

FAIR TRADING AMENDMENT BILL 2021

Second Reading

Resumed from 19 October.

MR P.J. RUNDLE (Roe) [11.05 am]: I look forward to speaking today on the Fair Trading Amendment Bill 2021, after the contribution of the member for Cockburn the other day; I thought he was actually going to continue, but apparently he completed it just in time.

The ACTING SPEAKER (Mr D.A.E. Scaife): Duty calls, member.

Mr P.J. RUNDLE: I think this is an important bill and the opposition will support it. I note that the member for Swan Hills will take the reins today. I am sure she will provide plenty of information for us as we go along. I note the unfortunate absence of the Minister for Commerce, but I am sure the member for Swan Hills is all over it so I look forward to some of the responses to a few points that I have on the way through.

I will go through some of the obvious points on the Fair Trading Amendment Bill 2021, which seeks to implement the full intent of the Fair Trading Amendment Bill 2018. The 2018 legislation was found to have significant flaws relating to WA Parliament's sovereignty. The then opposition and government reached an agreement to split the 2018 bill and create the Fair Trading Amendment Bill 2019. That bill lapsed at the end of the fortieth Parliament, along with many other bills that seem to stack up in the upper house. It is good to see that this bill is now seeing the light of day. As I said, the opposition will support it.

As a result of the lapse, this bill has been before the Standing Committee on Uniform Legislation and Statutes Review twice, with similar feedback. I have with me the 133rd report, which is one of the latest reports from the standing committee. It made three recommendations that the government generally accepted, apart from one small element. The main focus of the bill is to provide a disallowance mechanism for commonwealth legislation for Australian Consumer Law. The bill also removes section 36 of the Fair Trading Act 2010 and associated regulations relating to door-to-door sales hours. WA previously decided to go it alone; however, we will now align with other states. That is good to see.

Since the introduction of the initial legislation in 2018, four commonwealth bills have been waiting to be passed in the Western Australian Parliament. I understand that upon this bill passing, three of those will be adopted. One is the Treasury Laws Amendment (2020 Measures No. 6) Bill 2020, which states that lots of minor issues in a product constitute a major issue. The bill will also incorporate the Competition and Consumer Amendment (Australian Consumer Law—Country of Origin Representations) Bill 2020, which specifically deals with medicines that are made in Australia but sourced from produce or components that are shipped in from international jurisdictions, and some minor amendments for numbering relating to the Financial Sector Reform (Hayne Royal Commission Response) Bill 2020.

Firstly, I want to talk about the disallowance procedure. I understand from the briefings held that the disallowance process is the same as we agreed for the Legal Profession Uniform Law Application Act 2022. Once the commonwealth bill passes federal Parliament, the state government has 18 sitting days to table that bill before both houses of Parliament. There is then a window of 14 sitting days in which the bill can be referred to a committee for disallowance. Rather than prescribe a particular committee in the legislation before us, the government will rely on regulations and consider bills on a case-by-case basis. If the disallowance is passed within 30 days, the government will need to consider legislation to skirt around the issues identified. If the disallowance is lost or withdrawn, the commonwealth bill will effect proclamation. If the disallowance is not considered by the state Parliament within 30 days, the commonwealth bill will have an effect on proclamation. We need to consider and be careful of the time lines because future Parliaments must consider Australian Consumer Law amendments in a timely manner and not be blasé about it. We all share this responsibility.

Another thing that we need to think about is the timing of caretaker periods. When we move closer to a caretaker period, we need to make sure that everyone is well aware of the time frames. The Western Australian Parliament has a right to sovereignty in decision-making. We need to make sure that our internal processes are up to scratch, whether that is through the state government's Minister for Commerce lobbying and raising issues proactively while the federal government debates Australian Consumer Law amendments; or around the table at interstate government meetings such as national cabinet; or as soon as the minister tables the Australian Consumer Law amendments in this Parliament. There is a real need for good communication in all sections of Parliament, especially with the minister and their office. My limited experience of legislation and the like is that it seems to take more time rather than less time. With these time frames in place, we definitely need to make sure that we are on the game and the minister is on the game, along with both houses of Parliament.

The current requirement for the act to be updated by an amendment bill creates a lack of consistency that impacts small businesses and consumers and makes enforcement in WA more difficult. The lack of consistency in the

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Australian Consumer Law and Australian Consumer Law (WA) is confusing for traders and consumers, with small businesses especially disadvantaged. I refer to the minister's second reading speech, which states —

The result of the interaction of commonwealth and state laws is that commonwealth amendments apply directly to constitutional corporations that trade in Western Australia, which comprises around 80 per cent of traders, but not to other enterprises such as sole traders or business partnerships.

One of my first questions to the member for Swan Hills is: assuming this legislation passes, what is the plan to communicate to all our small businesses in WA? Obviously, the minister's second reading speech points out that 80 per cent of our traders are affected by the commonwealth amendments. What about the other 20 per cent? What is the government's communication strategy to let all our small businesses know where they sit? Obviously, it is good news in a lot of ways because there is much more clarity and the adoption of some of those federal laws, which we have not been able to undertake until now.

Minister MacTiernan stated —

The amendments will enable all businesses and consumers in WA to better understand their rights and obligations and enjoy the full range of protections provided at any given time under the national law.

She also said that it will reduce the time lag between consumer laws operating in WA under national law and consumer laws operating in WA under state law. Delays in WA have delayed adoption of three commonwealth bills—the Treasury Laws Amendment (2020 Measures No. 6) Act 2020, the Competition and Consumer Amendment (Australian Consumer Law—Country of Origin Representations) Act 2020 and the Financial Sector Reform (Hayne Royal Commission Response) Act 2020. Hon Alannah MacTiernan certainly identified the issue. She went on to state in 2019 —

The Department of Mines, Industry Regulation and Safety has advised that partial disallowance of amendments could give rise to issues with regard to participation by WA in the national scheme. The intergovernmental agreement that supports the national operation of the Australian Consumer Law requires participating jurisdictions to maintain consistent legislation.

WA is the only jurisdiction that does not comply with the national standards. This legislation will obviously provide national consistency. From my perspective and from that of the opposition, that is certainly an advantage.

I would like to raise a couple of other elements. If we do not address some of these issues by supporting the proposed mechanism in this bill, as pointed out in the second reading speech, the number of inconsistencies and problems with unenforceability will increase. The minister pointed out in his second reading speech amendments relating to —

... strengthening the unfair contract term protections; compelling manufacturers and traders to assess the safety of a product prior to offering it for sale; strengthening consumer guarantees, especially for high-value goods that fail shortly after purchase;

The next one is a very important one —

and ensuring that manufacturers, and not just traders, have a responsibility for the repair or replacement of defective products.

I want to give an example of how this will affect quite a few of our agricultural clients. I understand the current situation is that the state legislation will cover up to a ceiling of only \$100 000. At the moment we have the Australian government's *Right to repair: Productivity Commission inquiry report*.

As most members in this chamber probably know, these days any piece of agricultural equipment is probably worth from \$150 000 to \$200 000 up to \$1.2 million. Basically, a lot of the software within that equipment is very complicated and technical. For instance, when a large tractor breaks down in a paddock and no dealers are within a few hundred kilometres, farmers have to get it going again. At the moment, they do not have the ability to tap into the software to try to repair the issue. They could call their local mechanic, but the mechanic does not have the ability to get into the software and try to repair the problem.

