



Year in Review: 2012-13

NSW Fair Trading



Fair Trading - making a difference

NSW Fair Trading operates within the NSW Department of Finance and Services, 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 focuses exclusively on Fair Trading activities in NSW.

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Snapshot	2012-13
Policy development and regulatory review	
Acts administered	43
Acts and regulations amended in 2012 – 2013	39
Bills assented to in 2012 - 2013	2
Acts repealed in 2012 - 2013	1
Services provided to the public in 2012-13	
Requests for service*	6,392,556
Website visitor sessions	3,783,187
Phone enquiries received from general public	951,255
Counter enquiries	117,935
Rental bond transactions	428,142
Consumer and trader complaints about marketplace transactions	43,160
Public seminars and information sessions	687
Seminar audiences	18,503
<i>* Includes all requests for information, services and transactions.</i>	
Information on registers as at 30 June 2013	
Total occupational licences	379,592
Total associations	36,037
Total co-operatives	617
Compliance and enforcement actions in 2012-13	
Inspections	7,008
Plumbing Inspection and Assurance Service inspections	28,697
Investigations	1,876
Electrical Safety Certifications – Declared Articles	1,988
Penalty notices issued	930
Prosecutions	324
Civil proceedings	56
Total compliance related activities	40,879

Commissioner's foreword



NSW Fair Trading serves the consumers and traders of New South Wales with the vision of an ethical, fair and efficient marketplace for all. In support of this vision, I am pleased to release the 2012–13 *Year in Review*. Here you will see significant progress being made within the Fair Trading portfolio to provide a more focussed and efficient agency, serving the people of NSW better.

The overriding priority for Fair Trading in 2012-13 was the delivery of a significant legislative reform agenda in several areas of the portfolio. In addition, under the banner of “Supporting Local Communities”, Fair Trading continued to deliver the customer service, dispute resolution and community outreach activities for which we have deservedly earned a high reputation.

Balancing effective regulatory outcomes with the Government’s commitment to reducing red tape has been a key achievement of the agency in this period.

April 2013 saw the release of a new standard contract for retirement villages, which was to become compulsory in all retirement villages by 1 October 2013. A new general enquiry document and a streamlined disclosure statement have also been developed to make choice and comparison of villages easier.

To improve the governance of residential parks, a draft Bill was released in March 2013 and consulted widely upon. The final Bill is expected to be introduced in Parliament during August 2013 that will improve conditions for residents and support the growth of the industry.

The *Property, Stock and Business Agents Amendment Act 2013* passed through Parliament on 5 March 2013, clarifying and streamlining the Act and significantly reducing red tape for real estate agents.

Progress on a broad review of the *Home Building Act 1989* continued during 2012-13. The NSW Government’s key proposals for reform aim to ensure that the State’s home building legislation provides appropriate levels of home owner protection without imposing unnecessary regulatory burden that may impede home building activity and investment in NSW.

We have continued our work on reforming the *Motor Dealers Act 1974* and *Motor Vehicle Repairs Act 1980*, by updating the two Acts and streamlining them into one.

We are also close to publicly announcing a package of long-awaited Strata law reforms, with a position paper to be released before the end of 2013.

In a measure welcomed by NSW consumers, Fair Trading has introduced regulation for greater transparency in petrol pricing with new requirements for fuel boards coming into effect from 1 September 2013. NSW has also continued to lead the development of the Co-operatives National Law, expected to commence in NSW and other States and Territories during 2014.

On 1 February 2013, the licensing regime for tattoo parlours commenced, with offence provisions commencing from 1 October 2013 in order to provide the industry with sufficient time to apply for a licence. The new requirements aim to reduce the involvement of organised criminals in the tattoo industry in NSW by establishing a new regulatory scheme for owners, operators and tattooists.

Outside of the legislative reform agenda, pro-active compliance and enforcement of fair trading laws moved to centre stage. A newly restructured Compliance and Enforcement Division has improved our investigative capabilities, resulting in enhanced compliance outcomes. Fair Trading is already taking on more complex matters in traditional and new areas, including taking a lead role in the national fight against travelling con men. Around 50 notorious con men have been forced to leave the country as a result of the national compliance campaign.

During 2013, Fair Trading also moved decisively to protect the community from the destructive impact of synthetic drugs. Over 1,000 retailers across NSW were inspected by Fair Trading within 4 days of an interim ban being imposed on synthetic drugs under the product safety provisions of the Australian Consumer Law.

With enhanced investigative skills and a stronger marketplace presence, Fair Trading is working harder and smarter in delivering compliance outcomes for the people of NSW.

Finally, I commend all the staff at NSW Fair Trading. Your efforts reinforce our reputation for providing high quality information and advice, timely and accurate licensing processes, and effective and efficient compliance and enforcement of the legislation we administer.

A handwritten signature in black ink, appearing to read "Rod Stowe". The signature is fluid and cursive, with a large initial "R" and a trailing flourish.

Rod Stowe
Commissioner for Fair Trading

NSW Fair Trading

Fair Trading serves the consumers and traders of NSW. Our vision is to have an ethical, fair and efficient marketplace for all.

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's objectives are to ensure:

- support for consumers and traders in meeting their marketplace obligations
- 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.

Both consumers and traders 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 2012-13, 443 customer feedback responses were received from consumers and traders, comprising 239 (54%) compliments, 28 (6%) suggestions and 176 (40%) 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.

Agency	30 June 2013
Staff FTE Count (<i>Full Time Equivalent</i>)	832
Expenditure Budget	\$156.9 million
Fair Trading Centres throughout NSW*	24
Other service outlets**	69

* *Blacktown Fair Trading Centre closed 31 May 2013 with staff relocated to other sites*

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

Guarantee of Service (GoS) performance	Target	2008-09	2009-10	2010-11	2011-12	2012-13
Percentage of services meeting published GoS standards*	90%	100%	100%	100%	100%	100%

* *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.*

Regulatory reform and red tape reduction

Strategy

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

Objective

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

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.

Snapshot	2012-13
Number of pieces of legislation in force	43
Acts and regulations amended	39
Bills assented to	2
Acts repealed	1

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 43 different pieces of legislation, provides for simple, uncomplicated services for customers and ensures traders are not unduly burdened by unnecessary compliance requirements.

Results indicators	Target	2008-09	2009-10	2010-11	2011-12	2012-13
Percentage of customers who agree that Fair Trading services are simple and uncomplicated*	85%	82%	89%	91%	88%	92%
Percentage of traders who believe they are unduly burdened by fair trading laws **	≤ 35%	26%	30%	28%	28%	15%

* 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.

Legislative reforms

National Occupational Licensing

Consultation Regulation Impact Statements were released for the occupations proposed to be included when the National Licensing Scheme commences. Decision Regulation Impact Statements will be finalised shortly.

At its meeting on 19 April 2013 the Council of Australian Governments (COAG) noted progress on the National Occupational Licensing Scheme reform and agreed to a request for additional State-based consultation on the final Decision Regulatory Impact Statements, approved by the Office of Best Practice Regulation, to better inform decision makers of stakeholder views.

All governments recommitted to work towards a final decision on the reform by the end of 2013, which will take into consideration the outcomes of the further State-based consultations, with national licensing to commence in 2014. NSW Fair Trading has been tasked with managing the consultation process in NSW.

Travel Industry Transition Plan

On 7 December 2012, a majority of state and territory Ministers for Consumer Affairs approved a Travel Industry Transition Plan setting out reforms to travel agents' regulation.

The Transition Plan was developed in collaboration with all States and Territories and was the subject of a public consultation in 2012. Implementation of the Transition Plan commenced in July 2013 with a view to full implementation in 2015.

The Plan ensures that the Australian Consumer Law and other laws of general application regulate travel agent businesses and that those businesses are regulated in the same way as their off-shore based competitors who sell to Australian consumers.

Licensing scheme for tattoo parlours

The *Tattoo Parlours Act 2012*, which commenced on 29 May 2012, is jointly administered by the Minister for Fair Trading and the Minister for Police and Emergency Services.

It 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 is the regulator of the industry.

The licensing regime for tattoo parlours commenced on 1 February 2013 and requires 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, such as medical practitioners, are excluded from the licensing requirements. It is expected that offence provisions in the Act will commence from 1 October 2013 in order to provide the industry with sufficient time to apply for a licence.

Property, Stock and Business Agents Amendment Act 2013

The *Property, Stock and Business Agents Amendment Act 2013*, which was passed by Parliament on 5 March 2013 clarifies and streamlines the *Property, Stock and Business Agents Act 2002* and significantly reduces red tape for real estate agents. The amendments arise from a statutory review of the Act in 2008.

The main amendments, which commenced on 1 July 2013 overhaul trust account audit responsibilities for agents while ensuring that consumers are protected.

Licensees will no longer have to lodge their trust account audits with NSW Fair Trading unless they are qualified by an auditor, and will no longer have to lodge a statutory declaration if they did not hold trust money during their audit year.

A major amendment is to move responsibility for handling unclaimed trust money from Fair Trading to the NSW Office of State Revenue, providing a “one stop” shop for consumers seeking unclaimed money.

Other amendments expand the qualifications of people able to conduct trust account audits, expand agents’ right to commission and expenses, formalise procedures for opening and closing of trust accounts, and clarify training provisions for trainee stock auctioneers.

Review of Home Building Act 1989

Progress on a broad review of the *Home Building Act 1989* has continued during 2012-13.

In July 2012, an Issues Paper, *Reform of the Home Building Act 1989*, was released for public comment. More than 130 written submissions and 500 online questionnaire responses were received from a wide range of stakeholders. In late 2012, roundtables and expert working group meetings were held with targeted stakeholders to examine the more complex areas of reform.

The release of a Position Paper outlining the NSW Government’s key proposals for reforms to the *Home Building Act 1989* is expected by the end of 2013. The proposals cover various aspects of the home building legislation: dispute resolution; statutory warranties; home building contracts; owner-builders; home warranty insurance; licensing; and the scope of the legislation.

The proposed reforms share an overarching objective – to ensure that the home building legislation provides an appropriate level of homeowner protection without imposing unnecessary red tape and regulation that may impede home building activity and investment in NSW.

It is expected that the amendments will be introduced into Parliament later in 2013 with reforms to commence from July 2014.

Co-operatives National Law

Development of the new Co-operatives National Law (CNL) provided for under the Australian Uniform Co-operative Laws Agreement has continued during 2012-13.

NSW, as host jurisdiction for the new laws, has worked with the other States and Territories through the CNL Working Party, to prepare the draft Co-operatives National Regulations which will support the operation of the CNL.

The National Regulations also include model rules for 3 types of co-operatives: distributing co-operatives; non-distributing co-operatives without share capital; and non-distributing co-operatives with share capital.

Public consultation on the draft Regulations was held over 7 weeks from November 2012 to January 2013.

Subject to the approval of the draft National Regulations by Consumer Affairs Ministers, the CNL is targeted to commence in NSW in early 2014. Other jurisdictions will commence when their legislation and administrative arrangements are in place.

Review of strata and community title laws

The comprehensive review of the strata and community title laws continued to progress during 2012-13. 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.

Following an online consultation forum that ended in February 2012, a discussion paper, *Making NSW No. 1 Again: Shaping Future Communities*, was released for public comment in September 2012.

More than 1,900 submissions were received in response to the paper. Together with the 1,230 comments made to the online forum, this is easily the largest consultation project so far undertaken by NSW Fair Trading.

The next steps in the review will involve the release of a Position Paper in the latter part of 2013 setting out the Government's reform proposals, followed by the development of legislation.

Children and window safety

On 13 March 2013, the Minister released the *Children and Window Safety Consultation Paper* inviting the community's views on proposals to improve children's safety in strata buildings. This included a proposal to require window safety devices to be installed in residential strata buildings and to be recorded in tenancy condition reports.

The window safety reform proposals are part of the NSW Government's response to the report of the Children's Hospital at Westmead Working Party for the Prevention of Children Falling from Residential Buildings.

The report noted that an increasing number of children are admitted to hospital each year with serious injuries as a result of falling from a window.

The window safety reforms are expected to be introduced as a legislative package before the end of 2013.

Retirement village standard contracts, disclosure requirements and register of villages

On 26 April 2013, the Minister released the new standard contract for retirement villages. A new general inquiry document and a streamlined disclosure statement have also been developed. It will be compulsory for operators to use the new contract and disclosure documents from 1 October 2013.

Together, the new documents help to provide a much clearer framework for the retirement village industry for the benefit of both operators and residents. It will be

easier for residents to compare and choose the right village and understand their rights and obligations, which should reduce disputes in the longer term.

The standard contract and disclosure documents were developed by a committee of experts appointed by the Minister in July 2011. The committee included retirement village residents, operators, advocates and legal professionals.

To help operators implement the changes, Fair Trading developed templates for 5 common contract types that can be downloaded and adapted for their villages.

In conjunction with the launch of the standard contract, an online register of retirement villages was made available on the Fair Trading website.

The retirement villages register enables prospective residents to search for villages located in the area they are interested in. The register contains the villages' trading name, address and contact details.

Review of residential parks laws

The NSW Government gave a commitment to improve the governance of residential parks and review the *Residential Parks Act 1998*. A key step in achieving this goal was taken on 7 March 2013, when the draft Residential (Land Lease) Communities Bill 2013 was released for public consultation.

The draft Bill includes a balanced package of reforms that significantly improve consumer protection in many areas and introduces measures to support the current and future viability of this important housing sector.

Consultation on the draft Bill closed in early June 2013. Fair Trading received more than 1,100 comments, which have been carefully analysed and considered. A number of refinements will be made to the Bill to take these comments into account before the Bill is introduced into Parliament later in 2013.

Reform of the Fair Trading regulation of motor vehicles

In 2012-13, progress continued on the review of the *Motor Dealers Act 1974* and *Motor Vehicle Repairs Act 1980* to improve consumer protection, cut red tape and reform the law by consolidating the legislation into a single clear and efficient Act.

Submissions to the review were analysed and, in September and October 2012, targeted stakeholder roundtables were held to examine the more complex areas of reform identified through the Issues paper and submissions to the review.

