

Ministerial Council on Consumer Affairs
Standing Committee of Officials of Consumer Affairs

A new approach to consumer policy
Strategy 2010-2012

4th December

09

A New Approach to Consumer Policy

The implementation of the Australian Consumer Law and other Council of Australia Government (COAG) reforms will dramatically change the way consumer policy is developed and implemented in Australia.

Australia's consumer laws will be simplified and rationalised. This will make enforcement more effective and improve consumer and business awareness of their respective rights and obligations. It will also offer the opportunity to achieve greater policy coordination and regulatory consistency with New Zealand, as a Ministerial Council on Consumer Affairs (MCCA) member.

Informed consumers drive competition, improving the range and quality of products and services they seek and enhancing market efficiency. In turn, this means businesses can be more competitive, driving economic wellbeing for the benefit of all consumers.

A more competitive market in Australia and New Zealand, allows Australian and New Zealand businesses to serve their customers better, become more efficient and resilient and to compete more efficiently in world markets.

To work effectively in this new environment and to take advantage of the opportunities it presents, MCCA, supported by the Standing Committee of Officials of Consumer Affairs (SCOCA), has developed a strategy that sets out its aspirations and priorities for the next three years.

MCCA in a Changing Market: Adapting Consumer Policy To New Challenges

Markets work best when consumers are informed and confident in their purchasing decisions.

The events of the 2008-09 global financial crisis have challenged many of our assumptions about regulation, and citizens increasingly look to governments to manage and, where necessary, correct, systemic industry problems which reduce consumer welfare. Businesses look to governments to provide a stable regulatory environment, which minimises compliance costs and fosters innovation and efficiency.

Consumer product and service markets are changing. Consumers enjoy an unprecedented range of goods and services from which to choose, and new ways of accessing these goods and services. These opportunities, which provide huge benefits for consumers, also pose new risks.

Businesses confront challenges raised by new markets and the global financial crisis. At the same time as demand has slowed and business credit has reduced, many conventional businesses are confronted with new competition in the form of changed consumer spending patterns and the dramatic expansion of e-commerce.

MCCA and SCOCA, in developing consumer policy and designing regulation, are subject to a wide range of external influences. These are set out in figure 1 and have been taken into account in developing this strategy.

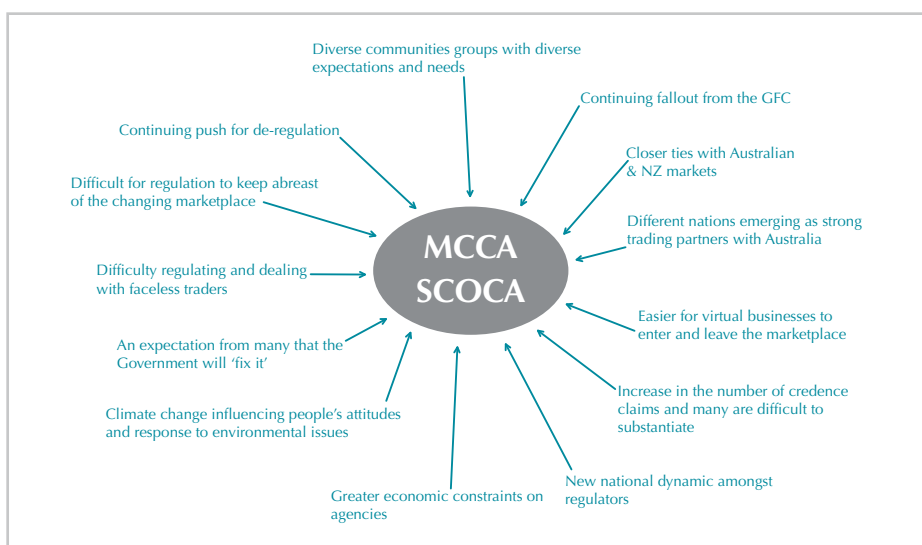


Figure 1

The National Consumer Policy Objective

On 15 August 2008, MCCA agreed to the national consumer policy objective:

‘To improve consumer well being through consumer empowerment and protection fostering effective competition and enabling confident participation of consumers in markets in which both consumers and suppliers trade fairly.’

