CONSUMER ACTION LAW CENTRE
ELECTION 2016

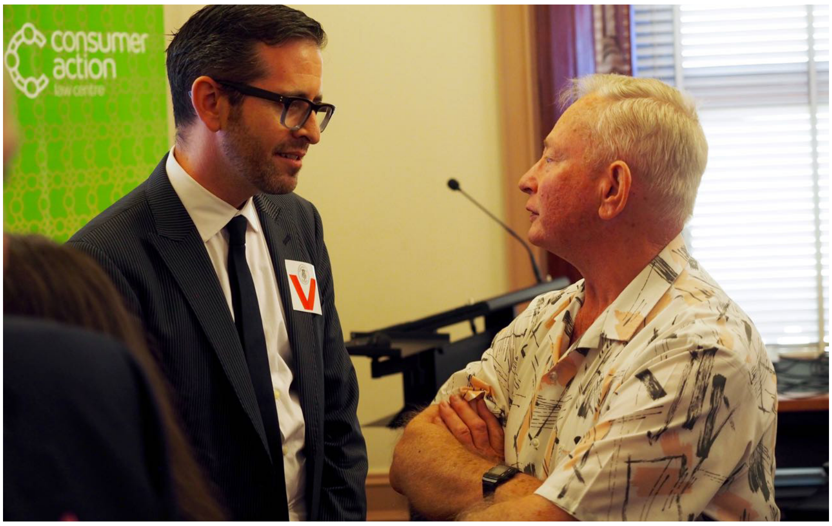
A BLUEPRINT FOR FAIR
GERARD BRODY, CEO

Fairness is the very fabric that keeps Australia together. A strong safety net, universal access to essential services, and a living wage that rewards work are the things that give us our character as a nation.

But fairness is not guaranteed. In a market economy that changes rapidly, regulators and law-makers need to keep up to protect the Australian fair go.

Last year was a big year for shonks who undermined fairness standards. The high profile scandal in vocational education wasn't really an education story at all. It was about misleading and deceptive behaviour, as many vulnerable Australians fell prey to high-pressure and misleading sales tactics.

The finance sector is vital to facilitate economic opportunity and social justice. Most of us take the financial security of our families for granted, but what if your income was insufficient to fully participate in Australian society? Some Australians resort to ***payday loans*** and high cost ***"consumer leases"*** to get access to quick cash and household goods. The corporate cop, ASIC, and the Government's review panel, have exposed these products as obscenely expensive, trapping low-income Australians into a cycle of debt.



Companies offering dubious debt management services that hide unregulated in the shadows of the finance industry is an emerging issue. We are calling them "debt vultures" because they feed off Australians' financial misery. Products like debt agreements and credit repair make promises that often can't be met, yet are aggressively sold to people struggling with debt who really need free financial counselling to get back on track.

Access to reliable and affordable electricity, gas and water is probably a fairness measure that all Australians can agree on. We are, after all, a prosperous nation so keeping the power on for all should be a priority. Energy efficiency measures are a simple, cost-effective way to mitigate some of the excesses of energy pricing. For ambitious law-makers, tackling the energy networks and their inflated assets is another option.

The review into the Australian Consumer Law (ACL), due to report in 2017, will be a valuable test to see if we can re-position consumer law in terms of fairness. However, we can end business practices that exploit Australians right now and give regulators the power to go after them.

To tackle the ***fairness deficit***, we need commitments to implement this blueprint. These are common sense solutions that ***will*** improve the lives of all Australians, but most importantly those Australians who rely on a ***fair*** Australia the most.

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THE 12-POINT BLUEPRINT FOR FAIR

FAIR BUSINESS

1. The establishment of a Retail Ombudsman to resolve consumer disputes

Australians need a ***Retail Ombudsman***, based on the model already operating in the United Kingdom, to hear complaints between consumers and retailers relating to goods or services purchased either in stores or online. The UK model is funded by retailers who 'opt-in' and pay for membership according to the size of their business, with a no-cost entry to small businesses.

The service is free for consumers to use, and the ombudsman's decisions only bind member retailers, who are contractually obligated to comply. Ombudsman schemes generally provide for better outcomes for both consumers and traders, compared to cumbersome state-based civil tribunals. Not only can a binding decision be made, but systemic issues can be identified and tackled, and determinations can be published to aid transparency.

