

International Perspective: Access to Justice for Consumers in the Global Electronic Marketplace

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1. Introduction

This Conference provides an important opportunity for consumer affairs agencies to consider, develop and advance new solutions for protecting retail consumers in the face of two powerful trends.

The first trend is the globalisation of markets driven by new technologies and advances in product marketing and service delivery. The second is the continuing retreat of governments, in many nations, from traditional forms of regulating the marketplace.

A new set of regulatory solutions with a focus on market-based remedies and global perspectives is required, and the challenge for delegates to this Conference is to contribute constructively to this process.

In essence these new forms of electronic commerce have great potential to enhance the welfare of consumers and deliver cost savings to business. At present, uncertainty about security, liability, redress and other consumer protection issues is holding back global electronic marketplaces to the detriment of consumers and business alike. It is through early identification and development of innovative and market-sensitive solutions to these challenges that consumer protection regulators and agencies can contribute most effectively to improving the well-being of consumers.

As the national competition and consumer protection regulator for a small open economy, my organisation, the Australian Competition and Consumer Commission (ACCC), has a keen interest in how consumers will be protected in global marketplaces. The ACCC is also well placed to observe how new forms of electronic and borderless commerce will impact on market structures and upon the regulatory arrangements adopted to protect individual consumers.

2. The Global Electronic Marketplace

Electronic commerce is emerging as the major force that is driving the globalisation of retail markets.

For wholesale markets, initiatives such as trade liberalisation and the increasing adoption of international standards are playing an important role in globalising the international economy. At the retail level, however, it is new forms of electronic commerce, driven by developments in information technology and

telecommunications (IT & T), which are the key mechanisms for establishing a global consumer marketplace.

2.1 New Technologies

I will not spend much time today outlining the new technologies which are driving this process, as I am sure that most of you are familiar with what they are and what they do. I will, however, briefly list the key commercial manifestations of these new technologies before considering their implications for the underlying nature of global commerce.

- **On-line commerce** - This can encompass various forms of home-shopping, home-banking and home-entertainment accessed through both 'open' and 'closed' on-line computer networks.

The Internet is an 'open' on-line system which does not restrict entry provided that users have the appropriate hardware, software and interconnection facilities. Open on-line systems such as the Internet need to be distinguished from proprietary or 'closed' on-line networks which have a restricted access, the so-called 'intranets'.

- **Smart cards** - These are cards that use miniature computer chips to store and process information on transactions.

Smart cards have significantly increased functionality when compared to traditional magnetic stripe cards (eg existing credit and EFTPOS cards). They can be loaded with monetary value and can operate in either fully-audited, partially-audited or non-audited systems.

- **Other technologies** - Increasingly other technologies are also operating across national boundaries to provide entertainment, marketing and client service delivery to retail consumers. The two best examples of this trend are probably call centres and cable television.

Call centre operations for direct marketing and client service are now operating internationally to exploit economies of scale and to take advantage of labour pools and tax incentives. Cable television, and especially home shopping channels, also provide a powerful mechanism for cross border marketing and sales, especially when used in conjunction with call centres and on-line computer systems.

2.2 Implications

New IT & T developments of the type outlined above are changing the face of retail markets in many ways. Since the establishment of the world wide web (WWW), the Internet in particular is transcending national boundaries in a manner never before seen for retail transactions.

It is true that at present most retail activity on the 'net' is focused on providing sophisticated marketing outlets, with transactions being completed largely through other mechanisms (eg post or telephone). What on-line transacting there is tends to be for information type products (eg computer software or travel bookings) that can be

easily delivered or confirmed on-line. In this sense, on-line commerce is still being held back by concerns about security of transactions, the speed of operating and searching the system, and the patchy nature of much of the commercial content. [These impediments are discussed further in Burnside, JWK (1996) 'Internet and Legal Users - Practical Issues', Australian Law Librarian , 4, December, pp. 233-234, and in a recently released 'Draft Report on Electronic Commerce' by the Commonwealth Bureau of Consumer Affairs in Australia, unpublished.]

