
Guidance and information

Memorandum of understanding — ACCC and Standards Australia

On 9 November 1998 ACCC Chairman Professor Allan Fels and the Chief Executive of Standards Australia, Mr Ross Wraight, signed a memorandum of understanding on cooperation between the two organisations.

Appropriately, the signing occurred on the first day of the Global Commerce Conference in Sydney, organised by the Commission. The aim of the conference was to improve consumer confidence in electronic commerce and the global marketplace, through the development of enforcement, compliance and rule making strategies for consumer protection. It dealt with areas where it is increasingly important that standards are available to provide an objective measure of performance or fitness.

The MOU is built upon the already close relationship between the two organisations. For example, Commission staff take part in a number of Standards Australia drafting and advisory committees.

The MOU will promote a closer working relationship between the Commission, which is responsible for enforcing mandatory safety and information standards under the Trade Practices Act, and Standards Australia whose standards may form the basis of mandatory standards.

The agencies will meet twice yearly to facilitate the adoption of Australian Standards as international standards.



Professor Fels and Mr Wraight signing MOU.

ADMA Code

On 9 November 1998 the Australian Direct Marketing Association (ADMA) launched a proposed Code of Practice and Code Administration. Commission Chairman Professor Allan Fels commented that the code was a positive step for the industry.

ADMA's Code of Practice is the culmination of three years of cooperative effort by regulatory agencies and two major consumer organisations, and consultations with interested community and industry parties. It also builds on recommendations from the Ministerial Council of Consumer Affairs' Direct Marketing Model Code of Practice.

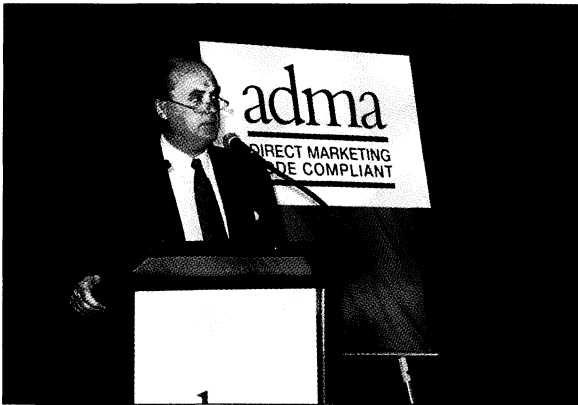
The code sets out standards on:

- consumers' access to information they need to make informed choices;
- ethical sales practices and compliance with fair trading principles;
- consumers' access to appropriate returns policies, complaints procedures and remedies where there are sales problems; and

- protecting consumers from unreasonable intrusive telemarketing practices.

Professor Fels noted that a successful effective code is a 'living thing', and that reviews and consultation should be carried out regularly to allow it to adapt to the changing needs of its creators and other stakeholders.

ADMA has applied to the Commission for authorisation of some elements of its code. The Commission has issued a draft determination, raising some concerns that need to be satisfied before it could grant authorisation. ADMA and the Commission are working together on these and other matters raised by other interested parties. A conference will be held shortly.



Mr Rob Edwards, Chief Executive Officer, ADMA, at launch of code.

Product safety forum

A one-day forum was held on 17 November 1998 at which a range of stakeholders discussed the product safety system in Australia.

The purpose of the forum was to bring together representatives of the private sector, community and government to exchange views and consider ways to reduce injuries to consumers by supplying safer products. Participants included leading figures in manufacturing, importing, retail, government and the legal sector.

An estimated 650 000 injuries per year result from either a design problem or malfunction of a product. Product recalls currently average one per day.

By bringing together people from the different sectors, the forum created the potential for working alliances in the future.

It began with a number of short presentations from the government and the private sector.

Allan Asher, Commission Deputy Chairperson, observed there was a degree of complacency in some sectors that could not be justified by the facts on product safety. He said it was important for all sectors to work together in this area.

Dr Ellen Beerworth, of Ellen Beerworth and Associates, Consulting Lawyers, said that many suppliers were taking a reactive and ad hoc approach to product management. She believes there are cost-effective and simple solutions available, yet these are not often utilised.

Robert Hershan, Managing Director of Pacific Brands, a company that makes and imports a wide range of household products, said his company has commitment at all levels to risk management, including product safety. He believes product safety to be a moral, business and financial responsibility.

Key strengths and weaknesses in Australia's product safety system were listed at the forum. Participants went on to consider the current impediments to change and the opportunities that exist or can be created.

Communication was identified as a key factor in facilitating suppliers' awareness and ability to make their products safe. Commonwealth government agencies will be developing their Internet sites to provide useful practical information and examples of successful strategies. Government agencies will also be examining ways of creating more opportunities to work with business. A working group will be established to look at developing an industry code of practice.

The forum identified the greatest challenge as shifting the product safety mindset from reactive to proactive. It noted that some companies were already leading by example. Trade associations could assist in promoting awareness of such product safety initiatives.

