation and preferences. However, consumers sometimes fail to behave in their own best interests, based on their psychology, the changing market landscape and changes in consumer characteristics. The growth in services and technology, shifting consumer demographics, and increasing complexity, choice and time constraints facing consumers, for example, mean that developing effective policies requires a better understanding of how consumers make decisions in different markets.²⁶
- **The most effective tools for addressing consumer detriment and dealing with consumer disadvantage and vulnerability:** Within society there are likely to be groups of people who are more susceptible to detriment than others. Given that the majority of consumer research focuses more on the responses of mainstream consumers, consumer policies that seek to improve the outcomes of vulnerable and disadvantaged consumers require an awareness of emerging vulnerabilities and a better understanding of the behaviour of these groups of people.

As consumer policy evolves and adapts to changes in Australia's consumer product and services markets, there are many more issues that could be usefully explored in an Australian consumer policy context.

25 See, for example: UK Office of Fair Trading 2006, *The Psychology of Consumer Detriment – A Conceptual Review*, UK Office of Fair Trading, London, http://www.offt.gov.uk/shared_offt/reports/consumer_protection/oft792.pdf;
UK Office of Fair Trading 2006, *Focus Group Research on Consumer Detriment*, UK Office of Fair Trading, London, http://www.offt.gov.uk/shared_offt/reports/consumer_protection/oft826.pdf;
Europe Economics 2007, *An Analysis of the Issue of Consumer Detriment and the Most Appropriate Methodologies to Estimate It: Final Report for DG SANCO*, Europe Economics, London, http://www.ec.europa.eu/consumers/strategy/docs/study_consumer_detriment.pdf;
Europe Economics 2007, *Assessing the Impact of Policy on Consumer Detriment: A Handbook for the European Commission*, Europe Economics, London;
US Federal Trade Commission 2007, *Consumer Fraud in the United States: The Second FTC Survey*, US Federal Trade Commission, <http://www.ftc.gov/opa/2007/10/fraud.pdf>; and
US Federal Trade Commission 2008, *Protecting Consumers in the Next Tech-ade*, US Federal Trade Commission, <http://www.ftc.gov/os/2008/03/P064101tech.pdf>.

26 Productivity Commission 2007, 'Behavioural Economics and Public Policy', Conference proceedings on 8 and 9 August 2007, Melbourne (PC 2007b), <http://www.pc.gov.au/research/confproc/behaviouraleconomics>.

Issues

What other key policy evidence issues exist in relation to consumer policy in Australia?

Issues with evidence in current consumer policy making

The PC identified a number of issues in relation to the knowledge necessary for good policy making.²⁷

Much advocacy-based research focuses on anecdotal information, common perceptions and qualitative assessments. While such research is useful in policy making, particularly in highlighting specific community concerns, it often only tells part of the story. Often, it may not accurately reflect the underlying policy problem or the way in which specific practices impact across consumer markets, and it may also reflect 'conventional wisdom' in a way which is based more on perceptions than fact. For these reasons, there is an important role for evidence-based research in contributing to effective policy making.

Consumer policy research can also often be based on:

- particular agendas (for example, being based on a specific social, economic or political view);
- specific perspectives (for example, legal, economic, and behavioural influences and paradigms); and
- particular concerns (for example, concerns for the welfare of disadvantaged and vulnerable consumers, small business people or middle-class professionals).

This reflects the fact that consumer policy-focused research is often intrinsically linked to current consumer advocacy concerns. While legitimate and useful, such evidence also has limitations in terms of providing objective evidence on which to base policy action.

Issues

What approaches can provide an effective mix of both advocacy-focused and objective qualitative and quantitative consumer policy research?

Current government support for consumer policy research

There are currently a wide range of approaches to government support for consumer policy-focused research in Australia, which reflect the different research needs and interests of governments and consumer representative groups. These include:

- **Funding for research through MCCA:** MCCA provides funding for a variety of consumer policy research projects, including through commissioning expert consultants to undertake specific research and the recently formed National Education and Information

²⁷ PC 2008 Ch. 11.

Advisory Taskforce (NEIAT), which has a broad research agenda in relation to consumer education and information and is currently undertaking a wide-ranging study into the effectiveness of consumer knowledge and information concerning statutory conditions and warranties. MCCA also recently commissioned and published a baseline study of consumer product-related accidents.

