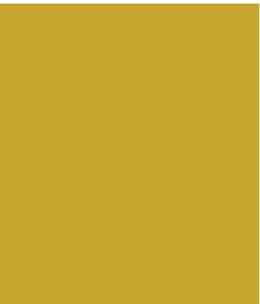




Fair Trading



Year in review 2011–2012



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.

Policy development and regulatory review	
Acts administered	41
Bills assented to in Parliament in 2011–2012	6
Acts and regulations amended in 2011–2012	13
Acts repealed in 2011–2012	2

Services provided to the public in 2011–2012	
Requests for service*	8,747,116
Website visitor sessions	5,275,111
REVS checks	1,200,823
Phone enquiries from general public	1,034,090
Counter enquiries	203,630
Rental bond transactions	403,923
Consumer and trader complaints about marketplace transactions resolved through early intervention	44,248
Public seminars and information sessions	696
Seminar audiences	20,697

* Includes all requests for information, services and transactions.

Information on registers as at 30 June 2012	
Total occupational licences	372,936
Total business names	499,797
Total associations	35,609
Total co-operatives	634

Compliance and enforcement actions in 2011–2012	
Inspections	4,097
Plumbing Inspection and Assurance Service (PIAS) inspections	21,979
Investigations	3,123
Certifications – Declared Articles	2,125
Penalty notices issued	928
Prosecutions	263
Civil proceedings	53
Total compliance related activities	32,579

Agency	
Staff	956
Budget	\$183 million*
Fair Trading Centres throughout NSW	24
Other service outlets**	69

* In addition to the operating expenses for Fair Trading there was additional funding for voluntary redundancies as part of the governments strategic review and long service leave provision adjustment as a result of the departmental actuarial review.

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

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Minister's message

As New South Wales Minister for Fair Trading I am proud to present the *2011–2012 Year in review* report on NSW Fair Trading. This report highlights the significant achievements and substantial contribution Fair Trading has made in serving the public of NSW. Fair Trading has been facing change on many fronts for some time now, including the ever-changing marketplace and its expectations, the way consumers and traders wish to engage with us as well as changes to the legislation we administer.

I am committed to achieving a fair and ethical marketplace for both traders and consumers, whilst delivering the Government's significant legislative reform agenda in consumer and industry regulation with minimal red tape.

2011–2012 was a critical period for driving forward major regulatory reforms in Fair Trading. Substantial progress has been made in delivering on our commitments regarding residential parks governance and retirement village contracts. As a major step toward important reform, a register of residential parks was established and a discussion paper on improving governance in the residential park housing sector was released. The work of an expert committee, established to develop standard terms for retirement village contracts, is well advanced. We are also aiming to simplify existing legislation by combining the regulation of motor dealers and motor vehicle repairers into one Act.

As an initial step to re-energise the home building sector, legislation was enacted to reduce red tape while maintaining appropriate consumer protections. In recognition that further, significant changes are necessary, a comprehensive review of home building legislation is currently underway.

The review of strata and community title laws commenced with an innovative online consultation forum, complemented by an online survey and the release of a discussion paper. There is immense interest in the major reviews being undertaken and I am keen to ensure that the widest possible consultation occurs before new laws are developed for presentation to Parliament.

In 2012/2013 I look forward to further progressing regulatory changes. I will continue, with dedication, to implement effective and efficient regulation to achieve a fair and competitive marketplace.

I would like to acknowledge the dedicated staff at NSW Fair Trading for their ongoing commitment to serving local communities across NSW.

A handwritten signature in blue ink, appearing to read 'AR', written in a cursive style.

Anthony Roberts
Minister for Fair Trading

Minister's message



Commissioner's foreword

The following pages outline the significant achievements NSW Fair Trading has attained in pursuing our charter to provide a fair and equitable marketplace in NSW.

As the Minister has indicated in his message, it has been a time of change and challenge.

During the reporting period two of our regulatory responsibilities, the registration of business names and registration of vehicle encumbrances, were transferred to the Commonwealth. Despite this being a highly complex task involving the migration of large amounts of electronic data, the transfer was accomplished smoothly and on time.

Over the same period, the agency also acquired some new responsibilities. Following the passage of legislation through the Parliament, Fair Trading commenced the staged process of becoming the regulator of all the State's on-site plumbing and drainage work as well as the regulator of tattoo parlours (in conjunction with NSW Police).

We have continued to make progress with our ambitious regulatory reform agenda with consultation commencing on major reviews covering motor vehicle sales and repairs, residential parks, strata and community title schemes and home building. In each case the emphasis has been on ensuring the widest possible community engagement. Fittingly, during the United Nation's International Year of Co-operatives, NSW introduced template legislation that will provide for a new National Co-operative Law to be administered by each state and territory.

Our compliance and enforcement efforts have continued to make positive impacts in the marketplace. In particular, the national campaign NSW has led against travelling conmen has delivered tangible results. More than 30 non-resident individuals have now left the country through the combined efforts of fair trading agencies, police and immigration authorities. In fact, co-operation with partner Australian Consumer Law (ACL) regulators has reached new heights. This was clearly demonstrated in the way we were able to deal effectively with unanticipated marketplace events such

as the grounding of Tiger and Qantas airlines. In these instances, the regulators were able to engage with the airlines with one voice about our concerns and to ensure that front line staff across the country had timely information to respond to consumer enquiries and complaints.

We have also broken new ground in our efforts to better educate consumers and traders about their rights and responsibilities. Our *ShopSmart* and *Scam Buster* apps are good examples of this innovative approach, along with seven new YouTube videos.

The development of a new funding model for the financial counselling services that Fair Trading supports was an important initiative that will deliver better and more equitable service provision across the State. We have also increased our funding for the administration of No Interest Loans Scheme (NILS®) by \$315,000 enabling an additional five NILS® services to be included in this program that supports vulnerable consumers who cannot access mainstream financial services.

During this period, we have had considerable success in raising our media profile. In doing so, we have entered new territory through the embedding of media teams with our officers in the field and in the future we hope to develop an independent capacity to film our own operations and produce commercial quality material.

Importantly, despite a challenging fiscal environment, we have continued to provide a variety of valued services to the public ranging from dispute resolution to licensing and registration.

Of course, none of these things would have been possible without the dedicated efforts of our staff and I would like to thank all Fair Trading officers for their collective contribution to this impressive record of achievement

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:

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

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 guidelines 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.

A system of licensing and the investigation of complaints help ensure unqualified or inappropriate people do not operate in NSW. Our licensing and compliance functions 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 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 access 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.

Customer feedback

The Customer Feedback Management system captures 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 2011–2012, 555 customer feedback responses were received from consumers and traders, comprising 281 (51%) compliments, 49 (9%) suggestions and 225 (41%) 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.

Guarantee of service performance

	07–08	08–09	09–10	10–11	11–12	Target
Percentage of services meeting published GOS standards*	100%	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.

About us

Regulatory reform and red tape reduction

Objective:

Implement effective and efficient regulation to achieve a fair and competitive marketplace.

Strategy:

Deliver the significant legislative reform agenda in consumer and industry regulation with minimal red tape.

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. Fair Trading plays a leading role in negotiations with other jurisdictions in the quest for nationally consistent fair trading regulations. The foremost priority is that NSW marketplace regulation, currently involving 41 different pieces of legislation, provides for simple, uncomplicated services for customers and to ensure traders are not unduly burdened by unnecessary compliance requirements.

Snapshot

<i>Number of pieces of legislation in force</i>	41
<i>Acts and regulations amended</i>	13
<i>Bills assented to in Parliament in 2011–2012</i>	6
<i>Acts repealed in 2011–2012</i>	2

Result indicators

	07–08	08–09	09–10	10–11	11–12	Target
Percentage of customers who agree Fair Trading services are simple and uncomplicated*	82%	82%	89%	91%	88%	85%
Percentage of traders who believe they are unduly burdened by fair trading laws**	29%	26%	30%	28%	28%	≤35%

Comment / interpretation: This survey is a measure of consumer confidence. Factors that affect consumers' confidence may include the effectiveness of fair trading. 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.

Home Building Act 1989 reforms

The *Home Building Amendment Act 2011* was passed by the NSW Parliament on 19 October 2011 in order to remove unnecessary red tape, provide a stimulus to the home building industry while maintaining appropriate consumer protections, and to address other urgent issues. The first tranche of amendments commenced on 25 October 2011, with the second tranche commencing on 1 February 2012. There was a 6-month transitional period for the amendments to the home warranty insurance claim requirements, to allow homeowners to lodge claims in accordance with the new requirements. The transitional period ended on 25 April 2012.

The first tranche of amendments were primarily to the time periods and requirements for lodging home warranty

insurance claims and were made in order to ensure that the legislation reflected the intent of the scheme. In addition a definition for 'completion' of home building work was introduced, the definition of 'developer' was refined and statutory warranty claims were expressly excluded from the operation of the proportionate liability provisions of the *NSW Civil Liabilities Act 2002*.

The second tranche of amendments applied to all new contracts entered into after 1 February 2012. The statutory warranty period was changed to 2 years for non-structural defects and 6 years for structural defects, from completion, with a further 6 months if the defect became apparent in the last 6 months of the period. The threshold for requiring home warranty insurance was raised to \$20,000 and the minimum insured amount increased to \$340,000. A new 'small works'

Regulation

contract was introduced for building work valued between \$1,000 and \$5,000 and the definition of what was a 'related' entity to a builder or developer was amended.

This was a first and vital step in reforming the *Home Building Act 1989* with the NSW Government committing to undertake a broad and comprehensive review of the Act during 2012.

Plumbing and drainage legislation reforms to establishing Fair Trading as the sole State regulator

On 9 November 2011, the NSW Parliament passed the *Plumbing and Drainage Act 2011*, which transfers responsibility for the regulation of on-site plumbing and drainage work from water utilities and local councils to NSW Fair Trading and requires compliance with prescribed standards for plumbing and drainage.

The *Plumbing and Drainage Regulation 2012* will prescribe those standards and provide for matters of an administrative and procedural nature, providing support for the operation of the Act to enable the objectives of the Act to be achieved.

The new legislative framework will be introduced in two phases, the Act and Regulation commencing on 1 July 2012 with the following effect:

From **1 July 2012**:

- the *Plumbing Code of Australia* will commence as the new technical standard across all of New South Wales
- NSW Fair Trading will become the plumbing regulator in areas that, immediately before commencement, were within the areas of operations of the Sydney Water Corporation, Hunter Water Corporation, and other licensed utility operators under the *Water Industry Competition Act 2006*.

Part 2, Division 1 of the Act will also commence across NSW, requiring plumbing and drainage work:

- to be carried out only by authorised persons
- to comply with the *Plumbing Code of Australia*
- to use only authorised ('WaterMark') fittings.

From **1 January 2013**, the other requirements of the Act and Regulation will commence in the remainder of NSW. NSW Fair Trading will become the single regulator across NSW, although certain functions will be delegated back to local councils, where appropriate.

Licensed conveyancers

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 2012 was made and published on the NSW Government legislation website on 1 June 2012. 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 2012 until 30 June 2013 for the purposes of the legislation.

Review of strata and community title laws

A comprehensive review of the strata and community title laws is currently being carried out. This is a joint project with Land and Property Information that is examining all the laws regarding the development and management of strata and community schemes.

The review process began with an online consultation forum hosted by Global Access Partners (GAP) that closed on 29 February 2012. The forum received 19,138 visits from 13,558 individual visitors. Approximately 1,230 individual comments were received and close to 600 suggestions for procedural change or law reform were submitted.

A discussion paper is currently being prepared for the next round of public consultation.

Retirement village standard terms for contracts

The NSW Government gave an election commitment to develop standard contract terms for retirement villages and to establish a committee of experts to assist with development of the terms.

Standard contract terms for the retirement village sector will enable residents to better understand and compare the differences in costs and conditions between villages before they sign on the dotted line. It will also make the contracts process clearer, simpler and more certain for operators, residents and their families.

In July 2011, the Minister for Fair Trading established an expert committee, bringing together a cross section of knowledge from residents, operators and the legal profession. In late March 2012 the Government released a set of draft contract terms for public consultation. Detailed submissions were received from residents, operators and other interested parties.

The expert committee is currently reviewing the submissions before making its final recommendations to Government on the standard terms.

Review of residential parks laws, register

The NSW Government gave an election commitment to improve the governance of residential parks and review the *Residential Parks Act 1998*. The first step in carrying out this commitment was the passing of legislation in September 2011 that established a register of all residential parks in New South Wales.

The register went live on the NSW Fair Trading website in March 2012 and contains the contact details of 481 residential parks across NSW. Prospective residents who are looking to move into a residential park can search the register by the name of a park, or by the suburb, postcode or local government area. They can find the name, address and phone number for a park on the register, as well as a link to the park's website, if it has one.

The next step was the release of the discussion paper, *Improving the governance of residential parks*, in November

2011 for 4 months of public consultation. Over 870 submissions and correspondence were received. The Government also had some useful discussions with residents, owners, operators, and representative groups to explore some of the key issues in more depth. An analysis has been carried out and options for change are being assessed to enable the Government to finalise a balanced package of reforms that meet the current and future needs of this important housing sector. It is expected that draft legislation will be released for public consultation in the first half of 2013.