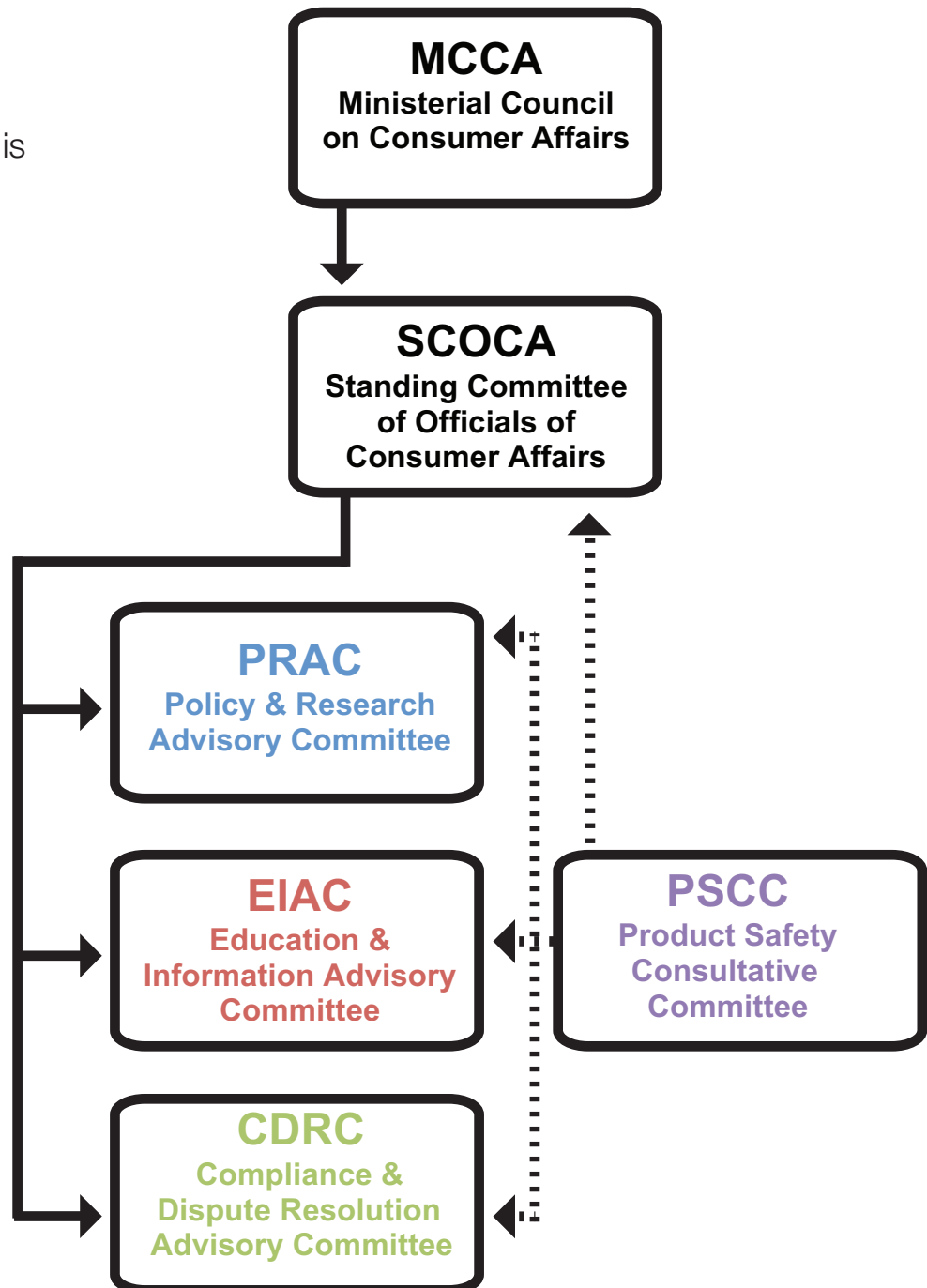
This is supported by six operational objectives:

- to ensure that consumers are sufficiently well-informed to benefit from and stimulate effective competition;
- to ensure that goods and services are safe and fit for the purposes for which they were sold;
- to prevent practices that are unfair;
- to meet the needs of those consumers who are most vulnerable or are at the greatest disadvantage;
- to provide accessible and timely redress where consumer detriment has occurred; and
- to promote proportionate, risk-based enforcement.

Managing Consumer Policy and Reform: MCCA'S Structure

To achieve its goals, MCCA has revised the way in which it works.

