

Australian Consumer Law – Protecting Your Rights

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The

purpose of this article is to inform the Ummah of the National uniform consumer law reforms which came into operation on the 1st of January 2011. The Competition and Consumer Act 2010, also known as Australian Consumer Law (ACL) replaces provisions in 20 National, State and Territory laws. The ACL seeks to protect consumers from being targeted by unfair practices by suppliers and manufacturers.

The changes relate to unconscionable conduct, misleading and deceptive conduct, unscrupulous advertising and defective goods. There have also been changes to the penalties for breaches of these provisions which include, in addition to civil and criminal penalties, the power of the Australian Competition and consumer Commission (ACCC) to issue infringement notices to businesses in breach.

The misleading and deceptive conduct and the unconscionable conduct provisions are preserved from the Trade Practices Act but with some add-ons for false or misleading representations in testimonial-style advertising. This article will cover the main aspects of the ACL, which we consider most Muslim consumers will encounter.

Door-to-door and telemarketing sales

The ACL directly addresses unsolicited selling agreements such as those resulting from door-to-door and telemarketing sales. The new laws will apply where the agreement is worth \$100 or more or where the amount is unclear at the time of agreement - such as when it depends upon the extent of use. The laws apply to dealers involved in unsolicited selling regardless of whether or not they are the supplier.

Dealers are now required by law to:

- Only contact potential customers between 9.00am and 6.00pm from Monday to Friday and 9.00am to 5.00pm

on Saturdays.

- Not contact potential customers on public holidays.
- Reveal upfront the purpose of their visit, their identity and their obligation to leave immediately upon request.
- Leave on request and when so requested, not contact the customer for the next 30 days.
- Not harass or coerce consumers.
- Provide consumers information about their right to cancel the agreement before the end of the cooling-off period and how to exercise that right before entering into any transaction.

• Include specific details in the agreement such as a notice on the front page that informs consumers of: the right to terminate, particular contact details of the supplier and a notice which the consumer may use to terminate agreement.

• Provide agreement in writing immediately if a door-to-door sale or within 5 business days if a telephone sale and ensure any changes to the agreement are signed by both parties.

• Give consumers a cooling off period of at least ten days starting from the first business day after agreement.

• Not accept payment, require payment or supply the relevant goods and services during the cooling off period. If goods are so supplied, the consumer need not pay for the goods.

• Allow termination during this cooling off period even if the consumer has partly or wholly consumed the product. The supplier must refund payment and the consumer must return, or make available for collection, goods that have not already been consumed.

Lay-by

Lay-by agreements must now be in writing and any cancellation fee that is passed onto the consumer must be reasonable.

Unfair Terms

The ACL also introduces rules on unfair contract terms. A term cannot be enforced if it is: (i) an unfair term; (ii) of a consumer contract; (iii) which is of standard form which includes all transactions where the consumer has no bargaining power. If you use these types of agreements in your business, we would be pleased to advise you on what steps you should take to comply with the changes to the law.

'Merchantable' is not 'Acceptable'

The ACL's Customer Guarantee* require manufacturers to ensure that their products are of an "acceptable" quality as opposed to the lesser previous requirement of "Merchantability". In order to be "acceptable", the products

must be fit for all the purposes for which they are commonly supplied, acceptable in appearance and finish, free from defects, safe, and durable.

The remedies available to the consumer for breach will depend on whether the defect was major or non-major. A major defect, such as an unsafe product, will enable the consumer to seek compensation, a reduction in price or to reject the goods while a minor defect may require the supplier to remedy the failure within a reasonable amount of time. The nature and price of the goods and statements made or existing on the packaging of goods will also be relevant to whether there the product is "Acceptable".

Extended warranties

Consumers purchasing extended warranties should be aware of their additional rights under the ACL. Where the extended warranty fails to offer services that are additional to the rights consumers already have under the new statutory guarantees, the provider of the warranty is at risk of engaging in misleading and deceptive conduct.

Repairs and Spare Parts

Another new and significant guarantee relates to repairs and spare parts. When supplying goods to a consumer, the supplier must ensure that facilities for its repair, and parts for the good are reasonably available for a reasonable period after the goods are supplied unless the manufacturer has provided written notice that these facilities or parts would not be available.

Summary and Where to Get Help

Whether it's the constant cold-caller that doesn't understand the meaning of the word "no" or the door-to-door salesperson that guarantees you the 'deal of a lifetime', the ACL provides you with the rights to assertively request them to leave you alone. Most importantly, the ACL gives you more power in your transactions with businesses so transactions can be conducted on a more equal footing. Know your rights. Don't be bullied.

The ACCC is the starting point to investigate whether you have suffered under a breach of the Australian Consumer Laws. More information can be found on their website:

http://www.consumerlaw.gov.au/content/Content.aspx?doc=ACL_resources.htm.

