
Guidance and information

'Custom care' package for home owners

On 29 October 1998 Commission Deputy Chairman Allan Asher launched a comprehensive customer service package for consumers dealing with house builders.

The package brings together consumers, government and industry to avoid problems developing or, if they do, to quickly, fairly and cheaply resolve them.

'Custom Care', as the program has been dubbed, includes:

- access to a call centre to get information about domestic housing issues, such as contract interpretation or complaints handling;
- a code of conduct for builders;
- plain English contracts;
- dispute avoidance initiatives, such as checklists to give consumers an exact understanding of the product they will get; and

- a home-owner's manual, which discusses caring for a house.

As well as providing consumer assistance, the call centre will alert the industry to emerging problems and allow quick rectification, as part of the industry's moves to continuous improvement of its services.

Custom Care has been developed as a co-regulatory program. An initiative of the Housing Industry Association of Australia with the assistance of the Commission, it has been designed to help the industry overcome poor practices which were highlighted in the then Trade Practices Commission's 1994 housing report.

For further information contact Shane Goodwin on (02) 6245 1334 or the HIA's Info Centre on 1902 973 555.

New publications

Unconscionable conduct guide

On 5 November 1998 the Hon. Peter Reith, Commonwealth Minister for Education, Workplace Relations and Small Business, launched the Commission's guide to unconscionable conduct in commercial transactions.

The Trade Practices Act contains two sections dealing with unconscionable conduct in commercial transactions — s. 51AA and the new s. 51AC. Section 51AC is specifically designed to improve the legal protection and remedies available to small business. It applies to conduct occurring from 1 July 1998.

Although neither s. 51AC nor s. 51AA (a broader prohibition) defines 'unconscionable conduct', the new section provides guidance to



Photography David Reid

From left: Ron Silberberg, CEO HIA, Allan Asher, Deputy Chairman ACCC and Glen Simpson, HIA.

the courts by a non-exhaustive list of factors which may be taken into account.

The new section mirrors for small business the rights previously enjoyed only by consumers and incorporates a range of additional matters in order to ensure that the new provision achieves its intended purpose of protecting small businesses in their dealings with larger businesses.

The guide explains in plain English the law relating to unconscionable conduct, the terms used in assessing it and the remedies available. It also offers some case studies, discusses risky market practices and effective compliance systems (including dispute avoidance and resolution), and provides checklists to assess risks of possible breaches.

The guide will be updated as important judicial statements are made on the new part of the Act.

The guide is available for \$10 from Commission offices and the Commission's website.

Franchising Code manuals

The Commission, together with the Commonwealth Government's Office of Small Business, has produced a compliance manual and a training manual for the Franchising Code of Conduct.

The compliance manual covers issues such as the application of the code, franchise conduct, renewals, terminations, supply of goods and services, and disclosure document obligations. It includes a diskette which, among other material, contains a checklist and sample disclosure document, plus copies of the booklets *Franchising Code of Conduct* and *Small business and the Trade Practices Act*. It is available for \$130 from Commission offices.

The training manual is designed to give franchisors and their advisers a framework for providing training to franchising participants on how to comply with the code and trade practices legislation.

Contents include questions and answers, training notes and case studies. It also includes a diskette, which covers the training material and includes checklists, disclosure documents and a Powerpoint presentation. The manual, to be used in conjunction with the Franchising Code of Conduct Compliance Manual, is available for \$30 from Commission offices.