Changes to agricultural tenancy laws improve dispute resolution

The *Agricultural Tenancies Act 1990* sets out the rights and responsibilities of landowners, tenants and sharefarmers in relation to agricultural tenancies, and provides for resolution of disputes.

On 2 June 2011, the Act was reallocated from the administration of the Minister for Primary Industries to the administration of the Minister for Fair Trading. Following the reallocation, the Act was amended to give the Consumer, Trader and Tenancy Tribunal jurisdiction for agricultural tenancy disputes. The Tribunal's dispute resolution service for agricultural tenancies will commence on 1 August 2012.

The new dispute resolution arrangements also allowed for the streamlining of the *Agricultural Tenancies Act* and the repeal of the *Agricultural Tenancies Regulation 2006*, which became redundant. This contributed to the Government's commitment to ongoing regulatory reduction.

Motor vehicle laws review

In June 2012, Fair Trading commenced a review of the *Motor Dealers Act 1974* and *Motor Vehicle Repairers Act 1980*. The review will examine a proposal to simplify the regulations by combining the legislation to create one Act with clear upfront aims and objectives for the efficient regulation of industry and effective consumer protection.

The two Acts currently have a number of similar provisions and by combining them, a simpler and more transparent piece of legislation that reduces compliance costs and related red tape for industry participants, could be created.

The review will examine the main features of each Act with a view to ensuring that essential consumer protections are supported.

Fitness services laws review

In March 2012, Fair Trading released a Discussion Paper on the Review of the *Fitness Services (pre-paid fees) Act 2000*. The aim of this paper was to seek the views of industry on whether the costs of this regulation outweighed the benefits to consumers. The Australian Consumer Law (ACL), which commenced on 1 January 2011, introduced a range of general protections that apply across all businesses including fitness services. The unfair contracts provisions of the ACL also apply to this industry. In light of these more recent and universal

protections, consideration is being given to repealing the *Fitness Services (pre-paid fees) Act*.

Co-operatives National Law (CNL)

The CNL is new national uniform template law which will replace and improve existing co-operatives laws in each State and Territory. Each of those jurisdictions will either apply the CNL template, or make their laws consistent with it.

Key reforms in the CNL include a simplified, lower cost, automatic system for co-operatives to conduct business across state and territory borders.

Financial reporting and audit requirements for small co-operatives have been reduced on a risk managed basis, which will lower costs for these co-operatives. However, the new laws enable members or the regulators to require audits or reviews of accounts, if they consider it appropriate.

In April 2012 the Minister for Fair Trading introduced the Co-operatives National Law, as part of the Adoption Bill, into the NSW Parliament. The law was passed on 9 May 2012 and is now known as the *NSW Co-operatives (Adoption of National Law) Act 2012*. These developments are timely as they coincide with the United Nations' International Year of Co-operatives. One of the UN's goals for the Year is to encourage governments to establish policies, laws and regulations that support the formation, growth and stability of co-operatives.

The CNL laws will commence as soon as supporting arrangements are in place, which will include the finalisation of the CNL National Regulations.

Tattoo parlours

The *Tattoo Parlours Act 2012* commenced on 29 May 2012. The Act is jointly administered by the Minister for Fair Trading and the Minister for Police and Emergency Services and aims to reduce the involvement of organised criminals in the tattoo industry in NSW by establishing a new regulatory scheme for owners, operators and tattooists. NSW Fair Trading will be the regulator of the industry.

It is expected that the licensing regime will commence in February 2013 and will require that individuals who operate or intend to operate a body art tattooing business, or who intend to perform body art tattooing procedures obtain a licence issued by NSW Fair Trading. Individuals who perform cosmetic tattooing procedures will be excluded from the licensing requirements.

National reform

The Council of Australian Governments agreed in 2008 on a range of reforms to bring about a seamless national economy. Seven of the projects directly impacted NSW Fair Trading. Six projects have been implemented.

National reforms – completed

Trade Measurement System: on 1 July 2010 the National Measurement Institute became the regulator and NSW Fair Trading ceased to have a role.

Financial Services and Credit: on 1 July 2010 the Australian Securities and Investments Commission became the regulator.

Australian Consumer Law including Product Safety: on 1 January 2011 the Australian Consumer Law commenced. The Competition and Consumer Commission, Australian Securities and Investments Commission and State and Territory consumer agencies, including NSW Fair Trading, are joint regulators.

Personal Property Securities Register: on 30 January 2012 Insolvency and Trustee Services Australia became the Australian Government agency responsible for administering the register. NSW Fair Trading has no role. All the data previously held on the register of encumbered vehicles has been transferred.

National Business Names Register: on 28 May 2012 the Australian Securities and Investments Commission became the regulator.

National reforms – in development

National Occupational Licensing System: the National Occupational Licensing Authority has been established in Sydney. It is overseen by a Board which has been appointed by the Standing Council for Federal Financial Relations.

The system will include occupations which are currently licensed by NSW Fair Trading being (in the first wave):

- electrical
- refrigeration and air-conditioning
- plumbing and gasfitting
- property agents

and (in the second wave):

- building and building related occupations
- conveyancers
- valuers.

In April 2012, COAG agreed that, given the complexity of the reform, the first wave will now commence from 2013.

Fair Trading continues to work with the NOLS Taskforce and NOLS Steering Committee in developing the policy and legislation for the national system.

Other national reforms

Through the Legislative and Governance Forum on Consumer Affairs (formerly the Ministerial Council for Consumer Affairs) NSW Fair Trading works with other jurisdictions to achieve harmonisation and efficient regulation.

Conduct harmonisation: NSW chairs the Conduct Harmonisation Working Group, which is developing proposals for harmonised conduct provisions for the occupations that will be licensed under the National Occupational Licensing System. The Working Group has focussed its activity on conduct relating to property occupations.

Legislation administered

During 2011–2012, the Minister for Fair Trading had joint administration of the following Acts with the Minister for Finance and Services (formerly Commerce):

<i>Agricultural Tenancies Act 1990 No 64</i>
<i>Associations Incorporation Act 2009 No 7</i>
<i>Business Names (Commonwealth Powers) Act 2011 No 44</i>
<i>Community Land Management Act 1989 No 202</i>
<i>Consumer Claims Act 1998 No 162</i>
<i>Consumer, Trader and Tenancy Tribunal Act 2001 No 82</i>
<i>Contracts Review Act 1980 No 16</i>
<i>Conveyancers Licensing Act 2003 No 3</i>
<i>Co-operative Housing and Starr-Bowkett Societies Act 1998 No 11</i>
<i>Co-operatives Act 1992 No 18</i>
<i>Co-operatives (Adoption of National Law) Act 2012 No 29</i>
<i>Credit (Commonwealth Powers) Act 2010 No 6</i>
<i>Electricity (Consumer Safety) Act 2004 No 4</i>
<i>Fair Trading Act 1987 No 68</i>
<i>Fitness Services (Pre-paid Fees) Act 2000 No 95</i>
<i>Funeral Funds Act 1979 No 106</i>
<i>Gas Supply Act 1996 No 38, section 83A (remainder, the Minister for Resources and Energy)</i>
<i>Holiday Parks (Long-term Casual Occupation) Act 2002 No 88</i>
<i>Home Building Act 1989 No 147 (except parts, the Treasurer)</i>
<i>HomeFund Commissioner Act 1993 No 9</i>
<i>HomeFund Restructuring Act 1993 No 112, sections 14, 15, 16 and Schedule 2 (remainder, the Minister for Finance and Services)</i>
<i>Landlord and Tenant Act 1899 No 18</i>
<i>Landlord and Tenant (Amendment) Act 1948 No 25</i>
<i>Motor Dealers Act 1974 No 52</i>
<i>Motor Vehicle Repairs Act 1980 No 71</i>
<i>Occupational Licensing (Adoption of National Law) Act 2010 No 100 and the Occupational Licensing National Law (NSW)</i>
<i>Partnership Act 1892 55 Vic No 12 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)</i>
<i>Pawnbrokers and Second-hand Dealers Act 1996 No 13</i>
<i>Personal Property Securities (Commonwealth Powers) Act 2009 No 35, Division 2 of Part 2 of Schedule 1 and clause 24 of Schedule 1, jointly with the Attorney General and the Minister for Finance and Services (remainder, the Attorney General)</i>
<i>Plumbing and Drainage Act 2011 No 59</i>
<i>Prices Regulation Act 1948 No 26</i>
<i>Property, Stock and Business Agents Act 2002 No 66</i>
<i>Residential Parks Act 1998 No 142</i>
<i>Residential Tenancies Act 2010 No 42</i>
<i>Retirement Villages Act 1999 No 81</i>
<i>Strata Schemes Management Act 1996 No 138</i>
<i>Tattoo Parlours Act 2012 No 32 (jointly with the Minister for Police and Emergency Services)</i>
<i>Trade Measurement (Repeal) Act 2009 No 108</i>
<i>Travel Agents Act 1986 No 5</i>
<i>Valuers Act 2003 No 4</i>
<i>Warehousemen's Liens Act 1935 No 19</i>

Consumer protection and engagement

Consumers are best served by competitive markets where businesses compete fairly in compliance with legislation. Consumers and traders need to be aware of their rights and responsibilities and how to obtain redress. Most traders want to treat their customers fairly and comply with consumer protection regulations that Fair Trading enforce.

We seek to empower consumers by providing information through our website, the Fair Trading Information Centre (call centre), Fair Trading Centres across NSW and targeted education programs.

By promoting awareness and education in business and industry we aim to achieve higher standards in NSW.

Super-complaints

On 7 June 2011 the Minister announced that NSW Fair Trading and consumer group CHOICE would pilot an 18 month 'Super Complaints' project. The project allows CHOICE to present evidence to NSW Fair Trading that a feature of a market for consumer goods or services is, or appears to be, significantly harming the interests of consumers. Fair Trading will then research and assess the issue and report publically on actions that may be taken to address the issue.

The first Super Complaint was lodged by CHOICE on 8 March 2012 and focused on the operations of electricity switching sites. In responding to the Super Complaint, Fair Trading worked with a range of agencies including other state and territory fair trading regulators, the Independent Pricing and Regulatory Tribunal, Australian Competition and Consumer Commission, the Australian Energy Regulator and the Energy & Water Ombudsman NSW (EWON). The response to the Super Complaint has been published on the Fair Trading website. Investigations found that further information and education programs are required to improve consumer understanding of the market and their ability to make effective choices. Fair Trading is also considering a number of claims made by electricity switching websites to determine whether those specific representations breach the provisions of the Australian Consumer Law.

National compliance and education activities co-ordinated by CDRAC

As chair of the Compliance & Dispute Resolution Advisory Committee (CDRAC), NSW Fair Trading plays a significant leadership role in compliance and enforcement matters at a national level.

The role of CDRAC is to effectively coordinate ACL regulator responses on consumer protection issues that have a national perspective. A major part of CDRAC's role is to undertake national compliance projects.

In 2011/12, NSW participated in ACL national projects to:

- assess the terms and conditions of on-line businesses for compliance with the unfair contract terms provisions under the ACL
- ensure compliance with the deceptive and misleading representation provisions of the ACL in relation to sales practices used by sellers, retailers, or promoters of small-scale renewable energy schemes
- increase awareness of and compliance with the consumer guarantee provisions of the ACL by major retailers and suppliers within the telecommunications, whitegoods and electronic goods industries
- adopt an enforcement approach to severely curtail unlawful selling of goods and services by travelling con men
- address unfair trader practices that utilise high pressure sales techniques in regional and remote Aboriginal communities, and to increase the awareness of community residents and their support networks about combating unfair practice
- establish a nationally coordinated and considered response to the Australian group buying industry, including coordinated action in relation to intelligence gathering and compliance activities, in order to promote best practice though self regulation and implementation of voluntary codes of conduct and to encourage, and where necessary enforce, group buying traders' compliance with the ACL
- undertake a nationwide product safety surveillance program targeting retailers selling baby walkers and child vehicle restraints
- complete a comprehensive national sweep of toy retailing prior to the 2011 Christmas period in order to ensure compliance with toy safety standards.

While Fair Trading has participated in eight significant national projects throughout 2011/12 as part of CDRAC, another important role for this Committee is to monitor and respond to emerging consumer issues. During 2011/12 this included action to:

- regularly monitor traders of concern to regulators, by reviewing consumer complaints and intervening at an early stage

Consumers

- achieving appropriate negotiated outcomes for travelling consumers following the temporary grounding of Tiger Airways and Qantas
- providing assistance for consumers affected by a number significant businesses ceasing to trade, including a budget international airline, a major whitegoods retailer and an electronics retailer
- warning consumers about a number of traders with a poor record in fulfilling customer orders and/or dealing with consumer complaints
- dealing with a significant importer of wood products about potential mislabelling.

Information programs

During 2011–2012, Fair Trading delivered 696 information sessions, talks and seminars attended by 23,323 people throughout the state. These covered a range of topics aimed at 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, seniors, high school and TAFE 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 visit communities in their locations and deliver a range of information sessions for seniors, youth, community and disability groups, indigenous communities, local business and tradespeople. Fair Trading investigators also carry out compliance checks on business to educate traders on their rights and responsibilities under fair trading laws.

Some CAPs and RAPs are conducted with an additional focus on compliance activity that may include retirement villages, travel agents, associations, real estate agents, co-operatives, home building sites, motor dealers and motor vehicle repairers.

