

Year in review 2010–2011



Fair
Trading

Fair Trading – making a difference

Fair Trading operates within the NSW Department of Finance and Services (formerly Services, Technology and Administration), which provides a wide range of government services. The Department provides an annual report to the Minister for Finance and Services. Consequently, this additional report focusses exclusively on fair trading activities in NSW.

Compliance and enforcement actions in 2010–2011

Inspections	8,657*
Plumbing Inspection and Assurance Service (PIAS) inspections **	21,636
Investigations	1,627
Certifications	1,666*
Penalty notices issued	911
Prosecutions	213
Civil proceedings	60
Total compliance related activities	34,770*

* Responsibility for trade measurement inspections and certifications was transferred to the Commonwealth from 1 July 2010

** PIAS transferred to NSW Fair Trading in March 2010

Services provided to the public in 2010–2011

Requests for service*	8,724,625
Website visitor sessions	4,507,231
REVS checks	1,894,969
Phone enquiries from general public	1,132,810
Counter enquiries	222,811
Rental bond transactions	506,766
Consumer and trader complaints about marketplace transactions resolved through early intervention	39,595 to a value of \$664 million
Public seminars and information sessions	825
Seminar audiences	38,699

* Includes all requests for information, services and transactions.

Information on registers as at 30 June 2011

Total occupational licences	363,178
Total business names	500,615
Total associations	34,640
Total co-operatives	658

Policy development and regulatory review

Acts administered	39
Bills assented to in Parliament in 2010–2011	–
Acts and regulations amended in 2010–2011	16

Agency

Staff	937
Budget	\$173 million
Fair Trading Centres throughout NSW	24
Other service outlets*	69

* Selected Fair Trading services are also provided through Government Access Centres and other agency arrangements in rural and isolated areas throughout NSW.

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Minister's message

The *2010–2011 Year in Review* highlights a body of significant work undertaken by NSW Fair Trading.

The Government recognises the vital role that the agency plays in promoting consumer confidence and ethical standards of business practice. These conditions are integral to achieving the Government's objectives of a vibrant and expanding NSW economy.

In the coming year I look forward to a continuing record of success as we implement regulatory reform in important areas such as home building, residential parks, strata schemes and the retail motor vehicle and repair industries.

Finally, I would like to extend my personal appreciation to all Fair Trading staff for their dedication and commitment in delivering services to our clients across the State.

Anthony Roberts
Minister for Fair Trading

Minister's
message



Commissioner's foreword

NSW Fair Trading, a division of the Department of Finance and Services (DFS), plays a vital role in the NSW economy by delivering a wide range of services to the public to safeguard consumer rights and promote fair and ethical

business practice. Fair Trading informs the community of their rights and responsibilities, mediates consumer and trader complaints, encourages compliance through licensing, inspections and investigations and uses disciplinary action and prosecution to enforce the law.

The laws Fair Trading administers set the business rules that govern the countless daily transactions between consumers and traders. Regular, targeted education and inspection programs have proven an effective way of achieving higher compliance standards. Businesses that fail to comply or breach the laws face a range of civil, administrative and criminal enforcement remedies.

During 2010 and 2011 Fair Trading compliance programs targeted the property, retail, home building, plumbing, motor vehicle and energy and utilities industries across the state. We conducted 8,657 inspections, 21,636 plumbing inspections, 1,627 investigations and issued 911 penalty notices worth \$726,900. In addition, Fair Trading conducted 213 prosecutions, of which 86% were successful.

Providing information to consumers and traders about their rights and responsibilities contributes to fairness and equity in the marketplace. More than 38,000 people attended 825 educational seminars; our website visitor sessions increased by 30% to more than 4.5million; Fair Trading staff answered in excess of 1.1million phone calls and handled more than 222,000 counter enquiries.

During 2010 and 2011, 39,595 consumer and trader complaints to the value of \$664 million were received and resolved through early intervention about home building, real estate and general fair trading issues. Of these, 89% were successfully resolved. The top three consumer complaints were about residential construction, household electrical/whitegoods and used cars or motorcycles.

We also expanded our channels of access to quality information through social media (Twitter, YouTube) and mobile web to meet the changing information needs in the community.

Fair Trading continues to support not-for-profit organisations through partnerships and grant programs that deliver community education, advice and advocacy services to vulnerable consumers, tenants, people in financial hardship, retirement villages and residential park residents.

Fair Trading safeguards consumer and trader rights and ensures that legislation and regulatory frameworks meet the requirements of today's commercial environment. Over the past year we continued to work with the Commonwealth and other state governments to implement a number of the Council of Australian Governments national reform projects such as the Australian Consumer Law, which reduces regulatory complexity for businesses while providing a consistent national approach to consumer protection. The remaining national reform initiatives will continue during 2011 and 2012. These include the personal property securities system, a national business names register and a national occupational licensing system.

From September 2010, Fair Trading became the single regulator for gas in NSW.

To achieve a fair balance for tenants and landlords, the new residential tenancy laws, with more than 100 reforms, were successfully implemented in January 2011.

NSW Fair Trading is a critical agency for consumers, businesses and industry. The achievements during 2010 and 2011 reflect the ongoing commitment of Fair Trading staff to protect, educate and serve consumers and traders in NSW and help maintain a fair marketplace to benefit the people and economy of the State.

Moving into 2011 and 2012, NSW Fair Trading has undergone a number of changes to its structure and operations to improve its effectiveness as a regulator. A further change to Fair Trading has been the re-establishment of the position of Commissioner for Fair Trading, which I am honoured to now occupy.

I look forward to leading NSW Fair Trading towards delivering better outcomes and quality public service to the consumers and traders of New South Wales.

Rod Stowe
Commissioner for Fair Trading

Foreword

NSW Fair Trading

Fair Trading serves the consumers and traders of NSW. We aim to achieve an ethical, fair marketplace for all.

Our objectives

We have a set of robust objectives embedded in legislation and in our role as both a regulator and a consumer protection agency.

Fair Trading's objectives are to ensure:

- compliance with fair trading laws
- community access to information and services
- fair trading legislation simplifies service provision for consumers and traders
- fair marketplace regulation with minimal red tape.

What we do

We safeguard consumer rights, regulate specific industries and occupations, and advise traders on fair and ethical business practice. The legislative framework we administer sets the scene and the rules for fairness in the countless daily transactions between consumers and traders. We mediate consumer complaints and enforce compliance through licensing, inspections, investigations, prosecution and other disciplinary actions. Often, unfair practices are investigated and prevented behind the scenes.

A system of licensing and the investigation of complaints help ensure unqualified or inappropriate people do not operate in NSW. Our licensing and investigations cover a range of commercial activities including business and retail, residential home building, motor trade, real estate, retirement villages and residential parks, product safety, funeral goods and services, co-operatives and associations. This encourages the integrity of business and traders and provides protection for consumers.

Consumers of everyday goods and services can use our website, visit our Fair Trading Centres or phone the Fair Trading Information Centre on 13 32 20 to obtain information on their rights and responsibilities or seek assistance with resolving disputes.

Guarantee of service performance

	06-07	07-08	08-09	09-10	10-11	Target
Percentage of services meeting published GOS standards*	93%	100%	100%	100%	100%	90%

* Fair Trading's published Guarantee of Service (GOS) includes turnaround times for our primary services including phone and counter enquiries, licence processing times, rental bond refunds and incorporation of associations. It is published on the Fair Trading website under Customer service standards.

Customer feedback

The new Customer Feedback Management system introduced in November 2010 improved procedures for capturing feedback about Fair Trading's service delivery. It enables customers to lodge responses at a counter, over the telephone, through the mail or on the NSW Fair Trading website at www.fairtrading.nsw.gov.au

In 2010–2011, 570 customer feedback responses were received from consumers and traders, comprising 272 (47.7%) compliments, 57 (10%) suggestions, 241 (42.3%) complaints.

Compliments expressed praise for various aspects of customer service, especially service quality, staff helpfulness and professionalism. Fair Trading actively monitors its customer complaint handling performance and evaluates customer complaint volumes and trends for service improvement purposes.

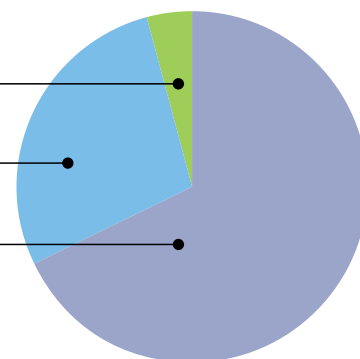
Budget allocations

Legislation
\$6.6 million (4%) 36 staff

Information and services
\$48.3 million (28%) 262 staff

Compliance and enforcement
\$118.1 million (68%) 639 staff

TOTAL
\$173 million 937 staff



What you said...

Norma wrote to say how much she appreciated receiving a personal telephone call from an officer in the strata schemes section in response to her written enquiry about sinking fund laws for owners corporations. She said that the officer was courteous, kind, precise and took a lot of trouble to clarify her issue; and it was rare for anyone in this new age to take the trouble to ring and communicate one on one.

About us

Compliance and enforcement

Objective: Compliance with fair trading laws

Strategy: Effective enforcement

Fair Trading promotes a fair marketplace for consumers and traders by maximising traders' compliance with regulatory requirements. As a regulator, the main concern is to minimise any direct financial or material loss or harm to a consumer from a business that has failed to comply with the law.

Consumers are best served by competitive markets, where traders compete fairly for custom in compliance with the law. Our compliance efforts include a commitment to working with traders and industry groups to promote voluntary compliance. Providing information on how to comply with the law is a key function of Fair Trading. Regular targeted education activities and proactive inspection programs have proven an effective way of doing this.

Fair Trading allocates its resources to where it can best address non-compliant conduct and maximise public benefit. To achieve this it applies a structured risk-based and outcome focussed approach when determining what will be investigated.

To be effective, compliance measures must be backed up with a range of escalating enforcement options that can be used if a trader fails to comply with fair trading laws. The laws administered by Fair Trading set minimum standards for businesses; and under those laws Fair Trading has a range of civil, administrative and criminal enforcement remedies at its disposal.

The compliance pyramid summarises NSW Fair Trading's approach to compliance and enforcement, and demonstrates the range of enforcement remedies used.

What you said...

Carol emailed to say thank you to the members of staff who helped resolve her complaint and always listened attentively, patiently and provided clear advice. She went on to say that Fair Trading provides an invaluable service to the public.

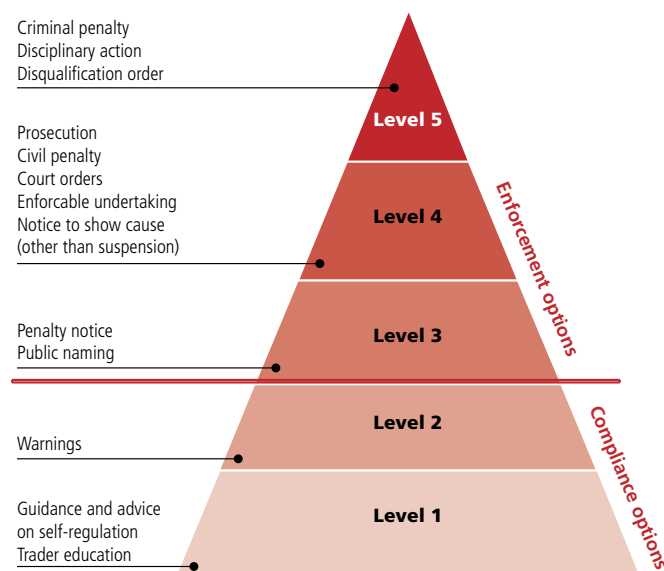
Snapshot

Prosecutions	213
Penalty notices issued	911
Investigations	1,627
Inspections	8,657
Plumbing Inspection and Assurance Service (PIAS) inspections	21,636

Highlights 2010–2011

- Conducted 213 prosecutions where 72 people were prosecuted for breaches of fair trading laws.
- 568 traders were issued penalties amounting to \$726,900.
- 716 home building investigations were conducted across the state.
- 1,992 businesses were visited in 31 operations.
- 500 penalty notices issued by the Home Building Service to the value of \$413,700.

Compliance and enforcement remedies



Compliance

Result indicator

	06–07	07–08	08–09	09–10	10–11	Target
Percentage of consumers confident in fair operation of the marketplace	73%	79%	74%	75%	72%	68%

Comment / interpretation: This survey is a measure of consumer confidence. Factors that affect consumers' confidence may include the effectiveness of fair trading laws in NSW, but may also include personal, national and global factors. Levels vary but mostly fall within the target range. Fair Trading uses this result indicator to assess the environment in which it operates, rather than its own performance as a regulator.