The Government is now working on drafting a Bill based on issues identified during the review. It is expected that, following further consultation, a Bill will be introduced into the Parliament later in 2013.

Gas Supply (Consumer Safety) Regulation 2012

On 1 September 2012, a new Gas Supply (Consumer Safety) Regulation commenced. The Regulation continued the regulatory framework for gas appliances connected to networks and non-networks, gas installations, auto-gas, licensed gas fitters and the testing of gas meters.

The new Regulation introduced several new requirements for owners or occupiers of premises where gas installations are present, including that they notify Fair Trading if a serious gas accident occurs on their premises and that they maintain their gas installations in safe working order.

The Regulation also introduced new requirements for gas fitters and auto-gas mechanics to provide Fair Trading with a copy of a certificate of inspection or compliance within 5 business days following any gas fitting or auto-gas work.

The Regulation made minor updates to the requirements for auto-gas identification labels and compliance plates for gas installations.

Commencement of the Fair Trading Regulation 2012

On 1 September 2012, a new Fair Trading Regulation commenced. The Regulation supports the objectives of the *Fair Trading Act 1987* by providing for product and service information standards applying to: fibre content labelling of textiles; fuel price signs; employment placement services; and funeral goods and services.

The new Regulation introduced several new requirements, including that service stations must comply with new requirements for petrol price boards from 1 September 2013. The new fuel price board provisions will require the price of LPG and diesel to be displayed, if these are sold, and the prices of the top-selling fuels for that service station, so as to make a total of four fuels.

Service stations will only be allowed to display the fuel price which is available to all consumers, rather than the price available to holders of discount docketts. The research octane number of E10 and other unleaded petrol will be required to be displayed on the fuel pump.

The new Regulation also updated the funeral information standard to ensure that the funeral director obtaining a NSW Standard Death Certificate from the Registry of Births, Deaths and Marriages is one of the services included in a basic funeral at the consumer's request.

Legislation administered

During 2012-13, the Minister for Fair Trading had joint administration of the following Acts with the Minister for Finance and Services:

Agricultural Tenancies Act 1990
Associations Incorporation Act 2009
Boarding Houses Act 2012
Business Names (Commonwealth Powers) Act 2011
Community Land Management Act 1989
Consumer Claims Act 1998
Consumer, Trader and Tenancy Tribunal Act 2001
Contracts Review Act 1980
Conveyancers Licensing Act 2003
Co-operative Housing and Starr-Bowkett Societies Act 1998
Co-operatives Act 1992
Co-operatives (Adoption of National Law) Act 2012
Credit (Commonwealth Powers) Act 2010
Electricity (Consumer Safety) Act 2004
Fair Trading Act 1987
Fitness Services (Pre-paid Fees) Act 2000
Funeral Funds Act 1979
Gas Supply Act 1996
Holiday Parks (Long-term Casual Occupation) Act 2002
Home Building Act 1989
HomeFund Commissioner Act 1993
HomeFund Restructuring Act 1993
Landlord and Tenant Act 1899
Landlord and Tenant (Amendment) Act 1948
Motor Dealers Act 1974
Motor Vehicle Repairs Act 1980
Occupational Licensing (Adoption of National Law) Act 2010
Occupational Licensing National Law (NSW)
*Partnership Act 1892 **
Pawnbrokers and Second-hand Dealers Act 1996
*Personal Property Securities (Commonwealth Powers) Act 2009 ***
Plumbing and Drainage Act 2011
Prices Regulation Act 1948
Property, Stock and Business Agents Act 2002
Residential Parks Act 1998
Residential Tenancies Act 2010
Retirement Villages Act 1999
Strata Schemes Management Act 1996
*Tattoo Parlours Act 2012 ****
Trade Measurement (Repeal) Act 2009
Travel Agents Act 1986
Valuers Act 2003
Warehousemen's Liens Act 1935

** 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)*

*** 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)*

**** jointly with the Minister for Police and Emergency Services*

Supporting consumers and traders in the marketplace

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 enforces.

We seek to empower both consumers and traders 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.

Fair Trading Week

Fair Trading Week was held from 4 – 10 November 2012. The theme for Fair Trading Week was 'Supporting local communities' focussing on the many different ways that Fair Trading educate, connect, empower and safeguard local communities. 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, talks in retirement villages and displays in shopping centres.

Information programs

During 2012-13, Fair Trading delivered 687 information sessions, talks and seminars attended by 18,503 people throughout the state. These covered a range of topics aimed at real estate and property agents, residential landlords and tenants, licensed builders, strata owners, members of incorporated associations, 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.

My Place

My Place programs are delivered in metropolitan and regional NSW 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, indigenous communities, local business and tradespeople. Fair Trading investigators carry out compliance checks on business to educate traders on their rights and responsibilities under Fair Trading laws.

Some My Place programs are conducted with an additional focus on compliance activity that may include travel agents, real estate agents, home building sites, motor dealers and motor vehicle repairers.

In 2012-13, 16 My Place programs were conducted.

Window safety: Kids don't fly

Each year, around 50 children fall from windows or balconies. Many suffer serious injuries. Sometimes these falls are fatal. In order to focus attention on this important issue, we partnered with the Department of Health to run the 'Kids don't fly' campaign.

As part of this campaign, Fair Trading produced 3 short instructional videos featuring DIY guru Rob Palmer from the popular TV show *Better Homes and Gardens*. The bite-sized videos provide clear step-by-step instructions on how to install window locks in your home, and they also cover your rights as a renter, landlord or strata owner when it comes to installing locks on windows.

Fair Trading also mailed window safety material to all new tenants in NSW together with their rental bond receipts.

Home building - insurance services

The Home Warranty Insurance Scheme is a fundamental element of the consumer protection framework for the residential building industry. Home warranty insurance is currently mandatory in NSW for all home building work valued at over \$20,000.

It provides a safety net for homeowners who cannot recover their losses from the builder or developer due to their death, disappearance, insolvency or failure to comply with a Court or Tribunal money order. Since 1 July 2010, the NSW Self Insurance Corporation, within NSW Treasury, has been the sole insurer for home warranty insurance. The scheme is backed by the NSW Government and funded by premiums.

Fair Trading and the Home Warranty Insurance Scheme Board, established under the *Home Building Act 1989*, monitor the Home Warranty Insurance Scheme to ensure that it operates effectively for builders and homeowners.

To obtain home warranty insurance, contractors must meet certain criteria set by the NSW Self Insurance Corporation and demonstrate that they have the financial capacity to complete the project.

In October 2011, a number of reforms to the Home Warranty Insurance Scheme were introduced through the *Home Building Amendment Act 2011*.

On 1 February 2012, the threshold for mandatory home warranty insurance increased to \$20,000; the minimum amount of cover provided under a policy was raised from \$300,000 to \$340,000; and the excess for home warranty insurance claims was reduced from \$500 to \$250, making the claims process easier for homeowners.

A broader review of home building legislation is continuing in 2013 and potential changes to the Home Warranty Insurance Scheme are under consideration. There will be further public consultation in the second half of 2013 on proposed reform options for all areas of the review before any final changes are made.

Supporting consumers

Real estate videos

In September 2012, Fair Trading released 3 new information videos about the property industry. Produced in collaboration with the Sky Business Real Estate News Show, the short videos provide in-depth advice for consumers on the steps to take before buying or selling a home as well as the dos and don'ts of real estate pricing.

The videos were broadcast on Sky Business channel and posted on Fair Trading's YouTube channel where they were downloaded around 3,500 times in 9 months. In all, Fair Trading has produced a total of 13 real estate videos which have been viewed more than 40,000 times.

What our viewers said...



'Every seller must see this'

- Mark Mazouk

'Great video ..'

- Just Think Property



Reaching out to young people

Now in its 13th year, the *Money Stuff* Challenge, has transformed a generation of students into savvy consumers. In 2012, the competition attracted more than 1,000 students from 60 schools across NSW. The competition challenges students to research consumer issues and develop a message that will appeal to their peers using fun, interactive media and creative publicity.

Some of the topics covered by the students included scams, how to manage money, sharing a house, buying a mobile phone and avoiding the debt trap. Participating in the challenge also helps students meet some of the learning outcomes of the NSW Commerce Syllabus.

Entries came in a range of forms including short movies, music videos, magazines, websites and social media presentations. In 2012, a People's Choice Award was introduced for the first time, giving students and the general public the opportunity to vote for their preferred winner from the shortlisted student entries on the *Money Stuff* website. More than 10,600 online votes were received.

The Minister for Fair Trading awarded prizes to the winners of the 2012 *Money Stuff* competition at the *Money Stuff* Youth Forum and Awards Ceremony, held at the Australian National Maritime Museum, Darling Harbour on 9 November. More than 100 guests attended, which also featured the presentation on tax and superannuation by the Australian Taxation Office.

Quote from a teacher:



'Money Stuff encourages students to be savvy consumers and gives them greater confidence to know about the law and their rights.'

- (Teacher, Normanhurst Boys High School)



Report unfair trading – National Indigenous Consumer Protection Project

Fair Trading led a national communications strategy to raise awareness of unfair trading and high pressure sales in regional and remote Indigenous communities during 2011-12. A national radio advertising campaign ran for 4 weeks in July 2012 across 93 radio stations, covering the consumer topics of door-to-door sales, mobile phone sales and book up. A national telephone hotline was established to receive reports of unfair trading and 50 calls were received during July 2012, up on the 23 received for the same month in 2011.

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. Reference kits with fact sheets for community workers and intermediaries were also developed and these were distributed by Fair Trading Aboriginal Customer Service Officers.

Reaching out to seniors

The 2013 edition of the popular NSW Seniors Directory featured 10 pages dedicated to fair trading issues, thanks to a new partnership agreement between Fair Trading and NSW Family and Community Services. The editorial content included advice on online shopping, buying and selling real estate, shopping rights, moving into a retirement village and avoiding scams. The directories were mailed to around 1 million Senior Card holders in NSW.

During the year, Fair Trading also commissioned new research in order to identify and profile vulnerable seniors in NSW. Going forward, the project will help NSW Fair Trading to better target and communicate with this important group.

The *Seniors' guide* continued to be one of our most read publications in 2012-13. The large print guide includes useful information on a broad range of consumer protection issues. Almost 95% of all feedback forms from seniors rate the information in the guide as either 'very useful' or 'extremely useful'.

Online shopping

During Fair Trading Week, the Minister launched a new online shopping campaign aimed at educating traders and consumers about internet shopping rights and online security measures.

The campaign included online fact sheets, a revised Shop smart mobile app and a checklist to help businesses better understand what consumers are looking for when they shop online.

The campaign was developed in response to NSW Fair Trading market research which showed that too many NSW small-medium businesses fail to take fundamental security precautions to protect online shoppers and do not provide basic consumer information to their online customers.

The research found that only 59% of businesses publish shopping terms and conditions on their website and slightly fewer (52%) publish a returns policy online. Only 45% of businesses publish delivery times and costs on their shopping websites. In addition, the research showed there was wide spread confusion among consumers about their online shopping rights.

Think Smart

Fair Trading has been running the *Think Smart* education program for culturally and linguistically diverse (CALD) communities since 2002. This program delivers information and education directly to CALD groups through partnerships with community organisations and multilingual media.

The *Think Smart* program raises awareness of fair trading issues and services using a variety of information resources, public relations events and grass roots community activities.

There are currently 36 *Think Smart* partners comprising community organisations (28) and multilingual media outlets (8). Selected information for traders and consumers is now available in 30 languages, including those of new and emerging communities, through the Fair Trading website.

Renting a home DVD: a tenant's guide to rights and responsibilities

In December 2012, Fair Trading developed a DVD resource to raise awareness of tenant's rights and responsibilities among community members from culturally and linguistically diverse (CALD) backgrounds. *Renting a home: a tenant's guide to rights and responsibilities* was produced in 17 languages following consultation in 2011 with service providers, community partners, community workers and government agencies where renting was identified as one of the key issues faced by new migrants especially emerging communities (refugees and humanitarian entrants) in NSW.

The DVD covers 10 tenancy topics such as finding a place to live, signing a lease and ending a tenancy. Presented as informative and accessible short videos, the DVD is a useful and effective tool for educators and community-based organisations, and has also been made available to a wider audience through YouTube at: [YouTube.com/NSWOFT](https://www.youtube.com/NSWOFT) and the Fair Trading website at:

www.FairTrading.nsw.gov.au/ftw/About_us/Video_and_audio/Renting_a_home.page

The Renting a home DVD is available in the following languages: *Arabic, Assyrian, Burmese, Cantonese, Dari, Dinka, English, Farsi, Hazaragi, Indonesian, Korean, Kirundi, Nepalese, Mandarin, Swahili, Tamil and Vietnamese*. These languages represent four regional groups: African, East Asian, South East Asian and Middle Eastern groups. The DVD was launched in December 2012 in Parramatta by the Commissioner for Fair Trading.

Consumer rights seminars

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. In November 2012, 85 people attended a Think Smart on Consumer Rights seminar at Fairfield RSL Club where Fair Work Australia, the Energy and Water Ombudsman (EWON), NSW Office of Liquor, Gaming and Racing as well as NSW Fair Trading, provided participants with information about services available and how to access them.

This seminar was conducted in collaboration with Fairfield Emerging Communities Action Plan (FECAP) consisting of Fairfield City Council, Fairfield Migrant Resource Centre and the NSW Service for the Treatment and Rehabilitation of Torture and Trauma Survivors (STARTTS).

Home shows

Visitors to the 2012 Home Buyer Expo and the 2013 Housing Industry Association (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 2013 HIA Sydney Home Show, a record 4,000 people visited our stand and more than 250 people subscribed to the *Foundations* eNewsletter.

Supporting businesses and traders

Home Building - Building Business Expos

Since 2009, NSW Fair Trading has been facilitating a series of free Building Business Expos, aimed at educating licence holders and their partners in relation to business improvement strategies and regulatory requirements within the home building industry. Since the program commenced, approximately 8,000 people have attended 42 events.

The Expos are held outside of normal working hours for the residential building industry (from 5pm to 8pm) and provide builders and tradespeople with direct access to a range of industry experts who can provide practical advice to help them run their small businesses.