MCCA's new structure is shown:



Aspirations For Consumer Policy: MCCA'S Goals For 2010-2012

In its work, MCCA will take account of the expectations and aspirations of consumers and businesses, as well as the views of governments, regulators and civil society.

To reflect this, MCCA has considered the current consumer policy environment, and developed its own aspirations for the Australian and trans-Tasman marketplaces as jurisdictions work co-operatively to modernise and harmonise consumer law.

This vision emphasises the importance of:

- consumers being more informed of their rights, better able to act in their own interests to protect their rights and aware of their options to seek advice, assistance and redress;
- businesses being informed about their responsibilities in the marketplace;
- ensuring that consumer laws and regulations are more effective, so as not to stifle competition and innovation, both domestically and internationally, and to enhance consumer wellbeing; and
- ensuring that compliance and enforcement regimes deal with those traders that do not comply with the law.

Aspirations For Consumer Policy: MCCA'S Goals For 2010-2012

MCCA's aspirations for consumer policy by 2012 are:

Consumers and businesses enjoy the benefits of simpler consumer laws

- Businesses deliver better and competitively priced goods and services and are internationally competitive.
- A generic consumer protection law, with industry-specific regulation used only to address genuinely industry-specific problems.

Consumers drive compliance with the law

- Consumers understand the law and take responsibility for the risks they can control.
- Consumers can access the information they need to make their buying decisions at a relevant time in the purchasing process.

Consumer laws are reaching the most problematic traders and protecting vulnerable consumers

- All consumers experience the same outcomes.
- Consumers and businesses have access to advice and information no matter who they are or where or how they buy.
- The same rules apply for businesses no matter where they operate.
- Non-compliant traders are dealt with consistently and in time to avert significant detriment.

Emerging consumer issues are identified early and responded to in a rapid, cohesive manner

- Market surveillance is effective.
- Enforcement actions are coordinated and efficient.
- Enforcement outcomes are consistent and credible.
- Policy decisions are based on sound evidence.

- MCCA and SCOCA are engaged with consumer policy and enforcement internationally.

The impact of consumer policy regulatory reform is demonstrable

- MCCA has delivered on COAG reforms.
- SCOCA has improved operational cooperation across all jurisdictions.
- MCCA and SCOCA are a source of general consumer policy expertise and leadership, given the wide-ranging relevance of consumer policy issues in many policy areas.
- Cooperation and harmonisation in consumer policy development and enforcement activity between Australia and New Zealand is advanced.

Making Consumer Policy Work: MCCA'S Priorities For 2010-2012

The priorities set MCCA's and SCOCA's agenda. They determine where the majority of time, effort and resources will be allocated in delivering MCCA's work.

MCCA's Strategic Priorities

1. Complete COAG's consumer law reforms, with a particular focus on the Australia Consumer Law (ACL).
2. Rationalise and harmonise other consumer laws.
3. Articulate the benefits of rational, robust and effective consumer policy.
4. Promote the achievement of consumer outcomes under the Australian and New Zealand Single Economic Market Framework Agenda.
5. Develop a consistent approach to gathering and analysing intelligence on issues in consumer product and service markets.
6. Implement a national communication strategy to educate businesses and consumers on Australia's new consumer laws.
7. Develop and implement a policy and research program to inform MCCA's consumer policy agenda.
8. Develop the national capacity of Australia's consumer agencies.

The projects for each strategic priority, with associated deliverables and accountabilities, are listed in Appendix I.

MCCA's Operational Priorities

9. Renew the National Indigenous Consumer Strategy.
10. Review consumer protection in the travel and related travel services markets.
11. Refine MCCA and SCOCA governance arrangements and enhance their roles, capacities and profile.

MCCA's engagement in other COAG initiatives

MCCA has a policy interest in a range of other COAG projects.

These reform projects are led by other Ministerial Councils under COAG's auspices, but, in many cases, the required work is being advanced by consumer agencies and MCCA, with its responsibility for consumer policy issues.

These projects have significant implications for, and impact on, the capacity of consumer agencies. Each additional COAG project involves a transfer of responsibility for regulation to the Commonwealth or a new national body and in each case requires:

- policy development and agreement on new laws;
- repeal of state and territory laws and making appropriate transitional and consequential arrangements;
- transfer of significant data records and restructuring data collection and information sharing systems within and between consumer agencies;
- redeployment of resources within consumer agencies; and
- ongoing monitoring to ensure consumer protection is maintained and enhanced in these areas and influencing to effect change.