Performance measure

	06–07	07–08	08–09	09–10	10–11	Target
Proportion of successful prosecutions	95%	92%	96%	90%	86%*	≥90%

* Fair Trading has recently taken on increasingly complex prosecutions, including substantial fraud matters under the recently amended provisions of the *Crimes Act 1900*. Results have also been impacted by the uncertainties that are always present in criminal prosecutions, including evidentiary issues and the high burden of proof beyond a reasonable doubt.

Australian Consumer Law

The Australian Consumer Law (ACL) commenced on 1 January 2011. It reduces regulatory complexity for businesses and encourages the development of a seamless national economy. Consumers and traders benefit through a consistent national approach to consumer problems and enforcement, including:

- unfair contract terms covering standard form contracts
- guaranteed consumer rights when buying goods and services, replacing existing laws on conditions and warranties
- product safety law and enforcement system
- a national law for unsolicited consumer agreements, replacing existing State and Territory laws on door-to-door sales and other direct marketing
- simple rules for lay-by agreements
- new penalties, enforcement powers and consumer redress options.

The ACL replaced all existing Commonwealth, state and territory consumer protection laws. Compliance and enforcement of the ACL is based on a "one-law, multiple-regulators" model, with existing consumer regulators enforcing the uniform law.

During 2010–2011 NSW has taken a lead role in the implementation of the ACL. This has included:

- developing a uniform compliance and enforcement guide, which explains how all ACL regulators will go about enforcing the law
- co-ordinating the training of all investigators from ACL regulators across all jurisdictions
- leading national investigations, where appropriate
- contributing to the first report on the implementation of the ACL.

New consumer alliance

NSW Fair Trading has entered an 18-month trial agreement with consumer group CHOICE to accept "super-complaints". Where CHOICE identifies systemic failures in any particular sector, it will have the authority to formally refer these sectors to Fair Trading for scrutiny. Fair Trading will assess the issues raised and report publicly on any action taken. NSW is only the second place in the world to introduce such powers and the first to do so in Australia.

Compliance programs

In 2010–2011 Fair Trading conducted a state-wide compliance program to identify and remedy current and emerging business practices, which may lead to significant breaches of consumer protection laws. Compliance operations have an important educative role; assisting businesses to demonstrate compliance with the law and to improve operating practices. This gives consumers greater confidence and provides businesses with assurance about their own business practices and knowledge that they are less likely to face unfair competition from non-complying businesses.

Fair Trading carried out 8,657 inspections across NSW in 2010–2011. Through 31 targeted compliance programs we visited 1,992 businesses around the state. In March 2010 Plumbing Inspection and Assurance Service (PIAS) transferred to NSW Fair Trading and carried out 21,636 plumbing inspections. Responsibility for trade measurement inspections and certifications was transferred to the Commonwealth from 1 July 2010.

Below are the highlights of the compliance programs conducted throughout the year, which targeted the property, retail, home building, motor vehicle, product safety, plumbing and energy and utilities industries.

Property

Real estate

Real estate agents holding money on behalf of tenants and home buyers are required to keep this money separate, in trust, from the agency's other bank accounts. Each year real estate agents are required to have an independent accountant review the agency's accounts to ensure that all monies have been managed appropriately. Although the number of complaints about real estate issues has been decreasing over the past 5 years, Fair Trading continues to conduct routine operations to ensure compliance within the industry. Operations conducted over the past year include:

- July–August 2010 – investigators inspected 62 real estate agencies, issued 14 penalty notices and 34 warning letters.
- September–October 2010 – 38 real estate agencies were inspected in the Sydney metropolitan and NSW North Coast areas, which resulted in two penalty notices and 13 warning letters being issued.
- November 2010 – investigators covertly attended 27 residential auctions at locations popular with first home buyers to ensure that auctions are conducted in a manner that is fair and honest to both a vendor and bidder. The focus was on real estate agents underquoting the estimated sale price of homes, potential dummy bidding and compliance with the *Property Stock and Business Agents Act 2002* governing the conduct of an auction. As a result, 21 agents and auctioneers were found to be fully compliant, five agents were warned about potential breaches of the Act with one investigation continuing in relation to possible underquoting by an agent.
- April 2011 – investigators covertly attended seven residential auctions in the Cronulla area and detected one minor breach, which resulted in a warning letter being issued to the agent.

Licensed conveyancers

Licensed conveyancers play an important role in the housing market, handling large amounts of money and assuming significant responsibilities on behalf of their clients. To ensure compliance with the Conveyancers Licensing Act, audits of 54 former licensees checked that none were inadvertently conducting business whilst unlicensed. No unlicensed activity was detected during this phase. Investigators subsequently inspected the business and trust account records of 23 licensees and identified that 52% of conveyancers were breaching the Act or the regulations. Warning and rectification action was taken in relation to all breaches and Fair Trading will escalate its compliance activities in this industry in the coming year.

Stock and station agents

Inspections of livestock purchases and sales' records and payments to vendors at 10 agents in Dubbo during January 2011 found overall a high level of compliance. A number of agents, however, were issued rectification notices for minor breaches.

Residential and holiday parks

In February 2011 investigators carried out routine inspections of 27 residential and holiday parks in the Northern Rivers region, including Tweed Heads, Chinderah, Kingscliff, Pottsville, Hastings Point and Murwillumbah. They found 14 parks were compliant, five operators were fined and the rest were warned about their operating procedures.

In November 2010 Fair Trading investigators conducted a targeted operation to address consumer concerns regarding unfair terms found in contracts for the sale of manufactured homes situated in residential parks. Fair Trading found one company's shared equity contracts contained potentially unfair terms. The company was advised to seek independent legal advice to revise or remove the offending clauses from the standard contract so they were no longer unfair. The company subsequently amended the shared equity contracts in use.

Retail

In the lead up to the implementation of the Australian Consumer Law (ACL), Fair Trading conducted inspections of 639 businesses in the western suburbs of Sydney to promote awareness of the ACL and found that:

- only 20% of managers in larger or national retailers were aware of the basic elements of the ACL
- only 9% of managers in small and medium-sized retailers demonstrated awareness of the ACL.

In April 2011, once the ACL was in force, Fair Trading visited 159 outlets of 11 major retailers in 29 Sydney metropolitan locations and 21 regional NSW locations. These visits were to assess the level of awareness of the ACL by management and staff involved in dealing directly with consumers. It was found that 78% of the stores visited were aware of the ACL law to at least a basic level. Fair Trading will continue to undertake these large scale inspection operations in order to ensure that retailers understand their obligations under the ACL.

eCommerce

To assess ecommerce retailers for compliance with the ACL Fair Trading examined 28 websites of major online retailers, checking their content and any links, documents, statements, testimonials, offers or claims made by retailers. The operation identified that:

- 82% of traders did not properly identify themselves through the use of company and or business names online
- 21% did not provide a document service address on their website
- 3% were identified as specifically targeting minors
- 30% of businesses had no dispute resolution provisions on their website.

Further compliance activity in the ecommerce sector is a specific priority for Fair Trading investigators.

Motor vehicles

Motor dealers conducting motor vehicle sales on consignment without appropriate trust accounts increase the risk that large amounts of money may go missing in the course of sales. In September 2010, investigators targeted 76 licensed motor dealers in Burwood/Five Dock and Lansvale/Warwick Farm areas to detect traders dealing in consignment vehicles who were not complying with the *Motor Dealers Act 1974*. Of these, only six dealers were identified as undertaking consignment sales. The operation also found 47 premises were not fully compliant with the Act, and issued 13 penalty notices and four warning letters requiring rectification.

Unlicensed motor vehicle dealing has been a major focus of Fair Trading's compliance operations in recent years. Consumers are placed at risk by unlicensed dealers, who use motor vehicle auctions and online websites to sell vehicles without the statutory warranties. In September 2010 Fair Trading focussed on advertising on a major NSW used car website, where we entered into an agreement with the operators of the website to provide access to advertising data. Out of 759 people assessed for possibly trading without being properly licensed, 23 were identified for immediate action. While the operation continues, to date significant enforcement action is planned against six individuals.

Services

Gold traders

In recent years, the relatively high market price of gold and other precious metals has encouraged significant growth in the number of businesses buying these metals. Fair Trading undertook 39 inspections of gold buyers, and identified widespread ignorance and lax adherence to the requirements under the *Pawnbrokers and Second Hand Dealers Act 1996*. The operation identified 25 breaches of the Act, resulting in the issue of 14 penalty notices and four formal warnings. A significant issue from a consumer perspective is the apparent low price being offered for gold from some gold traders operating from kiosks in shopping centres.

Venue hire and formal attire

The venue hire and formal attire industries play important roles in delivering services to a wide range of NSW consumers. Fair Trading often receives complaints about undisclosed charges and overly onerous cancellation fees attached to contracts by some operators in these industries. In October 2010 we targeted nine venue hire and four major attire hire businesses across the Sydney metropolitan area. Consumer contracts, advertising and documentation of the services were scrutinised with a special emphasis on cancellation and penalty clauses in contracts. Pleasingly, the operation did not identify any significant breaches of the law, with investigators reporting a high level of disclosure of all aspects of the services being provided.

Car parking

Fair Trading does not regulate the cost of car parking, but does act to ensure that car park operators clearly communicate parking fees and conditions at the point of entry to the car park. Fair Trading has been dealing with an increasing number of complaints relating to car park operators. To obtain evidence of poor signage at the entry and exit points, hourly and daily rates, and the terms and conditions on display at the car parks, the following operations were conducted:

- November 2010 – investigators attended over 80 car parks around Sydney and Parramatta
- February 2011 – investigators targeted 10 car parks in Dubbo.

Fair Trading found that the majority of the car parks clearly displayed their terms and conditions, along with the hourly and daily rates to users of those car parks. Car park operators whose terms and conditions were not found to be legible to people entering the park were advised to improve signage and business operations. The signage at many car parks has been improved by operators, and the number of complaints about major car park operators has decreased significantly.

Travel

Laws covering the travel industry provide NSW consumers with the confidence that advertisements accurately describe domestic and international travel deals. In March 2011 investigators covertly inspected 21 travel websites and attended the Sydney Travel Expo, where they inspected 51 exhibitors. The focus of the operation was to determine whether businesses comply with the *Travel Agents Act 1986* and the ACL and whether they engage in misleading or deceptive conduct, false or misleading representations about goods or services, and bait advertising. As a result, Fair Trading identified breaches by 26 travel agents and seven businesses were placed on notice about their business practices.

Online dating

The online dating industry has grown exponentially during the past decade. The number of complaints received about dating agencies has also grown. Investigators reviewed 24 online dating websites, their relevant terms and conditions in relation to unfair contracts and false or misleading representations. Ten agencies are now under further investigation for significant contraventions of the unfair contract term provisions of the ACL.

Driver training

A number of complaints were received about the NSW driver training industry relating to the non-provision of services for which consumers had paid in advance. The program focussed on educating 11 businesses about their obligations under the ACL, as well as to gauge the level of compliance within the industry. One significant business was considered to be engaging in unfair business practices owing to statements made on its website. When the business was warned about this practice, it immediately amended the offending clause from its online contract.

Fitness

In September 2010 Fair Trading targeted contracts within the health and fitness industry, following the introduction of new unfair contract laws and complaints about cancellation processes, customer service and billing cycle issues.

Fourteen traders in the lower North Shore were requested to provide copies of their contracts for examination. Generally, most of the contract terms were fair. Warning letters were sent to seven companies who had not responded.

Funerals

The cost of funerals and the complexity of some arrangements can add significantly to the stress at the time of death of a loved one. In 2009 Fair Trading conducted a significant compliance operation covering 61 funeral directors in the Sydney metropolitan and regional areas of NSW. A follow-up operation was carried out in August 2010 covering ten major funeral companies in Sydney. Very pleasingly, all funeral directors inspected were aware of their obligations and were found to be fully compliant with NSW laws. There has been a marked improvement in the level of compliance by independent operators and the industry is generally well aware of its statutory obligations.

Product safety

A pre-Christmas toy blitz, conducted as part of Fair Trading's ongoing annual product safety program, targeted retailers and markets. Fair Trading inspected more than half a million toys at 909 retailers in 227 towns and suburbs across the state. As a result of these inspections, investigators found 142 dangerous toys in shops and markets across NSW. At the completion of the blitz ten traders were prosecuted, 60 warnings were issued and 30 traders were fined.

Agricultural shows

Going to an agricultural show, such as the Sydney Easter Show is a tradition for many NSW families. Fair Trading and the Royal Agricultural Society work together to ensure that families can enjoy the show, and the prizes and products in show bags are safe for children. In March 2011, Fair Trading inspected 331 show bags supplied by eight exhibitors. It was found that 17 toys, made up of 11 children's and six projectile toys, were displayed by four exhibitors without suitable test reports being available. The exhibitors were asked to provide the test reports or not supply the toys at the show. The test reports returned to Fair Trading showed that the toys were compliant.