This Productivity Commission report has come through the ranks. It was sent to the government on 29 October 2021 and publicly released on 1 December 2021. There are a couple of key points that I want to point out. It states —

- This report finds that there are significant and unnecessary barriers to repair for some products. It proposes a suite of measures that aim to enhance consumers' right to repair while providing net benefits to the community.
- A 'right to repair' is the ability of consumers to have their products repaired at a competitive price using a repairer of their choice ...

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- ... These guarantees are reasonably comprehensive and generally work well, but they should be improved by:
 - introducing a new guarantee for manufacturers to provide software updates for a reasonable time period after the product has been purchased, to reflect the increasing dependence of consumer products on embedded software
 - expanding options for ensuring compliance with, and enforcement of, the guarantees ...
 - requiring manufacturer warranties to include text stating that entitlements to a remedy under the consumer guarantees do not require consumers to have previously used authorised repair services or spare parts, so that consumers are more aware of their rights.

I just wanted to make those points very clear, because, as I said, there is nothing more frustrating than having a software issue with a million-dollar piece of equipment, such as a harvester, in the middle of harvest. It does not have to be a software issue; it could be any other issue. At the moment, farmers are having real issues with getting that equipment repaired and knowing about the right to repair it. That, to me, is one of the most important elements of this legislation. Hopefully, the federal government will respond to the Productivity Commission's report in about December this year. I want to thank Julie Armstrong from the minister's office, who gave me some of this information on the Productivity Commission. Hopefully, once the federal government responds to that, we can tie that into our state consumer law.

There are a couple of other things that I want to talk about, but the main one is something that was mentioned by the member for Cockburn when he spoke about scams affecting members of his family. This is a real issue in my electorate, as I am sure it is in other members' electorates. Banks are closing their services, especially in regional areas, citing the increase in the number of people using apps, internet banking and the like, while at the same time there has been a large increase in scamming activity. Scammers are tapping into and intercepting people's emails that may contain an invoice. A farmer in my electorate paid for a \$60 000 piece of equipment—a chaser bin. They got the invoice, and they thought they were doing the right thing by paying for it through internet banking, but when they went to pick it up, the manufacturer said that they had not paid for it. These scammers are tapping into people's emails and sending false invoices with different banking details, which people pay in good faith and then, of course, they cannot pick up what they believe they have paid for. I have had people lose \$60 000, \$144 000 and \$234 000. This is quite disturbing. Some of my constituents are now saying that they are going to go back to cheques and cash. They are not interested in internet banking because this is what is happening to them at the coalface. The banks are saying that internet banking is great and people are using apps more, so they either close their services in the regions or open only three mornings a week and close early, while at the same time people are saying that they want to go back to cheques and cash because they are frightened of what is happening with these scammers.

This blends into this legislation. I just picked it up yesterday when the member for Cockburn mentioned scamming. I just wanted to point out to members how much of a concern this is for me and my constituents and certainly many others, as is the closure of the banks in our regional areas. The way it is going at the moment, Australia Post will be the bank for the regions. In a lot of areas, that is the only place that people can get some cash or pay an account. Our big banks are patting themselves on the back for the way they are coming up with these apps, which are great, but of course they forget that in half these areas, there is no internet connectivity, so people cannot use the apps anyway. These are the issues that we are up against.

Mr W.J. Johnston: Of course, the state does not regulate banks, so this legislation, unfortunately, will not apply to the banks.

Mr P.J. RUNDLE: I take that point, minister. It is just something that I wanted to point out. It was a bit of a sideline. It is certainly disturbing to me when I look at the trend that has appeared over the last six, eight or 12 months. Members can imagine the effect it has on these people and the anguish they feel when they lose \$140 000 or \$60 000. It puts a massive dent in their budget through no fault of their own. Obviously, we do not control what the banks do and this legislation certainly will not control the large banks, but it was important to point it out.

In summary, this has obviously been playing out over the last several years. It is important that the standing committee has had a close look at it on several occasions. As I have said, the government has adopted a large part of the committee's three recommendations. From my perspective and from the perspective of the opposition, it is time to move on and make sure that we blend our federal and state legislation. The right-to-repair scenario is one of the most important elements that will see a real improvement. Another important element is that we need a commitment from the minister that any changes will involve consultation with the different industry sectors. There are small business owners who have to make labelling changes and coffee roasters who are experiencing changes in import standards. As I pointed out earlier to the member for Swan Hills, consultation and communication with small business owners when this legislation goes through is a key element to make sure that they understand the protections that will be in place for them, what they can look forward to and what their rights are.

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It just seems that there is more and more activity by scammers and others these days, which is putting people at risk. I will leave it there by saying that the opposition supports the legislation.

DR J. KRISHNAN (Riverton) [11.30 am]: I rise in support of the Fair Trading Amendment Bill 2021. I thank the member for Roe for his contribution and support for the bill. He has been a great member of and contributor to this house, but sometimes he completely wavers. In one of his contributions, he looked around the chamber, looked at me, and said, “The member for Riverton is a great person, but I am afraid he is not going to be around next time.” He said he was worried that I would not be around next time. But he is a good friend of mine, and if he is so worried about me not making it next time, he can come and see me for a free bulk-billed mental health consultation! If I make it in here again with a bigger margin than last time, I think he should be kind enough to acknowledge that in this chamber.

The title of this bill refers to fair trading. It is about giving consumers, small businesses, manufacturers and raw material producers a fair go. Intergovernmental agreements are in place for various issues. The intention of this intergovernmental agreement is to provide certainty, uniformity and consistency across the country. The global trend at the moment is that we are heading towards uncertainty. We are fortunate to have regained the AAA credit rating in WA, and the Premier mentioned yesterday that the economy is in safe hands going forward. Because of the conflict between Russia and Ukraine and supply chain issues resulting from lockdowns in China, businesses are facing much bigger challenges. There is no better time than now to enact the Fair Trading Amendment Bill 2021 to make it much easier and more comfortable for small businesses to cope with legislative changes.

The current problem is that when an amendment is made to the Australian Consumer Law, a legislative change is required to be made by this chamber for it to be implemented in Western Australia. If the bill goes through, the requirement to table these amendments will enable them to come into force. Often, the time lag between the amendments made by the commonwealth to the Australian Consumer Law and the implementation of those changes at a state level can cause confusion for industry. Eighty per cent of traders are governed by the Australian Consumer Law and 20 per cent are not, which causes confusion for small businesses and consumers about which laws apply to whom. Sometimes, the gap between the implementation of changes can be too long and can cause a lot of problems. This bill will iron out all those issues and provide consistency and certainty for consumers, small businesses, manufacturers and raw material producers; they will be able to follow the law in simple terms.

There has been a lot of confusion. Of course, amendments will occur from time to time as things evolve. What is a small business? What is a large business? What is the maximum number of employees that a business can have for it to be considered a small business? What level of turnover enables a business to be considered a small business? The value of the dollar is not the same as it was 20 years ago, so from time to time, regulations on the level of turnover beyond which a business is not considered to be a small business will need to be amended. When those amendments happen, there should be no gap in them being reflected at the state level. This amendment will ensure a timely rollover of amendments made by the commonwealth.

One example is the advocacy by the fishing industry for food labelling. Without food-labelling requirements, consumers do not know, and cannot choose, whether they are buying local produce or something that has been imported. The same thing applies to medicines. Under the requirements of the Therapeutic Goods Administration, if the final stage of the manufacturing process is taken care of in Australia, it can be called an Australian product. Changes are required to enable the labelling of where the raw materials came from, which manufacturing process occurred and what was completed in Australia so that there is transparency for consumers—and they can decide whether to choose that product. These amendments will only strengthen and increase transparency and bring forward the real value of local products so that consumers can choose what they want to buy.

