



Northern Territory Consumer Affairs Annual Report 2015-2016

ANNUAL REPORT 2015—2016

The Hon Natasha Fyles
Attorney-General and Minister for Justice
Parliament House
DARWIN NT 0800

Dear Minister

Re: ANNUAL REPORT 2015-16


The Department of the Attorney General and Justice 2015/16 Annual Report includes performance reporting on Northern Territory Consumer Affairs in conformity with the requirements of the *Public Sector Employment and Management Act* and the *Financial Management Act*.

The Commissioner of Consumer Affairs is a statutory officer and is required to report to the Minister annually pursuant to:

Section 12 of the *Consumer Affairs and Fair Trading Act*;
Section 15 of the *Residential Tenancies Act*;
Section 11 of the *Retirement Villages Act*;
Section 14 of the *Business Tenancies (Fair Dealings) Act*; and
Section 20 of the *Caravan Parks Act*;
Part 5A of the *Building Act*.

I have pleasure in submitting to you the Commissioner's report for the year ended 30 June 2016.

Yours sincerely



Gary Clements
Commissioner of Consumer Affairs
Northern Territory Consumer Affairs

7 September 2016

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CONSUMER AFFAIRS

OUTPUT STATEMENT

Provision of a regulatory framework where the community is informed on consumer rights and responsibilities and responsible business conduct is promoted.

PROGRAMS

Promote and regulate responsible business and industry conduct through administration of a regulatory system that protects community interests.

Inform consumers of their rights while assisting conflict situations through dispute resolution processes.

REPORTING STRUCTURE

Northern Territory Consumer Affairs (NTCA) is located within the Department of Attorney General and Justice and reports to the CE in regard to compliance with *the Financial Management Act* and the *Public Sector Employment and Management Act*.

The Commissioner reports directly to the Attorney General and Minister for Justice under statutory appointments pursuant to the following Acts:

Section 12 of the *Consumer Affairs and Fair Trading Act*;
Section 15 of the *Residential Tenancies Act*;
Section 11 of the *Retirement Villages Act*;
Section 14 of the *Business Tenancies (Fair Dealings) Act*;
Section 20 of the *Caravans Parks Act*;
Section 6 of the *Price Exploitation Prevention Act*; and
Section 54F (3) of the *Building Act*

LEGISLATIVE RESPONSIBILITIES

Accommodation Providers Act

Building Act – Residential Building Dispute Function

Business Tenancies (Fair Dealings) Act

Caravan Parks Act

Consumer Affairs and Fair Trading Act (including the Australian Consumer Law)

Partnership Act

Price Exploitation Prevention Act

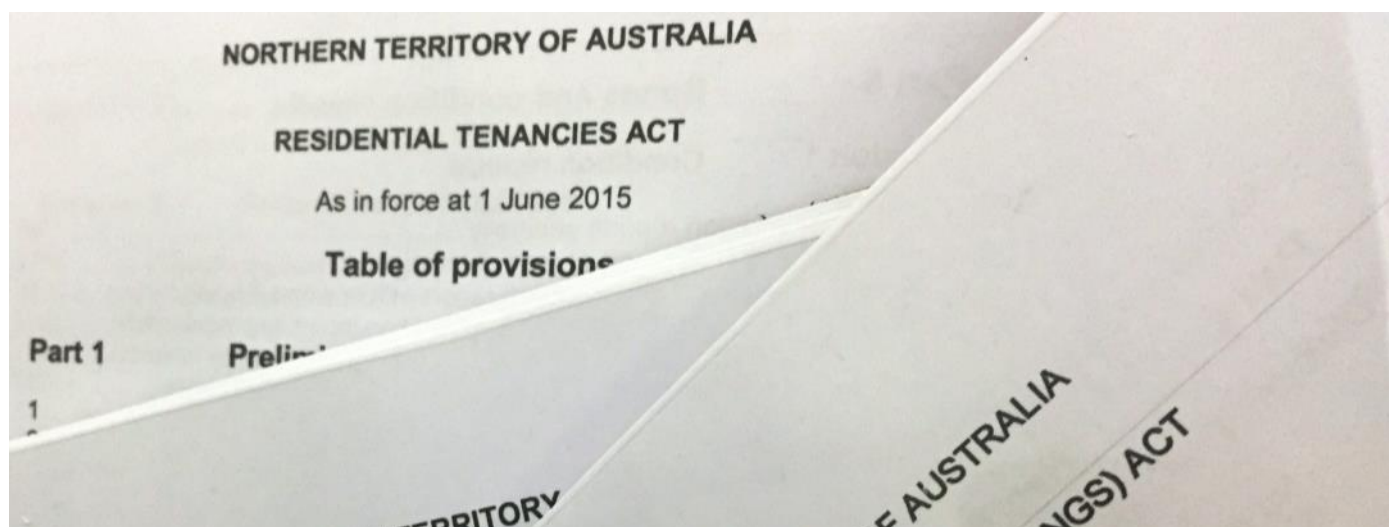
Residential Tenancies Act

Retirement Villages Act

Sale of Goods Act

Uncollected Goods Act

Warehousemen's Liens Act



HIGHLIGHTS

CONSUMER “E-CARDS”

Over the reporting year NTCA staff created new educational material in the form of “Consumer E-Cards”.

Swing Dance NT volunteers assisted greatly in development of this project by attending a photo shoot dressing in a retro/vintage theme. The pictures taken during the shoot were used to create educational materials which were then placed on social media posts (digital or electronic version) and printed on postcards for general distribution. The focus and themes of the messages were residential tenancy and general consumer rights. Simple catchy slogans were developed to engage with consumers, tenants and landlords, and to provide a ready resource to help inform and educate on these topics.

Four designs were printed onto postcards and distributed through a number of outreach services including Catholic Care, the Salvation Army, Darwin Community Legal Service, Legal Aid, shopping centres and community Libraries. The reverse side of the post cards included details and information about consumer or tenant’s and landlord’s rights and directions where further information could be found, linking with the NTCA website, factsheets, Facebook, call centre and smart phone apps.



The designs were also developed for regular use as updates on social media; these received positive responses from readers and Facebook followers. An interactive “slide show” was also an innovative method to get our messages to the public.



RentNT and ShopNT SMARTPHONE APPLICATIONS



On 9 September 2015 Northern Territory Consumer Affairs (NTCA) new smart phone software applications (Apps), RentNT and ShopNT were launched in Raintree Park in Darwin.

The two free phone apps, designed for both Android phones and Apple iPhones, help consumers, tenants and landlords keep track of their residential tenancy and shopping rights in line with current trends which has seen a significant increase in the use of smartphones and tablet computers.

The RentNT and ShopNT phone apps are easily downloadable through Google Play on Android phones and the iTunes store.

RentNT provides all the information needed to manage residential tenancies and keep track of important dates to help users know their rights and responsibilities under the *Residential Tenancies Act*. The RentNT app also links with calendars to provide reminders of important dates such as regular inspections, rent payment due dates and lease expiry/renewal dates. The app also provides information about how residential tenants can work with their landlord to prevent tenancy disputes.

The ShopNT app helps consumers manage purchases of goods and services and assists them to keep track of important information. Copies of receipts can be stored by taking a photograph while lay-by payment due dates can be loaded into the phones calendar reminders. The ShopNT app also has important information about consumer guarantee rights and other aspects of the Australian Consumer Law.

Introducing the ShopNT app ...

NORTHERN TERRITORY
CONSUMER
AFFAIRS

The new mobile phone-based tool for Northern Territory consumers.

ShopNT puts you in charge when it comes to buying goods and safeguarding your rights as a consumer.

Introducing the RentNT app ...

NORTHERN TERRITORY
CONSUMER
AFFAIRS

The new mobile phone-based tool for Northern Territory home renters.

RentNT puts you in control when it comes to renting a home, managing a home rental lease and dealing with issues and problems that might arise.