Fair Trading's product safety investigators also attended the Newcastle Show on Friday 18 March 2011, the Castle Hill Show on Friday 1 April 2011 and the Camden Show on Friday 8 April 2011, inspecting show bags, products and prizes offered for sale. They found two non-compliant projectile toys in one show bag at the Newcastle Show. At the Camden Show, one projectile toy failed to meet the Australian Toy Standard requirements when tested.

As part of these checks, Fair Trading focussed on the presence of lead and other dangerous elements in children's toys.

Pleasingly, no evidence of harmful metals was identified.

Fair Trading also made sure that all of the prizes in sideshow alley and the electrical products for sale in pavilions throughout the show were safe.

Home Building

The *Home Building Act 1989* protects consumers by requiring builders and tradespeople to be licensed for the residential building work that they do. The licensing regime establishes standards in relation to competence, probity, contracts, statutory warranties and home warranty insurance to protect people against faulty or incomplete work.

In 2010–2011 Fair Trading:

- undertook 716 investigations
- conducted 2,850 mediations
- finalised 75 notices to show cause to the value of \$64,500
- issued 500 penalty notices to the value of \$413,700
- undertook successful prosecutions for 37 offences, totalling \$66,983 in penalties
- conducted 1,320 field audit inspections.

Fair Trading targeted offences under the *Home Building Act 1989* and *Electricity (Consumer Safety) Act 2004* in the following operations:

- April 2011, Sydney's western suburbs – investigators posed as home owners seeking quotes from contractors who advertised in local newspapers; as a result, penalty notices were issued in relation to 17 offences to people providing the quotes, where they were not licensed to carry out the range of residential work they had agreed to do
- March 2011, Sydney's eastern suburbs – investigators visited 207 sites and spoke to 650 people, as a result, 17 penalty notices were issued
- February 2011, the Tamworth area – investigators visited 70 building sites and interviewed 121 people, where only one breach of the legislation was identified, and a penalty notice was issued for \$750
- August 2010, the Illawarra region – investigators visited 232 building sites and spoke to 320 people, as a result, seven penalty notices were issued
- July 2010, the Sydney's Northern Beaches region – investigators visited 148 sites and 331 people were interviewed, as a result, 17 penalty notices were issued to the value of \$13,500.

Solar systems

In August and September 2010, investigators focussed on solar panel suppliers and installers to ensure claims they made in advertising can be substantiated by evidence. Advertising material was collected from the print media and direct mail (letterbox) advertising. As a result, statutory notices under the *Fair Trading Act 1987* were issued to 37 businesses, requiring that 157 advertised claims be substantiated.

Of these, 19 businesses failed to adequately substantiate at least one aspect of their advertised claims. Fair Trading is continuing with these investigations.

In February 2011, solar panel system inspections in Port Macquarie revealed problems with 16 installations out of 55 homes in relation to the *Electricity (Consumer Safety) Act 2004*:

- three homes had significant defects with incorrect polarity
- ten had issues with the cabling from the panels, including mechanical protection, marking of the cable and segregation issues
- three others had signage defects
- 35 installations out of 40 were non-compliant with the Home Building Act relating to the form of contract, home warranty insurance and deposits.

In June 2011 Fair Trading inspectors audited grid-connected solar panel systems installed on homes in North Western Sydney in Baulkham Hills, Blacktown, Kellyville and surrounding suburbs. Six hundred and fifty eight (658) homes and installations were inspected and 122 major defects were identified in the program.

Fair Trading's first priority is safety, and requiring those who are responsible for the installation to fix their defective work. Any solar panel systems found to have a major defect were isolated and shut down. Installers found responsible for major defects were required to rectify them. Formal rectification orders were issued to all 122 electricians responsible for the defective work. All 122 rectification orders were complied with.

Taskforce *Eclipse* was established to lead a multi-disciplinary response and investigation of detected defects and breaches. Subsequent enforcement action included the issuing of numerous disciplinary notices, licence suspensions and fines.

Plumbing

As part of state-wide plumbing reform, NSW Fair Trading has implemented the transfer of the Plumbing Inspection and Assurance Service (PIAS) from Sydney Water. PIAS are now part of NSW Fair Trading and have continued to provide a high standard of service during 2010–2011. The role of PIAS is primarily to inspect the work carried out by licensed plumbers and drainers in order to ensure that the work complies with relevant codes and standards. PIAS conducted 21,636 inspection audits where 88% were compliant.

Making a difference...

A PIAS officer assisted home owners to overcome some hurdles that had been delaying a much needed sale of their property. *"Following your emailed advice we arranged a final inspection on the property. The inspector advised us on site following his inspection that he approved both houses without any defect notices and the sewerage diagram may be available to the solicitors within 2 days. Thank you for your kind advice and for making this happen."*

Energy and utilities

From September 2010 Fair Trading became the regulator overseeing all natural gas, LPG, auto gas installations and the safety of most domestic and commercial gas installations and appliances throughout NSW. We provide a wide range of services, including:

- assessing declared electrical articles, known as electrical equipment
- issuing certificates of suitability and approval
- examining the safe operation of gas appliances
- conducting investigations in relation to appliances sold in retail outlets
- carrying out compliance/audit functions relating to stand alone renewable energy installations.

The *Electricity (Consumer Safety) Act 2004* requires declared electrical appliances to be approved by a state or territory electrical regulator or an approved external approval scheme before they can be sold in NSW. There are 56 categories of equipment that are declared articles, which include televisions, refrigerators and room heaters. In 2010–2011, applications for 1,666 new, modified or renewed articles were processed.

Fair Trading also monitors electrical and gas product recalls conducted throughout Australia and liaises with the Australian Competition and Consumer Commission (ACCC) and other state regulators. In 2010–2011 a wide range of products was recalled such as a fan heater with a mechanical fault, causing a fire in the fan due to overheating; a lamp, which did not comply with the Australian safety standards and caught fire in a child's bedroom.

Enforcement action

Offences against fair trading legislation are detected through inspections, intelligence gathering and as a consequence of formal investigations of complaints. During the year, 568 traders were issued with penalty notices in relation to 911 offences, resulting in financial penalties of \$726,900. Formal prosecutions, where 86% of cases were successful, resulted in \$626,337 in fines and penalties involving 72 defendants.

Below are the highlights of the enforcement activities conducted throughout the year, which targeted the property, retail, product safety, real estate, home building and motor vehicle industries.

Property

Jeanette Ilene Adams

Jeanette Ilene Adams operated an unlicensed conveyancing business in the Camden and Campbelltown areas. Ms Adams held a restricted licence that prohibited her from carrying out conveyancing work, other than as an employee of a full licensee. For more than 12 months, Ms Adams operated her own conveyancing business knowing she did not have the appropriate licence.

She also falsified a work reference from her former employer in order to have the restriction removed from her licence.

Result: Ms Adams was convicted of operating an unlicensed conveyancing business in violation of the *Conveyancers Licensing Act 2003* and making and using a false document to support her application for a full conveyancer's licence, in contravention of the *Crimes Act 1900*. Following a prosecution by Fair Trading, Jeanette Adams received two 15 month suspended sentences and was ordered to pay \$7,567 in fines and costs.

Misteri Pty Ltd, t/as Raine & Horne Gosford

During 2010 Fair Trading investigated a complaint from Housing NSW after 11 townhouses bought by Misteri Pty Ltd for \$2.5 million were sold on the same day to the NSW Land and Housing Corporation for \$3 million. The actions of Misteri Pty Ltd and two of its directors, Kevin Barnes and Nicole Mars, resulted in a \$500,000 profit from a property sale to the detriment of their client.

Result: NSW Fair Trading cancelled the licence of Misteri Pty Ltd, and the licences of Mr Barnes for 10 years and Ms Mars for 6 years. The business has since ceased trading.

Bexahead Pty Ltd, t/as Anthony Malouf Shire Properties

Fair Trading's investigation commenced after receiving a complaint from a vendor regarding the agent's failure to handle monies held in trust in accordance with the law. The investigation revealed that the sales commissions from a number of properties had been withdrawn from trust accounts prior to settlement and without the authority of the parties involved.

Result: In March 2011 Fair Trading banned the Cronulla real estate agent, Bexahead Pty Ltd, t/as Anthony Malouf Shire Properties, for 3 years for mishandling trust account monies. The company's director and licensee, Anthony Norman Malouf, was also disqualified for 3 years from any involvement in the direction, management or conduct of any real estate business.

Azzati Realty Pty Ltd, t/as Raine & Horne Fairfield

Navid Azzati, the sole Director of Azzati Realty Pty Ltd, formerly t/as Raine & Horne Fairfield, withdrew money from the company's sales trust account for his personal and business use. In 2007, Fair Trading suspended the company's licence and appointed a manager to investigate the business records of the company.

Result: Mr Azzati was sentenced to 7 months imprisonment, suspended on the defendant entering a good behaviour bond for a period of 7 months and was ordered to pay the Property Services Compensation Fund \$58,855 for misappropriating monies from clients' trust funds.

Phillip Chau

Mr Chau was involved in the management of St George Property Pty Ltd (t/as Raine & Horne Kogarah). Over a period of 2 months Mr Chau treated the real estate agency clients' trust accounts as his own personal bank account, making 18 withdrawals for his personal and business use. Mr Chau's real estate agent's licence was cancelled in 1993 following his conviction for being an unregistered salesperson.

Result: On 27 August 2011 the Sydney District Court upheld a magistrate's sentence that found Phillip Chau guilty of being an unlicensed real estate agent and misappropriating monies from clients' property trust accounts. He has been jailed for 18 months and ordered to pay \$123,830 compensation.

Home building

Moustafa Nahle

Moustafa Nahle operated a building business in Western Sydney. The homeowners in Sydney's south west, signed a contract with 'Nahli Carpentry', which listed Moustafa Nahle as the builder and holder of a current licence. The couple believed they were dealing with a licensed builder. During the course of construction Mr Nahle demanded a number of progress payments, including \$11,000 for GST, despite the fact it was not in the contract. When the home owners refused to pay the GST, Mr Nahle made a number of threats against their property in an attempt to forcibly extract money from them. Following NSW Police investigation Mr Nahle was charged with damaging the consumer's property and sentenced to an 8-month suspended sentence on good behaviour. Fair Trading was advised by Liverpool Local Court of Mr Nahle's conviction.

Result: Mr Nahle was convicted of 10 breaches of the *Home Building Act 1989*, one breach of the *Business Names Act 2002* and was fined \$34,169 for carrying out residential work while unlicensed and using an unregistered business name.

Mark Cormack

Mark Cormack was investigated for operating as a building contractor without home warranty insurance and supplying home owners with a fraudulent certificate of home warranty insurance. In April 2009 Fair Trading cancelled Mark Cormack's company licence, Latitude Residential Pty Limited. His dishonest and fraudulent behaviour left consumers possibly unprotected against defective or incomplete work.

Result: On 4 February 2011 Mark Cormack was convicted of four counts of breaching the Crimes Act for using false home warranty insurance certificates by providing them to a building certifier. He was sentenced to 300 hours community service and ordered to pay \$1,816 in costs by Parramatta Local Court.

Wayne Scharer – Finishing Touch Refurbs Pty Ltd

Wayne Scharer was the director of Finishing Touch Refurbs Pty Ltd. The company breached the *Home Building Act 1989* by performing home building work while unlicensed, representing that it held a contractor's licence, and for receiving payment without obtaining the necessary home warranty insurance.

Result: Wayne Scharer was convicted and placed on a 6-month good behaviour bond under the *Crimes (Sentencing Procedure) Act 1999* and ordered to pay \$6,058 in fines and costs by Downing Centre Local Court.

Aqua Conscious/Columbus Sales Group Pty Ltd

Columbus Sales Group Pty Ltd and Aqua Conscious Pty Ltd sold rainwater tanks to consumers. They advertised tanks for sale at rural shows, through various regional newspapers and radio stations. More than 830 orders were received from consumers nationally, netting the businesses over \$600,000. The businesses' failure to supply the tanks as promised resulted in Fair Trading receiving 329 complaints.

Result: Fair Trading issued a national public warning on 28 January 2011 and sought orders in the NSW Supreme Court requiring the directors and companies to cease engaging in misleading or deceptive conduct, and freezing the companies' bank account. In May 2011 an injunction was granted and the companies' bank accounts were frozen.

Motor vehicles

Ahmad Chaouk and Ms Jamile Chaker

In December 2008, eight motor dealer auction houses were requested by Fair Trading to identify and produce business records relating to any person who had purchased more than four motor vehicles between 1 December 2007 and 1 December 2008. Mr Ahmad Chaouk and Ms Jamile Chaker were identified in this process. Mr Chaouk had been previously prosecuted by Fair Trading on two occasions for unlicensed motor dealing and two occasions for odometer interference. Between March 2007 and March 2010, Mr Chaouk and Ms Chaker conducted the business of a motor dealer whilst being unlicensed. During that time they purchased 42 vehicles from auction houses which they also disposed of during the same period.