2. A ban on unsolicited sales

Cold calling and door-knocking has had its day. The recent VET scandal demonstrated this, by pushing vulnerable Australians to enrol in unsuitable and expensive courses over the phone or on their doorstep. Put simply, ***selling in this way leads to bad consumer outcomes.*** Research shows that high-pressure sales in the home environment use tactics that impede rational decision-making.

Consumer Action's "Do Not Knock" campaign was successful in changing the behaviour of a number of major energy retailers. However, many unethical marketers have jumped ship to new industries, such as training or solar sales. Further legislative change is required to put a stop to unwelcome disruptions from pushy salespeople and purchases that are not suitable, wanted or affordable.

3. Prohibition on unfair trading

In Australia, we don't have a ban on unfair trading. Instead, our consumer laws rely on prohibiting something

called "unconscionable conduct", an old-fashioned approach based on the moral conduct of the wrongdoer. It is increasingly recognised that effective consumer law in a modern technology and service-based economy like ours should promote effective competition.

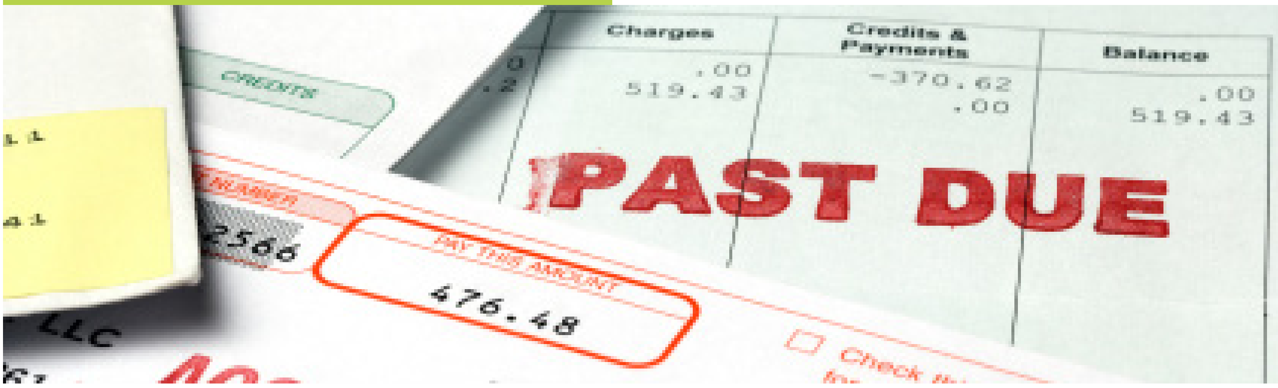
That's why ***we need a more up-to-date prohibition on unfair trading*** that considers the impact of the conduct on consumer decision-making, competition and fair market outcomes. This can ensure fairness is central to growing our economy.

4. Close the loophole on "Debt Vultures"

"Debt vultures" are the so-called debt management firms who promise to help Australians in financial hardship or with listings of payment defaults on their credit reports. They typically offer services such as budgeting, debt negotiation and "credit repair". They exist in a ***regulatory black hole,*** outside the remit of ASIC and finance sector Ombudsman schemes.

ASIC's recent shadow shopping of the industry revealed high pressure selling techniques, one-size-fits-all products being offered despite their unsuitability, and poor disclosure of high fees – this includes "credit repair" traders selling services that are provided free-of-charge elsewhere.

FAIR FINANCE



5. All credit products should be capped at 48% interest.

Payday lenders enjoy an exclusion from the cap on interest and fees in the National Credit Act that is applied to finance greater than $5,000. While payday loans are regulated in terms of the interest and fees charged, these loans can attract comparison interest rates between 112% and 407%. These high costs trap Australians into an ongoing debt cycle, perpetuating hardship.

The cost difference is significant. Typically, for every $100 borrowed for 30 days, $124 needs to be repaid. Compare this to a $100 cash advance on an 18% per annum credit card, where around $101.50 will be due after 30 days. ***All credit should be treated the same,*** and capped at no more than 48% per annum.

6. Consumer Leases to be regulated like other forms of credit

Known as "Rent-Try-Buy", consumer leases are subject to considerably lighter regulation than credit contracts. They are also ***incredibly expensive,*** and targeted at low-income and Centrelink dependent Australians. ASIC last year released a report on consumer leases, which found one lease provider charging the equivalent of 884% on the standard retail cost for a clothes dryer.

