



Fair  
Trading

## A year in review 2008 - 2009

Fair Trading: serving consumers  
and traders in New South Wales

[www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)



# At a glance

Fair Trading operates within the NSW Department of Services, Technology and Administration.

The Department produces a single annual report to the Minister for Commerce for tabling in the NSW Parliament.

However, Fair Trading measurably reaches a significant proportion of the seven million people living in NSW. For this reason this additional report focuses exclusively on activities in the New South Wales fair trading arena.

## Services provided to the public in 2008 - 2009

|  |           |
|--|-----------|
| • Requests for service*:   | 7,018,964 |
| • Website visitor sessions:                                      | 2,838,161 |
| • REVS checks:   | 1,795,081 |
| • Phone calls from general public:                               | 1,241,669 |
| • Counter enquiries:   | 206,982   |
| • Rental bond transactions:                                      | 520,126   |
| • Consumer and trader complaints about marketplace transactions: | 38,260    |
| • Public seminars and information sessions:                      | 902       |
| • Seminar audiences:   | 31,818    |

\* includes all requests for information, services and transactions.

## Information on registers as at 30 June 2009

|                                |         |
|--------------------------------|---------|
| • Total occupational licences: | 354,220 |
| • Total business names:        | 495,964 |
| • Total associations:          | 34,817  |
| • Total co-operatives:         | 699     |

## Compliance

|   |        |
|---|--------|
| • Inspections:                          | 25,390 |
| • Investigations:                       | 1,742  |
| • Certifications:                       | 4,266  |
| • Civil proceedings:                    | 66     |
| • Prosecutions:                         | 393    |
| • Penalty notices issued:               | 762    |
| • Total compliance related activities*: | 32,619 |

\* Compliance related activities can vary significantly year-to-year depending on the mix between long, complex investigations and shorter, less complex ones which reflect changing marketplace issues.

## Policy development & regulatory review

|   |         |
|---|---------|
| • Legislation administered:                     | 42 Acts |
| • Bills assented to in Parliament in 2008-2009: | 7       |
| • Acts and regulations amended in 2008 - 2009:  | 10      |

## Agency

|  |   |
|--|---|
| • Staff:                               | 1,190   |
| • Budget:                              | \$163.6 million                                       |
| • Fair Trading Centres throughout NSW: | 24  |
| • Other service outlets*:              | 69  |
| • Publications:                        | Over 173 titles - 26 translated in up to 30 languages |

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

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# Executive summary



Fair Trading plays a vital role in the NSW economy by regulating specific industries and occupations, safeguarding consumer rights and advising business and traders on fair and ethical practice. Through the provision of information, services and enforcing fair trading laws Fair Trading serves the people of NSW by ensuring commercial integrity.

## Information and services

Fair Trading's information centre answered more than one million telephone calls during the year. The number of consumers and traders accessing our services electronically continued to grow with over 2.8 million visitor sessions on our website. The number of people attending Fair Trading's information sessions and seminars increased in 2008-2009 to 31,818. Fair Trading encouraged people to read carefully any contracts or paperwork and understand what they are agreeing to before signing anything. Building Business Information Expos provided the opportunity for builders and tradespeople to obtain expert advice on a range of business management issues specific to the home building industry.

Through innovative educational initiatives including a youth forum, *Money Stuff* and the *Masters of the mall* educational game, Fair Trading aims to equip young people with an understanding of consumer issues. Programs such as *Thinksmart* for culturally and linguistically diverse communities and the Aboriginal Fair Go Partnership Program reach out to all communities in NSW.

Services provided by Fair Trading are in high demand. Fair Trading negotiated a successful resolution in 88% of the 38,260 complaints received about marketplace transactions. Online services continue to grow and Fair Trading's collaboration with the Government Licensing Service provided an improved lodge and pay service for persons renewing a range of licences online. Two new funding programs were introduced during the year, one to assist low income earners by providing no interest loans and another to assist licensed building contractors with business management and insolvency advice. Funding for the existing Financial Counselling Services Program was increased to \$3.8 million to provide information and advice to families struggling in the current financial environment.

## Compliance

Fair Trading initiated inspection programs across NSW focussing on motor dealers and repairers, market stall-holders, funeral directors and fitness centres, while investigators visited 1,145 residential building sites targeting a range of home building and electrical safety issues. These inspection programs are an effective way of maximising traders' compliance with regulatory requirements. Where breaches of the law are detected Fair Trading takes appropriate enforcement action designed to stop unlawful conduct. A total of 762 penalty notices were issued during the year and, of the 393 formal prosecutions, 96% were successful.

## Legislation and regulation

In the constant development of fair trading laws, legislative changes improved consumer protection while ensuring traders were not unduly burdened by compliance requirements in the areas of home building, retirement villages and national safety standards. Significant progress was made on National Reform Agenda projects, aiming to deliver nationally consistent legislation and licensing systems.

## Organisation and people

Staff at Fair Trading demonstrated their professionalism by the results achieved during 2008-2009, including that the published Guarantee of Service standards were met for all services. The important and valuable work that Fair Trading does will continue within the recently formed Department of Services, Technology and Administration.

**Graeme Head**

Director General  
Department of Services, Technology and  
Administration



# Fair Trading

*...Fair Trading measurably reaches a significant proportion of the 7 million people living in NSW.*

## Our objectives and what we do

Fair Trading serves the consumers and traders of NSW. We aim to achieve fairness for all in the marketplace.

### Fair Trading objectives

Fair Trading has a set of robust objectives embedded in legislation and in our role as both a regulator and a consumer protection agency. Fair Trading objectives for 2007-2010 are:

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

### What we do

We safeguard consumer rights, regulate specific industries and occupations, and advise traders on fair and ethical business practice. Our customers include people renting homes and those building or renovating. There are strata scheme owners, people buying or repairing cars or looking for consumer information. A large number are builders and people working in other trades or running a business. But our services go beyond those delivered to individuals. The legislative framework we administer sets the scene and the rules for fairness in the countless daily transactions between consumers and traders. Often, unfair practices are investigated and prevented behind the scenes.

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

### Consumer help

Providing information is core business for Fair Trading. Consumers of everyday goods and services can use our website, contact 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. People renting homes, buying or selling property or living in strata scheme property can turn to us for information and assistance.

### Trade and business services

We register business names and issue licences and certificates that traders need to operate in NSW. Builders and contractors, people in the accommodation and property services industries and others engaged in selling goods or providing services can receive information on their rights and obligations under fair trading laws.

### Co-operatives and incorporated associations

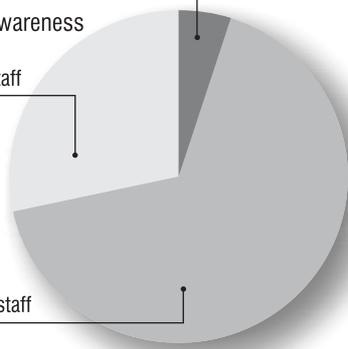
We actively encourage the formation and development of co-operatives and we help community groups establish themselves as incorporated associations.

### Program allocations

Policy development & regulatory review  
\$8.4M 53 staff

Community awareness & access  
\$49.6M 381 staff

Compliance  
\$105.6M 755 staff



## Guarantee of service performance

Percentage of services meeting published GOS standards\*

|   | 04-05 | 05-06 | 06-07 | 07-08 | 08-09 | Target |
|---|-------|-------|-------|-------|-------|--------|
| Percentage of services meeting published GOS standards* | 93%   | 93%   | 93%   | 100%  | 100%  | 90%    |

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



# Information and services

**Objective:** Community aware of and able to access information and services

**Strategy:** *Effective education, information and services*

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

| Snapshot: service-level statistics                             | 2008-2009 |
|--|-----------|
| Customer enquiries   | 4,429,694 |
| REVS checks  | 1,795,081 |
| Rental bond transactions                                       | 520,126   |
| Consumer and trader complaints about marketplace transactions: | 38,260    |

## Highlights 2008-2009

- Fair Trading's information centre handled more than 1 million telephone calls during the year
- Website use continued to grow with over 2.83 million visitor sessions
- 31,818 people attended Fair Trading information sessions and seminars
- A record 643,518 rental bonds valued at \$794.4 million were held in custody at 30 June 2009
- 38,260 complaints about marketplace transactions were received. Of these, Fair Trading was able to negotiate a successful resolution in 88% of cases without recourse to a tribunal or court

| Result indicators   | 04-05 | 05-06 | 06-07 | 07-08 | 08-09 | Target |
|---|-------|-------|-------|-------|-------|--------|
| Percentage of public who know where to go to get help on consumer protection issues * | 73%   | 70%   | 66%   | 63%   | 62%   | 65-70% |

*\*Survey results valid to  $\pm 5\%$  @ 95% level of confidence*

### Comment

The results from 2005/06 to 2008/09 are close to or within the target range. Cost-effective education and information strategies to raise awareness about Fair Trading services are constantly being developed and implemented to address this year's result.

| Performance measures  | 04-05 | 05-06 | 06-07 | 07-08 | 08-09 | Target    |
|---|-------|-------|-------|-------|-------|-----------|
| Customer satisfaction meets or exceeds the benchmark*                                     | 87%   | 90%   | 90%   | 85%   | 85%   | ≥90%      |
| Community take-up rate: average number of services requested per 1000 people in NSW       | 557   | 653   | 734   | 797   | 784   | Est. ≥700 |
| % of accuracy of information provided**   | 83%   | 93%   | 89%   | 90%   | 93%   | ≥95%* *   |
| % of consumer & trader complaints finalised within 30 days                                | 95%   | 95%   | 96%   | 96%   | 93%   | ≥80%      |
| % of consumer & trader complaints resolved  | 74%   | 81%   | 85%   | 87%   | 88%   | ≥70%      |
| % of telephone enquiries answered where published standards met                           | 81%   | 79%   | 83%   | 90%   | 99%   | ≥85%      |
| % 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%      |
| % of Consumer, Trader and Tenancy Tribunal matters finalised prior to or at first hearing | 77%   | 77%   | 78%   | 75%   | 74%   | 75%       |