However, as these largely technical concerns are overcome, it seems almost certain that on-line markets and other forms of electronic commerce will expand rapidly to the point where a truly global retail marketplace will emerge. Already some industries are feeling the effects of these new technologies, especially those which are essentially information and booking services. For example, travel services and ticketing, particularly in the United States, are increasingly being delivered remotely through a combination of on-line and call centre channels with significant cost savings and lower prices.

This global electronic market will present both tremendous opportunities as well as some very real challenges for regulators, industry and consumers.

3. Opportunities

The advent of a global electronic marketplace presents many opportunities for consumers and businesses alike. I would like to focus upon the opportunities today, since I think that perhaps too often in the debate over electronic commerce it is the difficulties which have been restated and re-emphasised.

Indeed, electronic commerce, and on-line commerce especially, has the potential to close the gap which so often exists between idealised economic models of perfect competition and the imperfect way that many markets actually work in practice. [The potential economic benefits of electronic commerce in terms of market structure are considered in Gittins, R. (1997), 'Will Electronic Commerce Drive Structural Change in the Financial Services Industry and Enhance Competitiveness of the Australian Capital Markets?', Paper presented to the ASC Electronic Commerce Conference, Sydney, 4 & 5 February. See also the Report by the US Federal Trade Commission Staff (1996), Anticipating the 21st Century: Consumer Protection Policy in the New High-Tech Global Marketplace, Volume II , pp. 1-2.] On-line commerce can do this by increasing competition amongst suppliers and by decreasing the opportunity and transaction costs faced by buyers in gathering and processing information.

3.1 Increased competition

Electronic commerce has the potential to deliver significant gains to consumers in terms of price, quality and service through increased competition. This is likely to happen for two interrelated reasons - lower barriers to entry and increased numbers of suppliers competing in product markets.

Traditionally, local or geographic monopolies have persisted because of high barriers to entry linked to large establishment (fixed) costs in such areas as physical infrastructure, distribution networks and advertising.

The Internet, and to a lesser extent other electronic service delivery channels, lower barriers to entry significantly for providers of many products and services. SMEs can compete more successfully against large players in cyberspace, not only through using a cheap service delivery and marketing channel, but through having low overheads (in terms of shopfronts, advertising, etc). SMEs can also exploit niche markets through a focus on specialised and cult products (as discussed below).

Since the internet allows newer and smaller players to promote and sell products in direct competition with larger players, it will increase the number of competitors in the market. Consumers can now tap into a global market and are not bound to a restricted number of physically nearby suppliers - improved choice, price and quality should result.

3.2 Expanded access to information and reduced transactions costs

The above is really a supply-side improvement in the market. On the demand-side, however, there are also gains that can be expected from the global electronic marketplace. Again, these are twofold and interrelated - improved access to product information and lower transactions costs for consumers.

In the past, consumers have traditionally searched for products within a geographically restricted market. Physical limitations on travel, and problems in generating and processing information on suppliers have imposed these limits. Consumers have felt more confident in assessing information of local origins and have been more comfortable purchasing products from local suppliers. This does, however, restrict choice and it imposes considerable costs in terms of gathering information from diverse sources and assessing it.

On-line systems have now provided consumers with product information which is global and accessible at a single point.

Admittedly, considerable difficulties exist at present with regard to the precision of 'search engines', the variability of information and the security of transactions. However, as technical solutions for security and searching are developed, and on-line information brokerage and vetting intermediaries emerge, consumers should expect their search and transactions costs to fall significantly for purchases of a wide range of on-line products and services.

Just as lower barriers to entry and increased numbers of suppliers move markets closer to the theoretical ideal of neoclassical economic models, so does increased information and lower transactions costs for buyers.

3.3 The rise of niche marketing

An interesting phenomenon created by the global on-line marketplace is the rise of niche product and service delivery. Niche traders rely on cult appeal and the ability of potential customers to find them, rather than the other way around.

