



The Director
Consumer Policy Unit
Market Conduct and Digital Division
The Treasury
Langton Crescent
Parkes ACT 2600

5 January 2024

By email: consumerlaw@treasury.gov.au

Dear Sir or Madam

Re: Treasury Laws Amendment (Measures for Consultation) Bill 2023: ACCC Designated Complaints Function (the Bill)

The Consumer Electronics Suppliers Association (**CESA**) welcomes the opportunity to make a submission on the draft legislation to implement a designated complaints function within the Australian Competition and Consumer Commission (**ACCC**).

CESA is a national, industry body in Australia representing the consumer electronics industry. CESA members comprise major suppliers and retailers of consumer electronic products in Australia.

CESA believes that the Bill is likely to have a more than minor impact on businesses, community organisations and/or individuals and would therefore require a Regulation Impact Statement (RIS) and reasonable consultation process to be undertaken to ensure proper policy development and decision making. It is unclear from the Exposure Draft Explanatory Materials whether a RIS was developed in relation to the proposal.

The timing of the consultation during the Christmas break has limited CESA's ability to properly gather members feedback however questions and/or concerns have been noted regarding the assessment process and publication of designated complaints proposed in the Bill.

CESA notes that the designated complaints function will empower 'approved' complainants comprising consumer and small business advocacy groups, to submit a complaint to the ACCC where they have evidence of a significant or systemic market issue affecting Australian consumers or small businesses. Once a designated complaint is lodged, the ACCC will be obliged to consider and publicly respond to the complaint within 90 days of receiving the complaint. The ACCC must state what further action, if any, will be taken in response to the

complaint and to commence such action within 6 months of issuance of a further action notice.

Information regarding the designated complaint will be published on the ACCC's website including details of the complainant's concerns and the action that the ACCC proposes to take in relation to the designated complaint.

Assessment of Designated Complaints

The assessment of the designated complaint is described in the Exposure Draft Explanatory Materials as an 'administrative assessment' of the complaint and preliminary or procedural in nature. CESA members are concerned to ensure that the assessment process:

- (i) affords organisations to which the complaint relates procedural fairness including an opportunity to reply and for that reply to be received and considered before the decision is made;
- (ii) is sufficient to determine whether a complaint is vexatious, frivolous, or not made in good faith.

Publication of Designated Complaints

CESA notes that the Bill requires that the ACCC publish certain information on the ACCC's website for the purpose transparency and for accountability in relation to the complaints function.

It is unclear whether the Bill intends that information published on the website identifies the organisation against which the complaint is made. If so, CESA members are concerned that this would prejudice organisations in circumstances where complaints have not been fully investigated, the outcome of the investigation have not been determined or decided by a Court.

CESA submits that designated complaint information published on the website should not disclose organisations' identity until such time as the investigation is concluded and only if enforcement action is taken.

CESA would appreciate clarification regarding the above matters and please do not hesitate to contact the writer should you have any queries in relation to these submissions.

Yours sincerely

Evelyn Soud
Chief Executive Officer