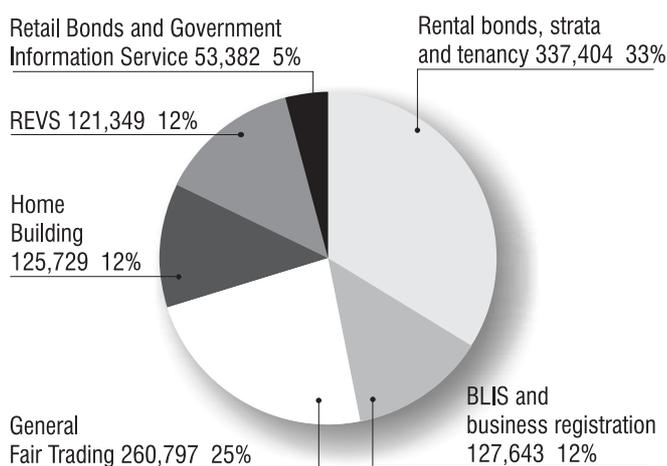
\* Survey results valid to ± 5% @ 95% level of confidence. Fair Trading has some seven million contacts with the public annually, and the result is above the 80% target of satisfied customers recommended by Standards Australia (HB 251-2004: Customer Satisfaction Measurement - A handbook for users of AS/NZS ISO 9001:2000 Standards Australia International, July 2004.)

\*\* The target was increased during 2007-2008 from 90% to 95%.

### Customer Service Charter

A Customer Service Charter was introduced this year to articulate Fair Trading's commitment to delivering quality services to its customers. The charter provides key information about Fair Trading's approach to service delivery and customer relations. It provides customers with information on the services provided, how to contact and communicate with Fair Trading, the standards of service customers can expect, what customers need to do so that Fair Trading can provide the best possible service to them, and how customers can provide feedback on those services.

### Fair Trading Information Centre enquiries



## Information

### Fair Trading Information Centre

The Fair Trading Information Centre (FTIC) answered 1,026,304 telephone enquiries during the year. FTIC also provided significant advice and assistance to other agencies regarding information centre infrastructure and services. The monthly call abandon rate has steadily decreased and overall for the financial year, was one per cent. This compares favourably to the industry benchmark of three to six per cent.

Operational procedures were reviewed and updated and new procedures developed where required. This has resulted in a more accessible and user-friendly system for contact centre staff and will ensure a more effective method of delivering and capturing information and accurately recording marketplace trends.

### Information programs

During 2008-2009, Fair Trading delivered 902 information sessions, talks and seminars attended by 31,818 people throughout the State. These covered a range of topics for real estate and property agents, self-managing landlords, tenants, licensed builders, members of incorporated associations, senior citizens, high school students and other young people, business people and consumers, including culturally and linguistically diverse and indigenous communities.

| Customer profile                             | 2005 | 2006 | 2007  | 2008  | 2009  | Target  |
|--|------|------|-------|-------|-------|---------|
| Aboriginal or Torres Strait Islanders (ATSI) | 2.0% | 2.7% | 2.3%  | 2.6%  | 2.6%  | ≥ 2.1%* |
| Culturally and linguistically diverse (CALD) | 29%  | 31%  | 32.1% | 27.8% | 29.4% | ≥ 26%*  |

\* Based on 2006 Census population representation

### Comment

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

## Campaigns and initiatives

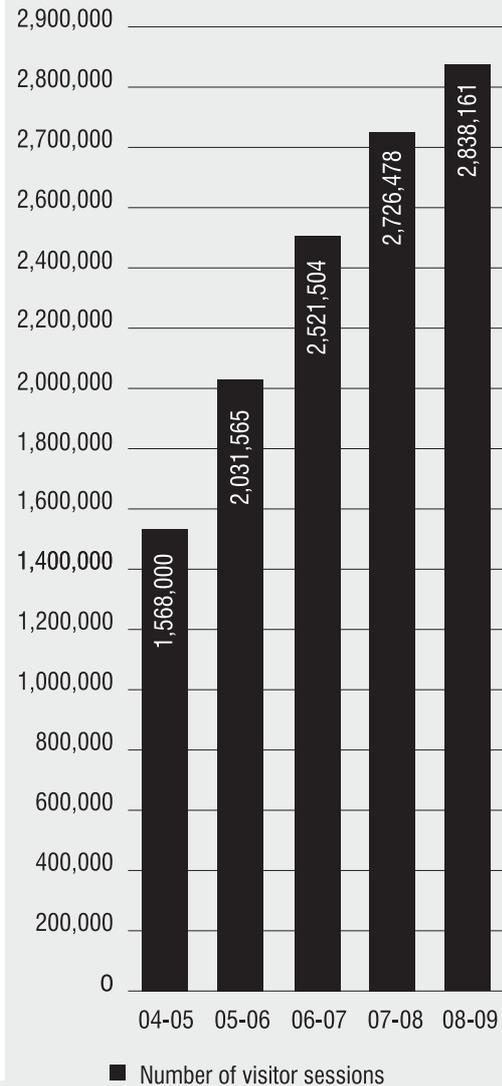
### Fair Trading Week

Fair Trading Week is a week-long promotion to raise awareness of topical consumer issues in the community. The theme *The Deal is in the Detail* was designed to highlight the risks of not reading contracts and paperwork. Research had revealed that both consumers and traders have difficulty understanding their rights and responsibilities under the statutory warranty period and there was also confusion about the value of extended warranties purchased at additional cost. Prevention is the key to consumer protection and it is extremely important that consumers fully understand what they are agreeing to before signing anything. Over 70 community events were held around NSW with the focus on understanding the fine print in typical consumer transactions.

### Home Building

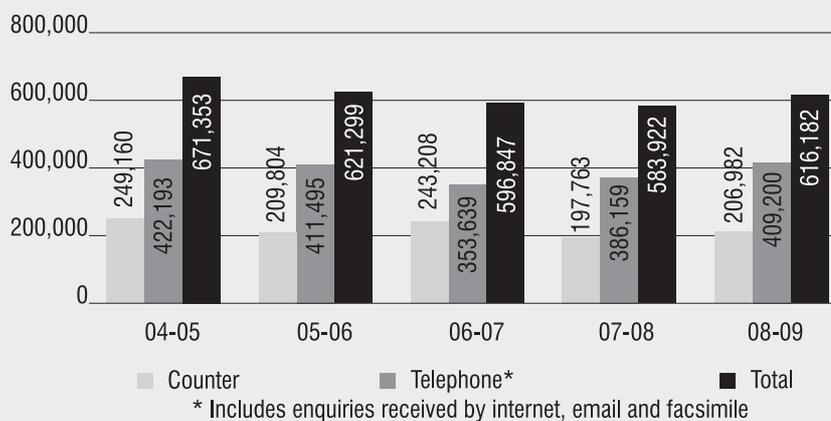
Fair Trading facilitated 17 free Building Business Information Expos in metropolitan and regional NSW from April to June 2009. The Expos provided the opportunity for builders and tradespeople to obtain expert advice on business management, insolvency issues, asset protection, realistic quoting for jobs, strategies to improve cash flow, dispute resolution, client management, contract administration, compliance issues, home building licensing, home warranty insurance, continuing professional development, the NSW Housing Code, certification of building work, workplace safety, employee award entitlements and record-keeping. A number of government agencies, the Master Builders Association and the Housing Industry Association participated in the program, as well as

Website visitor sessions



*The increase in website visitor sessions reflects a growing community take-up rate of our expanding electronic information services. These services are supplementing and extending the traditional services provided - not only general fair trading information - but on accommodation, property and home building matters as well.*

### Fair trading enquiries



\* Includes enquiries received by internet, email and facsimile

*Although there is some shifting from traditional channels such as phone and counter to internet and email enquiries, with over 600,000 general fair trading enquiries received in 2008-2009 demand through these traditional channels remains extremely high.*

many insolvency / business recovery experts from private industry. The Expos were a runaway success, with approximately 4,500 builders and other tradespeople attending. Four continuing professional development points were awarded to each licensed builder who attended.

A team of home building experts provided information and assistance at several home building expos in 2008-09, including the Complete Home Show, the Hills Home Show and Lifestyle Expo, the Sydney Home Show, and the Newcastle Home Show. The attendees included consumers looking to build or renovate their homes and tradesmen in the residential building industry. A comprehensive range of home building publications were available and computers enabled visitors to conduct online licence checks.

### **Money Stuff**

Fair Trading's annual competition for high schools, the Money Stuff Challenge, asks students to research consumer issues and develop messages for young people that can be communicated in a creative way. Approximately 800 students participated in the Challenge. The winning entries included an innovative website for young drivers, a presentation featuring colourful anime-style cartoon characters to pass on useful tips about buying a mobile phone, and a short film warning young people about internet scams. A new edition of the Money Stuff magazine was distributed to NSW high schools in July 2009. It featured a range of consumer articles relevant to young people, plus short interviews with young people on consumer topics. Some of the articles were drawn from material submitted as entries to the 2008 Money Stuff Challenge.