Result: Fair Trading prosecuted both Ms Chaker and Mr Chaouk jointly for conducting an unlicensed motor dealer business. Mr Chaouk was sentenced to 9 months imprisonment, suspended on the defendant agreeing to enter a bond. Mr Chaouk was also ordered to pay fines and costs totalling \$10,606. Ms Chaker was convicted and ordered to pay fines and costs totalling \$5,879.

Moseley Auto Repairs

Fair Trading investigated Michael Monajed, t/as Moseley Auto Repairs and Tyre Service in Botany after a consumer complaint was received. Further investigation found that between July 2007 and August 2009, he had sold 20 motor vehicles without being licensed. A number of these vehicles were offered for sale by Mr Monajed on popular auction and vehicle sales websites. Mr Monajed also interfered with the odometers of two cars, deceiving buyers into believing the cars had travelled a lot less than they actually had.

Result: Following the investigation, Fair Trading prosecuted Mr Monajed. The court ordered Mr Monajed to pay more than

\$37,000 in fines and penalties, including \$25,926 in forfeiture of net proceeds arising from his unlicensed dealing.

Infinity Auto Imports

Over 17 months between January 2008 and May 2009, Mr Karunanayaka Perera, owner of Infinity Auto Imports, acquired 25 motor vehicles, 21 of them from motor dealer auction houses as repairable write-offs. During the same period, he sold 28 vehicles to the public without being appropriately licensed. Motor dealers are expected to adhere to strict obligations to sell vehicles in a reasonable and safe condition, with associated warranties and consumer protections in place.

Result: Mr Perera was convicted of unlicensed motor dealing involving 28 vehicles. In May 2011 Mr Perera was ordered to pay fines and costs of \$1,929 and pay \$23,750 to the Motor Dealers Compensation Fund by the Local Court for unlicensed motor dealing.

False and misleading representations

Rock N Roll Distributors Pty Ltd, t/as Quick Silver Distribution

Fair Trading received an increasing number of complaints from consumers who had purchased home theatre projectors and audio equipment from travelling con men. The distributor operated a fleet of white vans with sellers approaching people on the street or in car parks claiming to have excess stock to unload at prices that were a fraction of the retail cost. Fair Trading's independent tests demonstrated that the equipment was of poor quality, with little or no value and was a potential fire risk due to potential overheating of the projectors. In some cases, consumers paid thousands of dollars for supposedly high end goods, when in fact, the estimated value of the goods was between \$150 and \$250. The goods supplied by Rock N Roll Distributors Pty Ltd were packaged using fake brand names and false statements.

Result: Fair Trading issued a public warning in October 2010 about the company's business practices and sale of substandard electrical goods. On 4 March 2011 Fair Trading successfully prosecuted Rock N Roll Distributor Pty Ltd for engaging in false and misleading conduct. The company was ordered to pay \$23,179 in fines, costs and compensation.

Supplemax Pty Ltd and Superior Men's Health Pty Ltd

Between March and September 2010 Fair Trading received 75 complaints about Supplemax Pty Ltd. Most of them were about the failure to supply products and the circumstances in which consumers were influenced to enter into contracts. In September 2010, the sole director of Supplemax Pty Ltd registered a new company called Superior Men's Health Pty Ltd. This company also offered medical programs and products for the treatment of male sexual health problems. Concerned about the operations of both companies, Fair Trading issued a public warning about Supplemax Pty Ltd, Superior Men's Health Pty Ltd and Mr Guy Hudson, the director of the companies.

Result: Supplemax Pty Ltd ceased trading in October 2010 and went into voluntary liquidation with a liquidator appointed on 8 December 2010. Mr Hudson advised Fair Trading in December he was also closing down Superior Men's Health Pty Ltd. Mr Hudson admitted that Fair Trading's investigations were a key element in his decision to close his businesses.

TLC Consulting Pty Ltd

TLC Consulting Services Pty Ltd conducted business as an introduction agency, advertising its services on its websites www.truelovecorp.com.au, www.tlccs.com.au and through national magazines and newspapers in Australia and New Zealand. Consumer complaints indicated that the company did not satisfactorily provide the services paid for by consumers, such as dates were not arranged at all, or were arranged and unexpectedly cancelled at late notice. There was also evidence suggesting that women, with whom the clients were to meet, did not exist or were otherwise misrepresented. Sales consultants used high pressure sales tactics to encourage excessive payments for upgraded membership packages, life coaching, grooming packages and the supply of personal digital assistants to receive exclusive messages and updates from the company. A number of consumers persuaded by TLC Consulting Services Pty Ltd suffered a significant financial loss with reported payments of \$35,000 and up to \$100,000.

Result: On 3 May 2011 the Supreme Court found Hollie Veall, Zivko Dimitrijević and two previous directors of TLC Consulting Services Pty Ltd liable for the company's actions. The Court also found that TLC Consulting Services Pty Ltd engaged in false, misleading and unconscionable conduct, and that both Ms Veall and Mr Dimitrijević were knowingly concerned with the offences committed by the corporation. The prosecution is continuing in the Supreme Court.

Product safety

May Warehouse Pty Ltd, t/as Warehouse Variety

In the lead up to Christmas in 2010, Fair Trading investigators began their annual program of toy store inspections across the state. They visited 661 retail outlets in 163 towns and inspected more than half a million toys. Investigators inspecting May Warehouse Pty Ltd, t/as Warehouse Variety found four toys, which failed to meet the mandatory standards. Independent testing revealed these toys presented a choking hazard due to small parts.

Result: The court ordered the company to pay \$5,500 in fines and costs for supplying dangerous children's toys.

Metlej Pty Ltd, t/as Stockland Depot and Bag a Bargain Wellington

Between June 2009 and October 2010, Fair Trading investigators conducted five inspections at Metlej's retail outlets in Hurstville and Wellington. Investigators found eight non-compliant products being offered for sale: four children's toys, a projectile toy, a baby's pacifier, a hot water bottle and elastic luggage straps that did not meet regulated safety standards. The toys included battery operated toys, bow and arrow sets and bathtub squeeze toys that had the potential to cause serious or potentially fatal injury to young children. A baby's pacifier was a particular concern with the potential to choke a child, and was offered for sale on two separate occasions.

Result: On 7 April 2011 the company pleaded guilty before the Local Court, was fined \$2,000 for each of nine breaches of the *Fair Trading Act 1987*, and ordered to pay \$20,445.

Metrodo Pty Ltd t/as Shopping Paradise Metrodo

On 18 October and 19 October 2010 Fair Trading investigators conducted inspections of Shopping Paradise's stores at Seven Hills and Cabramatta. They seized four toys, including two which investigators considered posed risks to children due to the projectile capabilities of the toys. Three out of four toys subsequently failed during independent accredited testing, including both projectile toys.

Result: Metrodo Pty Ltd was convicted and fined \$6,445 for breaching section 27(1) of the *Fair Trading Act 1987* and failing to comply with product safety standard.

Mainleading Pty Ltd, t/as Shopping Paradise in Campsie and Kogarah

In October 2010 Fair Trading investigators carried out inspections of Campsie and Kogarah Shopping Paradise stores. Several dangerous toys including a Pokemon plush toy, Likeable Music Series and Handa (Super Series) Fun Car Truck sold at the Kogarah store and the Music instrument Piano, three piece Babies toys squeaky toys and the Bel Er Le Cartoon car piano sold at the Campsie store were found for sale at both stores. Also for sale were two varieties of children's sunglasses. Test results revealed all of the children's toys purchased from the stores, other than the Hui Jie building blocks, failed to meet the mandatory requirements of the Australian toy standard including the sunglasses which were not labelled in accordance with Australian standards.

Result: This was the third Mainleading Pty Ltd prosecution by Fair Trading for selling unsafe toys. Previously the same company was ordered to pay almost \$3,000 by the local court for supplying dangerous children's toys. On this occasion, Mainleading Pty Ltd was convicted for supplying products in contravention of the *Fair Trading Act* and ordered to pay fines and costs of \$7,904.

Penalty notices and disciplinary actions

Penalty notices				Disciplinary actions	
Act/Regulation	Defendants	Offences	Penalties	Licence Suspensions	Licence Disqualification/ cancellations
Business Names Act	33	33	\$12,400	–	–
Electricity (Consumer Safety) Act	22	26	\$10,700	–	–
Fair Trading Act	32	33	\$18,150	–	–
Graffiti Control Act	5	5	\$2,750	–	–
Home Building Act	273	474	\$403,000	14	–
Landlord and Tenant (Rental Bonds) Act	10	15	\$8,250	–	–
Motor Dealers Act	116	229	\$167,640	1	8
Motor Vehicle Repairs Act	2	2	\$11,000	6	18
Pawnbrokers & Second-hand Dealers Act	10	18	\$8,090	–	2
Property Stock & Business Agents Act	61	71	\$83,600	9	39
Residential Parks Act	3	4	\$880	–	–
Retirement Villages Act	1	1	\$440	–	–
Travel Agents Act	–	–	–	–	1
TOTAL	568	911	\$726,900	30	68

Offences under an Act include offences under a regulation made pursuant to that Act.

Successful prosecutions

Act	Defendants	Offences	Penalties
Business Names Act	4	5	\$4,262.00
Conveyancers Licensing Act	1	1	\$7,579.00
Crimes Act	7	16	\$187,716.72
Electricity (Consumer Safety) Act	1	1	\$5,579.00
Fair Trading Act	21	74	\$112,039.52
Home Building Act	10	36	\$61,404.00
Motor Dealers Act	23	38	\$238,182.43
Motor Vehicle Repairs Act	2	2	\$2,958.00
Pawnbrokers & Second-hand Dealers Act	2	9	\$2,458.00
Property, Stock & Business Agents Act	1	2	\$4,158.00
TOTAL	72	184	\$626,336.67

Total Prosecutions	213
Total Successful Prosecutions	184
% Successful	86

Offences under an Act include offences under a regulation made pursuant to that Act. Total Prosecutions refers to offences subject of prosecutions commenced by Fair Trading.

Comment/interpretation: Successful prosecutions means prosecutions resulting in conviction as well as prosecutions where the offender is found guilty of an offence but a conviction is not recorded.

Civil litigation

Court/Tribunal	Act	No. of matters under Act
Court of Appeal	Home Building Act	2
Supreme Court		
Injunction	Fair Trading Act	4
Other	Other	4
Contempt	Supreme Court Rules	
District Court	Home Building Act	1
	Motor Dealers Act	
	Other	
Administrative Appeals Tribunal	Administrative Appeals Tribunal Act	1
	Mutual Recognition (NSW) Act	3
Administrative Decisions Tribunal	Administrative Decisions Tribunal Act	2
	Business Names Act	
	Conveyancers Licensing Act	
	Home Building Act	23
	Motor Dealers Act	4
	Motor Vehicles Repairs Act	2
	Property, Stock and Business Agents Act	13
	Pawnbrokers and Second-hand Dealers Act	
	Other	
Consumer Trader & Tenancy Tribunal		
Insurance Appeals	Home Building Act	1

Court of Appeal	2
Supreme Court	8
District Court	1
Administrative Appeals Tribunal	4
Administrative Decisions Tribunal	44
Consumer Trader & Tenancy Tribunal	1
TOTAL	60

Information and services

Objective: Community access to information and services

Strategy: Effective education, information and services

A range of Fair Trading services contribute to fairness and equity for individuals and growing prosperity across NSW. Information for consumers and traders allows individuals and businesses to understand their rights and obligations and to function effectively in the marketplace. Business licensing and registration services protect consumers and assist traders by maintaining and improving the integrity of industries vital to the NSW marketplace. Rental bonds custodial services provide tenants, landlords and property owners with confidence that bonds are used for their rightful purpose and are quickly available when required.

We also operate specific programs for culturally and linguistically diverse communities and to protect the interests of Aboriginal and Torres Strait Islanders, young people, the elderly and people with a disability.

Snapshot

Total customer enquiries (includes web, phone, counter, email and other)	6,061,370
REVS checks	1,894,969
Rental bond transactions	506,766
Consumer and trader complaints about marketplace transactions	42,099*

* This figure includes all complaints received in Fair Trading. In previous Reviews, only complaints that were provided with early intervention dispute resolution were included in this figure. In 2010–11, 39,595 complaints were the subject of early intervention dispute resolution.

Highlights 2010–2011

- 89% of 39,595 complaints about marketplace transactions worth up to \$664 million were successfully resolved through early intervention without recourse to a tribunal or court.
- Website visitor sessions have increased by 30% to 4.5 million.
- 38,699 people attended Fair Trading's 825 information sessions, talks and seminars across the state.
- 662,759 residential rental bonds to the value of \$902.6 million held in trust.
- Received 1,132,810 telephone enquiries, with 90% answered within 5 minutes.