These amendments will also make it convenient and comfortable for the relevant law enforcement agency to enforce these laws. When it constantly needs to adapt to changes and when a time lag causes inconsistency, it creates confusion about how to act. This amendment will take away the time lag, which will enable the law enforcement agency to take prompt action when it realises that a company is not following what it is required to follow.

There is a big difference between tabling the commonwealth’s amendments and changing the legislation. It can be quite challenging. That is why I strongly support this amendment so that we can come into line with the Australian Consumer Law.

Confusion continues to be felt by various industries. What is a minor fault in a car? What is a major fault? How many minor faults until it is considered to be a major fault? A consumer who invests a lot of money to buy a new car—for whom most of the time there is a liability hanging over their head—should be able to expect that the car will function without any faults. Responsibility for that should lie with not only the dealer who sells the car, but also the manufacturer of the car. These confusions will be ironed out by these amendments simply because when the commonwealth makes an amendment to suit consumers, there will be no, or minimal, time lag because of this simplified process of tabling the amendment to bring that law into effect. This is about not just whether there is a fault, but also the seriousness of the fault and whether it affects the safety of the person or presents a danger. All

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these things are constantly considered in amendments. It is impossible to change the legislation every time an amendment is made to bring it into effect in WA. This law will bring about changes that will benefit consumers in Western Australia sooner and in an easy and consistent fashion.

There is confusion amongst consumers that a manufacturer's warranty is entirely different from the Australian Consumer Law. A lot of dealers pass the buck to the manufacturer and do not accept their responsibility under the guidelines of the Australian Consumer Law. These inconsistencies are definitely causing problems for end consumers. I can only imagine the number of times a consumer who has a product with a minor fault has to go back to the dealer to get it fixed. The amount of time wasted and the critical appointments people miss are often not taken into consideration. Consistency in the law across the country will only make trade better for every Australian.

With those points, I commend this bill to the house. I expect that it will have quick passage in both houses. Thank you for this opportunity.

MS C.M. TONKIN (Churchlands) [11.40 am]: This morning I rise to add a short contribution to the second reading debate on the Fair Trading Amendment Bill 2021. It is ironic that a piece of legislation that is as dry as dust plays such a vibrant role in the protection of consumers. Both the member for Roe and the member for Riverton touched on the intricacies of how consumer law affects members of our community, and I am very grateful for their contributions.

Western Australia is a participant in the national legislative scheme that administers the Australian Consumer Law. What is the national legislative scheme? The Australian Consumer Law includes a national unfair contract terms law covering standard form consumer and small business contracts; a national law guaranteeing consumer rights when buying goods and services; a national product safety law and enforcement system; a national law for unsolicited consumer agreements covering door-to-door sales and telephone sales; simple national rules for lay-by agreements; and penalties, enforcement powers and consumer redress options. It is a very important law that affects many people in their everyday lives.

The Australian Consumer Law applies nationally and in all states and territories, and to all Australian businesses. The Australian Consumer Law is administered by the Australian Competition and Consumer Commission and state and territory consumer protection agencies, and is enforced by all Australian courts and tribunals, including the courts and tribunals of the states and territories. The Australian Consumer Law is a cooperative reform of the Australian government and the states and territories. It is a very elegant piece of legislation that applies across our commonwealth, notwithstanding the many jurisdictions that it covers. An intergovernmental agreement signed by each state underpins the establishment of the Australian Consumer Law.

Why do we need the Fair Trade Act 2010 WA and, in particular, this amendment bill? The Australian Consumer Law does not cover protections for consumers of products and services provided by sole traders, partnerships and trusts. The Australian Consumer Law applies to corporations under the corporations power of the commonwealth under the Constitution. I believe that covers about 80 per cent of trading businesses, but the balance of 20 per cent, including sole traders, partnerships and trusts, needs to be covered by state legislation.

The Fair Trading Act 2010 applies the Australian Consumer Law to protect businesses and consumers in this state regardless of the legal form of the entity with which they are dealing. It is very confusing for consumers trying to enforce their rights when they do not understand the distinctions between different legal entities. The current form of the Fair Trading Act 2010 is such that it can be only updated by an amendment bill every time the national legislative scheme is updated. As a consequence, the act has not been amended for some time. Significantly, this bill will insert a mechanism for the timely incorporation of future Australian Consumer Law amendments, following a process in which these amendments are tabled and subject to scrutiny by Parliament.

The passage of the bill will result in the following benefits being realised and for WA's continued participation in the national consumer legislative scheme. There are a number of benefits from passing this legislation. The full range of protections offered by the Australian Consumer Law will be extended to businesses and consumers in WA in a more timely and effective fashion and at the earliest opportunity. This will alleviate some of the confusion for consumers and those protections will apply much sooner. Consumers will participate in the market with a much clearer understanding of their rights and protections under consumer law. Businesses in WA will have much greater clarity on the requirements of the consumer law that applies to their activities. Small businesses operated by sole traders, partnerships or trusts will no longer be disadvantaged in comparison with corporations in understanding and complying with their consumer law obligations in Western Australia. This legislation is very important for those businesses.

The Commissioner for Consumer Protection's powers to undertake compliance and enforcement activities in WA will be enhanced. There will be a reduction in costs and administrative effort associated with the requirement to repeatedly amend the Fair Trading Act to incorporate changes to the Australian Consumer Law. There will be much greater consistency with the administration and enforcement of the Australian Consumer Law in WA with

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the administration and enforcement of the Australian Consumer Law in all other states and territories. Australians across the country will all know exactly where they stand in relation to consumer protection.

The amendments will ensure that WA complies with its requirements under the intergovernmental agreement we have signed up to for the Australian Consumer Law in a much more timely and efficient way. This is a very elegant piece of legislation that will provide what is really a novel mechanism that will allow for nearly immediate recognition of amendments to the national scheme. There is a potential issue with inserting the mechanism to amend the Fair Trading Act 2010 in line with the Australian Consumer Law in a timely manner—that is, the requirement for ongoing monitoring of commonwealth amendments to ensure that they are tabled in Parliament in accordance with the requirements of this legislation. The member for Roe touched on this issue.

The bill includes clauses to ensure that amendments to the commonwealth law incorporated into the Western Australian legislation will be reviewed and subject to disallowance by Parliament through scrutiny by a committee. That may be the Joint Standing Committee on Delegated Legislation, of which I am a member, or it may be some other committee determined by Parliament. The Joint Standing Committee on Delegated Legislation would consider whether an amendment is within power, has no unintended effect on any person's existing rights or interests, provides an effective mechanism for the review of administrative decisions, or contains only appropriate matter. It may be that there are wider considerations, perhaps including policy interaction between the Australian Consumer Law and a state law or policy, rather than the narrow remit of the Joint Standing Committee on Delegated Legislation. The power of Parliament to refer amendments to the appropriate committee is a very useful mechanism. Whichever committee reviews an amendment, failure to comply with the requirements will result in its disallowance and a requirement to introduce an amending bill for its incorporation. That means that should a change to the Australian Consumer Law be disallowed by the Western Australian Parliament, progressing the relevant amendments would fall back to the current situation of requiring a separate bill for the disallowed amendments to be passed by Parliament. We would be back in the same position as we are now, playing catch-up to make sure that more recent amendments to the Australian Consumer Law were incorporated into our law. The Department of Mines, Industry Regulation and Safety's Consumer Protection division has advised that under the intergovernmental agreement for the operation of the Australian Consumer Law, the state of Western Australia will be involved in any proposed amendments to the commonwealth Australian Consumer Law effectively from their outset. That will be a much more efficient mechanism. We will get scrutiny of the amendments from their outset and therefore be able to be prepared to send the amendment via the correct route through our Parliament for scrutiny by the relevant committee. This will ensure that amendments will be tabled in Parliament in accordance with the legislative requirements.