### **Youth Forum**

The Youth Forum, held at the Justice and Police Museum on 17 November, provided an opportunity for Fair Trading to showcase its current youth initiatives and to foster relationships with youth stakeholders, including educators, youth advisory group members, youth service providers and young people themselves. It was attended by approximately 140 guests. Many were young people who had participated in the Money Stuff Challenge 2008. The Minister for Fair Trading awarded a number of prizes and trophies on the day.

### **Master of the Mall**

In November 2008 Fair Trading introduced an innovative new educational game for young people called *Master of the Mall*. It is set in a virtual shopping mall where players interact with other characters to complete missions, answer quizzes and play mini-games that test their skills and knowledge. *Master of the Mall* covers a broad range of employment, consumer and financial literacy topics from the Commerce syllabus for Years 7-10.

The *Master of the Mall* is accompanied by a 120 page teachers manual featuring case studies, scenarios and classroom activities linked to the outcomes of the Commerce syllabus. It can be used in conjunction with the game or as a lesson planner in its own right. The resource was developed with the Curriculum K-12 Directorate of the NSW Department of Education and Training, NSW Industrial Relations and WorkCover NSW. The game and teachers manual was distributed to all NSW high schools in February 2009.

### **RYDA program**

The Rotary Young Drivers Awareness (RYDA) program is designed to give Year 11 students more knowledge about the reality of driving. Fair Trading's participation in this program increased significantly in 2008-2009. The information Fair Trading provides includes the financial and legal ramifications of buying a car, finance, warranties and insurance, how to inspect a vehicle and information about REVS (the Register of Encumbered Vehicles Service). Thousands of students across the State attended RYDA presentations throughout the year.

### **"Get Equipped" pilot youth information program**

A 15 week information program for disadvantaged youths was piloted with the Inner West Skills Centre at Auburn. The program ran from April to June 2009, and aimed at providing young people in the area with information about the complete range of Fair Trading services, including information about contracts, shoppers' rights, scam awareness, tenancy, financial literacy and buying a car. It also introduced them to the *Master of the Mall* interactive online game. At the end of the first 15 weeks all parties involved reviewed the outcomes of the program and consequently, it will be running at least twice more during 2009-2010.

### **Think Smart**

The Think Smart education program for culturally and linguistically diverse (CALD) communities delivers information and education directly to CALD groups through a network of community organisations and multilingual media partners. It raises awareness of fair trading issues and services using a variety of information resources, public relations events and grass roots community activities. Currently there are 38 Think Smart partners, consisting of 30 community organisations and 8 multilingual media outlets. Four new partners were signed up during the year: the Chinese Migrant Welfare Association, the Migrant and Refugee Services of Anglicare, the NSW Adult Migrant English Service (AMES) and Sydney Multicultural Community Services.

Fair Trading's website was redesigned to make translations of information more accessible to users. Selected information for traders and consumers is now available in 28 community languages (including in languages for new and emerging communities).

## Renting, Shopping, Money

In 2008 Fair Trading produced a practical teaching resource in collaboration with the ACL Adult Migrant English Program (AMEP) Consortium. Consisting of a 124 page workbook and audio CD, *Renting, Shopping, Money* assists teachers to develop the skills of newly-arrived migrants and refugees in NSW to deal with consumer issues. The resource also provides advice on accessing Fair Trading services while developing English language competence. Over 2,000 copies of the teaching resource were distributed to various community organisations and government agencies that provide educational services to newly-arrived migrants and refugees.

## Reaching Out program for people with a disability

Fair Trading works with regional carers and community workers to deliver consumer protection messages to the disabled. During the year Fair Trading conducted presentations about rights and obligations under fair trading legislation to clients, staff and carers at Yallabee, which provides a supported accommodation and employment service in the Deniliquin district, Yumaro, a supported employment agency in Moruya and Workability Personnel, an employment service in Batemans Bay assisting people with disabilities.

## Aboriginal and Torres Strait Islander People

The Aboriginal Fair Go Partnership Program actively promotes consumer rights issues within the Aboriginal community by partnership with the Aboriginal media, community organisations and other service providers. It is based on Fair Trading's successful Think Smart partnership program for Culturally and Linguistically Diverse (CALD) communities.

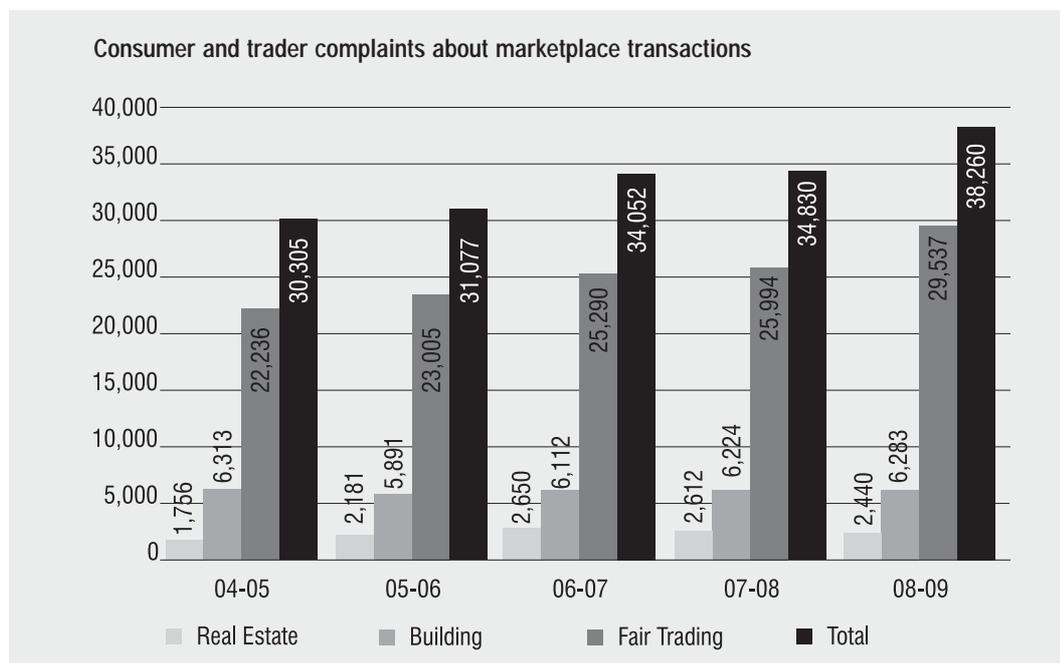
Deadly Dollars is an interactive and educational Aboriginal theatre performance about money management, which is supported by a resource manual and training for Aboriginal community workers. Fair Trading Aboriginal Customer Service Officers delivered 30 "Deadly Dollars - Lets Talk Money" workshops to community groups with 315 participants during 2008-2009. The "Deadly Dollars" Theatre Group travelled to 36 Aboriginal communities across NSW over a six week period in late 2008 and performed to 2,591 participants. A further 28 performances were conducted in May 2009.

Other community partnerships have been developed, with Fair Trading funding four Aboriginal Tenants Advice and Advocacy Services which assist indigenous people experiencing tenancy problems, or who may need assistance or representation when attending the Consumer, Trader and Tenancy Tribunal. Fair Trading actively works with Aboriginal housing providers and key agencies to develop options to support and sustain tenancies and maintain home ownership.

## Services

### Complaint resolution

Information is provided to consumers and traders 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 resolve issues in the marketplace. Where parties cannot resolve an issue themselves, a complaint can be lodged and Fair Trading will negotiate between the parties to attempt to resolve the matter informally. During 2008-2009, a total of



## Licensing activity

| Licence type                                      | 07-08         |                | 08-09         |                |
|---|---------------|----------------|---------------|----------------|
|   | New           | Register total | New           | Register total |
| Builders  | 11,965        | 166,683        | 12,607        | 171,079        |
| Conveyancers                                      | 153           | 838            | 104           | 871            |
| Motor Dealers                                     | 462           | 3,728          | 426           | 3,689          |
| Motor Vehicle Repairs & Tradespeople Certificates | 3,615         | 121,843        | 3,774         | 128,315        |
| Pawnbrokers & Second-hand Dealers                 | 127           | 882            | 130           | 823            |
| Property, Stock & Business Agents                 | 2,768         | 26,898         | 2,705         | 27,367         |
| Public Weighbridge                                | 2             | 77             | 9             | 79             |
| Real Estate Certificates                          | 5,379         | 17,495         | 4,637         | 17,223         |
| Trade Measurement Services                        | 12            | 206            | 18            | 213            |
| Travel Agents                                     | 120           | 1,460          | 110           | 1,449          |
| Valuers   | 217           | 3,166          | 250           | 3,103          |
| <b>Total</b>                                      | <b>24,820</b> | <b>343,276</b> | <b>24,770</b> | <b>345,220</b> |

38,260 consumer complaints were received, made up of 29,537 relating to general fair trading issues, 6,283 to home building issues and 2,440 to real estate issues. Of these, 88% were successfully resolved at an informal level.

### Licensing and registration services

Fair Trading's guarantee of service promises that new licence applications that include all the required information will be processed within 30 days of receipt. 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 over 94% of the 12,163 new licences issued and for 97% of the 49,242 licence renewals.

Traders have the convenient option of renewing or restoring the registration of their business name online, with the added incentive of a discounted fee for the use of this service. The popularity of online renewal continues to grow - during 2008-2009 40,616 businesses took advantage of the service, an increase of 16% over the last year. This represents some 42% of all renewals. In addition,

1,712 changes of address were recorded online during the year, a 17% increase over the last year.

