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PRE-BUDGET 2022-2023

Submission to The Treasury

ABOUT US

CHOICE is the leading consumer advocacy group in Australia. CHOICE is independent, not-for-profit and member-funded. Our mission is simple: we work for fair, just and safe markets that meet the needs of Australian consumers. We do that through our independent testing, advocacy and journalism.

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INTRODUCTION

Every Australian is affected by consumer policy. From cost of living to consumer contracts, product safety to labelling - our daily lives are shaped by the Federal Government's investments in consumer issues. The Government has an opportunity to use the 2022-2023 Budget to help people with cost-of-living challenges and equip them to make informed consumer choices.

This submission includes budget-neutral ideas to make the Australian Consumer Law more effective. The recommendations to introduce a super complaints process and penalties for all breaches of the Australian Consumer Law will cost nothing in 2022-23 but will deliver savings through more effective regulatory action and penalties that contribute to consolidated revenue in future budgets.

We see an opportunity for the Federal Government to help Australians with major household purchases. In our labs at CHOICE, we regularly find that price and brand is no reliable indicator of the quality of a product. Australians want clearer information about what products will last longer and be easier to repair if something breaks. The Productivity Commission recently recommended that the Federal Government develop a durability and repairability label for key household goods. The Budget should commit funding to establishing a working group to develop this labelling scheme.

Recommendations

The Federal Government use the 2022-2023 Budget to:

1. Finalise the Superannuation Consumer Advocate expression of interest process to provide long-term funding for the benefit of superannuation consumers.
 2. Establish a super complaints process.
 3. Introduce penalties for all breaches of the Australian Consumer Law.
 4. Provide funding to develop a durability and repairability labelling scheme for major purchases.
 5. Make any future financial support packages for the travel and tourism industry contingent on improving consumer outcomes, including customer service standards and complaints processes.
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Long-term funding for a consumer advocacy body for superannuation

The importance of a superannuation consumer advocate in bringing a consumer voice to the \$3.4 trillion superannuation system is well understood by the Federal Government. CHOICE acknowledges that Treasury has launched an expression of interest process to help develop a funding model for such an advocate and has provided two-year interim funding for Super Consumers Australia for 2021-22 and 2022-23. This was a much-needed and welcome decision by the Federal Government.

The interests of superannuation consumers require that appropriate, long-term provision is made in the budget to deliver an independent, adequately resourced superannuation consumer advocate. We understand that the funding source for this body is still being considered, but encourage the Government to consider the funding requirements as part of the Federal Budget process.

Without a long-term funding arrangement, the superannuation space may be left without a truly independent consumer voice during a crucial time as the Government continues to lift standards in the superannuation sector to improve retirement outcomes for all Australians.

Recommendation:

1. Finalise the Superannuation Consumer Advocate expression of interest process to provide long-term funding for the benefit of superannuation consumers.
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Establish a super complaints process

Consumers in the United Kingdom have benefited from consumer and expert groups having the ability to lodge “super complaints” with regulators. Super complaints from designated organisations can be an incredibly useful process to identify problems consumers are experiencing and focus the attention of regulators on grass roots problems. The Productivity Commission has recommended that the Australian Government establish a super complaints process in Australia.¹ The Government should announce that it will establish this complaints and intelligence gathering process as part of the 2022-23 Budget.

This measure is budget-neutral but will provide significant benefits to consumers and regulators as market problems are identified sooner and effective evidence provided to help with enforcement.

Introduce penalties for all breaches of the consumer law

Currently, not all provisions of the Australian Consumer Law allow the regulator to take action against a business that is failing to comply with the law. While commercially significant penalties apply to businesses who mislead consumers, no penalties currently apply to businesses that use unfair contract terms or repeatedly fail to offer consumers remedies under the consumer guarantees (refunds, repairs, replacements). The Treasury has already commenced consultations on adding penalties to the unfair contract term and the consumer guarantee provisions which is a positive development.² The Budget should confirm the Government’s intention to proceed with these important reforms and announce a timeframe for introduction.

This measure is budget neutral for 2022-23 but should be expected to increase consolidated revenue in future years through penalties for companies breaching the consumer law.

¹ <https://www.pc.gov.au/inquiries/completed/repair/report> recommendation 3.2

² <https://treasury.gov.au/consultation/c2021-201582> and <https://treasury.gov.au/consultation/c2021-224294>

Recommendations

2. Establish a super complaints process
3. Introduce penalties for all breaches of the Australian Consumer Law

Fund the development of a new product label to help consumers identify best value products

Australians don't currently have an easy way to tell if their purchases are going to last or if they'll be easy to repair if they break. This problem could be solved with a simple labelling scheme to help people identify which products are the most durable and easy to repair.

The Productivity Commission has recognised the benefits that a labelling scheme would have to consumers and recommended the Government develop such a scheme in its right to repair final report.³

This reform is also strongly supported by consumers. Recent research conducted by CHOICE shows high consumer demand for more and better quality information about products at the point-of-sale. 88 percent of consumers want a star rating system that tells them how long a product should last for.⁴

The Federal Government has a clear mandate to work with consumer experts and industry to establish a durability and repairability rating scheme for major purchases, like whitegoods and technology. This should be developed into a label to guide people looking to make better value and more sustainable purchases.

Funding is needed to develop the product labelling scheme. CHOICE recommends that this process start by developing a ranking schema for high-priority goods, likely white goods like

³ <https://www.pc.gov.au/inquiries/completed/repair/report> recommendation 6.2.

⁴ Nationally representative survey conducted 25-28 June 2021. The survey was designed and analysed by CHOICE and put in field by accredited research agency Dynata as part of their weekly "Omnipulse" omnibus. 1,005 people completed the survey, data has been weighted to ensure it is representative of the Australian population based on the 2016 ABS Census. Full results available at <https://www.choice.com.au/consumer-advocacy/policy-submissions/2021/august/submission-to-the-productivity-commission-on-the-right-to-repair>

fridges or washing machines. This should be done with a working group composed of relevant government agencies, sustainability experts, consumer groups and industry.

The budget should provide funding to commence this process. Relevant Federal Departments, including the Department of Agriculture, Water and the Environment, will be able to provide the most accurate estimates of funds required for this process.

Recommendation

4. Provide funding to develop a durability and repairability labelling scheme for major purchases.

Ensuring consumers benefit from financial support given to the travel and tourism industry

The 2021-22 budget allocated a \$1.2 billion package to support Australia's tourism and aviation sectors. While measures to help ensure the sustainability of travel and tourism businesses are in the interests of consumers, the allocation of these funds without requirements on businesses to meet certain customer outcomes was a missed opportunity. In particular, a survey of over 4,400 people conducted by CHOICE throughout January - March 2021 found numerous consumer problems with travel service cancellations throughout the pandemic. These included:⁵

1. Poor information about consumer rights;
2. Poor customer service and complaints processes, including limited means of communication and significant delay, and complex agency arrangements making refunds more difficult;
3. Inconsistent and unfair remedies, including consumers being out of pocket and impractical or useless credits and vouchers; and
4. Poor protections when travel businesses become insolvent.

⁵ CHOICE, *Consumer Protection for Australian Travellers: a plan for clarity, consistency and fairness* ('CHOICE Travel Report') (July 2021) <<https://www.choice.com.au/consumer-advocacy/policy-submissions/2021/july/report-on-fairer-consumer-protections-for-australian-travellers>>.

Any future financial support packages should be used to help the industry improve its practices to address these issues.

Recommendation

5. Make any future financial support packages for the travel and tourism industry contingent on improving consumer outcomes, including customer service standards and complaints processes.
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