



The Hon Matthew Mason-Cox MLC
Minister for Fair Trading

Budget Estimates
Room 812, Legislative Council
Parliament House
Macquarie Street
SYDNEY NSW 2000

Attn: Mr Stewart Smith, Director

Dear Mr Smith

I refer to your correspondence of 29 August 2014 in relation to the Inquiry into Budget Estimates 2014-2015.

Please find attached the following:

- amendments required to the transcript of the General Purpose Standing Committee No.4 – Fair Trading.
- Responses to Questions on Notice taken during the hearing; and
- Responses to Supplementary questions from the Committee.

Yours sincerely

Matthew Mason-Cox MLC
Minister for Fair Trading

16 September 2014

Fair Trading Portfolio:

Questions taken on notice arising from the Budget Estimates hearing:

- 1. In reference to an internal review into NSW Fair Trading's handling of consumer protections and consumer warnings currently being conducted by the Internal Audit Office of Office and Finance and Services, will you provide the Committee with a copy of the terms of reference?**

Without setting a precedent given that the Government does not concede that Parliamentary Committees can require such documentation to be provided by Ministers, a copy of the Terms of Reference are provided.

- 2. In reference to the above review, will the Minister commit to making the results of that review public?**

This is an internal review, the results of which would not normally be made public.

- 3. Will the Minister provide the Committee with copies of the paperwork relating to the secondment of Robert Vellar to NSW Trade and Investment?**

Matters relating to the employment arrangements of the Assistant Commissioner are confidential matters between him and his employer.

- 4. Minister, will you provide to us the number of consumer enquiries each Service NSW centre is receiving over the counter?**

In 2013-14 there were approximately 1,752,861 customer interactions.

- 5. Can you take on notice and give us a breakdown of where the 22,014 counter-related Fair Trading enquiries were received in 2013-14?**

Refer to response provided to question 15 of the Budget Estimates supplementary questions.

- 6. Can you provide the average time it takes for a consumer in NSW to get a Fair Trading counter inquiry at a Service NSW centre resolved?**

Refer to response provided to question 14 of the Budget Estimates supplementary questions.

- 7. Could you also provide the average wait time compared to the average wait time to resolve consumer enquiries that are lodged at the counter in Fair Trading offices so that we can get a feel for the comparison of the service delivery between the two modes?**

Refer to response provided to questions 14 and 17 of the Budget Estimates supplementary questions.

- 8. In reference to the media contact available for enquiries from 5 July 2014, was that officer within the office of Fair Trading or in the Minister's office?**

A NSW Fair Trading media officer was on duty that weekend.

- 9. Can you also advise the instructions given to that media officer in respect of the Commissioner's absence?**

The media team was advised that the Commissioner was on leave.

- 10. Is a common labelling standard for palm oil presence being considered? / Provide the outcome of discussions on this issue at the Ministerial forum.**

Refer to response provided to question 1 of the Budget Estimates supplementary questions.

- 11. Regarding the issue of free-range eggs, can the Minister also advise what groups he has met with, both he and the Commissioner?**

Refer to response provided to question 2 of the Budget Estimates supplementary questions.

INTERNAL AUDIT UNIT

REVIEW OF PROCESS FOR ADMINISTERING PRODUCT SAFETY NOTICES – NSW FAIR TRADING

TERMS OF REFERENCE

INTRODUCTION

The A/Chief Executive has requested Internal Audit Unit (IAU) to undertake a review of the processes operated by NSW Fair Trading for administering product safety warnings.

REVIEW OBJECTIVES

The objectives of this review are to assess the adequacy of processes and procedures used by NSW Fair Trading to:

- Obtain and assess information about potential safety risks associated with consumer products and services;
- Evaluate, recommend and obtain necessary approvals to issue safety warning notices; and
- Communicate safety warning notices to relevant stakeholders in a timely manner.

BACKGROUND

NSW Fair Trading operates a number of programs aimed at protecting the community from unsafe consumer products such as childrens' nursery furniture, toys, electrical items and gas appliances, which can be a hazard to both children and adults.

The role extends to educating businesses and consumers about product safety and conducting ongoing marketplace surveys to ensure that products continue to meet acceptable standards.

The Australian Consumer Law, the Electricity (Consumer Safety) Act and the Gas Supply (Gas Appliance) Regulation require that certain goods must comply with safety requirements before they can be sold, and certain information about a product must be supplied with that product when it is sold.

Where problems do occur with a product, NSW Fair Trading has powers to remove unsafe goods from sale. This might include recalling dangerous products or issuing general informative warnings or statutory public warnings about particular defects.

REVIEW SCOPE

The review will consider processes, procedures and internal controls implemented by management to mitigate the risks documented in the table below. These risks have been identified based on a preliminary assessment of expected controls and may be updated following a detailed walkthrough of the process during fieldwork.

