



Consumer Action Law Centre

Consumer advocacy – 2010 election platform

Representation

The Gillard Labor Government understands that if consumers are informed and empowered they are better able to enforce their own rights. That's why Federal Labor undertook the biggest reform of Australia's consumer protection laws in a generation by enacting the Australian Consumer Law and appointed Australia's first Commonwealth Minister for Consumer Affairs.

Federal Labor has also provided Community Legal Centre funding to advocacy groups around the country to help protect the interests of more vulnerable consumers.

Commit to funding a strong, independent research and advocacy body to represent Australian consumers

The Labor Government has set up a Policy and Research Advisory Committee (PRAC) under the auspices of the Ministerial Council of Consumer Affairs.

The Advisory Committee will develop and maintain a national consumer policy research agenda and advise the Ministerial Council on consumer policy issues.

Effective industry regulation

The Gillard Labor Government believes consumers deserve laws which are simple, effective and consistent, right across Australia.

In June, the Parliament passed Labor's Australian Consumer Law - the most comprehensive reforms of consumer protection laws since the 1970s.

The new Australian Consumer Law will apply as a generic law across all industries and sectors, providing consumers with consistent consumer protection measures.

The Australian Consumer Law comes into effect on 1 January 2011, replacing 17 different Commonwealth, State and Territory laws with a single national law.

Develop super complaints laws and empower regulators to undertake market studies

Australia's consumer and competition watchdog, the Australian Competition and Consumer Commission (ACCC) already conducts market studies. It does this when assessing the consumer and competition impact of merger proposals, when monitoring regulated industries and when asked to do so by Government. The ACCC undertook detailed research into the Australian grocery retailing sector at the request of the Gillard Government, for example.

The ACCC also already identifies and investigates consumer problems. In 2008, the Productivity Commission examined whether Australia should have a super complaints system and concluded that the benefits of a super complaints mechanism are probably insufficient to outweigh its likely downsides.

Commit to a genuine consumer focus to guide the ongoing development of Australia's energy and water markets

Through the Ministerial Council on Energy (MCE), Australian governments will legislate this year a National Energy Customer Framework through the South Australian Parliament, as the lead legislator for MCE legislation, to improve protections for vulnerable customers.

The Framework will require retailers to have in place hardship policies for vulnerable customers that are approved by the Australian Energy Regulator.

In order to ensure vulnerable customers such as pensioners are assisted in meeting their payments for the energy they use, governments maintain a range of community service obligations, including rebates.

Create a Consumer Standard for telecommunications, and redefine the Universal Service Obligation to guarantee affordable and accessible mobile phone and broadband services

Federal Labor understands that reliable telecommunications services are critical for people's everyday lives.

The Federal Government's responsibility is to establish the overarching regulatory framework within which telecommunications companies are required to operate, in order to promote the delivery of high quality, reliable services with clear avenues for dispute resolution including the Telecommunications Industry Ombudsman and the *Telecommunications Consumer Protections Code* (the Code) which is currently under review.

T AUTHORISED N.MARTIN for the ALP, 5/9 Sydney Ave. Barton ACT.

PO BOX 20429 WORLD SQUARE NSW 2002

T 61 2 9384 2222 F 61 2 9264 2271 E campaign10@alp.org.au ABN 38 318 251 221

Federal Labor has taken steps to improve the regulatory framework in the telecommunications sector in order to improve the quality and reliability of services to consumers.

- Federal Labor has committed \$2.0 million per annum to establish the *Australian Communications Consumer Action Network (ACCAN)* as the new peak consumer advocate to lobby industry and government to improve communications services.
- Federal Labor has introduced legislation into the Parliament, which includes measures to strengthen the existing consumer safeguards in order to protect consumers and improve service standards. These reforms cover the universal service obligation, the customer service guarantee and priority assistance arrangements. They also include measures to give communities a much greater say in decisions to remove payphones through better notification and consultation and stronger powers for ACMA to prevent the removal of payphones.
- Federal Labor has announced that it will amend the *Telecommunications Act 1997* to give the Minister the authority to direct the independent regulator, the Australian Communications and Media Authority, to develop industry standards related to consumer issues. The industry standard will be directly enforceable by the ACMA and, unlike a consumer code, failure to comply would be subject to civil penalty provisions. Corporations will be subject to penalties of up to \$250,000 and individuals to penalties of up to \$50,000 for each contravention.
- Consistent with our consumer policy objectives the regulator, ACMA is launching a new consumer protection initiative called 'Reconnecting the Customer'. This will look at ways that customer service shortcomings and complaint handling can be addressed.