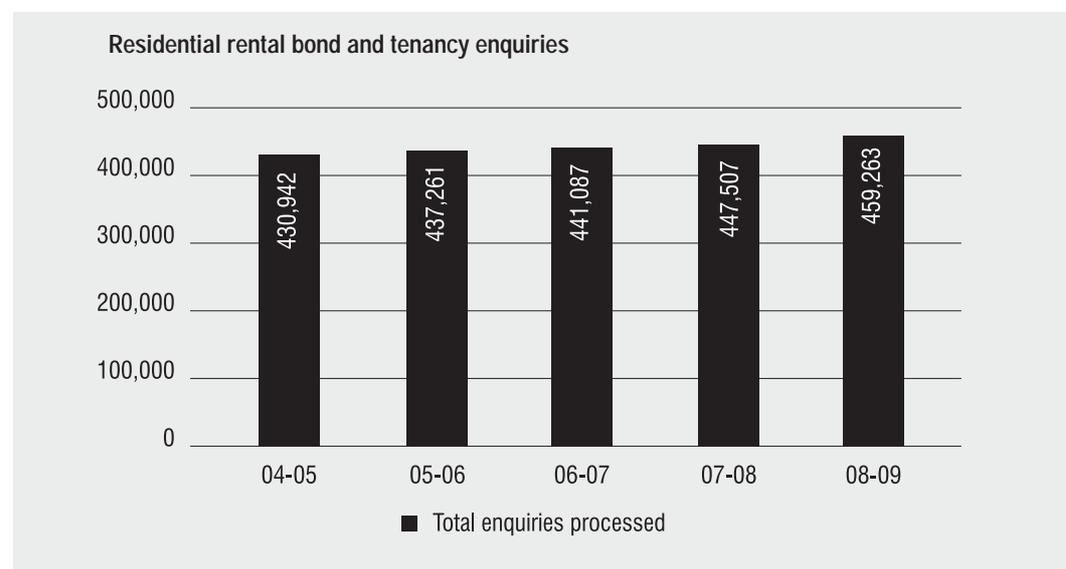
Access to basic details of registered business names is provided free of charge through the Fair Trading website. The business names details check facility includes details of the registration number, date and status, along with the nature of business and business addresses. There were more than 196,000 visits to this facility during 2008-2009.

### Rental Bonds Custody

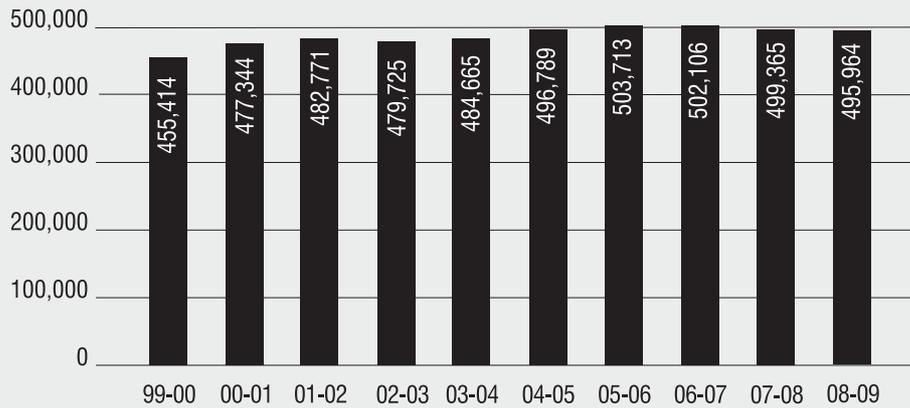
Fair Trading's Guarantee of Service promises that rental bond refunds, where both parties to the bond are in agreement, are usually deposited in a bank account within two working days, or mailed by cheque within four working days, of receiving the claim form. This standard was met in 100% of refund claims. At 30 June 2009 643,518 residential rental bonds worth \$794.4 million were held in trust.

### Government Licensing Service (GLS)

The GLS is a whole of government project to create a single integrated system for business,



**Business names register total**



professional and some personal licensing. In previous years Fair Trading has successfully migrated valuers, home building tradespersons and motor vehicle repairers licence types to the GLS. In March 2009, motor dealer, travel agent, pawnbroker and second-hand dealer licences were successfully migrated to the GLS. Existing internet services supporting these licences were also migrated to the GLS, providing an improved lodge and pay service for persons renewing their licence online.

Work is continuing in partnership with the Government Licensing Service Project Team to progressively migrate more of Fair Trading's licensing systems to the GLS and to introduce online services for more licences.

**BLIS Enhancements**

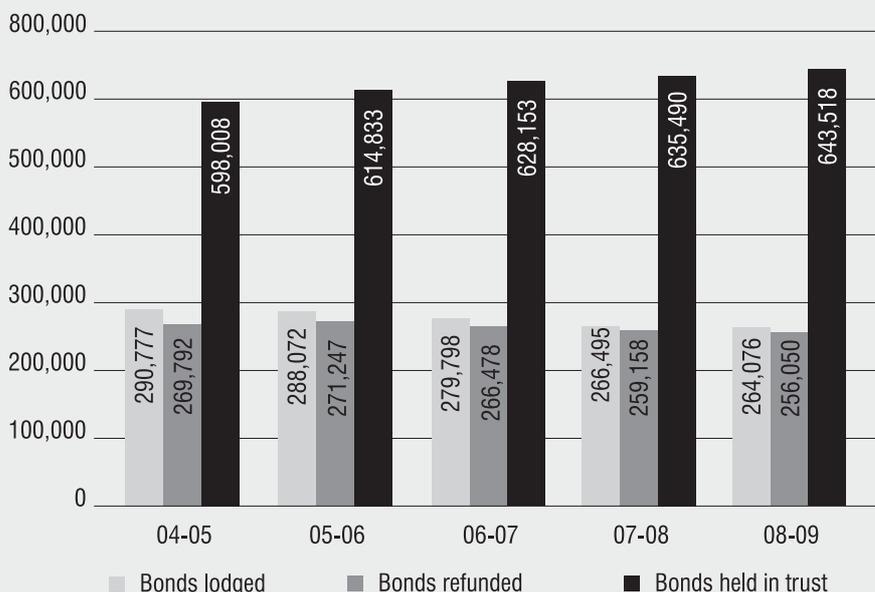
The Business Licence Information Service (BLIS), is an internet-based service that provides the business community and the public with detailed

information on all NSW Government licences, permits and associated regulations. In 2008-2009, continuing enhancements to BLIS included a new design of the website to improve its usability. There have also been technical modifications to improve response times for customers, as well as ongoing work to maintain up to date information relating to business licences.

**Website**

Following a re-design of the Fair Trading website in April 2008, a solution for creating web pages and fact sheet publications from the one source was finalised. During 2008-2009, 54 fact sheets were migrated or created using the new format, resulting in more accessible information for those with disabilities and allowing community workers and others to easily download and print information. The website is now compliant with accessibility standards and the chances of Fair Trading website pages being retrieved by searches using major search engines has been improved.

**Residential rental bonds - number processed and held in trust**



## Registration of co-operatives and associations

| Type of entity                                 | 07-08  | 08-09  |
|--|--------|--------|
| Associations                                   | 39,801 | 34,817 |
| Co-operatives                                  | 728    | 699    |
| Funeral funds                                  | 25     | 26     |
| Co-operative housing societies                 | 16     | 10     |
| Associations of co-operative housing societies | 11     | 10     |
| Starr-Bowkett societies                        | 17     | 17     |

### Online services

The online facility to register for events became fully operational in November 2008, in time for Fair Trading Week. The register was integral to the Building Better Business Expos held during 2009, and a significant number of the 4,000 expo participants reserved their seats through the online events register.

A range of online surveys were used to gather feedback on various consumer issues and as part of the reviews of the Home Building Act and the Conveyancers Licensing Act.

The platform used for delivering and tracking Fair Trading's eNewsletters was upgraded during the year to ensure greater functionality and capacity. The eNewsletter services continued to be popular, with over 40,000 subscribers registered.

### Rental Bond Systems Upgrade Project

The Rental Bond Systems Upgrade Project is a two year project that will refresh all of the information technology currently supporting rental bond operations and establish a technical platform which will support and maintain rental bond services. A tender acquisition process was successfully completed during the year, business and technical requirements confirmed, and detailed planning completed aimed at commissioning the new system by June 2010.

### Incorporated associations

Incorporating as an association provides a simple, inexpensive mechanism for small non-profit/non-commercial bodies to gain an independent legal identity and limit members' liability. There are currently 34,817 incorporated associations on the register. A systematic review has seen the cancellation of 6,388 associations, both voluntary and on the basis of non-compliance with reporting requirements. Others were identified where the value of property or the nature or scale of activities indicated incorporation as an association may no longer be appropriate. These associations were invited to voluntarily transfer incorporation to become either a co-operative or a company.

## Home Building

### Disputes

Approximately 85% of building disputes brought to Fair Trading are resolved through mediation. Twenty-seven building inspectors located across the State provide technical support, information and assistance to consumers and contractors to resolve disputes on-site. They have the power to issue rectification orders to builders, investigate complaints, identify breaches of the Home Building Act and recommend disciplinary action, including on-the-spot fines.

Fair Trading piloted a trader-initiated dispute program that allows traders to bring disputes with consumers over workmanship direct to Fair Trading for mediation by qualified building inspectors. The pilot was a success and the program has now been implemented.

### Response to builders in difficulty

It's no secret that the current economic climate has taken its toll on the building industry. Fair Trading has been quick to act in response to builders in difficulty, working closely with the directors of the companies involved, as well as home warranty insurers, receivers or administrators.

Some companies, like Westminster Homes and Wincrest Homes, have been able to continue trading. Others, such as Beechwood Homes, were sold as viable businesses, meaning that Beechwood's customers have since had their homes completed. These are both excellent outcomes for consumers. Home warranty insurance has also provided a safety net for these consumers, with insurers paying hundreds of claims.

