

Taking Action, Gaining Trust

National Indigenous Consumer Strategy Action Plan 2022 – 2023

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The National Indigenous Consumer Strategy Reference Group declare that the information contained in this document is true and correct at the time of printing, is provided for general information and is not intended to provide extensive coverage of issues.

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Consumer Senior Officials Network – National Indigenous Consumer Strategy

In 1992 the Ministerial Council on Consumer Affairs (MCCA) was established by the Council of Australian Governments (COAG).

On 1 September 2005, all Australian members of the then MCCA signed a Statement of Commitment for the development and implementation of the National Indigenous Consumer Strategy Action Plan 2005–2010.

The Action Plan demonstrated the MCCA’s shared responsibility for ensuring that Australia’s performance in Indigenous consumer affairs was continually improved and beneficial outcomes for Indigenous consumers achieved with a commitment to:

- the promotion of basic human rights recognised by the United Nations for Indigenous people in Australia
- building awareness, knowledge and confidence for Indigenous people to exercise their consumer rights
- improving access to consumer protection services utilising effective outreach and engagement and
- improving market outcomes for Indigenous consumers.

In 2011 the MCCA became the Legislative and Governance Forum on Consumer Affairs (CAF), supported by Consumer Affairs Australia and New Zealand (CAANZ) whose role was to carry out projects and activities that promoted a consistent and coordinated national approach in line with the Australian Consumer Law (ACL) and, where relevant, trans-Tasman approaches to the development, implementation, enforcement and education of consumer laws.

In October 2020 the Review of COAG Councils and Ministerial Forums in seeking greater intergovernmental efficiencies recommended, amongst other things, the disbanding of the Legislative and Governance Forum on Consumer Affairs (CAF). The Consumer Senior Officials Network (CSON) subsequently replaced CAANZ in 2021, with NICS now reporting to CSON.

In 2002–2003 the then Standing Committee of Officials of Consumer Affairs (SCOCA), later known as CAANZ, participated in and convened a number of workshops in response to concerns about the disadvantages experienced by Indigenous consumers. Subsequently the concept of a national plan was developed which became known as the National Indigenous Consumer Strategy (NICS). The Strategy has been implemented in all states and territories and positive progress has been undertaken by all consumer agencies. The Strategy and related Action Plan have undergone several revisions since 2009. This is the fifth iteration of the NICS ‘Taking Action, Gaining Trust’ document and contains the Action Plan for 2022–2023.

Acronyms

ACCC—Australian Competition and Consumer Commission

ASIC—Australian Securities and Investments Commission

CAANZ—Consumer Affairs Australia and New Zealand

CAF— Legislative and Governance Forum on Consumer Affairs

CSON – Consumer Senior Officials Network

MCCA—Ministerial Council on Consumer Affairs

NDIS—National Disability Insurance Scheme

NICS—National Indigenous Consumer Strategy

The word Indigenous used throughout this document refers to Aboriginal and Torres Strait Islander people.

The term consumer agencies used throughout this document refers to consumer and fair trading offices, the Australian Securities and Investments Commission, the Australian Competition and Consumer Commission and Commonwealth Treasury.

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Statement of Commitment

As the Consumer Senior Officials Network, we have accepted responsibility for the development and implementation of the National Indigenous Consumer Strategy.

This Action Plan demonstrates our continued shared responsibility for ensuring that Australia's performance in Indigenous affairs is continually improved. The Action Plan will focus our efforts in working together to improve outcomes for Indigenous consumers.

Commonwealth, State and Territory consumer agencies are committed to the following strategic directions:

- promoting basic consumer rights recognised by the United Nations for Indigenous people in Australia
- building awareness, knowledge and confidence for Indigenous people to exercise their consumer rights
- improving access to consumer protection services utilising effective outreach engagement and
- improving market outcomes for Indigenous consumers.

We are committed to working co-operatively on the issues and actions identified in the plan.

We are also committed to regularly reviewing our achievements against the actions and will further develop the plan in light of these achievements. We recognise that there are many other stakeholders who make significant contributions to improving Australia's performance regarding Indigenous consumer affairs.

We invite stakeholders to adopt and implement the Action Plan.

Our commitment is supported by Ministers responsible for consumer affairs.