Further, the Gillard Labor Government is reforming the telecommunications sector area designed to promote more effective competition and stronger consumer safeguards.

The proposed reforms include measures to address concerns around Telstra's high level of integration across the copper, cable and mobile platforms which has hindered the development of genuine competition in the sector.

The proposed reforms also include measures to improve the operation of telecommunications regulatory regime in the *Trade Practices Act 1974* and measures to strengthen existing consumer safeguards to promote higher quality services. This includes:

T AUTHORISED N.MARTIN for the ALP, 5/9 Sydney Ave. Barton ACT.

PO BOX 20429 WORLD SQUARE NSW 2002

T 61 2 9384 2222 F 61 2 9264 2271 E campaign10@alp.org.au ABN 38 318 251 221

- Strengthening of the Universal Service Obligation.
- Stronger protections against the removal of payphones in regional areas.
- Changes to the Customer Service Guarantee and Priority Assistance obligations.
- Additional powers to the Australian Communications and Media Authority to help it more effectively regulate the telecommunications industry.

Federal Labor welcomes the recent announcement of a Financial Heads of Agreement between Telstra and NBN Co that will involve, subject to shareholder and regulatory approval, Telstra progressively migrating its copper and HFC cable broadband traffic to the new wholesale-only National Broadband Network. This Agreement will deliver structural separation over time, and a more competitive telecommunications sector in line with the objectives of the reforms introduced by Federal Labor.

Federal Labor has always maintained that it is possible to achieve a win-win outcome in the interests of Telstra, its shareholders and, more broadly, all Australians.

By promoting competition in the telecommunications sector, the Gillard Labor Government's reforms will result in greater innovation, lower prices and more choices for consumers, which will help keep the Australian economy strong.

All these measures are being opposed by the Coalition who failed to undertake any significant reform in this area during their nearly 12 years in office. In fact, the Coalition privatised Telstra without ever putting in place the necessary arrangements to promote genuine competition and consumer safeguards to ensure the delivery of reliable, affordable services to all Australians, including those in our rural and regional areas.

If re-elected, a Gillard Labor Government will continue driving reform in this important area.

National legal profession reform that provides consistent and enhanced consumer protection across the country

The National Legal Profession Reform Taskforce has proposed the establishment of a National Legal Services Ombudsman to provide more consistent, efficient and effective complaints and dispute resolution across Australia, with greater emphasis on informal resolution, where appropriate.

The reform proposals, including provisions relating to the National Legal Services Ombudsman have been the subject of an extensive consultation process which ended on 13 August. The issues raised by

T AUTHORISED N.MARTIN for the ALP, 5/9 Sydney Ave. Barton ACT.

PO BOX 20429 WORLD SQUARE NSW 2002

T 61 2 9384 2222 F 61 2 9264 2271 E campaign10@alp.org.au ABN 38 318 251 221

stakeholders in this period will be given close consideration prior to reporting to the Council of Australian Governments.

The objective is to promote fast, cheap and effective resolution of small costs matters in which it is generally not worthwhile for either lawyers or their clients to seek a costs assessment.

The proposals in the draft Bill, which were subject to the consultation, outlined the following:

- A local presence for complaints and compliance functions and that these regulatory functions remain with States and Territories.
- That the Ombudsman would collect national data to assist in identifying areas for improvement and in monitoring the implementation of the new system.
- A single point of contact for consumers through a national telephone number and website that will operate on a common business model, with inquiries directed straight to the relevant State or Territory complaints handler. Consumers will also be able to attend shopfronts in their capital cities.
- That the Ombudsman would have a range of powers and discretion to handle complaints as it considers will be timely and effective. It would also have duties to exercise its discretions fairly and to deal with complaints as efficiently and expeditiously as practicable.
- Retention of the existing jurisdictional arrangements for costs assessments as these currently fall within the jurisdiction of the Courts.
- That the National Ombudsman will have power to mediate costs disputes worth less than \$100,000, as Legal Services Commissioners currently do.
- A new power for the Ombudsman to make binding determinations of costs on matters worth less than \$10,000.

