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Mr John Papadimitriou
Review of Australia's Consumer Policy Framework
Productivity Commission
PO Box 1428
Canberra City ACT 2616

Dear Mr Papadimitriou

Comment on draft report

As the nation's peak seniors' body, coordinating the policy work of nine seniors' organisations across the country, COTA Over 50s Ltd welcomes the opportunity to comment on the draft report *Review of Australia's Consumer Policy Framework*.

COTA Over 50s is strongly supportive of the development of a nationally coherent consumer policy framework, and agrees that this requires the introduction of a generic consumer law applying across Australia. The proposed 'template law' approach to facilitate early implementation seems eminently sensible. We also endorse the operational objectives set out (p12) for the future policy framework, and commend the inclusion of an unequivocal requirement that they 'meet the needs of those who, as consumers, are most vulnerable, or at greatest disadvantage. Sadly, many older Australians fall into that category, and the consequences for those who have not been well protected from misleading, deceptive or fraudulent conduct have often been devastating.

While COTA Over 50s agrees that there should be no exclusions of particular industries or services from such a new generic consumer law, some industry-specific consumer regulation will remain necessary. We note that the Commission's draft provides for such regulation. For older Australians, the services sector is likely to be the arena in which consumer dissatisfaction will most probably arise. Medical, aged care and financial services are of particular significance, and where the risk of consumer detriment is high. Specific regulation of such services must remain, and in some respects be strengthened.

The recent progress that seems to have been achieved by COAG suggests that COAG will be a suitable vehicle to drive a review and reform program for industry-specific consumer regulation. We note the report's suggestion that the occupational licensing area should be an early priority for review. This is an area in which COTA Over 50s has a keen interest. For example, the dental and oral health of older Australians could be substantially enhanced if nationally harmonized licensing arrangements could be achieved for dental hygienists and therapists that would enable them to work as independent professionals in aged care facilities and other community settings.

Consumer information and advocacy

While the internet has, for many consumers, improved the knowledge base from which they inform their consumption choices and decisions on product purchases, retirees and pensioners are less likely to have access to, or familiarity with, such information sources. Similarly, they are very unlikely to be aware of, nor know how to pursue their rights under, the implied statutory warranty provisions of the Trade Practices Act and the various Fair Trading Acts. Complaints procedures and other redress mechanisms can also be confusing and drawn-out affairs. It is important that disadvantaged consumers have ready access to parties who can support them, and act for them, in pursuing such courses of action.

The Commission has sought input on the benefits of developing an integrated national referral system for consumer complaints. While we agree that, should the ACCC become the body responsible for applying a national, generic consumer law, such an integrated system would 'emerge naturally' (p39), there will remain a need for local advocacy, counselling and support organisations to act as conduits into such a referral system. These local organisations could also have a role in initiating the kind of representative actions on behalf of consumers discussed on pages 40-41 of the draft report.

COTA Over 50s concurs with Commission's view (p41) that 'further targeted support appears warranted' for organisations that support vulnerable and disadvantaged Australians. We also agree that the establishment of a 'super advocacy body... would not be appropriate' (p49) as there is a major risk that the needs of specialized groups of consumers (in our case, disadvantaged or vulnerable older Australians) would receive insufficient attention. We endorse the Commission's proposal that the Australian government apply funds to the 'networking and policy development functions of advocacy bodies'. (p49)

Specific initiatives in key areas

COTA Over 50s is of the view, and agrees with the Commission's proposals, that:

- finance brokers and consumer credit providers should all be brought within the broader regulatory regime administered by ASIC

- the Uniform Consumer Credit Code be retained, and state and territory credit regulations be harmonized with the Code
- finance brokers should be licensed
- participation in ASIC-approved alternative dispute resolutions mechanisms be a requirement for all finance brokers and other credit providers
- the proposed national consumer law incorporate a tightly constrained 'unfair contract terms' provision that nevertheless deals with contract terms that gives rise to material consumer detriment. (A subsequent five year review of the operation and effect of the provisions is warranted.)
- small claims divisions of magistrates courts adopt standardized ceilings for minor claims, and allow judgements based on written submissions (with options for oral hearings if requested)
- there should be more consumer testing of mandatory disclosure requirements on specific target audiences, including older Australians, and disclosure requirements should be 'layered' to improve intelligibility and usefulness.
- a single consumer protection regime be introduced across all jurisdictions participating in the national energy market, and administered by the Australian Energy Regulator.

COTA Over 50s notes the Commission's recommendation that remaining retail price caps applying to energy and telecommunications services should be removed, with community service obligations and supplier hardship policies being used as mechanisms to support low income and other disadvantaged consumers. For older Australians, particularly those on fixed incomes such as pensions, utilities costs are a very significant component of expenditure. Any change in utilities charges has a disproportionate impact on this group. It is essential, should the Commission's recommendation be adopted, that robust mechanisms are in place to ensure that the interests of disadvantaged consumers are protected.

Representatives of COTA Over 50s are available to participate as required in public hearings on the Commission's proposals for a national consumer policy framework.

Yours sincerely

Dr Geoffrey Bird
Executive Director
COTA Over 50s Ltd