The Hon Michael Sukkar MP Assistant Federal Treasurer Minister for Housing Minister for Homelessness, Social and Community Housing	The Hon Kevin Anderson MP Minister for Better Regulation and Innovation New South Wales	The Hon Melissa Horne MP Minister for Ports and Freight Minister for Consumer Affairs, Gaming and Liquor Regulation Minister for Fishing and Boating Victoria
The Hon Elise Archer MP Attorney-General Minister for Justice Minister for Corrections Minister for the Arts Minister for Workplace Safety and Consumer Affairs Tasmania	The Hon Roger Cook BA GradDipBus MBA MLA Deputy Premier Minister for State Development, Jobs and Trade; Tourism; Commerce; Science Western Australia	The Hon Selena Uibo MLA Attorney-General and Minister for Justice Minister for Aboriginal Affairs Minister for Treaty and Local Decision Making Minister for Parks and Rangers Northern Territory
The Hon Shannon Fentiman MP Attorney General and Minister for Justice Minister for Women Minister for the Prevention of Domestic and Family Violence Queensland	The Hon Shane Rattenbury MLA Attorney-General Minister for Consumer Affairs Minister for Water, Energy and Emissions Reduction Minister for Gaming Australian Capital Territory	The Hon Vickie Chapman MP Deputy Premier Attorney-General Minister for Planning and Local Government South Australia

Introduction

This Action Plan represents the fifth iteration of the NICS Taking Action, Gaining Trust document and will cover the period 2022-2023.

The NICS Reference Group, consisting of consumer agency representatives, was established to monitor and coordinate implementation of the Action Plan. The NICS group now includes some independent members as strong advocates for Indigenous consumer rights. This reference group continues to take responsibility for the NICS and has established an effective collaboration when dealing with issues of mutual concern and shared jurisdictional responsibility.

The NICS Reference Group met in Brisbane on 17 July 2019 to review and renew the focus and strategic priorities for the Strategy's Action Plan for 2020-2022. The Reference Group decided to reframe the approach for the 2020-22 Action Plan to provide a combination of strategic priorities and collaborative projects, detailed below.

Due to the unforeseen impacts of the COVID-19 pandemic CAANZ endorsed NICS's request to extend the application of the NICS 2017-2019 Action Plan and postpone the implementation of the 2020-2022 Action Plan by twelve months so that it would become the NICS 2021-2023 Action Plan. Due to the ongoing impacts of COVID-19 and the establishment of new reporting arrangements with the Consumer Senior Officials Network in 2021 the proposed NICS 2021-2023 Action Plan has been adjusted into the current iteration, namely the NICS 2022-2023 Action Plan.

- The strategic priorities for this plan are:
 - consumer contracts
 - trading practices
 - scams
 - product safety and
 - financial services.
- The collaborative National Projects will be managed by a lead agency with input and assistance from NICS members, coordinated by way of detailed project plans that identify clear outcomes against stated timelines and have updates provided by the NICS Chair to CSON at its bi-annual meetings.

This approach represents a significant change in how the Action Plan is used to reinforce local activity and coordinate national priority actions. In undertaking this changed approach, the Strategy's Action Plan folds in the previous Plan's priority '*building agency capacity specific to consumer issues*' into the national projects, reinforcing and embedding the work already undertaken within consumer agencies to understand and deal with those consumer issues most relevant to Indigenous communities.

Statement of Principles

Consumer agencies recognise that:

- the rules that regulate traders and service providers need to be fair and responsive to the needs of Indigenous people
- cultural and operational changes are required within consumer agencies to respond to enquiries from Indigenous consumers in the most effective way
- employment of Indigenous staff in key positions in consumer agencies needs to occur
- education in Indigenous communities on the provisions of the Australian Consumer Law will continue to be a priority to ensure Indigenous consumers are empowered with knowledge of their rights and responsibilities when purchasing goods and services
- it is important for consumer agencies to continue to advocate on behalf of Indigenous consumers, and
- although jurisdictions have differing priorities, the Action Plan will be a template for action to improve Indigenous consumer awareness especially around consumer rights.

The priority areas and actions identified in the Strategy's new Action Plan recognise that consumer agencies need to continually monitor and adapt the way they deliver their services to Indigenous people.

Continuation of the NICS Reference Group as a forum for information sharing and activity coordination will ensure best practice in education and compliance strategies for Indigenous consumers.

Progress in implementing the Strategy's Action Plan will continue to be monitored, evaluated and reported on an annual basis.