Result indicator

	06–07	07–08	08–09	09–10	10–11	Target
Percentage of public who know where to go to get help on consumer protection issues*	66%	63%	62%	61%	56%	65%

Survey results accurate to $\pm 5\%$

* With the media attention on the introduction of the Australian Consumer Law earlier in the year the meaning of the survey question could have been misconstrued by participants.

Fair Trading customer profile

	2007	2008	2009	2010	2011	Target*
Aboriginal and Torres Strait Islanders (ATSI)	2.3%	2.6%	2.6%	2.2%	2.8%	$\geq 2.1\%$
Culturally and Linguistically Diverse (CALD)	32.1%	27.8%	29.4%	32.4%	30.4%	$\geq 26\%$

* Based on 2006 Census population representation

Comment: A service take-up rate which matches or exceeds population representation indicates both an ongoing need for the service, and that CALD and ATSI customers are not experiencing systemic barriers in accessing these services.

Information

Performance measures

	06-07	07-08	08-09	09-10	10-11	Target
Customer satisfaction meets or exceeds the benchmark*	90%	85%	85%	91%	92%	≥90%
Community take-up rate: average number of services requested per 1000 people in NSW	734	797	784	856	991	Est. ≥700
% of accuracy of information provided**	89%	90%	93%	96%	96%	≥95%
% of consumer & trader complaints finalised within 30 days	96%	96%	93%	92%	90%	≥80%
% of consumer & trader complaints resolved	85%	87%	88%	89%	89%	≥70%
% of telephone enquiries answered where published standards met***	83%	90%	99%	98%	90%	≥90%
% of licensing and registration services where published standards are met	100%	100%	100%	100%	100%	100%
% of bond refunds where published standards met	100%	100%	100%	100%	100%	100%

* Survey results accurate to ± 5%.

** The target for this indicator was increased from 90% in 2008.

*** The target for this indicator was increased from 85% in 2010.

Information

Fair Trading staff answered 1,132,810 telephone enquiries on general fair trading matters, bonds, strata, tenancy, REVS, business registration, business licensing and home building. Of the calls received, 90% were answered within Fair Trading's Guarantee of Service standard of 5 minutes.

Fair Trading Information Centre

The Fair Trading Information Centre (FTIC) provides education, information and alternative dispute resolution services to consumers and traders on all aspects of Fair Trading matters. FTIC incorporates the Government Contact Centre and can provide services across the NSW public sector. In 2010–2011, FTIC received a total of 1,043,897 enquiries.

Fair Trading Information Centre enquiries 2010–2011

Residential rental bonds, strata and tenancy
369,568 enquiries (35%)

Other
27,159 enquiries (3%)

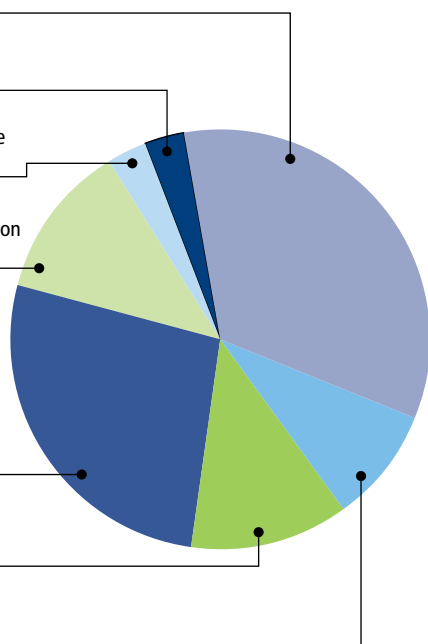
Government Contact Centre
33,984 enquiries (3%)

BLIS and business registration
121,421 enquiries (12%)

General Fair Trading
276,651 enquiries (27%)

Home building
126,172 enquiries (12%)

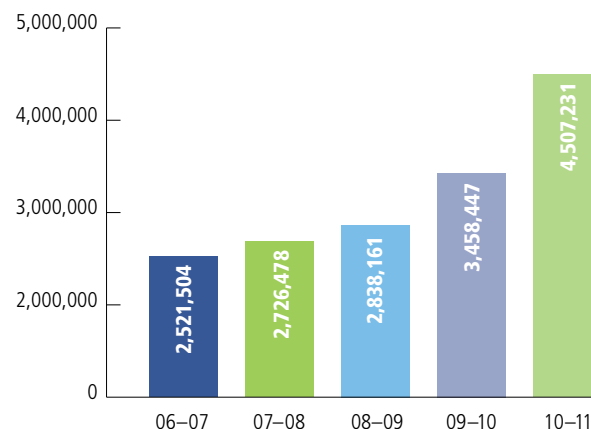
REVS
88,942 enquiries (9%)



Website

Our website continued to be a key source for delivering Fair Trading information to consumers and traders. 4,507,231 visits were made during the year – an increase of 30% from the previous year. A mobile version of our website that will add value to customers on-the-go was developed during the year and became available to the public from July 2011.

Website visitor sessions



What you said...

"I would like to thank you for providing such a user-friendly and helpful website. I am a first time landlord, attempting to let the property by myself. It is a really great service and one I will be referring to often, thank you again."

"I just wanted to say well done! This is the best government website I've ever seen. The video, which covers the changes to the tenancy laws, is brilliant. I don't normally do this, but I just wanted to say thanks. The information is very clear and well presented."

Social media

In 2010–2011 Fair Trading continued to expand its channels of access and in addition to telephone, counter and web access, social media is now another option for our customers seeking information. In September 2010 Fair Trading commenced using Twitter as an additional tool for communicating with the public and extending the reach of our news alerts. It was also used in the campaigns for Fair Trading Week and the new residential tenancy laws.

Fair Trading increased its presence on YouTube with 23 videos posted during the year, including:

- *Know your rights* – a 10-part video series produced in February 2011, covering information on topical issues consumers and traders face, such as: compliance, dangerous toys, door-to-door sales scams, motor vehicle warranties, purchasing a home, refunds, starting an association, tenancy condition report and using a builder or tradesperson. Since February 2011 the videos attracted over 1,200 views (combined).
- *Real estate videos* – four short videos aimed at real estate agents and property investors were produced in March 2011, titled: *Renting out your investment property*, *Buying or selling real estate at auction*, *What makes a good agent?* and *The sale process*. The videos were broadcast on the SKY Business Channel through *Real Estate News* in April 2011. Since the videos were posted on YouTube in April and June 2011 they attracted over 1,000 views (combined).

The videos are available on the Fair Trading website and YouTube.

Information programs

During 2010–2011, Fair Trading delivered 825 information sessions, talks and seminars attended by 38,699 people throughout the state. These covered a range of topics for real estate and property agents, residential landlords and tenants, retail landlords and tenants, licensed builders, strata owners, members of incorporated associations, juvenile justice groups and adult prisoners, senior citizens, high school students and other young people, motor dealers and motor vehicle repairers, business people and consumers, including culturally and linguistically diverse and Indigenous communities.

Community and regional access programs

Community Access Programs (CAPs) in metropolitan areas and Regional Access Programs (RAPs) in regional areas highlight and provide greater access to Fair Trading services for consumers and traders. Fair Trading staff deliver a range of information sessions for seniors, youth, community and disability groups, Indigenous communities, local business and tradespeople. Fair Trading inspectors and investigators carry out compliance checks on business to educate traders on their rights and responsibilities under fair trading laws. In 2010–2011 seven RAPs and three CAPs were held.

Super RAPs are conducted with an additional focus on compliance activity that include retirement villages, travel agents, associations, real estate agents, co-operatives, home building sites, motor dealers and motor vehicle repairers. Four Super RAPs were conducted in 2010–2011.



Fair Trading staff member hands out resources at a community outreach event.

Fair Trading Week

Fair Trading Week was held from 15–19 November, 2010. More than 100 activities took place in metropolitan and regional centres across the state. The activities ranged from open days, award presentations, information sessions, trader visits and displays in shopping centres. The theme for 2010 was *Making a difference*, which highlighted the many ways in which Fair Trading makes a difference in the community. A video titled *Making a difference* was developed to showcase Fair Trading's role, focussing on three core areas of our business: information and services, compliance and enforcement, and legislative reform. These core businesses are showcased in the video with facts and figures that underline the impact Fair Trading makes in the day-to-day lives of the community. The video can be viewed on the Fair Trading website.

Australian Consumer Law

The Australian Consumer Law commenced on 1 January 2011, replacing parts of the *NSW Fair Trading Act 1987*. Fair Trading updated web pages and publications to ensure that consumers and traders had all the information about the new law before it came into effect. New publications were also developed to guide consumers through the changes, including *Consumer law changes in NSW*, *Consumer guarantees* (translated in 30

languages) and a brochure specifically produced for Indigenous communities. As a partner in the regulation of the law, Fair Trading actively promotes national initiatives, including the consumer law website, various industry guides and National Consumer Congress 2011 through our website, media releases, Fair Trading Centres and the Fair Trading Information Centre.



Shopping and consumer guarantees – one of the consumer topic areas affected by the new Australian Consumer Law.

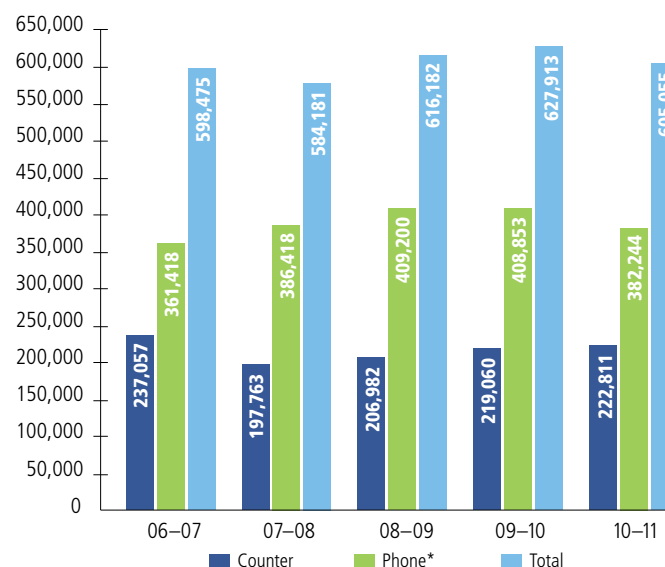
eNewsletters

Our email newsletter services continued to be popular with an increased number of subscribers for all newsletters, from the previous year:

- *Foundations* – 6% increase to 38,247
- *Fair Comment* – 34% increase to 7,134
- *What's new* – 42% increase to 8,139
- *Property industry news* – 25% increase to 9,199
- *Auto Torque* – 194% increase to 898

In addition, a new enewsletter *The Letterbox* was developed for anyone interested in tenancy. The first edition was released in May 2011 to over 5,500 subscribers.

Enquiries about general fair trading matters



* Includes enquiries received by internet, email and facsimile

Campaigns, initiatives and community outreach

Travelling con men campaign

In September 2010, Fair Trading ran a television campaign in conjunction with Crime Stoppers NSW to raise public awareness of the activities of itinerant or travelling con men known to target NSW consumers. The campaign urged consumers to report any approaches by travelling con men to NSW Fair Trading. Promotional materials, including a poster, brochure, and *Do not knock* sticker were produced and distributed through customer service networks, library services and at community events.

Due to increasing concerns about the impact of these unlawful traders, in June 2011 NSW Fair Trading committed to leading a national compliance project under the Australian Consumer Law (ACL) to combat the activities of travelling con men.

NCOSS Handbook

In 2010, Fair Trading provided funding to the Council of Social Service of NSW (NCOSS) to bring their associations' handbook in line with the *Associations Incorporation Act 2009*. The handbook is a plain English booklet which contains customised examples, templates and governance advice to assist non-government organisations and community groups understand new associations legislation and meet their requirements under the Act. It will be distributed to over 34,000 registered associations across NSW.

What you said...

"I am writing to express my gratitude and let you know of the professionalism, patience and hard work applied by your staff...who kept me informed of resolution updates at all times via email and phone. She answered all my questions with patience, understanding and kindness."

"Good service is rare these days...congratulations for a job well done."

What you said...

Lionel wrote in an email: *"...you are the first person to take the time and consideration to clearly point out what needs to be done... thank you."*

National Fraud Week

In March 2011, Fair Trading participated in Fraud Week, which is a national campaign co-ordinated by the Australasian Consumer Fraud Taskforce. The Taskforce is made up of 19 Commonwealth, state and New Zealand regulatory agencies, including Fair Trading, that have a responsibility for consumer protection in relation to fraud and scams. This year's theme was *Scams: it's personal*. Fair Trading promoted the campaign through our website, Twitter, and media releases; as well as distributed promotional material at our Fair Trading Centres.