Review Area	Risk	Control Objectives
Compliance	<ul style="list-style-type: none"> Applicable requirements in legislation administered by NSW Fair Trading and in Australian Consumer Law regarding consumer safety information and warnings are not complied with. 	<ul style="list-style-type: none"> Legislative and regulatory requirements in regard to Consumer Safety are defined in operating procedures and routinely checked by management for compliance. Updates and amendments to applicable legislation, regulations, standards and practices are tracked and updated in operating procedures as required. New guidelines on outcomes and risk based regulation recently released by DPC and that will be mandatory for all NSW regulatory agencies are being considered and incorporated into the operating processes/procedures.
Governance	<ul style="list-style-type: none"> Appropriate governance framework for managing product and service safety is not defined or operating. Inadequate representation on Product Safety Committee. Investment in activity to administer product and service safety compliance and to increase awareness is insufficient. The chain of command and escalation procedures for responding to product and service safety notifications is not defined and / or operating as expected. Recommended actions in response to product and service safety events are not authorised and / or implemented timely. Communication channels between key internal and external stakeholders needing to be informed of safety issues are not defined and / or operating effectively. Risk assessments and pro-active identification of potential product and services safety issues requiring warnings are not periodically conducted 	<ul style="list-style-type: none"> A Product Safety Committee comprising adequate representation of management and consumer experts routinely meets to consider the requirement for issuing product safety warnings, and outcomes and recommendations from meetings are properly documented and communicated to required parties. Resources deployed to administer product and service safety compliance are sufficient and adequately keep abreast of safety risks and promote product safety initiatives. Procedures for developing and approving the issue of product safety warnings are efficient and operating as intended. Key stakeholders to the decision making process for issuing product safety warnings are kept informed at all stages in the processing cycle and have adequate opportunity to provide input prior to warning notices being posted. Ongoing monitoring and assessment of the product safety landscape applicable to NSW Fair Trading is conducted and procedures address both reactive and proactive management of product and services notifications and events.
Process	<ul style="list-style-type: none"> Procedures for receiving and processing notifications from third party consumer advocates and producers about potential product and service safety risks are not operating effectively. Environmental scans of the consumer environment are not conducted to identify, at the first opportunity, potential safety concerns requiring warning notifications. Inadequate procedures for assessing, reporting and seeking approval for issuance of product 	<ul style="list-style-type: none"> All potential sources of information about product and service safety notifications are outlined in procedures and are routinely checked for safety alerts requiring assessment and possible action. Identified product and services safety risks are quickly assessed in accordance with procedures and escalated to decision makers for timely issuance of safety warnings. Publication of safety warnings are adequately communicated to the public, retailers and producers using the most appropriate medium to maximise coverage and demographic.

Review Area	Risk	Control Objectives
	<p>safety warnings.</p> <ul style="list-style-type: none"> Delays in time between awareness of product safety concerns and notification of risks to the public and / or direction to retailers to suspend products. 	<ul style="list-style-type: none"> KPIs and performance measures have been established to keep track of information about the timeliness of NSW Fair Trading response to safety alerts and events.

The scope of this review is limited to procedures operated by NSW Fair Trading to identify, promote and issue safety warnings and information to consumers, retailers and producers. Compliance and enforcement activities in response to product safety risks are not in scope of the review.

REVIEW APPROACH

The review will be conducted in accordance with the international standards for the professional practice of internal auditing (to which IAU are certified), and will use a risk and sample based audit approach. The review will also reference better practice standards and guidelines applicable to environments where safety information has to be hastily processed and communicated to a larger populous.

The review will comprise discussions with relevant NSW Fair Trading management and staff as required, and the request and subsequent review of various documents and artefacts. We will also review relevant legislation, policies, key processes, control procedures and reports where relevant and applicable.

Testing will be performed on a sample basis and will use applicable recent case studies to help assess the adequacy of procedures.

The review team will adopt a collaborative approach and will liaise with relevant staff at all stages to ensure agreed outcomes are achieved. To help achieve this, we request full and timely cooperation by all personnel and the timely provision of requested information. Staff are encouraged to raise areas of concern with the review team so that these can be addressed during the review.

PERIOD UNDER REVIEW

The review will consider procedures used to administer product safety warnings in the period 1 July 2013 to date.

RESOURCE AND RESPONSIBILITY

REVIEW TEAM

Name	Position
Michael Doherty	A/Chief Audit Executive
Mahendra Kumar	Principal Auditor
Deloitte	TBA

KEY CLIENT CONTACTS

Name	Position
Rod Stowe	Commissioner, NSW Fair Trading

MILESTONES

Action	Expected Date*
Terms of Reference issued	31 July 2014
Initial Document Request List issued	26 August 2014
Field work commencement	27 August 2014
Field work completion	12 September 2014
Draft Report to Management	22 September 2014

- Note: achievement of the above dates is subject to the availability of relevant staff, supply of requested information and data and access to relevant systems. Where the above milestones may not be met IAU will inform the client and renegotiate revised milestones.

DELIVERABLES

The review report will contain:

- An executive summary
- Details of observations, implications and recommendations to improve any identified control deficiencies and opportunities for improved service delivery
- A recommendations implementation plan, if required.

The final report will be issued to the A/Chief Executive and a copy provided to the:

- Commissioner, NSW Fair Trading.

If you have any questions with respect to this Terms of Reference, please do not hesitate to contact Michael Doherty or Mahendra Kumar.

Michael Doherty
Acting Chief Audit Executive