I know this bill is as dry as dust, but it is a great bill. It is an elegant bill. It will ensure that Western Australian consumers benefit in a timely manner from improvements to the national consumer law.

MS M.J. HAMMAT (Mirrabooka) [11.53 am]: I also rise to make a contribution to the debate on the Fair Trading Amendment Bill 2021. The member for Churchlands referred to it as a very dry bill and I must say that when I was first asked to make a contribution on this bill, that was my response as well. I am feeling more generally energised on the topic now.

Mr S.A. Millman interjected.

Ms M.J. HAMMAT: Yes. I will not spend a lot of time going through the background to the bill because I think other speakers before me—the member for Churchlands and the member for Riverton—did a very good job of that. The need to update this legislation to take into account the federal law was covered quite well in your contribution yesterday, Mr Acting Speaker (Mr D.A.E. Scaife). It is tempting to wax lyrical about constitutional corporations. I am sure that the Minister for Industrial Relations would welcome a discussion about that, but the crux of the problem is the need to make sure that our state laws cover the field. Although federal law applies to constitutional corporations, it does not apply to every business operating in Western Australia. There is a need for the Western Australian Parliament to deal with that to make sure there is consistency and complete coverage. I think other members have covered quite well the differences in the federal scheme, which covers about 80 per cent of businesses in operation in Western Australia and causes confusion for businesses and consumers about what requirements apply. It also creates a problem for enforcement. These points are really the crux of the bill before Parliament today.

By this time in the debate, I thought that people might welcome a submission that goes beyond a discussion about constitutional corporations, so I thought I would speak today about consumer protection more broadly. I want to do so because I have been a long-term member and supporter of the Australian Consumers' Association. People in this place will know that I am a fan of member organisations that advance rights for everyday people. Because it shares those values, from many years back I have been very interested in the Australian Consumers' Association. It started back in the days when information still arrived in physical mailboxes, as opposed to emails. I remember being a subscriber to *Choice* magazine, which came to our house every month. It provided a really handy reference for all consumer decisions, big or small. It provided objective guidance on the most effective value for money. For many years, I relied on *Choice* magazine and, in more recent years as it has moved to an online form, I relied on it to

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cut through the nonsense of advertising and deal with the facts about what is a reliable consumer product. I am never in my life going to be in a position to test every washing powder on the market to find the one that cleans my clothes the best at the most cost-effective price. I am incredibly grateful to the people at the Australian Consumers' Association, more commonly known as Choice, for their rigorous testing of all manner of products and their elegant summaries that tell me exactly what product represents the best value for money. I have referred to their work for many decisions I have made over my life, particularly when I was expecting my first child and I shared a kind of obsessive interest in child safety products, which many new parents do. We bought a book that went through all the products that might be bought for a new baby, assessing their effectiveness and safety. It was not just assessing effectiveness or cost efficiency, but also in the case of adding a newborn to the family, their safety, which is really at the heart of many of the decisions made by new parents.

The Australian Consumers' Association, now known as Choice, is the largest advocacy group in Australia. It is independent and, as I said in my opening comments, it is member funded, so its work is completely independent. It was founded in 1959 with, I understand, 50 members and £50 in Sydney Town Hall. Members here would be interested to know that one of the founding members of the Australian Consumers' Association was Hon Ruby Hutchison, MLC, a member of the other place. At the time, she said —

I am only a housewife, but I know how the housewives of this State are being robbed. I am not too learned in legal phraseology, but I would say that unfair trading practices would mean the taking of profits by big concerns up to a saturation point.

At that stage, she was not only a housewife, but I think her point was well made, which is that people who are regularly charged with the responsibility for administering a household budget can well understand when they are being ripped off. The Australian Consumers' Association was founded in 1959. By 1960, the ACA had a membership of 4 700 people. By April the following year, it was 10 000 members and by the end of 1961, it had more than doubled to 20 000 members. It had a phenomenally rapid growth. There are now more than 185 000 members and that membership is substantially online. People can access the website for free, but by paying a subscription fee, they can access more detailed reports. It has an enormous following.

I want to talk a bit more about Hon Ruby Hutchison because I did not know that the Western Australian Parliament had produced the founding member of the Australian Consumers' Association either. It turns out she had a fairly interesting life well before she got to that point. Hon Ruby Hutchison was elected in May 1954. She was the first woman elected to the Legislative Council in Western Australia and only the fourth woman elected to Parliament overall. She spent 17 years as a member of our Legislative Council and was the only woman to sit in the chamber during that entire time. Now, I know that my colleagues on this side of the house will be interested to know that she was a campaigner for electoral reform, or its abolition, in fact! That was an issue that she pursued quite vigorously through her entire time in that house. She referred to it in both her inaugural speech and her last speech to the house.

She was born in 1892 in Victoria and moved to WA with her family as a young girl. She attended school in Murchison, in the goldfields region, and joined the Labor Party at the age of 16. She married as a teenager to a miner. But that marriage dissolved in 1928, leaving her a single parent of seven children, which perhaps gives members some insight into why she felt very strongly about advocacy for consumer rights and why she would have been particularly conscious of the money she spent in caring for her family at a time when there were not many single parents at all. During this time, she lived in the metropolitan area, looking after her seven children, and she made her income as a dressmaker and taking in boarders. She remarried in 1941 and that allowed her to resume her education and her interest in politics.

She first contested the election at the age of 58 in 1950 and was unsuccessful. She was not elected until her third attempt in 1954 when she won by 500 votes, knocking off a long-serving member of the Legislative Council who had served for 20 years, including as a minister for the non-Labor parties. Having won the election, she remained in the Legislative Council for a total of 17 years. As I said, she was a fierce campaigner for electoral reform and full suffrage for people in Western Australia. Her view was that the Council should be abolished because it did not allow for everyday people to have a vote, and that if it could not be reformed, it should be abolished altogether. She not only established the Australian Consumers' Association; she also had an important role in establishing Nulsen Haven, with which people will be familiar. She worked for many years with boy scouts and girl guides and she worked with the Epilepsy Association of WA. She was a woman of great capacity and clearly a fierce and determined woman in her own right, and an important historical figure in this Parliament. She was one of the founding members of the Australian Consumers' Association.

Hon Ruby Hutchison retired from politics in 1971, at the grand age of 79, and I believe she died in 1974. In 1974 the first Trades Practices Act was introduced in the federal Parliament by the Whitlam government. The Australian Consumers' Association recognised the act as an outcome of the very rapid growth that its organisation had gone

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through since it was established in 1959. The success of the Australian Consumers' Association—the success of the Choice organisation—and its rapid growth had created circumstances in which the federal government needed to take steps to start regulating what happens in consumer marketplaces. This is an important bill, and an important line can be traced from this Parliament to the general progress made on consumer issues.

In the time remaining, I will share with this Parliament what I think is some of the excellent work that the consumers' association does. It does a number of very good things, not only testing products, making good and reliable information available to consumers and campaigning for action to be taken, but also running significant education campaigns. One of my favourite Consumers' Association education campaigns is the Shonky Awards that are awarded every year. I believe they are due out in November, so people will wait, with much interest I am sure, to see who are the winners of the 2022 Shonky Awards. Every year the Consumers' Association awards companies, businesses or products for their failure, really, to provide value for money for consumers. One of the more interesting awards was for insurance against alien abduction! That was given a Shonky. Today I will go through what the Australian Consumers' Association identifies as the list of its most important successes from the Shonky Awards, because the point is to not only name and shame businesses and products that are shonky, but also bring about change for consumers. These awards were first introduced in 2006 and over its life span its work has been instrumental in bringing about change. I thought in the time remaining I would share some of the award winners with the house.