From left to right: Alan Kwan (Home Building inspector), the Hon Anthony Roberts MP (Minister for Fair Trading) and John Tansey (Assistant Commissioner, Home Building Service) at the Fair Trading stand, 2011 Sydney Home show.

Home building

Home shows

Visitors to the 2010 Sydney Home Buyers show and the 2011 Sydney Home show were able to get the latest home building, renovating and property related information from our helpful staff at the Fair Trading stands. Our stands featured a range of printed publications as well as computers providing on-site access to the Fair Trading website. People looking to buy, sell or build a home, or to renovate their existing homes requested information on a wide range of topics including owner builder permits, home building contracts, property sale contracts, fees for buying or selling a home, how to get building defects rectified, and where and how to begin to get building work done on a home.

Building partners information sessions

Seven sessions, aimed at partners, wives and family members of builders, were held across NSW during 2010–2011 providing practical information about running a business within the building industry. Topics included: contract management, licensing, asset protection and dispute resolution. Independent legal and financial experts provided one-to-one advice. Attendees also took the opportunity to talk with licensing and compliance experts from within Fair Trading. A combined Building Expo and Partners Program is planned to be rolled out during the remainder of 2011.

Aboriginal and Torres Strait Islander people

Since 1998, we have implemented a number of strategies to protect the interests of the Aboriginal community in NSW through an Aboriginal Action Plan. Our 14 dedicated Aboriginal staff provide culturally appropriate services to Aboriginal communities, particularly in areas of tenancy, with an emphasis on face-to-face contact. These communities are widely distributed across NSW. Aboriginal and non-Aboriginal officers provide education to Aboriginal communities on their consumer rights.

The Guuma-li Centre in Moree is Fair Trading's newest Fair Go program partner. The Partnership agreement was signed before a gathering of community members and dignitaries in mid-February 2011. The partnership is an effective way to assist and educate consumers in the north-western area of the state.

Fair Trading's ongoing involvement and sponsorship of major events, such as the NSW Rugby League Knockout, Central Coast Aboriginal Art Competition, Vibe Alive, Yabun and the Dubbo Indigenous Family Fun Day, which takes place during Fair Trading Week, continue to increase Fair Trading's profile within Aboriginal communities throughout NSW.

A DVD resource was also produced as part of the Fair Trading's *Deadly Dollars* financial literacy initiative for Aboriginal communities. The resource includes teaching notes for educators and will be used in both a school environment and community setting. It will be distributed to rural and remote Indigenous communities through the National Indigenous Consumer Strategy member agencies.

Making a difference...

An elderly Aboriginal woman had been paying for new furniture in instalments over a number of months. However, once she paid in full she was unable to contact the trader and get her furniture. She contacted Fair Trading for help who advised that the trader had been moving to a new location due to floods affecting the area. Subsequently, the trader offered a full refund or she could visit the new location and choose a different piece of furniture with a generous discount. The consumer was very happy with the outcome.

“

What you said...

"I found the presentation very helpful, full of practical information and presented in a very friendly supporting way. Thank you."

"Excellent – learnt a lot. First time in 40 years I've gone to an education program as a partner in our building business."

”

What young people said...

"Taking part in the Money Stuff competition I learned so much important information that I have used and will continue to use in the future, but the one thing I always remember is that if you're in doubt, don't buy it!"
(Former winner of Money Stuff challenge)

"I'd like to thank Fair Trading for establishing the program and providing the students with the opportunity to become better consumers."
(2010 winner of Money Stuff challenge)

Challenging youth with Money Stuff

Fair Trading's annual competition for high school students, the Money Stuff Challenge celebrated its 10th anniversary in 2010 and attracted over 1,000 entries from across NSW. The competition asked students to research consumer issues and develop creative messages for young people. Winners were announced at the Money Stuff Youth Forum, held at the Australian National Maritime Museum, Darling Harbour on 15 November. Some winning entries included animated videos showing the pitfalls and solutions around shopping and choosing a mobile phone; short movies on how to avoid scams; a magazine featuring useful tips for young renters; a calendar covering budget tips for teens and an interactive website on buying a car. Since 2001, the Money Stuff Challenge has transformed more than 11,000 students into savvy consumers.

The Youth Forum was well attended with more than 120 guests, and showcased our initiatives to youth stakeholders, educators, advisory groups, service providers and young people. The Minister for Fair Trading awarded prizes and trophies to the winners of the 2010 Money Stuff competition. To highlight the difference that this successful and award-winning program has made over the years, former winners of the competition were invited to share their experiences at the forum.

The Money Stuff website received 352,301 visits in 2010–2011. The website is being redeveloped to include interactive features and digital videos to engage and meet the learning needs of young consumers.

What teachers said...

"We have been competing for 10 years now... and the benefits we've achieved for the students by entering the Money Stuff challenge have been incalculable. I'd like to thank the department for running the competition." (High school teacher, Grenfell)

"The Money Stuff challenge gave the students the opportunity to seek greater understanding of their role as consumers due to research and discussion they took part in completing this task."
(High school teacher, Baulkham Hills)

Tenancy reform campaign

When the *Residential Tenancies Act 2010* commenced on 31 January 2011, Fair Trading implemented a multi-faceted communication campaign to raise awareness about the new laws and provide information about the changes. The key components of the campaign were:

- an online video titled *Changes to tenancy laws* and a fact sheet *Renting laws are changing* to provide an overview of the key changes. The fact sheet and the video script were translated into 10 languages and are available on the Fair Trading website. The fact sheet was translated and printed in another 10 languages
- advertisements in online, press and radio (including Indigenous and CALD press and radio)
- 22 tenancy seminars for tenants, landlords and real estate agents with over 3700 attendants
- public relations events in regional shopping centres and key metropolitan locations
- brochures, posters and editorial pieces which were widely distributed to the public through NSW and Federal Government departments, non-government organisations, TAFE institutes, universities, industry bodies, local councils and Fair Trading Centres
- an updated and expanded Fair Trading website with over 40 pages of comprehensive information for tenants and landlords.

What you said...

"Good job on the video guys. Clear and succinct and very helpful for a 1st time landlord."

"Very good video, easy to understand and navigate."

Reaching out to seniors

To inform prospective village residents about the important things they need to consider before entering into a village contract, Fair Trading developed a new brochure titled *Moving into a retirement village*, in consultation with the Retirement Villages Advisory Council. The brochure was launched during *Seniors Week 2011* and distributed to industry associations and all retirement villages across NSW.

A new edition of one of our most popular publications, the *Seniors guide*, was launched on 19 May 2011. Over 15,000 copies are ordered each year of this large-print guide, which covers a broad range of consumer topics including the new Australian Consumer Law, accommodation, shopping, health, money, cars and useful tips on how to get a fair outcome in disputes.

Since 2008 Fair Trading has received over 500 feedback forms about the guide, of which 90% say they 'read the guide and keep it for reference', and 84% say the guide is either 'very useful' or 'extremely useful'.

“

What seniors said...

"Thank you for valuable information, will certainly keep for the future reference."

"It helps me a lot about if things go wrong and useful contacts, thank you."

”

Think Smart

Fair Trading has been running the *Think Smart* education program for culturally and linguistically diverse (CALD) communities since 2002. This program delivers information and education directly to CALD groups through partnerships with community organisations and multilingual media. The *Think Smart* program raises awareness of fair trading issues and services using a variety of information resources, public relations events and grass roots community activities. There are currently 37 *Think Smart* partners: 29 community organisations and 8 multilingual media outlets. Selected information for traders and consumers is now available in up to 34 community languages, including those of new and emerging communities, through the website and publications.

Fair Trading continued to run twice-yearly seminars and workshops for *Think Smart* partners, community workers and service providers to keep them up-to-date on consumer issues and legislation changes during 2010 and 2011. The 2010 seminars were hosted in August by Anglicare Migrant and Refugee Services and in September by the St George Migrant Resource Centre, both are *Think Smart* partner organisations.



Think Smart partners at a seminar run by Fair Trading in 2010.

Indian small business seminar

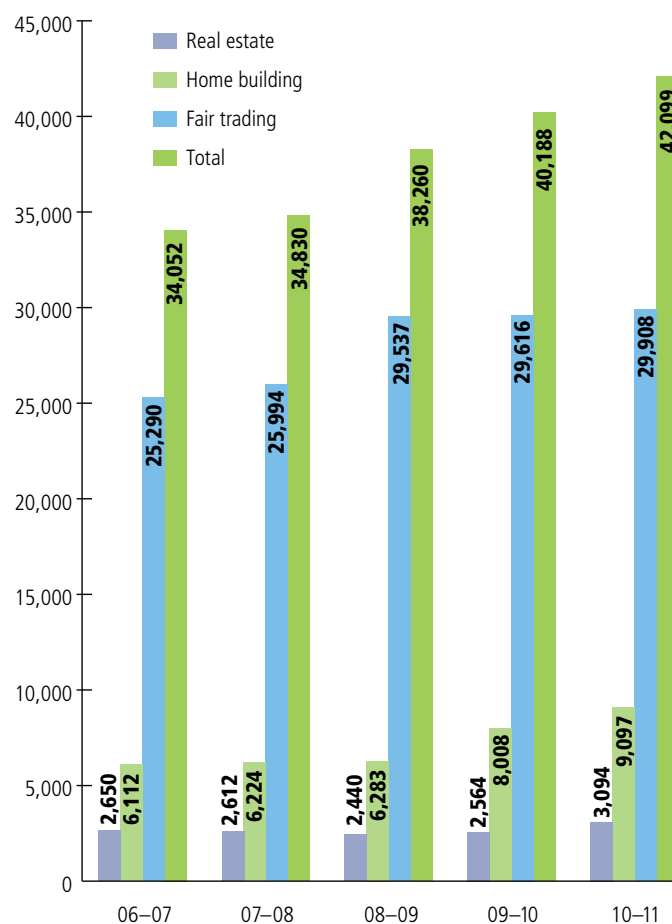
In September 2010, Fair Trading conducted a small business seminar in collaboration with the United Indian Association (UIA). Fair Trading and other government agencies promoted their services and educated businesses on their rights and responsibilities. The seminar was attended by approximately 100 Indian small businesses and traders around Sydney. The seminar was supported by Industry and Investment NSW and WorkCover NSW.

Services

Complaint resolution

Information is provided to consumers, tenants and home-owners on their rights and responsibilities under fair trading legislation through a network of 24 Fair Trading Centres and the Fair Trading Information Centre. The information assists both parties to resolve marketplace issues. Where parties cannot agree between themselves, a complaint can be lodged with Fair Trading and we will provide early intervention by negotiating between the parties in attempt to resolve the matter. During 2010–2011, early intervention was conducted on 39,595 of the total consumer complaints received. Of these 89% were successfully resolved.

Consumer and trader complaints about marketplace transactions



Consumer complaints

Top 10 consumer complaints in 2010–2011

- 1 Residential construction including additions
- 2 Household electrical and whitegoods
- 3 Used car or motorcycle
- 4 Travel and tourism
- 5 Furniture furnishings and manchester retail
- 6 Automotive repairs and servicing
- 7 Clothing, footwear, accessories and jewellery retail
- 8 Computer hardware
- 9 Residential tenancy
- 10 New car or motorcycle

Making a difference...

A customer ordered an opal from an online trader at a cost of \$317. A month later she still hadn't received it. She contacted the trader via email several times but was unsuccessful. She then called Fair Trading for assistance who found that the trader's online ordering system had failed resulting in the loss of the customers' orders. A week later the customer called us to advise that she received her opal.

Making a difference...

Strata disputes can be complex and difficult to resolve as there may be many parties involved in a dispute. One such matter involved 17 owners from a strata scheme of nearly 100 units. The owners had been in constant dispute over a number of issues relating to common property and meeting procedures. After several hours of mediation, the parties finally reached an agreement. More importantly, they recognised the toll their issues had taken and agreed to adopt a more conciliatory approach for future dealings to avoid long running disputes in the future.

Strata

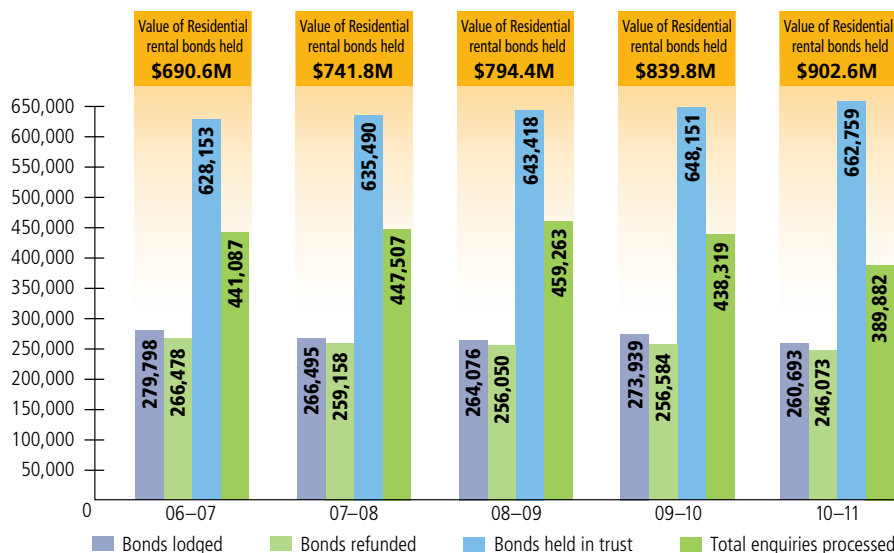
In 2010–2011 we received 39,273 strata scheme enquiries with 1,396 applications for mediation. 487 did not proceed to mediation, 278 were successfully managed prior to mediation and of the remaining 631 applications, 67% were successfully mediated.