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Experience Palestine

Come on a journey unlike any other. Come see, hear and experience Palestine right here in Melbourne. On the 19th of February, from 5pm to 8pm, the FAMSU advocacy committee are holding an event at Coburg Town Hall called "Experience Palestine". This is not your conventional event where one is informed of facts and figures. We want you to hear the cries of innocent civilians, open your eyes to the mayhem, destruction and chaos and experience the rich culture of Palestine.

At our awareness night you will experience all three aspects of the life of a Palestinian, the war and occupation, life in the refugee camp and finally the culture and traditions of the Palestinian people. You will feel the daily struggle a Palestinian has to go through when passing through a checkpoint. We will give you a glimpse of the everyday life of a Palestinian refugee living in the refugee camps barred from their own homeland. We also believe Palestine is a unique country with its own identity; we will allow you to celebrate the lost culture and traditions of the Palestinians.

So what is all of this for? Many are aware of the carnage that is occurring in Palestine and there are many who donate generously to the cause. However our goal is not to raise donations but rather to raise awareness about the cause. The aim of this event is to motivate and inspire the youth to take action and be more involved in liberating the people of Palestine from their misery.

Take part in this rollercoaster of a journey. Empathise with our brothers and sisters who are living miles away in extreme conditions. Then, at the end of the night hold on to your emotions and use them to achieve great results and help in freeing the people who live on the streets with no names. Come and Experience Palestine!

For more information call

Enas Sammak: 0430018326

Abdulaziz Ali: 0423693219

Or by email at enasms@hotmail.com

Queensland's Muslims rally to help flood victims



First meeting of QMV at the Kuraby Mosque facilitated by Dr Mohamad Abdalla

BRISBANE: On Wednesday 12 January, local leaders called for an urgent meeting to discuss ways to help in the flood recovery process.

More than 300 people - men, women and children - responded within a matter of a few hours offering financial aid, cars, trucks, buses, essential supplies and of course their time. Many also offered their homes for shelter.

The volunteers told CCN that they were willing and ready to assist all those affected by the devastating floods, to help with the distribution of supplies, the clean up process and any other assistance that was required.

The Gold Coast and Darra Mosques have also offered the use of their halls as shelter for flood victims in need of accommodation.

To date more than \$20,000 has been collected in various mosques through the Muslim Charitable Foundation (MCF) to assist in buying and distributing much needed items for flood victims.

Mustafa Ally, media liaison for Queensland Muslims Volunteers (QMV), the organization that is coordinating the efforts of the community, told CCN: The Queensland Muslim community is deeply saddened by the devastating floods. Their thoughts and prayers are with all the victims of this disaster and they want to do whatever they can to help their fellow Queenslanders.

Donations to assist these and other relief efforts can be made to the following account:

Account Name: Muslim Charitable Foundation Emergency Account

Bank: Bank of Queensland

BSB: 124 155

Account No.: 2089 7395

Anyone wishing to volunteer their services should visit the Queensland Muslim Volunteers website www.muslimvolunteers.org to register and email info@muslimvolunteers.org for more information or assistance

Applications Open for 2011 Australia-Indonesia Muslim Exchange Program

The Islamic Council of Victoria is calling for Australian applications for the 2011 Australia-Indonesia Exchange Program for young Muslim leaders.

High-calibre, young Muslim leaders are encouraged to apply for this prestigious bilateral interfaith program, which has been successfully operating since 2002. Now approaching its ninth year and a highly regarded model for fostering inter-faith dialogue, the Australia-Indonesia Muslim Exchange Program

aims to build links between Muslim communities in Australia and Indonesia. It involves a visit of two weeks duration to Indonesia by a group of young Australian Muslim community leaders (such as writers, bureaucrats, academics, workers

in non-governmental organisations and religious bodies), and visits to Australian by their Indonesian counterparts. The aim is to develop greater understanding and recognition of religion and its role in each society. The focus is on building a greater understanding for Australians of the nature of mainstream Islam in Indonesia and, for Indonesians, a greater awareness of Australia's multicultural society.

Australian Ambassador to Indonesia Greg Moriarty says, "This exchange program for young Indonesian and Australian Muslims continues to encourage open dialogue and promote greater understanding of faith, tolerance and diversity between both countries."

The program is funded by the Australian Government through the Australia-Indonesia Institute. For more than two decades, the Institute has fulfilled an important role in developing relations between Australia and Indonesia and promoting greater mutual understanding through projects in the arts, music, education, youth, civil society, interfaith, Australian Studies, media and sport.

If you are an active Australian Muslim (21-40 years) and wish to apply for the program, which involves an all expenses-paid visit to Indonesia for two weeks, please address your interest to milas@unimelb.edu.au. Applications for the program close Friday 18 February.