The first one I have is Revitalife, which was awarded a Shonky in 2022. Revitalife manufactures beds and it targeted older Australians because the bed sales relied on, first of all, a salesperson to administer a health survey to older people that would tell them which therapeutic bed they should buy. In reality, a high-pressure salesperson came to elderly consumers' houses and signed them up to buy a bed that quite possibly made no difference to the health and wellbeing of those people. The ACA did not just award Revitalife a Shonky award; it also made a complaint to the Australian Competition and Consumer Commission, which led to an investigation of the company. This year, in July, Revitalife, the company, entered into a court-enforceable undertaking, during which it admitted that it had probably breached Australian Consumer Law with its sales tactics. Since then, Revitalife has provided more than \$57 000 in refunds to 49 customers. That was a significant result for some very vulnerable people in our community.

Harvey Norman also received a Shonky award in 2022 for the work it did with a finance provider called Latitude Financial Services. Earlier this month, ASIC announced that it was taking legal action against Latitude Financial Services and Harvey Norman for their misleading advertising.

I will read from an article in *The Guardian* from 5 October, which refers to this action. It says —

The corporate regulator has launched legal action against Harvey Norman and the credit provider Latitude, accusing the retailer and the finance company of misleading and deceptive conduct over an advertising campaign offering “60 months interest-free” purchase terms for household goods.

It goes on to say that this was for radio and television advertising that —

... between 1 January 2020 and 11 August 2021, misled consumers into thinking they could buy goods ... by making 60 equal monthly payments.

In fact, the offer required buyers to sign up for and use a credit card offered by Latitude, which carried fees and charges that could result in them paying hundreds of dollars more than the sticker price of the goods they bought.

It goes on to say —

“For example, a consumer who, during the relevant period after 16 March 2021, purchased a refrigerator with a retail price of \$1,000 using the payment method ... and paid the 60 monthly instalments on time, would have to pay a minimum total of \$1,537 (which would include \$537 of monthly account service fees over the course of a 60 month payment term).”

That is a significant increase on the price of those goods.

The DEPUTY SPEAKER: Member, can you just hold on for two seconds.

Minister for Police, the acoustics in this room are very good and your voice is travelling, so if you could just keep it down a bit, that would be great. Thank you.

Ms M.J. HAMMAT: Choice awarded a Shonky to Harvey Norman, which says that it was not for this instance. Harvey Norman is now being pursued by ASIC, and we will wait to see the outcome. However, the Shonky award was for the practice of Harvey Norman signing up people for expensive credit cards in store that then had extensive credit limits. This is very similar behaviour to what is now being prosecuted by ASIC, and we will await the outcome of that.

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The third one it identifies is Viagogo, the ticketing resale website. It received a Shonky in 2017. This is a ticket resale website for concertgoers, and they experienced substantial out-of-pocket losses. Often tickets were still available on the promoters' sites for less, or they were in possession of tickets that did not allow them entry to the event when they presented them at the gate. Members will be aware that substantial reform of ticket resale websites has been undertaken since 2017, but Viagogo's dealings with disgruntled customers led to it getting a \$17 million fine following the ACCC action in 2022.

[Member's time extended.]

Ms M.J. HAMMAT: The fourth most successful Shonky award went to the Dollarmites program, run by CommBank.

Ms J.J. Shaw: Is that still going?

Ms M.J. HAMMAT: It is interesting that the member asks; it is not still going. Again, this is a result of the work undertaken by Choice to highlight the problems with that program. It awarded CommBank a Shonky in 2018, which is some time ago. It was a marketing scheme effectively targeting very young customers in schools. Choice awarded that Shonky in 2018. There was an Australian Securities and Investments Commission inquiry in 2019, and Choice made a submission to that inquiry. That led to the program being banned in Victoria in 2020 and then banned in the ACT and Queensland. The bank withdrew the program in October last year, recognising that the writing was on the wall because, clearly, although it is important that we educate our young people to be financially literate, it is not necessary to market a financial product to them in their schools.

A government member interjected.

Ms M.J. HAMMAT: Credit cards—that is exactly right.

The fifth Shonky was awarded to InvoCare, one of the largest funeral operators in Australia. It owns a number of brands people will be familiar with, such as Simplicity Funerals and White Lady Funerals. It was charging a late payment fee as an administration fee. Choice not only awarded it a Shonky, but also submitted a complaint to the Australian Competition and Consumer Commission, basically because of the way that it was being described as an administration fee. It was not being up-front or transparent as a large funeral operator. Again, when people are making decisions about funerals, they are often very vulnerable to sales techniques and sales pressure, so that resulted in the company changing that practice. Another thing that led to that change in practice, apart from the Shonky and the ACCC complaint, was the campaign work that went on behind it. More than 5 400 Australians emailed their local consumer affairs ministers about the issues, asking them to take action on it. It was just after that, one month later, that InvoCare decided it would change its policy and roll out an itemised funeral price online so that people can have transparency about what they are signing up for.

The sixth Shonky award that Choice claims has resulted in significant change relates to pet insurance policies. In 2019, Choice awarded the entire pet insurance industry a Shonky for its terrible practices. It basically was awarded for being expensive and confusing, and offering policies with so many exclusions and conditions that they were basically pointless. I have to say that, as someone who this year had to present with my pet dog at an emergency vet because the dog had eaten some rat bait, I was very glad to know that my pet insurance was going to do the job! Choice awarded the whole pet insurance industry a Shonky, resulting in that industry reaching out to Choice and making substantial changes, particularly around full cover for out-of-hours emergencies. I am a very grateful beneficiary of the work Choice did, because I can confirm that our pet insurance covered nearly all the expenses associated with the blood transfusions and other medical assistance that our dog, Zoe, required earlier this year.

Mr S.A. Millman: How is she going?

Ms M.J. HAMMAT: She is well! She made a full recovery, for which we are also grateful.

The seventh award is for credit card surcharges, particularly when they are tied up with big corporations. Qantas has been in the news recently for its corporate practices, but in 2009 it was awarded a Shonky for applying a mark-up to the credit card booking fee when people booked flights; they booked a flight and they paid credit card mark-up fees. Many airlines, in particular, were charging excessive mark-ups. We all understand that there is a cost between the business and the bank that is applied to credit cards, but these operators were jacking up that price substantially and passing it on to the consumer. Qantas won the Shonky for applying a 517 per cent mark-up to its credit card booking fee for a \$500 flight to Fiji; it was charging people substantially. The other airline that got an honourable mention was Tigerair Australia, which was still around at that time. The example that Choice gave was that if a \$200 credit card booking was made for a Sydney to Melbourne flight, Virgin and Jetstar charged \$6, Qantas charged \$7.70 and Tigerair charged \$12. That meant that six per cent of the fare was paid to use a credit card to make that booking. This was the kind of gouging that was applied to credit card bookings. Over the years, Choice awarded Shonkys to many other companies for the exact same thing—excessive credit card fees. Cabcharge got one, and Ticketmaster and Ticketek Australia also got them.