The appeal of a given novelist, or rock band, or cartoon character is generally insufficient to sustain a dedicated shopfront operation in any given city or town.

Could any of you imagine a physical shopfront dedicated to Raymond Chandler books, or Buzzcocks records, or Ren and Stimpy cartoons and collectables?

Yet they exist on-line, albeit as part of wider information and 'fan club' operations.

This is because in cyberspace 'the world' literally 'is your oyster', and enormous economies of scale exist for promoting and trading in niche and cult products. When coupled with the relatively low cost of setting up a web site and transacting on-line, the ability to aggregate what would otherwise be very small customer numbers has facilitated the rise of niche marketing in the global electronic marketplace.

4. Challenges

In addition to providing some significant opportunities for consumers and businesses alike, the emergence of a global electronic marketplace also presents a range of challenges for market participants and regulators. These challenges relate broadly to competition issues, consumer protection issues and enforcement issues.

4.1 Competition issues

Having noted earlier that the emergence of a global electronic marketplace has the potential to promote competition in a range of ways, it is also true that electronic commerce raises some new and potentially difficult competition issues. For example:

- **Convergence of markets** - New service delivery channels utilising developments in IT & T are now bringing industries that were once quite distinct much closer together and are therefore raising issues of market definition.

For example, the growth of electronic banking (via home computers, call centres, ATMs, etc) is blurring the boundaries between the financial services markets and IT & T markets. As a consequence, strategic alliances or mergers between financial institutions and IT & T companies could present competition concerns in the future, where as in the past this would not necessarily have been the case.

- **Price fixing** - The speed and general accessibility of the Internet makes it an ideal mechanism for firms to not only make prices known to their customers but also to each other.

On-line systems could facilitate collusion in a number of ways. They could do this through providing an effective mechanism for price signalling, but also by increasing the ease with which a rival's prices can be monitored and the speed with which 'cheating' on collusive arrangements can be detected and 'punished'. [See Baker, JB (1996), 'Identifying Horizontal Price Fixing in the Electronic Marketplace', Antitrust Law Journal , 65, Fall.]

- **access arrangements** - As the importance of electronic commerce grows, it can be expected that access to systems and technologies that facilitate electronic commerce will become a crucial issue.

For example, access issues are likely to emerge with regard to smart card and on-line payments systems, the use of new encryption technology for transferring credit and other payments details on-line, and access arrangements for telecommunications infrastructure by smaller ISPs on-selling connectivity services.

These examples are not intended to be an exhaustive list of the competition implications from new forms of electronic commerce, but rather an attempt to highlight some of the more difficult competition issues that may be presented for regulators by the emergence of a global electronic marketplace. [For a more comprehensive list of possible anti-competitive effects arising from electronic commerce, see Carver, L. (1997), 'Retail Electronic Commerce - A Regulatory Perspective for the Year 2010', Paper presented to the ASC Electronic Commerce Conference, Sydney, 4 & 5 February.]

4.2 Consumer protection issues

In addition to competition issues, the ACCC, as a national competition and consumer protection regulator, has also been considering the implications of electronic commerce and global marketplaces for the protection of consumers' rights. [The Commission's views on these matters have been put forward in various forums. See for example Asher, A. (1996), 'Consumer Protection and On-line Services Regulation', Paper presented to the On-line Services Regulation Forum, Sydney, 23 April, and chapter 6 of the ACCC's (1996) Second (Main) Submission to the Financial System (Wallis) Inquiry , Australian Competition and Consumer Commission, September.]

