

ACCC campaign to protect disadvantaged and vulnerable consumers

Campaign background

On 2 June 2003 the ACCC and its Consumer Consultative Committee launched a campaign focusing on commercial and business practices that target or seek to exploit disadvantaged or vulnerable consumers. Characteristics that may suggest disadvantage include: low income, culturally and linguistically diverse background, disability (whether intellectual, psychiatric, physical or sensory), illiteracy, indigenous origin, homelessness, remoteness, and serious or chronic ill-health.

In broad terms, consumers who experience some form of vulnerability or disadvantage may be especially at risk in the marketplace because they have fewer means to combat unfair behaviour and/or less money to cushion the impact of unlawful behaviour.

It can be argued that:

- » The imbalance of information between disadvantaged and vulnerable consumers and traders may be greater than for other consumers. This imbalance is sometimes referred to as information asymmetry.
- » For disadvantaged and vulnerable consumers the information asymmetry can be exacerbated because it may be more difficult for them to gather and comprehend information—for example, due to a lack of mobility, a lack of education, a language barrier or a hearing disability.
- » Disadvantaged and vulnerable consumers have fewer means to address the problems they may experience. Information is important when asserting one's rights. The same factors that can make it difficult for an 'at risk' consumer to access information can inhibit them from asserting their rights if things go wrong.
- » Poor business conduct has the greatest negative impact on this group of consumers—a financial loss that may be relatively small for a consumer on an average or above average income may be very large for a consumer on a low income.

Some unscrupulous players in the marketplace specifically set out to exploit the disadvantage or vulnerability of others. For example, 'miracle cures' prey on the desire of chronically ill consumers to find a cure for their health problem or disease.

It is important to emphasise that vulnerable or disadvantaged people are not universally at risk in all—or indeed any—marketplace situations. Rather the 'risk' of an unfair marketplace experience is higher for these members of our community and the effect potentially greater.

For example, misleading 'free' or discount offers may entice consumers on a low income to buy a product on the basis that it will not compromise a carefully managed budget. If the claims regarding the offer turn out to be untrue or misleading, the consumer may find they cannot pay for other essential items such as food or rent.

The ACCC message to business is not to avoid dealing with consumers who experience some form of disadvantage or vulnerability. Businesses should feel free to contract with 'at risk' consumers—to do otherwise would be to deny them opportunities and to forgo legitimate business opportunities. And, if consumers possess the characteristics defined in anti-discrimination legislation (such as the Anti Discrimination Act and the Disability Discrimination Act), refusal to contract with that consumer could be unlawful.

The message to business is three-fold:

- » make every effort to ensure that representations and contracts are clear and simple and can be understood by *all* consumers
- » if a consumer has a characteristic or characteristics which may limit their capacity to understand a contract, advise them to seek assistance and to determine whether it's in their best interests
- » if things go wrong, be open to resolving complaints and setting aside contracts in appropriate cases.

Referral guide

Protecting disadvantaged and vulnerable consumers has always been a priority for the ACCC, yet it is our experience that they rarely complain to an agency like the national regulator. Disadvantaged and vulnerable consumers are much more likely to complain to a shopfront or community based organisation, if they complain at all.

To gain access to this important consumer information, the ACCC and CCC have produced a *Referral guide* to help CCC members and other consumer organisations refer complaints to the ACCC taskforce.

Campaign taskforce

The ACCC has created a special internal taskforce to assess and fast-track complaints received through the ACCC Infocentre or referred by CCC members and other organisations that involve disadvantaged or vulnerable consumers.

The taskforce has considered 152 matters between 4 June 2003 and 31 January 2004. This includes 80 complaints referred from a range of external agencies. The remainder were complaints made to the ACCC Infocentre.

Of these complaints:

- » 35—no further action taken as the complaint did not involve trade practices issues
- » 8—referred to another agency
- » 32—being monitored
- » 2—resolved through negotiation

Currently, there are four investigations underway as a result of the remaining 75 complaints received.

While it is relatively early days, referrals to the taskforce have given the ACCC valuable insights into issues affecting disadvantaged and vulnerable consumers. Two spikes emerging from the data are:

- » complaints from consumers about debt collection
- » complaints involving telecommunications issues, particularly selling conduct, billing, contracts and collection activity.

As a result of this information the ACCC has commenced a number of investigations into potentially unlawful conduct.

If the evidence confirms a likely breach of the Act, the subsequent action by the ACCC will be an important component in ensuring the marketplace is fair for all consumers.



Mouse mat giveaway offer

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