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The eighth Shonky—the most successful Shonky in terms of achieving change—went to Nurofen. In 2010, it was awarded the Shonky for its claim of targeted pain relief products. Anyone who has ever reached for a Nurofen, hoping it will provide immediate relief for their sore hip or bad neck or whatever it is that is aching, will understand that those drugs do not work in that way; they do not target any particular area. At the time, the company offered a range of higher-priced medications that were targeted at particular things, including migraine, back tension and period pain, and claimed that they were formulated to target particular areas, which we all understand is nonsense; if we ingest something, it impacts on our body in exactly the same way. Again, the ACCC took action against the manufacturer for misleading conduct, and the producer of Nurofen was fined \$6 million in 2016.

Just two more to go, members! This is my favourite: the Samsung washer and dryer, which received the 2017 Shonky. I will not read the reference number, but it was for one of those combo washer-dryers that do both, and are very attractive for people who live in small apartments or need to make space. It was a \$3 000 machine, and when Choice tested it in its special labs—I think members understand that it has special labs to run all this equipment through tests—it found that it used 210 litres of water and took six and a half hours to dry a single load of washing. Choice has a system in which it gives scores—drying scores, energy efficiency scores and various other scores. That washer-dryer got zero for its drying time test because it took six and a half hours to dry the load. Choice said that in the time it took to dry a load of clothes, someone could nab a cheap fare from Sydney to the Gold Coast and dry them on the beach every week for nearly a year instead of buying that shonky product! I think that is an excellent way of cutting through the expense of the model and its inefficiency in doing what it was claimed to be able to do. It was discontinued shortly afterwards.

The last one I want to mention remains a serious issue today. It relates to the insurance industry, particularly with regard to widespread flooding. A Shonky was awarded as a result of the flooding that occurred in the summer of 2010 to 2011, which mainly impacted Queensland, New South Wales and Victoria. When people began rebuilding, they of course relied on their insurance to help them rebuild. What was uncovered was that there was no standard definition of the word “flood”, and many policies had carve-outs and different sorts of restrictions that left many people without cover.

Choice reported at the time that it had heard stories about people living in the same street, affected by the same flood, receiving completely different outcomes when they made a claim. We only have to look at the situation on the east coast where, again, we see devastating flooding and the terrible personal impact of people finding out that their insurance will not provide the cover that they thought it would, which has devastating consequences. The whole industry got a Shonky award in 2011, but Choice worked with the industry and government to come up with a solution to ensure that Australians would not be left in that situation again after flooding. I reflect, again, on the terrible situation on the east coast and hope that those who have been affected have insurance that provides them coverage.

I encourage people to avail themselves of this excellent organisation, which is providing not only great information to consumers, but also active advocacy to ensure that companies and businesses are doing the right thing by consumers. It is pretty clear from that list that many big corporations—some that have been with us for a very long time—are not immune from conducting themselves in a way that leads to consumers being ripped off, out of pocket or with products that are not fit for the purpose for which they are sold. I commend Choice for its excellent work.

Before concluding my remarks, I want to share with the house what Choice claims as the shonkiest quote, which came from a bread manufacturer in September 2006. It reads —

“We don’t consider wholemeal flour to be a characterising ingredient in wholemeal bread.”

There are probably many others quite like that! Choice has done a lot of excellent work protecting consumers, advocating for change and making sure that we have rigorous legislation and appropriate redress for people who are ripped off. This piece of work started with a member of this Parliament in 1959 and it continues today. I know from some of the other submissions that have been made that we need to be vigilant about our consumer rights and the mechanisms that provide protection. There is no room for complacency in this area.

I thank the Minister for Commerce and his parliamentary secretary for bringing in this bill for debate. With that, I commend the bill to the house.

MR S.A. MILLMAN (Mount Lawley — Parliamentary Secretary) [12.22 pm]: I rise to make a contribution to the Fair Trading Amendment Bill 2021 and I do so in the knowledge that the member for Mirrabooka has made an outstanding contribution, reciting the history of the Australian Consumers’ Association, or Choice. Similarly, I will not touch on the bill directly; rather, I will refer to the history of reform in competition and consumer law and trade practices more generally.

I do so bearing in mind that my colleague the member for Cockburn made a contribution yesterday afternoon. I should say at the outset that he is much more of an authority than I am on the Australian Consumer Law. I commend his contribution to members in the chamber. He touched on a couple of important considerations about why we need

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this bill to bring Western Australian consumer law into line with changes to the Australian Consumer Law in a more expeditious fashion. He touched on a couple of reasons why that is an important part of legislative reform as a result of changes that are likely to come about in Australian Consumer Law relatively quickly over the next little while. He identified two considerations, to which I will add a third, which the Premier mentioned yesterday; that is, in a time of global economic uncertainty and global anxiety about the prospect of a recession, it is imperative that the legislative and regulatory framework that governs consumer protection, fair trading and competition law is fit for purpose and up to date. I will come back to why that is important shortly.

The member for Cockburn also mentioned that one of the aspects of contemplating change to federal consumer law relates to imposing an obligation on traders who import manufactured products from other jurisdictions into Western Australia. He said that it is important that these traders have a degree of liability so that they discharge their obligations to ensure that these products are safe for Australian consumers. He mentioned a case involving lead in children's products. The other case he touched on—I will elaborate on his comments, despite not having extensive notes about what he said—had to do with asbestos. He was referring to the importation of non-standard motor vehicle brake pads. I think Toyota was the subject of brake pads that had been manufactured in China that were not fit for purpose and had to be replaced because they contained asbestos. Chinese regulations state that brake pads are asbestos-free if they contain less than five per cent asbestos, which was part of the problem. Although the brake pads were described as asbestos-free, they contained asbestos, and the problem was the amount of asbestos they had in them. With due deference to the member for Cockburn, I think that was the case he was referring to.

I want to go through some of the history of the FTA bill. I go back to July 2009 when the Intergovernmental Agreement for the Australian Consumer Law was first executed by the commonwealth and all states and territories. This followed a 2008 agreement by the Council of Australian Governments for the development of a national consumer policy framework to enhance consumer protection, reduce regulatory complexity for businesses and encourage the development of a seamless national economy. The IGA was implemented in 2010 by way of the Australian Consumer Law, which was enacted by the commonwealth and applied by state and territory legislation. In WA, the ACL is applied by the Fair Trading Act 2010, which is the legislation that this bill seeks to amend. The FTA, unlike the application law of other states and territories, applies to the commonwealth ACL as it exists at a specific point in time rather than as amended from time to time. Until now, changes to the commonwealth ACL have had to be incorporated into the ACL (WA) by way of a separate bill, which is an unsatisfactory mechanism for keeping the ACL up to date with changes that apply in the rest of country. WA traders and consumers are placed at a disadvantage because they have to wait for Parliament to make those changes and incorporate them into legislation. Other states and territories automatically update their ACL legislation when commonwealth amendments are made. As I say, as a result, consumers, businesses and the regulator of the ACL in WA experience a significant time lag between changes to the commonwealth legislation and when those changes are introduced into WA via the ACL amendment bills. Unless the timelier mechanism provided for in the bill is implemented, consumers and businesses will continue to be adversely impacted by the lack of consistency, and Western Australia will continue to lag behind other jurisdictions in improving its consumer laws. That will be a bad thing, because we need to make sure that the Western Australian economy is well placed to maintain its outstanding position when we face the global headwinds of a potential recession.

I want to take members to recent commentary from the International Monetary Fund, as reported in *The New York Times* in an article by Alan Rappeport from 6 October 2022. The IMF warns thus —

The head of International Monetary Fund warned on Thursday that recession risks across the globe were rising as a toxic mix of inflation, higher borrowing costs and lingering supply chain disruptions continued to batter the global economy.