At a broad conceptual level, the difficulties faced by consumers in using different forms of electronic commerce (Internet, smart cards, call centres, etc) can be classified into several related problems, of which the following are probably the most crucial:

- **Consumer liability** - Who is liable in cases of loss, damage, errors or unauthorised transactions?
- **Security** - What methods can be used to secure payments and other data that consumers transmit during commercial transactions? What role can cryptography play in electronic commerce? Other issues of concern are the need to ensure that payment information is received by the correct trader, and that the correct amount is paid/debited/credited to the consumer's account.
- **Transaction records and audit trails** - What records of electronic transactions will consumers have, and what legal status will these records have? What type of audit trails (if any) will remain for reference in cases of a dispute about a transaction?
- **Privacy** - What safeguards will exist to ensure that only relevant personal information is collected? Once personal information is collected, what safeguards will exist to ensure that the collection, use and storage of that information is undertaken in a manner commensurate with the protection of individual privacy?
- **Identifying reputable traders** - How will consumers be able to easily distinguish between rogue and reputable traders when local brand names

- become less relevant, traders can have a considerable degree of anonymity, and many traders are based outside the consumer's local jurisdiction?
- **Pricing** - Using electronic commerce rather than traditional retailing provides many cost benefits to suppliers (eg lower overheads and staff costs).

To what extent will these cost savings flow on to consumers by way of lower costs for using electronic commerce?

- **Consumer redress and dispute resolution** - In the anonymous world of the Internet, for example, how will consumers be able to locate traders in cases of complaints or disputes? Will appropriate complaints resolution services apply to on-line transactions, smart cards, telephone banking, etc?
- **Safety standards** - What effect will cross-border transactions have on the effectiveness of product safety requirements?
- **Access** - To what extent will access to electronic commerce be limited for some sectors of the community (ie those with limited financial resources and/or lack of familiarity with technology)? What implications could this have?

I believe that unless these problems are resolved properly, the degree of consumer protection, and consequently consumer confidence, in using these new forms of electronic commerce, could remain low and retard their growth. Industry, consumers and regulators therefore have a strong incentive to see that these challenges are overcome.

4.3 Enforcement issues

In global electronic marketplaces there are also additional problems which arise in detecting, proving and prosecuting breaches of consumer rights. [The Commission has just released a 'Discussion Paper on Enforcement of Consumer Rights in a Global Marketplace' which considers these and many of the above issues in detail.] These include:

- **Evidentiary issues** - The anonymity and borderless nature of the Internet and other on-line services means that identification and location of operators in cyberspace may not be possible. At best, identification and location may only be possible electronically and not physically.
- **Jurisdictional issues** - The operation of on-line systems across international boundaries raise clear jurisdictional impediments to nation based regulatory and enforcement agencies like the ACCC. Most nations have very limited powers to enforce legislation on persons operating outside their jurisdiction.
- **Choice of law** - Global transactions raise issues of conflicts of law - that is the question of which country's law should govern the transaction.

The more traditional problem of the consumer and supplier being in two different countries can be complicated in the case of on-line transactions. For example, the supplier can be based in one country, the home page in another, and the goods delivered from a third country to the consumer in a fourth country.

- **Frauds and scams** - Although a large percentage of global traders are legitimate, scams using global market mechanisms (such as the Internet, and international telemarketing and mail order networks) are also prolific. Specific problems include get-rich-quick schemes, prizes and giveaways, phoney charities and unsolicited requests for payment. Consumers can even be bitten twice by "recovery scams" where consumers caught by a scam are then contacted by a party promising to get their money back for them.

The ACCC is treating enforcement activity in this area as a high priority and has recently taken action with regard to a number of global scams affecting Australian consumers (see below).

5. Responses from the Market

Given the impediments to traditional forms of enforcement activity, especially in open on-line networks, I strongly believe that self- and co-regulatory solutions will play an important role in extending consumer protections into cyberspace.

Industry itself has a very strong incentive to establish and maintain consumer confidence in using these new electronic and borderless forms of commerce, so as to increase the use and acceptance of new technologies and global marketplaces by consumers.

The commonality of interest between regulators, consumer groups and industry participants in seeking to establish consumer protections presents significant opportunities for a range market-based mechanisms to be developed.

5.1 Codes of conduct

Domestic industry codes of conduct offer a market-sensitive and practical way of improving the degree of protection and confidence consumers can expect in undertaking transactions through electronic means.