- **Funding of research by consumer policy and enforcement agencies:** Numerous government agencies contribute funding for consumer policy research by bodies. For example, the PC hosted a roundtable of Australian and international experts on behavioural economics in 2007.²⁸

Consumer Affairs Victoria has an active research agenda and has undertaken several major consumer surveys on key policy issues, as well as commissioning or undertaking research into alternative dispute resolution and disadvantaged and vulnerable consumers.²⁹

- **Co-funding of research bodies:** A number of government-supported academic bodies undertake consumer policy research, including:
 - the Centre for Regulatory Studies (Monash University), which receives funding from the Victorian Government;
 - the Centre for Advanced Consumer Research (University of Western Australia), which receives funding from the Western Australian Government;
 - the Centre for Competition and Consumer Policy (Australian National University), which receives funding from the ACCC; and
 - the Centre for Consumer and Credit Law (Griffith University), which receives funding from the Queensland Government.
- **Funding through government funded consumer representative bodies:** Sector-specific consumer policy-focused research is conducted or commissioned by government-funded consumer advocacy bodies. Examples of such bodies include:
 - ACCAN, which covers telecommunications issues and is funded by the Department of Broadband, Communications and the Digital Economy³⁰;
 - the Victorian Consumer Utilities Advocacy Centre, which is funded by the Victorian Government through the Minister for Consumer Affairs³¹;

28 See PC 2007b.

29 For further information, see Consumer Affairs Victoria 2008, *Annual Report 2007-08*, Chapter 1, Consumer Affairs Victoria, Melbourne, [http://www.consumer.vic.gov.au/CA256902000FE154/Lookup/CAV_Publications_Annual_Report_2008/\\$file/reforms_&_research.pdf](http://www.consumer.vic.gov.au/CA256902000FE154/Lookup/CAV_Publications_Annual_Report_2008/$file/reforms_&_research.pdf).

30 See <http://www.accan.org.au>.

31 See <http://www.cuac.org.au/home>.

- the Western Australian Consumer Utilities Project, which is funded by the Western Australian Government and run by the Western Australian Council of Social Service.³²

Other consumer bodies that undertake a consumer policy research role include the Consumer Law Centre, Victorian Credit Legal Service, Consumer Action Law Centre, Consumers Health Forum of Australia and Health Issues Centre.

- **Ad hoc research funding on specific issues:** Governments regularly commission research on specific policy issues from expert consultants on a needs basis. In addition, research into consumer policy is also undertaken on an individual project basis, for which support is provided mainly in the form of government grants.

The Australian Research Council, for example, is currently funding (through its National Competitive Grants Program) research about consumer trust in the food system and the consumer welfare impacts of competitor collaboration.

Grants are also available for sector-specific consumer policy research. For instance, the then National Health and Medical Research Centre recently funded research into understanding consumer and provider responses to incentives. Additionally, the Telecommunications Consumer Representation and Research Grants Program³³ provides financial assistance to a:

- consumer body for purposes in connection with the representation of the interests of consumers in relation to telecommunications issues; and
- person or body for purposes in connection with research into the social, economic, environmental or technological implications of developments relating to telecommunications.

How can government support for consumer research be more effective?

In considering the most effective forms of support for consumer policy-focused research, the Australian Government is mindful of the need to ensure that the positive and negative features of these approaches are considered in some depth.

All of the forms of support for consumer policy-focused research described above have positive features, specifically in terms of their responsiveness to current issues and the way in which they foster a range of viewpoints, and some drawbacks, particularly the way in which the current consumer policy-focused research environment needs more depth and relevant experience in an Australian context.

The Australian Government is conscious of the need to address Australian consumer problems and issues more effectively based on a comprehensive program of consumer policy research, but it is also conscious of the need to ensure that ongoing government support for consumer policy-focused research is coherent in its focus, serves government policy priorities and processes effectively and is sustainable in the medium to long term.

³² See <http://wacoss.org.au/utilities/index.htm>.

³³ Established under section 593 of the *Telecommunications Act 1997* (Cth).

Issues

How effective are existing consumer policy research programs and bodies? Please provide evidence to support your views.

Drawing on Australian and international examples, what models are effective for funding effective advocacy-focused and objective qualitative and quantitative consumer policy research in the medium to long term? What other models are appropriate in this context? Please provide evidence to support your views.