In order to help builders in these trying times, Fair Trading facilitated 17 Building Business information expos around the State. The seminars had experts from government agencies and industry providing advice on business management and insolvency. In May 2009, Fair Trading also implemented a 12 month pilot of a free-call business management

## REVS

|   | 07-08     | 08-09     |
|---|-----------|-----------|
| Register of Encumbered Vehicles (REVS) checks | 1,918,481 | 1,795,081 |
| Finance industry commitments registered       | \$9.47 B  | \$9.15B   |
| Total encumbrances held                       | 3.79 M    | 3.66M     |

and insolvency assistance service for builders and tradespeople operating in the residential building sector in NSW. Builders and tradesmen can ring the hotline, anonymously if they wish, for advice and assistance 7 days a week, 24 hours a day.

### Electrical certifications

The Electricity (Consumer Safety) Act requires declared electrical appliances to be approved by a state or territory electrical regulator or an approved external approval scheme before they can be sold in NSW. Declared appliances include televisions, refrigerators and room heaters. In 2008-2009, applications for 2,485 new, modified or renewed articles were processed.

### Community and regional access

Community Access Programs (CAPs) in identified metropolitan areas and Regional Access Programs (RAPs) in remote regional areas highlight and provide greater access to our services for consumers and traders. These programs focus on getting Fair Trading's message to seniors, youth, disabled and indigenous communities by providing extensive information sessions. Information sessions for traders and compliance checks on businesses to educate traders on their rights and responsibilities are conducted under fair trading legislation. Two CAPs in metropolitan areas and ten RAPs were conducted around the State during 2008-2009.

Super RAPs are conducted in larger regional centres with an additional focus on compliance activity that includes retirement villages, travel agents, associations, real estate agents, home building sites, co-operatives, motor dealers and trade measurement, including service station petrol pumps and checkout scanning equipment at supermarkets. Six super RAPs were conducted in 2008-2009.

### Queanbeyan Government Service Centre

In July 2008, the Queanbeyan Fair Trading Centre relocated to the new Queanbeyan Government

Service Centre. Fair Trading hosts the Queanbeyan Information and Reception Centre, which, apart from providing reception and concierge duties for the new service centre, was established to provide 'whole of government' information to customers on State, ACT, Commonwealth, and local government matters, as well as local community information.

### 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 to deal with personal financial difficulties. In line with the NSW Government's social justice role, these grants promote the principles of access, equity and diversity.

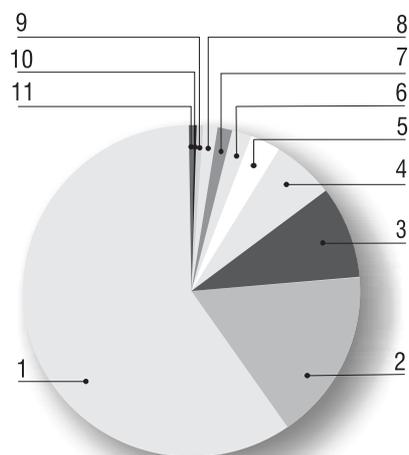
Our partnership with funded not-for-profit groups ensures complementary service provision, in that we provide information, regulation and remedy, while the community sector specialises in the provision of consumer advice and advocacy services.

### Tenants Advice and Advocacy

In 2008-2009, the 26 community organisations funded under the Tenants' Advice and Advocacy Program (TAAP) provided advice and advocacy to 33,469 tenants. Another 989 people living in residential parks were provided with advice about their rights and responsibilities.

There has been a significant increase in client contacts resulting from an increase in mortgagees taking possession of premises from tenants. The Residential Tenancies Act protects tenants from mortgagee possession until there is a court order. However, many tenants are unaware of their rights and are being pushed out of premises at the demand of mortgagees. This year, 4,653 tenants around the State received assistance to prepare for a hearing or with representation at a hearing at the Consumer, Trader and Tenancy Tribunal.

### Community and Industry Grants funding allocations



| Funding allocated in 2008-2009 |   |
|--------------------------------|---|
| 1                              | Tenants Advice and Advocacy Program \$8,524,504     |
| 2                              | Credit Counselling Program \$2,453,232              |
| 3                              | Financial Counselling Trust Fund \$1,285,424        |
| 4                              | No Interest Loans Scheme \$814,979                  |
| 5                              | Rental Bond Board Grants Program \$437,375          |
| 6                              | Property Services Grants Program \$276,088          |
| 7                              | Home Building Advocacy Service \$215,000            |
| 8                              | Home Building Grants Program \$205,500              |
| 9                              | Pilot Building Contractor Advocacy Service \$80,000 |
| 10                             | Motor Vehicle Industry Grants Program \$60,000      |
| 11                             | Co-operatives Development Grants Program \$18,000   |
| <b>Total</b>                   | <b>\$14,370,102</b>                                 |

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

### **Financial Counselling Services**

The Financial Counselling Services Program funds organisations to provide free financial counselling services by accredited counsellors, legal casework and public education programs to assist consumers who are encountering financial hardship. This year Fair Trading provided record levels of funding for financial counselling in NSW. The Financial Counselling Services Program has been increased from \$2 million a year to \$3.8 million to provide enhanced provision of information and advice to families struggling with the ever higher cost of living. This included a state-wide training program for financial counsellors to help cope with increasing demand. The issues reported by funded services revealed a significant increase in the number of people seeking advice about bankruptcy due to credit over-commitment. Demand for assistance in relation to home mortgages continues to increase. There has also been a significant increase in older clients due to a significant drop in the value of superannuation funds. This year, 39,915 people sought assistance from the 47 individual services and 7 outreach services that receive funding under the program. In addition, 430 community education sessions were conducted, benefiting 22,098 participants.

### **No Interest Loans Schemes**

On 1 July 2008 Fair Trading launched the NSW No Interest Loans Scheme (NILS®). The grant was allocated to fund NILS® services across NSW to meet the cost of salaries of NILS® workers and the establishment of a NILS Co-ordinator position. NILS® is a community managed microcredit program developed by the Good Shepherd Youth and Family Service 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 and medical or dental services.

### **Property Services**

The Property Services Grants Program provides funding or loans to eligible organisations for educational, training or research projects relating to the property services industry. The program funds organisations to raise consumer awareness and industry standards. This year Fair Trading funded six projects under the program including a telephone support line for the property industry, information and education for the strata sector, and continuing professional development and training projects.

### **Home Building Advocacy Service**

Fair Trading funded the Home Building Advisory Service (HoBAS) to provide legal advice, home building and dispute resolution expertise to assist consumers who might otherwise be disadvantaged by a dispute with a home building contractor.

Following the success of a pilot service in 2007-2008, the Macquarie Legal Centre was provided with a grant for the future operation and expansion to provide a state-wide service.

### **Home Building**

The Home Building Grants Program targets segments of the home building industry which are licensed under fair trading legislation. Funds are provided for one-off projects to undertake research or provide consumer education or industry training to enhance the professionalism of the industry and, in turn, enhance outcomes for their consumers. Fair Trading funded seven projects in 2008-2009 under the Home Building Grants Program, including an apprenticeships scheme, information regarding home building contracts, home building construction and continuing professional development.

### **Pilot Building Contractors Advisory Service**

The need for a dedicated advisory service arose after recent building company collapses highlighted difficulties in getting builders and tradespeople to come forward and seek advice when their businesses are in trouble. In response, a 12 month pilot Building Contractor Advisory Service (BCAS) was established on 1 May 2009 to assist licensed building contractors via the provision of business management, insolvency advice and other information on a confidential basis at no cost to contractors. Licensed builders and tradespeople can obtain free, confidential advice and assistance by calling the advisory service 24 hours a day, any day of the week.

### **Motor Vehicle Industry**

Fair Trading provides funding under the Motor Vehicle Industry Grants Program for education, research and other programs or projects which will assist in maintaining the skills of tradespeople, improve industry standards and raise consumer awareness of the motor vehicle industry. A single grant was made to the Automotive Training Board of NSW (ATB) to encourage best practice and innovation through training and education in the industry including apprentices.

### **Co-operatives Development**

The Co-operatives Development Grants Program provides funding for research projects, education and feasibility studies that assist the NSW co-operative sector to grow and remain a viable sector of our economy. In 2008-2009 Fair Trading funded a project to assist a dairy co-operative in assessing the risks and opportunities that its members potentially face due to the proposed Australian Government's Carbon Pollution Reduction Scheme.

# Compliance



**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. In doing so, Fair Trading also seeks to educate and engage with both consumers and traders on issues that affect their rights and obligations. Proactive inspection programs are an effective way of doing this.

| Snapshot: service-level statistics | 2008-2009 |
|------------------------------------|-----------|
| Successful prosecutions            | 377       |
| Penalty notices issued             | 1,174     |
| Investigations                     | 1,742     |
| Inspections                        | 25,390    |

## Highlights 2008-2009

- Fair Trading initiated inspection programs across NSW focussing on motor dealers and repairers, market stall-holders, funeral directors, fitness centres, while investigators visited 1,145 residential building sites targeting a range of home building and electrical safety issues
- Formal prosecutions for fair trading legislation breaches were successful in 96% of cases

| Result indicators  | 04-05 | 05-06 | 06-07 | 07-08 | 08-09 | Target |
|--|-------|-------|-------|-------|-------|--------|
| Percentage of consumers confident in fair operation of marketplace | 71%   | 69%   | 73%   | 79%   | 74%   | 68-74% |

### Comment/interpretation

The survey is an indirect 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.

| Performance measure                   | 04-05 | 05-06 | 06-07 | 07-08 | 08-09 | Target |
|---------------------------------------|-------|-------|-------|-------|-------|--------|
| Proportion of prosecutions successful | 94%   | 86%   | 95%   | 92%   | 96%   | ≥90%   |

## Compliance Programs

Through 2008-2009 Fair Trading carried out a total of 25,390 inspections across NSW. These focused on real estate agents, the home building industry, travel agents, motor dealers and repairers, auto dismantlers, second-hand dealers, pawnbrokers, product safety, the weight of packaged items at supermarkets and other retail outlets, the measurement of liquor dispensing units and glassware at licensed premises and petrol, gas and LPG fuel pumps.