Already in Australia, we have a very effective code governing electronic funds transfer (EFT) through traditional magnetic stripe cards issued by financial institutions - the EFT Code. This code has been operating effectively for a number of years. More recently, we have seen draft codes of conduct being developed in Australia for both internet services and for smart cards.

Indeed, the 'Internet Industry Code of Conduct' currently being developed by the Internet Industry Association of Australia (intiaa) is a very encouraging attempt to protect on-line consumers from fraudulent operators. By identifying association members, or other industry operators who agree to be bound by the rules of the Code, the 'intiaa' initiative will assist consumers to identify ethical on-line traders. The code also deals with some of the other consumer protection issues that I have raised today and is the type of response that the ACCC strongly supports.

However, national industry codes may only apply to offenders and offences that can be shown to have taken place in Australia, hence national industry bodies will face the same jurisdictional problems as regulators. What is required is the development of

international industry associations with global codes of conduct to spread industry-based protection for consumers into the global electronic marketplace.

For example, international peak bodies representing the on-line industry could work with consumer protection agencies to develop internationally recognised codes of conduct and dispute resolution mechanisms to protect consumers. In this way the industry itself can help to resolve the difficulties confronting and retarding on-line commerce to the benefit of consumers and ethical on-line traders.

Indeed, it could be that the challenges of global commerce may bring forth some exciting and innovative phases in industry self-regulation, as 'soft law' shifts to an international stage. This seems to me to be a logical development if industry codes are to apply effectively to global electronic commerce. Indeed, the ACCC understands that New Zealand has been at the cutting edge in this regard by liaising closely with intiaa to develop an internet industry code which is along similar lines to that being developed in Australia. Such initiatives are what is needed in an increasingly global marketplace and are to be encouraged.

5.2 Role of large global players

The emergence of large global players in the IT & T and financial services industry also provides opportunities for advancing consumer protection in global electronic markets.

More specifically, those large players could and should take on a role of vetting access for businesses to the payment networks, encryption systems and other technologies that those large firms provide. In this way, commercial order can be imposed in global electronic markets, and consumers can use these systems with the confidence that they are dealing only with reputable agents that are screened and monitored by global businesses.

The development of 'closed' on-line (intranet) systems and 'cybermalls' for retail and wholesale commerce by large IT operators is designed to achieve this, at least in part.

Indeed, the application of industry codes (domestic and international) and vetting by large global firms may well be formalised or enhanced through the use of rating systems for on-line traders - a type of commercial PICS system which would unify and codify any such arrangements.

5.3 Importance of brand name and reputation

The potential of the internet to allow SMEs to compete with larger firms has been noted earlier, and this reflects the evenness of the playing field in cyberspace. Volume of business will be linked to the quality of web sites and the targeting and value of services provided.

Market pressures should impose themselves over time on the 'net' as the reputation, and corresponding sales, of on-line traders rises or falls. Reputation will be reflected in advice from Internet users and consumer groups, links from other 'reputable' sites and the activities of on-line information brokers. The later category of on-line service

is likely to emerge as a growth industry to help increasing numbers of cash rich but time poor net surfers find and purchase what they are looking for.

Businesses with a good reputation and customer loyalty in traditional forms of commerce will also be able to enjoy a marketing and trading advantage in cyberspace.

5.4 Role of consumers and advocacy groups

Consumers and consumer groups also have an important role in helping to make markets work. They can do this by providing education and information to consumers, and in helping to establish or demolish the reputation of on-line traders, as appropriate.

As with industry, consumer groups will also need to act in concert globally.

In fact, over the past thirty years or so, the consumer movement has already been interconnecting at a global level. For example, organisations like Consumers International have... *(details to be provided by Allan Asher from the International Consumers' Directory, etc.)*

I also believe that the information revolution itself, having contributed greatly to the development of a global marketplace, will also enable consumer protection agencies, consumer advocacy groups and individual consumers to more effectively identify and publicise the work of scam operators and fraudulent on-line traders.