The use of mediation to settle strata and community scheme disputes continues to be a success. Fair Trading has helped many parties resolve their disputes without the need for formal adjudication. The mediation process often restores relationships and allows many side issues to be resolved along with the main dispute.

Rental bonds

According to Fair Trading's Guarantee of Service, provided both parties to a bond have agreed on who should receive the bond, refunds are usually deposited to a bank account within 2 working days or issued by postal cheque within 4 working days of receiving the claim form. This standard was met in 100% of rental bond refunds. At 30 June 2011, 662,759 residential rental bonds to the value of \$902.6 million were held in trust.

Residential rental bonds



Retail tenancy

The Retail Tenancy Unit (RTU) provides advice, informal and formal mediation services to retailers, landlords, real estate agents, solicitors and industry advisors with a dispute relating to retail leases or bonds. In 2010–2011 the RTU received 1,079 applications for resolution of informal disputes, and 217 applications for mediation of retail lease disputes making a total of 1,296 matters. In addition the RTU received 6,576 telephone calls on the RTU hotline. By administrative order dated 2 June 2011, retrospectively dated to 4 April 2011, the RTU moved to the Department of Trade, Investment, Regional and Innovative Services.

Licensing and registration

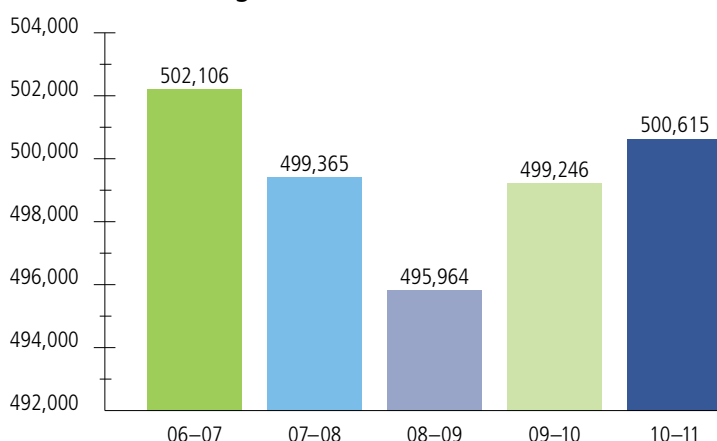
Fair Trading is committed to a high standard of quality customer services, including a guarantee of service promising that new business licence applications which include all the required information will be processed within 30 days of receipt. Business licence renewals are issued within 14 working days provided they are not affected by a disclosure statement relating to an applicant's fitness to continue the business. This year the standard was met for 98% of the 13,639 new business licences issued and for 99% of the 38,330 business licence renewals.

Licensing activity

Licence type	2009–10		2010–11	
	New	Register total	New	Currently registered
Builders	13,822	173,900	15,424	171,254
Motor dealers	472	3,792	525	3,847
Motor vehicle repairers and tradespeople certificates	3,534	130,590	3,084	132,506
Travel agents	92	1,406	90	1,399
Pawnbrokers and second-hand dealers	176	835	154	796
Trade measurement services*	20	209	–	–
Property, stock and business agents	3,323	28,577	3,391	29,611
Real estate certificates	5,718	18,360	5,992	19,477
Valuers	271	3,279	251	3,264
Conveyancers	125	947	152	1,024
TOTAL	27,565	361,980	29,063	363,178

* Responsibility for trade measurement inspections and certifications was transferred to the Commonwealth from 1 July 2010.

Business names register total



Making a difference...

An elderly couple wanted to trade their mobile home van for a new campervan with the motor dealer. After leaving their mobile home with the dealer (agreed trade-in price \$16,000) and paying a deposit of \$500, the couple waited months for the delivery of the new campervan, which never arrived. With Fair Trading's assistance they discovered the company had gone into a voluntary administration and lodged a claim on the Motor Dealer Compensation Fund. The couple received \$16,500 from the Fund and were so grateful that they named their new campervan after the Fair Trading officer who assisted them with their case.



What you said...

Vinetta wrote: "I was amazed at how prompt you were to answer my complaint...so helpful and polite."

"Scott complimented an officer dealing with business names, saying how fantastic and informative she was by making the whole process so simple...thank you."



Home building

As part of Fair Trading's ongoing commitment to making it easier to do business with us, tradespeople applying for their licence can now have their application assessed and licence issued over the counter at any Fair Trading Centre. 3,540 building licences were issued over the counter in 2010–2011.

Home warranty insurance

Home warranty insurance is an important component of a consumer protection scheme for homeowners undertaking building work in NSW. On 1 July 2010, the NSW Self Insurance Corporation, t/as the NSW Home Warranty Insurance Fund, took over as the sole provider of home warranty insurance in NSW. Since then certificates of insurance have been issued on behalf of the fund by its insurance agents, Calliden Insurance Limited and QBE Insurance (Australia) Limited. Home warranty insurance policies issued before the commencement of the Government underwritten scheme will remain in force for the duration of the period of cover. For more information, go to the Home warranty insurance fund website at www.homewarranty.nsw.gov.au

Incorporated associations and co-operatives

Incorporating as an association provides a simple, inexpensive mechanism for small non-profit/non-commercial bodies to gain an independent legal identity and limit members' liability. Co-operatives are people-centred organisations that are owned, controlled and used by their members. A co-operative's main purpose is to benefit its members. Fair Trading is leading a national project to establish uniform laws for co-operatives across Australia in 2011–2012.

Consumer, Trader and Tenancy Tribunal

Fair Trading provides registry services for the Consumer, Trader and Tenancy Tribunal. The Tribunal is an independent body which offers an accessible, efficient and affordable avenue for the resolution of disputes about the supply of goods and services and issues relating to residential property. For more information about the Tribunal, including the annual report, visit www.cttt.nsw.gov.au

Community and industry grants

Community and industry grants are provided to not-for-profit organisations for the provision of community education, advice and advocacy services for tenants, retirement village residents and consumers who need assistance with personal financial difficulties. In line with the NSW Government's social justice role, these grants promote the principles of access, equity and diversity.

Our partnership with funded not-for-profit groups ensures complementary service provision, in that we provide information, regulation and remedy, while the community sector specialises in the provision of consumer advice and advocacy services.

No Interest Loans Scheme

The No Interest Loans Scheme (NILS®) is a community-managed microcredit program developed by the Good Shepherd Youth and Family Services to provide interest free loans to low income earners for the purchase of essential household or medical goods and services such as washing machines and refrigerators, as well as medical or dental services. The total number of loans approved for 2010–2011 was 4,877 to a value of \$6,799,682.

Entities on the register	07–08	08–09	09–10	10–11
Incorporated associations	39,801	34,817	34,273	34,640
Co-operatives	728	699	680	658
Funeral funds	25	26	29	29
Co-operative housing societies	16	10	7	7
Associations of co-operative housing societies	11	10	6	6
Starr-Bowkett societies	17	17	16	15

REVS

REVS	06–07	07–08	08–09	09–10	10–11
REVS checks	1,637,800	1,918,481	1,795,081	1,840,348	1,894,969
Finance industry commitments registered on REVS	\$8.45B	\$9.47B	\$9.15B	\$9.04B	\$9.30B
Total number of encumbrances held	3.45M	3.79M	3.66M	3.61M	3.71M

Funding Agencies Support Service (FASS)

This major initiative utilises the extensive public register data maintained by Fair Trading, in conjunction with its expert knowledge of incorporated associations and non-distributing co-operatives, to assist government agencies better administer the allocation of grant funds to these entities. With over 34,000 incorporated associations and 440 non-distributive co-operatives registered in NSW, the collation and analysis of this data provides agencies with a valuable assessment tool to verify that grant applicants satisfy funding guidelines, and that funding recipients are compliant with the legislation administered by the Registry. Demand for the service has been steadily growing with a number of funding agencies and peak industry groups now accessing the service.

Tenants advice and advocacy

In 2010–2011, 23 community organisations were funded under the Tenants Advice and Advocacy Program (TAAP) to provide advice and advocacy on tenancy matters, with 33,024 people assisted. Of these, 14% required assistance at the Consumer, Trader and Tenancy Tribunal.

Financial counselling

The Financial Counselling Services Program funds organisations to provide free financial counselling services by accredited counsellors, legal casework and public education programs to assist people who are experiencing financial hardship. In 2010–2011 a total number of new clients seeking financial counselling assistance totalled 38,919. There were also 127,136 follow ups conducted during this period.

Aged care

Aged Care Supported Accommodation Service provides funding to non-profit organisations for the provision of information, community education, and advocacy services for residents in supported accommodation such as boarding houses, hostels, nursing homes and in particular people living in retirement villages.

Website

The Fair Trading website is regularly updated to provide practical and useful information on our Community and Industry Grant Programs. This resource provides the public and business sector access to information on the projects or services that receive funding and the organisations' contact details. Organisations and individuals have access to application forms, program guidelines and key dates for when programs are advertised.

Making a difference...

A single mother with two small children was receiving a Centrelink allowance and lived in public housing. She was renting some furniture items through a rental company, and the contract was due to end in 2 months. She also needed a portable air-cooler as her home was very hot in summer but didn't want to rent it anymore as large fortnightly payments, interest rate and the administration fees were costing her too much. She found out about the NILS® program in her area. The officer provided her with a free financial advice to help rebuild her life. She was approved for the loan for an air-cooler that she desperately needed with reasonable fortnightly repayments that she could afford to pay. She was so excited to receive the loan and the impact it made on the quality of life and wellbeing of her family.

Community and industry grants funding allocation

	2010–2011
1 Tenants Advice and Advocacy Program	\$8,786,599
2 Financial Counselling Services Program	\$5,534,897
3 No Interest Loans Scheme	\$1,761,019
4 Rental Bond Board Grants Program	\$400,000
5 Aged Care Supported Accommodation Service	\$397,059
6 Home Building Grants Program	\$233,800
7 Home Building Advocacy Service	\$220,375
8 Property Services Grants Program	\$215,000
9 Motor Vehicle Industry Grants Program	\$98,700
10 Building Contractor Advocacy Service	\$80,000
11 Co-operatives Development Grants Program	\$31,000
TOTAL	\$17,758,449

All figures exclude GST, which is paid on all grants.

Making a difference...

Barry was receiving a Disability Support Pension from Centrelink. After his mother passed away, he was left to pay her energy bill of \$1,500. He managed to reduce it to \$719.66 but was struggling trying to manage the living expenses and pay off the bills. One day Barry arrived at The Salvation Army Centre donating a small TV and told the officer about his financial problem. Barry was very distressed and worried about the energy bill and how he was going to pay it. The officer, who also was a financial counsellor, offered to assist Barry. He contacted the energy provider on Barry's behalf, explaining the situation and the provider agreed to pay \$240 towards the bill. Barry was very happy and grateful for help, and was able to pay the rest of the bill by the end of the year.

Legislation

Objective: Fair trading legislation simplifies service provision for consumers and traders

Objective: Fair marketplace regulation with minimal red tape

Strategy: Strive for best practice regulation

Fair Trading reviews and develops the regulatory framework in NSW for consumer goods and services, accommodation and property services, and home building. It co-ordinates community consultation and prepares options for Government decision-making. It plays a leading role in negotiations with other jurisdictions in the quest for nationally consistent fair trading regulation. The foremost priority is that NSW marketplace regulation, currently involving 39 different pieces of legislation, provides for simple, uncomplicated services for customers and that traders are not unduly burdened by compliance requirements.

Snapshot

Number of pieces of principal legislation in force 39
Acts and regulations amended 16

Highlights 2010–2011

- Major reforms to the residential tenancy laws commenced on 31 January 2011.
- The Australian Consumer Law (ACL) commenced on 1 January 2011.
- On 3 September 2010, Fair Trading became responsible for regulating the safety of most domestic and commercial gas installations and appliances, including LPG and non-network gas appliances.
- New laws to help incorporated associations operate more effectively commenced on 1 July 2010.