The Fair Trading Building Business Expos have proven to be very successful in the past, with large attendances and positive feedback from participants. The expos provide a one-stop-shop for builders, tradespeople and their business partners to receive relevant information and support, essential for operating within the industry in NSW.

Certain attendees can also gain points under the Continuing Professional Development (CPD) scheme for attending the seminars.

During 2012, Fair Trading delivered 9 Building Business Expos that were attended by more than 1,200 licensed builders, tradespeople and business partners.

Given the positive response from these industry education and awareness programs, 9 expos have been scheduled during the second half of 2013, broadly covering the Sydney metropolitan area and several regional NSW locations.

Fair Trading staff will be joined by senior representatives from a range of relevant Government agencies, private sector partners specialising in business management advice, and major industry associations.

The Office of the Small Business Commissioner attended the expos last year and provided valuable business advice, which was well received by the licensed contractors. Accordingly, this agency is again being invited to participate as a service provider in 2013. The NSW Self Insurance Corporation / Home Warranty Insurance Fund will take part in the expos in 2013.

Home Building - Plumbing

On 1 January 2013, Fair Trading became the single plumbing regulator for all onsite plumbing and drainage work in NSW and is responsible as the regulator for all onsite plumbing and drainage including standard setting across the state through the Plumbing Inspection and Assurance Service (PIAS).

PIAS has been working with regional councils in implementing standard documents such as:

- Notices of Work (NoW);
- Certificates of Compliance (CoC); and
- Sewer Service Diagrams (SSD).

The introduction of the above documents has provided the plumbing industry with greater flexibility and consistency when working in different regions across the state, ultimately reducing cost and red tape.

PIAS has created an online regulators forum for plumbing and drainage inspectors across regional NSW, providing support and open communications. PIAS is in the process of developing a training package for regional inspectors with the aim of maintaining a consistent approach in the regulation of onsite plumbing and drainage work.

Small business seminars

Fair Trading runs seminars for culturally and linguistically diverse (CALD) small business operators to provide information on a range of relevant topics including the Australian Consumer Law and the National Business Registration Service. Other government agencies, including EWON, also attend and present information about the range of services they provide to small business.

Blacktown seminar for Filipino and Culturally and Linguistically Diverse (CALD) small businesses and traders

In August 2012, Fair Trading conducted a small business seminar at Blacktown Workers Club in collaboration with Blacktown City Council and the Australia Philippines Chamber of Commerce and Industry. Attended by 80 people, this seminar was supported by the Australian Securities and Investments Commission (ASIC), EWON and the Business Enterprise Centres (BEC).

Tattoo parlour licensing laws

Laws commenced on 1 February 2013 requiring all NSW body art tattoo parlour operators and body art tattooists (including interstate artists working in NSW) to be licensed.

Fair Trading implemented a range of communication activities to inform industry and stakeholders about the new licensing requirements, including a direct mail campaign targeting known tattoo operators, new web pages, advertisements in industry magazines as well as Ministerial media releases. An online registration facility was set up to allow anyone interested in the new laws to receive updates via email.

Safe sellers

NSW Fair Trading and Consumer Affairs Victoria led a national project to produce a new national product safety guide that helps businesses to identify potentially dangerous or banned products.

The 152-page *Product safety guide for business* is designed to inform 'two dollar shops', weekend market traders and retailers of baby goods and toys about their responsibilities under Australia's national product safety laws.

The free guide is published in English, Vietnamese and Chinese and features photographs of many of the currently banned products. It provides critical information about the sale of banned items and mandatory standards in a range of categories including baby products, clothing, confectionery, furniture, swimming pools, toys and vehicles.

The guide was mailed to more than 500 traders in NSW and it can be downloaded from the NSW Fair Trading website at:

www.fairtrading.nsw.gov.au or
www.productsafety.gov.au

Ensuring compliance with Fair Trading laws

Objective: Compliance with fair trading laws

Strategy: Effective enforcement

Snapshot: service-level statistics	2012-13
Prosecutions	324
Penalty notices issued	930
Investigations	1,876
Inspections	7,008
Plumbing Inspection and Assurance Service (PIAS) inspections	28,697

NSW Fair Trading is the regulatory agency that administers a wide variety of NSW legislation across a range of industries. We safeguard consumer rights and investigate potential breaches of the laws we administer. As a regulator, our main concern is to minimise consumer detriment suffered as a result of a trader failing to comply with the law.

Our compliance efforts include a commitment to working with consumers, business, industry and consumer advocacy groups and other government agencies to promote voluntary compliance.

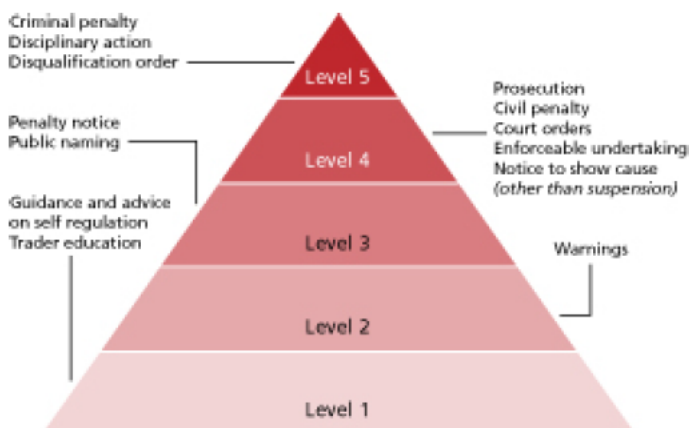
We use a range of available remedies to promote behavioural change, stop ongoing breaches and achieve future compliance. We regularly conduct targeted education and compliance activities across key industries and we utilise the media to educate the community on our compliance and enforcement role.

Fair Trading has a range of administrative, civil and criminal enforcement remedies available under NSW legislation. We use enforcement as a key tool for addressing conduct which involves potential for significant consumer detriment or shows a blatant or persistent disregard for the law.

Fair Trading may use one, or a number of actions to address trader or market behaviour. In some cases we may decide that prosecution is the most appropriate option.

Our approach to compliance and enforcement is summarised in the following diagram. It shows how we use a range of different compliance and enforcement tools reflecting the nature of non-compliance.

Our approach to compliance and enforcement



Fair Trading allocates its resources to where it can best address non-compliant conduct and maximise public benefit. To achieve this we apply a risk-based and outcome-focused approach when determining which matters will be investigated.

Fair Trading adopts a balanced approach to compliance and enforcement. This involves a combination of targeted and intelligence led compliance operations as well as appropriate individualised compliance responses to emerging marketplace trends and consumer complaints.

Priority is always given to matters involving the potential for significant consumer detriment.

During 2012-13, Fair Trading published its annual compliance and enforcement priorities.

The four priorities were:

- 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 took action to protect the community from the dangers of synthetic drugs and a range of novelty products containing small magnets ('Bucky Balls') through the issuing of interim product bans under the Australian Consumer Law (ACL).

We also surveyed the marketplace in the lead up to Christmas and at other times throughout the year to identify and remove unsafe 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 conduct or unlicensed activity in the real estate industry with a 12 month rolling inspection program. We monitored compliance with the *Property, Stock and Business Agents Act 2002* including underquoting, trust accounts, licence requirements, record keeping and signage and overall deceptive conduct.

3. Unlawful conduct targeting vulnerable groups of consumers.

Under this priority we continued our efforts to target unlawful trading by itinerant traders or “Travelling Con Men” working in the home improvement / renovations market and targeting vulnerable consumers.

We enhanced community awareness of the risks associated with Travelling Con Men through effective use of media. We worked closely with the NSW Police Force and other government agencies to prevent known conmen from entering Australia; and we effectively utilised our compliance and enforcement powers to bring these conmen before the courts.

4. Conduct which contravenes court and tribunal rulings or which deliberately limits or restricts the availability or effectiveness of self-help remedies.

Under this priority, we targeted property agents failing to properly hold monies in trust for consumers. We commenced disciplinary action against licensees deemed not to be fit and proper to remain in the industry and we took action, where appropriate, to bring the offending parties before the courts.

We worked with law enforcement agencies and manufacturers of genuine branded goods to tackle counterfeiting including participating in one of the largest scale anti-counterfeiting operations undertaken in the nation’s history.

We commenced a high visibility compliance program to protect the community from false and misleading testimonials and we issued a number of public warnings against individuals and businesses known to have caused significant consumer detriment or engaged in unfair business practices.

Highlights 2012-13

Result indicators	Target	2008-09	2009-10	2010-11	2011-12	2012-13
Percentage of consumers confident in fair operation of the marketplace	68%	74%	75%	72%	76%	88%

Comment/interpretation: This survey is a measure of consumer confidence. Factors that affect consumer 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	Target	2008-09	2009-10	2010-11	2011-12	2012-13
Proportion of successful prosecutions	≥90%	96%	90%	86%	96%	97%

Enhancing Fair Trading's compliance and enforcement outcomes

During 2012 and into 2013, Fair Trading commenced a restructure of its compliance and enforcement functions following an independent review. Resources in the Compliance and Enforcement Division were realigned to enhance the agency's investigative capabilities and deliver maximum compliance outcomes for the community.

Along with a dedicated team of investigators, Fair Trading established a team of Consumer Protection Officers to monitor the marketplace and deliver effective compliance outcomes across a number of key industries regulated by Fair Trading. A robust intelligence unit was established to ensure compliance activities are informed by marketplace trends. A National Projects team was established to drive Fair Trading's contribution to national and state/territory consumer protection projects and to lead investigations on behalf of all consumer protection regulators.

Other important changes resulting from the review included a revised Compliance and Enforcement Policy and changes to compliance procedures including greater focus on customer service.

Compliance programs

National compliance activities co-ordinated by CDRAC

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

The role of CDRAC is to effectively co-ordinate Australian Consumer Law (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 2012-13, NSW participated in 7 ACL national projects. Examples of some of the key projects are set out below.

Operation Cool / Sol

This project was aimed at ensuring the accuracy of representations made about olive oil. A number of oils were sampled to determine whether the oil contents were as stated (i.e. olive oil, extra virgin olive oil). The project also looked at whether labelling representations were correct including country of origin, quantity, graphics, and other statements. Other products examined as part of the project included frozen peas, coffee and fruit cups.

In relation to olive oil, a total of 29 traders (covering 51 brands and 94 olive oil products) were issued with notices requiring them to substantiate claims. For frozen peas, coffee and fruit cups, a total of 25 traders (covering 26 brands and 36 products) were issued with substantiation notices.

Fair Trading commenced investigations into a number of traders with successful outcomes achieved as part of the project including traders' voluntarily changing their packaging as well as enforceable undertakings.

Group buying

During 2012-13, Fair Trading continued to support the national group buying project led by Consumer Affairs Victoria. The project commenced in 2011 following concerns regarding growing numbers of complaints about online group buying or daily deals sites.

In the previous financial year, ACL regulators worked with the Association for Data Driven Marketing and Advertising (ADMA) in developing a voluntary code for group buying websites.

In 2012-13, Fair Trading and other ACL regulators reviewed the industry code and suggested a number of improvements. ADMA released its new *Australian Group Buying Code of Practice* in February 2013.

The revised code was informed by the Group Buying ACL National Project and includes spot checks and improved complaints handling processes for consumers.

Following the development of the code and ongoing dialogue between key group buying providers and ACL regulators including Fair Trading, the national group buying project has successfully concluded. ACL regulators continue to adopt a co-ordinated approach to dispute resolution and monitor group buying traders.

Gift cards

It is estimated Australians spend up to \$2.5 billion every year on gift card products. In the lead up to Christmas 2012, Fair Trading conducted 'Operation Gift Card' to assess whether traders were complying with the ACL in relation to the representations made to purchasers or card recipients.

A total of 28 retail cards were assessed from a range of retailers, including major stores, online businesses and a cinema. The results of Fair Trading's compliance activities were then presented to ACL regulators at a national forum.

The previous year, Fair Trading received more than 200 complaints in relation to gift cards with most consumer complaints relating to misrepresentations regarding how to redeem the card and how to arrange a replacement or refund if the card is lost or stolen.

Fair Trading's most recent compliance operation revealed that only 43% of gift cards surveyed showed the critical information consumers require such as the value of the gift, the expiry date and the retailer's terms and conditions. Fair Trading investigators warned 2 retailers over potential breaches of the ACL for misleading verbal representations made to consumers at the time of purchase.

One retailer was issued with an education letter recommending further information be provided on the gift card in relation to the expiry date.

Fair Trading found most businesses offer grace periods when a card expires as a courtesy to customers, but only 3 offered an indefinite purchase period.

As part of the compliance operation, Fair Trading reminded consumers to make sure the value of the product is clearly marked on the card, to understand the retailer's terms and conditions and keep the receipt to ensure money spent does not go to waste.

Businesses warned to remove fake website testimonials or face fines

As part of a national compliance program targeting fake online testimonials and reviews, during April 2013, NSW Fair Trading commenced an online campaign to raise community awareness of fake website testimonials. The campaign was undertaken in conjunction with a major metropolitan newspaper, the Daily Telegraph.

With the growth in online trading, claims of guaranteed 100% success rates, miraculous clinical test results or rave reviews from customers have become a crucial sales tool for many businesses promoting their goods and services online. However, false or misleading testimonials are prohibited under the ACL.

As part of the campaign, 8 businesses were asked to substantiate the testimonials on their websites within 21 days or face significant fines if proven to be in breach of the ACL. Immediately following Fair Trading's announcement of its crackdown on fake testimonials, one Sydney plumbing business removed a fake testimonial from its website. Consumers were encouraged to report suspected fake testimonials to Fair Trading for further investigation and potential compliance and enforcement action.

Travelling con men

In 2012-13, Fair Trading successfully led a national strategy to eradicate travelling con men who undertake over-priced and incomplete home improvements work. Following formal closure of the national project in April 2013, Fair Trading incorporated its work combating travelling con men into its core line of business and expanded the operating hours of the national travelling con men hotline to 24 hours a day, 7 days per week.