A fair go for consumers in the insurance industry

Federal Labor is reforming and strengthening the consumer protections that apply to insurance contracts. In March 2010, Federal Labor introduced the long awaited Insurance Contracts Amendment Bill 2010 which implements a number of the recommendations made following the review of the Insurance Contracts Act conducted by Alan Cameron AM. The Bill enhances consumer protection by ensuring a failure to comply with the duty of utmost good faith will be a breach of the Act, extending the duty of utmost good faith so that it is owed by third party beneficiaries and granting ASIC broader powers to bring representative action for breaches of the utmost good faith.

Federal Labor has listened to consumer concerns that insurance contracts are exempt from our groundbreaking unfair contracts legislation. Federal Labor has released a consultative paper on **T AUTHORISED N.MARTIN for the ALP, 5/9 Sydney Ave. Barton ACT.**

PO BOX 20429 WORLD SQUARE NSW 2002

T 61 2 9384 2222 F 61 2 9264 2271 E campaign10@alp.org.au ABN 38 318 251 221

options for dealing with unfair terms in insurance contracts. The options paper sets out a number of possible options to deal with the potential for unfair terms in insurance contracts and a re-elected Gillard Labor Government will respond to submissions as a matter of priority.

Protect consumers of air travel

A re-elected Gillard Labor Government will work to improve the effectiveness of consumer protection measures in the travel industry.

An independent review has already been commissioned to identify and consider regulatory options to offer consumers a better deal in the travel industry, not just in relation to airline travel, but covering the whole gamut of travel services, from hotel stays to travel insurance.

Social justice

Commit to a national interest rate cap

The Government has committed to an examination of State and Territory approaches to interest rate caps during Phase Two of the national credit reforms and has agreed that those jurisdictions with caps can retain them, pending the outcome of the review.

Some interested parties have expressed concern that the measures put in place in Phase One of the national credit reforms do not provide sufficient consumer protections to prevent indebtedness as a result of using high-cost, small-amount, short-term loans.

Concern has been expressed about the lack of availability of appropriate 'mainstream' alternatives to short-term, small-amount loans. A reduction in the number of available short-term, small-amount loans may exacerbate this.

Commit to assisting consumers to build financial resilience and well being, and provide more services for those struggling to cope

Federal Labor is committed to raising public financial literacy and fostering initiatives that will build the capacity of Australians to make better decisions about their money.

Federal Labor has reformed the way financial advice is provided to improve the trust and confidence of the Australians in the financial planning sector.

T AUTHORISED N.MARTIN for the ALP, 5/9 Sydney Ave. Barton ACT.

PO BOX 20429 WORLD SQUARE NSW 2002

T 61 2 9384 2222 F 61 2 9264 2271 E campaign10@alp.org.au ABN 38 318 251 221

The Future of Financial Advice reforms are designed to tackle conflicts of interest that have threatened the quality of financial advice provided to Australian investors, and the misselling of financial products that culminated in high profile corporate collapses such as Storm Financial, Opes Prime, and Westpoint.

The Future of Financial Advice package includes:

- A prospective ban on conflicted remuneration structures including commissions.
- The introduction of a statutory duty of care so that financial advisers must act in the best interests of their clients.
- An adviser charging regime where investors will be able to opt in to the advice in response to a compulsory, annual renewal notice.
- Strengthening the powers of the Australian Securities and Investments Commission to act against unscrupulous operators.

The majority of these reforms will commence from 1 July 2012 and we are consulting with the financial industry on their implementation.

We are undertaking these important reforms to protect the investment of all Australians and to make sure we keep the Australian economy strong. The Coalition refuses to learn from the lessons learnt from the Global Financial Crisis, and they simply want to continue letting the market rip. They are opposed to the measures we're introducing and they are putting the Australian economy at risk.

The Coalition do not support the changes we propose to ensure the life savings of mum and dad investors are protected.

A re-elected Gillard Labor Government will continue rolling out this critical reform to protect the Australian people's investment and to keep the Australian economy strong.

The Gillard Labor Government has assumed responsibility for the regulation of consumer credit.

This will see the transfer of the state and territory-based Uniform Consumer Credit Code to the Federal Government. This means that for the first time in Australia, there is now a single, standard, national regime for the regulation of consumer credit.

