

**Fair Trading Amendment (Information About Complaints) Bill 2015 (Proof)****Fair Trading Amendment (Information About Complaints) Bill 2015**

Extract from NSW Legislative Council Hansard and Papers Tuesday 13 October 2015 (Proof).

FAIR TRADING AMENDMENT (INFORMATION ABOUT COMPLAINTS) BILL 2015

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Bill received from the Legislative Assembly, and read a first time and ordered to be printed on motion by Mr Scot MacDonald.

Motion by Mr Scot MacDonald agreed to:

That standing orders be suspended to allow the passing of the bill through all its remaining stages during the present or any one sitting of the House.

Second Reading

Mr SCOT MacDONALD (Parliamentary Secretary) [8.50 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The Government is pleased to introduce the Fair Trading Amendment (Information About Complaints) Bill 2015.

This bill will amend the Fair Trading Act 1987 to allow the Commissioner for Fair Trading to publish information about complaints received by the Commissioner.

The bill allows for publication of information about the identity of the persons or businesses about whom complaints have been made or about whom the greatest number of complaints have been received.

Importantly, it does not allow the publication of the identity of the person who made a complaint.

The bill will enable the Commissioner for Fair Trading to establish a register containing information about traders who have been the subject of complaints to New South Wales Fair Trading.

The Fair Trading Act provides that one of the functions of the Commissioner for Fair Trading is to receive and deal with complaints relating to the supply of goods and services.

As NSW's primary consumer regulator, New South Wales Fair Trading receives around 45,000 complaints each year, and almost one million inquiries.

When a consumer complaint is received, Fair Trading staff contact the trader and attempt to negotiate a resolution that is accepted by both parties. If a resolution is not achieved, the consumer may choose to take action in the New South Wales Civil and Administrative Tribunal.

If conduct in breach of the law is identified, New South Wales Fair Trading may take enforcement action against the trader.

NSW Fair Trading has long kept an internal record of those traders who are the subject of the most complaints. However, this information has never been made available to the public.

The New South Wales Government's open data policy, which is in line with international trends towards open data, supports release of Government datasets wherever possible.

In the digital economy, open data is a driver of economic growth and innovation.

This data can be used to improve services, inform the community about trends in the market, create new business models and devise innovative ways to help consumers gain better value in the marketplace.

Events such as apps4nsw, where app developers use Government data and make it more accessible and useful for the community, show the value of open data.

The impact of ratings websites such as Urbanspoon, Canstar, Open Agent, Tripadvisor and many others show the power of data to change the marketplace and affect trader behaviour.

Consumers now rely on such data when making decisions and have become experienced at deciding how much weight to give data from different sources.

Complaint handling bodies such as the Telecommunications Industry Ombudsman, the Commonwealth Financial Ombudsman Service and Credit Ombudsman Service, and the New South Wales Energy and Water Ombudsman all make complaint data publicly available.

Websites such as My School and My Hospital share performance data about schools and hospitals.

Overseas, the United Kingdom Government's Consumer Empowerment Strategy requires Government agencies to "free the complaint and performance data (in particular on individual businesses) they already own unless they have a good reason to do otherwise".

Some United Kingdom regulators are required by law to make performance data publicly available.

Release of complaint data is one means of so-called "reputational regulation"—influencing business behaviour by means of public release of performance data.

The data provides consumers with valuable information that can guide purchasing decisions and hold businesses to account.

It also provides businesses with an incentive to improve their performance and satisfaction of their customers.

In April 2015, the Telecommunications Industry Ombudsman noted that the agency's work in highlighting the causes of consumer complaint and working with industry to improve services has contributed to telecommunications providers improving their networks, plans and customer service.

Together with better regulation aimed at ensuring consumers are treated fairly, the Ombudsman's work has contributed to four consecutive years of reduced complaint numbers.

Research from the United Kingdom has found that release of complaints and performance data is improving trader performance.

For example, the United Kingdom's communications regulator, Ofcom, found that, following publication of complaints data, the volume of complaints received about the worst performing businesses reduced over time.

Ofgem, the United Kingdom's gas and electricity market regulator, has noted that publication of performance data has contributed to a substantial fall in the number of energy disconnections.

The details of the design of the Fair Trading Complaints register, including how many businesses should be listed on it and what complaint details will be included, will be developed following a public consultation process.

NSW Fair Trading has begun consulting with key industry and consumer groups and a broader public consultation, informed by a discussion paper, will take place during late September and October 2015.

The discussion paper will outline New South Wales Fair Trading's complaints process and the protections against inclusion of vexatious complaints.

The discussion paper will also seek feedback on a number of aspects of the design of the register, which will be taken into account in the register's development.

Before the register commences, New South Wales Fair Trading will work with traders and consumers to ensure that there is good understanding of how it will work and what the data represents.

NSW Fair Trading is also reviewing its complaints process to ensure that protections against vexatious complaints are operating as intended.

It is noteworthy that key consumer advocates including CHOICE, the New South Wales Customer Services Commissioner, the New South Wales Information Commissioner, and the Consumer Action Law Centre have expressed strong support for the register concept.

The initiative is a first for a general consumer protection agency in this country and is one of the ways New South Wales is demonstrating its leadership in the consumer protection field.

The register will not only empower consumers but also provide the raw material for innovations to improve the value obtained by consumers in the market and the products and services offered by traders.

In closing, I would like to thank the Hon Matthew Mason-Cox MLC and the Hon Stuart Ayres, former Ministers for Fair Trading, for championing the idea of sharing complaint data. I thank Commissioner for Fair Trading Rod Stowe, as well as officers from Fair Trading Rhys Bollen, Gabbie Mangos, Diana Holy, Elyse Cain, David Saunders and my policy director, Jane Standish, for their outstanding efforts in developing this bill.

I commend the bill to the House.