



LEGISLATION ADVISORY COMMITTEE

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The Chair
Commerce Select Committee
Parliament Buildings
PO Box 18041
WELLINGTON 6160

Dear Mr McClay

CONSUMER LAW REFORM BILL

Introduction

1. Permission to make a submission is sought by the Legislation Advisory Committee (LAC). As I advised in my letter of 6 March 2012, the LAC was only able to consider this Bill at its meeting on 30 March, and is now making this submission as soon as it could following that meeting.
2. The LAC was established to provide advice to the Government on good legislative practice, legislative proposals, and public law issues. The LAC has produced and updates the *Legislation Advisory Committee Guidelines: Guidelines on the Process and Content of Legislation* (LAC Guidelines) as appropriate benchmarks for legislation. The LAC Guidelines have been adopted by Cabinet.
3. The terms of reference for the LAC include:

- a. To scrutinise and make submissions to the appropriate body on aspects of Bills introduced into Parliament that affect public law or raise public law issues:
 - b. To help improve the quality of law-making by attempting to ensure that legislation gives clear effect to government policy, ensuring that legislative proposals confirm with the LAC Guidelines, and discouraging the promotion of unnecessary legislation.
4. The LAC wishes to draw the Committee's attention to certain aspects of this Bill on which consideration should be given to amendments, to better ensure that this Bill meets the provisions of the LAC Guidelines. These are as follows.

Clauses 17 and 28

5. These clauses introduce, *inter alia*, new sections 33C and 47L of the Fair Trading Act 1986 respectively. The LAC notes that the drafting of these new sections predates the enactment of the Search and Surveillance Bill. The LAC considers that new sections 33C and 47L should be reviewed to ensure that they are consistent with the protections contained in that Act.

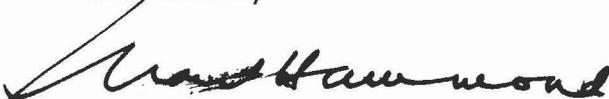
Clause 82

6. This clause provides for a right of appeal to a District Court against certain decisions of the Registrar of Auctioneers. The LAC has two concerns with this clause:
- a. First, there is no mention of the procedure that the District Court is to use in hearing the appeal, for instance whether the appeal can extend to matters of fact and whether the appeal is heard *de novo*. Paragraph 13.4.1 of the LAC guidelines states that a "statute should make it clear which...model of procedure the appellate body is to follow."
 - b. Second, it is noted that the decision of the District Court will be final (subsection (4)). While the LAC acknowledges that this is consistent with other regulatory schemes (for example, the Motor Vehicle Sales Act 2003), it considers that it is arguable that in this case there should be a second tier of appeal, with leave and solely on a question of law, to the High Court.

Conclusion

7. The LAC does not wish to be heard on its submission.

Yours faithfully



Sir Grant Hammond
Chairman, Legislation Advisory Committee