It should be noted that the NICS Action Plan represents a set of national priorities in areas of coverage. As such there will be specific areas in which individual agencies will have a more limited mandate or reduced responsibilities and therefore it is not expected that all action items will be equally met by all agencies.

Section 1: Strategic Priorities for NICS 2022 – 2023

The NICS Reference Group has used the opportunity of the new Action Plan to restate the Strategy’s principles and to consider a new approach to setting Action Plan priorities. Rather than a prescriptive approach setting out how each priority should be approached, the priorities have been reset so they enable all jurisdictions to refocus on joint practice areas which will be used to inform jurisdictional responsibilities and actions.

The result is reshaped Action Plan priorities which adopt key fair-trading issues as a framework within which individual practice behaviours or issues of vulnerability are identified.

The priorities for this Action Plan will cover the following areas:

- consumer contracts
- trading practices
- scams
- product safety and
- financial services.

The following table details the consensus view of NICs members of priority fair trading matters and the specific issues most relevant to Indigenous consumers.

NICs members have agreed to use these priorities to inform both priority setting and activity development for matters within their jurisdiction. These priorities will also be used as the basis for evaluation and reporting on Action Plan related progress.

	Indigenous consumer specific issues	Strategic approach
1.1 Consumer contracts	<p>Within the broad area of contracts, a number of key issues and behaviours were identified as having specific relevance to Indigenous consumers.</p> <p>These were:</p> <ul style="list-style-type: none"> • The signing, agreement to, and understanding of contracts across all selling channels. • The need to target and reinforce trader obligations when entering into contracts with Indigenous consumers, especially where Indigenous cultural needs and wants are not recognised. • The need to consider contracting issues within NDIS packages. The NDIS issue response needs to focus on two key areas: 	<p>Individual agencies will use these strategies to inform jurisdictional priority setting and activity development as appropriate.</p> <ul style="list-style-type: none"> • Develop a qualitative evidence base on contracts for outreach and education: <ul style="list-style-type: none"> - Identify stories and case studies that illustrate both positive and negative outcomes around contracts within Indigenous communities including where possible ones that reference operational case law - Share this information through outreach and education mechanisms within each jurisdiction

	Indigenous consumer specific issues	Strategic approach
	<ul style="list-style-type: none"> • Increasing awareness of contract specific rights within the establishment of NDIS service agreements with providers • Addressing potential two-tiered pricing environments within remote communities. 	<ul style="list-style-type: none"> - Promote the role of intermediary agencies in identifying poor practice around contracts within Indigenous communities - Undertake proactive information delivery to those traders consumer agencies are monitoring for their trade practices behaviour within Indigenous communities - Promote remedies and complaint pathways to Indigenous NDIS recipients and through the First Nations Disability Network • Reduce the issue of gratuitous concurrence and its implications: <ul style="list-style-type: none"> - Proactively deliver information about gratuitous concurrence to traders consumer agencies are monitoring within Indigenous communities - Promote the ‘can say no’ message into Indigenous communities through outreach information and education activities.

	Indigenous Consumer Specific Issues	Strategic Approach
<p>1.2 Trading Practices</p>	<p>Within the broad area of trading practices there are a number of specific behaviours that are either unique to Indigenous consumers or affect them disproportionately.</p> <p>The following areas within trading practices need particular attention when considering the consumer rights of Indigenous Australians:</p> <ul style="list-style-type: none"> • The maintenance of consumer education around ‘book up’ practices especially in situations where the practice results in perpetuating consumer disadvantage • Unconscionable debt collection behaviour • Unsolicited selling including unauthorised access to remote communities for the purposes of unsolicited and high-pressure selling. • Sale of second hand motor vehicle goods and services, including high pressure sales tactics, the bundling of the sale of motor vehicles with credit and the provision of consumer guarantees to consumers. 	<p>Individual agencies will use these strategies to inform jurisdictional priority setting and activity development as appropriate.</p> <ul style="list-style-type: none"> • Engage with book up operations to identify consumer vulnerability and exploitative behaviour Include specific information around debt collection and consumer rights within the collection process as part of ongoing information and education outreach into Indigenous communities • Engage with community service providers when developing and distributing information around debt collection issues within Indigenous communities • Focus education and outreach activities into Indigenous communities to include the promotion of rights within unsolicited selling with particular emphasis on communicating the existence of cooling off periods. In particular : <ul style="list-style-type: none"> - continue to support and extend the ‘Do Not Knock informed’ campaign - Seek engagement support through community partnership approaches. • Focus consumer engagement on empowering consumers in enforcing their rights around the purchase of second hand motor vehicles and their subsequent consumer guarantee rights. • Engaging with second hand motor vehicle dealers to ensure legislative compliance.