Over the course of the project, co-ordinated action was taken by ACL regulators to identify travelling con men

and bring them before the courts. As at June 2013, there have been:

- 56 prosecutions against 54 individuals for 205 offences under the ACL or *Home Building Act 1989*;
- more than \$475,000 in fines and costs have been imposed; and
- 46 people have left the country as a result of the campaign (as at February 2013).

An important aspect of the work in combating travelling con men has been the level of inter-agency co-operation between regulators and other government agencies, particularly law enforcement agencies.

For example, in May 2013, Fair Trading undertook a joint operation with the NSW Police Force in relation to known travelling con men who, without permission, ripped up the driveway of an elderly couple on Sydney's north shore.

Fair Trading subsequently issued a public warning and was successful in having arrest warrants issued for 2 men, Mr Michael Connors and Mr James O'Connor, believed to be involved in the incident. Fair Trading worked closely with the Australian Federal Police in attempting to apprehend the men. This was the first time the powers to apply for an arrest warrant had been utilised by Fair Trading.

Fair Trading also worked closely with the Commonwealth Department of Immigration and Citizenship to prevent a known conman from re-entering Australia.

In January 2013, on the request of Fair Trading investigators, Department of Immigration officials stopped Jerry Connors at Perth airport. Mr Connors was served with 18 Court Attendance Notices and turned away from entering the country.

Another key aspect leading to the success of the travelling con men strategy was the frequent use of the media, including social media to raise awareness of the activities of travelling con men and highlight successful prosecutions.

More than 20 travelling con men related stories aired on national media and current affairs programs including *A Current Affair* and *Today Tonight*. Likewise, there have been several features on news, morning shows, numerous radio shows and articles in local and major metropolitan newspapers.

The successful launch of the national 'Stop Travelling Con Men' website and Facebook page on 13 September 2011, followed by the creation of a national hotline on 6 October 2011 was integral to the campaign's success and is continuing. In 2012-13 alone, Fair Trading issued 25 public warnings on travelling con men.

Targeted compliance programs

In addition to national projects, Fair Trading undertook a number of state based compliance programs throughout 2012-13. Fair Trading is increasingly becoming more strategic in the way that it utilises its compliance and enforcement resources. Targeted, intelligence driven compliance operations are an increasing part of Fair Trading's delivery of compliance activities.

In 2012-13, Fair Trading continued to work closely with ACL regulators around Australia to identify wide-spread instances of non-compliance across key industries. At the same time, Fair Trading undertook a number of joint investigations with the NSW Police in relation to Travelling Con Men, counterfeit goods and general ACL matters.

Removing unsafe products from the marketplace

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 or misuse of a product or service.

In 2012-13, Fair Trading took action to protect the community from unsafe products through the issuing of interim product safety bans under the Australian Consumer Law.

Novelty products containing small magnets

In August 2012, NSW imposed an interim product safety ban on a range of novelty products containing small magnets.

The products, marketed under various names including 'BuckyBalls' and 'Neocubes' contain small, high-powered, rare earth magnets, which if swallowed by small children can attract to each other across the intestinal wall and perforate the intestine, requiring emergency surgery.

A permanent product ban was subsequently imposed by the Commonwealth following initial urgent action by NSW to remove these dangerous products from the marketplace.

Synthetic drugs

Following the release of a NSW Parliamentary Report in May 2013 regarding the dangers of synthetic drugs, NSW imposed an interim ban on the sale or supply of 19 named synthetic drugs (including any colourable variation of the name) and their equivalent products in June 2013.

The interim ban was developed in consultation with the NSW Police Force Drug Squad with all products named on the interim ban being linked to incidents of harm identified by Drug Squad intelligence.

The ban followed the recommendations in the Parliamentary Report which referred to instances of harmful side effects including psychosis and deaths linked to the use of the drugs and noted problems with the current drug laws in combating them.

Fair Trading undertook a large scale compliance operation in support of the ban. Over 100 Fair Trading officers visited 1,044 retailers including tobacconists and adult stores across NSW over a 4-day period to provide retailers with information about the interim ban and assess compliance levels.

Use of the ACL proved effective in removing the banned synthetic drugs from the marketplace with only 65 retailers across NSW found to be selling banned products or still holding stock, post ban.

NSW's compliance activities generated significant media interest and resulted in South Australia replicating the NSW interim ban. Following calls from NSW, the Commonwealth introduced a national interim ban on the same 19 synthetic drugs and products represented to be their equivalents in June 2013.

Fair Trading was successful in having the website domain names removed for 6 websites suspected of continuing to sell products in contravention of the national interim ban.

Phase 2 of 'Operation Salt' involved Fair Trading officers conducting a number of targeted follow up inspections of problematic traders in the Penrith, Newcastle and Upper Hunter regions. NSW's efforts on synthetic drugs saw the agency lead the NSW Government response to the Parliamentary Report, in consultation with other government agencies. This process is currently still underway.

2012 Annual Christmas product safety survey

In 2012, Fair Trading carried out its largest annual toy safety inspections visiting a record 1,133 retail outlets across 257 towns throughout NSW to identify and remove dangerous toys from sale in the lead up to Christmas. Following the inspections, 146 varieties of non-compliant toys were uncovered and removed from sale including projectile toys and toys posing choking and strangulation hazards.

Novelty cigarette lighters

Fair Trading's work as part of a national product safety program resulted in more than 500 retailers being inspected across NSW to ensure dangerous novelty cigarette lighters were not being supplied in contravention of a national product ban. The design of the lighters, which resemble toys and come in the shape of a turtle, duck, Santa Claus, racing car, ice cream cone, pig and skateboard appeal to young children who could mistake them for toys and suffer burns as a result.

Fair Trading identified a major distributor of the lighters, Trio Brothers Trading Pty Ltd, and ensured the company stopped distribution and notified its retail

customers to remove the lighters from sale. Fair Trading also successfully negotiated for the trader to initiate a voluntary recall of the lighters throughout Australia.

Show inspections

Another example of Fair Trading's work in the product safety area involves the Sydney Royal Easter Show. In 2013, Fair Trading carried out safety checks on 322 show bags prior to the show's opening.

No toys or novelty items required removal, testament to the excellent relationship developed over many years between Fair Trading and the Royal Agricultural Society of NSW and suppliers.

Further random checks of the show bag pavilion and products offered for sale and prizes were undertaken throughout the show. Fair Trading also inspected the Newcastle, Castle Hill and Camden shows to carry out safety compliance checks.

Counterfeit goods

In 2012-13, Fair Trading undertook 2 joint operations with the NSW Police Force in relation to the supply of counterfeit goods including sports clothing and apparel, designer sunglasses, perfume, handbags and assorted accessories.

The trade in counterfeit designer label goods encompasses a number of varying points of sale including market sellers, internet and web based sellers, wholesalers and retail stores. Counterfeit goods are generally of poor quality and consumers can be misled into paying market price for items they believe are genuine.

In March 2013, Fair Trading undertook a joint operation with the NSW Police Force in which investigators raided 3 warehouses in Sydney's southwest, seizing hundreds of thousands of dollars in counterfeit designer clothing, handbags, sunglasses, perfumes and sports shoes. A further 5 traders were identified as allegedly receiving counterfeit goods from the supplier and selling goods to the public.

Fair Trading commenced prosecution action against the supplier for offences under Commonwealth trademark legislation which, at the time of writing, was still underway. The operation followed an earlier joint operation with the NSW Police involving counterfeit Nike and other branded goods.

Fair Trading has nurtured a positive relationship with investigators representing a number of designer label companies depicted on items seized during recent compliance operations. In targeting the supply chain, Fair Trading has been able to maximise its compliance outcomes and remove a large volume of counterfeit products from the marketplace quickly.

Fair Trading is continuing to work closely with law enforcement agencies and the manufacturers of

genuine branded goods to identify, investigate, detect and seize counterfeit goods and prosecute suppliers.

Operation Sparkle 2

In February 2013, Fair Trading carried out inspections of 41 jewellery stores across Sydney monitoring compliance with the ACL in the lead up to Valentine's Day. As part of Operation Sparkle 2, Fair Trading undertook targeted inspections of jewellery stores in North Ryde, Ryde, Burwood, Chatswood, Hornsby, Mount Druitt, Penrith, Blacktown and Rouse Hill.

Operation Sparkle 2 followed similar checks in the same Sydney suburbs in April 2012 and again showed the need for jewellery retailers to increase their compliance with the ACL. The main area of non-compliance involved refund signage, with non-compliant signs including: No refunds on discounted/sale items or No refunds after 7 days or No refund or exchanges on earrings.

5 stores from last year were found to be still in breach of the ACL this year while another 5 stores that were non-compliant last year were compliant during Fair Trading's second round of inspections. A further 12 stores were found to be in breach of the ACL.

Fair Trading issued warning letters to 17 traders found to be non-compliant during Operation Sparkle 2.

Monitoring compliance with the *Conveyancers Licensing Act 2003*

During 2013, Fair Trading conducted targeted inspections of 33 conveyancing businesses monitoring compliance with the *Conveyancers Licensing Act 2003* in relation to licensing, insurance and trust fund requirements. Further inspections across the industry are continuing. Disciplinary action was also taken against 4 licensed conveyancers during the year.

Improving petrol marketing

In 2012-13, Fair Trading continued its program of inspections of service stations across NSW following earlier concerns raised by the NSW Motor Vehicle Industry Advisory Council about advertising of petrol prices on signs boards.

During December 2012, a total of 280 service stations were inspected including 99 in metropolitan locations and 181 in regional areas as part of Operation Price Board 3. A total of 489 prices were checked to ensure the price displayed on the signboards was the same as the price displayed on the bowser.

The inspections demonstrated a 99.8% compliance level with only one breach detected. Spot checks involving the purchasing of fuel at 4 service stations were also undertaken to ensure consumers were being charged the correct price, in addition to ensuring signage matched the bowser price. No breaches were detected.

Targeting compliance across the motor vehicle industry

Throughout 2012-13, Fair Trading undertook a number of targeted inspections of motor dealers and motor vehicle repairers to assess compliance with the *Motor Dealers Act 1974* and *Motor Vehicle Repairers Act 2002*. Fair Trading also participated in a number of joint operations with Roads and Maritime Services (RMS) and the NSW Police Force.

In November 2012, Fair Trading participated in a joint compliance program targeting identified motor dealers within the 'Car City' complex located at Minchinbury in Western Sydney. The program involved officers from Fair Trading, RMS and the NSW Police.

Program results included 18 vehicles being issued with defect notices by RMS, and the detection of 167 breaches of the *Motor Dealers Act 1974* by Fair Trading. Police confiscated the registration plates from one vehicle.

A total of 5 motor dealers were inspected with all five found to be non-compliant. Penalty notices to the total value of \$30,140 were issued to the five dealerships, including 2 dealers being issued penalty notices for carrying on the business of a dealer on unlicensed premises.

The remainder of penalty notices issued related to failing to keep prescribed registers; failing to make entries in prescribed registers; misleading information on prescribed notices; and vehicles being offered or displayed for sale in areas off the licensed premises.

Disciplinary action was commenced against one motor dealer with possible disciplinary action to occur in relation to another motor dealer detected during the operation.

Further joint compliance programs with RMS and the NSW Police Force will be conducted in order to target motor dealers with a high level of Fair Trading complaints.

In February 2013, Fair Trading carried out a joint compliance operation with Consumer Affairs Victoria targeting the twin cities of Albury and Wodonga. As part of the 2-day operation, inspectors visited 40 licensed motor vehicle traders to ensure they understood the requirements under the laws in their dealership's respective state. No major compliance issues were found among dealerships in either city.

New warranties campaign to help protect consumers

During 2012-13, Fair Trading commenced a number of compliance programs seeking public help in identifying levels of compliance with the ACL. Following previous work on testimonials, Fair Trading launched a campaign in June 2013 to help protect consumers by

identifying traders who are not providing accurate warranty information for their goods and services.

When consumers buy a product or service, they are protected by an automatic guarantee that the product or service does what the consumer pays for. The guarantees apply for a reasonable timeframe depending on the nature of the goods or service, regardless of any other warranties a business offers or sells. They may also apply after the manufacturer's warranty period has expired.

During 2012, Fair Trading received 2,997 enquiries and 1,814 complaints in relation to warranties. As part of the compliance program, consumers were encouraged to submit feedback to Fair Trading on manufacturers and suppliers who have failed to provide an accurate or compliant statement on warranty information regarding defects. Under the ACL, the following statement must be included in any warranty statement:

"Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure."

Real estate compliance programs

Another key compliance priority for Fair Trading is to monitor industry and act to prevent deliberate and systemic non-compliant conduct likely to distort competitive market forces.

In 2012-13, Fair Trading undertook 3 targeted compliance operations in relation to the real estate industry focusing on alleged instances of underquoting, licensing and auction conduct. Operation Estimation was conducted in 2 phases during October and November 2012 and specifically targeted underquoting.

Fair Trading carried out a total of 38 inspections of agents (including auctions) and property sales files to ensure compliance with the *Property, Stock and Business Agents Act 2002* in relation to representations about estimated selling prices and record keeping.

During Phase one of the operation, 18 agents were visited and 58 property sales files were inspected. A total of 17 breaches were detected at eight agents with two matters progressing for investigation and the issuing of eight warning letters.

During Phase two, 20 residential property auction sales were inspected with one agent found to be non-compliant in relation to displaying of notices prior to auction. The agent was subsequently re-inspected to ensure compliance.

In November 2012, Fair Trading commenced Operation Poseidon, a 12 month rolling inspection program targeting residential property auctions. A high visibility compliance program, Fair Trading's Consumer Protection Officers were out in force across the state monitoring compliance with the laws relating to licensing and auction conduct (such as displaying notice of auction conditions, bidder registration, dummy bidding or collusive bidding).

As at 29 June 2013, a total of 77 inspections had been conducted with the results indicating relatively high levels of compliance across the industry. Penalty notices were issued in relation to one agent found to be operating without a corporation licence in breach of the *Property, Stock and Business Agents Act 2002*. The licensee-in-charge was also issued a penalty notice for failing to properly supervise the business.

Another real estate compliance program, Operation Quote, targeted unlicensed or uncertificated property agents and agents providing false estimated selling prices to vendors and purchasers. During March 2013, a total of 28 property agents and 84 sales files were inspected. A total of 11 penalty notices were issued totalling \$22,000 including 10 relating to unlicensed conduct.