This will bring credit legislation across Australia over eight jurisdictions down to one clear and comprehensive regime, which will make the right of consumers clearer right across the nation. The **T AUTHORISED N.MARTIN for the ALP, 5/9 Sydney Ave. Barton ACT.**

PO BOX 20429 WORLD SQUARE NSW 2002

T 61 2 9384 2222 F 61 2 9264 2271 E campaign10@alp.org.au ABN 38 318 251 221

national credit regulator, the Australian Securities and Investments Commission, will enforce this new law.

One of the corner stones of our historic reform in this sector is the introduction of new responsible lending obligations. The Gillard Labor Government is requiring credit providers to ensure the credit they are providing is suitable to the consumer, and that the consumer has the capacity to repay.

We are also increasing transparency for consumers, with new protection measures being installed to ensure both the consumer and credit regulator have the ability to challenge unfair terms on credit contracts, including contingent fees like penalty or mortgage exit fees.

The Gillard Labor Government is also moving to legislate to restrict access to share registers. Under the existing law, companies are obliged to hand over shareholders' details to anyone who asks for it. Scam artists use these details to make predatory below-value offers to purchase shares from vulnerable shareholders.

By restricting access to registers to those with a "proper purpose", a re-elected Gillard Labor Government will stop these unscrupulous operators.

Help consumers make ethical and sustainable choices

The Gillard Government is committed to ensuring consumers have clear and accurate information to help them make purchasing decisions.

It is illegal for businesses to make claims about ethical conduct or environmental sustainability which are false or misleading. The ACCC vigorously pursues businesses which breach the law and fines of up to \$1.1 million for businesses apply. The Gillard Government, with the introduction of the Australian Consumer Law, gave the ACCC new, tougher enforcement powers, including the ability to issue substantiation and infringement notices.

To help consumers make informed choices about the food they buy, the Labor has established an independent expert panel to conduct a comprehensive review of food labelling law and policy.

Safe products

The Gillard Government has established a national system for product safety enforcement as part of the new Australian Consumer Law, which incorporates a mandatory reporting requirement. If any

T AUTHORISED N.MARTIN for the ALP, 5/9 Sydney Ave. Barton ACT.

PO BOX 20429 WORLD SQUARE NSW 2002

T 61 2 9384 2222 F 61 2 9264 2271 E campaign10@alp.org.au ABN 38 318 251 221

party in the supply chain has evidence of a danger associated with its product, it is obliged to report it immediately.

The ACCC already actively monitors the marketplace for unsafe products and reacts quickly when evidence becomes available. A re-elected Gillard Government won't hesitate to move quickly to protect the safety of consumers.

Commit to a food labelling system that helps consumers make informed choices and protects them from short and long term health risks

The Gillard Labor Government understands the importance of clear and accurate food labelling for Australian consumers. This information ensures consumers can make an informed choice about the food they buy. We remain committed to simplifying and strengthening food labelling laws.

To ensure consumers have clarity in food labelling and industry groups have certainty about their responsibilities, the Australia and New Zealand Food Regulation Ministerial Council has established an independent expert panel to conduct a comprehensive review of food labelling law and policy. The Council includes Ministers from the Commonwealth, State and Territory Governments of Australia and from New Zealand.

On 5 March 2010, the review panel released a consultation paper summarising issues raised in the first round of submissions and recent publications. The panel held public forums and invited written submissions. The second round of public consultation closed on 14 May 2010 and the panel is now considering the latest feedback.

The panel's final report is expected to be provided to the Food Regulation Ministerial Council by the end of the year and to Council of Australian Governments (COAG) in early 2011.

Existing food labelling measures in Australia include the Trade Practices Act which ensures that any claim, representation, implication or impression on labelling or promotional material must be accurate and not misleading. Federal Labor has also acted to amend this legislation to support a 'Grown In' label for food. This will allow consumers to confidently choose products that are both grown and made in Australia and delivers on a 2007 election commitment.

In addition, the Australia New Zealand Food Standards Code requires country of origin labelling for all packaged food, including meat, and most unpackaged foods, including unpackaged fresh or processed fish and pork. At the request of the government, Food Standards Australia New Zealand is examining

T AUTHORISED N.MARTIN for the ALP, 5/9 Sydney Ave. Barton ACT.