Indeed, individuals and networks of dissatisfied consumers/watchdogs are already using the Internet to alert other users to scams taking place on the Internet. The mass access and distribution of information which on-line systems allow may prove to be a great boost to the protection and enforcement of consumers' rights in the global marketplace.

6. Responses from Regulators

So what does this all mean for regulators, and particularly for regulation of commercial conduct?

What it is likely to mean is that the focus, mechanisms and style of regulation will need to change in line with changes to commerce itself, and that flexibility and durability will be the keys to effective regulatory structures.

To establish the flexibility needed, only the minimum necessary intervention should be imposed on industry, enabling those with the industry-specific knowledge to respond rapidly to new developments in the market. A flexible structure is also likely to be a durable one in that it will minimise the danger of new products, supply mechanisms or suppliers rendering the existing consumer protection structure and mechanisms impotent or irrelevant.

6.1 Increased reliance on 'soft law'

The incentives for industry to help bring some form of order to borderless and virtual markets are strong. At the same time, it appears that 'hard law' and nation-based legislation may be less effective in protecting consumers rights in these environments. Governments and regulators must recognise this shift and adjust the orientation of their regulation accordingly.

More specifically, the emphasis needs to shift to 'soft law' as reflected in industry codes of conduct - both nationally and internationally - and to vetting and classification arrangements that signal to consumers the degree of protection they can expect in dealing with particular entities. Regulators can play an important role in facilitating, monitoring and improving on those industry-based arrangements that do emerge to impose commercial order in these new electronic mediums. [See ACCC, op cit , chapters 5 - 8, and the ACCC's (1997), ' Third (Supplementary) Submission to the Financial System (Wallis) Inquiry , Australian Competition and Consumer Commission, January, passim, for discussion of the value of codes and industry-based solutions in providing market-sensitive, flexible and effective consumer protection outcomes.]

It is important, however, that industry codes of conduct, be they domestic or international, offer meaningful protections and redress for consumers, and provide appropriate sanctions for offending firms. If codes do not meet appropriate standards in these and other areas, then regulatory policy based upon 'soft law' will have failed - this is a crucial challenge that competition and consumer affairs regulators must meet. Recently, the ACCC has prepared a 'best practice' Guide on Fair Trading Codes of Conduct to help industry in preparing meaningful and credible codes. [Fair Trading Codes of Conduct: Why Have Them? How to Prepare Them, (1996), A Guide prepared by the Commonwealth, State and Territory Consumer Affairs Agencies, AGPS, October.]

6.2 Economy-wide competition and consumer protection regulation

As noted above, the emergence of electronic commerce and global marketplaces is likely to blur the existing boundaries between sectors in the economy

The development of new products, service delivery channels and conglomerates is likely to make sector-specific regulation and legislation less effective in future. Indeed, it seems that 'soft law' will become a more relevant and effective mechanism for achieving industry-specific regulation of day to day 'transactions'.

Increasingly, governments will be forced to take a whole of economy view to regulating commercial activity. Regulators will be whole of economy entities which focus on enforcing broad 'framework' legislation designed to set the underlying standards for commercial conduct and self-regulatory initiatives.

Regulatory structures without an economy-wide perspective will not be flexible enough to deal with types of changes associated with global electronic commerce and will become increasingly irrelevant and ineffective.

The emergence of global marketplaces, and the continued deregulation of former state owned industries in many OECD countries, is also likely to bring competition and

consumer protection regulation closer together. Increasingly, they are being seen as means to the same end - the enhancement of consumer welfare through improvements to price, choice and quality available in markets - albeit with competition being a more macro focus and consumer protection operating at a more micro level.

All of this means that a regulatory structure based on national (framework) competition and consumer protection organisations is going to prove the most effective and ‘future proof’ in the face of technological, product and market changes. [These trends and their implications for optimal regulatory structures are discussed in ACCC, op. cit. (Third Submission) chapter 1.]