In 2012-13, Fair Trading disqualified 66 property agents from being involved in the direction, management or conduct of a real estate business.

Likewise, Fair Trading commenced a number of complex investigations involving alleged misappropriation of trust funds by licensed property agents in the real estate or strata sectors. At the time of writing, several matters are either currently before the court or likely to proceed to prosecution over coming months.

At the same time, Fair Trading undertook a number of community education programs to assist the real estate industry in understanding the requirements of the legislation including delivery of 17 information sessions in metropolitan and regional NSW as part of the Real Estate Institute's annual member "Road Show".

What the REI NSW said:

“The feedback to date has been excellent. The presentation on behalf of Fair Trading has been both informative and engaging. Thanks for your support”

Co-operatives and Associations

Australian Vaccination Network directed to change its name

In January 2013, the Commissioner for Fair Trading took action to direct the Australian Vaccination Network to change its name after receiving complaints from consumers that the name was confusing and had misled the public as to the Association's operational intention.

Fair Trading contended that the name Australian Vaccination Network (AVN) did not accurately reflect the association's anti-vaccination stance and therefore had potential to mislead the public. Fair Trading's direction was given under the *Associations Incorporations Act 2009* and was based on concerns raised by parents and medical professionals.

The AVN appealed Fair Trading's direction in the Administrative Decisions Tribunal. Following an application by the AVN to stay proceedings, the Tribunal ordered that the association place a prominent consumer warning on its websites and Facebook page noting that Fair Trading had directed the association to change its name on the basis that Fair Trading regards the name to be misleading.

The matter was heard in the Tribunal in June where a decision was reserved. At the time of writing, a final determination is yet to be made.

Public warnings - Compliance and Enforcement

Public warnings issued under section 86A of the *Fair Trading Act 1987* are also an important tool for consumer protection. The Minister or the Commissioner will issue a public warning when it is considered to be in the public interest. The warnings are issued with regard to circumstances of the case, the stage of the investigation and the parties involved in the matter, and in compliance with privacy law.

Eve Harbour Cruises

Eve Harbour Cruises Pty Ltd and its Director Allen Yousif advertised Sydney harbour cruises on charter vessel MV Eve. In early January 2013, Fair Trading commenced an investigation into Eve harbour Cruises and Mr Yousif, following media reports the company had accepted numerous bookings for harbour cruises over the Christmas period and New Year's Eve and allegedly failed to deliver the services.

It was alleged that a substantial number of consumers had suffered detriment as a result of the cruises not proceeding and were unable to contact the company to obtain a refund. At the time the company was still advertising cruises on its website.

Fair Trading issued a public warning under section 86A of the *Fair Trading Act 1987* on 4 January 2013 and took action to remove the company's website from publication.

At the time of writing, the matter is before the court with Fair Trading pursuing prosecution action against the company for breaches of the ACL.

George Sekuloski

In 2012-13, Fair Trading issued 2 public warnings urging the public not to deal with George Sekuloski, an outdoor and camping equipment online trader and director of Bulk Imports & Exports Pty Ltd.

On 7 June 2013, the Commissioner for Fair Trading issued a public warning under section 223 of the Australian Consumer Law in relation to Mr Sekuloski's alleged failure to supply products, supplying products that were not of acceptable quality, failing to honour warranties and being uncontactable by consumers seeking redress.

The warning followed the decision by the Caravan and Camping Industry Association to expel Mr Sekuloski from the Association in December 2012. It also followed an additional 177 consumer complaints regarding Mr Sekuloski received by Fair Trading since the issuing of a previous public warning in relation to his conduct.

Fair Trading's previous public warning regarding Mr Sekuloski was issued in August 2012, following the execution of a search warrant of his commercial business premises by Fair Trading investigators. At that point, Fair Trading had received 240 complaints and 55 enquiries about Mr Sekuloski and his companies over a 4-year period.

The Consumer, Trader and Tenancy Tribunal (CTTT) had received 72 applications relating to Mr Sekuloski and his companies.

At the time of writing, Fair Trading had commenced court action against Bulk Imports & Exports Pty Ltd and is currently considering further legal action against Mr Sekuloski.

Enforcement actions - Compliance and Enforcement

Offences against fair trading legislation are detected through inspections, intelligence gathering and as a consequence of formal investigations of complaints. During the year, 493 traders were issued with penalty notices in relation to 930 offences, resulting in financial penalties of \$691,200. Formal prosecutions, where 97% of cases were successful, resulted in over \$586,000 in fines and penalties for 324 offences involving 96 defendants.

In addition, more than \$1.5 million in compensation orders were awarded to consumers by the court as a result of civil actions undertaken by Fair Trading for breaches of the law.

The following cases were some of the significant enforcement actions concluded by Fair Trading during 2012-13.

Fair Trading Act 1987 / Australian Consumer Law (ACL)

True Love Corp (TLC) Consulting Services Pty Ltd

In November 2012, the NSW Supreme Court handed down a landmark decision for false, misleading and unconscionable conduct, ordering Zlvrko Dimitrijevi, the former director of the internet dating company True Love Corp (TLC) Consulting Services Pty Ltd, and his wife Helen Dimitrijevi, a former manager of TLC, to pay compensation of \$1,123,095. TLC's former co-director, Hollie Veall, was ordered to pay compensation of \$342,050.

All three individuals were permanently banned from being involved in the introduction agency business.

The NSW Supreme Court found that between February 2003 and July 2008, TLC had made false and misleading representations to a number of its clients who had signed with the company in the expectation it would arrange suitable introductions for predominantly female prospective partners.

In most cases the company subsequently demanded these clients upgrade their membership, at substantial cost, on the basis of a promise that the upgrade would result in them meeting a wider range of suitable partners. Life coaching and grooming services were also offered.

Victims paid thousands of dollars for the upgraded memberships and additional services but received nothing in return. One victim sustained a loss of more

than \$680,000. The prospective partners the company had on its database were largely non-existent.

Fair Trading prosecuted Mr and Mrs Dimitrijevski and Ms Veall for breaches of both the *Trade Practices Act 1974* and the *Fair Trading Act 1987* and obtained permanent injunctions against all three preventing them from being involved in the introduction agency business in the future.

Switchworx Electrical Pty Ltd

In June 2012, NSW Fair Trading commenced an investigation into the trading activities of Switchworks Electrical Pty Ltd and its sole director, Charbel Khoury, after receiving a number of consumer complaints.

The complaints related to promotional flyers distributed by the company falsely representing the need to undertake electrical safety inspections in the home. Consumers who responded to the flyer were misled into believing that the wiring, fuse box or smoke detector in their home was faulty.

Switchworx's flyers advertised residential electrical safety inspections for a senior's rate of only \$44. However, elderly consumers subsequently paid excessive costs for the work, some in the thousands, fearing their home was unsafe.

Upon inspection by NSW Fair Trading, investigators determined that the fire safety hazards represented by Switchworx did not exist. Fair Trading investigators also found a number of deficiencies in the quality of the electrical work conducted by the company.

NSW Fair Trading cancelled the licences for Switchworks Electrical Pty Ltd and Mr Khoury. He was disqualified from working in the industry for 3 years and disqualified for a further 3 years from holding a licence in his own right.

Mr Khoury sought judicial review in the Supreme Court against Fair Trading's decision to cancel his licence and disqualify him from the industry but has been discontinued. Fair Trading is agreeing to the discontinuation on the condition that Mr Khoury pays Fair Trading's legal fees.

Mr Khoury pleaded guilty to 14 charges brought under the ACL and *Electricity (Consumer Safety) Act 2004* including falsely representing the need for goods and services, using coercion in connection with the payment for goods or services, performing deficient electrical work and failing to comply with required electrical safety standards.

Mr Khoury was ordered to pay fines and costs totalling \$31,162 by Parramatta Local Court. At the time of sentencing, Mr Khoury paid an additional \$25,000 as compensation to be distributed by the Commissioner for Fair Trading to affected consumers who were not part of the court action.

Prior to sentencing, the defendants refunded \$25,000 directly to consumers involved in proceedings in the Local Court and the Consumer, Trader and Tenancy Tribunal.

Columbus Sales Group Pty Ltd and Aqua Conscious Pty Ltd

In October 2012, Fair Trading obtained orders from the NSW Supreme Court enabling \$60,000 in a frozen bank account of Columbus Sales Group Pty Ltd and Aqua Conscious Pty Ltd to be distributed to 202 out-of-pocket consumers.

NSW Fair Trading commenced an investigation into the two failed water tank businesses and with assistance from Queensland Fair Trading, NSW investigators seized a large number of the companies' records from offices on the Gold Coast.

Fair Trading also negotiated with the Commonwealth Bank who assisted the agency during its investigation and agreed to waive its own claim on the funds in Columbus Sales Group's account, enabling a larger number of consumers to receive a share of the compensation.

Columbus Sales Group Pty Ltd and Aqua Conscious Pty Ltd sold rainwater tanks to consumers between August and December 2010. The companies received more than 800 orders from consumers throughout Australia and approximately \$600,000 in payments. Only 45 tanks were delivered to consumers.

In January 2011, Fair Trading issued a public warning to consumers not to deal with the two companies due to the high volume of complaints from consumers and concerns over the company's inability to fulfil orders while still accepting new consumer payments.

Fair Trading obtained an order to freeze monies remaining in an existing company bank account, preventing the directors from accessing the remaining funds.

Fair Trading wrote to all affected consumers to obtain confirmation of their loss and subsequently presented this information to the Supreme Court to obtain an order allowing for the frozen funds to be distributed to consumers.

Fair Trading was also successful in obtaining injunctions under the *Fair Trading Act 1987* and the ACL against the companies and its directors, to restrain them from engaging in misleading or deceptive conduct.

Australian Consumer Law (ACL) / travelling con men

Throughout 2012-13, Fair Trading secured a number of convictions and court imposed fines against several notorious travelling con men for breaches of the ACL and *Home Building Act 1989*.

In May 2013, serial travelling con man Jimmy Yelding was found guilty of 6 ACL offences and 3 *Home Building Act 1989* offences in Parramatta Local Court and ordered to pay over \$9,000 in fines and costs.

Mr Yelding did not attend court and was convicted in his absence for various ACL offences in relation to unsolicited consumer agreements as well as unlicensed contracting of residential building work. Mr Yelding was previously convicted of ACL offences in 2012 and ordered to pay fines and costs of \$9,929.

In November 2012, Fair Trading secured a conviction against another travelling con man, Robert Hutchison, who was ordered to pay over \$38,000 in fines and convicted of carrying out unlicensed residential building work and failing to comply with the unsolicited consumer agreement provisions of the ACL.

In each of the above matters, the con men's victims were elderly consumers.

Property, stock and business agents

Bayelm Pty Ltd t/as Dougmal Harcourts Warilla Sales and Strata Decisions Wollongong

In May 2013, Fair Trading was successful in securing convictions against 2 real estate agents for their part in a \$1.4 million real estate fraud.

In January 2012, Fair Trading commenced an investigation into the affairs of Bayelm Pty Ltd, attending the two offices of the company, Dougmal Harcourts Sales at Warilla and Strata Decisions at Wollongong. The investigation followed a written complaint to Fair Trading from the licensee of Dougmal Harcourts, Mr Imre.

Mr Imre informed Fair Trading that the sales trust account operated by Dougmal Harcourts had been overdrawn as a result of an employee making unauthorised withdrawals. He alleged that Roger and Gordana Ocvirk, Director and Company Secretary of Bayelm, had withdrawn funds totalling approximately \$170,000 from the sales trust account for personal benefit.

A compulsory Manager was appointed by Fair Trading and a forensic analysis of the trust accounts was undertaken revealing a \$198,708.76 deficiency in the sales account and a \$1,263,359.43 deficiency in the strata trust account. Ms Ocvirk admitted to her involvement in the misappropriation of trust monies from both accounts.

Gordana Ocvirk pleaded guilty to fraudulently omitting to account for \$1,235,402.67, held in trust by Bayelm Pty Ltd trading as Strata Decisions Wollongong. She also pleaded guilty to fraudulently omitting to account for \$198,708.76, held in trust by Bayelm Pty Ltd trading as Dougmal Harcourts Warilla Sales. She was also convicted of failing to supervise the business of Strata Decisions Wollongong. All offences are breaches of the *Property, Stock and Business Agents Act 2002*. Roger Ocvirk was convicted of the same offences.

Roger and Gordana Ocvirk were each sentenced to 18 months imprisonment (12 months non-parole) in Wollongong Local Court. Both defendants appealed their custodial sentence. At the time of the writing the appeal is yet to be heard.

Mr Imre pleaded guilty to one count of breaching the *Property, Stock and Business Agents Act 2002* by failing to properly supervise the business. He was fined \$2,333 in fines and costs and his agent's licence was cancelled for 2 years.

Glenn George Farah of NG Farah Pty Ltd

In October 2012, NSW Fair Trading cancelled the licence of Maroubra real estate agent, Glenn George Farah of NG Farah Pty Ltd, and disqualified him from being involved in the direction, management or conduct of a real estate business until 9 September 2021.

Glenn Farah was a former Director and Secretary of NG Farah Pty Ltd, a licensed real estate agency. In September 2011, Mr Farah pleaded guilty in the Sydney District Court to dealing in proceeds of crime and was sentenced to 1 year and 9 months imprisonment. The Court suspended his sentence and he was released on a good behaviour bond until 8 June 2013. Glenn Farah was the subject of an Australian Federal Police investigation and subsequent prosecution and conviction.

As a result of Glenn Farah's criminal conviction for recklessly dealing with the proceeds of crime, Fair Trading commenced disciplinary action against him and determined that his criminal conviction meant he ceased to be a fit and proper person to hold a real estate agents licence. Mr Farah appealed Fair Trading's decision which was upheld on internal review.

Mike Damcevski

In 2012, a real estate agent who operated a business in Oatley while unlicensed was ordered to pay \$2,833 in fines and costs, \$10,800 in consumer compensation and \$7,217 to the Property Services Compensation Fund by Parramatta Local Court. Earlwood man, Mike Damcevski, held a real estate agent's licence from April 2003 to April 2006 and from November 2006 to November 2007.