In 2011/2012, two CAPs and ten RAPs were conducted.

Education campaigns

Travelling con men

In October and November 2011 we ran a television advertising campaign in conjunction with Crime Stoppers NSW to make consumers aware of the activities of itinerant con men, who are known to target NSW consumers during spring. The campaign formed part of a national effort led by NSW and Victoria which urged consumers to report any approaches by travelling con men via a national hotline. An online map of travelling con men sightings and a Facebook page kept

consumers up to date with reported incidents and prosecutions. Promotional materials, including a poster, brochure, and *Do not knock* sticker were also produced and distributed through customer service networks, at events and through library services.

Real estate videos

In December 2011, we produced three new videos about the property industry.

Produced in collaboration with Sky Business' *Real Estate News Show*, the videos provide viewers with in-depth information about living in a retirement village, living in a strata scheme and discrimination in the rental market.

The videos have been broadcast on Sky Business channel and posted on Fair Trading's YouTube channel where they have been downloaded around 3,000 times in 7 months.

In all, we have produced a total of 9 real estate videos and will release an additional 3 videos on YouTube in August 2012.



What our viewers said...

'Great initiative!'

– Stacey Holt, Director Real Estate Excellence

'It's great to see NSW Fair Trading publishing simple and easy to understand information on You Tube. Well done NSW Fair Trading! And, let's see more on You Tube.'

– Francesco Andreone in his blog story titled *A fair effort by Fair Trading*



Reaching out to young people

Our annual competition for high school students, the *Money Stuff Challenge*, celebrated its 11th anniversary in 2011 and attracted over 1,300 entries from 54 schools across NSW. The competition asked students to research consumer issues and develop creative messages for young people. The issues covered included scams, how to manage money, renting or sharing a house, buying a mobile phone and avoiding the debt trap. This year all entries were submitted in electronic format. Winners were announced at the *Money Stuff Youth Forum*, held at the Australian National Maritime Museum, Darling Harbour on 14 November 2011. The entries ranged from movies and posters to calendars and animated cartoons.

The Youth Forum was well attended with more than 100 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 2011 *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 was redeveloped and launched at the Youth Forum. The new look website includes interactive features and digital videos to engage and meet the learning needs of young consumers. The website has had 37,610 visits since November, with the most popular page being the *Refund, repair or replacement page*.



School formals education campaign

NSW Fair Trading received a number of calls in late 2011 from high school students and parents who had been scammed out of large sums of money by online businesses offering to organise the ultimate formal or after-party experience. The businesses didn't book any venues or entertainment and cancelled the formal or after-party at the last minute. Students were out of pocket for not only the event but also other costs associated with attending the event, including dresses, suits, shoes and transportation.

To overcome future problems, in March 2012 an education campaign was developed including a mail-out with a letter signed by the Minister to all high school principals in NSW as well as copies of a checklist flyer to hand on to students organising formals. This was supported by a dedicated webpage, editorial in a free student magazine distributed to all schools in NSW, media releases and a Facebook advertising strategy.

The Facebook advertising took place during March, the time when students are busy organising their end of year formals. It was targeted so that all Facebook users residing in NSW aged 15–18 years old would see the ad appear on their screen when they logged in to Facebook. The ad invited viewers to click through to a dedicated page on our website featuring a checklist with advice on how to avoid pitfalls when organising formals and other parties.

The dedicated webpage with the school formals checklist was the 3rd most popular page on the NSW Fair Trading website during the campaign, with over 22,000 visits during March 2012.

Reaching out to seniors

The Seniors guide continued to be one of our most popular publications with over 25,000 copies ordered in 2011/2012 – an increase of 11.5% compared to the previous year. This large print guide includes useful information on a broad range

of consumer protection issues, including shopping rights, tenancy matters, buying a car, home renovations, retirement villages and how to get a fair outcome in disputes.

The content was updated to include new information on the new Australian Consumer Law, the Personal Property Securities Register, changes to home building laws, the latest scams and expanded consumer information on funeral services.

Almost 95% of all feedback forms from seniors rate the information in the guide as either 'very useful' or 'extremely useful'.

What seniors said...

'Gives me support and confidence on these technical issues at my age.'

'Excellent source of info – well done – thank you!'

Fair Trading Week

Fair Trading Week was held from 14 – 18 November 2011. More than 60 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 Fair Trading Week was 'Fair Market, Fair Play, Fair Go!' focussing on our pledge to achieve fairness for everyone in the marketplace.

The Minister launched a new Fair Trading mobile app at the start of Fair Trading Week to inform consumers of current scams and how to avoid them. To help promote the new *Scam Buster* app the Minister and numerous Fair Trading staff donned T-shirts with the slogan 'Don't get burnt by con men' and handed out free sunscreen and flyers to commuters at railway stations. The app allows users to report scams and help make a difference in the fight against con men and can be downloaded for free from the App Store or Android Market. By June 2012 the *Scam Buster* app had been downloaded 6,933 times since its launch.



National Fraud Week

In March 2012 we 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 NSW Fair Trading, that have a responsibility for consumer protection in relation to frauds and scams. This year's theme was Slam

Scams! Our Assistant Commissioner, Compliance and Enforcement, spoke at a national forum held in Sydney on energy saving scams and small business scams. We promoted the campaign through our website, Twitter and through media releases.

Report unfair trading – National Indigenous Consumer Protection Project

We led a national project to raise awareness of unfair trading and high pressure sales in regional and remote Indigenous communities during 2011–2012. Radio advertising scripts were developed in consultation with our Aboriginal staff as well as with other consumer protection agencies across the country which will be launched during NAIDOC week in July 2012. The radio ads cover the issues consumers face with door-to-door sales, mobile phone sales and 'bookup', with a national hotline to be staffed by the ACCC to receive reports of unfair trading. English versions of the ads were developed as well as translated versions in nine Indigenous languages.

Reference kits with fact sheets for community workers and intermediaries were also developed for distribution by our Aboriginal Customer Service Officers when they visit their community networks – the key message being to inform consumers of their rights and encourage reporting of unfair trading. As part of the project, Consumer Protection in Western Australia produced a YouTube video of a specially commissioned song 'Don't come knocking' which was written and performed by students from the AbMusic Corporation in Western Australia.

Think Smart

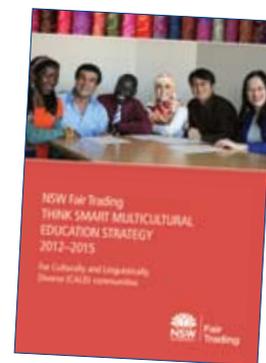
We have been running the Think Smart education program for culturally and linguistically diverse (CALD) communities since 2002. This program delivers information and education directly to CALD groups through partnerships with community organisations and multilingual media. The Think Smart program raises awareness of fair trading issues and services through information resources, public relations events and grass roots community activities. There are currently 37 Think Smart partners – 29 community organisations and eight multilingual media outlets. Selected information for traders and consumer is now available in up to 28 community languages through the website and publications. These languages include those of new and emerging communities.

To commemorate the program's 10th anniversary, the Commissioner and the Minister presented and updated partnership certificates to Think Smart community partners at the Multicultural Conference held in November 2011 acknowledging their contribution to the Think Smart partnership program.

CALD Community Consultation

In July 2011, we conducted a face-to-face consultation with our Think Smart community partners, community workers and other service providers. In response to the input received during the

consultation we developed a Think Smart Multicultural Education Strategy that focuses strongly on consumer rights and tenancy issues. The Strategy, which will be implemented over the next three years, aims to help communities and individuals by raising their awareness of consumer rights and increasing their understanding of our role. The Strategy also outlines the ways in which we will provide tailored services to meet the needs of people from CALD backgrounds, especially refugees and humanitarian entrants. The Multicultural Education Strategy was launched by the Minister at the Multicultural Media Conference on 15 November 2011.



Consumer rights seminar

Fair Trading continued to run 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 2011. In July 2011 the Hills Holroyd Parramatta Migrant Resource Centre, one of our Think Smart partners, hosted a seminar on consumer rights. At this seminar the Minister launched a new brochure called *Incorporating a new association* developed in partnership with Think Smart partners. The seminar was attended by over 60 people.

Mandarin and Cantonese small business seminars

In November 2011, we conducted two small business seminars in Cantonese and Mandarin in collaboration with the Australia Chinese Community Association (ACCA), City of Sydney and Willoughby City Council. This was followed in May 2012, when we conducted a Mandarin small business seminar in collaboration with Kogarah City Council and the Chinese Australian Services Society (CASS). At these sessions Fair Trading and other government agencies gave presentations about the Australian Consumer Law, the new National Business Registration Service and general information about small business rights and responsibilities. These seminars were attended by a total of approximately 250 Chinese small businesses and traders around Sydney and were supported by ASIC and Business Enterprise Centres.



Commissioner Rod Stowe with the Hon. Helen Sham-Ho and Ted Seng (Australian Chinese Community Association) at the Mandarin Small Business Seminar held in Surry Hills in November 2011.

Gas safety awareness

Fair Trading ran two major gas safety education campaigns in response to reports from the NSW Coroner into gas-related deaths:

Dangers of working with LPG

Fair Trading produced a flyer and a fact sheet to inform gas fitters about the dangers of working with LPG. The flyer was sent to all gas fitters renewing their licences and to plumbing supply shops in NSW for display and distribution. Gas fitters also received an SMS and email alert about the campaign and TAFE plumbing teachers were sent information. In addition, industry association newsletters and journals featured articles promoting the working with LPG safety message.

Gas pool and spa heater safety

A fact sheet was produced to educate tradespeople and building managers about the need for adequate ventilation for the safe operation of gas fired pool and spa water heaters. 1,600 licensed strata managers and 16,000 licensed gas fitters received the fact sheet and the safety message was also communicated to licensed builders and tradespeople through email alerts and industry associations' websites and newsletters.

Home shows

Visitors to the 2011 Home Buyer Expo and the 2012 HIA Sydney Home Show received the latest information on home building, renovating and property related issues from the colourful Fair Trading stand.

Our staff answered questions from visitors and provided useful tips on the related topics.

Both our stands featured a range of printed publications as well as computers providing on-site access to the Fair Trading website and a television playing Fair Trading's latest property videos.

At the 2012 HIA Sydney Home Show, more than 500 visitors completed our evaluation forms and the overwhelming feedback was highly positive about our staff and the information provided.

What our stand visitors said...

'Staff were fantastic'

'A great stand – very helpful'

'This is such an important stand...'

'Keep attending these types of shows'

Home building Act amendment

In October 2011 and January 2012, significant changes were made to the NSW *Home Building Act 1989*.

As a result, Fair Trading produced two new fillable PDF home building contracts for industry use, an online Consumer building guide, updated web content and Foundations newsletter alerts.

Plumbing and Drainage reforms 2012

Fair Trading will become responsible for plumbing and drainage work in NSW from 1 July 2012.

In the lead up to this date, Fair Trading implemented a communications campaign aimed at the industry which included a series of information sessions for plumbers and drainers and updated web content. Fair Trading also distributed a wallet card about the key changes, posters, text messages and newsletters to more than 26,000 subscribers.

NCOSS Handbook

We 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 designed to help community groups understand the new associations legislation and will be distributed to 37,000 registered associations in NSW. It contains customised examples and templates and governance advice which will greatly assist non-government organisations to meet their requirements under the Act. The handbook was launched in April 2012 by the Minister for Fair Trading. The handbook is also being translated into Chinese and Arabic.

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.

Centacare Wilcannia-Forbes is Fair Trading's newest *Fair Go* program partner. The Partnership agreement was signed before a gathering of community members and dignitaries in late November 2011. Centacare provides money management, mental health, youth and family support services to both Aboriginal and non-Aboriginal communities in western NSW. The partnership is an effective way to assist and educate consumers in the western area of the State.

NSW Fair Trading is lead agency, with the ACCC, in developing and implementing a National Indigenous Compliance Project which is targeting those rogue traders who prey on vulnerable Aboriginal communities causing significant detriment. If successful, the project's strategies may be adopted Australia-wide.

Fair Trading's ongoing involvement and sponsorship of major events, such as the NSW Rugby League Knockout, Central Coast Aboriginal Art Competition, Armidale NAIDOC Week Art Competition, 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.

Faith Eadie won 1st Prize in the Open category (main prize) in the Armidale Art Competition. This was the 2nd year Faith entered the art competition and she did well to come first as she was up against some very good adult artists.



From left: Steve Widders (Aboriginal Liaison Officer, Armidale Dumaresq Council), Faith Edie, Rod Stowe (Commissioner for Fair Trading) and Jim Maher (Acting Mayor, Armidale Dumaresq Council).

Rodney Blair was a Runner Up in the Year 6 (school year) category.



From left: Jim Maher (Acting Mayor, Armidale Dumaresq Council), Rodney Blair and Rod Stowe (Commissioner for Fair Trading).

Making a difference...

