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Productivity Commission
Belconnen ACT 2166

The following is my submission to the Commission's review of Australia's consumer policy framework. I only wish to comment on two aspects of the Commission's paper, *Consumer Issues*.

My interest in consumer affairs began in the 1960's and I became very involved in the mid 60's when I moved to Canberra with the Commonwealth Public Service and discovered Canberra Consumers Inc., then the most significant consumer organization outside of the Australian Consumers' Association (ACA) and the only one, except ACA, which published its own tests and reports. I later became President and a life member of CC. In the time of the Whitlam Labor Government, I was appointed as interim President and later elected as President of the Australian Confederation of Consumer Organisations (AFCO) but lost office after a few years in circumstances I will outline later. I was also involved in the Australian Institute of Management, rising to President of the Canberra Division and becoming a Life Member.

Since that time, consumer protection has matured and consumers, in my opinion, usually get a fair go. If they don't, there are Federal and State organizations as well as private media organizations such as *A Current Affair* which are prepared to help them. However there is one area where consumers are very much disadvantaged: unfair contract legislation referred to in Box 4 of the Commission's paper.

When consumers wish to obtain services or goods from large organisations, they have no opportunity to negotiate. They are presented with terms and conditions and, to obtain the goods, have only one option: accept. This is highlighted in the area of computer software. When you install the software, you are presented with a EULA (End User License Agreement). See <http://en.wikipedia.org/wiki/EUL> for a discussion and also <http://www.eff.org/wp/eula.php> for a critical review. Accept or you don't get to run the software. Yet the same thing occurs with credit card agreements, insurance contracts and a multitude of other agreements where the consumer has no room to manoeuvre. Obviously, such agreements will ensure that the interests of the provider or supplier are protected to the maximum extent possible whilst giving the consumer the very minimum of protection.

In my opinion, what is needed is a Consumer Advocate who could negotiate with providers and suppliers (probably with their industry associations) on behalf of consumers in general to try to obtain changes which would ensure that consumers are placed in a more advantageous position. This would place all consumers, especially "vulnerable and disadvantaged" consumers in a much better position. I would foresee that the Consumer Advocate would eventually develop a set of model agreements and clauses which service providers and suppliers could insert in their agreements to ensure that they would not have to enter into specific negotiations with the Advocate. The Advocate could also ensure that additional protection was given to "vulnerable and disadvantaged consumers". Once generic agreements are developed, the Advocate would only need to take a watching brief.

I would now like to address the question raised at page 22 of the paper: Would there be benefits from government support for a consumer advocacy body? AFCO was founded to be such a body. But, unfortunately it was soon captured by people who had hidden agendas and used the organisation as a base from which to propagate their ideas.

All consumer advocacy groups will tell you that they only wish to further the interests of consumers. But how do they know what consumers wants. Often they will claim that they know what consumers want but, in practice, their views are heavily influenced by their political agenda. In my experience there are only a few organisations which do represent the views of `informed consumers' primarily such as CC and ACA when I knew them. But I am also aware of many other groups which are captured, as I have said, by zealots who bias their views in the direction of their political agenda.

That's what happened, I think, in the case of AFCO and is probably one of the main reasons why the government decided to withdraw its subsidy. Its successor, the Consumers' Federation of Australia has no public profile and also suffers because ACA is not a member. I might add that AFCO suffered from this as well. There is no doubt that, in the public's mind, ACA is the premier consumer advocacy body. It is certainly the richest and most powerful as well as being the most undemocratic. Yet, while ACA is available to represent the views of the concerned and informed consumer, one wonders what would be the benefits of funding a more representative body. Certainly, it is difficult for such an organisation to operate successfully in the shadow of ACA.

Yours sincerely

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