### Home building

Home Building operations targeted offences under the Home Building Act and the Electricity (Consumer Safety) Act. Investigators visited 1,145 sites and issued 108 penalty notices for various offences. Advertising for residential building work was also examined. In the NSW Central Coast area 437 newspaper ads were reviewed with 24 penalty notices and 33 warning letters issued for various offences.

### Market stalls

Fair Trading initiated a range of targeted compliance programs. Sydney metropolitan market stall-holders were checked for compliance with regulatory requirements relating to product safety, electrical safety, trade measurement and packaging, second-hand goods, refund policies and business names. During 844 inspections, 18 dangerous toys and two unsafe electrical products were seized, while eight fines and 63 formal warnings to stall-holders were issued. The operation also served an educational purpose, with more than 200 fact sheets and education kits given out.

### Funeral directors

Funeral directors were checked for compliance with new legislative requirements which commenced on 1 February 2009. Sixty-one funeral directors were inspected in the Sydney metropolitan, Newcastle, Orange and Wollongong areas. Compliance with the new requirement was high with 88% of funeral directors demonstrating an awareness of the legislative requirements and 72% had attended in-house training courses.

### Motor dealers

Programs targeting 310 licensed motor dealers resulted in 128 penalty notices and 74 warnings, with 4 dealers recommended for prosecution. In NSW's biggest blitz to date, Fair Trading investigators detected over 300 potentially unlicensed motor dealers at motor vehicle salvage auctions. Subsequent investigation led to over 160 people being identified for possible prosecution or penalty notice action.

In an operation targeting unlicensed motor dealers advertising on the internet site eBay thirteen people were initially identified for investigation. Action was taken involving the issue of two infringement notices and six warning letters. This compliance operation followed-up a similar operation conducted 12 months earlier. It showed a marked reduction in the number of advertisements placed by unlicensed dealers in 2008 compared with 2007.

### Motor vehicle repairers

Fair Trading conducted inspections of 207 motor vehicle repairers in the Macarthur region and, as a result of the program, 181 breaches were detected and 57 penalty notices issued for various offences. Three unlicensed repairers were also identified and issued with penalty notices. Fair Trading has also agreed to fund two education sessions in the Macarthur region.

### Fitness industry

In a program aimed to raise awareness and compliance with statutory provisions and the Fitness Industry Code of Practice, Fair Trading visited 60 fitness centres across Sydney and reviewed their membership contracts. It was found that although there were no direct breaches of legislation many contracts were in small print, difficult to read and included onerous penalties for membership cancellation.

### Conveyancers

Operation Shingle commenced in May 2009 and involved an audit of 50 licensed conveyancers and 200 real estate agents, to check compliance with continuing professional development obligations. Where instances of non-compliance with CPD requirements are established, a range of compliance and education options will be considered.

## Compliance initiatives

### Christmas Product Safety Survey

Each year, Fair Trading conducts a state wide sweep of retailers and markets in the months prior to Christmas to identify and remove dangerous toys and Christmas products from sale in NSW. The inspections ensure toys and products do not pose a safety risk to children and consumers. Fair Trading inspectors examined thousands of products on the shelves of 476 retail outlets (mostly discount variety stores and markets) in more than 100 towns across NSW. While 75 per cent of the stores specifically targeted for attention did not have any non-compliant products during this year's survey, 164 toys and other products, including Christmas decorations, failed to meet NSW's stringent product safety standards. Subsequent rigorous testing showed these toys presented a potentially fatal inhalation or ingestion hazard due to small parts, including 67 battery operated toys, 14 squeeze toys and 14 projectile toys that could also cause significant eye injury. Of most concern was that 121 of the toys were marketed to parents as being suitable for children under three years of age.

### Easter Show inspections

Each year, showbags proposed for sale at the Easter Show are inspected by Fair Trading to ensure the contents meet product safety requirements. Fair Trading product safety inspectors checked the contents of 294 showbags to ensure the toys and novelties in them complied with relevant safety and information standards. All showbags were given the all clear. The success of this year's checks was largely due to the Royal Agricultural Society of NSW and showbag exhibitors' commitment to toy safety and Fair Trading's compliance programs. Fair Trading has been working with the RAS and exhibitors for many years now to make sure showbag contents are safe. Showbag exhibitors are not able to supply children's toys at the Royal Easter Show unless they obtain test reports that show toys comply with Australian Standards.

### Fuel saving devices exposed

Fair Trading worked closely with the automotive industry in conducting a blitz on fuel saving devices. Investigations revealed that promises of big savings and great efficiency could not be justified. The investigation was launched in August after Fair Trading received a number of complaints regarding claims about the devices.

Investigators targeted six products sold in Australia that claimed to reduce fuel consumption in motor vehicles. The companies were required to provide independent scientific evidence to prove that their products did what they claimed. None of the companies were able to satisfactorily substantiate their claims. Four of these products were removed from the marketplace: Magnoflow, Prozone, MPG-CAPS and FuelMAX/Super FuelMAX. The other two devices - Fuelmate and the Fitch Fuel Catalyst - deleted unsubstantiated claims from their website and promotional material, including promises that these products could 'save consumers up to 25% better fuel economy' and 'from 5-12% fuel savings'.

This compliance operation was a significant outcome for consumers and sends a strong message to companies who promote such devices. Fair Trading's investigation was strongly supported by the Institute of Automotive Mechanical Engineers, NSW Motor Traders Association, NRMA and Choice.

### Electrical appliance pre-winter compliance survey

Fair Trading officers conducted a comprehensive survey of traders selling electrical articles in the metropolitan area during April and May 2009. The purpose of this yearly blitz is to ensure the compliance and safety of electrical articles available over the pre-winter trading period. Although all electrical articles were inspected, electric room heaters and electric blankets were specifically targeted. Investigators checked variety and discount stores as sources of potentially non-compliant and/or unsafe electrical products. A total

### Penalty notices

| Act/Regulation                          | Defendants | Offences     | Penalties          |
|---|------------|--------------|--------------------|
| Business Names Act                      | 42         | 44           | \$17,600           |
| Electricity (Consumer Safety) Act       | 16         | 22           | \$9,200            |
| Fair Trading Act                        | 19         | 19           | \$10,450           |
| Home Building Act                       | 435        | 676          | \$611,150          |
| Landlord and Tenant (Rental Bonds) Act  | 1          | 1            | \$550              |
| Motor Dealers Act                       | 146        | 283          | \$280,830          |
| Motor Vehicle Repairs Act               | 47         | 56           | \$39,160           |
| Pawnbrokers and Second-hand Dealers Act | 4          | 4            | \$1,660            |
| Property Stock and Business Agents Act  | 31         | 38           | \$50,050           |
| Trade Measurement Act                   | 21         | 31           | \$10,780           |
| <b>Total</b>                            | <b>762</b> | <b>1,174</b> | <b>\$1,031,430</b> |

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

of 154 stores in the metropolitan area were visited during the compliance program.

The survey confirmed that planned inspections of retail outlets, including markets, on a regular basis ensure continued compliance by traders. Compliance is achieved by utilising both educational and enforcement activities. In addition to these activities, a number of current enforceable undertakings under the Fair Trading Act given by large suppliers of electrical articles appear to have had a positive impact on the marketplace.

## Enforcement Action

Offences against fair trading legislation are detected through inspections, intelligence gathering and as a consequence of formal investigations of complaints. During the year, 762 traders were issued with penalty notices in relation to 1,174 offences, resulting in financial penalties of \$1,031,430. Formal prosecutions involved 85 defendants, 96% were successful and resulted in \$584,150 in fines and penalties.

Fair Trading publishes an *Enforcement Actions Report* each quarter detailing the names of offenders, their offences and the penalties imposed for breaches of fair trading laws. It sends a warning to individuals who might consider flouting the law and encourages the honest majority of traders who value the reputation and integrity of their industries. The report can be obtained from the Fair Trading website.

## Significant enforcement actions

### Unlicensed electrical work

#### *Maurice and Habib Harfouche*

Mr Maurice Harfouche and his father, Habib Harfouche, traded under the name of Atomic Appliances. For twelve months they did specialist work without a licence, installing air conditioning systems in several homes and institutions in the Springwood and Penrith areas. Fair Trading was alerted to their activities when one customer received an electric shock due to the sub-standard installation. Thankfully, the shock was not fatal, but this incident shows how important it is that only qualified, licensed people undertake specialist work. **Result:** The investigation culminated in the successful prosecution of both Maurice and Habib Harfouche for a number of offences. Both father and son were ordered to pay fines and costs totalling \$42,746.

#### *Mark Anthony Buhagiar and Five Star Air Pty Ltd*

Mr Buhagiar and his company, Five Star Air Pty Ltd, were contracting for specialist work, including air conditioning and gasfitting, while unlicensed. Based in Windsor, they worked in Glenwood and Birchgrove and as far as Jiliby and Wamberal on the Central Coast. All specialist work must be licensed, regardless of the cost, and unlicensed work has significant potential for harm. **Result:** Following Fair Trading's investigation Mr Buhagiar and his company was found guilty on 23 January 2009 in Parramatta Local Court and fined a total of \$93,119, including costs.

