

THE CONSUMER

2/2008

 Northern Territory Government



YOUR CONSUMER RIGHTS

A message from the Consumer Affairs Commissioner

At Consumer Affairs we aim to ensure that the trading that occurs in the marketplace – the buying and selling of goods and services – is fair for both consumers and businesses.

This can usually be achieved through laws and industry self-regulation which ensure that consumers are adequately informed and protected and that businesses are competitive and do not abuse their market power.

Regulatory complexity affects consumers as well as businesses. We are here to protect consumers against unethical practices, ensuring they are given as much information as possible on which to make their decisions.

Consumers, in order to function in modern life, should be able to easily understand their position under the law and what action they can take against businesses that breach the law.

Consumer Affairs staff manage 13,000 calls a year from consumers and traders wanting to know their rights and responsibilities in relation to Fair Trading and Tenancy issues.

My staff are there to assist consumers on all sorts of problems; they are experts in their field and achieve excellent results.

If you have a consumer problem, give them a call between 8 - 4.30pm week days on 1800 019 319.

What are your Consumer Rights?

We as consumers have rights that are recognised by the United Nations. These rights originate from former US President JF Kennedy's 1962 declaration of four basic consumer rights:

- the right to safety,
- the right to be informed,
- the right to choose, and
- the right to be heard.

And since then, the International Organisation of Consumer Unions has added four more:

- the right to redress,
- the right to satisfaction of basic needs,
- the right to consumer education, and
- the right to a healthy environment.



Your lay-by rights

Mary placed a computer on lay-by and paid a deposit, then had to cancel the lay-by. She realised that she might lose some of her deposit but did not realise that the 20% lost was off the cost of the computer not 20% of her deposit!

Make sure you read the store's lay-by terms and conditions before you sign the contract, as you will be bound by them. These terms should also be on the lay-by docket. They include:

- the amount of the deposit,
- the length of the lay-by period,
- the number and minimum amount of payments required, and
- the cancellation policy (including refunds of deposits and any payments made).

If you don't keep to the terms and conditions of the lay-by contract, the store can cancel the contract in writing and allow you 14 days to reply or to bring your payments up to date.

If you want to cancel the contract you can expect to have to pay a penalty according to the cancellation policy, which might be the whole of the deposit. If you are finding it difficult to make the regular payments, contact the store and negotiate a revised payment plan.

If you think your rights have not been met with your lay-by, contact Consumer Affairs for advice.

Your right to quiet possession

When a tenant enters into a contract with a landlord to rent a residential property, the landlord is effectively granting the tenant the right to occupy the property for the period of the tenancy with what is termed 'quiet possession'.

The tenant can expect, and has the right to, peace and quiet during the tenancy. The landlord retains the right to enter the property, however only in compliance with the *Residential Tenancies Act*.

Our advice on the following two scenarios is:

The agent or landlord sends out a letter to the tenant advising a three monthly inspection is due and includes a time and date for the inspection.

- Even though the agent has sent out a letter requesting an inspection the agent has no right to attend and enter the premises unless the tenant acknowledges the letter and agrees to the time for the agent to attend and carry out the inspection.

A landlord lives interstate and is coming to Darwin and wants to look at his property.

- The only way this can occur is by either the tenant giving permission for the landlord to attend the premises or the landlord attends

the property with the agent at a prearranged three monthly inspection.

If the landlord or agent enters the property without complying with the legislation or without the tenant's permission, the tenant should inform Consumer Affairs, whereupon the agent or landlord will be informed of their obligations under the Act. If they continue to do so, further action may be taken by the Commissioner.



What's the REAL price of your new car?

Buying a new car can be an overwhelming and confusing experience, especially when it comes to negotiating the price. As consumers, we have the right to be given the facts needed to make an informed choice.

Car dealers can go to extraordinary lengths to attract your attention through large, flashy advertisements promising lots of extra features and the lowest prices. One of the most popular advertisements used by dealers is to offer new vehicles at 'Drive Away' or 'On-Road' prices.

Ordinarily, the advertised price of a new car will not include all the

additional, compulsory charges such as stamp duty, registration and dealer delivery. When these charges are included, the cost of purchasing that new car can skyrocket.

Consumer Affairs has received reports of car dealers in the Territory who have advertised vehicles at 'drive away' prices and then added administrative or statutory charges to the price.