6.3 Expanded role for international co-operation, organisations and standards

Not only does the establishment of peak national regulatory bodies enhance the effectiveness of domestic regulation but it will facilitate international co-operation between regulators. This co-operation will need to encompass both consumer policy and consumer protection enforcement.

Indeed, in an increasingly global market it will be necessary for increased and more formal co-operation and information sharing between nation-based regulators. There will also be an important role in consumer protection for international organisations like the Organisation for Economic Co-operation and Development (OECD) and World Trade Organisation (WTO).

The work of the OECD Consumer Policy Committee in particular, with which I was involved heavily with for some time, has done a great deal of good work in this area. In particular, the Committee’s work on harmonising of credit charge-back arrangements between jurisdictions and minimising cost differentials in parcel post arrangements, have done much to help reduce some significant barriers to global retail commerce and reduce cross-border transactions costs.

Another effective international forum for coordinating and developing consumer law in the global context is the International Marketing Supervision Network (IMSN), which includes members from 24 countries and meets twice a year.

With the OECD Consumer Policy Committee and the IMSN, we already have two excellent forums for international co-operation on consumer protection policy and enforcement. Forums which are delivering effective reforms and initiatives in this vital area of regulatory co-operation.

Unfortunately, individual governments have been slow to act in this area to the detriment of global commerce and consumer welfare. There is still no effective international mechanisms for addressing these transnational and interjurisdictional problems and this reflects a rather myopic view to policy making and enforcement by many national governments. I would encourage all delegates to support the work of these international bodies and to pressure their respective governments to provide input and resources for these bodies.

6.4 Increased Enforcement Action against Global Scams and Frauds

As with many new frontiers, the pursuit of global electronic commerce has run ahead of legal and enforcement solutions, attracting 'bandit' and 'cowboy' elements which have created a genuine concern for consumers and legitimate on-line retailers. It is here that consumer protection agencies and regulators should be focussing their enforcement work, indeed the ACCC has given such matters a high priority in its enforcement activity.

The ACCC continues to pursue enforcement action against international scammers that perpetrate fraud against Australian consumers through a process of international cooperation with other national enforcement agencies. Two recent examples of the ACCC's involvement in international enforcement activities are the Golden Sphere pyramid selling scheme and the Destiny Telecomm telecard scheme.

More specifically, the Golden Sphere pyramid selling scheme was run by a Vanuatu company, for which the ACCC sought to restrain promoters and instituted a class action on behalf of participants who lost money in the scheme. The Destiny Telecomm telecard scheme operated out of California, for which the ACCC obtained an injunction to prevent the promotion of the scheme, the signing up of new participants, and the use of credit card details that have already been provided.

6.5 Importance of education and provision of information for consumers

Even with the efforts of regulators, industry and consumer groups to protect consumers in global electronic marketplaces, fraud and scam operators are likely to persist, especially those located in 'regulatory havens'. The upshot of this is that mechanisms like the 'net' will have regulated parts where consumers can expect to have access to justice, but there is also likely to remain some unregulated parts in which buyers should beware.

In this circumstance it is important that consumer protection agencies help to educate consumers about what protections exist in global markets, and what the consequences can be for transacting where they don't exist.

7. Conclusions

In speaking to you today, I have tried to identify the potential benefits that are likely to flow from the global electronic marketplace and to raise some of the challenges that will be posed for national regulators, industry and consumers. Despite the difficulties, I believe that mechanisms to improve consumers access to justice in the global marketplace can be found.

Industry should play an important role here and it has a strong incentive to do so, both domestically and internationally. Consumer groups can also help to improve global markets through education and the dissemination of information.

For regulators, the emergence of global electronic marketplaces raises new challenges. These can be met, however, through the adoption of robust and flexible regulatory structures based on 'peak' national regulators, an increasing recognition of the importance of industry-based solutions, an expanded role for international cooperation, organisations and standards, a focus on enforcement against global

scams and frauds, and through the education and warning of consumers about the global marketplace.