Kristalina Georgieva, the leader of the I.M.F., said that as a result of these persistent problems, the international body would downgrade its growth projections for next year in an upcoming report, one that she said would paint a dark picture of the looming economic threats. The assessment is the latest example of how last year's optimism for a strong global recovery has been replaced by worries about rapid inflation, Russia's war in Ukraine and an ongoing pandemic.

Ms Georgieva is quoted in the article —

“Multiple shocks, among them a senseless war, changed the economic picture completely,” ... “Far from being transitory, inflation has become more persistent.”

The article continues —

The I.M.F. has been steadily downgrading its forecasts in recent months and currently projects global output to grow by 2.9 per cent next year. That projection will be lowered when the fund releases its closely watched World Economic Outlook report on Tuesday as the annual meetings of the I.M.F. and World Bank begin in Washington

Extract from Hansard

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Policymakers at the meetings will be working to better coordinate their responses to inflation pressures and recession risks while preparing for the repercussions of higher interest rates.

“For major economies facing high inflation, the immediate task is to return to an environment of stable prices,” Treasury Secretary Janet L. Yellen said in a speech at the Center for Global Development on Thursday. “But it is important to recognize that macroeconomic tightening in advanced countries can have international spillovers.”

I will not quote further from that article, except for the conclusion, in which the head of the International Monetary Fund said —

“Overall, we expect a global output loss of about \$4 trillion between now and 2026. This is the size of the German economy—a massive setback for the world economy,” ...

... “And it is more likely to get worse than to get better.”

The circumstances at the moment look grim. Therefore, it is important for the Western Australian economy that we put the regulatory framework on the best possible setting.

I refer to another report by Mr Rappeport in *The New York Times* of 11 October 2022. For the purposes of Hansard, I will email the links to these articles. It states —

The International Monetary Fund said on Tuesday that the world economy was headed for “stormy waters” as it downgraded its global growth projections for next year and warned of a harsh worldwide recession if policymakers mishandled the fight against inflation.

The grim assessment was detailed in the fund’s closely watched World Economic Outlook report, which was published as the world’s top economic officials traveled to Washington for the annual meetings of the World Bank and the I.M.F.

The gathering arrives at a fraught time, as persistent supply chain disruptions and Russia’s war in Ukraine have led to a surge in energy and food prices over the last year, forcing central bankers to raise interest rates sharply to cool off their economies. —

We have experienced that firsthand in Australia —

Raising borrowing costs will probably tame inflation by slowing business investment and consumer spending, but higher rates could also yield a new set of problems: a cascade of recessions in rich nations and debt crises in poor ones.

There are growing fears among policymakers that a so-called soft landing will elude the global economy.

We are facing increasing interest rates and, therefore, increasing borrowing costs. The Western Australian state government, through its good budget management, has put this state in a fiscal position that is better placed to absorb those increasing rate rises. That is because this government has balanced the books, achieved a budget surplus, restored the state’s AAA credit rating and reduced the Liberal debt that we inherited in 2017. It is interesting that another cause of the global economic uncertainty that has not been touched on in these reports from the IMF is the absolutely abysmal handling of the UK economy by the British Conservative Party. The reason I say that is that as recently as 25 June, Trent Zimmerman was quoted in *The Guardian* as lauding David Cameron, a former British Prime Minister, for his political acumen. I will come to that later.

Some great things have been said in *The Economist* in the last couple of weeks, for those who are interested, particularly about the current British Prime Minister and a lettuce, but I will let others look at that! I refer to an article in *The Economist* three weeks ago headed, “The fallout from Kwasi Kwarteng’s mini budget continues”. That shows how quickly things move in the United Kingdom; he is no longer the Chancellor of the Exchequer. It says —

Neither the Chancellor nor the Prime Minister seems particularly to care

It continues —

A DECADE AGO the Conservative government —

That was the government of David Cameron —

announced a budget so unpopular that it was dubbed an “omnishambles”. Humbled by weeks of bad headlines, it ultimately scrapped plans to introduce a tax on some hot foods. The reaction to Kwasi Kwarteng’s fiscal statement on September 23rd made the omnishambles budget look like a triumph for the ages.

After the chancellor announced the biggest tax cuts in half a century, sterling cratered: in the early hours of September 26th the value of the pound fell to a record intraday low of \$1.035 (it subsequently recovered a bit). That same day ten-year gilt yields reached 4.3%, over one percentage point higher than a week before.

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The gyrations were so extreme that Andrew Bailey, the Bank of England's governor, published a statement confirming that policymakers were "monitoring developments in financial markets very closely". The IMF weighed in with some unusually blunt criticism: "We do not recommend large and untargeted fiscal packages at this juncture", it said.

The negative reaction came even though most of the budget's contents had been widely trailed. Liz Truss promised both to scrap a planned increase in corporation tax and to cut payroll taxes while campaigning to become prime minister; she had announced measures to help households and businesses with high energy bills ... The unexpected elements of the package, which included tax cuts for high earners and higher thresholds for stamp duty ... accounted for less than a quarter of its long-run cost.

That is the view of *The Economist*. I would prefer its view to that of Peta Credlin, who, when the financial markets stacked themselves as a result of the policy directions in the Truss-Kwarteng mini-budget in September, said that it was because of woke hedge fund managers. That is an absolutely ridiculous proposition! It does not bear any scrutiny.

This is the risk that is posed to the global economy by the British Conservatives. I have said that their handling of the economy has been lauded by Trent Zimmerman. Members may recall that Mr Zimmerman was the member for North Sydney. The reason that he was looking for some way to restore the economic and financial credibility of the fraternal party of the British Conservative Party, the Liberal Party of Australia, was Mr Zimmerman had lost his very, very, very, very safe Liberal seat of North Sydney, which had been on a significant margin of close to 10 per cent on a two-party preferred basis before the federal election. His margin was almost as big as that of Ben Morton, who similarly lost his very, very, very safe seat of Tangney in the federal election to the great Sam Lim, who is doing an incredible job representing the people of Tangney.

Ms J.J. Shaw: Hear, hear!

Mr S.A. MILLMAN: Thank you, member for Swan Hills. He is doing an incredible job.

The McGowan Labor government has done the following things. First, we have balanced the books and returned the Western Australian budget to surplus. Second, we have achieved recognition from the international monetary markets and global ratings agencies by the restoration of our AAA credit rating, which makes it easier for us to service the incredibly significant Liberal debt that we inherited. Those two things in and of themselves put the WA government in the best possible position to respond to the pressures that will be caused by a downturn in the global economy. Third, by legislating in this way to reform the Fair Trading Act, we will create an environment in which businesses and consumers can have confidence that they will be in the best possible position to face the global headwinds that are coming in our direction.

One of the most important things that we can do is promote the strength, stability and resilience of the WA economy. That is why I am so annoyed when I hear what the opposition is saying. We should be saying that although global geostrategic, geopolitical and economic challenges are coming down the track towards us, we in Western Australia are well placed to tackle those challenges. We should be talking up the WA economy, not talking it down. We should be talking about the reforms and the fiscal management that this government has put in place. It is always disappointing and I am always sad when I hear the Liberal and National opposition criticise us for the way we handle the economy.

Dr A.D. Buti: They are so negative.

Mr S.A. MILLMAN: Yes, so negative.

That brings me back to Mr Zimmerman's point. The Liberal and National Parties now know that they are no longer the parties of responsible economic management.

Dr A.D. Buti: If they ever were!

Mr S.A. MILLMAN: Yes, minister, if they ever were. All members opposite are left to do is criticise and condemn us for our success in stably and sensibly managing the finances of the state of Western Australia. I for one would love to see them put more effort into talking up team WA and the WA economy so that investors, consumers and businesses can be confident about the future.