NATIONAL FORUMS, WORKING GROUPS AND MEETINGS

Consumer Affairs and Fair Trading agencies, the Australian Competition and Consumer Commission and the Australian Investments and Securities Commission administer the national Australian Consumer Law throughout Australia as well as a range of other differing legislation.

To ensure consistent messages and advice is provided to all traders and consumers throughout Australia, NTCA officers participate with other State, Territory and Commonwealth agencies in a variety of national forums, working groups and teleconferences throughout the year. This close collaboration ensures a national focus is maintained so that all Australians receive a similar level of protection, advice and guidance no matter where they live or which agency they approach.

National conversations also ensure that all agencies' staff have an understanding of matters affecting consumers across Australia as well as local market place issues.

Meetings and teleconferences undertaken this year included:

- Legislative and Governance Forum on Consumer Affairs (CAF). The Commissioner attended on behalf of the Minister at meetings held this reporting year;
- Consumer Affairs Australia and New Zealand (CAANZ); which is represented by each of the heads of Consumer Affairs and or Fair Trading Agencies nationally, the Australian Competition and Consumer Commission, Australian Securities and Investments Commission and the Commonwealth Treasury as well as a representative from New Zealand;
- Compliance and Dispute Resolution Advisory Committee (CDRAC); inclusive of a number of working parties;
- Education and Information Advisory Committee (EIAC); inclusive of a number of working parties;
- Fair Trading Operations Group (FTOG);
- National Indigenous Consumer Strategy (NICS);
- Society of Consumer Affairs Professionals (SOCAP) Annual Symposium; and
- Australasian Consumer Fraud Taskforce (ACFT).

NATIONAL COMMITTEES

LEGISLATIVE AND GOVERNANCE FORUM ON CONSUMER AFFAIRS (CAF)

The responsibility for hosting and chairing the CAF meetings moves between CAF members with each holding the responsibility for a twelve month period. The Northern Territory took on this responsibility for the period 1 September 2015 to 31 August 2016.

A meeting of all CAF Members was held in Canberra in March 2016 and while the Northern Territory Minister could not be present, the official function was hosted by the Northern Territory Consumer Affairs Commissioner.

This CAF meeting was chaired by the Commonwealth Minister the Hon Kelly O'Dwyer.

CONSUMER AFFAIRS AUSTRALIAN AND NEW ZEALAND (CAANZ)

The Northern Territory's Commissioner of Consumer Affairs was chair of the CAANZ meetings for the 2015/16 year. Meetings of all CAANZ members were held in Melbourne in November 2015, Canberra in March 2016 and also Darwin on 30 June 2016.

The heads of all Fair Trading/Consumer Affairs agencies, the Australian Competition and Consumer Commission and the Australian Securities and Investments Commission came together in Darwin to discuss issues of national importance. This is the first time in the history of CAANZ that members of this group have come together in Darwin.

The Darwin meeting also provided members the opportunity to extend their stay to enjoy the celebrations of Territory Day in a very traditional Territory way, with an evening at Mindil beach.

NATIONAL INDIGENOUS CONSUMER STRATEGY (NICS)

The National Indigenous Consumer Strategy (NICS) includes members from Commonwealth Treasury, the Australian Competition and Consumer Commission, the Australian Securities and Investments Commission and all State and Territory Governments as well as a number of independent members. The strategy has a formal action plan that ensures a shared responsibility for continually improving Australia's performance in Indigenous consumer affairs.

Regular teleconferences are held to discuss matters of national importance and to alert members of actions and activities occurring in each jurisdiction. These teleconferences and meetings are a forum to alert members of travelling conmen targeting Indigenous communities which provides jurisdictions an opportunity to issue warnings about the activities of these traders. It also has the benefit of identifying repeated poor behaviour by traders visiting Indigenous communities to help target those that may require education about their responsibilities under the Australian Consumer Law or stronger compliance action.

It was agreed this year that the theme for the NICS project throughout 2017 would be “It’s Ok to Walk Away” focusing on door to door traders and unsolicited sales to indigenous consumers.

The aim of the project is to raise awareness and empower Indigenous consumers to think before they sign documentation and exercise their rights by saying no, hanging up on nuisance calls or closing the door.

EDUCATION AND INFORMATION ADVISORY COMMITTEE (EIAC)

The Education and Information Advisory Committee (EIAC) consists of representatives from Commonwealth Treasury, the Australian Competition and Consumer Commission, the Australian Securities and Investments Commission and all State and Territory Governments. The role of the committee is to develop educational resources and material in a consistent format to be used across Australia on matters of consumer interest with a strong focus on the Australian Consumer Law.

EIAC develops educational material that benefits both traders and consumers throughout Australia.

Participation by the NTCA representative on this committee ensures the demographics of the Northern Territory and its multicultural aspects are taken into consideration when developing educational materials.

Several educational communication kits and targeted educational programs on a variety of themes and topics were created to enhance national consumer awareness throughout the course of the year. Some of these topics included warning people about the dangers of property spruikers, highlighting consumer rights for consumers with disabilities and promoting the new Australian Consumer Law guides.

AUSTRALIAN CONSUMER LAW GUIDES



Development of the new Australian Consumer Law Guides has been an ongoing project over the past two years. The new guides which were released in May 2016, have replaced the original guides which were developed when the Australian Consumer Law commenced on 1 January 2011. The new series of guides which focus on “Consumer Guarantees”, “Sales Practices”, “Avoiding Unfair Business Practices” and “Unfair Contract Terms” were developed specifically to assist legal practitioners and business proprietors understand the Australian Consumer Law.

Since the commencement of the Australian Consumer Law numerous legal actions in relation to activities under the Act have taken place allowing cases to be heard, determinations made and precedents created allowing a better understanding of the strengths and weaknesses of the Australian Consumer Law. This legal guidance has enabled the new guides to include case studies as well as detailing legal references to past cases. These guides can be downloaded from NTCA's website and from the Australian Consumer Law website (consumerlaw.gov.au) and other Consumer Affairs and Fair Trading Offices nationally.

COMPLIANCE AND DISPUTE RESOLUTION ADVISORY COMMITTEE (CDRAC)

This committee consists of representatives from all State and Territory governments, New Zealand and the Commonwealth. Members of the committee meet once a month by teleconference or more often in need, and face-to-face at least once a year. CDRAC members discuss matters relating to compliance, enforcement and dispute resolution, with the primary focus being the Australian Consumer Law. These regular meetings allow consistent, cross jurisdictional enforcement by all the Australian regulators.

The committee operates under agreed terms of reference ensuring issues are dealt with in a uniform manner. For example where there are matters of significant national consumer detriment occurring, a larger jurisdiction will often take the lead in the collection of national data on the problem trader. This allows the national trader activities to be addressed in one action by one regulator in an agreed manner, instead of a number of jurisdictions undertaking the same action.

Similarly, if there is a spike in the number of complaints relating to a particular business model occurring, a national working group is formed to collate data and information to tackle the problem at a national level. An example of this was the Training Providers National Project which resulted from the Government's VET-FEE Help program which saw a number of rogue traders enter the market place, NTCA staff participated in this project. Additional detail on this particular project follows:

TRAINING PROVIDERS NATIONAL PROJECT—WORKING GROUP

The Australian Consumer Law protects consumers against traders using misleading and deceptive practices, unconscionable conduct and unfair contract terms

In 2013, the national Vocational Education and Training (VET) regulator, Australian Skills Quality Authority (ASQA) reported to the Commonwealth Minister for Industry on the findings of a strategic review of the marketing and advertising practices of Australia's registered training organisations. This report and the receipt of many complaints nationally from consumers prompted the formation of this working group in late 2014.

Initial investigations found that some training providers were signing vulnerable consumers up to training programs when they could not speak or understand English sufficiently well, were elderly or had a disability. Many were found to have little or no understanding of what they had signed up for. Many were Indigenous, recent migrants and/or had low levels of literacy. Inducements such as "free" laptops or iPad's were also often offered; no paper work was provided; VET FEE-HELP loans were not explained and the consumers had no idea how to cancel the contract once signed.