NSW Fair Trading commenced an investigation into Mr Damcevski's conduct after becoming aware through a consumer complaint that he was carrying on the

business of a real estate agent without holding a real estate agent's licence.

Fair Trading's investigation found Mr Damcevski had undertaken unlicensed activities including the managing of rental properties, collection of rent money and the receipt of commissions in relation to that money.

Mr Damcevski did not respond to NSW Fair Trading's correspondence, and failed to attend a voluntary interview with Fair Trading investigators to respond to the allegations against him.

Mr Damcevski failed to account for rent collected on behalf of 2 property owners. While the properties were managed and the rent was collected by Mr Damcevski, he failed to remit the net rent collected to the property owners, resulting in the consumers suffering financial losses.

One owner made a claim on the Property Services Compensation Fund, and the claim of \$7,217 was paid by the fund. The second owner was awarded compensation by the Court, which ordered Mr Damcevski to reimburse the property owner \$10,800.

Yena Foong

In December 2012, the Administrative Decisions Tribunal upheld a decision by Fair Trading to disqualify Ms Yena Foong from working as a real estate agent. Fair Trading was also successful in obtaining an increase in the period of disqualification from the original 5 years to 7 years.

In September 2011, Fair Trading disqualified Ms Foong from holding a licence or certificate of registration and from being involved in the direction, management or conduct of a real estate business for 5 years.

Fair Trading's decision to disqualify Ms Foong followed an investigation in relation to a complaint made by clients of B-Gold Realty Pty Ltd, in which Ms Foong's son was the licensee-in-charge and she was an employee. The complaint centred on a failure to account for \$80,000 originally held in the corporation's trust account following a property sale.

Subsequent to Fair Trading taking disciplinary action against Ms Foong, she pleaded guilty to one count of fraud (arising from the transfer of the \$80,000) in that she dishonestly obtained a financial advantage.

She was convicted and sentenced to 15 months imprisonment, to be served by way of home detention and ordered to reimburse \$80,000 to the Property Services Compensation Fund. The District Court upheld the sentence on appeal. On appealing her disqualification, the Tribunal re-affirmed Fair Trading's decision that Ms Foong was not a fit and proper person to hold a real estate licence.

The Tribunal also determined that, having regard to Ms Foong's subsequent conviction for fraud under the

Crimes Act 1900 and her continuing state of denial in relation to her wrongdoing, the initial disqualification period of 5 years did not provide a sufficient level of protection for the public.

Fair Trading was successful in having the period of disqualification increased to 7 years on appeal.

Product safety

Digital Times

Throughout 2012-13, Fair Trading continued to prosecute toy retailers selling dangerous toys with successful prosecution results achieved against repeat offender Digital Times.

In January 2013, 2 retailers jointly operating 3 retail outlets in Sydney's western suburbs were ordered to pay \$9,256 in fines and costs by Parramatta Local Court. Yu Chen and Wenwei Zheng, trading as Digital Times, were each convicted of 7 counts of supplying toys that failed to comply with Australian Toy Safety Standards.

The NSW Fair Trading investigation spanned 14 months and involved 6 inspections of Digital Times outlets in Parramatta (kiosk), Blacktown (kiosk, now closed) and Cabramatta (store). Fair Trading uncovered numerous non-compliant toys that subsequently failed independent safety tests during the 2011-12 investigation.

Examples of some of the toys detected which failed to comply with mandatory requirements under the Australian/New Zealand Toy Standard included the Kingsport Crossbow Set, King Archer Bow and Arrow Set and King Sport Super Real Action Crossbow Set.

All products targeted to children must meet stringent safety standards. The defendants were warned on a number of occasions they were selling toys that had failed previous safety tests and were told by Fair Trading to remove the items from sale.

July 2012 - Nowra Super Regional Access Program

Home Building compliance checks were carried out in the Nowra region in conjunction with a Fair Trading Regional Access Program. Home building investigators visited 45 residential building sites and spoke with 83 people to check compliance with the *Home Building Act 1989*, the *Electricity (Consumer Safety) Act 2004* and the *Gas Supply (Consumer Safety) Regulation 2012*.

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 2012-13 Fair Trading:

- conducted 11 operations and investigated 667 complaints to check compliance with the *Home Building Act 1989* along with 334 investigations into breaches of the *Electricity (Consumer Safety) Act 2004* and gas regulation matters;
- undertook 1,656 home building, 340 electrical and 507 gas field audit inspections on a random basis during compliance campaigns;
- conducted 2,562 mediations and onsite inspections to assist in home building dispute resolutions;
- issued 85 Notices to Show Cause resulting in a total value of \$86,500 in fines; 19 licence cancellations; 3 licence suspensions and 12 written reprimands;
- issued penalty notices for 327 offences totalling \$322,750 in fines; and
- undertook successful prosecutions for 116 offences totalling \$313,962 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 2012-13 Fair Trading conducted the following operations:

July 2012 - Operation Race Track

Home Building investigators undertook unannounced new home building site visits at the Oran Park and Harrington Park Land release areas in Narellan to check compliance with the *Home Building Act 1989*. Investigators visited 2,013 sites and spoke with 432 traders. 11 penalty infringement notices were issued to the value of \$12,250.

September 2012 – Hunter Education Program

Fair Trading became the plumbing and drainage regulator in the Sydney Water and Hunter Water Corporation areas of operation on 1 July 2012. With the introduction of the *Plumbing and Drainage Act 2011*, NSW has adopted the Plumbing Code of Australia as the new technical standard.

Fair Trading licenses plumbers and drainers under the *Home Building Act 1989*. Fair Trading undertook an education program in the Hunter Region to assist the plumbing industry to understand the new regulations. Investigators visited 30 plumbing suppliers and distributed education material to traders and staff.

Investigators also visited 286 local building sites in Newcastle, Maitland, Singleton, Cessnock, Lake Macquarie and Port Stephens to speak to plumbers and builders, answer questions and provide information. A total of 490 education packages were distributed.

October 2012 – Dubbo Super Regional Access Program (RAP)

Home Building compliance checks are carried out as part of regional and community visits conducted by the whole of Fair Trading, to ensure compliance with the *Home Building Act 1989*, the *Electricity (Consumer Safety) Act 2004* the *Gas Supply (Consumer Safety) Regulation 2012*.

Investigators visited 22 residential building sites and spoke with 37 people. One penalty infringement notice was issued to the value of \$500.

Specialist investigators also checked compliance with electricity and gas legislation by: visiting 40 electrical

retailers, speaking with 56 people and inspecting 570 electrical items; visiting 10 gas retailers, speaking with 29 people and inspecting 101 gas appliances; and visiting 13 residential homes and 51 caravans at 10 caravan parks where Fair Trading inspected sites for gas compliance.

November 2012 – Operation Mattock

Home Building compliance checks were conducted at Singleton, Goulburn and surrounding areas to ensure compliance with the *Home Building Act 1989*. Investigators visited 200 residential building sites and spoke with 285 people. One penalty infringement notice was issued to the value of \$500.

November 2012 – Operation Lease III

Operation Lease was developed as a covert surveillance operation, targeting repeat offenders who continue to seek to carry out residential building work when they are unlicensed in breach of the *Home Building Act 1989*.

During Operation Lease III, investigators posed as home owners and sought out the services of the targeted offenders who had in some instances placed advertisements in local newspapers and online seeking work.

The suspected targets were contacted and their services sought at an arranged address at a pre-determined time, where their conduct was covertly photographed and recorded. 15 penalty infringement notices were issued to the value of \$3,750. Channel 7's Today Tonight team were working with NSW Fair Trading operatives during this campaign.

November 2012 – Operation Canada Bay

Operation Canada Bay was a pro-active compliance operation targeting development applications submitted to council involving owner-builder permits to ensure compliance with the *Home Building Act 1989*. One penalty infringement notice was issued to the value of \$1,500.

April 2013 – Operation Monaro

Home Building investigators visited the Queanbeyan district and South Coast region to check trader compliance with the *Home Building Act 1989*. Investigators visited 141 sites and spoke with 167 people. 8 penalty infringement notices were issued to the value of \$6,000.

May 2013 – Operation Plunger (Hunter)

Operation Plunger was a follow up to the Home Building Service's 2012 Hunter Education Program, to determine the level of compliance with the internal draining and inspection requirements within the Hunter Water area.

Home Building investigators visited the Newcastle, Maitland, Singleton, Cessnock and Lake Macquarie, Port Stephens and Muswellbrook areas to check traders' compliance with the *Home Building Act 1989* and the *Plumbing & Drainage Act 2011*.

Investigators visited 238 sites and spoke with 352 people with 100% compliance detected.

Enforcement action - Home Building Service

Matthew Geoffrey Rixon

Mr Rixon was prosecuted for carrying out unlicensed, substandard and incomplete work while an undischarged bankrupt, failing to provide home warranty insurance and disregard for the law by continuing to take money from consumers after being fined. Mr Rixon was issued with 28 penalty notices worth \$19,000 and prosecuted for 21 offences.

Mr Rixon entered a guilty plea on 18 March 2013 at Newcastle Local Court to 26 breaches of the *Home Building Act 1989* and 3 breaches of Australian Consumer Law and was fined \$72,500 and ordered to pay \$6,400 in compensation.

On 17 April 2013, a Consent Judgement of the NSW Supreme Court banned Mr Rixon from undertaking any residential building or landscaping work in NSW.

Three public warnings were issued by Fair Trading regarding Mr Rixon on 23 July 2012, 19 October 2012 and 13 April 2013 because of concerns he was continuing to undertake building work in NSW.

Allan James Piggott

Mr Piggott has never held a licence to undertake building or maintenance work. He entered into contracts, took excessive deposits and carried out defective and incomplete work. Mr Piggott was issued with penalty notices totalling \$12,500 for the period 2010–11.

Mr Piggott was known to use the following names:

- Allan James Piggott (ABN 31 957 844 275)
- A & C Concrete & Paving Service
- Allan Piggott Concrete & Paving
- Allan Piggott Concrete Service
- Allan Piggott Concrete Services
- Allan Piggott Building Service
- Allan Piggott Building Services
- Olympic Paving

On 1 February 2013, Mr Piggott was prosecuted for breaches of the *Home Building Act 1989* and Australian Consumer Law at Parramatta Local Court and was fined \$34,000 plus professional costs of \$250 and \$30,050 in compensation payments to consumers.

A public warning was issued by Fair Trading regarding Mr Piggott on 7 February 2013.

Mark Anthony Buhagiar – Operation Ruse

During routine contractor licence application checks by Fair Trading, anomalies were identified in documents supplied as trade qualifications purported to be issued by NSW TAFE and VETASSESS.

A detailed search revealed a total of 22 applications, all relating to electrical contractor licences, that had fraudulent trade certificates. The matter was reviewed by ICAC and referred to Fair Trading for investigation.

Mr Buhagiar was identified during the investigation. Mr Buhagiar claimed that he was an accredited assessor with VETASSESS and therefore was able to assist 2 separate Registered Training Organisations in providing assessments to clients for a nominal fee.

Mr Buhagiar would then provide fraudulent certificates to the clients who then used these documents to apply for a contractor's licence with Fair Trading.

On 15 March 2013 Mr Buhagiar was sentenced to 18 months imprisonment with a non-parole period of 13½ months for offences under the *Crimes Act 1900* by Sutherland Local Court. The sentence will be served by way of home detention. The Court also ordered the payment of \$15,600 to 5 persons for Fair Trading matters and \$8,852 for 4 Police charges.

Switchworx and Charbel Khoury

Charbel Khoury targeted the elderly and vulnerable including falsely representing the need for goods and services, using coercion in connection with the payment for goods or services, performing deficient electrical work and failing to comply with required electrical safety standards. In June 2012, Fair Trading commenced an investigation into the trading activities of Switchworx after a number of consumer complaints.

Switchworx sent out promotional flyers which falsely represented the need to undertake electrical safety inspections in the home. He offered cheap deals by advertising residential electrical safety inspections for a senior's rate and then over-charged consumers to fix electrical safety faults that didn't exist.

Consumers were misled into believing that the wiring, fuse box or smoke detector in their home was faulty. Fair Trading investigators found that the fire safety hazards represented by Switchworx did not exist, as well as a number of deficiencies in the quality of the electrical work conducted by the company.

On 14 November 2012, Mr Khoury and Switchworx were ordered to pay fines and costs totalling \$31,162 and an additional \$50,000 in compensation to affected consumers by Parramatta Local Court for offences under the Australian Consumer Law and the *Electricity (Consumer Safety) Act 2004*.

Mr Khoury is disqualified from working in the industry for 3 years and disqualified for a further 3 years from holding a licence in his own right. The licences for Switchworx Electrical Pty Ltd and Mr Khoury have been cancelled.

Ziad Saboune and Mr H2O Pty Ltd

Ziad Saboune conducted a number of plumbing businesses and engaged in threatening behaviour towards consumers as well as attempting to bribe and then assaulting a plumbing Inspector. He targeted the elderly and vulnerable and charged excessive fees for his services.

Fair Trading took Show Cause action against Mr Saboune and the company for not being a fit and proper person to hold an authority and for breaching statutory warranty provisions. The company was fined \$20,000 and Mr Saboune was disqualified for a period of 5 years.

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.

Fair Trading found that the companies had been supplying and installing kitchens and bathroom cabinetry without being licensed to do so; failing to provide home warranty insurance to consumers; taking excessive deposits from customers; and either failing to supply goods of a satisfactory quality or subjecting consumers to lengthy delays before their kitchens were installed.

Scullery & Holz Interiors Pty Ltd went into liquidation in December 2011. However, Bespoke Installations Pty Ltd was still trading and may have been using the name Scullery & Holz to persuade consumers to enter new contracts or pay deposits or instalment payments.

On 29 January 2013, Mr Mayer and Bespoke Pty Ltd trading as Scullery & Holz were ordered to pay \$7,383 in fines and costs by Parramatta Local Court for offences under the *Home Building Act 1989*.