PO BOX 20429 WORLD SQUARE NSW 2002

T 61 2 9384 2222 F 61 2 9264 2271 E campaign10@alp.org.au ABN 38 318 251 221

a proposal to extend country of origin labelling for other unpackaged meats, including beef, lamb and chicken meat products. This is expected to be completed early next year.

The food standards code is administered by the independent expert body, Food Standards Australia New Zealand. Enforcement of country of origin labelling under the Food Standards Code is the responsibility of State and Territory consumer or fair trading agencies.

However, even once they pass that safety test, labelling laws ensure consumers can make an informed choice. Food containing DNA and/or protein from genetic modification must be labelled 'genetically modified'.

A precautionary approach at the heart of chemical regulation

A re-elected Gillard Labor Government will deliver on reforms to the regulation of agricultural and veterinary chemicals in Australia, to better protect human health and the environment.

The reforms will also cut red tape for farmers and business and encourage the development of modern, cleaner, and greener and safer chemicals.

The regulation of agricultural and veterinary chemicals in Australia is overseen by the independent Australian Pesticides and Veterinary Medicines Authority (APVMA).

Inefficiencies in the system have led to a backlog of chemicals requiring review and a disincentive for companies to invest in cutting-edge Australian technology.

Federal Labor has recognised the system is not working as effectively as it should and has been looking at options for reform.

A re-elected Gillard Labor Government will:

- Deliver a more efficient way to review chemicals of concern – using the most up-to-date international research more effectively and making it easier for the APVMA to initiate that process.
- Put the onus on chemical companies to prove their products remain safe at regular intervals – bringing Australia into line with most regulators in the United States and Europe.
- If chemicals are banned in a comparable market overseas, trigger a process for review of domestic use of the chemical.

T AUTHORISED N.MARTIN for the ALP, 5/9 Sydney Ave. Barton ACT.

PO BOX 20429 WORLD SQUARE NSW 2002

T 61 2 9384 2222 F 61 2 9264 2271 E campaign10@alp.org.au ABN 38 318 251 221

- Allow the science use in approvals in comparable overseas markets to be considered in applications for Australian use.
- Start the clock ticking on chemicals which are on the market in Australia but have been banned in comparable market overseas – meaning they will be de-registered within set timeframes unless they meet the new requirements.
- Deliver a risk management framework to match the level of regulation with the level of risk and focus resources on the higher risk products. This will also allow approvals of new, safer chemicals to be fast-tracked.
- Boost the APVMA's funding by over \$8.75 million over the forward estimates and by about \$20 million over five years to 2015-16, ahead of a planned move to greater cost recovery from 2012-13.
- Establish an independent Science Panel to report annually on the APVMA's progress in reducing backlog of chemical reviews and assessing chemical reviews and assessing chemicals efficiently, according to risk.

Since 1992, Australia has been a signatory to the Intergovernmental Agreement on the Environment (IGAE) that lists agreed general principles of environmental governance.

The reform of chemicals and plastics regulation is one of the 27 deregulatory priorities being pursued through COAG, under the National Partnership Agreement to Deliver a Seamless National Economy.

In its groundbreaking 2008 review, the Productivity Commission Research Report into Chemicals and Plastics Regulation identified the essential role that chemicals and plastics play in our modern economy. However, it recognised that they can also present risks for public health, workplace safety, the environment, and national security.

In making a significant number of recommendations for regulation reform, the Productivity Commission accepted that regulation is an important tool in managing these risks, while helping ensure that the net benefits to the community of using chemicals and plastics are maximised.

The focus of the recommendations of the Productivity Commission was on the longstanding issues of inconsistencies in regulation across jurisdictions and the impacts these have on the effectiveness of regulation.

The Gillard Labor Government has established a Standing Committee on Chemicals to provide a new governance structure to co-ordinate the reform work across Commonwealth, State and Territory governments.

T AUTHORISED N.MARTIN for the ALP, 5/9 Sydney Ave. Barton ACT.

PO BOX 20429 WORLD SQUARE NSW 2002

T 61 2 9384 2222 F 61 2 9264 2271 E campaign10@alp.org.au ABN 38 318 251 221

T AUTHORISED N.MARTIN for the ALP, 5/9 Sydney Ave. Barton ACT.

PO BOX 20429 WORLD SQUARE NSW 2002

T 61 2 9384 2222 **F** 61 2 9264 2271 **E** campaign10@alp.org.au ABN 38 318 251 221