

18 December 2018

Better Business Reforms Implementation
Regulatory policy, BRD
Department of Finance, Services and Innovation
Level 5, McKell Building
2-24 Rawson Place
SYDNEY NSW 2000

By email: policy@finance.nsw.gov.au

Dear Policy Team

**SUBMISSION IN RESPONSE TO BETTER BUSINESS REFORMS – IMPLEMENTATION
OPTIONS PAPER – NOVEMBER 2018**

The Caravan, Camping & Touring Industry & Manufactured Housing Industry Association of NSW Ltd (CCIA NSW) is the State's peak industry body representing the interests of holiday parks, residential land lease communities (residential parks, including caravan parks and manufactured home estates), manufacturers and retailers of recreational vehicles (RVs) (motorhomes, campervans, caravans, camper trailers, tent trailers, 5th wheelers and slide-ons), suppliers of camping equipment and manufacturers of relocatable homes.

We currently have as members over 700 businesses representing all aspects of the caravan and camping industry and residential land lease community industry. Of these, 480 members are holiday parks and residential land lease communities and over 200 are manufacturers, retailers and repairers of RVs, camping equipment and accessories.

The caravan and camping industry continues to be one of the fastest growing domestic tourism sectors in Australia and NSW is Australia's favourite State for caravanning and camping. In the year ending June 2018 the caravan and camping industry in NSW had 4.17 million overnight trips (up 7.26%) and 16.25 million visitor nights (up 4.93%).

In meeting this strong consumer demand, we want to ensure that businesses within this industry are able to operate successful enterprises. Wherever possible, reducing costs and complexity for businesses, without reducing consumer protections, is always beneficial.

As such, we are supportive of the options set out within the *Better Business Reforms – Implementation Options Paper November 2018* (Options Paper), particularly in relation to streamlining the uncollected goods regime. These changes will make doing business much easier for members of our Association and we welcome the opportunity to provide our feedback on the issues that are relevant to our industry.

Disclosure of Key Terms

As an Association that requires members to act honestly, meet the expectations of customers and strive to achieve best practice standards, we are generally supportive of measures to ensure consumers have sufficient information to make informed choices, provided the requirements are fair and reasonable.

The proposed disclosure obligations set out in the Options Paper could be beneficial for traders and consumers so long as the regulations:

- a) are not overly lengthy or burdensome,
- b) provide clear guidance on what terms and conditions could substantially prejudice the interests of consumers and need to be disclosed,
- c) provide a clear process for suppliers to follow to comply with their disclosure obligations (e.g. allowing electronic communication, short form fact sheets, etc), and
- d) provide for appropriate exemptions.

If all these objectives were met, a proposed start date of 1 September 2019 could be feasible. However, some sectors may require transitional periods if there are to be significant impacts on existing processes and contracts.

In relation to exemptions, industries that already have adequate disclosure requirements regarding terms that could substantially prejudice a consumer's interests include holiday parks, the residential land lease living industry and the motor dealers and repairers industry.

Holiday Parks

When proposing to enter into an occupation agreement under which a person will be the occupant of a site, section 9 of the *Holiday Parks (Long-term Casual Occupation) Act 2002* requires a park owner to provide a 'Q & A' document to the prospective occupant. Consequently, prospective occupants receive a summary of key terms and conditions, including fees and charges, notice periods for increases in fees, dispute resolution, type of moveable dwelling and other items allowed on the site and any restrictions on the use of common facilities.

Residential Land Lease Communities

When contacted by a prospective home owner, section 21 of the *Residential (Land Lease) Communities Act 2013* requires operators to provide a disclosure statement that highlights the key aspects of the proposed arrangement between the parties, including community details, site fees, utilities, services and facilities available in the community.

Operators must also give prospective home owners a copy of the NSW Fair Trading brochure *Moving into a land lease community?* Which provides further information about home owners' rights and key questions to ask when deciding to move into a community.

Both of these documents must be provided at least 14 days before signing a site agreement.

Motor Dealers and Repairers

Under the *Motor Dealers and Repairers Act 2013*, motor dealers have an obligation to disclose to a consumer all relevant information about a vehicle they are selling, including any major modifications, past flood or hail damage, whether a vehicle has previously been written-off and whether there is any suspicion of odometer tampering. Such disclosure is

made in the form of a dealer notice attached to the vehicle being sold, providing clear and easy access to key information for a consumer to make an informed decision on purchasing a vehicle.

Due to these existing disclosure requirements, residential land lease living communities, holiday parks and motor dealers and repairers should be exempted from any additional disclosure provisions under the *Fair Trading Act 1987* and its subordinate legislation.

Streamlining the Uncollected Goods Regime

We are fully supportive of legislative changes to streamline the uncollected goods regime as set out in the Options Paper and agree there is no sound policy reason for the different requirements between the Acts for the same value goods.

Members of our Association are currently burdened by inconsistent legislative requirements, particularly caravan parks that provide goods and services to a mix of tourists, long term casual occupants and residents. Depending on their relationship with a person who has left goods behind, caravan parks are currently required to comply with the *Uncollected Goods Act 1995*, the *Holiday Parks (Long-term Casual Occupation) Act 2002* or the *Residential (Land Lease) Communities Act 2013* and each have different requirements for storing and disposing of goods.

Allowing business operators to deal with uncollected goods under one regime and use modern communication channels to do so, would significantly improve efficiency and minimise the regulatory burden on businesses. In addition, transferring jurisdiction to the NSW Civil and Administrative Tribunal (NCAT) to hear and resolve all cases regarding uncollected goods would offer significant cost savings to all parties.

To ensure a smooth transition to the new, consolidated regime any supporting regulations should be made prior to commencement. They will be important for providing guidance on how the provisions of the Act are applied and prescribing time periods in which an application must be made to NCAT.

If regulations are made prior to commencement, and traders receive the support of an education campaign by NSW Fair Trading, we see no issues with a commencement date of 1 October 2019. We do ask, however, that consideration be given to the new regime having retrospective operation or transitional provisions that will allow business operators the option of dealing with uncollected goods that are in situ under the new regime.

Repeal of the Innkeepers Act 1968

We support the repeal of the *Innkeepers Act 1968* and the transfer of provisions dealing with liability for damage to property, exclusion and limitation of liability and innkeepers' lien provisions to Schedule 7 of the *Fair Trading Act 1987*.

We also support raising the liability cap and allowing accommodation providers to notify their guests of their limited liability via alternative methods, including electronic communication.

Finally, as these reforms are fairly minor and straight-forward, we see no issues with a proposed commencement date of 22 February 2019.

Conclusion

Thank you for your consideration of the matters we have raised. As an important stakeholder in relation to the issues raised in the Option Paper, we welcome the opportunity to provide our comments and are keen to participate in any further discussions.

We look forward to our continued involvement in the consultation process.

Yours sincerely

Lyndel Gray
Chief Executive Officer