Consumers were unknowingly signing up for a Commonwealth Government 'Vocational Education and Training (VET) FEE-HELP' loan which often totalled many thousands of dollars.

The working group in consultation with the Education and Information Advisory Committee (EIAC) created an educational campaign released nationally through social and mainstream media as well as online. All identified training providers nationally, were contacted and provided information in relation to acceptable conduct when signing up new students.

The Commonwealth Government introduced a number of reforms to this industry in April 2015 which ensured training providers were banned from providing inducements while also ensuring students met certain prerequisites before being accepted into the training course. A National Training Complaints Hotline was also created to ensure a central point of contact was available across Australia.

The outcomes of this project were significant with at least five businesses found to be acting unconscionably in their marketing actions with vulnerable consumers. These five businesses are currently involved in Federal Court proceedings.



MEDIA

NTCA has a strong focus on ensuring the public are aware of their consumer rights, are protected from scammers and rogue traders and understand their residential tenancy rights and responsibilities. Many of our statutory responsibilities relate to informing and educating the public; the media is an important element in achieving these statutory obligations.

The Commissioner and Deputy Commissioner work closely with a range of media organisations in both a proactive and reactive way to ensure Territorians are aware of a wide range of current issues.

Over the reporting year the Commissioner and/or Deputy Commissioner undertook 53 media interviews on radio, television and in local newspapers.

The Commissioner continued his participation on a monthly morning talkback segment on ABC radio highlighting “the scam of the month” while also bringing general consumer awareness messages to consumers and business throughout the Territory.

EDUCATIONAL ACTIVITIES

NTCA staff provided information sessions and briefings to business and community groups while also attending expos and open days throughout the year to inform and educate the community about the legislation we administer.

Events attended this year included;

DARWIN DEFENCE DAY EXPO



This annual expo is organised by the Department of Defence to introduce their personnel to Government agencies and businesses in the Darwin region. NTCA staff attended the Darwin Defence Day Expo which was held at the Darwin Convention Centre in February 2016. While this event was focused predominantly toward defence personnel and their families, it was also open to the general public. The expo was well attended with a diverse range of businesses, government departments and community groups represented.

NTCA staff created and staffed an informative stall which provided information about our services through a range of publications and also through the staff engaging directly with numerous attendees who raised a number of specific questions and enquiries across the broad range of topics we manage.

SUPREME COURT OPEN DAY

The Supreme Court Open Day provides an opportunity for the public to visit the Supreme Court building, Parliament House and the Administrator’s house. This event brings a large number of Territorians and visitors to each of these building and it has proven over time to present an excellent opportunity for NTCA staff to speak with the public.

This event afforded our staff an opportunity to offer information about the services provided by NTCA through the provision of general advice and distribution of resource material, publications, guides, fact sheets and promotional merchandise.

CONSUMER AFFAIRS WEBSITE

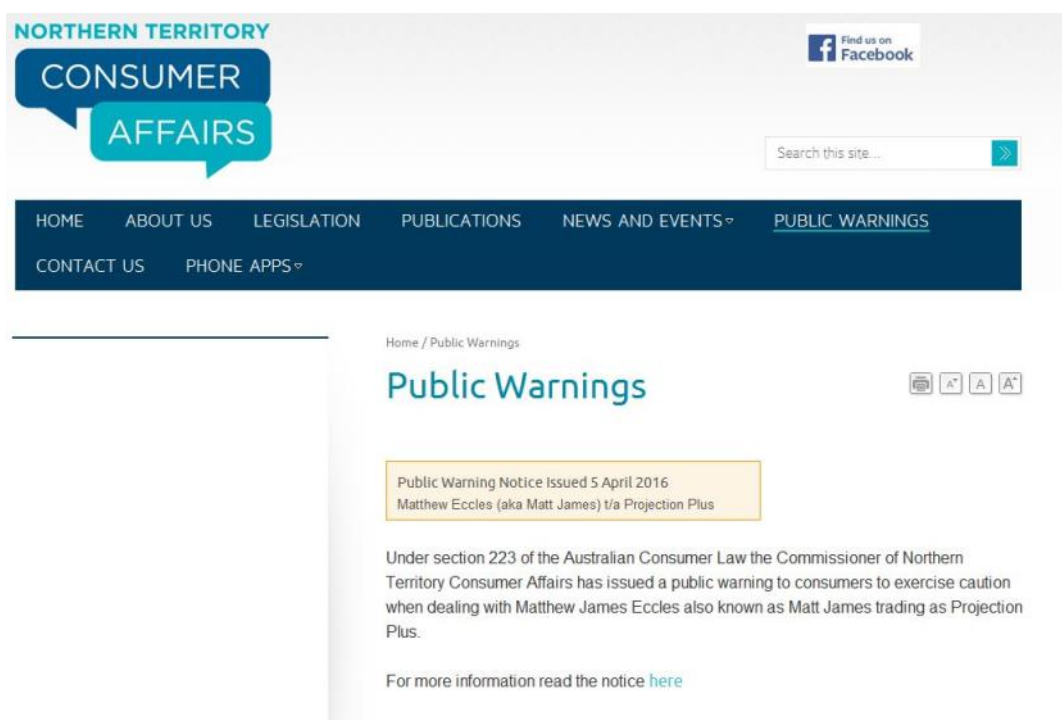
The introduction of the Northern Territory whole of Government website saw some of NTCA's information duplicated in a simplistic format on that site, however in depth information remains on our independent website.

The NTCA's website continues to be a popular place for the general public to learn about their rights and responsibilities as consumers, business proprietors, tenants or landlords. The website contains information on a very broad range of topics including general easy to read details across the twelve pieces of legislation administered.

Our website has numerous fact sheets providing handy reference materials for consumers, traders, tenants, landlords and other stakeholders. The "Indigenous Issues" section provides topical information about issues important to Indigenous consumers including "Training Provider Information", the National Indigenous Consumer Strategy and the popular "Be Smart-Buy Smart" booklet.

The "Complaints and Disputes" section has a range of information for consumers about handling issues with traders including a number of templates and sample letters to use when seeking to resolve a problem. This section also includes contact details for other industry based organisations that may be of assistance in resolving disputes, for example the Financial Ombudsman Service, Airline Consumer Advocate, the Postal Industry Ombudsman or the Telecommunications Industry Ombudsman.

The website also includes Public Warnings the Commissioner of Consumer Affairs has issued across the year as well as general media releases.

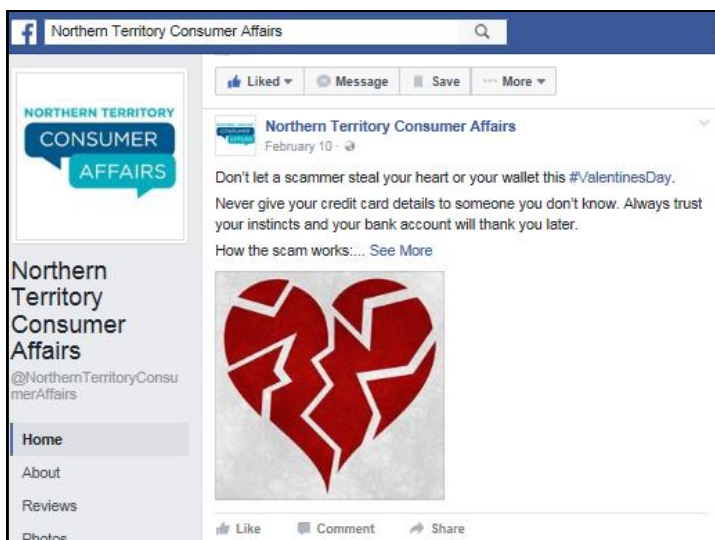


This year warnings were issued about a number of rogue traders including:

- Mr Colin Thompson trading as Esoteric Mind Specialist and the Addiction Doctor,
- Ms Casandra Cooney trading as Express Commercial Cleans, Express End of Lease Cleaning or Express Home Cleaning, and
- Mr Matthew Eccles trading as Projection Plus.