Forum on collection of consumer debts

On 17 December 1998 the Commission convened a forum in Brisbane of relevant interests to seek inputs on its guideline on s. 60 of the Trade Practices Act for business collecting debts and for a related compliance guide. The purpose of the forum was to see if a degree of consensus about the guides could be achieved by involving all the relevant interests in small working groups.

Relevant parties who attended the forum included representatives of the debt collection sector, the financial sector, financial counsellors, legal aid, the consumer movement and parties with expertise in the area.



A working group at the forum.

The forum is part of a research project undertaken by the Commission in June 1998 to examine the operation of s. 60 of the Act, the section covering undue harassment or coercion in relation to consumer transactions. The business activity that mainly puts companies at risk of breaching s. 60 is debt collection for consumer goods. The guideline sets down detailed examples of where conduct may put a party at risk of breaching s. 60 of the Act. Its purpose is to give guidance, particularly for those in the debt collection sector, as to when certain debt collection activities may put them at risk of breaching the Act.

Following the discussions on the conduct guide and the associated compliance guide, the Commission has redrafted the documents and

has circulated the conduct guide to forum participants for further comment. It is anticipated that the conduct and compliance guides will be issued in early 1999.

For further information, contact Judy Hartcher on ph. (02) 6243 1066.

Electricity transmission network pricing conference

The electricity transmission network pricing conference was held in Melbourne on 14 and 15 December 1998. The conference was jointly organised by the Commission and the University of Melbourne and its purpose was to facilitate the debate regarding network pricing arrangements and nodal pricing options in particular.

The conference attracted over 80 participants, mainly representatives from local electricity market participants, and consulting firms that advise market participants or local customer and consumer groups.

Speakers at the conference included Professor Bill Hogan (John F. Kennedy School of Government, Harvard University), Professor Frank Wolak (Stanford University), Dr James Bushnell (University of California Energy Institute), Dr Hugh Outhred (University of New South Wales), Conrad Edwards (Transpower NZ), Dr John Small (University of Auckland), Carolyn Berry (FERC) and Sam Lovick (NECG), as well as a number of other local academics and market participants or advisers.

Copies of the papers are available by contacting Maxine Helmling on ph. (02) 6243 1246 or email maxine.helmling@accg.gov.au.

Publications

Country of origin claims

How do the majority of products labelled *Australian Made* or *Product of Australia* stack up against the new country of origin laws?

Australian made claims are considered to provide competitive advantage in the Australian marketplace. The new laws have re-defined the rules for labelling, packaging, use of logos, and

advertising that makes a claim about the place of origin of the goods. They clarify what conditions goods must fulfil to be sure they comply.

The Commission held a series of free seminars in November and December 1998 to help guide businesses through the new laws.

It has also produced a plain English guide to explain the new provisions, and the defences available to corporations that make representations as to the country of origin of their goods. The guide provides advice to manufacturers, importers and retailers on how to comply with the new provisions, and addresses some common problems and frequently asked questions. It is available for \$10 from Commission offices.

The Commission has also produced a leaflet on country of origin claims as part of its News for business series. It is available free from Commission offices.

Sunglasses and fashion spectacles — guide to safety standard

In October 1998 the Commission published a product safety guide on sunglasses and fashion spectacles. The guide is designed to help suppliers such as manufacturers, wholesalers, importers, retailers and promoters of sunglasses and fashion spectacles to comply with the mandatory safety standard that applies to these products.

The guide should be read in conjunction with Australian Standard 1067.1-1990 *Sunglasses and fashion spectacles, Part 1: Safety requirements*, on which the mandatory standard is based. The standard aims to ensure that sunglasses and fashion spectacles provide adequate protection from the outdoor environment, particularly from ultraviolet radiation, thereby reducing the risk of damage to eyesight.

The standard was originally declared to be a mandatory consumer product safety standard in 1985. The current mandatory standard contains a number of variations to the standard.

The guide is available from Commission offices. It is free for the first copy, and \$5 for subsequent copies.

News for business — the motor vehicle industry and false advertising

The Commission has produced a News for business on false advertising in the motor vehicle industry to emphasise to motor manufacturers, their dealers and advertising agents the importance of having an effective trade practices compliance program.

The leaflet follows action taken against Nissan Motor Company (Australia) Pty Ltd, which was finalised in 1998. The Commission alleged that Nissan had misrepresented the model and price of its popular Patrol RX Turbo Diesel in newspaper and television advertisements in South Australia during 1996. The action resulted in convictions and fines totalling \$130 000 on Nissan and \$10 000 on its advertising agent in South Australia. Nissan also gave an enforceable undertaking to make an ex gratia payment of \$2000 to each of the 17 purchasers of the Patrol model in question.

The Court made special mention of the fact that Nissan, despite having been convicted in the Federal Court in 1979 for breaching the Act, had failed to implement an effective compliance program to ensure that potential breaches were detected.

The leaflet provides more detail on this case and guidance on how to avoid such breaches of the Act. It is available free from Commission offices.