The Commissioner of Consumer Affairs is of the view that the terms 'drive away' and 'on road' are now so widely used and accepted that a consumer should expect that a car

advertised at a 'drive away' price is available for purchase at that price without additional charges being imposed.

Depending on the circumstances, advertisements may include disclaimers drawing attention to minor additional fees. However, use of these terms in circumstances where the dealer doesn't intend offering the vehicle at a particular price may be in breach of the misleading and deceptive conduct provisions of the *Consumer Affairs and Fair Trading Act*. If you know of these problems, give Consumer Affairs a call on 1800 019 319

The right to have a *safe backyard pool*

Consumer Affairs was recently notified of incidents where children have been seriously injured as a result of a potty-style skimmer box. This older style filter box (pictured below) was banned from sale and supply in 1985 due to the high risk of injury posed to children.

Earlier this year a six year old girl was partially disembowelled after sitting on an uncovered filter box. Her mum said the filter's powerful suction trapped the little girl for about 15 seconds; she was eventually freed, but not before the suction had caused serious damage to her internal organs.



No protective lid



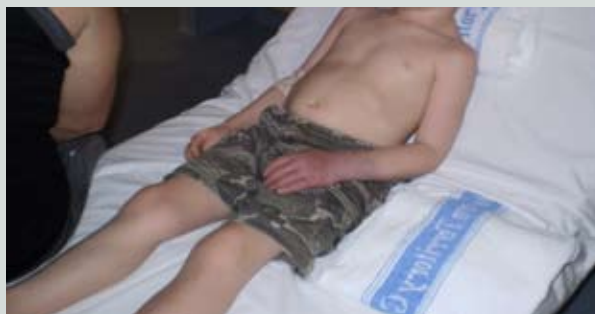
With protective lid

Another mum wanting to inform the community of the dangers associated with this type of pool filter said her four year old son took off the lid to retrieve a (cleaning) jelly cube and his hand got sucked through the vacuum plate into the skimmer box. His mum quickly turned off the filter but her son's hand was so red and swollen that he had to be taken to the Emergency Department to have the vacuum plate cut off.



Who could have imagined a child's hand could fit through the small hole on the vacuum plate?

Consumer Affairs recommends that all pool



owners check whether their pool skimmer box/filter inlet is safe, and if not, to arrange for immediate modifications.

Manufacturers of fibreglass pools are able to carry out the required modifications to the skimmer box filter for approximately \$300. The modifications involve fixing a permanent protective lid to the filter inlet, a small price to pay for your child's safety.

For good advice, phone

Consumer Affairs on 1800 019 319

My rent went up *again!*

Rents in the Northern Territory have increased considerably (especially in Darwin) over the last 12 months.

Consumer Affairs has received numerous calls from landlords and tenants as to the rights of the landlord to increase rent.

The *Residential Tenancies Act*, which Consumer Affairs administers, is specific on how rent can be increased.

During a fixed term tenancy the landlord only has the right to increase rent after the tenancy has been in force for six months. The amount of the increase in the rent or the method of calculation of the increase in rent must be included in the tenancy agreement, and during a fixed term tenancy the landlord must give the tenant 30 days notice of the amount the rent will increase and the date the increase will take effect.

The only exception to these requirements is if the tenancy agreement has a provision for the rent payable to change automatically at stated intervals on the basis set out in the agreement.

If a fixed term tenancy comes to an end, the landlord may offer the tenant a new lease with a rent increase or decrease.

Under the *Residential Tenancies Act* the landlord is required to give the tenant a notice at least 14 days before the fixed term tenancy comes to an end stating that he/she wishes to terminate or extend the tenancy and this is when the tenant will be notified of a change in the rent.

When a fixed term tenancy comes to an end and no new agreement is signed but the tenant remains in possession, this is called a periodic tenancy. A periodic tenancy usually operates from fortnight to fortnight or a period that is agreed to by the parties for rent to be paid.

A landlord may increase the rent under a periodic tenancy with 30 days notice and not less than 6 months after the previous increase, unless a provision for automatic rent increases, as referred to above, has been included in the tenancy agreement.

If you want more information on your rights when renting contact Consumer Affairs on 8999 1999 or 1800 019 319.



Not another telemarketing call!

We are all familiar with the unwanted phone calls, often from overseas, that try to persuade us to buy goods

or services that usually we don't want. Often we terminate the call without hearing the full marketing story, but are still annoyed that we got the call in the first place when we were interrupted doing something more important.