The continued popularity of the NTCA website is demonstrated by the increasing number of people that visit the site.

FACEBOOK



Social media is an essential method of informing the general public quickly and efficiently about a range of issues which can affect them.

Information provided through NTCA's Facebook posts this year included subjects such as :

- Romance, taxation and puppy sales scams,
- Travel insurance risks with the volcanic eruption in Bali,
- The Commissioner's public warnings,
- Travelling Con Men
- Door to Door sales rip offs, and
- Residential Tenancy and general consumer advice.

Facebook has been particularly effective in reducing the incidence of consumers being caught out by "travelling con men" or "bitumen bandits" who travel the country attempting to catch out unsuspecting consumers. By quickly relaying warnings about the activities of these individuals, which are then spread throughout the community, less Territorians are ripped off by these con men.

The last public warning posted this reporting year was about a travelling con man. The post was seen by nearly 6,000 people with 94 'shares' which evidences the powerful reach this form of social media provides.

Public warnings on these forms of activities are often shared widely and in some instances have been sighted by nearly 66,000 people. Scam warnings often created by other Consumer Affairs/Fair Trading agencies shared through our site are also popular. We encourage as many people as possible to "like" our page to ensure our early advice and warnings can be broadly shared.

Facebook also enables consumers to ask questions through our page, however while short answers are provided more complex questions are generally directed to our Call Centre to enable our dedicated staff to provide the best possible advice directly to the individual consumer.

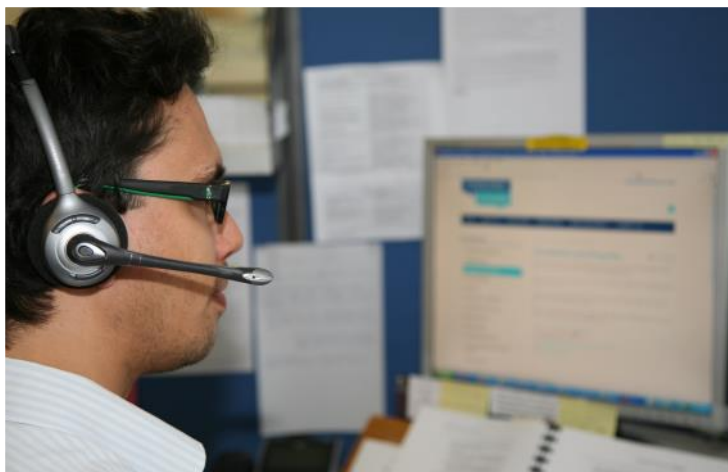
NTCA posts are often shared by other consumer protection agencies nationally, particularly in the case of travelling con men that may be on the move to the Northern Territory from other states or visa versa.

A total of 112,152 people viewed Consumer Affairs Facebook posts this year, a massive increase over our past years evidencing the power of social media in providing information in a format that is popular and easy to use in an increasingly mobile environment.

Over the reporting year NTCA staff developed more than 100 topics which were posted on our Facebook page. The informative and interesting content of these posts saw our number of “likes” exceed 1,200, an excellent effort from all NTCA staff and an excellent result bringing these important messages to so many Territorians.

FAIR TRADING

As Northern Territory Consumer Affairs (NTCA) administers 12 pieces of legislation, the Fair Trading Officers deal with a wide variety of enquiries. Although the majority of enquiries received relate to the *Residential Tenancies Act* and the Australian Consumer Law, our Officers are responding to calls relating to all sorts of scenarios, from “who is responsible for the removal of a snake from the ceiling of a rental property?” to questions about warranties, quality and supply of goods and services, as well as complex residential building matters.



These enquiries are received by telephone, email, regular mail service, personal visits to our office, our webpage and increasingly via our Facebook page. Our Call Centre answers on average 50 calls per day. Consumers, traders, landlords, tenants and other stakeholders also attend either of our two offices, located in Casuarina and Alice Springs, to speak directly with a Fair Trading Officer. Clients of NTCA are also able to access information online via our web site at: <http://www.consumeraffairs.nt.gov.au>.

The NTCA website offers a range of information across all of the areas covered under our jurisdiction, while also providing direction to contact other relevant departments and services if the enquiry does not relate to our legislation. NTCA has easy-to-read Fact and Information sheets relating to, inter alia: Fair Trading, Residential Tenancy and Residential Building matters.

In addition to providing information and education around tenancy and general consumer issues, NTCA offers a conciliation service to parties in dispute in relation to matters covered under the Australian Consumer Law. If a consumer has attempted to resolve a matter with a trader without achieving a satisfactory result, the consumer is able to lodge a request for a formal conciliation. It is noted that many complaints are able to be resolved at this stage, with no need to continue further, once the consumer has been given correct information and an understanding of their rights and responsibilities under the law and 'steps to take' with the trader.

A primary focus of the role of Fair Trading is to provide information and to educate the general public about their rights and responsibilities under the relevant legislation.



TRADER VISITS

Each year the Fair Trading Officers engage with traders (goods and service providers) by making face to face visits to their business premises. The purpose of the visits is to provide traders with advice on their rights and responsibilities under the Australian Consumer Law (ACL) and other legislation administered by NTCA. These visits also provide an opportunity for traders to directly raise any concerns or questions they may have regarding the Australian Consumer Law or other legislation, and the manner in which they should deal with enquiries and complaints from consumers.

The majority of business proprietors visited by Fair Trading Officers appeared to have a good understanding of the requirements under the Australian Consumer Law, and a willingness to try and resolve issues with their customers before matters escalate into a dispute. Trader packs are also

supplied to businesses during these visits, these contain brochures and helpful guides to assist businesses to operate within the guidelines of the Australian Consumer Law.

A total of 367 businesses were visited throughout the year in Darwin, Palmerston and surrounds, Katherine, and Alice Springs. This represents a 76% increase in visits from the previous reporting year.

Fair Trading Officers also visit Electorate Officers for the Members of the Legislative Assembly. A folder with a variety of different fact sheets is provided to Electorate Officers, ensuring that they have current information to provide to constituents, and to enable them to pass on NTCA's contact details should their constituents require further assistance with issues and concerns within NTCA's jurisdiction.

Larger businesses and organisations are regularly offered an opportunity for a NTCA representative to attend their staff training and meetings, to enhance their knowledge of the rights and responsibilities of consumers and traders under the Australian Consumer Law and the *Residential Tenancies Act*. Several not-for-profit community services with a shared client base (e.g. tenants with Family Violent Orders, or experiencing separation and divorce) and businesses have taken up this offer.

REFERRALS

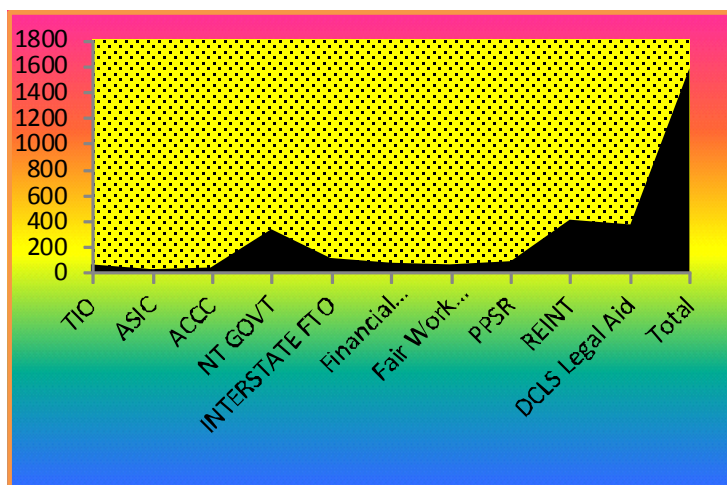
When a Fair Trading Officer receives an enquiry, they obtain as much information as possible from the enquirer in order to provide them with accurate and relevant information. At times, the enquiry may relate to a different Northern Territory Government department's relevant legislation or to a national Ombudsman service and in these circumstances the enquirer may be transferred. Our statistics evidence the importance for our Call Centre staff to be aware of other local and national services which may be able to assist a caller as 12% of calls received during this reporting year subsequently became referrals to other departments, ombudsmen and or community services.