## Successful prosecutions

| Act                                     | Defendants | Offences   | Penalties        |
|---|------------|------------|------------------|
| Business Names Act                      | 6          | 6          | \$6,396          |
| Co-operatives Act                       | 2          | 6          | \$4,219          |
| Crimes Act                              | 3          | 36         | \$67,250         |
| Electricity (Consumer Safety) Act       | 13         | 30         | \$44,837         |
| Fair Trading Act                        | 15         | 79         | \$69,312         |
| Home Building Act                       | 23         | 124        | \$299,482        |
| Motor Dealers Act                       | 12         | 68         | \$76,210         |
| Motor Vehicle Repairs Act               | 4          | 8          | \$5,084          |
| Property, Stock and Business Agents Act | 4          | 4          | \$4,819          |
| Residential Parks Act                   | 1          | 1          | \$3,168          |
| Trade Measurement Act                   | 2          | 15         | \$3,373          |
| <b>Total</b>                            | <b>85</b>  | <b>377</b> | <b>\$584,150</b> |
| Total Prosecutions:                     | 393        |            |                  |
| Total Successful Prosecutions:          | 377        |            |                  |
| % 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 offender is found guilty of an offence but a conviction is not recorded.*

### Unfair loan brokerage commissions

#### *Armond Shoostovian*

Mr Shoostovian, sole Director of Save Finance Pty Ltd (formerly known as the Loan Enquiry Centre) had entered into, or purported to enter into, brokerage agreements with consumers. Mr Shoostovian received "commissions" from consumers averaging \$8,000 for each home loan.

**Result:** The Supreme Court imposed a 2-year good behaviour bond and \$183,600 fine on Mr Shoostovian. Fair Trading and NSW Police are liaising on possible criminal charges against a finance broker who left 158 clients out of pocket to the tune of \$1.2 million.

### False of misleading statements

#### *Youssef (aka Joseph) Joummaa*

Following a number of prosecution briefs being

filed against this unlicensed trader, Mr Joummaa's contraventions of various legislative provisions culminated in the issue of Court attendance notices for 4 counts of obtaining money by false or misleading statement. At the hearing on 30 January 2009, Mr Joumma failed to appear but was still convicted ex-parte and a warrant issued. **Result:** Two months later, Mr Joummaa appeared before the Court and in addition to monetary fines and court costs, Parramatta Local Court sentenced Mr Joummaa to 350 hours community service for his offences under the Crimes Act.

#### *Benjamin Nuele Akari*

Mr Akari fraudulently created certificates purporting to be Home Warranty Insurance certificates for 3 separate development properties (6 townhouses and 3 units in Croydon and 40 home

### Civil litigation

| Court/Tribunal                                | Act      | No. of matters |
|---|----------|----------------|
| <b>Federal Court</b>                          |          |                |
|   | B Act    | 1              |
| Total   |          | 1              |
| <b>Court of Appeal</b>                        |          |                |
|   |          | 0              |
| Total   |          | 0              |
| <b>Supreme Court</b>                          |          |                |
| Injunction                                    | FT Act   | 3              |
|   | PSBA Act | 2              |
| Contempt                                      | SC Rules | 2              |
|   | Other    | 4              |
| Total   |          | 11             |
| <b>Local Court</b>                            |          |                |
|   | HB Act   | 1              |
| Total   |          | 1              |
| <b>Administrative Decisions Tribunal</b>      |          |                |
|   | ADT Act  | 1              |
|   | BN Act   | 4              |
|   | FT Act   | 1              |
|   | HB Act   | 18             |
|   | MD Act   | 1              |
|   | PSBA Act | 21             |
|   | PSHD Act | 1              |
|   | V Act    | 1              |
| Total   |          | 48             |
| <b>Administrative Appeals Tribunal</b>        |          |                |
|   | Other    | 0              |
| Total   |          | 0              |
| <b>Consumer Trader &amp; Tenancy Tribunal</b> |          |                |
| Insurance Appeals                             | HB Act   | 2              |
|   | Other    | 3              |
| Total   |          | 5              |
| <b>Total</b>                                  |          | <b>66</b>      |

Civil Litigation includes:

- injunctive and ancillary relief in the Supreme Court
- complaints in the Local and District Court
- objections in licensing matters under the *Property, Stock and Business Agents Act*
- proceedings in the Administrative Decisions Tribunal regarding review of decisions under the *Conveyancers Licensing Act, Fair Trading Act, Home Building Act, Motor Dealers Act, Pawnbrokers and Second-hand Dealers Act* and the *Travel Agents Act*
- proceedings in the Consumer, Trader and Tenancy Tribunal under the *Home Building Act* relating to building insurance and licence disciplinary matters.

Fair Trading's Legal Services Division also acts or instructs in various courts and tribunals where the Minister or Commissioner intervenes in proceedings.

### Legend

ADT Act – *Administrative Decisions Tribunal Act*, B Act – *Bankruptcy Act*, BN Act – *Business Names Act*, CL Act – *Conveyancers Licensing Act*, FT Act – *Fair Trading Act*, HB Act – *Home Building Act*, MD Act – *Motor Dealers Act*, PSBA – *Property, Stock & Business Agents Act*, PSHD Act – *Pawnbrokers and Second-hand Dealers Act*, RIG Act – *Registration of Interests in Goods Act*, SC Rules – *Supreme Court Rules*, V Act – *Valuers Act*.

units in Blacktown). He dishonestly obtained payment from the property owners by falsely representing that he would obtain the home warranty insurance but no insurance was ever taken out. **Result:** Mr Akari pleaded guilty to 49 counts of making/using false instrument; 3 counts of obtaining money by deception; 3 counts of unlicensed contracting and 2 counts of residential building work without providing certificates of insurance. The Burwood Local Court sentenced him on 24 July 2008 to full time custody for a term of 14 months with minimum non-parole period of 8 months. The imposition of an earlier fine of \$9,060.00 was also confirmed by the Court.

#### **Hazardous toys**

*Ms Al Hwa Ong*

Ms Al Hwa Ong supplied hazardous toys at her stall at Parklea Markets. The toys were found to be non-compliant because they contained small parts which posed a risk of inhalation or ingestion by small children. Such a hazard could result in injury or even death of children less than three years of age. These serious breaches of the Fair Trading Act were uncovered during an inspection by Fair Trading investigators. Aggravating this particular matter further was the fact that Ms Ong had already been made aware of her obligations under the Act prior to the inspection. **Result:** In October 2008, Blacktown Local Court imposed a \$10,000 fine and costs order on Ms Al Hwa Ong for supplying hazardous toys.

#### **Misrepresenting the origin and value of jewellery**

*Albite Pty Ltd t/as Tsarinas*

The Sydney jeweller Tsarinas misled two consumers by claiming that two rings were of English origin and of the 1920s to 1940s Art Deco provenance. The customers were each issued with a misleading valuation certificate. An antique valuer's assessment established that one ring was in new condition, and the other contained diamonds that could not have been from the Art Deco period as their cut was of a very modern style. Both rings were reproductions and probably of Asian manufacture. One ring was valued at \$600 less than the purchase price and the other at \$940 less. Tsarinas incorrectly advised the consumers that refunds were unavailable. **Result:** Upon being found guilty on both counts of breaching the Fair Trading Act, the Downing Centre Local Court imposed fines & cost orders amounting to \$3,755.80 against Tsarinas for misrepresenting the origin and value of the two pieces of jewellery.

#### **Demanding excessive deposits for building**

*Zuhret Korajac*

Mr Korajac has previously been disqualified from holding a home building licence but he continued to trade unlicensed. He demanded excessive deposits, failed to make proper contracts and failed to provide home warranty insurance. He was known to have operated in the Western Sydney region, including Yagoona, Pemulwuy, St Johns Park and Glenfield. **Result:** On 6 February 2009 Parramatta Local Court found Mr Korajac guilty of 18 breaches of the Home Building Act and fined him \$75,773, including costs.

#### **Cheating the elderly**

*Markus Edward Larcombe*

A Manly real estate agent cheated an elderly client out of \$1 million profit. Mr Larcombe bought a property from an 85 year old man and then on-sold it for more than double the price. Mr Larcombe exploited the trust of his elderly client for his own financial gain. His conduct was unlawful and improper and constitutes a serious breach of the Property, Stock and Business Agents Act, which states very clearly that a real estate agent must not obtain a beneficial interest in the properties they are selling. Instead Mr Larcombe purchased the Manly property for himself for \$890,200 and sold it for \$1.935 million a year later. It is clear that Mr Larcombe did not act in the best interests of his client. **Result:** The NSW Supreme Court found Mr Larcombe, director of Varinya Pty Ltd, had breached his fiduciary duty and has been disqualified by Fair Trading from holding a licence as a real estate agent and from being involved in the direction, management or conduct of a business of a licensee under the act until 8 July 2019.

#### **Business names**

*Birth, Marriage and Death Certificate Service*

This business name fell within a class of names prohibited from being registered under a Ministerial Prohibition Order because it was capable of suggesting a connection with a department, authority or instrumentality of the Government. Fair Trading argued that the name suggested a connection with the NSW Registry of Births, Deaths and Marriages, an agency of the NSW Attorney-Generals' Department. **Result:** The Administrative Decisions Tribunal found there was a clear connection between the business name in question and NSW Registry of Births, Deaths and Marriages. It was therefore prohibited from being registered.