	Indigenous Consumer Specific Issues	Strategic Approach
1.3 Scams	<p>Scams remain an important priority within the NICS Action Plan. There are numerous and ongoing scam activities that need to be monitored and responded to.</p> <p>A particular focus of this Action Plan will be to inform Indigenous consumers about information theft and its consequences.</p>	<p>Individual agencies will use these strategies to inform jurisdictional priority setting and activity development as appropriate</p> <ul style="list-style-type: none"> • Focus on empowerment messages in outreach and education activities • Develop strategies and approaches that create awareness within Indigenous communities of the risks associated with identity and financial details theft through <i>Phishing Scams</i>, and the need to adopt protective behaviour • Work towards a collaborative campaign targeting Indigenous communities on scams with a particular focus on: <ul style="list-style-type: none"> - romance scams - pornography extortion - false ATO notices - false Police notices.

	Indigenous Consumer Specific Issues	Strategic Approach
1.4 Product Safety	<p>The issue of product safety and recall communications is particularly problematic within Indigenous communities with many recall communications failing to reach these communities.</p> <p>As such there is a need to recalibrate and refocus product safety messaging into these communities both through trader responsibilities and consumer agency education activities.</p> <p>The issues identified as relevant to Indigenous consumers were:</p> <ul style="list-style-type: none"> • product recalls • safe use information and education • product warnings 	<p>Individual agencies will use these strategies to inform jurisdictional priority setting and activity development as appropriate:</p> <ul style="list-style-type: none"> • Give priority to the issue of product safety, particularly in the short to medium term. • Use proactive communication methods and tailor the messaging specific to Indigenous communities. • The characteristics of this approach include: <ul style="list-style-type: none"> - crafting specific messages around rights within the product safety environment - developing communications and media strategies that are effective in reaching and engaging Indigenous audiences which include the use of Indigenous specific TV, press, radio, and audio-visual options - enhancing regional and jurisdictional engagement and activity. • Communicate and reinforce the obligations on suppliers to ensure Indigenous consumers are communicated with during product recalls.
1.5 Financial services	<p>Access to and the empowering of Indigenous consumer around financial services has been identified as a priority area. The following particular sectors of the financial services industry have been identified as of particular concern:</p> <ul style="list-style-type: none"> • Banking <ul style="list-style-type: none"> - Fees - Access to culturally appropriate call centre services - Identifying and implementing alternative identification requirements that meet the needs of Indigenous Australians 	<p>Individual agencies will use these strategies to inform jurisdictional priority setting and activity development as appropriate.</p> <ul style="list-style-type: none"> • Focus on empowerment messages in outreach and education activities. • Engage with financial service providers to ensure to ensure legislative compliance. • Engage with financial service providers to encourage the provision of services tailored to the cultural needs and wants of Indigenous Australian consumers.

	Indigenous Consumer Specific Issues	Strategic Approach
	<ul style="list-style-type: none"> • Credit <ul style="list-style-type: none"> - Book up - Buy now pay later - Consumer leases - Short term, small amount finance • Superannuation including Self Managed Super Funds (SMSFs) • Funeral plans including funeral plans and funeral insurance 	

Section 2: National Projects 2022 – 2023

In a departure from previous NICS Action Plans, participating agencies will focus on National Projects that span the life-cycle of this current Action Plan. In essence National Projects will not only deliver results for Indigenous consumers, but they will also deliver an increased level of organisational competency and capacity to integrate Indigenous consumer affairs issues into the activities of consumer agencies.

National Projects will deliver a thematic core serving to both inform and link them. The central theme of National Projects is Indigenous consumers “*Knowing their consumer rights*”.

Taken as a whole, National Projects will deliver a level of consistency, competency, and service fidelity across all agencies. Each National Project will be managed by a lead agency responsible for the:

- Development and maintenance of a comprehensive project plan that includes a communications strategy, agreed milestones and dates for deliverables.
- Regular updating of NICS members including by way of bi-monthly NICS member meetings.
- Preparation of updates for the CSON bi-annual meeting which will be delivered by the NICS Chair recognising the work of the lead agency.