There were 1,571 referral calls reported this year. Of those calls, referrals were directed to organisations such as the Financial Services Ombudsman, the Telecommunications Industry Ombudsman and to providers of independent legal advice.

A Fair Trading Officer's Report on recent visits to traders:

'A lot of businesses were interested in discussing areas they were not sure of with the NTCA representatives. Many businesses advised that they tend to go above and beyond what they are required to do as this kept customers happy and loyal. One trader explained that the focus on doing the right thing by their customers is a business strategy that acts as a form of advertising, with happy customers telling their friends and family and referring other customers. Another trader supplying custom made wardrobes was willing to allow customers a large range of products to "trial" and experiment with what would work for the design and layout of storage space, with a policy of refunding for any unwanted components. The result of this more flexible approach was "up-selling" from the original order.'

REFERRAL RECORDS – 2015-2016



ENQUIRIES

During the last financial year the NTCA offices received 17,137 enquiries via telephone, email, walk-ins and social media contact.

The NTCA Call Centre was the main point of contact for consumers, traders, landlords, tenants and other clients, with the Call Centre receiving 12,790 telephone calls over the reporting year, which is very similar to the previous year.

The Northern Territory Civil and Administrative Tribunal (NTCAT) took over the processing of applications under the *Residential Tenancies Act* (RTA) from 1 January 2015; however our Call Centre remains responsible to callers seeking advice on residential tenancy agreements and other tenancy matters. The Fair Trading Officers answer enquiries relating to issues covered under the RTA and for more complex matters, enquiries are referred to the Senior Tenancy Officer. However, once a tenant or landlord decides to lodge an application for a decision to be made, they are directed to the NTCAT to follow their direction and processes.

Many clients prefer to attend the Darwin and Alice Springs offices in person, and take the opportunity to have a support person in attendance. Over the past year we experienced a total of 609 walk-in enquiries.



Consumers often make enquiries about an item they have purchased, which they either no longer want or they have simply changed their mind about. In this situation, NTCA will advise that, with any change of mind purchases, the trader is not obligated to provide a refund. The trader is only obligated to provide a refund, exchange or repair the item should it be found to be faulty, or does not perform as advised.

Some traders have their own *refunds and returns* policies, and may choose to provide a refund or credit if the consumer changes their mind, as a goodwill gesture or as part of their business strategy. It is advisable to ask a business about their refund policy at the time of purchasing an item. 'Who gets to choose the remedy' is also a question that depends on if the problem is found to be a *major* or *minor* fault as defined by the Australian Consumer Law. If the fault is something that can be easily repaired it is seen as a minor fault whereupon the trader has the choice to replace, refund or repair.

On the other hand the fault of a product is considered major if:

*a reasonable consumer would not have bought the goods if they had know about the problem,
the goods are substantially unfit for their normal purpose and cannot be easily repaired,
the item cannot be repaired in a reasonable time frame,
the item is significantly different from the description, sample or demonstration model shown,
the item cannot perform as described (which may come under an Express Warranty),
the good are unsafe.*

In these cases the consumer has the right to choose a refund, replacement or a repair.

The majority of enquiries regarding Fair Trading matters relate to consumer guarantees. This could refer to a consumer purchasing a faulty item or that the item does not work or perform as they were advised it would by a trader. Enquiries regarding automotive repairs and new and used vehicles remained the highest percentage of consumer guarantee calls.

CONSUMER CONCILIATION REQUEST PROCESS DISPUTE RESOLUTION

Where a trader and a consumer are in dispute, NTCA offers a conciliation service in relation to matters that relate to the legislation administered. A consumer can lodge a Consumer Conciliation Request if they have a grievance with a trader in relation to goods purchased or services provided.

It is a requirement that the consumer has attempted to negotiate an outcome with the trader in the first instance. If not already undertaken, it is recommended that the consumer writes to the trader with the detail of the complaint and their request for redress. If the trader does not assist or does not offer the consumer what they consider to be a reasonable remedy, the consumer can lodge a formal conciliation request.

Once received, the Consumer Conciliation Request is assessed to ensure that it is within NTCA's jurisdiction and that relevant supporting documentation has been provided. More information may be requested to ensure that the matter is one which NTCA can assist with or whether it should be referred to another organisation.

A formal request for conciliation may be rejected for a number of reasons including :

- where the trader has complied with the requirements of the Australian Consumer Law or other legislation,
- if the complaint is purely in relation to the behaviour of the trader or poor customer service,
- If the consumer or trader has enlisted independent legal services .

Once the request for a conciliation is accepted, the details of the parties and the complaint summary are entered into the Resolve case management system; this data base stores all relevant documents, correspondence, and updated information about each case.

Although the trader cannot be forced into participating or taking a particular action, statistics indicate that most are willing to enter into a negotiation, with the aim of achieving a mutually satisfactory outcome for both parties, in an unbiased and safe environment.

In line with NTCA's Compliance and Enforcement policy where several cases occur with a particular trader who may be breaching the legislation, the details of the complaints and enquiries received may be forwarded to the Compliance Unit for further investigation to potentially ensure the trader's actions are rectified. This compliance action may also involve visiting the trader, or formally writing to ensure the proprietor and staff understanding of their rights and responsibilities under the Australian Consumer Law, *Residential Tenancies Act* or other legislation administered.

CONSUMER CONCILIATION REQUEST PROCESS OUTCOMES

The Fair Trading Officers, who manage complaints, provide advice to both parties during the conciliation process and act in an unbiased manner in an attempt to resolve the complaint. As it is a voluntary process, neither party can be coerced or directed to accept a decision, nor can either party be given legal advice or a personal opinion on their matter from our staff.

In this financial year our Fair Trading Officers conciliated 229 formal complaints. During this year we undertook a review of our services which has resulted in the conciliation process being fine-tuned, with emphasis placed on contacting the consumer earlier. This change now provides the Fair Trading Officer an opportunity to 'reality test' the consumer's expectation of their anticipated outcome, and many are referred to other more appropriate organisations earlier than previously by having direct verbal contact at this point.

This model (eliminating possible delays and enabling a quicker case timeframe) also enables consumers and traders to continue to be guided and educated by having the opportunity to informally ask questions throughout the process. Parties are able to speak to each other where appropriate as part of the dispute resolution process, enabling them to have a sense of 'owning' the outcome, and developing their dispute management skills for the future.

Living in harmony with our Northern Territory neighbours



RESIDENTIAL TENANCIES

Providing advice and guidance to Territorians about their rights and responsibilities under the *Residential Tenancies Act* (the Act) is a significant part of the role of NTCA. The Act is administered by NTCA under the direction of the Commissioner of Tenancies. Residential landlords and tenants in the Northern Territory must abide by the requirements of the Act which includes the Department of Housing and its public housing tenants.

Disputes about issues between landlords and tenants under the Act are often resolved with the assistance of the NTCA staff who will seek to inform the parties of their rights and responsibilities and seek to conciliate the matter.

Since mid 2014 the Northern Territory Civil Administrative Tribunal (NTCAT) has administered hearings under the *Residential Tenancies Act* however the tribunal's staff often refer tenants and or landlords to NTCA to obtain information about the Act prior to lodging an application with NTCAT.

Over the reporting year our call centre was kept very busy with a total of 6,749 telephone calls relating to residential tenancy matters. This represents 53% of calls received by NTCA which is a 4% increase on the previous year. The Alice Springs office also received a high level of contacts with over 60% of all contacts relating to residential tenancies.



Rental growth has slowed in many capital cities, but it is getting even cheaper here

Michelle Hele Network Online Real Estate Editor, News Corp Australia Network
May 10, 2016 2:37pm

RENTS continued to grow at a glacial pace during April, but in three capital cities it went backwards.

Melbourne, Perth and Darwin all experienced drops in median rents during April according to the latest CoreLogic RP Data rental review.