In June 2012, during the Port Stephens Regional Access Program, Fair Trading's local Aboriginal officer visited the Worimi Local Aboriginal Lands Council. The Worimi co-ordinator raised concerns that many Aboriginal community members were suffering greatly as a result of signing up to expensive contracts promoted by salespeople cold calling via door knocking and over the phone. Local community members suffered disadvantage in not knowing or understanding contract terms. The Fair Trading officer was alarmed by these issues and was able to have a media release issued that same day warning local Aboriginal people not to sign contracts without understanding the terms and conditions and to contact Fair Trading for assistance. The Minister for Fair Trading visited the Port Stephens area the next day and gave a number of media interviews highlighting the warning.

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.

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.

In 2011/12 Fair Trading published its first set of compliance and enforcement priorities. These priorities are based upon our view of current and emerging regulatory issues across the markets we regulate.

The four 2011/12 priorities were:

1. *Evidence of an imminent harm, which is likely to result in serious injury or death to members of the public, from reasonably foreseeable use of the product or service.*

Under this priority, we targeted unsafe consumer products, including electrical, renewable energy, gas and plumbing appliances, and baby and infant products.

2. *Deliberate and systemic non-compliant conduct on a scale which is likely to have the effect of significantly altering the operation or competitiveness of a national, state or large regional market.*

Under this priority, we targeted unlawful trading by itinerant traders in the home renovations/improvements market.

3. *Breaches against potentially vulnerable groups of consumers, where the business's conduct is targeted in such a way that consumers have no reasonable prospect of either recognising the non-compliant conduct and/or seeking effective remedies.*

Under this priority, we targeted conduct such as:

- online shopping sites aimed at young consumers
- unlicensed travel agents selling to consumers from non-English speaking background, especially through online sales
- unlawful selling by traders targeting Aboriginal consumers, particularly in regional and remote communities.

4. *Consumers are at special risk because the non-compliant conduct by a business deliberately limits or restricts the availability or effectiveness of self-help remedies.*

Under this priority, we targeted real estate agencies failing to properly hold monies held in trust for consumers and odometer tampering by licensed and unlicensed motor vehicle traders.

Apart from promoting these priorities publicly as compliance issues with which we have a particular interest, complaints we receive about conduct of this nature are given closer scrutiny when deciding whether or not we will investigate a matter.

Snapshot: service-level statistics 2011–2012

Prosecutions	263
Penalty notices issued	928
Investigations	3,123
Inspections	4,097
Plumbing Inspection and Assurance Service (PIAS) inspections	21,979

Highlights 2011–2012

- Conducted 263 prosecutions where 102 people were prosecuted for breaches of fair trading laws.
- 544 traders were issued penalties amounting to \$789,050.
- 1,904 home building investigations were conducted across the state.
- 443 penalty notices issued by the Home Building Service to the value of \$484,800.

Compliance

Result indicators

	07-08	08-09	09-10	10-11	11-12	Target
Percentage of consumers confident in fair operation of the marketplace	79%	74%	75%	72%	76%	68%

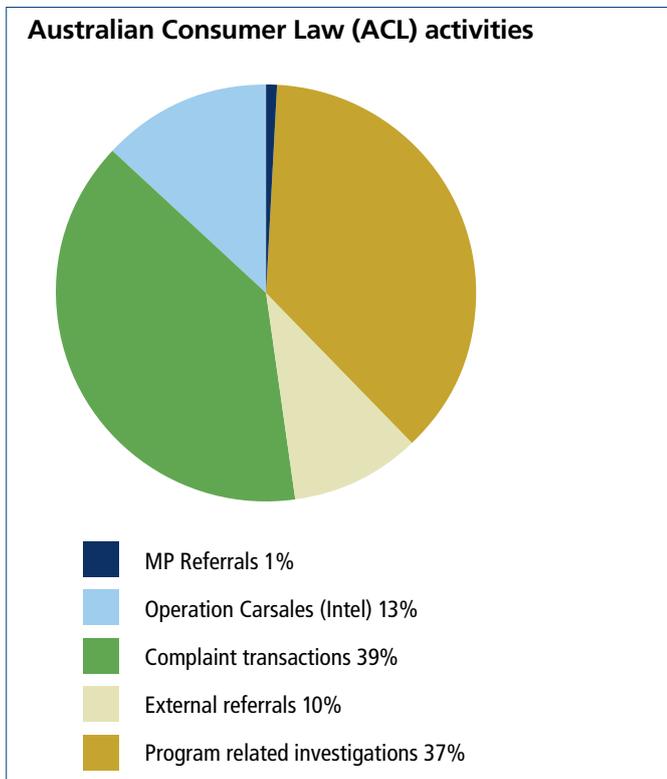
Comment / interpretation: This survey is a measure of consumer confidence. Factors that affect consumers' confidence may include the effectiveness of fair trading laws in NSW, but may also include personal, national and global factors. Levels vary but mostly fall within the target range. Fair Trading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

Performance measure

	07-08	08-09	09-10	10-11	11-12	Target
Proportion of successful prosecutions	92%	96%	90%	86%	96%	≥90%

Broadening what prompts the use of our compliance work

Traditionally compliance activities are undertaken because Fair Trading has evidence from one or more consumer complaints. In 2011/12, new sources of information about non-compliance drove our decisions about what to investigate, as shown in the following chart.



As highlighted above, targeted compliance operations are an increasing part of Fair Trading's delivery of compliance activities.

Targeted compliance operations are undertaken because Fair Trading has evidence of significant or increasing non-compliance with fair trading laws in a particular industry. These operations are usually not the result of a single complaint to Fair Trading, but are undertaken in response to information received from another regulator, or information about a particular market.

In 2011/12 Fair Trading undertook targeted compliance operations across a range of industries to identify and remedy current and emerging business practices which may lead to significant breaches of fair trading laws.

Industry-based 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 business.

Through 20 targeted compliance programs, Fair Trading conducted approximately 2,092 inspections across NSW in 2011-2012.

Compliance programs

Australian Consumer Law (ACL) activities

As part of the implementation process for the Australian Consumer Law, Fair Trading visited 271 Illawarra business premises in July 2011 to inform traders of their rights and responsibilities. Traders were provided with ACL information packs relevant to the type of business conducted as well as compliant refund signs and fact sheets. Investigators reported fair levels of understanding by business owners and their staff of the Australian Consumer Law, with larger shops generally having a greater knowledge.

The work commenced in Illawarra was continued throughout NSW as part of Fair Trading's ongoing Regional Access Program. Investigators inspected retailers in 12 locations during 2011/12, including Merrylands, Wagga Wagga, and Tweed Heads.

Targeting new online group buying businesses

During the course of 2011/12, Australia's online group buying (or daily deals) market experienced a significant growth spurt. At the same time that sales doubled and many new firms entered the market, all ACL regulators reported strong growth in consumer complaints.

In response to concerns about the level of complaints and some business practices, CAF approved a national group buying project, to be led by the Australian Competition and Consumer Commission and Consumer Affairs Victoria. NSW Fair Trading participates in this project.

The objectives of the project, which commenced in October 2011, are to:

- establish a nationally coordinated and considered response to issues in the group buying industry
- reduce complaints to regulators about group buying and reduce consumer and business detriment
- facilitate effective and coordinated action to be taken by ACL regulators without unnecessary duplication of effort and the development of a common and integrated approach to addressing emerging market issues.

The project has adopted an integrated approach using a range of compliance and enforcement tools available to encourage compliance with the ACL.

As part of this project, we have engaged with the Australian Direct Marketing Association which administers the Australian Group Buying Code of Conduct. There has also been coordinated direct engagement with a number of group buying providers. Where appropriate, the ACL regulators will investigate and take enforcement action.

By June 2012 the level of complaints about group buying businesses had either plateaued or commenced declining.

Improving petrol marketing

In December 2011 the NSW Motor Vehicle Industry Advisory Council raised concerns about the advertising of petrol prices on sign boards. The Commissioner for Fair Trading agreed to investigate the allegations.

In February 2012 Fair Trading investigators conducted initial inspections of 302 service stations across NSW, including 177 in regional NSW. The inspections covered all major fuel companies, along with number of independent operators.

These inspections showed that 72% of NSW's service stations were selling unleaded petrol, and that 24% of those selling regular unleaded fuel were not complying with the Fair Trading Regulation 2007 (which required the compulsory display of prices for this category of fuel). The inspections also showed that only 7% of service stations that were selling premium fuels actually advertise the price for these fuels, meaning that drivers need to read the price at the fuel pump to decide whether or not to make a purchase.

The initial compliance operation also identified three further practices – cash back rebates, membership/voucher schemes and bait discount advertising – which are of significant concern to Fair Trading. The results from these initial inspections gave rise to concerns that a significant number of service stations operators may be engaging in misleading and deceptive conduct under the Australian Consumer Law or breaching the product information standard in the Fair Trading Regulation 2007.

In March 2012 Fair Trading's second phase of inspections covered 107 service stations, including 43 drawn from hotline complaints or other referrals to Fair Trading.

Fair Trading is finalising enforcement action against 36 service stations for breaching Fair Trading Regulation 2007 and the Australian Consumer Law.

Removing unsafe products from the market

One of Fair Trading's compliance priorities is to act where there is evidence of an imminent harm which is likely to result in serious injury or death to members of the public, from reasonably foreseeable use of the product or service.

As part of our work through the national ACL Product Safety Consultative Committee, in 2011/12 we participated in an Australia-wide product safety survey program. At a national level, more than 100,000 product lines and 2,931 retailers were surveyed. A total of 493 breaches of the mandatory standards and bans were identified, including aquatic toys, projectile toys, basketball rings and backboards, children's face paint and children's toys for up to and including 36 months of age.

Fair Trading's work as part of this national program resulted in more than 1,500 retail stores and market stall holders throughout NSW being inspected. Fair Trading's annual pre-Christmas toy blitz resulted in the detection and removal of 117 varieties of non-compliant children's toys and projectile toys. In addition, dangerous Christmas candleholders and banned toy like novelty cigarette lighters were also removed from sale.

In 2011/12 we prosecuted 21 traders for the supply of various unsafe products including children's toys, projectile toys, candle holders, hot water bottles and elastic luggage straps. A further 19 traders were fined for the supply of non-compliant products.

One example of the work in the product safety area involves the Sydney Royal Easter Show. Each year the Royal Agricultural Society of NSW invites Fair Trading to inspect show bags intended to be supplied by exhibitors at the Show. In March 2012 we inspected 342 show bags supplied by eight exhibitors. Following this inspection exhibitors of two toys were directed not to supply the toys until suitable test reports could be provided.

Targeting travelling con men

One of NSW Fair Trading priorities for 2011/12 was to target deliberate and systemic non-compliant conduct on a scale which is likely to have the effect of significantly altering the operation or competitiveness of a national, state or large regional market.

Under this priority, we targeted unlawful trading by itinerant traders in the home renovations/improvements market. As part of this priority, Fair Trading led a national strategy to eradicate travelling con men who undertake over-priced and shoddy home improvements work. A special project team established within Fair Trading had, by 30 June 2012:

- undertaken 30 prosecutions against 28 individuals for 105 breaches of the Australian Consumer Law and NSW home building laws, resulting in fines and related court costs of \$296,235 being awarded
- assisted Commonwealth authorities to arrange for the departure from Australia of 39 individuals for breaching various visa conditions
- dealt with over 400 reports to a national hotline about possible incidents involving travelling con men.

An important aspect of this work has been the level of inter-agency co-operation between regulators. After CAF endorsement in June 2011, on 6 October 2011 the NSW Commissioner for Fair Trading and the Executive Director, Consumer Affairs Victoria, signed a Memorandum of Understanding between the agencies allowing for the exchange of information and assistance in any enforcement actions relating to travelling con men. This included the joint appointment of investigators from each agency so as to permit combined compliance operations.

Protecting Aboriginal consumers

In 2005 the Ministerial Council on Consumer Affairs developed and implemented a National Indigenous Consumer Strategy (NICS). NICS was implemented in response to specific issues that disadvantage remote Indigenous consumers in their dealings with traders, such as geographical isolation, lack of choice and competition, low levels of English, lack of financial literacy and restricted access to services.

In 2010, a NICS Action Plan was developed to target specific areas relevant to Indigenous consumers who reside in remote locations. It highlights three national priority areas of Indigenous consumer disadvantage. They are:

- trading practices including door-to-door sales, marketing practices, debt collection and 'book-up'
- housing including discrimination, tenancy rights and responsibilities and utility billing
- consumer literacy including financial literacy, consumer rights, contracts, complaints processes and knowledge of consumer agencies and services.

The first and third of these priority areas are the basis of the National Indigenous Consumer Protection Project, now being led by NSW Fair Trading.

This Project aims to address unfair trader practices that utilise high pressure sales techniques in regional and remote indigenous communities and to increase the awareness of community residents and their support networks about combating unfair practices. The Project's major deliverables are:

- a national radio advertising campaign across Indigenous radio stations
- a pilot inspection program across central western NSW communities
- an ACL regulators' compliance training package
- a project report, including a recommended compliance model for indigenous consumer issues.

The intelligence gathering phase of the pilot project was conducted in April 2012. Field inspections will occur throughout the second half of 2012. To date, NSW has identified 21 traders of interest in the pilot program. NSW has engaged four Indigenous investigators from June 2012 to work on this project.

Targeting odometer tampering

Fair Trading has responsibilities under the *Motor Dealers Act 1974*, the *Motor Vehicle Repairs Act 2002* and the Australian Consumer Law regarding the sale of new and used motor vehicles. Together, these laws protect consumers by setting standards for motor dealers and ensuring that reasonable warranties are available. Section 47 of the Motor Dealers Act makes it an offence for a person to interfere with the odometer of a motor vehicle. Fines of up to \$11,000 may be imposed for odometer tampering.

