



SACOSS

*South Australian Council
of Social Service*

**Submission to the Office of Consumer and
Business Affairs
Review of the Fair Trading Act**

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South Australian Council of Social Service
Marjorie Black House
47 King William Rd
UNLEY SA 5061

Phone: 08 83054222

Facsimile: 08 82729500

Email: sacoss@sacoss.org.au

Web: www.sacoss.org.au

The South Australian Council of Social Service (SACOSS)

SACOSS is the peak body for social services in South Australia. SACOSS is a not-for-profit independent organisation and our members represent a wide range of interests in social welfare, health and community services. SACOSS is part of a national network assisting low-income and disadvantaged people. SACOSS and its members have a *vision of justice, opportunity and shared wealth for all South Australians*.

This submission has been informed by the *Blueprint to eradicate poverty*, our long term anti poverty plan for South Australia as well as consultation with the SACOSS Policy Council¹ which informs and shapes SACOSS social justice policy positions.

We advocate an inclusive approach to justice and equality in SA which extends to consumer matters. SACOSS is keen to see the review of the *Fair Trading Act 1987 (FTA)* adequately take into account the needs of disadvantaged and vulnerable consumers in SA, and incorporate these views into the revised legislative framework.

SACOSS Views on Recommended Changes

SACOSS welcomes in principle the proposals put forward in the Discussion Paper. Many of these proposals serve the following purposes:

- Close legislative loopholes in previous Acts
- Widen the statutory powers of the State Government to act against businesses in breach of the relevant legislation
- Attempt to eradicate duplication between various sections of the *Fair Trading Act* and the *Trade Practices Act*

Given the nature of the proposed changes, SACOSS does not see the merit in producing a detailed submission to the Office of Consumer and Business Affairs (OCBA) that deals with specific proposals. However it is desirable that the OCBA take into account the needs of vulnerable and disadvantaged consumers in this context, and incorporate such considerations into its review framework.

Vulnerable and Disadvantaged Consumers

SACOSS believes that the review should give particular consideration to the work of Consumer Affairs Victoria (CAV) on the subject of disadvantaged and vulnerable consumers in considering changes to the *FTA*. By including relevant legislative safeguards catering for these groups, SACOSS believes that market pressures can be alleviated and that all South Australians can avoid the unwarranted and unnecessary financial and material hardship caused by potentially predatory trade practices.

¹ The Policy Council is a group of 40 elected members representing the broader interests of the non government sector in South Australia.

Vulnerability and Disadvantage in the Marketplace

While vulnerability and disadvantage are generally thought of in terms of the personal physical and mental attributes of members of society, in the case of consumer affairs there are additional concerns relating to the market. This is particularly true of the ready availability of easily read and understood information relating to retail purchases and contract terms. The growth of interest free terms within the retail sector, along with the deregulation of the financial service sector, has meant that purchases which used to be simple transactions now have the potential to cause harm to many in our community. The current review of the *FTA* must recognise these issues in order to create a just and equitable consumer rights framework.

Vulnerable Consumers

'Vulnerability is a relative concept.' (CAV, 2004:4) Consumers can be considered vulnerable when their mental and physical capacities interact with their life circumstances to render them vulnerable to harm caused by their consumer choices. Moreover, these consumer choices can be adversely influenced by business practices such as pricing and credit contract details that lack adequate transparency.

Disadvantaged Consumers

While vulnerability does not limit itself to those consumers who have physical, social or mental impediments to sensible consumption, disadvantage denotes the type of structural barriers that are often caused or exacerbated by these conditions. Disadvantaged consumers begin from a comparatively weak position within the market, and this can be caused by a number of factors, including age, gender, race or ethnicity, educational attainment, income, and physical or mental capacity.

Vulnerable and Disadvantaged Consumers and the *FTA*

SACOSS supports many of the proposed changes put forward by the OCBA that have the potential to ease market pressures on vulnerable and disadvantaged consumers in SA. Given changes that have taken place in the marketplace since the *FTA* was passed into legislation, it is pertinent that this review has been initiated, and SACOSS believes that ongoing review mechanisms are required to ensure that those most at risk in the contemporary goods and services market are adequately protected.

Sources

Consumer Affairs Victoria (CAV), 2004, *Discussion Paper: What do we mean by 'vulnerable' and 'disadvantaged' consumers?*, CAV, Melbourne.