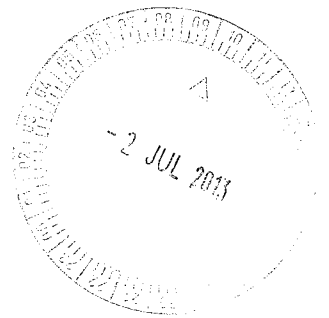




Government of **Western Australia**
Department of **Commerce**
Consumer Protection



Our Ref: A6094462

Mr Mark Warner
Standing Committee on Uniform Legislation and Statutes Review
Legislative Council
Parliament House
PERTH WA 6000

Dear Mr Warner

TRANSCRIPT OF EVIDENCE - FAIR TRADING AMENDMENT BILL 2013

Thank you for your letter dated 24 June 2013 enclosing a copy of the uncorrected transcript of evidence given at the Committee hearing on 17 June 2013.

As requested, please find attached a copy of the transcript with handwritten corrections.

I would like to take this opportunity to also clarify information provided in my answer to questions asked by the Hon Mark Lewis to do with the Corporations' power, State Acts and the Corporations Act (all questions which appear on page 5 of the transcript).

The Australian Consumer Law (WA) and all the Acts listed in Schedule 1 of the *Fair Trading Act 2010* are all State laws. What the *Fair Trading Amendment Bill 2013* is seeking to do is to make it clear that where a product safety provision of an Act listed in Schedule 1 is inconsistent with a product safety provision of the Australian Consumer Law (WA) (as distinct from the Commonwealth Australian Consumer Law) then the Act listed in Schedule 1 will prevail.

Where there is an inconsistency between the Commonwealth Australian Consumer Law and any of those Acts listed in Schedule 1 (or indeed any State law), the Commonwealth Australian Consumer Law will prevail to the extent of any inconsistency.

The limit of the Commonwealth's constitutional power to legislate means that Commonwealth Australian Consumer Law does not extend to individuals or non-corporate entities (except in relation to transactions involving interstate trade). It is the Australian Constitution that determines the supremacy of the Commonwealth Australian Consumer Law over State laws and not the Commonwealth Corporations Act per se.

I would be happy to provide further information to the Committee on any issue if required.

Yours sincerely

Gerald Milford
MANAGER, STRATEGIC POLICY