The Do Not Call Register, established by the Australian Communications and Media Authority (ACMA) allows you to reduce the number of unwanted telemarketing calls you receive. Once you register your home phone or mobile numbers, telemarketers in Australia and overseas are required, by law, to stop calling you, as long as the numbers are used primarily for private and domestic purposes.

Some public interest organisations, such as charities, political parties and educational institutions, and business with which you have an existing relationship (e.g. your current telecommunications provider) are still allowed to make calls. However, you can contact a business directly at any time and tell them you do not wish to receive telemarketing calls in the future.

To include your phone numbers on the Do Not Call Register, phone 1300 792 958 or access the website www.donotcall.gov.au.

Did you know?

When it comes to mobile phones, 1900 and 1300 are not free calls and can be costly, and 1800 numbers are toll free when calling from a handset but call rates apply from a mobile phone.

Log onto our website:
consumeraffairs.nt.gov.au

Underweight groceries exposed!



Has the worm got your apple? Are you getting all the juice from your bags of oranges? Consumers have a right to feel confident knowing that they are getting what they pay for.

Central Australia Trade Measurement Inspector Nigel Butler (above) has been out and about defending your rights by rigorously testing pre-packaged groceries in our supermarkets and grocery stores, ensuring that consumers are getting exactly what they pay for – and nothing less.

A number of short weight items were exposed. A particular brand of garlic bread was found to weigh far less than was stated on the package; this resulted in a national recall of the product and corrective measures were put in place to ensure this sort of thing doesn't happen again.

Certain interstate sourced apples and oranges pre-packaged for consumers' convenience were also discovered to be underweight. Collaboration between Northern Territory Trade Measurement and the other jurisdictional branches of Trade Measurement discovered that the packer's scales were inaccurate. The packer was cautioned, scales were repaired and quality assurance practices were reviewed to prevent this from happening again.

Consumers and traders who feel they are not getting what they pay for, or who believe that weighing equipment may not be as accurate as it should be, can contact the Alice Springs or Darwin offices of the Trade Measurement Branch (Darwin – 8922 0863, Alice Springs – 8951 5442).



Had a problem with your mobile phone handset?

It is not unusual to have a faulty mobile phone handset. If it is returned to the retail outlet where you purchased it with a fault that was present from first use or shortly afterwards, the store should provide you with a refund or replacement if there are no obvious signs of misuse.

If you have had the phone for a while, the store will usually want to send the handset away to the manufacturer or a repair agent for assessment. This is a reasonable request and if it is easily repairable it will be fixed and returned to you.

However if the handset is not repairable due to water entry, you will not be able to get a repaired or replacement phone as this problem is excluded from the normal warranty.

If a repaired phone continues to give problems within the warranty period (usually one year), the manufacturer may want to repair it once or twice more before it is declared a 'lemon' and a replacement is provided. The delays while repairs are being made can be most inconvenient and you can often get a loan phone from the store if you ask.

If you are not satisfied with the warranty services provided by the store and you have bought the phone separately from a mobile contract with a telecommunications provider, you should contact Consumer Affairs for assistance.

If you have bought the handset as part of a 'bundled contract' with the provider (i.e. the handset is included with the call plan contract) you can contact the Telecommunications Industry Ombudsman (TIO) on 1800 062 058. The TIO will also assist you with your warranty rights under the contract even if the handset is more than one year old.

That item scanned more than the shelf price. *Can I get it for free?*

Electronic price scanners are now used in all major supermarkets, variety stores and hardware stores and are becoming more prevalent in many smaller traders premises across the Northern Territory. However, consumers may experience problems with electronic scanners, particularly when the price an item scans at is different from the advertised shelf price.

Consumer Affairs recently took part in a national electronic scanning audit which focused on a range of stores and businesses including service stations. It was found that, while the Northern Territory wasn't the best, we had improved over the past three years in the percentage of stores found to have no scanning errors from 7% to 32%.

If you have experienced a problem at the checkout, you should raise the issue with the person who is serving you. You should expect to receive that item at the shelf price.

In the Northern Territory, Coles & Woolworths are the only signatories to the *Code of Practice for Computerised Checkout Systems* in supermarkets, and this Code applies to all items sold except, liquor, tobacco and items which do not have a bar code or items where the shelf price is \$50 or greater.