The fix is simple. The National Credit Code should no longer distinguish between consumer leases and credit contracts based on whether they provide a 'right or obligation to purchase'. This amendment should mean that consumer lessors can't take advantage of Centrepay, Centrelink's bill paying service, by allowing repayments on high cost credit to be paid ahead of a family's essential expenditure, including food and rent.

7. Credit Card credit limits to be subject to responsible lending requirements

The recent Senate Inquiry into credit cards found that ***too many Australians are trapped by long-term credit card debt.*** Almost half the callers to our financial counselling hotline with credit card debt have debts more than $10,000, and one in 10 are more than $50,000. An average of one person a week reports debt exceeding $100,000 and usually juggles at least 5 cards.

Credit cards are supposed to offer convenience and some short-term credit, but they are not appropriate for long-term debt. To reduce the likelihood that families and individuals will be burdened by high interest repayments, credit card providers should be required to assess whether applicants can afford to repay the entire credit limit within 3 years. If a shorter 'teaser' interest rate applies (for example, balance transfer cards), the period should be the same as the 'teaser' period.

8. Establish a safe, Government-backed alternative to Funeral Insurance

Funeral Insurance is, for most Australians, a product that has little value. If you live for 5-10 years after you take out the policy, you might actually pay more than the benefit sum. And if you can no longer afford to pay the premiums and you have to stop, you generally will not get your premiums back - it's simply money down the drain.

Providers of this sort of insurance particularly ***target indigenous communities.*** Last year ASIC reported that 50% of all policies held by Indigenous consumers were aged under 20. A higher proportion of Indigenous consumers also had their policies cancelled for non-payment of premiums, losing the value of premiums already paid.

FAIR GO

9. Kick-off a Vocational Education and Training (VET) remediation scheme

Reforms have been legislated to curb the most extreme excesses in the VET sector, but these do little for the Australians (potentially in the hundreds of thousands) who were duped or coerced into enrolling into a course, leaving them with nothing but a VET FEE-HELP debt. All uncompleted VET FEE-HELP linked courses should be investigated to determine if the sale of the course was genuine.

Analysis by Consumer Action estimated that ***the Commonwealth may be owed in excess of $1.5 billion*** on mis-sold VET FEE-HELP loans, the majority of which could be recovered. Debt recovery would be good for the taxpayer, and relieve exploited Australians of an unfair debt, many of whom are people with disabilities, migrants with limited or no English language skills, and job-seekers.

10. Increase the threshold for bankruptcy from $5K to $20K

Currently, a debt of just $5000 can allow creditors to bankrupt Australians in financial difficulty. Along the way, charges, trustee fees and other legal fees imposed can add tens or hundreds of thousands of dollars to the initial debt. The threshold, in place since 2010, is far too low and in many cases gives creditors the power to force the sale of the family home to recover what started out as a reasonably small debt to a credit card provider or utility company.

It is unreasonable that ***people could be at risk of losing their home over a $5,000 debt.*** Increasing the threshold in the Bankruptcy Act would go some way to restoring balance in the system for the thousands of Australian households struggling with financial pressures.

11. Force energy networks to write down their assets to cut energy prices.

Since 2009, the electricity networks that own and manage our "poles and wires" have spent over $45 billion upgrading the electricity system. It is everyday households that are repaying the cost of this investment, with interest, through our energy bills. This has been the major driver to energy prices doubling over recent years. There is widespread recognition that this is infrastructure

we don't need, especially as we transition to a much more distributed energy system and falling energy demand.

There is an urgent need to write down the value of network infrastructure already installed and paid for by consumers. ***Energy networks should not be protected*** from their poor investment decisions through guaranteed returns.

12. Invest $800 million to extend Community Legal Centres, Legal Aid and independent Financial Counselling services.

This is not just the sector asking for more money – ***the Productivity Commission has recommended an annual boost in legal assistance services*** funding by $200M to meet the growing need for services. In part, this is because unresolved legal issues simply end up costing Government more in the long run.

This is at odds with the current 5-year National Partnership Agreement that will see community legal centres lose 30 per cent of their Federal funding from July 2017. Additional funding for financial counselling would mean we could provide the equivalent of one counsellor for every 2,000 people in financial difficulty.