



**Submission to Senate Standing Committee on
Economics'
Inquiry into the Trade Practices Amendment
(Australian Consumer Law) Bill 2009**

August 2009

CHOICE is a not-for-profit, non-government, non-party-political organisation established in 1959. CHOICE works to improve the lives of consumers by taking on the issues that matter to them. We arm consumers with the information to make confident choices and campaign for change when markets or regulation fails consumers.

57 Carrington Road Marrickville NSW 2204

Phone 02 9577 3333 Fax 02 9577 3377 Email ausconsumer@choice.com.au www.choice.com.au
The Australian Consumers' Association is a not-for-profit company limited by guarantee. ABN 72 000 281 925 ACN 000 281 925



CHOICE is pleased to provide its views in relation to one aspect of the Trade Practices Amendment (Australian Consumer Law) Bill 2009 (the Bill).

CHOICE generally welcomes the Bill, in particular the national harmonisation of consumer protection laws, the introduction of unfair contract terms provisions and the harmonisation and modernisation of the regulatory powers of enforcement agencies. We note our separate submission to the current inquiry criticizing the government's decision to exclude insurance contracts from the ambit of the unfair contract terms provisions.

Issue

In this submission we focus on the need to provide for infringement notices as a potential sanction for breach of industry codes. Schedule 2 Part 5 of the Bill currently does not allow for the issuing of infringement notices for appropriate provisions of the industry codes made under Part IVB of the *Trade Practices Act*.

Adequate enforcement mechanisms are essential to ensure compliance with any labeling system.. To make this remedy available, Schedule 2 Part 5 of the Bill should be amended to allow for infringement notices to be issued for appropriate provisions of the industry codes made under Part IVB of the *Trade Practices Act*.

Background

The ACCC's grocery price inquiry¹ recommended in relation to unit pricing "that any legislative mechanisms implemented should also be sufficiently flexible to enable the agency responsible for the regime to issue legislative instruments which clearly delineate which stores and products are and are not included in the unit pricing regime and allow for appropriate compliance monitoring and enforcement."

CHOICE agrees that the unit pricing regime should provide for appropriate enforcement mechanisms. Infringement notices can be an effective and appropriate response to some breaches of unit pricing legislation.

The Bill as presently drafted does not provide for infringement notices to be available for breaches of any provisions of an industry codes made under Part IVB of the Trade Practices Act. This will appreciably reduce the capacity of the ACCC to effectively ensure compliance for breaches of the unit pricing regulations/code.

To maximise the effectiveness of the unit pricing laws, CHOICE strongly recommends that the ACCC be given all powers necessary to ensure compliance with these laws, including enabling the ACCC to issue infringement notices

Should you wish to seek further information on this matter please do not hesitate to contact Mr Michael Frommer, Policy Officer on (02) 9577 3290 or at mfrommer@choice.com.au

¹ Report of the ACCC inquiry into the competitiveness of retail prices for standard groceries, the ACCC, July 2008, page 456, available at: <http://www.accc.gov.au/content/item.phtml?itemId=838251&nodeId=68210597d8c50ef39932cafa725a0469&fn=Grocery%20inquiry%20report,%20chapters%2011%E2%80%9320.pdf>