

Submission to the Commerce Committee on the Consumer Guarantees Amendment Bill 152-1

9th September 2010

The National Council of Women of New Zealand (NCWNZ) is an umbrella organisation representing 51 nationally organised societies and national members. It has 23 branches throughout the country attended by representatives of those societies and some 150 other societies as well as individual members. The Council's function is to serve women, the family, and the community at local, national and international levels through research, study, discussion and action.

This submission has been prepared by the Consumer Affairs Standing Committee.

In July 2010 the NCWNZ membership was circulated with an extensive list of questions submitted by the Ministry of Consumer Affairs requesting response reflecting viewpoints and opinions on the Consumer Law Reform Discussion Paper. In that submission, responses were received from a large number of NCWNZ members and strong support was expressed for amendments to the Consumer Guarantees Act in answer to the questions in the Discussion Paper (Questions 40 to 44). These related to extended warranties and the supply of goods and services by suppliers through a competitive bidding process using an on-line trading facility.

NCWNZ is very pleased to have this opportunity to comment on the proposed amendment to the Consumer Guarantees Act, it offers an opportunity to redress some of the failings in the current law which were highlighted in the Consumer Law Reform Discussion Paper.

Clause 5. New Section 15A Disclosure

It was agreed by the membership, that there needs to be improvement around the selling of extended warranties. Extended warranties are an additional cost on the price of the goods being purchased. Members were concerned that, as an incentive to sell extended warranties, store retailers can be paid commission on a sale. Consumers should receive greater disclosure and need to be informed about any benefits the extended warranty offers over the existing Consumer Guarantees Act rights. These warranties do not appear to offer any further protection to the consumer in most situations.

The insertion of new sections (1) (2) (3) and (4) will assist consumers to make informed decisions about purchasing extended warranties at point of sale – as there is generally limited information available at the point of sale on the advantages, terms or conditions of extended warranties from many retailers. Consumers and the public in general, it was agreed by

members, need to be educated on their rights under the Consumer Guarantees Act and Fair Trading Act.

Consumers need protection from sales people who apply subtle pressure and 'pushy' techniques to take an extended warranty and the potential buyer feels powerless to say "no" when they are in a retail store and making a purchase.

Clause 5. New Section **15B Cooling-off period**

The insertion of a provision for a cooling-off period following the purchase of an extended warranty will enable the consumer to reconsider that purchase, and, where a consumer cancels the purchase in the defined time frame be entitled to receive a full refund of the extended warranty without any penalties.

Members agreed that a cooling-off period should be provided and this proposed legislation for a 7 day cooling-off period fits with the suggestions made by the membership as a suitable time frame. Many consumers – particularly those with English as a second language or the elderly – may need additional time to read the written information and consult family members or interpreters before making a decision to purchase an extended warranty.

Members responses also supported a reverse of the cooling-off period with an option to extend the time-frame in which a consumer may purchase an extended warranty for the goods they purchased. This "opt-in" period would also allow time to read the required disclosure about their consumer rights, consult family members or advisors, and make a more informed decision as to whether they need the warranty.

Any law regulating extended warranties should be enforced by the Commerce Commission under an amended Consumer Guarantees Act. This was supported by the membership as essential to ensure compliance by retailers and traders.

Clause 6. Exceptions

By amending Section 41 with new Subsection (4) to clarify the issue about online sales and whether they are covered by the principal Act will offer further protection for the consumer. Members support this clarification and agreed that on-line sales should be covered. Consumers would then attract the same rights as if the goods were purchased from a store or via an online competitive bidding process by the supplier. Members considered that a new definition of online auctions would be advantageous so that it applies to purchases of goods for personal use from a 'trader'. Also each auction, it was agreed, should clearly state whether it was subject to the protections of the Consumer Guarantees Act. As competitive online sales have become increasingly popular, it is important for the provisions of the guarantees provided in the principal Act to apply to any online purchase.

Members questioned if there was a distinction between online competitive bidding and Trade Me style auction, and if purchasers from the latter bidding process would have the benefit of the guarantees under the Consumer Guarantees Act provisions.

Conclusion

NCWNZ supports the proposed amendments to the Consumer Guarantees Act 1993 to improve its operation and assist consumers to make informed decisions about purchasing extended warranties and to provide for a cooling-off period in which to reconsider the purchase of an extended warranty (or offer an “opt-in” period as suggested by members). NCWNZ also supports the clarification about competitive online sales and specific provision that they are covered by the principal Act will provide further protection for the consumer.

NCWNZ is pleased to have the opportunity to make comment on this Private Members Bill which proposes amendments to the Consumer Guarantees Act 1993.

Elizabeth Bang
National President

Jan Brown
**Convener Consumer Affairs Standing
Committee**