During the reporting year the rental market across the Territory has softened considerably which has resulted in a particularly high number of vacant dwellings in the Darwin area. This softening has resulted in a reduction of rents across the Territory providing tenants with an ability to negotiate cheaper rents once a fixed term tenancy has come to an end.

A statutory responsibility of the Commissioner of Tenancies is to provide information to the public about the *Residential Tenancies Act* and residential tenancies. Over the reporting year the following activities were undertaken by the Senior Tenancy Officer.

- Information and training sessions relating to the *Residential Tenancies Act* have been provided to licensed property managers in the Darwin and surrounding areas. These training sessions are keenly sought by managers and staff and positive feedback has been received as a result of the training offered.
- Training sessions were also provided to private landlords, these sessions are conducted after hours to assist landlords in attending these training sessions. Over the reporting year 24 private landlords attended the five sessions provided.
- The Senior Tenancy Officer carried out a visit to Katherine in June providing information sessions to real estate agents in this region. These sessions were well attended with 17 agents attending from four separate agencies, positive feedback was received with regard to the training provided.
- Information sessions were conducted at the Sunrise Centre (Salvation Army). Participants were informed about their rights and responsibilities when renting a residential property with particular reference to the *Residential Tenancies Act*. These sessions are conducted on a monthly basis and the number of persons attending average 10 per session.
- The Senior Tenancy Officer provided a presentation at a Real Estate Institute of the Northern Territory seminar which included a question and answer session dealing with a wide range of issues under the *Residential Tenancies Act*. Over 50 Real Estate Agents and their staff attended the seminar.
- At the request of senior management from the Department of Housing, the Senior Tenancy Officer provided six training sessions to senior management dealing with a wide range of issues relating to the *Residential Tenancies Act*. These senior managers then train their housing staff whose role it is to deal with public housing tenants on a daily basis. In total approximately 70 persons attended the training.

The Commissioner is also tasked with investigating matters affecting the interests of parties to tenancy agreements.

In line with this function a review was undertaken to assess the validity or otherwise of Residential Tenancy Agreements utilised throughout the Northern Territory by licenced Real Estate Agents. The review evidenced that a number of conditions included in Residential Tenancy Agreements were in breach of the *Residential Tenancies Act*.

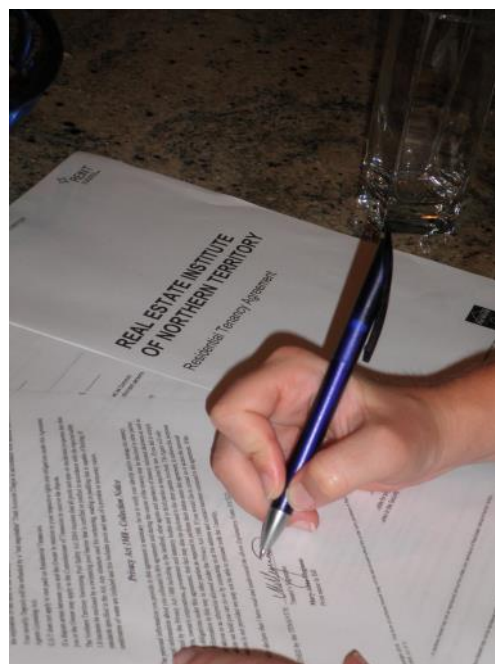
In September 2015, the Senior Tenancy Officer wrote to 39 licensed agents across the Northern Territory formally advising them of the review. The letter requested each agent undertake their own review of their Residential Tenancy Agreements and to make suitable amendments to ensure their agreements complied with the *Residential Tenancies Act*.

Agents were also advised a further review of agreements would take place 6 months from the date of the letter. This included a directive that should further breaches be detected appropriate enforcement action may be taken which could include issuing of infringement notices or court action.

Examples of some of the clauses that were in breach of the Act included:

- “Tenant is to have the carpets and soft furnishings professionally cleaned and provide receipts on vacating.”
- “The carpet furnishings and curtains within the premises be professionally steam cleaned by a nominated carpet cleaning firm or fabric cleaning company, receipt required to prove cleaning completed. The use of hire equipment is not acceptable. “
- “Tenant agrees to maintain all gardens, lawns and pool/spa, where applicable, until such time as new tenants are found or until the lease expires, whichever occurs first.”
- “Electricity to remain connected until such times as the property is re-let, if there is a pool/spa on the premises.”

Further reviews of Residential Tenancy Agreements have been undertaken and pleasingly all have been found to be compliant.



BUSINESS TENANCIES

The *Business Tenancies (Fair Dealings) Act* protects business and/or retail tenants and landlords and is administered by NTCA.

Although most retail or commercial tenancies are caught by this Act there are leases that are not covered which include:

- leases for a term of less than 6 months,
- leases for a term of 25 years or more,
- a shop that has a lettable area of 1,000 square metres or more,
- a shop that is used wholly or predominantly for the carrying out of a business by the tenant on behalf of the landlord,
- a shop within premises where the principal business carried on at the premises is the operation of a cinema or bowling alley and the shop is operated by the person who operates the cinema or bowling alley, and
- retail leases that are granted by the larger airports throughout the Northern Territory.

In cases where there is a dispute over a potential eviction or rent owed, landlords and tenants often contact our office for advice. The parties may on occasion attempt to settle the dispute themselves but as this is not always successful, NTCA staff can assist to conciliate these matters under this Act. In cases where the parties refuse to conciliate an application can be made to the Commissioner of Business Tenancies for a Certificate of Failure to Resolve Retail Tenancy Claim. Once this occurs the applicant can take the other party to court.

The Commissioner of Business Tenancies received a total of seven applications this year. Five of the applicants requested a Certificate due to a failure in resolving a business tenancy claim and an acknowledgement that conciliation would be ineffective. One application was withdrawn and one application was not finalised during the reporting year.



COMPLIANCE

The compliance unit monitors, investigates and responds to complex consumer protection matters, trader misconduct or where a breach of legislation administered by NTCA is likely to have occurred.

We use a risk based approach to compliance focusing on traders that pose the highest risk or consumer detriment in line with our Compliance and Enforcement Policy. In addition to trader education and engagement, a range of enforcement options may be used to achieve statutory compliance including; trader warnings; Infringement Penalty Notice; Public Warning Notice; Enforceable Undertaking or court action.

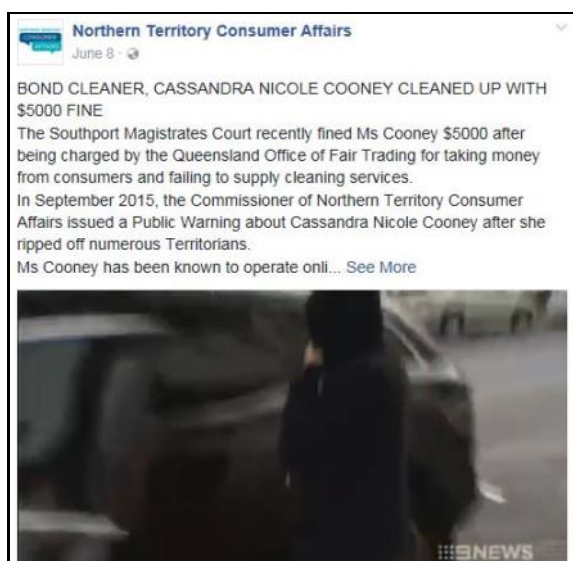
We continue to collaborate with our colleagues in other jurisdictions and other regulators and industry partners on matters of national significance to adopt a coordinated approach and minimise a duplication of effort and resources.

The following represents some of the national projects work and key compliance cases actioned during 2015-16:

MR COLIN THOMPSON TRADING AS ESOTERIC MIND SPECIALIST AND THE ADDICTION DOCTOR

The investigation into the business practices and conduct of Mr Colin Richard Thompson trading as Esoteric Mind Specialist and the Addiction Doctor continued.