Odometer tampering unlawfully increases the value of a vehicle and is currently a compliance priority area for Fair Trading. It also recognises that unlicensed backyard operators and people selling cars privately sometimes engage in odometer tampering.

Fair Trading regularly inspects the marketplace, conducting compliance operations that target licensed and unlicensed motor dealing, auction houses and on line car sale websites. Fair Trading remains vigilant in pursuing enforcement action against licensed motor vehicle dealers, repairers and backyard operators who engage in the practice of odometer tampering. Since 1 January 2011, Fair Trading has progressed 15 matters for consideration and prosecution actions relating to odometer tampering of 46 vehicles. Five defendants have already been dealt with by the court realising fines and compensation totalling \$11,889.

Following the money for home buyers and renters

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. The number of complaints about real estate issues has remained steady over recent years.

Compliance operations conducted over the past year targeted trust accounts, failure to lodge bonds, unlicensed employees and corporations as well as qualified and non-logged statutory audit reports. As a result of these operations involving 75 agents, enforcement action was taken against 38 real estate agents directly, while another 16 agents were identified for further investigation.

Similarly, conveyancers play an important role in the housing market. In doing so conveyancers are often entrusted to handle large amounts of money and assume significant responsibilities on behalf of their clients.

To ensure compliance with the *Conveyancers Licensing Act 2003*, during November 2011 Fair Trading conducted trust account audits of 12 conveyancing businesses, resulting in 50% of those inspected being identified as breaching the law in some way. One trader was fined after a detected breach, while five others were warned about less serious offences.

In a separate compliance activity, Fair Trading received information that there were conveyancers believed to be trading whilst not holding the required professional indemnity insurance. These traders were issued with a Notice to Show Cause as to why their licence should not be cancelled.

This exercise led to three conveyancer's licences being cancelled, with two conveyers receiving disqualifications. One disqualification of an individual was for two years and one corporate licence holder was disqualified permanently.

Checking new residential tenancy laws

On 1 January 2011 the *Residential Tenancies Act 2010* commenced. The new legislation aims to reduce the level of disputes by providing greater clarity and certainty in the legislation.

Fair Trading conducted an operation targeting agents in the Grafton region to ensure they had amended their business practices to reflect the new laws. The level of compliance identified by our investigators was 88%. Breaches were detected at two agencies. Both received written notices requiring them to rectify their conduct.

Protecting retirement village and park residents

On 1 March 2010 legislative amendments to the *Retirement Villages Act 1999* came into effect. These changes made operators more accountable for budget deficits and provided better protection to refund entitlements for residents who do not have a registered interest in their dwelling.

In October 2011 Fair Trading conducted routine inspections of 25 retirement villages to ascertain the level of compliance with the changes implemented on 1 March 2010. No significant breaches were detected during this operation.

Inspections of residential parks are undertaken to ensure that owners and operators are conducting their business in accordance with the *Residential Parks Act 1998*. Practices targeted by inspections aim to ensure that park residents are receiving correct agreements, park rules, fees, charges and receipts. Residential parks are also inspected to ensure residents are issued with correct rental increase notices and are not being charged incorrectly for any electricity or water fees.

During the reporting year 26 residential parks were inspected in the Hunter and mid-north coast regions. Only two of the 26 parks were referred for further investigation, with the remainder being deemed to be compliant.

Strata schemes

Under the current strata laws, Fair Trading has very limited powers to intervene in the operation of strata schemes. During 2011/12 the Minister for Fair Trading commenced a review of NSW strata laws, including enforcement powers.

In July 2011 NSW Fair Trading received two complaints from property owners at NSW's largest strata complex, Regis Towers, alleging anomalies in the owners' corporation financial accounts. The owners were initially advised by Fair Trading to utilise the specialist mediation service and then adjudication by the Consumer, Trader and Tenancy Tribunal.

Fair Trading subsequently commenced an investigation in August 2011 into aspects of the management and financial affairs of the strata schemes applying to Regis Towers. Quite

separately to the Fair Trading investigation, an application to the Consumer, Trader and Tenancy Tribunal was made in July 2011, for adjudication orders to compulsorily appoint a strata managing agent under the *Strata Schemes Management Act 1996*. The Commissioner for Fair Trading intervened in these proceedings in August 2011, on public interest grounds using powers under the Act, to brief the Tribunal on the progress of the investigation.

On 6 October 2011 the Consumer, Trader and Tenancy Tribunal dismissed the application. In its decision, the Tribunal noted that an annual general meeting of this strata scheme was held on 25 August 2011 and a new management committee was elected. An appeal against the Adjudicator's decision to dismiss the application was also dismissed in August 2012.

Protecting travellers

During 2011/12 Fair Trading conducted compliance programs within the travel sector targeting e-commerce traders, exhibitors at travel expos and those who identify themselves with particular segments of the community looking to travel back to their country of origin.

Operation Check-in examined licensed travel agents attending the 2012 Holiday and Travel Show at the Royal Hall of Industries Moore Park. Fair Trading officers examined 70 traders, issuing four warnings for failure to include their licence details in advertising as required by the *Travel Agents Act 1986*.

In May 2012, Operation Banjo was conducted in the Snowy Mountains Region, examining traders taking holiday bookings without being appropriately licensed. The Operation also examined licensed real estate agents conducting holiday lettings and not processing such lettings through their trust account in accordance with the *Property, Stock and Business Agents Act 2002*. The operation resulted in 40 traders being examined, in which 21 breaches were identified across 12 traders. Twelve warning letters were issued in relation to unlicensed conduct, display of licence details and business names at business premises.

Enforcement actions

Offences against fair trading legislation are detected through inspections, intelligence gathering and as a consequence of formal investigations of complaints. During the year 544 traders were issued with penalty notices in relation to 928 offences, resulting in financial penalties of \$789,050. Formal prosecutions, where 96% of cases were successful, resulted in \$627,221 in fines and penalties involving 102 defendants.

Included in this result were 21 prosecutions for 41 offences against product safety provisions of the ACL. These prosecutions result in \$54,697 in fines and costs being awarded by courts. In addition, 20 on-the-spot fines totalling \$10,650 were issued for 19 offences under the ACL and one offence against the *Business Names Act 2002*. A further 99 warnings were issued to traders for product safety offences against the ACL deemed less serious in accordance with the enforcement remedies available to Fair Trading.

The following cases were some of the more significant enforcement actions concluded by Fair Trading during 2011/12.

Property, Stock and Business Agents Act

Bachar Osman (aka Bash Osman)

On 15 October 2010, Mr Bachar Osman also known as Bash Osman, was disqualified from holding a licence or certificate under the *Property, Stock and Business Agents Act 2002* and being involved in the direction, management or conduct of the business of a licensee for a period of 12 years. In January 2011, Fair Trading received a complaint that Mr Bachar Osman was employed in the capacity of a real estate agent at an agency located at Parramatta. After extensive investigations into the activities of the agency concerned and conclusive evidence that Mr Bachar Osman was in fact gainfully employed as a real estate agent, further disciplinary action was taken against Mr Osman.

On 28 May 2012, a monetary penalty of \$1,100 was imposed on Mr Bachar Osman. In addition, a further disqualification period of 3 years from holding a licence or certificate under the *Property, Stock and Business Agents Act* and being involved in the direction, management or conduct of the business of a licensee was also imposed. Consequently Mr Osman is ineligible to be involved in the industry in the capacity which is the subject of the disqualification until 29 October 2025.

Bill Wilkinson Agencies (BWA) Pty Ltd

In May 2012 a Cooma property, stock and business agent company director and secretary, William Barry Wilkinson pleaded guilty to six counts of fraud under the *Crimes Act 1900* for dishonestly obtaining a financial advantage.

Mr Wilkinson had misappropriated more than \$931,000 from consumers whose matters were the subject of the prosecution. Eight creditors advised Fair Trading investigators that BWA had sold livestock on their behalf between February 2010 and September 2010 and following those sales BWA failed to account to them for the proceeds. These creditors suffered a total loss of \$1,294,577 from livestock and auction sales.

Mr Wilkinson was sentenced 18 months full time imprisonment, with a non-parole period of 8 months.

Christine Watson

Christine Watson was the director and strata manager of Marquette Turner Corporation Pty Ltd t/as Marquette Turner Luxury Homes. In March 2011, Ms Watson's business partners, Michael Marquette and Simon Turner, were disqualified from holding a licence and being involved in the direction, management or conduct of the business of a licensee for a period of 15 and 12 years respectively. Marquette Turner Corporation Pty Ltd was disqualified on a permanent basis. Fair Trading's investigations continued into the activities of Ms Watson which revealed that she was involved in 106 breaches of the *Property, Stock and Business Agents Act 2002*. A total of \$578,439.07 in trust monies were misappropriated by the corporation.

In April 2012, Christine Watson was disqualified from holding a licence and being involved in the direction, management or conduct of the business of a licensee for a period of 8 years.

Phillip Chau

In August 2011 the NSW District Court upheld the sentence of an unlicensed real estate agent, Phillip Chau, to 18 months imprisonment, with a non parole period of 12 months, for misappropriating monies from clients' property trust accounts. Mr Chau was also ordered to pay \$123,830 to the Property Services Compensation Fund.

Ye Sun aka Shelley Sun

The *Property, Stock and Business Agents Act 2002* requires that a person must hold a strata managing agents licence or be the holder of a certificate of registration for that class, to be able to conduct, promote or be willing to conduct the business of a strata managing agent.

In February 2011, Ye Sun secured the position of a strata manager based on her representations that she was the holder of the requisite certificate. In July 2011, having received Ms Sun's certificate, her employer noticed the appearance of the certificate was different to that of other employees certificates. The employer contacted Fair Trading to verify Ms Sun's credentials only to be advised that she did not hold the qualification as represented. NSW Fair Trading investigated the manner in which Ms Sun had represented herself as being a certificated strata manager.

Fair Trading prosecuted Ms Sun under the *Crimes Act 1900* for the making of and use of a false document. On 3 February 2012, Ms Sun pleaded guilty and was sentenced to 18 months good behaviour and ordered to pay \$2,162 in fines and costs by Parramatta Local Court.

Australian Consumer Law

C Mart Campsie Pty Ltd

In October 2011 during an inspection of C Mart Campsie Pty Ltd, Fair Trading investigators detected a baby's rattle and teether set which raised safety concerns. When tested by an independent testing authority the rattle and teether set produced small parts which were identified as being serious choking hazards.

C Mart Campsie Pty Ltd was convicted and fined \$5,021 for breaching section 106 of the Australian Consumer Law (NSW).



Danoz Direct Pty Ltd

In November 2011 the national direct marketing company, Danoz Direct Pty Ltd, agreed to change a number of its business practices following a major Fair Trading investigation.

Fair Trading led an investigation into the company's conduct on behalf of all Australian consumer protection agencies. A review of the company's business practices found a number of breaches of the ACL including misleading representations about products and their true cost, difficult to access terms and conditions, non delivery of goods and consumers continuing to be charged for goods they had returned. In addition, the company's online shopping cart was prone to malfunction and would fail to register consumers' items correctly.

Danoz Direct entered into enforceable undertakings with Fair Trading following the detection of a number of breaches of the ACL regarding their marketing and customer handling practices.

Danoz Direct worked collaboratively with Fair Trading to fix the identified problems and ensure compliance with the ACL. The company complied with many of the directed changes and the corrections it has made to its website will set a benchmark for all traders marketing their products online.

Danoz also committed to undertake a compliance program and complaint handling procedure as outlined by Fair Trading.

Fair Trading continues to monitor Danoz's performance in the marketplace to ensure its business practices comply with consumer protection laws, under an enforceable undertaking. Enforceable undertakings allow Fair Trading to work with a trader and remedy the identified problems, which is in the best interest of the business and its customers. Any breach of the undertakings by Danoz Direct may result in further action by Fair Trading such as the issuing of fines or prosecution action.

Fair Trading acknowledges Danoz's efforts to improve their business practices.

Sion Events Pty Ltd, trading as Ticketfinders

Ticketfinders was a NSW-based business which purchased and resold tickets via the internet, usually at a substantial premium. The company is considered an 'unauthorised ticketing agency' as it does not hold agreements with the relevant promoters and venues to sell tickets to their events.

Fair Trading conducted an investigation under the misleading and deceptive conduct and consumer guarantees provisions of the Australian Consumer Law. Aspects of unfair contract terms were identified during an analysis of the website. These issues were rectified during the course of the investigation once it was brought to the attention of the traders.

On 26 September 2011 the Minister exercised his powers under section 223 of the Australian Consumer Law to publicly name Ticketfinders in order to warn consumers about dealing with this company.

On 22 December 2011 legal action was commenced in the NSW Supreme Court against Sion Events Pty Ltd, David Keith McGuire and Thomas Gilmartin.

After commencing this legal action, a number of changes were made to the Ticketfinders' website. These changes were consistent with some of the alleged breaches as raised in the Statement of Claim before the Supreme Court.

Fair Trading and representatives of Ticketfinders negotiated consent orders, which were signed on 19 March 2012 and sealed by the Supreme Court on 30 March 2012.