Result indicators

	06–07	07–08	08–09	09–10	10–11	Target
Percentage of customers who agree Fair Trading services are simple and uncomplicated*	87%	82%	82%	89%	91%	85%
Percentage of traders who believe they are unduly burdened by fair trading laws**	34%	29%	26%	30%	28%	≤35%

Survey results accurate to ± 5%

* Fair Trading continues to examine internal processes and legislative requirements to try and simplify dealing with Fair Trading and meeting requirements under fair trading laws.

** A low result is a good result for this indicator. It is an encouraging sign the majority of traders don't believe they are unduly burdened by fair trading laws.

Legislation changes

Conveyancers Licensing

The *Conveyancers Licensing Act 2003* and associated regulations require licensed conveyancers to be insured under an approved policy of professional indemnity insurance. The Conveyancers Licensing Amendment (Approved Professional Indemnity Policy) Order 2011 was made and published on the NSW Government legislation website on 13 May 2011. The Order provides that the specified policy of professional indemnity insurance of Vero Insurance Limited and Allianz Australia Limited is approved by the Minister for Fair Trading from 1 July 2011 until 30 June 2012 for the purposes of the legislation.

Gas reform

Amendments to the *Gas Supply Act 1996* and the new Gas (Consumer Safety) Regulation commenced on 3 September 2010. These changes mean that Fair Trading is responsible for regulating the safety of most domestic and commercial gas installations and appliances, including LPG and non-network gas appliances. Fair Trading retains responsibility for licensing gas tradespeople and regulating the safety of natural gas appliances.

Legislation

Incorporated associations

The *Associations Incorporation Act 2009* commenced on 1 July 2010, replacing the previous 1984 legislation. The new Act brought in changes to help more than 34,000 associations across the state operate more effectively and make it easier to manage their affairs. The associations laws have been modernised to reduce red tape, allow more flexibility for associations and provide stronger protection of association finances. NSW Fair Trading conducted a state-wide information and education campaign to make sure people involved in associations were made aware of the changes.

Motor dealers

Following a review of the previous regulation, the Motor Dealers Regulation 2010 commenced on 1 September 2010. The aim of the Regulation is to support the consumer protection objectives of the *Motor Dealers Act 1974*, enabling it to operate effectively by dealing with accountability and probity of dealers; stolen motor vehicles and motor vehicle parts; and information to be provided to consumers. The 2010 Regulation is a remake of the 2004 Regulation with minor amendments, such as clarification of the intent of clauses and some minor rewording for simplification.

Residential tenancy law reforms

After an extensive review of the previous tenancy laws, the *Residential Tenancies Act 2010* commenced on 31 January 2011, introducing over 100 reforms. The changes aim to strike a fair balance between the rights and obligations of tenants and landlords. For example, tenants must now have at least one fee-free way to pay their rent, they are not required to pay more than 2 weeks rent in advance and can now make reasonable requests to make minor changes to premises or to sub-lease a spare room. Landlords will find it faster to evict a tenant who has stopped paying rent or to deal with goods left behind by a former tenant. The new Act aims to reduce the level of disputes by providing greater clarity and certainty for tenants, landlords and agents.

Making a difference...

A landlord visited the Parramatta Fair Trading Centre to complain about former tenants who had left behind an old fridge with rotten food and a box of photo albums after they vacated his rental property. He was pleased to hear that under the new *Residential Tenancies Act 2010*, he could immediately dispose of the rotten food. He had to provide the tenants with an opportunity to collect the other items and was advised to write to their last known address advising how they could organise to collect the fridge and photo albums. The tenants had 90 days to collect the photo albums. As for the old fridge, if the tenants didn't collect it after the 2 weeks notice as provided, the landlord was able to dispose of it.

Strata

Following a review of the previous regulation, the Strata Schemes Management Regulation 2010 commenced on 1 September 2010. The Regulation introduced two new model by-laws. One allows strata residents to hang washing on their balcony if it cannot be seen from the street and the other enables owners corporations to save money by sending meeting notices and other documents by email. These by-laws apply to new schemes registered from 1 September 2010, but other strata schemes can also adopt the by-laws by passing a special resolution.

Valuers regulation

Following a review of the previous regulation, the Valuers Regulation 2010 commenced on 1 September 2010. The Regulation has been made to support the consumer protection objectives of the *Valuers Act 2003*, enabling it to operate effectively by making provision for such matters as: definitions, penalty notices and rules of conduct. Minor amendments were made to the 2005 Regulation including the clarification of the intent of clauses and some minor re-ordering and rewording for simplification.

Co-operatives national law

Fair Trading is leading a national project to establish uniform laws for co-operatives across Australia in consultation with other States and Territories. It is proposed that this new national legislation will introduce improvements in 11 areas identified by an inter-jurisdictional working group, such as: simplifying requirements for co-operatives carrying on business across jurisdictional borders, financial and director reporting and audit requirements for small co-operatives, director and officer duties, rules for co-operatives, and entitlements of former members. The draft legislation has been modified as a result of stakeholder consultation, ready for consideration by the Ministerial Council on Consumer Affairs.



What you said...

"I had a pleasure of dealing with one of your fantastic staff from the Penrith office. She provided me with assistance in regards to an ongoing problem with my TV. She called me back first thing on Monday morning when I lodged the complaint online on Sunday, which was so fast! Within 1 day she solved my problem that I have been having for over a year. She also called me up the following week to check how everything was going... she is amazing! I would like to thank her and commend her on her fantastic service. I really appreciate it!"



National reform

COAG national reform projects

The Council of Australian Governments (COAG) is implementing 27 national reform projects, which aim to promote greater consistency in Australia's business and consumer protection framework. Seven of these projects have direct impacts on the operations of NSW Fair Trading's activities.

Australian Consumer Law

The Australian Consumer Law, which is based on the former Trade Practices Act, commenced on 1 January 2011, and includes best practice from state legislation. It is jointly enforced by the Australian Competition and Consumer Commission (ACCC) and state and territory agencies. The Australian Consumer Law reduces regulatory complexity for businesses and encourages the development of a seamless national economy while consumers benefit through consistent national approaches to consumer problems and enforcement.

National product safety system

A single national system for the management of product safety in Australia commenced as part of the new Australian Consumer Law. Under the reforms, the Commonwealth Government is responsible for all permanent product bans and mandatory standards. The States and Territories retain the power to issue interim product safety bans, and the ACCC, States and Territories share responsibility for enforcing the product safety law.

National regulation of financial services and consumer credit

This project transferred responsibility for regulating consumer credit and finance broking to the Commonwealth, with the establishment of the National Credit Code on 1 July 2010. Fair Trading has no on-going role in the regulation of consumer credit, except to continue to apply a maximum annual percentage rate to consumer credit contracts in NSW. At a national level, the Commonwealth has established the Financial Services and Credit Implementation Taskforce to oversee the development and implementation of the national system of regulation for this industry.

Personal property securities register

This project will implement a single national system for the registration of security interests in all types of property other than real estate. It will incorporate the services currently provided by the NSW Register of Encumbered Vehicles (REVS) system, as well as the register of co-operatives charges. Fair Trading will have no on-going role in the registration of security interests over motor vehicles or boats once the national system is implemented.

National Occupational Licensing System (NOLS)

This project aims to develop and implement a single licensing system across Australia for specified occupations. The National Occupational Licensing System will apply to property agents, electrical, air-conditioning and refrigeration, plumbing and gasfitting, building and building-related occupations, conveyancers and valuers. Once the system is implemented Fair Trading will continue to process licence applications and renewals as a delegated agency of the new National Occupational Licensing Authority. The system for property agents, electrical, air-conditioning and refrigeration, plumbing and gasfitting is scheduled to commence from July 2012, and the remaining occupations from July 2013.

Single registration system for business names and ABNs

This project will develop and implement a single seamless business name registration/Australian Business Number system administered by the Australian Government. It will also incorporate a national Business Licensing Information System (BLIS). This will enable businesses to register their business name and their company name in one online process as well as access information on other government regulatory requirements. Subject to all states passing the necessary legislation, the target commencement date is May 2012.

National trade measurement system

This project delivered a national system of trade measurement funded and administered by the Commonwealth through the National Measurement Institute on 1 July 2010. Fair Trading has no further role in the regulation of trade measurement.

Other national reform projects

Retail tenancy

To reduce the overall compliance burden on industry and enhance consistency of the retail tenancy regulatory framework, the Retail Leases Amendment Regulation 2010 introduced the harmonised landlord disclosure statement into NSW from 1 January 2011. Legislation to introduce the harmonised statement was also introduced in Queensland and Victoria. The new disclosure statement makes it easier for landlords operating across these jurisdictions to comply with disclosure requirements, and at the same time, has simplified the information available to retail tenants on key aspects of their lease.

Co-operatives

NSW Fair Trading is the lead jurisdiction on a national project to establish uniform laws for co-operatives. Fair Trading is working with other Australian jurisdictions and the Ministerial Council on Consumer Affairs to develop the Co-operatives National Law.

Legislation administered

During 2010–2011, the Minister for Fair Trading had joint administration of the following Acts with the Minister for Finance and Services (formerly Commerce):

- *Agricultural Tenancies Act 1990*
- *Associations Incorporation Act 2009*
- *Business Names Act 2002*
- *Community Land Management Act 1989*
- *Consumer Claims Act 1998*
- *Consumer, Trader and Tenancy Tribunal Act 2001*
- *Contracts Review Act 1980*
- *Conveyancers Licensing Act 2003*
- *Co-operative Housing and Starr-Bowkett Societies Act 1998*
- *Co-operatives Act 1992*
- *Credit (Commonwealth Powers) Act 2010*
- *Electricity (Consumer Safety) Act 2004*
- *Fair Trading Act 1987*
- *Fitness Services (Pre-paid Fees) Act 2000*
- *Funeral Funds Act 1979*
- *Gas Supply Act 1996* (s. 83A only, remainder the Minister for Resources and Energy)
- *Holiday Parks (Long-term Casual Occupation) Act 2002*
- *Home Building Act 1989*
- *HomeFund Commissioner Act 1993*
- *HomeFund Restructuring Act 1993* (ss 14, 15, 16 and Schedule 2 (remainder, the Minister for Finance and Services))
- *Landlord and Tenant (Amendment) Act 1948*
- *Landlord and Tenant Act 1899*
- *Motor Dealers Act 1974*
- *Motor Vehicle Repairs Act 1980*
- *Occupational Licensing (Adoption of National Law) Act 2010 and the Occupational Licensing National Law (NSW)*
- *Partnership Act 1892*, in so far as it relates to the functions of the Registrar of the register of limited partnerships and incorporated limited partnerships and to the setting of fees to be charged for maintaining that register, jointly with the Attorney General and the Minister for Finance and Services (remainder, the Attorney General)
- *Pawnbrokers and Second-hand Dealers Act 1996*
- *Price Exploitation Code (New South Wales) Act 1999*
- *Prices Regulation Act 1948*
- *Property, Stock and Business Agents Act 2002*
- *Registration of Interests in Goods Act 1986*
- *Residential Parks Act 1998*
- *Residential Tenancies Act 2010*
- *Retirement Villages Act 1999*
- *Strata Schemes Management Act 1996*
- *Trade Measurement (Repeal) Act 2009*
- *Travel Agents Act 1986*
- *Valuers Act 2003*
- *Warehousemen's Liens Act 1935*

Fair Trading Centres

We operate 24 Fair Trading Centres across NSW at the locations below. These centres provide information and assistance on consumer issues, motor vehicles, home building and renovation, property and tenancy issues, plus co-operatives and business name registration.

Call 13 32 20 Monday to Friday between 8.30am and 5.00pm to reach your nearest Fair Trading Centre.

Other locations

Selected Fair Trading services are also available via Government Access Centres (GACs) and other agency arrangements through regional NSW.

Call 13 32 20 for information on the services available in these towns:

Balranald, Barham, Bega, Boggabilla, Bombala, Boorowa, Bourke, Brewarrina, Cobar, Condobolin, Cooma, Coonabarabran, Coonamble, Crookwell, Culcairn, Deniliquin, Dorrig, Dunedoo, Eden, Finley, Forbes, Forster, Gilgandra, Glen Innes, Grenfell, Griffith, Gundagai, Hay, Hillston, Holbrook, Inverell, Kyogle, Lake Cargelligo, Leeton, Lightning Ridge, Lockhart, Maclean, Merimbula, Merriwa, Moama, Moree, Moruya, Moulamein, Mt Druitt, Mudgee, Mungindi, Murrumbidgee, Nambucca Heads, Narooma, Narrabri, Narrandera, Nowra, Nyngan, Oberon, Peak Hill, Quirindi, Rylstone, Scone, Temora, Tenterfield, Tumbarumba, Ulladulla, Walcha, Walgett, Wyallda, Warren, Wentworth, West Wyalong, Wilcannia.



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