# Legislation and regulation



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

**Objective:** Fair marketplace regulation with minimal red tape

**Strategy:** *Strive for best practice regulation*

Fair Trading reviews and develops the regulatory framework in New South Wales for consumer goods and services, accommodation and property services, and home building. It co-ordinates community consultation and prepares options for Government decision-making. It plays a leading role in negotiations with other jurisdictions in the quest for nationally consistent fair trading regulation. The foremost priority is that NSW marketplace regulation, currently involving 42 different pieces of legislation, provides for simple, uncomplicated services for customers and that traders are not unduly burdened by compliance requirements.

| Snapshot: service-level statistics                              | 2008-2009 |
|---|-----------|
| Number of pieces of principal legislation in force              | 42        |
| Bills assented to in Parliament                                 | 7         |
| Acts amended under Statute Law Revision Program                 | 9         |
| Regulations remade under Subordinate Legislation Review Program | 1         |

## Highlights 2008-2009

- Legislative changes improved consumer protection while ensuring traders were not unduly burdened by compliance requirements
- Significant progress was made in National Reform Agenda projects, aiming to deliver nationally consistent legislation and licensing systems

| Result indicators   | 04-05 | 05-06 | 06-07 | 07-08 | 08-09 | Target |
|---|-------|-------|-------|-------|-------|--------|
| Percentage of customers who agree Fair Trading services are simple and uncomplicated* | -     | -     | 87%   | 82%   | 82%   | 85%    |
| Percentage of traders who believe they are unduly burdened by fair trading laws**     | -     | -     | 34%   | 29%   | 26%   | 35%    |

Survey results valid to  $\pm 5\%$  @ 95% level of confidence

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

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

## Legislation changes

Fair Trading assisted the Government in making the following legislative changes to improve consumer protection or to make services for consumers simpler and less complicated, while ensuring that traders are not unduly burdened by compliance requirements.

### Retirement villages

Significant benefits to residents and operators of retirement villages include better pre-contractual disclosure to prospective residents, a 90 day settling-in period for new residents, cutting the maximum time most residents must keep paying recurrent charges once they move out of a village from 6 months to 6 weeks, and giving operators the flexibility to vary expenditure between budget line items and make allowance for contingencies.

### Home building

The Home Building Act was amended to automatically suspend the licence of a home building contractor or building consultant who has failed to comply with a Consumer, Trader and Tenancy Tribunal or court order to pay money in relation to a building claim. Also, an insurance contract must now provide cover when a contractor's licence is automatically suspended for non-compliance with a money order for a building claim.

### Funeral information

A new funeral information standard enables consumers to make better informed choices when arranging a funeral. It ensures consumers are provided with detailed information on the costs and components of a funeral.

### Consumer, Trader and Tenancy Tribunal

New limits to the period for recommencing proceedings on the Consumer, Trader and Tenancy Tribunal have been introduced, a second application for a rehearing is possible if significant new evidence comes to light, and sound recordings of all hearings are being made where practicable.

### Incorporated associations

For incorporated associations, a more modern and streamlined approach to the regulations was introduced. It removes a number of out-dated requirements, allows more flexibility and provides for stronger protection of association finances.

### Safety standards

Changes were made to fair trading regulations to harmonise with national standards and improve safety standards in NSW for babies' dummies, hot water bottles, children's portable folding cots, prams, strollers and treadmills.

## National Reform projects

The National Reform Agenda Project was established by the Commissioner for Fair Trading to manage the impact on Fair Trading's various Council of Australian Governments (COAG) projects that will provide national approaches to a range of business-related issues. The following seven COAG projects have direct impacts on Fair Trading's activities.

### Australian Consumer Law

The aim is to develop one national consumer law by the end of 2010. It is proposed that the new law include best practice from existing state legislation and that there be joint enforcement of the law by the Australian Competition and Consumer Commission (ACCC) and state agencies. An Australian Consumer Law will reduce regulatory complexity for businesses and encourage the development of a seamless national economy while consumers will benefit through consistent national approaches to consumer problems and enforcement.

### National Product Safety System

This project will develop and implement a single national system for the management of product safety in Australia. Under the proposed reforms, the Commonwealth will be responsible for all permanent product bans and standards by the end of 2010. The States and Territories will retain the power to issue interim product safety bans, and the ACCC, States and Territories will share responsibility for enforcing the product safety law. The laws will be contained within the new Australian Consumer Law.

### National Regulation of Financial Services and Consumer Credit

This project will transfer responsibility for regulating consumer credit and finance broking to the Commonwealth, with the National Credit Code due to commence on 1 July 2010. Fair Trading will have no on-going role in the regulation of consumer credit once this project is fully implemented, except to continue to apply a maximum annual percentage rate to consumer credit contracts in this State for a year after the transfer and to retain NSW finance broking laws until 1 January 2011. At a national level, the Commonwealth has established the Financial Services and Credit Implementation Taskforce to oversee the development and implementation of the national system of regulation for this industry. The work carried out by Fair Trading on projects such as responsible lending in relation to credit cards has been provided to the Taskforce.

### Personal Property Securities System

This project was established to implement, by 1 May 2011, a single national system for the

registration of security interests in all types of property other than real estate. This will incorporate the services currently provided by the NSW Register of Encumbered Vehicles (REVS) system. Fair Trading will have no on-going role in the registration of interests in motor vehicles or boats once the national system is implemented.

#### **National Licensing System**

This project aims to develop and implement a single licensing system across Australia for specified occupations, commencing in mid 2012. This will also lead to consistent skill requirements for specified licensed occupations across Australia. The National Licensing System will apply to property agents, electrical, plumbing and gasfitting, building and building-related occupations, conveyancers and valuers. Once the system is implemented it is likely that Fair Trading will continue to process licence applications and renewals as a delegated agency of the new National Licensing Body.

#### **Single Registration System for Business Names and ABNs**

This project has been established to develop and implement a single seamless business name registration/Australian Business Number system by March 2011. It will also incorporate a national Business Licensing Information System (BLIS). This will enable businesses to register their business name and their company name in one online process.

#### **National Trade Measurement System**

This project is developing and implementing a national system of trade measurement to be funded and administered by the Commonwealth through the National Measurement Institute by 1 July 2010. The Commonwealth has established a number of working groups to manage the various aspects of the project and planning is well underway. Fair Trading will have no further role in the regulation of trade measurement once this transfer is complete.

## **Legislation administered**

The Minister for Fair Trading has joint administration of the following Acts with the Minister for Commerce:

- *Associations Incorporation Act 1984* No 143
- *Associations Incorporation Act 2009* No 7 (not commenced as at 30 June 2009)
- *Business Names Act 2002* No 97
- *Community Land Management Act 1989* No 202
- *Consumer Claims Act 1998* No 162
- *Consumer Credit Administration Act 1995* No 69
- *Consumer Credit (New South Wales) Act 1995* No 7
- *Consumer, Trader and Tenancy Tribunal Act 2001* No 82
- *Contracts Review Act 1980* No 16
- *Conveyancers Licensing Act 2003* No 3
- *Co-operative Housing and Starr-Bowkett Societies Act 1998* No 11
- *Co-operatives Act 1992* No 18
- *Credit Act 1984* No 94
- *Credit (Home Finance Contracts) Act 1984* No 97
- *Electricity (Consumer Safety) Act 2004* No 4
- *Fair Trading Act 1987* No 68
- *Fitness Services (Pre-paid Fees) Act 2000* No 95
- *Funeral Funds Act 1979* No 106
- *Gas Supply Act 1996* No 38, section 83A (remainder, the Minister for Energy)
- *Holiday Parks (Long-term Casual Occupation) Act 2002* No 88
- *Home Building Act 1989* No 147
- *HomeFund Commissioner Act 1993* No 9
- *HomeFund Restructuring Act 1993* No 112, sections 14, 15, 16 and Schedule 2 (remainder, the Minister for Housing)
- *Landlord and Tenant Act 1899* No 18
- *Landlord and Tenant (Amendment) Act 1948* No 25
- *Landlord and Tenant (Rental Bonds) Act 1977* No 44
- *Motor Dealers Act 1974* No 52
- *Motor Vehicle Repairs Act 1980* No 71
- *Partnership Act 1892* (in so far as it relates to the functions of the Registrar of the register of limited partnerships and incorporated limited partnerships and to the setting of fees to be charged for maintaining that register), (remainder, the Attorney General)
- *Pawnbrokers and Second-hand Dealers Act 1996* No 13
- *Price Exploitation Code (New South Wales) Act 1999* No 55
- *Prices Regulation Act 1948* No 26
- *Property, Stock and Business Agents Act 2002* No 66
- *Registration of Interests in Goods Act 1986* No 37
- *Residential Parks Act 1998* No 142
- *Residential Tenancies Act 1987* No 26
- *Retirement Villages Act 1999* No 81
- *Strata Schemes Management Act 1996* No 138
- *Trade Measurement Act 1989* No 233
- *Trade Measurement Administration Act 1989* No 234
- *Travel Agents Act 1986* No 5
- *Valuers Act 2003* No 4
- *Warehousemen's Liens Act 1935* No 19

For information and help on fair trading issues call NSW Fair Trading

**General enquiries**

**13 32 20**

**Language assistance**

13 14 50

**TTY for hearing impaired**

1300 723 404

**Aboriginal enquiry officer**

1800 500 330

**Consumer, Trader & Tenancy Tribunal**

1300 135 399

**Registry of Co-operatives & Associations**

1800 502 042

**Or visit a Fair Trading Centre at:**

- Albury • Armidale • Bathurst • Blacktown • Broken Hill • Coffs Harbour
- Dubbo • Gosford • Goulburn • Grafton • Hurstville • Lismore • Liverpool
- Newcastle • Orange • Parramatta • Penrith • Port Macquarie • Queanbeyan
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**[www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)**

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