Ticketfinders failed to comply with the consent orders. Therefore, Fair Trading made contact with Ticketfinders' solicitors who advised that the company has ceased trading. Ticketfinders went into liquidation with Jirsch Sutherland on 30 April 2012.

Fair Trading acted to have the domain name www.ticketfinders.com.au removed from the internet to ensure no further risk to consumers on 14 May 2012.

Your Formal

NSW Fair Trading has recently completed the first part of its investigation into Your Formal Australia Pty Ltd and its sole Director Ms Amrita Kerr for offences relating to unfair practices under the Australian Consumer Law (ACL).

The website www.yourformal.com offered various entertainment packages ranging from \$130 to \$270 for a formal. The website listed 23 Sydney venues and another 20 venues in the Melbourne and Brisbane/Gold Coast areas as being available for use in events.

Fair Trading had identified students from 12 NSW high schools as having paid to attend events organised by Your Formal Australia. Without any notice or explanation the events did not go ahead or were cancelled by the corporation. Fair Trading estimates that the consumer detriment could be as high as \$18,000.

On 21 December 2011 notices under section 219 of the ACL were issued on the corporation requiring it to substantiate representations contained in its brochures and websites by 13 January 2012. Additional notices were issued on 24 February 2012 on the corporation and Ms Kerr requiring both to substantiate representations contained in their brochures and websites by 16 March 2012. Both parties failed to respond to the notices.

As a result, Court Attendance Notices to Your Formal Australia Pty Ltd and its sole director, Amrita Kerr, for breaches of section 205 of the ACL were issued on 28 March 2012. Ms Kerr appeared unrepresented at Parramatta Court on 4 & 18 May 2012 relating to the ACL offences and was granted an adjournment until 29 June 2012 to allow her time to seek legal advice.

On 27 July 2012, Ms Kerr subsequently appeared represented at Parramatta Local Court relating to the Notices. The matter proceeded before Magistrate Betts. Ms Kerr maintained a guilty plea the Court imposed a fine for both the Company and Ms Kerr totalling (including costs) \$1,766.

Fair Trading is continuing an investigation focusing on breaches of sections 151, 156 and 158 of the ACL which

relates to false and misleading representations about goods and services, misleading conduct as to the nature of services and wrongly accepting payment whilst acting recklessly.

Fair Trading has developed an education strategy to show Year 10 and Year 12 students how to minimise risks when booking school formals and other parties. The campaign commenced on 16 March 2012 with a letter from the Minister sent to all high school principals enclosing a brochure to be handed out to students. A total of 1,038 letters were posted.

Fair Trading also ran a Facebook ad, which has now concluded, that targeted NSW residents aged between 15–18 years of age which received 21,512 click throughs to the dedicated Fair Trading web page with tips for organising school formals and after parties.

P K Pacific Ocean, Pius Freddy Hiu and Kate Hiu

In October 2011 Fair Trading Investigators carried out inspections at P K Pacific Ocean located at Eastwood. Two wooden babies' rattles were purchased for testing. Independent testing revealed both rattles presented choking hazards to young babies as small parts were released during testing. The store is operated by two proprietors Pius Freddy Hiu and Kate Hiu. This was the second occasion where the proprietors have been prosecuted for selling unsafe children's toys.

Pius Freddy Hiu was convicted and fined \$2,608. Kate Hiu was also convicted and fined \$2,608 for breaching section 106 of the Australian Consumer Law (NSW).



Co-operatives and Associations

Coastal Voice Community Group Inc.

Coastal Voice Community Group Inc was incorporated under the former *NSW Associations Incorporation Act 1984* on 3 May 2006. On 1 July 2010 the *Associations Incorporation Act 2009* replaced the 1984 Act.

Coastal Voice Community Group Inc failed to lodge financial reports on the public register since incorporation. For this reason, on 2 August 2011 Fair Trading commenced action under section 76 of the *Associations Incorporation Act 2009* to cancel its incorporation.

On 11 November 2011 Fair Trading cancelled the registration of the Association under section 77 of the *Associations Incorporation Act 2009*.

Crowdy Head Fish Co-operative Limited

In July 2009, Crowdy Head Fish Co-operative Limited ('the Co-operative') failed in its legislative requirement to lodge its annual reports. In the subsequent year, the Co-operative again failed to lodge within the reporting period. As a result, the Co-operative was prosecuted in August 2011 for the failure to

lodge annual reports for the 2009 and 2010 financial years under s252(1) of the *Co-operatives Act 1992*. The co-operative was found guilty and fined a total of \$1,383 including costs.

Mohammad Abdul Gofur, Public Officer, Belmore Muslim Cultural Centre Incorporated

In March 2011, Fair Trading commenced investigations into the activities of Mr Gofur, the public officer of the Belmore Muslim Cultural Centre Incorporated. Mr Gofur was prosecuted for failing to comply with a request for information under s85 (2) of the *Associations Incorporation Act 2009*.

On 18 November 2011, at the Parramatta Local Court, Magistrate Betts found Mr Gofur guilty and fined him a total of \$1,131 including costs. Magistrate Betts said this was a serious matter and rejected the defendant's submission under Section 10 of the *Crimes (Sentencing Procedure) Act 1999* to not record the conviction. (Section 10 enables a court, upon a plea or finding of guilt, to order the dismissal of charges without proceeding to record a conviction to be justified.)

Travel

Deluxe Travel Services

In April 2012 a Blakehurst travel agent who had continued to operate with a suspended company licence was ordered to pay fines and costs of \$7,600 by Bankstown Local Court. Hasna Tania Fath was the sole director of Deluxe Travel Services Pty Ltd, whose company licence was suspended in July 2010. The licence is now cancelled.

Deluxe Travel Services Pty Ltd was licensed between 24 July 2008 and 28 July 2010. As a result of claims made to the Travel Compensation Fund (TCF) of more than \$20,000, the TCF terminated the company's participation in the Fund from 28 July 2010. Participation in the TCF is a licence condition and therefore the company's licence was suspended by NSW Fair Trading.

Fair Trading investigators found that in addition to operating without a licence, Mrs Fath was also the focus of consumer complaints regarding the non supply of services that had been paid for, as well as not providing consumer refunds.

Mrs Fath took receipt of funds from one consumer for flights and accommodation for an overseas trip between March and June 2011. When the consumer arrived at various destinations overseas, he found his accommodation had not been paid for by the company and had to make his own arrangements to pay for it.

Another consumer was provided with travel arrangements by Mrs Fath for a trip to the United States in 2011. When the consumer was checking in at Sydney Airport in June 2011, she was informed that her tickets, issued earlier by Mrs Fath, were bogus and she was unable to depart on her holiday.

Fair Trading also found Deluxe Travel Services Pty Ltd continued, while unlicensed, to operate a website where consumers could pay for travel services via a Paypal facility.

Motor Vehicles

Ergun Semerci

NSW Fair Trading received complaints alleging that Ergun Semerci was involved in vehicle odometer tampering and the then sale of such vehicles through his motor dealer business located at Blacktown. Investigators attended the premises at Blacktown and detected in excess of 40 offences against the *Motor Dealers Act 1974* mostly relating to the alteration of vehicle odometers.

On 9 April Ergun Semerci's motor dealers licence was cancelled. Mr Semerci is disqualified from holding a licence and from being concerned in the direction, management or conduct of a business for the carrying on of which a licence is required under the Act for a period of 15 years.

Fadi Ahmad Elosman

Mr Fadi Ahmad Elosman was the sole director of Sarine Motors Pty Ltd, a licensed motor vehicle wholesaler. Information was presented to Fair Trading alleging Mr Elosman's involvement in re-birthing of motor vehicles and in receiving and dealing in stolen motor vehicles and parts. In addition, Mr Elosman in his capacity of director had been selling motor vehicles privately in breach of the corporations motor dealers wholesale licence and failed to produce the associated documents as required to be held under the *Motor Dealers Act 1974*.

On 10 August 2011, Mr Elosman was permanently disqualified from holding a licence and from being concerned in the direction, management or conduct of a business for the carrying on of which a licence is required under the Act.

Smashtech Pty Ltd & Amer and Bilal Khallouf

In November 2010, NSW Fair Trading received a Licensee Annual Statement from Smashtech Pty Ltd, the holder of a Motor Vehicle Repairers Licence, notifying a change in directors. The Statement requires a declaration by the licensee that the directors referred to in the Statement do not have a criminal conviction recorded against them in the past 10 years. As directors, Amer Khallouf and Bilal Khallouf have declared no such convictions recorded against themselves. Fair Trading enquiries revealed this declaration to be false in that both Amer and Bilal Khallouf have criminal convictions recorded against them respectively, within the last 10 years. In March 2011, Smashtech Pty Ltd was served with a notice to show cause as to why disciplinary action should not be taken. Further, letters enclosing a copy of the notice to show cause, were issued to both Amer Khallouf and Bilal Khallouf advising that the Commissioner's delegate was of the belief that they too had breached the *Motor Vehicle Repairers Act 1980*.

On 24 August 2011 a determination was made that Smashtech Pty Ltd be disqualified from holding a licence under the Motor Vehicle Repairers Act and being concerned in the direction, management or conduct of a business for the carrying on of which a licence is required for a period of 15 years. Directors, Amer and Bilal Khallouf were also disqualified for 15 years respectively from holding a licence under the Act

and being concerned in the direction, management or conduct of a business for the carrying on of which a licence is required.

Consumer, Trader and Tenancy Tribunal

Samuel Faraj Cohen

In August 2011 Fair Trading prosecuted Samuel Faraj Cohen for misleading the Consumer, Trader and Tenancy Tribunal (CTTT). Mr Cohen, the managing director of the Institute of Hair Regrowth and Beauty Pty Ltd, was found guilty in Parramatta Local Court, of lying to the CTTT about his qualifications. He was ordered to pay nearly \$1,000.

Samuel Cohen appeared before the Tribunal to defend an action brought by a consumer who had been seeking a refund regarding a hair restoration program. During the proceedings before the CTTT, Mr Cohen was asked about his qualifications. He claimed he had a Bachelor of Science degree.

As a result of a consumer's complaint to Fair Trading, investigators then interviewed Mr Cohen to establish if he had a Bachelor of Science degree. During the course of the investigation it became evident Mr Cohen had not been awarded a degree.

Home Building Service

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 2011–2012 Fair Trading:

- conducted 1,094 investigations into breaches of the *Home Building Act 1989* and 313 investigations into breaches of the *Electricity (Consumer Safety) Act 2004*
- undertook 942 field audit inspections on a random basis during compliance campaigns
- conducted 2,688 mediations and onsite inspections to assist in home building dispute resolutions
- finalised 115 Notices to Show Cause resulting in a total value of \$132,100 in fines
- issued penalty notices for 458 offences totalling \$484,800 in fines
- undertook successful prosecutions for 125 offences totalling \$384,752 in penalties.

Fair Trading targeted offences under the *Home Building Act 1989* through compliance programs that are conducted by carrying out unannounced visits to construction sites targeting building and specialist work (electrical, plumbing and gas, air conditioning and refrigeration work).

During 2011–2012 Fair Trading conducted the following operations:

December 2011 – investigators targeted residential building sites in Sydney and the surrounding suburbs, looking at licensing, contracts and home warranty insurance

requirements. 135 sites were visited during the operation with one penalty notice issued.

April 2012 – investigators targeted advertising in newspapers and internet sites for building work by unlicensed persons. As a result, eleven penalty notices were issued.

May–June 2012 – Investigators carried out surveillance of five contractors whose licences had been suspended or cancelled during the previous year for failing to comply with Consumer, Trader and Tenancy Tribunal orders, to determine whether they were continuing to trade regardless. As a result, one person is under further investigation, while the other four were not found to be contracting or seeking to contract for residential building work or specialist work.

Home Building compliance checks are also carried out as part of Regional and Community Access Programs together with the whole of Fair Trading, targeting offences under the *Home Building Act 1989*, the *Electricity (Consumer Safety) Act 2004* and the *Gas Supply (Consumer Safety) Regulation 2004*. During 2011, investigators visited Cowra and surrounds in September 2011, visiting 36 sites, and Merrylands in November 2011, visiting 59 sites and issuing four penalty notices. While in 2012 investigators visited Wagga Wagga in February, visiting 54 sites, Tweed Heads in May, visiting 46 sites, and Port Stephens in June, where 28 sites were visited and three penalty notices issued.

Public warnings – Home Building Service

Jan P McHeyzer of Solar and Bamboo Direct group of companies

On 23 December 2011 the Commissioner for Fair Trading issued a public warning urging people to exercise caution if using the hot water tanks sold and supplied by Solar & Bamboo Direct Coffs Harbour Pty Ltd, Solar & Bamboo Direct Tamworth Pty Ltd and Solar Installations (NSW) Pty Ltd and the companies' sole director Mr Jan Pieter McHeyzer.

The warning was issued under section 86A of the *Fair Trading Act 1987* regarding the hot water storage tanks, supplied and installed by the companies in their solar hot water system packages, as they may be faulty and a hazard to consumers.