In these stores, if an item scans at a higher price than is advertised on the shelf, you are entitled under the Code to receive the item free of charge. If you are purchasing more than one of the items you should receive the first item free of charge and the remaining items at the lower shelf price.

Where a trader is found to be continually overcharging consumers at the checkout, Consumer Affairs may view such acts as misleading and deceptive, which is a breach of your rights under the *Consumer Affairs and Fair Trading Act*. Give Consumer Affairs a call if you have been charged too much.

Can't anyone fix my fridge?

Consumers are entitled to believe that when they buy a fridge, washing machine, TV or other large household item they will be able to have them repaired in Darwin or other large population centre under warranty.

Unfortunately, Consumer Affairs has heard of a number of cases where people have been referred by a retailer to a manufacturer for approval to carry out warranty repairs but are told there is no approved repairer available.

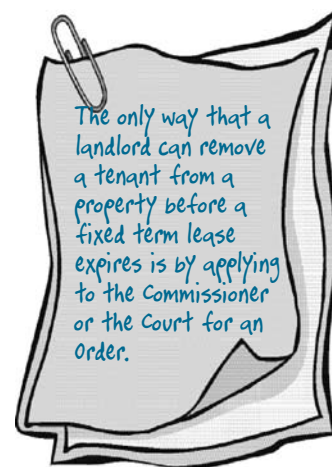
This seems to occur more often with brands that are not widely sold or known.

Consumer Affairs advises consumers to check when buying white and electrical goods that a local warranty repair agent is available for the brand

of choice and if one is not available, to perhaps choose another brand that has a local repair agent.

If you have already purchased goods for which there is no local repair agent and you need repairs to be done under warranty, the retailer should assist you in obtaining a satisfactory outcome.

This may be by contacting the manufacturer to appoint a local warranty agent or by assisting in negotiating a satisfactory outcome which may include a replacement or refund



Log onto our website:
consumeraffairs.nt.gov.au



RADIO LARRAKIA 94.5 FM

Indigenous Consumer Protection Partner Organisations

In October 2007, Consumer Affairs approached Radio Larrakia Darwin to assist with producing and broadcasting Community Service Announcements in response to concerns about the problems experienced by Indigenous consumers.

Radio Larrakia broadcasts directly into the hearts and homes of Indigenous and non-Indigenous individuals, families and organisations in the Darwin and rural areas. They also broadcast Australia wide through the National Indigenous Radio Service, the Top End Aboriginal Bush Broadcasting Association (TEABBA) and Central Australian Aboriginal Media Association (CAAMA) Network

The radio messages complemented the Michael Long Indigenous Consumer Education and Awareness Program, 'Keep your

PIN Number Safe', 'Don't Buy a Rubbish Car' and 'Keep Your Receipts'. This ongoing campaign includes posters, videos/DVDs and television advertisements.

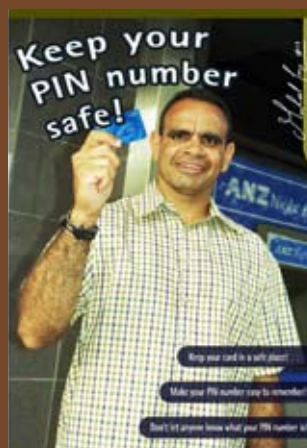
The community service messages played four times a day, every day, are complemented by interviews with the Consumer Affairs Indigenous Liaison Officer Greg Smith, who discusses hot topics and emerging issues. Greg's main role is to be the first point of contact for Indigenous families and individuals who need confidential consumer advice.

Indigenous people living in regional and remote communities are one of the most vulnerable consumer groups in Australia. A lack of services and an uncompetitive marketplace leave them open to exploitation by rogue traders.

Radio Larrakia allows the culturally appropriate transfer of consumer rights information to the whole of the target community, helping to overcome the difficulties and barriers faced by Indigenous consumers.

Consumer Affairs is looking at new ways to increase listener participation and feedback through the use of Indigenous media and the regular segments on Radio Larrakia Talk inform consumers of horror and success stories, how to contact the Consumer Affairs Office and future projects.

Through the support of Radio Larrakia 94.5FM Darwin, Consumer Affairs looks to improve Indigenous consumers' knowledge of their rights and responsibilities under consumer protection laws and achieve greater Indigenous access to consumer protection programs.



**For further information log onto our website:
consumeraffairs.nt.gov.au or write to
Consumer Affairs, GPO Box 1722 Darwin NT 0801**