Darren Stephen Goddard

Darren Stephen Goddard carried out unlicensed specialist building work; contracted to do work without home warranty insurance; supplied fake home warranty insurance certificates; and provided a false licence.

Mr Goddard has never held any licence or certificate under the *Home Building Act 1989* however he traded as Genesis Themed Designs and Productions and contracted to do renovation work including electrical wiring work.

The licence number he used on his paperwork belonged to a legitimate builder who did not authorise Mr Goddard to use his licence number, nor did he have any association with Mr Goddard.

On 13 February 2013, Mr Goddard was sentenced to an 18 month good behaviour bond under the *Crimes Act 1900* and ordered to pay \$8,083 in fines and costs for offences under the *Home Building Act 1989* by Sutherland Local Court.

Ian Andrew Lee trading as Leisure Pools Yarrowonga

Ian Andrew Lee, trading as Leisure Pools Yarrowonga, undertook work without valid home warranty insurance in place; demanded excessive deposits; and performed deficient electrical work that failed to comply with required electrical safety standards.

Mr Lee knowingly used a false Home Warranty Insurance Certificate which he presented to Corowa Shire Council for the purposes of obtaining development approval. He had been warned previously by the council that he could not commence work on the contract until he had obtained a valid certificate or an owner builder permit.

Clients of Mr Lee only learnt from the council that their pool had been built without a permit after it had been completed.

On 12 November 2012, Mr Lee was fined \$31,732 for offences under the *Crimes Act 1900* and the *Home Building Act 1989* by Albury Local Court.

Edgar Agda

Edgar Agda contracted to and carried out residential building work without a licence; demanded and received excessive deposits; and failed to provide home warranty insurance. Mr Agda was the sole director of iEngineer Pty Ltd which was deregistered on 15 October 2011. Mr Agda has never held any licence or certificate under the *Home Building Act 1989*.

On 5 November 2012, Mr Agda was ordered to pay fines and costs of \$19,832 for offences under the *Home Building Act 1989* by Parramatta Local Court.

Joe Michael Tadrosse

Joe Michael Tadrosse supplied a quotation for a concrete driveway. The owner assumed that Mr Tadrosse was licensed to do the work as the written quote contained a bona fide licence number. The header of the quotation contained misrepresentations by Mr Tadrosse that he was the holder of a contractor licence. The holder of that legitimate licence number did not give Mr Tadrosse permission to use his licence number.

Upon agreeing with the quotation (\$27,000) to have the works carried out, Mr Tadrosse requested an upfront payment before he would commence work. The upfront payment of \$6,000 was paid to Mr Tadrosse as a deposit by way of cash. This was in excess of the prescribed amount.

Work commenced at the property and continued sporadically for about 2 weeks. Mr Tadrosse continually requested further money from the consumer and threatened to stop work if money was not forthcoming. A total of \$19,910 was paid to Mr Tadrosse.

On 28 June 2013, Mr Tadrosse was ordered to pay fines and costs of \$15,131 for offences under the *Home Building Act 1989* and the *Australian Consumer Law* by Parramatta Local Court.

B & G Materials Supply Pty Ltd; Jason Zhang; Michael Zhang

Michael Zhang and his son Jason Zhang carried out work at 4 consumers' homes. Mr Zhang used the name B&G Materials Supply Pty Ltd, a company owned by his son Jason in the course of the advertising and contracting.

Neither Michael Zhang, Jason Zhang nor B&G Materials Supply Pty Ltd have ever been licensed contractors. In the course of their contracting, they would take money and not complete the work contracted.

On 11 January 2013, B&G Materials Supply Pty Ltd were ordered to pay fines and costs of \$3,782 for offences under the *Home Building Act 1989* by Parramatta Local Court. Jason Zhang was ordered to pay fines and costs of \$1,616 for offences under the *Home Building Act 1989*. Zhi Yong (Michael) Zhang was ordered to pay fines and costs of \$6,797 for offences under the *Home Building Act 1989*. Compensation of \$2,000 was awarded to one of the victims.

Plumbing

Plumbing Inspection and Assurance Services (PIAS) aims to ensure that on-site plumbing and drainage work complies with relevant legislation, Codes and Standards. This is performed in a number of ways:

- conducting field audits on licensed plumbers and drainers; and
- conducting desk-top audits.

PIAS also provide other services to the industry such as:

- Industry Development;
- liaising with Industry Stakeholders;
- trade seminars;
- TAFE information nights;
- regional council information / technical support;
- assisting customers and industry with technical support and complaints; and
- technical assistance to Regional Councils.

In the three years since PIAS was integrated into NSW Fair Trading, the officers have assisted other Home Building Service business units to identify work carried out by unlicensed / rogue traders who disregard the basic requirements for compliance.

In 2012-13 Fair Trading:

- booked 51,490 inspection audits;
- conducted 28,697 inspection audits;
- identified 18.61% instances of non-compliance during field audits;
- identified 6.8% instances of non-compliance during desktop audits; and
- answered 8,822 technical enquiries.

Energy and utilities – electrical and gas

NSW Fair Trading has regulatory 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 2012-13, Fair Trading processed 1,988 applications for certification of new, modified or renewed articles.

Fair Trading is also the regulator for all natural gas, LPG, auto-gas 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 2012*, which came into effect in September 2012.

During 2012-13, the following operations were conducted:

August 2012 – Investigators attended the annual Sydney Boat Show at Darling Harbour to ensure the safety of gas appliances and electrical products

installed on boats offered for sale. A total of 114 traders were spoken to.

September 2012 - Investigators visited the annual Henty Field Days to check the safety of gas and electrical appliances offered for sale. 26 breaches were identified. 2 of 23 electrical items tested were found to be non-compliant, while 24 of 62 gas appliances failed to meet gas consumer protection requirements. Warning letters and rectification orders were issued to traders. Fair Trading attended various other rural and regional shows throughout the year to promote compliance and safety.

November 2012 – Investigators visited the Dubbo region as part of a compliance program inspecting various gas installations in residential homes and caravan parks. Fair Trading inspected 22 installations and issued 3 warning letters and 4 rectification orders.

December 2012 – Investigators carried out its annual Christmas lights operation which targets businesses in the Sydney region that sell festive season lighting to ensure the products are safe and approved for sale in NSW. 24 retailers were visited and 1,072 products were inspected. 66 products were found to be non-compliant. One penalty notice and a written warning were issued.

March 2013 - Fair Trading implemented a new Certificate of Compliance and Inspections, in order to improve the way in which gas fitters notify work carried out on gas installations. The new format allows gas fitters to submit an online certificate direct to Fair Trading allowing a more streamlined process and further strengthening compliance within this industry.

April 2013 – Investigators attended the annual Caravan & Camping Industry Association show at Rosehill. Fair Trading conducted pre-show inspections on the caravans, electrical and gas appliances offered for sale to ensure the safety of the products. Inspections also targeted the compliance of the gas installation work to Australian Standards carried out on the caravans and campers. 234 appliances were inspected and 10 were found to be non-compliant.

Recalls

September 2012 - Investigators facilitated a voluntary recall of a range of commercial backpack vacuum cleaners as a result of 2 electrocutions. Approximately 24,000 products were affected. Fair Trading, in conjunction with the supplier, were able to facilitate the replacement of the power connection socket for each product to ensure their safe use.

April 2013 - Fair Trading with the co-operation of Samsung Electronics Australia oversaw the voluntary recall of over 150,000 top loading washing machines, following reports of certain models catching fire during use. The fault was identified as water and moisture coming into contact with major electrical components in the machines.

Penalty notices and disciplinary actions

Act / Regulation	Penalty notices			Disciplinary actions	
	Defendants	Offences	Penalties	Licence suspensions	Licence disqualifications & cancellations
<i>Australian Consumer Law (NSW)</i>	32	33	\$18,150		
<i>Conveyancers Licensing Act 2003</i>	-	-	-	0	3
<i>Electricity (Consumer Safety) Act 2004</i>	19	28	\$13,700		
<i>Fair Trading Act 1987</i>	1	1	\$550		
<i>Home Building Act 1989</i>	210	327	\$322,750	155	379
<i>Motor Dealers Act 1974</i>	104	387	\$179,300	1	18
<i>Motor Vehicle Repairers Act 1980</i>	65	82	\$68,420		15
<i>Pawnbrokers & Second-hand Dealers Act 1996</i>	4	6	\$5,280		3
<i>Property, Stock & Business Agents Act 2002</i>	53	56	\$75,350	3	49
<i>Residential Tenancies Act 2010</i>	3	8	\$4,400		
<i>Retirement Villages Act 1999</i>	1	1	\$2,200		
<i>Tattoo Parlours Act 2012</i>	1	1	\$1,100		
<i>Travel Agents Act 1986</i>	-	-	-	0	15
<i>Valuers Act 2003</i>	-	-	-	0	4
TOTAL	493	930	\$691,200	159	486

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

Successful prosecutions

Act	Defendants	Offences	Penalties
<i>Australian Consumer Law (NSW)</i>	40	127	\$162,020.50
<i>Business Names (Commonwealth Powers) Act 2011</i>	1	1	\$83.00
<i>Crimes Act 1900</i>	10	26	\$24,540.00
<i>Electricity (Consumer Safety) Act 2004</i>	2	9	\$22,830.00
<i>Fair Trading Act 1987</i>	4	5	\$4,678.00
<i>Home Building Act 1989</i>	27	116	\$313,962.00
<i>Motor Dealers Act 1974</i>	7	23	\$41,078.00
<i>Motor Vehicle Repairers Act 1980</i>	1	3	\$1,749.00
<i>Property, Stock & Business Agents Act 2002</i>	4	4	\$15,466.10
TOTAL	96	314	\$586,406.60
Total Prosecutions:	324		
Total Successful Prosecutions:	314		
% Successful:	97%		

- 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 / Legislation	No. of matters
Supreme Court	Injunction	<i>Australian Consumer Law (NSW) / Fair Trading Act 1987</i>	5
	Other	Other	2
District Court			3
Local Court		Other	1
Administrative Appeals Tribunal		<i>Administrative Decisions Tribunal Act 1997</i>	2
Administrative Decisions Tribunal		<i>Administrative Decisions Tribunal Act 1997</i>	2
		<i>Government Information (Public Access) Act 2009</i>	2
		<i>Home Building Act 1989</i>	21
		<i>Motor Dealers Act 1974</i>	3
		<i>Motor Vehicle Repairs Act 1980</i>	7
	<i>Property, Stock and Business Agents Act 2002</i>	8	
TOTAL Civil Litigation			56

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. Fair Trading provides a range of service delivery channels to assist consumers and traders in accessing information in a way that meets their needs.

Highlights 2012-13

- 93% of 43,160 complaints about marketplace transactions worth up to \$638 million were successfully resolved without recourse to a tribunal or court.
- Website visitor sessions have increased by 7% to 3.8 million, while our mobile website was visited over 174,000 times through the year.
- 18,503 people attended Fair Trading's 687 information sessions, talks and seminars across the state.
- 703,158 residential rental bonds to the value of \$1.042 billion held in trust.
- Received 951,255 telephone enquiries in the Fair Trading Information Centre (FTIC), Fair Trading Centres across the state, Business Licensing and Registry Services.

- 90.2% calls received by FTIC were answered within 5 minutes.

Service-level statistics	2012-13
Requests for service	6,392,556
Rental bond transactions	428,142
Consumer and trader complaints about marketplace transactions	43,160

Fair Trading telephone enquiries

Fair Trading received 951,255 telephone enquiries on general fair trading matters, bonds, strata and tenancy, business licensing, home building and Registry Services matters (Co-operatives, Associations, Funeral Funds, limited partnerships and solicitor corporations) as well as enquiries to the Government Contact Centre.

Of the calls received by the Fair Trading Information Centre, 90.2% were answered within Fair Trading's Guarantee of Service standard of 5 minutes.

Fair Trading telephone enquiries	2012-13
Residential rental bonds, strata and tenancy (FTIC)	366,259
Home Building (FTIC)	138,184
General fair trading (FTIC)	163,258
BLIS (FTIC)	18,296
Other (FTIC)	121,626
Government Contact Centre (GCC)	50,931
Registry Services (Bathurst)	25,744
Fair Trading Centre Phone Calls (state-side)	37,039
BLAS	29,918
TOTAL Fair Trading telephone enquiries	951,255

Performance measures	Target	2008-09	2009-10	2010-11	2011-12	2012-13
Customer satisfaction meets or exceeds the benchmark	≥90%	85%	91%	92%	88%	94%
Community take-up rate: average number of services requested per 1000 people in NSW *	Est. ≥700	784	856	991	998	851
% of accuracy of information provided**	≥95%**	93%	96%	96%	N/A	94%
% of consumer and trader complaints finalised within 30 days	≥85%	93%	92%	90%	90%	86%
% of consumer and trader complaints resolved	≥70%	88%	89%	89%	85%	93%
% of telephone enquiries answered within published standards ***	≥90%	99%	98%	90%	91%	90%
% of licensing and registration services meeting published standards	100%	100%	100%	100%	100%	100%
% of bond refunds meeting published standards	100%	100%	100%	100%	100%	100%

* Based on ABS statistics of 7.3 million as at June 2012

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

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

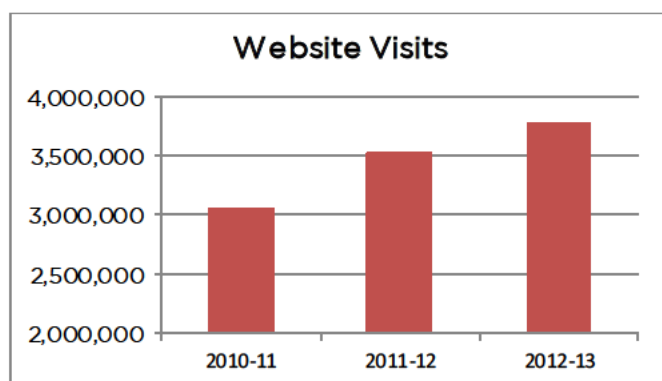
Electronic enquiries

In addition to obtaining information over the phone or in person, our customers can lodge their questions online through Fair Trading's website. In 2012-13, Fair Trading responded to 29,376 electronic enquiries on a range of services delivery areas.