On 20 July 2015 a Public Warning Notice was issued by the Commissioner of Consumer Affairs to caution consumers not to deal Mr Thompson who was unable to substantiate promotional claims of his ability to cure a wide range of ailments and addictions by subconscious mind communication. Mr Thompson was also issued two penalty infringement notices.



The matter has been referred for the initiation of court proceedings alleging breaches of the Australian Consumer Law including false or misleading representations and conduct.

ONLINE BOND CLEANER MS CASSANDRA NICOLE COONEY

Compliance acted in response to a number of complaints from Northern Territory residents who lost money to unscrupulous online cleaning business owner Ms Cassandra Nicole Cooney. Ms Cooney, operating from NSW, uses a business model requiring consumers to pay in advance for end of lease or bond cleaning services in

capital cities around Australia. Complaints include failure to supply the service, poor or incomplete service and not on the agreed date.

On 1 September 2015 the Commissioner of NT Consumer Affairs issued a public warning to consumers not to deal with Ms Cooney who is known to operate under various business names. Action was taken to shut down known business websites operated by Ms Cooney to alleviate consumer detriment.

NTCA has collaborated with co-regulators in other jurisdictions. Ms Cooney is also the subject of a public warning issued by NSW Office of Fair Trading on 26 February 2016 and is currently under investigation with a view to potential prosecution.

Also, on 1 June 2016 Ms Cooney pleaded guilty in Southport Magistrates Court after being charged by the Queensland Office of Fair Trading to six counts of wrongly accepting payment and failing to supply cleaning services; she was fined \$5000 plus legal costs and ordered to reimburse \$2781.80 to the affected consumers.

VET-FEE HELP TRAINING PROVIDERS

An investigation continued into reported conduct of training organisations and marketing agents in the vocational education market sector. Consumer reports of the door to door sales process used by agents marketing VET FEE-HELP Diploma courses included offering incentives such as free laptop computers and unfair tactics which failed to provide clear and accurate information about the cost of the courses and the VET FEE HELP loan obligations.

It emerged that teams of agents representing training organisations were targeting vulnerable consumers including the elderly, Indigenous and disabled who were unknowingly signing up for training courses funded by the Commonwealth Government's VET FEE-HELP scheme.

NTCA secured the cancellation of 300 enrolments and VET FEE-HELP loans for consumers in the Northern Territory and Western Australia with one training organisation, the Phoenix Institute of Australia Pty Ltd (Phoenix).

Further joint investigation by a taskforce of Australian Consumer Law regulators led to compliance activities culminating in the institution of proceedings in the Federal Court alleging that Phoenix made false or misleading representations and engaged in unconscionable conduct in breach of the Australia Consumer Law when marketing and selling VET FEE HELP funded courses across Australia including the Northern Territory, Western Australia, New South Wales, Victoria, and Queensland.

ANGEL DIGITAL PTY LTD, FDRA PTY LTD AND MR JACKSON ANNI

NTCA conducted an investigation into the conduct of Angel Digital Pty Ltd (subsequently changed to FDRA Pty Ltd) and its director Mr Jackson Anni in relation to the sales practices used in the supply of electronic tablets and



related items to Indigenous consumers in remote communities as well as at the Royal Darwin Hospital and associated hostels.

Following collaboration with the Australian Competition and Consumer Commission's (ACCC) Darwin office, legal proceedings were commenced in the Federal Court in January 2016 alleging unconscionable conduct, false or misleading conduct and breaches of the unsolicited consumer agreements provisions of the Australian Consumer Law.

In May 2016, FDRA Pty Ltd (formerly Angel Digital Pty Ltd) and Mr Jackson Anni gave an enforceable undertaking to the Federal Court not to enter any Indigenous community in Australia or the Royal Darwin Hospital and its associated hostels to sell any goods or services for a period of five years. The undertaking also required Mr Anni and FDRA Pty Ltd to:

- Cease accepting payments and automatic deductions in relation to goods or services supplied within seven days of executing the undertaking
- Only sell electronic tablets to any Australian consumer that first approach them, provide a 10 day cooling off period (including not taking payment or supply goods)
- Have written agreements with all the goods or services it sells to every consumer, irrespective of whether they are unsolicited consumer agreements and,
- Provide \$20,000 for consumer redress, to be distributed by the ACCC.
- On the basis of these undertakings the court proceedings were discontinued.



MATTHEW JAMES ECCLES TRADING AS PROJECTION PLUS

The NT Consumer Affairs' Commissioner issued a public warning on 4 April 2016 to caution consumers and businesses not to deal with Mr Matthew James Eccles also known as Matt James trading as Projection Plus. An investigation into complaints against Mr Eccles involved allegations of accepting payment in advance for goods and services which were not supplied, accepting equipment for repair, not supplying the service and not returning the equipment to the consumer.

The warning was issued in the public interest when levels of consumer complaint revealed continuing consumer detriment.

TRAVELLING CON MEN

The compliance unit works hard to monitor reports of Travelling Con Men (TCM) activity in the Northern Territory. Reported information about the location and types of services being offered is used to alert the community via social media, local radio broadcasts and to encourage consumers to spread the word through their networks in an effort to minimise potential losses.

Working closely with industry partners and police has allowed for early detection of local activity by unlawful traders operating door to door offering bitumen laying services and also the sale of low quality electronic goods at inflated prices from vehicles in public car parks.

Collaboration at the national level by consumer protection agencies continues to develop national strategies to assist in disrupting TCM activity across Australia.

COMPLIANCE FOCUSED NATIONAL COMMITTEES

NTCA contributed to national compliance projects led by ACL regulators in other jurisdictions including:

CREDIT CARD CHARGEBACK NATIONAL PROJECT

This project which was finalised in early 2016 was effective in establishing a common understanding between consumer protection regulators about the use, framework, rules and conditions that govern credit card chargeback.

A form of consumer protection provided by banks that issue credit cards, chargeback allows cardholders to dispute credit transactions and obtain reversal of a charge on their credit card. Chargeback is often seen as the most practical means by which consumers can obtain redress for disputed, incomplete, invalid or fraudulent credit transactions.

An outcome of the project was the development of nationally consistent information, guidance and tools to facilitate the effective use of chargeback and assist consumers to be self-sufficient in obtaining redress by increasing their awareness of chargeback as a means to resolving their dispute.

MOST COMPLAINED ABOUT BUSINESSES NATIONALLY

The Most Complained About Businesses national project aims to ensure a coordinated approach by ACL regulators to Australia's most complained about businesses. A review of national complaint data found a high number of consumer contacts in relation to a small number of large organisations with high volume consumer transactions.

Consumer protection regulators have met with some of the identified businesses and the overall response has been largely positive. This trader engagement will continue throughout the year with ongoing monitoring of the consumer contact level received about each trader to ensure a level of improvement in business conduct.

TRAVEL AND ACCOMMODATION NATIONAL PROJECT

This project was undertaken to gain a further understanding of consumer protection issues in the travel and accommodation industry following the deregulation of the Australian travel industry in July 2014. There was also interest in traders who became insolvent or systemic trader misconduct at a national and state or territory level.

The review of nationwide data including 13,500 complaints and enquiries resulted in a finding that there had been no increase in consumer complaints following deregulation and no obvious systemic schemes detrimental to consumers were detected.

The review also found Australian Consumer Law consumer guarantees and other price related issues had the highest rates of complaint and enquiries indicating a lack of consumer understanding in those areas.

COMPLIANCE STATISTICS

Investigations conducted	30
Investigations concluded	28
Traders placed on notice	6
Investigations referred for prosecution	1
Infringement Notices issued	2
Public Warnings issued	3
Trader Engagement	4
Compliance education provided	11

ALICE SPRINGS REGIONAL OFFICE

The Alice Springs Consumer Affairs office oversees all functions of NTCA throughout the southern region of the Northern Territory. The office comprises two staff reporting to the Deputy Commissioner and Commissioner in Darwin.

During the reporting year recruitment of permanent staff was undertaken to both of the Alice Springs roles. These new staff have quickly gained an excellent knowledge and understanding of their roles and the functions of NTCA.