Stefan Mayer, Scullery & Holz Interiors Pty Ltd and Bespoke Installations Pty Ltd, trading as Scullery and Holz

On 27 January 2012, the Commissioner for Fair Trading issued a public warning urging people not to deal with Scullery & Holz, including the companies Scullery & Holz Interiors Pty Ltd, Bespoke Installations Pty Ltd trading as Scullery & Holz and the companies' sole director Mr Stefan Mayer.

The warning was issued under section 86A of the *Fair Trading Act 1987*. Fair Trading found that the companies had been supplying and installing kitchens and bathroom cabinetry without being licensed to do so and without providing home warranty insurance to consumers.

Scullery & Holz Interiors Pty Ltd went into liquidation just prior to Christmas 2011. However, Bespoke Installations Pty Ltd

were still trading and may have been using the name Scullery & Holz to persuade consumers to enter new contracts or pay deposits or installment payments.

Both companies had taken excessive deposits from customers and had either failed to supply goods of a satisfactory quality, or had subjected consumers to lengthy delays before their kitchens were installed.

Matthew Rixon and companies

On 23 May 2012 the Minister for Fair Trading issued a public warning under section 86A of the *Fair Trading Act 1987* about Matthew Rixon and five associated companies. There was also evidence Mr Rixon had traded under two separate business names. Matthew Rixon was an undischarged bankrupt who appeared to have little regard for the rule of law.

Fair Trading had received complaints from consumers in the Newcastle area in relation to sub-standard and incomplete work carried out by Mr Rixon or associated companies. It was also reported that Mr Rixon had entered into contracts to undertake residential building and after the payment of a significant amount of the contract price, Mr Rixon failed to complete the work, or, if any work had been undertaken, it was defective. Neither Mr Rixon nor his companies held a Fair Trading contractor licence that would entitle them to legally carry out residential building work. Mr Rixon also failed to provide home warranty insurance.

Fair Trading had issued Mr Rixon with more than 28 penalty infringement notices worth \$19,000 for breaches of the *Home Building Act 1989*. The State Debt Recovery Office had confirmed the fines had not been paid and Mr Rixon had not entered into any payment plan for those fines. Mr Rixon meanwhile has continued to take money from consumers.

Steven Miller trading as Australian Premier Landscaping

On 8 June 2012 the Commissioner for Fair Trading issued a public warning under section 86A of the *Fair Trading Act 1987* urging people not to deal with Australian Premier Landscaping, or its sole proprietor, Mr Steven Miller, aka Steve Malas and Steven Malas.

The South Hurstville-based business had been entering into consumer contracts to do soft landscaping work and structural landscaping work, when neither the business nor the proprietor were licensed to do so. The company also failed to provide the necessary home warranty insurance to consumers for structural landscaping contracts.

Mr Miller had taken excessive deposits of up to 40% of the contract price and had either failed to supply services of a satisfactory quality and quantity, or had simply failed to do any work at all and absconded with the deposit.

Fair Trading had previously issued Mr Miller with penalty notices for breaches of the Home Building Act which he did not pay. He also failed to pay money orders from the Consumer, Trader and Tenancy Tribunal and has an extensive criminal history that includes offences of dishonesty.

Enforcement action – Home Building Service

Jan P McHeyzer of Solar and Bamboo Direct group of companies

Mr McHeyzer was the sole director and general manager of Solar & Bamboo Direct Coffs Harbour Pty Ltd, Solar & Bamboo Direct Tamworth Pty Ltd and Solar Installations (NSW) Pty Ltd, prior to the companies being placed into liquidation on 23 December 2011. He is also the sole director and company secretary of Bamboo Direct Pty Ltd, which was placed into external administration on 23 December 2011.

Mr McHeyzer advertised, sold, supplied and installed 'split system solar hot water systems', imported from China, which did not comply with the *Electricity (Consumer Safety) Act 2004* or relevant Australian Standards and were found on inspection by Fair Trading to have the potential to produce scalding water in bathroom and kitchen taps, and had an alkaline level that meant the water was unacceptable for drinking and could cause skin irritation.

Result: Disciplinary action against Mr McHeyzer resulted in him being fined \$11,000 by Fair Trading. In addition, on 3 April 2012 he was convicted in Coffs Harbour Local Court for offences under the Australian Consumer Law and the Electricity (Consumer Safety) Act and ordered to pay \$15,081 in fines and costs.

David John Whitmore

Mr Whitmore contracted under the name Whitmore & Sons Pty Ltd trading as Nu-Steel Homes. The company licence issued by Fair Trading restricted the company to contracts not requiring home warranty insurance. In November 2010, Mr Whitmore took an older valid home warranty insurance certificate and used his computer, scanner and printer to change the details and produce a fraudulent certificate for a new customer. Fair Trading's investigation revealed that this wasn't the first time he had engaged in this deception and obtained a number of statements from consumers and other witnesses.

Result: On 18 May 2012 Wyong Local Court found Mr Whitmore guilty of eight offences relating to making and supplying copies of fraudulent home warranty insurance certificates, ordered him to serve 150 hours of community service, put him on a good behaviour bond of 12 months, and ordered him to pay costs of \$2,148.

Michael Gerard Thurecht and Barry Paul Thurecht of Westminster Building Co Pty Ltd

In May 2011 Fair Trading became aware that some building projects of Westminster Homes were not progressing and increased its monitoring of the company, as well as liaising with the Home Warranty Insurance Fund in relation to the solvency of the company. In August 2011, Fair Trading met with Westminster management in relation to a number of consumer complaints and on 16 September 2011 issued the company with notices to Show Cause why disciplinary action should not be taken against them in relation to a failure to comply with a number of rectification orders issued by Fair Trading.

Result: Messrs Thurecht were each disqualified by Fair Trading from holding a licence for residential building work, or operating a company that holds a licence for residential building work, for a period of 3 years.

Mohammad Ezzeddine

Between December 2010 and February 2011, Mr Ezzeddine advertised for concreting services in six local community newspapers under the name AAA Ezzcrete Concreting. Mr Ezzeddine does not hold a licence in NSW for any residential building work.

Result: Mr Ezzeddine was convicted by Parramatta Local Court on 10 April 2012 of six offences relating to unlicensed work. He was ordered to pay \$61,486 in fines and costs.

Barry Eli Kibblewhite t/as Chaser Electrical

During 2010 Barry Kibblewhite carried out electrical wiring work involved in the installation of solar panel systems at a number of homes across Sydney. He claimed to be a licensed electrician and accredited with the Clean Energy Council of Australia – all legal requirements to undertake solar panel installation work. Mr Kibblewhite went to great lengths to cover his tracks, even falsifying a letter from the Clean Energy Council supporting his accreditation and quoting an accreditation number that was not his.

Result: Mr Kibblewhite was convicted on 25 August 2011 for carrying out electrical work and compliance checks whilst unlicensed and ordered to pay a total of \$16,981 in fines and penalties.

Cristian Robert Martinez (also known as Christian Martinez)

In his capacity as director of Newstyle Electrical Pty Ltd, Mr Martinez contracted with two separate consumers to do electrical wiring work in Maroubra and Edgecliff. He was not licensed for electrical work and provided fraudulent Certificates of Compliance for the electrical work. In procuring work, Mr Martinez falsely represented that he held a licence that was actually held by an unrelated person who had the same name as himself.

Result: Mr Martinez was found guilty of three offences under the Home Building Act on 25 May 2012 and ordered to pay \$16,110 in fines and costs. He was also found guilty of four offences under the Crimes Act and given a nine months suspended sentence.

Darren Gregory Stewart

Mr Stewart operated under the alias of Darren Vincent in carrying out unlicensed residential building work. He had failed to comply with three orders against him by the Consumer, Trader and Tenancy Tribunal and also had an outstanding fine of \$3,500 against him from 2005, as well as an unpaid penalty infringement notice.

Result: Mr Stewart was convicted on 25 November 2011 of entering into a contract and undertaking residential building work whilst unlicensed and demanding/receiving payment

before work had commenced. He was ordered to pay \$12,373 in fines and costs by Parramatta Local Court.

Energy and utilities – Home Building Service

NSW Fair Trading has regulator responsibility for electrical products declared under the *Electricity (Consumer Safety) Act 2004* as electrical items that need to be certificated prior to being sold in NSW. There are 56 categories of equipment that are declared articles, which include televisions, refrigerators, room heaters and solar panels. In 2011–12 Fair Trading processed 2,125 applications for certification of new, modified or renewed articles.

September and October 2011 – Fair Trading carried out an operation in the Tamworth region targeting solar installations. As a result of this operation, three rectification orders were issued for minor defects, two penalty notices and one warning were issued, and one matter was referred for further investigation.

November 2011 – Fair Trading carried out its annual Christmas lights operation, targeting local businesses in the Sydney region selling decorative lighting for the festive season to ensure it had been approved for sale in NSW. 61 outlets

were visited with 6,383 articles inspected. 251 articles were found to be non-compliant with one penalty notice and one warning issued to retailers.

Fair Trading is also the regulator for all natural gas, LPG, autogas and most domestic and commercial gas installations and appliances throughout NSW. Gas appliances must also be approved for sale under the *Gas Supply (Consumer Safety) Regulation 2004*.

August 2011 – investigators visited retailers for the sale of outdoor patio or ‘mushroom’ heaters to ensure their safety and compliance with standards. 48 traders were issued with educational material regarding the use of outdoor heaters.

September 2011 – investigators targeted autogas installers and inspection stations in the Penrith area, resulting in the issue of six penalty notices and 24 inspection reports issued for non-compliance.

November 2011 – investigators followed up on traders visited in November 2010 during which 56 retailers had been provided with educational material on their obligations. As a result, eight warning letters were issued with another five matters undergoing further investigation.

Penalty notices and disciplinary actions

Penalty notices				Disciplinary actions	
Act / Regulation	Defendants	Offences	Penalties	Licence suspensions	Licence disqualifications / cancellations
Australian Consumer Law (NSW)	17	18	\$9,900	0	0
Business Names Act	19	20	\$7,600	0	0
Conveyancers Licensing Act	3	4	\$3,300	0	1
Electricity (Consumer Safety) Act	12	33	\$16,800	0	0
Fair Trading Act	1	1	\$550	0	0
Graffiti Control Act	1	1	\$550	0	0
Home Building Act	249	458	\$484,800	19	9
Landlord and Tenant (Rental Bonds) Act	2	2	\$1,100	0	0
Motor Dealers Act	121	254	\$146,960	0	9
Motor Vehicle Repairs Act	69	77	\$52,030	0	8
Pawnbrokers & Second-hand Dealers Act	9	21	\$8,910	1	2
Property Stock & Business Agents Act	37	46	\$53,570	4	62
Residential Park Act	0	0	\$0	0	0
Residential Tenancies Act	4	5	\$2,640	0	0
Retirement Villages Act	2	3	\$2,640	0	0
Travel Agents Act				0	12
TOTAL	546	943	\$791,350	24	103

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

Successful prosecutions

Act	Defendants	Offences	Penalties
Australian Consumer Law (NSW)	24	48	\$83,901
Associations Incorporation Act	1	1	\$1,131
Business Names Act	8	10	\$14,579
Consumer, Trader and Tenancy Tribunal Act	1	1	\$979
Co-operatives Act	2	3	\$1,664
Crimes Act	9	33	\$94,127
Electricity (Consumer Safety) Act	4	21	\$32,374
Fair Trading Act	8	16	\$21,048
Home Building Act	33	100	\$350,634
Motor Dealers Act	9	26	\$19,185
Pawnbrokers & Second-hand Dealers Act	1	2	\$0
Travel Agents Act	2	2	\$7,600
TOTAL	102	263	\$627,222

Total prosecutions	274
Total successful prosecutions	263
% successful	96

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.

Successful prosecutions means prosecutions resulting in conviction as well as prosecutions where the offence is proven but a conviction not recorded.

Civil litigation

Court/Tribunal		Act	No. of matters under Act
Supreme Court	Injunction	Fair Trading Act	1
	Injunction	Australian Consumer Law (NSW)	1
	Other	Other	2
	Contempt	Supreme Court Rules	0
District court		UCPR	1
		Other	1
		Other	1
Administrative Appeals Tribunal		MR Act	4
Administrative Decisions Tribunal		Business Names Act	3
		GIPA Act	1
		Home Building Act	20
		Motor Dealers Act	1
		Motor Vehicle Repairs Act	3
		Property, Stock & Business Agents Act	13
		Pawnbrokers & Second-hand Dealers Act	1
	Other	0	
Consumer Trader & Tenancy Tribunal	Intervention	Strata Schemes Management Act	1

Supreme Court	4
District Court	2
Administrative Appeals Tribunal	4
Administrative Decisions Tribunal	42
Consumer Trader & Tenancy Tribunal	1
TOTAL	53

Service delivery

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 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.

Snapshot: service-level statistics 2011–2012

Total customer enquiries (includes web, phone, counter, email and other)	6,790,576
REVS checks*	1,200,823
Rental bond transactions	403,923
Consumer and trader complaints about marketplace transactions	44,248

* NB – REVS functions transferred to Commonwealth on 30 January 2012

Highlights 2011–2012

- 85% of 44,248 complaints about marketplace transactions worth up to \$663 million were successfully resolved without recourse to a tribunal or court.
- Website visitor sessions have increased by 17% to 5.2 million.
- 23,323 people attended Fair Trading's 696 information sessions, talks and seminars across the state.
- 680,150 residential rental bonds to the value of \$969 million held in trust.
- Received 1,021,347 telephone enquiries, with 91.4% answered within 5 minutes.