Product description	Electronic enquiries
Fair Trading	10,150
Tenancy / Bonds / Residential Parks	6,081
Retail	4,936
Other Services	1,979
Community / Strata	1,663
Construction	1,491
Property	788
Information Media and Telecommunications	774
Financial and Insurance Services	357
Utilities	247
Accommodation and Food	226
Professional Scientific and Technical Services	209
Employment / Investment / Gambling	183
Education and Training	157
Transport Postal and Warehousing	117
OneGov	14
Agriculture Forestry and Fishing	2
Information Referral Centre	2
Total	29,376

Fair Trading website

The Fair Trading website continued to be a key mechanism for delivering information to NSW consumers and traders, with over 3.7 million visits made during the year - an increase of 7% from the previous year.



A new data collection methodology was implemented in July 2012. Any variance in visits data from previous years is because the new methodology has improved filtering for ensuring visits counted are by people rather than automated search engine processes.

Mobile Website

Our mobile website received 174,273 visits during the year. As well as providing information for users of smartphones and other mobile devices, the mobile website adds value by leveraging the functionality of smartphones, for example global positioning.

During the year our mobile platform was further enhanced by the development of our third smartphone app called *My next car*. This app provides consumers looking to buy a car with useful information, tips and interactive features to assist them.

Since its launch in November 2012, there have been 2,815 downloads. Downloads of our two other apps, *Scam Buster*, and *ShopSmart*, were 11,174 and 9,440 respectively by the end of June 2012.

Social media

Fair Trading on Facebook

Fair Trading launched its corporate Facebook page on 1 August 2012. Through Facebook, Fair Trading promotes the availability of its information and services as well as events. The page has become an effective way of engaging with consumers as well as to address consumer queries. By the end of June 2013, our Facebook page had generated 19,714 likes.

I love my local business

In November 2012, NSW Fair Trading ran its first social media campaign on Facebook. The campaign, known as *'I love my local business'*, asked the general public to tell us about their favourite consumer experience with a local business.

The campaign allowed Fair Trading to engage with small businesses and to demonstrate our support for local communities. Almost 1,000 people participated in the 4-week competition.

Other campaign highlights included: gaining an extra 13,200 new page likes on our Facebook page; reaching more than 720,000 unique Facebook users; and attracting widespread positive local media coverage across the State.

Twitter

We continued using Twitter as a tool for communicating and engaging with our customers and the public, adding 868 new followers to bring our total to 2,423 followers by the end of June 2013.

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 extended range of government services provided by Fair Trading and promotion of our mobile apps.

YouTube

We increased our presence on YouTube with 213 new videos, bringing the total to 250 videos available from our channel. These included our new video *Renting a home: a tenant's guide to rights and responsibilities* produced in 17 languages.

Our videos were viewed 40,634 times during the year, a dramatic increase from the 48,031 views made in total across the four 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 all newsletters:

- *The Letterbox* – 19% increase to 8,678 subscribers
- *Foundations* – 1% increase to 26,274 subscribers
- *What's new* – 16% increase to 8,726 subscribers
- *Property industry news* – 75% increase to 14,738 subscribers
- *Auto Torque* - 13% increase to 1,249 subscribers.

Publications

In total, 396 publications were available to be downloaded and printed from our website, including 240 website pages that could also be downloaded and printed as fact sheets. In addition, 25 fact sheet titles were available in up to 33 languages and 108 as large print format fact sheets.

We printed publications to support the educational activities delivered by our staff, for example through our *My Place* and *Think Smart* programs. Publications

printed included: *Consumer guide for international students* (30,000 printed); *Seniors guide* (25,000); and *Strata living* (17,000).

Supporting local communities

In December 2012, we launched our new outreach strategy *Supporting local communities*. The strategy highlights Fair Trading's proactive role in the marketplace and it emphasises our existing strengths in *connecting, empowering, safeguarding* and *educating* NSW communities.

The strategy guides our commitment to ensuring different communities in NSW have access to our services through innovative use of mobile information delivery platforms, local education programs, information seminars, proactive compliance activities and outstanding counter and phone services.

The strategy strongly positions Fair Trading as an agency which goes to the community to deliver its services rather than waiting for the customers to come to us. As part of the *Supporting Local Communities* strategy, Fair Trading also re-badged and expanded our existing community access programs which are now known as ***My Place programs***.

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 an attempt to resolve the matter.

During 2012-13, we received 43,160 consumer complaints to the value of \$638,265,000 of which 93% were successfully resolved.

Top 10 consumer complaints in 2012-13

Rank	Product description	Complaints
1	Retail - Electrical, Electronic, Whitegoods and Gas Appliances	2,220
2	Retail – Furniture / Furnishings / Manchester	2,084
3	Retail - Automotive (Used) - Motor Car (Used)	2,065
4	Construction - House Construction	1,797
5	Retail – Clothing / Footwear / Accessories / Jewellery	1,632
6	Other Services – Travel / Tourism	1,475
7	Other Services - Automotive Services - Motor Car Repairs and Maintenance	1,428
8	Other Services – Parking	1,376
9	Retail – Vouchers / Coupons	1,373
10	Retail - Automotive (New) - Motor Car (New)	1,128

Consumer and trader complaints about marketplace transactions

Complaint type	2008-09	2009-10	2010-11	2011-12	2012-13
Real estate	2,440	2,564	2,358	2,341	1,444
Home building	6,283	8,008	7,014	8,586	7,774
Fair trading	29,537	29,616	30,223	33,321	33,942
Total	38,260	40,188	39,595	44,248	43,160

Strata

In 2012-13 we received 14,286 strata scheme enquiries with 1,614 applications for mediation. Of these, 638 did not proceed to mediation, 295 were successfully managed prior to mediation and of the remaining 681 applications, 71% were successfully mediated.

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

Rental Bonds

According to Fair Trading's Guarantee of Service, provided both parties to a bond have agreed on who should receive the bond, refunds are usually deposited to a bank account within 2 working days or issued by postal cheque within 4 working days of receiving the claim form.

This standard was met in 97% of rental bond refunds. At 30 June 2013, 703,158 residential rental bonds to the value of \$1.043 billion were held in trust.

Residential rental bonds	2008-09	2009-10	2010-11	2011-12	2012-13
Bonds lodged	264,076	273,939	260,693	267,757	275,388
Bonds refunded	256,050	256,584	246,073	250,372	252,340
Bonds held in trust	643,418	648,151	662,759	680,152	703,158
Total enquiries processed	459,263	438,319	389,882	338,562*	428,143
TOTAL value of residential rental bonds held	\$794.4M	\$839.8M	\$902.6M	\$969.4M	\$1,042.7M

* The figure in this table published for 2011-12 bond enquiries should have read 403,923.

Business Licensing

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 92% of the 11,990 new business licences issued and for 95% of the 52,500 business licence renewals.

Home Building Licensing

Licensing for trade work is an important aspect of maintaining a high quality and robust residential building industry, which protects consumers and builders alike.

NSW has a rigorous licensing regime aimed at ensuring that only properly qualified, and fit and proper, tradespeople are issued with licences to contract with consumers. This is achieved through checking qualifications, criminal records, bankruptcy and insolvency, company histories and previous licence records.

Business licensing activity

Licence type	2011-12		2012-13	
	New	Register total	New	Currently registered
Builders and specialist trades	14,887	180,918	14,524	185,343
Motor dealers	417	3,876	435	3,862
Motor vehicle repairers and tradespeople certificates	3,282	134,671	3,265	136,964
Travel agents	95	1,404	73	1,396
Pawnbrokers and second-hand dealers	151	761	159	762
Property, stock and business agents	3,230	30,049	2,586	29,489
Real estate certificates	4,916	17,179	5,160	17,478
Valuers	242	3,127	245	3,219
Conveyancers	86	1,045	66	1,079
TOTAL	27,306	373,030	26,513	379,592

In recent years, NSW Fair Trading has cut red tape to assist small businesses with licensing in areas such as licence holders accessing a range of services online, including renewing their licence and updating their details.

Fair Trading provides licensees with the option to renew their licence for three years instead of one, saving 20% on fees.

Lifetime licence numbers have improved efficiency for builders and tradespeople, and also enhanced consumer protection and awareness by providing continuity of the licence record, should a licensee leave and later return to the industry.

In 2012-13:

- 185,343 entities held 276,927 different licence classes;
- 65,101 licences were restored or renewed;
- 14,524 new licences were issued;
- 1,323 licences were upgraded by variation requests;
- 534 licences were suspended or cancelled;
- Over 97% of new applications were processed within Fair Trading's Guarantee of Service of 30 working days; and
- 94% of renewals were processed within the Guarantee of Service of 2 working days.

Community Grants

Community 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 advocacy and assistance for vulnerable consumers.

Funding allocation

Community and industry grants funding allocation	2012-13
Tenants Advice and Advocacy Program	\$9,367,253.98
Financial Counselling Services Program	\$6,116,444.74
No Interest Loans Scheme	\$2,245,280.02
Aged Care Supported Accommodation Service	\$425,428.09
Home Building Advocacy Service	\$236,010.10
Co-operatives Development Grants Program	\$90,000
Total funding allocation	\$18,480,416.93

All figures exclude the GST payable on grants.

View from the inside

Staff survey results

For the first time all public sector employees were given the opportunity to take part in a sector wide survey. The *People Matter Employee Survey 2012* presented an opportunity for employees to provide feedback on working in Fair Trading, the parent agency Department of Finance and Services, and the overall public sector. Participation in the survey was not compulsory and was conducted from 16 July to 10 August 2012.

The results show that people are most positive about having the right skills for the job with 98% of Fair Trading staff reporting that they have the right skills to do their job effectively. Pleasingly, for an organisation with a focus on delivering high standards of customer service, 96% of staff believe that their workgroup strives to achieve customer and client satisfaction, with 95% treating customers and clients with respect.

Staff have a good understanding of how their work contributes to the organisation's objectives as a whole with a rating of 94%. Another pleasing result was that 83% of staff were proud to tell others that they work for Fair Trading.

On most measures of staff engagement and satisfaction, Fair Trading was above the average for the public sector. This information will contribute to ways of improving the Fair Trading workplace.

Employee engagement

In 2012, a Staff Engagement Committee was formed, comprising 14 staff from across the agency to help improve staff engagement within NSW Fair Trading. An Action Plan, developed as a result of the Staff Engagement Survey, resulted in implementation of the following three key deliverables:

- 1. Assistant Commissioners' Blog**
This fortnightly blog focuses on the activities of the Assistant Commissioners and provides information about what is happening in each business unit, easily accessible in one location.
- 2. A single Fair Trading Events calendar**
This intranet-based calendar lists events across Fair Trading, including My Place programs, compliance activities, Home Building Service programs, legislative reforms and legislative consultation updates.
- 3. Experience Fair Trading program**
Based on the concept behind the Young Professionals 'Day in the Life' program, Experience Fair Trading aims to give staff an idea of how different business units operate and the functions that they perform by spending time in that area.

The program aims to build better relationships between staff and create valuable networks across the agency.

Examples of nominated activities so far include accompanying staff on trader visits or while presenting a seminar, sitting in with the Licensing branch, joining a building or motor vehicle inspector as they do their inspections, and observing staff field calls in the Fair Trading Information Centre.

Relocation

Fair Trading is making its contribution to the NSW Government's "*Decade of Decentralisation*" through the relocation of 40% of Fair Trading staff currently located in the Sydney CBD.

40% of Fair Trading staff currently based in the city will be relocated to Parramatta in late 2013 once the fit-outs of the new locations are complete. This also provides an opportunity to bring more of the Fair Trading team from the Sydney and Parramatta CBDs together to bring greater efficiency.

Further support for the initiative will be achieved during 2014 when Fair Trading's Renting Services Branch will be relocated to Grafton.

In accordance with NSW Government's commitment to the Grafton community and the announcement of 75 additional public sector jobs for the local area, Fair Trading will be contributing 25 positions to this total.

Strategic review

NSW Fair Trading, like most NSW public sector agencies, 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 legislation we are required to administer.

While Fair Trading's role is essentially unchanged, we have initiated a strategic planning process to take a fresh look at "what we do" and "how we do it" in a contemporary market place. This will ensure that we are in a position to be effective into the future.

Fair Trading has identified a number of strategies which should be implemented as part of a Strategic Planning Program to be undertaken over the 2012-2014 period. The strategies for the plan have been finalised along with the initiatives under each strategy.

The Strategic Planning Program Steering Committee has assigned an Assistant Commissioner to each strategy to be accountable for its delivery and to ensure that the strategy maintains momentum.

The Steering Committee has also appointed Project Managers from all divisions across Fair Trading to implement the project initiatives.

Each strategy has an implementation plan which outlines the background to the project, milestones and any implementation issues. Those strategies include:

- Service focus;
- Market presence;

- Media and communications;
- Stakeholder collaboration;
- Government reforms;
- Information management;
- Structure;
- Capability;
- Engagement.

Fair Trading contact information

In person - Fair Trading Centres

Throughout 2012-13, 24 Fair Trading Centres were in operation across NSW in the following locations:

Albury, Armidale, Bathurst, Blacktown, Broken Hill, Coffs Harbour, Dubbo, Gosford, Goulburn, Grafton, Hurstville, Lismore, Liverpool, Newcastle, Orange, Parramatta, Penrith, Port Macquarie, Queanbeyan, Sydney, Tamworth, Tweed Heads, Wagga Wagga, Wollongong.

Blacktown Fair Trading Centre closed on 31 May 2013 with staff relocated to other sites.

The remaining 23 centres continue to provide information and assistance on consumer issues, motor vehicles, home building and renovation, property and tenancy issues, plus co-operatives.

Other locations

Selected Fair Trading services were also available in 2012-13 via Government Access Centres (GACs) and other agency arrangements through regional NSW in the following 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.

Telephone – Fair Trading Information Centre

Telephone services were available by calling 13 32 20 Monday to Friday between 8.30am and 5.00pm.

NSW Fair Trading

PO Box 972,
Parramatta NSW 2124
(02) 9895 0111

Enquiries 13 32 20

www.fairtrading.nsw.gov.au

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