Over the reporting year the Alice Springs staff undertook a range of activities with a summary of some of these as follows:

TRADER VISITS

The Alice Springs Regional Office engaged in 38 visits with business, providing them with trader packs, which contain information brochures and helpful guides to assist the business operator and their staff to operate their businesses within the guidelines of the Australian Consumer Law and other legislation administered.

A number of these visits included discussions and the provision of information to traders around goods that could be considered abandoned which potentially falls under the *Uncollected Goods Act*. Alice Springs staff visited each of the Electorate Officers for the Members of the Legislative of Assembly providing detail of our services. The office staff were also provided an updated folder of information about NTCA, included in this pack was the new RentNT App and, ShopNT App brochures.

A visitation program was also undertaken to local Real Estate Agencies who were informed of the services provided by NTCA and provided copies of the new RentNT App.

Residential tenancies advice continues to be provided to tenants, agents and landlords when they require sections of the *Residential Tenancies Act* (the Act) to be clarified. NTCA provides advice under this act to assist in resolving disputes. If the dispute is unable to be resolved then the parties are directed to lodge an application with the Northern Territory Civil and Administrative Tribunal (NTCAT).

Ongoing training is provided for all staff. Our new Regional Officer attended a workshop in Darwin run by Clayton Utz on Intensive Negotiation Skills. This travel provided a great opportunity for the new staff member to spend time in the Darwin office to meet other staff and to gain an understanding of the offices operating procedures and organisational structure.

The Alice Springs Office continues to receive high volumes of enquires, with 60% of all calls relating to residential tenancies.

Having staff on the ground in the Alice is essential to ensure we service our southern regional clients who may have differing problems to those located in the Top End. The following are examples of conciliations we helped with this reporting year.

CONSUMER CONCILIATION EXAMPLE 1

A consumer purchased a longboard (Skateboard) in December for a Christmas gift. The consumer asked at the time of purchase that if the item was the wrong type, could the item be returned. The sales assistant advised that the item could be returned if the receipt was provided as proof of purchase and that the longboard had not been used.

After Christmas the Consumer attended the store to seek a refund as the item was the incorrect model, only to be advised that they don't offer a refund only a store credit or exchange in accordance with their store policy. The store policy had been stated on the store receipt.

The consumer was disappointed with the decision as it was not clearly advised at the time of purchase. The consumer sought the assistance of NTCA. The Fair Trading Officer met with the store owner and provided educational material in relation to "Consumer Guarantees" which describes when a trader is required to provide a replacement, repair or refund under the Australian Consumer Law.

The Trader advised that she was more than willing to provide a replacement product from stock in store, or she would try and source the correct longboard for the consumer from her supplier.

This offer was provided to the consumer who decided to utilise the store credit to purchase another product to the value of her original purchase.

NTCA staff regularly undertake “on the ground” visits to traders to discuss issues such as this which assists traders to better understand their responsibilities and how best to assist consumers when presented with consumer guarantee issues.

CONSUMER CONCILIATION EXAMPLE 2

An interstate consumer relocating to the Alice arranged for an interstate removal company to uplift her furniture from New South Wales and deliver to Alice Springs. The removalist provided the consumer with a delivery time frame of four to six weeks and the consignment was paid by the consumer in full at the time of entering into the contract.

After eleven weeks without any furniture, the consumer sought the assistance of NTCA as her furniture still had not arrived leaving the consumer having to borrow furniture from friends. The Fair Trading Officer contacted the removalist to ascertain why the furniture had not been delivered within the contracted time frame. The trader advised that as Alice Springs was in a remote location, they would generally wait until they have a full container before they deliver to the region. The trader was advised that they were obligated under the Australian Consumer Law (ACL) “Consumer Guarantee provisions” that the items should have been delivered within the contract terms or within a reasonable time frame. In this instance the consumer had to wait for her furniture in what could be considered an unreasonable amount of time. The trader responded that they would be unable to provide the items within a reasonable period.

The Fair Trader Officer was able to negotiate with the removalist to provide the consumer a full refund, this allowed the consumer to make alternate arrangements to have her furniture collected from the depot and have it delivered by another removalist company within a reasonable period.

RETIREMENT VILLAGES

In the Northern Territory, the *Retirement Villages Act* is administered by NTCA.

The Commissioners role under this Act is to:

- Investigate and carry out research onto matters affecting retirement villages,
- Investigate and attempt to resolve complaints by residents and authorities,
- Distribute information about the service provides by the Commissioner, and
- Report on matters referred to the Commissioner by the Minister or Court.

Over this reporting period three people contacted the call center to seek advice about retirement village issues. The advice provided related to a range of matters, including matters where residents were behind in payments, residents sought information about the villages budget and expenditure and general advice about the Act.

NTCA staff have regular contact with the two retirement villages in Darwin, the Greenfields Living complex at Tiwi and the Pearl Retirement Resort. Greenfields Living is currently constructing a new complex at Durack which is expected to be completed in the next twelve months.



CARAVAN PARKS

The *Caravan Parks Act* is regulated by NTCA and covers all caravan parks in the Northern Territory. During the 2015/16 financial year, the Call Centre received eight calls in relation to caravan parks. The enquiries related to a variety of matters with information about the processes to be adhered to when terminating a caravan park residency being the most common.

No applications were received during the reporting period.

A further two telephone calls were received from owners of caravan parks who were concerned about a particular park offering camping sites to the public. The concerns raised related to competition created for caravan parks already operating in the area who were unable to match the low site fees offered by this park and whether there were sufficient amenities and resources available to cope with waste management and environmental issues. This was not a matter regulated by this Act.

RESIDENTIAL BUILDING DISPUTES



NTCA staff provide advice and assistance to owners and builders in regard to the *Building Act's* Residential Building Dispute Function, and the related *Building (Resolution of Residential Building Work Disputes) Regulations*.

This function is directed to the Commissioner of Consumer Affairs whose function also is that of the Commissioner of Residential Building Disputes, through part 5A section 54F of the *Building Act*.

The regulations provide an avenue for owners to seek resolution of disputes relating to residential building work. During this financial year 229 telephone enquiries were received relating to residential building disputes. The majority of these enquiries related to new building works where a certificate of occupancy had been issued and the owner had found a number of defects after taking possession.

The legislation allows an owner 12 months to lodge an application with NTCA, from when a certificate of occupancy has been issued, where non-structural defects have not been attended to by the builder and six years where the problem relates to a structural issue.

A number of enquiries during this reporting year related to work that had yet to be completed. These included situations where the owners and builders enter into dispute over delays in completion with some parties choosing to cease all communication with each other. A lack of communication between the parties is the primary reason that the relationships between consumers and builders break down.

A total of 11 formal applications were received this reporting year.

Mediation and conciliation services are offered by NTCA for residential building dispute matters with in-house qualified mediators facilitating these sessions. This process involves the applicant and the respondent attending pre-conciliation and conciliation conferences and agreeing to participate in a negotiated agreement process with the intention to come to a mutual agreement to resolve the dispute.

An example of a residential building dispute successfully conciliated this year related to non-structural defects found within the warranty period. The owner and the builder attended a conciliation conference whereupon the builder consented to carry out a number of non-structural matters within an agreed time frame. Both parties accepted this extension to the original contract terms to enable rectifications works to be undertaken.

All matters were attended to within the agreed time frame whereupon no further action was required.

OTHER STATUTORY RESPONSIBILITIES

The Commissioner of Consumer Affairs is the statutory officer responsible for a number of pieces of legislation that government has directed, through the Administrative Orders, that responsibility for management of these pieces of legislation to be within the Department of Business.

The Commissioner has delegated authority for a number of roles and responsibilities to staff within the Department of Business.

The following are Acts or Regulations of this nature:

Associations Act

Commercial and Private Agents Licensing Act

The Consumer Affairs and Fair Trading Act—Parts 10 and 14

Consumer Affairs and Fair Trading (Tow Truck Operators Code of Practice Regulations).

Northern Territory Consumer Affairs

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