Dr A.D. Buti: Are you taking note of this, member for Roe?

Mr P.J. Rundle: I am listening.

Mr S.A. MILLMAN: It is a real shame. I commend the member for Roe for at least being here —

Several members interjected.

Mr S.A. MILLMAN: Forward small businesses, working hard, member for Roe—it might be the smallest geographical effort, but they have the biggest sense of entrepreneurialism and endeavour. They are looking to preserve, promote, encourage and grow their businesses, irrespective of and notwithstanding the global headwinds that we face.

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Members, the Labor Party has always been the party for efficient economic regulation, consumer protection and the proper functioning of the state.

[Member's time extended.]

Mr S.A. MILLMAN: I mentioned before the amendments in the Fair Trading Amendment Bill 2021 that will address the Australian Consumer Law. The Australian Consumer Law came into effect as a result of an agreement that was first executed by the commonwealth and all the states and territories in 2009 following on from a COAG meeting in 2008. We can go back further than that to 1995, when the Australian Competition and Consumer Commission was created. For those members who have forgotten, the Prime Minister at that time was Paul Keating. We can go back even further to 1974, when the original Trade Practices Act was introduced into Parliament. The member for Mirrabooka has articulated in stunning fashion the history and background of consumer protection that was advocated for by politicians back in those days—advocacy that resulted in the Whitlam government introducing the Trade Practices Act, which redefined provisions relating to things such as misleading and deceptive conduct and the way in which consumer protection and fair trade worked in Australia. In 1974, Gough Whitlam's Labor government introduced the Trade Practices Act. In 1995, Paul Keating established the ACCC. In 2008, Kevin Rudd was the Prime Minister when the Intergovernmental Agreement for the Australian Consumer Law came into effect. There can be no argument that, when it comes to putting in place the proper regulatory framework to encourage economic growth and diversification, to encourage consumer protection and to encourage the participation of small businesses in a system that is equivalent in all the states so that we are all competing on a level playing field, the party that will achieve those reforms, and has always achieved those reforms, is the Labor Party.

I am grateful that the member for Roe from the Nationals WA is here, because at least the Nationals are here. It is a real shame that there are no members of the Liberal Party here—the fraternal party of the British conservatives, and the party of Trent Zimmerman, who lost his very safe seat, and Ben Morton, who also lost his very safe seat—because they might learn from this. They might figure out that perhaps they could articulate a new optimistic vision for Western Australia that does not undermine confidence in our local economy, but recognises that they bequeathed to us the largest debt that this state has ever seen and that we at least are on the path to paying that debt down. When I walk along the streets of Mount Lawley doorknocking and speaking to constituents, they know now that the party of responsible financial management is the Labor Party. When we look at the history of Gough Whitlam's reforms in 1974, Paul Keating's reforms in 1995 and Kevin Rudd's reforms in 2008 and 2009, we know that that rings true.

Mr P.J. Rundle: What about WA Inc?

Mr S.A. MILLMAN: What a ridiculous interjection!

Several members interjected.

Mr S.A. MILLMAN: No, no.

Mr D.J. Kelly: The greatest contribution that former Leader of the National Party Brendon Grylls made in this place was when he came into the house one night and talked about the debt that they had run up and said that it was such a good policy that if he had the chance again, he would spend every bit of that money again. That was Brendon Grylls' contribution—he would do it all again!

Mr S.A. MILLMAN: On the current Leader of the Opposition, his acolyte, the member for Central Wheatbelt, I have never seen anyone so keen to spend this surplus—it is not their surplus; the surplus belongs to the people of Western Australia—so quickly and put us back into the situation that we were in in 2017, when we inherited the worst set of books ever seen in the history of the state of Western Australia.

I commend the Deputy Premier for bringing this legislation before the house. I commend the government as a whole, in fact, for the approach it has adopted to stabilising our economic circumstances in Western Australia and putting in place the legislative reform that will support small businesses such as those in Mount Lawley.

I will finish by saying that I am very pleased that my good friend the member for Swan Hills, the Parliamentary Secretary to the Deputy Premier, has been delegated responsibility for shepherding this legislation through Parliament. I for one am very pleased to both speak in support of the legislation and congratulate the member for Swan Hills for the responsibility that has been bestowed upon her and wish her the very best in shepherding this excellent piece of legislation through the chamber. Hopefully, it will be the first of many, member. I commend the bill to the house.

MS L.L. BAKER (Maylands) [12.44 pm]: The Fair Trading Amendment Bill 2021 is not a bill that deals with a subject that I have spent my life committed to, but I can tell members that it has huge relevance to many aspects of my life and the lives of everybody else. I remember at an earlier point in my career when I was on the Department of Consumer and Employment Protection's community consumer board, I spent a lot of time considering both federal

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and state policies and how they were being enacted and enforced in Western Australia. At one point in my chequered history, I did have quite a bit of knowledge of the impact of consumer law on Western Australians.

Dr A.D. Buti: I wouldn't call it a chequered history; it's a very good history!

Ms L.L. BAKER: The minister does not know it quite as well as I do; it is slightly chequered—maybe polka dotted!

I want to start by saying that the best way for me to describe this piece of legislation for the purposes of my electorate is by saying that it should provide a far safer regime for the way that consumer protection laws are applied in Western Australia simply by harmonising more quickly the changes and improvements to the Australian Consumer Law that come out of our national Parliament and allowing us to make them enforceable in Western Australia far more fluently and effectively so that they can be of benefit to us and members of our families. I will go through some of the protections as they have been outlined to me that will be offered when this bill goes through, which I hope will be quickly.

The full range of protections under the Australian Consumer Law at the moment will be extended to businesses and consumers in WA in a much more timely and effective fashion, which I have already mentioned. Consumers themselves will be able to participate in the market with a much clearer understanding of their rights and protections under the Australian Consumer Law. Businesses in WA will have much better clarity about the requirements of the consumer laws that apply to their own activities and small business operators, especially sole traders and partnerships, will no longer be disadvantaged in comparison with corporations in how they understand and comply with consumer law obligations in Western Australia.

The powers of the Commissioner for Consumer Protection to undertake compliance activities in Western Australia will be significantly enhanced. There will be a reduction in the costs and administrative effort associated with the requirement to repeatedly amend the Fair Trading Act to incorporate federal changes, which will be a flow on from a more harmonious system. There will be much better consistency in the administration and enforcement of the act across the other states and territories. It will mean that if someone in Western Australia buys a new car and they then move to the Northern Territory, there will be some consistency in how the law is applied.

The legislation will ensure that Western Australia complies with its requirements under the Intergovernmental Agreement for the Australian Consumer Law in a more timely and efficient way. Those of us who have been in this place for a while will be worried about whether this will undermine our sovereign powers around legislation. No, it will not; it will allow us the capacity to disallow an amendment if we do not agree with it, and we can fall back to the current situation and require a separate bill in respect of the disallowance amendment to be passed by Parliament. We can go back to a more convoluted process if that is what we wish to do.

I want to mention a number of issues with the Australian Consumer Law and how it is being enforced in Australia and Western Australia that have particular relevance for the constituents I talk with and the groups I interact with on a weekly basis. One thing that I thought was very interesting about this bill is the messaging around complementary medicines and the changes that will be made to their labelling to provide a clearer understanding of the Australian content of these medicines. My point around complementary medicines goes more to the issue of Indigenous medicines and Indigenous products that are used in our medicines. There is growing concern globally about the increasing use of things like hallucinogenics and other chemicals that are directly related to Indigenous cultures.

Debate interrupted, pursuant to standing orders.

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