Performance measures

	07–08	08–09	09–10	10–11	11–12	Target
Customer satisfaction meets or exceeds the benchmark*	85%	85%	91%	92%	88%	≥90%
Community take-up rate: average number of services requested per 1000 people in NSW	797	784	856	991	998	Est. ≥700
% of accuracy of information provided**	90%	93%	96%	96%	N/A	≥95% **
% of consumer and trader complaints finalised within 30 days	96%	93%	92%	90%	90%	≥80%
% of consumer and trader complaints resolved	87%	88%	89%	89%	85%	≥70%
% of telephone enquiries answered where published standards met ***	90%	99%	98%	90%	91%	≥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.

Service

Information

Fair Trading answered 1,021,347 telephone enquiries on general fair trading matters, bonds, strata, tenancy, business licensing and home building. Of the calls received, 91.4% were answered within Fair Trading's Guarantee of Service standard of 5 minutes.

Fair Trading Information Centre

The Fair Trading Information Centre (FTIC) provides telephone information 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 2011–2012, FTIC received a total of 956,112 enquiries.

Fair Trading Information Centre enquiries

	Enquiries	%
Residential rental bonds, strata and tenancy	374,451	39.16
REVS*	44,474	4.65
Home building	120,897	12.64
General fair trading	239,789	25.07
BLIS and business registration*	108,101	11.30
Government Contact Centre	25,504	0.26
Other	42,896	4.48
TOTAL	956,112	100

* REVS transferred to Commonwealth on 30/01/2012

* Business Registration transferred to Commonwealth on 22/05/2012

Electronic enquiries

In addition to obtaining information over the phone or in person, our customers can lodge their questions online through Fair Trading's website. In 2011–2012, Fair Trading responded to 29,120 electronic enquiries on a range of service delivery areas.

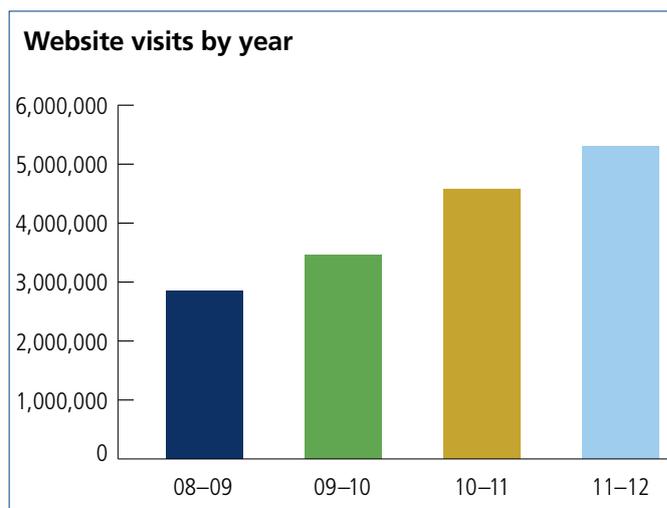
Fair trading	14,332
Real estate	4,549
Licensing	3,397
Rental bonds	1,831
Home building	1,778
Strata	1,648
Business registration	1,556
REVS	17
OneGov	12
TOTAL	29,120

Website

The Fair Trading website continued to be a key mechanism for delivering information to NSW consumers and traders, with over 5 million visits (5,275,111) made during the year – an increase of 17% from the previous year (4,507,231).

We made a number of improvements to our website during the year. These included:

- easier access to public warnings
- new information and statistics on our compliance role
- an easier to navigate public consultation section
- access to new large-print fact sheets
- a new residential parks public register
- a re-design of the *Money Stuff* website for young people.



Website visitor sessions

07–08	08–09	09–10	10–11	11–12
2,726,478	2,838,161	3,458,447	4,507,231	5,275,111

Mobile website

Our mobile website was launched in July 2011 and received 88,550 visits during the year. As well as providing information for users of smartphones and other mobile devices, the mobile website adds value by making better use of the functionalities of smartphones, such as a GPS application to 'find the nearest Fair Trading Centre' and the capacity to order emailed rental bond forms.

During the year our mobile platform was further enhanced by the development of two smartphone apps. We adopted and re-branded an app originally produced in Victoria to herald the commencement of the Australian Consumer Law (ACL), renaming it *ShopSmart*. The app provides information on the rights and responsibilities of consumers and traders under the ACL. Since its launch in July 2011 there have been 7,485 downloads. Our first unique app, *Scam Buster*, was launched in November during Fair Trading Week. This app provides information on a wide range of scams and a reporting function. *Scam Buster* had generated 6,933 downloads by the end of June 2012.

Social media

We continued using Twitter as a tool for communicating and engaging with our customers and the public, adding almost 1000 new followers to bring our total to 1,555 followers by the end of June. As well as daily tweets to accompany all Fair Trading media releases, Twitter strategies were built into all our major communication campaigns, including those for Fair Trading Week, Fair Trading Building Expos, the Travelling Con Men campaign, the extended range of government services provide by Fair Trading (OneGov) and promotion of our mobile apps.

We increased our presence on YouTube with 7 new videos, bringing the total to 36 videos available from our channel. These were viewed 39,786 times during the year, a dramatic increase from the 8,245 views made in total across the three previous years.

eNews

We continued to provide targeted enews services to our customers through news feeds and email newsletters and alert services. During the year subscribers to the email newsletter services increased across most newsletters:

- *The Letterbox* (relating to tenancy matters) – 30% increase to 7,264 subscribers
- *Foundations* (relating to home building matters) – 3% decrease to 26,102 subscribers
- *What's new* – 16% increase to 7,511 subscribers
- *Property industry news* – 8% decrease to 8,402 subscribers
- *Auto Torque* (relating to motor vehicle sales and repairs) – 31% increase to 1,103 subscribers.

Publications

We produced printed publications for use in the community and to support the educational campaigns delivered by our staff. At the end of June 2012, 69 Fair Trading publication titles and 13 titles from other agencies were available for order by the public and intermediary agencies. These were available through the Government's online shop (www.shop.nsw.gov.au), the Fair Trading call centre, and our Fair Trading Centres.

We expanded the range of pages on our website that can be downloaded and printed as fact sheets to a total of 225 titles. In addition, 24 fact sheet titles able to be printed from our website were available in up to 31 languages.

In March 2012 we introduced new large print versions of our online fact sheets that can be printed from our website. By the end of June 2012, 89 titles were available in large print.

Services

Dispute resolution

Information is provided to consumers, tenants and homeowners 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 negotiate between the parties in attempt to resolve the matter. During 2011–2012, we received 44,248 consumer complaints, of which 85% were successfully resolved.

Top 10 consumer complaints in 2011–2012

	Complaints
1	Household electrical, whitegoods and gas appliances
2	Discount vouchers and coupons
3	Used car or motorcycle
4	Furniture furnishings and manchester retail
5	Construction – house construction
6	Clothing, footwear, accessories and jewellery retail
7	Travel and tourism
8	Automotive services – car repairs and maintenance
9	Construction renewable energy – solar PV panels
10	New car or motorcycle

Consumer and trader complaints about marketplace transactions

	07–08	08–09	09–10	10–11	11–12
Real estate	2,612	2,440	2,564	2,358	2,341
Home building	6,224	6,283	8,008	7,014	8,586
Fair trading	25,994	29,537	29,616	30,223	33,321
TOTAL	34,830	38,260	40,188	39,595	44,248

Strata

In 2011–2012 we received 39,544 strata scheme enquiries with 1,686 applications for mediation. 570 did not proceed to mediation, 345 were successfully managed prior to mediation and of the remaining 771 applications, 66% 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.

One-stop shops

Delivery of one-stop shops for government services is a key election commitment of the NSW Government.

OneGov is a service model developed to enable the delivery of services on behalf of other government service providers through Fair Trading Centres. OneGov incorporates Fair Trading's previous whole of government services including the Government Contact Centre (GCC) and the Information Referral Centre at Queanbeyan.

Under OneGov, the NSW public can obtain information, access other government services, collect and lodge forms and pay transactions for a range of government services.

In 2011, OneGov services were made available in all Fair Trading Centres, with members of the public able to access a wide variety of services. The services include:

- lodgement of applications for Births, Deaths and Marriages
- lodgement of Seniors Card applications
- purchase of National Park passes
- lodgement of applications for NSW Housing
- application and renewal of fishing licences
- payment of fines for the Office of State Revenue
- lodgement of Retail Tenancy Bonds
- Justice of the Peace services.

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, 680,152 residential rental bonds to the value of \$969.4 million were held in trust.

Residential rental bonds

	07-08	08-09	09-10	10-11	11-12
Bonds lodged	266,495	264,076	273,939	260,693	267,757
Bonds refunded	259,158	256,050	256,584	246,073	250,372
Bonds held in trust	635,490	643,418	648,151	662,759	680,152
Total enquiries processed	447,507	459,263	438,319	389,882	338,562
Value of residential rental bonds held	\$741.8M	\$794.4M	\$839.8M	\$902.6M	\$969.4M

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 99% of the 12,419 new business licences issued and for 99% of the 53,276 business licence renewals.

Licensing activity

Licence type	2010-11		2011-2012	
	New	Register total	New	Currently registered
Builders	15,424	171,254	14,887	180,918
Motor dealers	525	3,847	417	3,876
Motor vehicle repairers and tradespeople certificates	3,084	132,506	3,282	134,671
Travel agents	90	1,399	95	1,404
Pawnbrokers and second-hand dealers	154	796	151	761
Property, stock and business agents	3,391	29,611	3,230	30,049
Real estate certificates	5,992	19,477	4,916	17,179
Valuers	251	3,264	242	3,127
Conveyancers	152	1,024	86	1,045
TOTAL	29,063	363,178	27,301	372,936

Business names register total

07-08	08-09	09-10	10-11	11-12
499,365	495,964	499,246	500,615	392,692

NB Fair Trading Centres stopped accepting business names applications (including changes, renewals and cessations) at COB 22 May 2012.

Business name registrations with expiry dates up to 27 May 2012 were still able to be restored and were accepted at Fair Trading centres from 23rd May 2012 to 27 August 2012.

Business names to Commonwealth

A new national business names registration service commenced on 28 May 2012, replacing the State and Territory services. Businesses now only need to register or renew their name once with the single national register and pay a single fee. This will reduce red tape, save time and cut costs for businesses.

The new national business names registration service is administered and managed by the Australian Securities and

Investments Commission (ASIC). Businesses should visit ASIC's website to register, search, renew, cancel or make changes to their business name details.

New businesses need to obtain an Australian Business Number (ABN) before they can register a national business name.

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.

Community and industry grants funding allocation

	Program	2011–12
1	Tenants Advice and Advocacy Program	\$9,131,867
2	Financial Counselling Services Program	\$5,721,908
3	No Interest Loans Scheme	\$2,129,487
4	Aged Care Supported Accommodation Service	\$413,100
5	Property Services Grants Program	\$293,492
6	Home Building Grants Program	\$142,000
7	Home Building Advocacy Service	\$229,278
8	Rental Bond Board Grants Program	\$91,458
9	Building Contractors Advisory Service	\$40,000
10	Motor Vehicle Industry Grants Program	\$100,000
11	Co-operatives Development Grants Program	\$1,481
TOTAL		\$18,294,071

All figures exclude the GST payable on all grants.

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 2011–2012, 22 community organisations were funded under the Tenants Advice and Advocacy Program (TAAP) to provide advice and advocacy on tenancy matters, with 30,629 people assisted. Of these, 12% 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 2011–2012 the total number of new clients seeking financial counselling assistance was 38,320. There were also 138,888 follow ups conducted during this period.

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. Funding provided by Fair Trading is used to support administration of these programs. The total number of loans approved for 2011–2012 was 7,109 to a value of \$6,009,263.

Making a difference...

A client who lived in Narrabri had recently got up the courage to leave the family home where her children had grown up and move into her own little flat. She had suffered 20 years of domestic violence from her husband. She told the NILS® worker one of the reasons why she never left before was that she did not know how she could manage on her own, as she owned virtually nothing, only the clothes she stood in. In the past she had done some casual work but after suffering a complete breakdown she was unable to do so.

She found it strange seeking government support. She had been sitting in a cold basic unit with no entertainment and had been hand washing for four months. All this was also a strain on her health. Having to find the cash to set herself up in the unit was a challenge in itself.

The NILS® worker recalls that 'we had quite a few problems in completing the loan application but she never gave up, the process took over five weeks, but she never said don't worry I will try somewhere else. When she first went into the store she knew what she wanted and did not want to get tangled up with rental contracts.

Now life is looking much brighter, her mental health has improved in leaps and bounds and she has even looked at a little casual work with the cotton harvest just to improve her situation even more.'

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 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.

Fair Trading contact information

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.

Call 13 32 20 Monday to Friday between 8.30 am and 5.00 pm 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, Dorrigo, 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, Murrurundi, Nambucca Heads, Narooma, Narrabri, Narrandera, Nowra, Nyngan, Oberon, Peak Hill, Quirindi, Rylstone, Scone, Temora, Tenterfield, Tumbarumba, Ulladulla, Walcha, Walgett, Wialda, Warren, Wentworth, West Wyalong, Wilcannia.



Contact us

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