

18 December 2018

By email: complaintsregister@finance.nsw.gov.au

Rose Webb
Commissioner
NSW Fair Trading
PO Box 972
Parramatta NSW 2124

Dear Ms Webb

Fair Trading Complaints Register Guidelines

The Consumer Action Law Centre (**Consumer Action**) welcomes the opportunity to comment on the draft Fair Trading Complaints Register Guidelines (**the Guidelines**).

We strongly support the publication of trader complaints data. We consider that public accountability for traders improves the overall competitiveness of the marketplace by encouraging traders to improve their practices and empowers consumers to make informed decisions about where to buy goods and services. Further, it provides incentive for regulators to take enforcement action against problematic players in the market where there are clearly systemic issues.

We encourage other regulators, including Consumer Affairs Victoria, to publish complaints data in similar ways so that consumers across Australia can benefit from this increased transparency and trader accountability.

In relation to the Complaint Register website display options, we recommend consumer testing for effectiveness. However, our initial preference is Option 2.

Our comments are detailed more fully below.

About Consumer Action

Consumer Action is an independent, not-for profit consumer organisation with deep expertise in consumer and consumer credit laws, policy and direct knowledge of people's experience of modern markets. We work for a just marketplace, where people have power and business plays fair. We make life easier for people experiencing vulnerability and disadvantage in Australia, through financial counselling,



legal advice, legal representation, policy work and campaigns. Based in Melbourne, our direct services assist Victorians and our advocacy supports a just market place for all Australians.

Information appearing on the Register

We strongly support the Register including the issue about which the consumer has complained. We consider that the Register will be more useful for consumers if includes information about the problem or practice complained about. We also support data being reported without comparison to the size of the customer base or industry size, as this would simply add complexity to the information being presented to consumers without any additional benefit.

In terms of future improvements, we consider that there is merit in the Register publishing complaint outcomes where available, although we recognise that NSW Fair Trading does not always have this information. As set out in our joint submission with CHOICE,¹ the United States Consumer Financial Protection Bureau publishes complaints data with outcome summaries in a searchable database.²

Threshold number of complaints and trader grouping

We support the threshold number of complaints remaining at ten or more in any calendar month. Further, we support the listing of businesses according to trader name or brand name continuing, with additional location detail available. People do not tend to differentiate between franchisees, but instead see themselves as dealing with the overall brand or trader.

Data update and record policy

Register data is currently available for 24 months, but our preference is that the data remain available on the Register indefinitely. We consider it unlikely that consumers will go to the effort of searching a separate database, the NSW Government Open Data Portal, to retrieve this information. To encourage transparency and informed choice, consumers should not be required to overcome unnecessary hurdles to access complaints data.

Online layout and functionalities of the Register

We support proposed improvements to the usability and interactivity of the Register, including the search function. As noted above, we recommend consumer testing to choose the most appropriate display option. However, our initial preferred layout is Option 2, which we consider provides complaint information in the most useful and accessible way.

We note the recent Better Business Reforms announcement that a single, user friendly online portal of registers will be created to allow consumers centralized access to data held on traders.³ We recommend

¹ CHOICE and Consumer Action Law Centre, *Submission: Review of the Complaints Register Guidelines*, 25 May 2018.

² See <http://www.consumerfinance.gov/complaintdatabase/>.

³ Department of Finance, Services and Innovation, *Better Business Reforms Explained*, 2018, available at: https://www.fairtrading.nsw.gov.au/_data/assets/pdf_file/0017/417122/Better-Business-Reform-Explained.pdf; Consumer Action Law Centre, *Submission: Easy and Transparent Trading Consultation Paper – Increasing transparency and consumer choice*, 28 August 2018.

the Register be included in this online portal, so that consumers have a one stop shop for important information about traders.

Please contact Katherine Temple on 03 9670 5088 or at katherine@consumeraction.org.au if you have any questions about this submission.

Yours Sincerely,

CONSUMER ACTION LAW CENTRE



Katherine Temple

Director, Policy & Campaigns