Current COAG projects of direct relevance to consumer agencies are:

- development and implementation of the national credit reforms;
- development and implementation of a new national trade measurement system;
- development and implementation of a national personal property securities regulatory system;
- development and implementation of a national business names registration system; and
- development and implementation of a national occupational licensing system.

Review of Strategic Agenda

This Strategy will be formally reviewed in the second half of 2010 with the intention of refreshing the strategic agenda for 2011-2012.

Appendix I: MCCA'S Strategic Priorities

Project	Outputs	SCOCA Advisory Committee	Project Lead Agency
1. Complete COAG's consumer law reforms, with a particular focus on the ACL.			
1.1 Implement the ACL legislation and associated regulations.	<ul style="list-style-type: none"> • Passage of the Commonwealth ACL Bills in sufficient time to allow States and Territories to pass application laws (1 January 2011). • Harmonised State-based provisions to support the new Act (1 January 2011). • Commencement of the ACL (1 January 2011). • Relevant regulations in place after the passage of the ACL (31 December 2011). 	Policy and Research	Australian Government - Treasury
1.2 Implement the national consumer guarantees law.	<ul style="list-style-type: none"> • Passage of the national consumer guarantees law as part of the ACL (1 January 2011). 	Policy and Research	Australian Government – Treasury
1.3 Develop and implement the national occupational licensing scheme.	<ul style="list-style-type: none"> • Issues identified, monitored and where required, escalated for each NLS milestone. • The MCCA/SCOCA position has been communicated to COAG for each NLS milestone. 	Policy and Research	NSW
2. Rationalise and harmonise other consumer laws.			
2.1 Determine the feasibility and, where appropriate, implement harmonised conduct provisions for national licensing occupations.	<ul style="list-style-type: none"> • A report presented to MCCA that identifies conduct provisions for potential harmonisation with their associated rationale and the feasibility for each (April 2010). • A project plan for the development of harmonised provisions for the identified conduct elements (April 2010). • If approved, implementation of the project plan <ul style="list-style-type: none"> ○ Stage 1: Commence 2010 ○ Stage 1: 2012, and ○ Stage 2: 2013. 	Policy and Research	SA
2.2 Operationalise harmonised conduct provisions	<ul style="list-style-type: none"> • Develop and implement operational guidelines for harmonised provisions. 	Compliance and Dispute Resolution	NSW
2.3 Reform residential tenancy databases to enable uniform and consistent regulation.	<ul style="list-style-type: none"> • National model provisions finalised for MCCA consideration (June 2010). 	Policy and Research	Queensland
2.4 Implement the Australian Uniform Cooperatives Agreement	<ul style="list-style-type: none"> • National legislation for Australian Uniform Cooperatives Agreement settled (June 2010). 	Policy and Research	NSW

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Project	Outputs	SCOCA Advisory Committee	Project Lead Agency
	<ul style="list-style-type: none"> IGA signed (December 2010). Template legislation enacted in NSW (December 2010). National legislation enacted in other jurisdictions (December 2010). National legislation commenced (June 2011). 		
2.5 Harmonise debt collection regulation.	<ul style="list-style-type: none"> Understanding of the new model for credit and what it means for debt collection regulation (December 2011). Having regard to new models for credit and NLS, develop consistent regulation for debt collection (December 2012). 	Policy and Research	Victoria
3. Articulate the benefits of rational, robust and effective consumer policy.			
3.1 Articulate the rationale and framework for consumer policy in Australia.	<ul style="list-style-type: none"> Review of existing material (including work completed by the OECD and Productivity Commission) on the role and importance of consumer policy in making markets work better for consumers and businesses (December 2010). Development of a policy making framework for MCCA and SCOCA policy consideration and decision making (December 2010). Information and education materials available to educate consumers, businesses and government officials about consumer policy, consumer laws and consumer law enforcement in Australia (December 2010). 	Policy and Research	Australian Government - Treasury
4. Promote the consumer goals under the Australian and New Zealand Single Economic Market Outcomes Framework.			
4.1 Support delivery of MCCA-related consumer outcomes articulated in Australia and New Zealand Single Economic Market Outcomes Framework	<ul style="list-style-type: none"> New Zealand becomes a co-signatory to Memorandum of Understanding between relevant Commonwealth, State and Territory agencies on ongoing communication, cooperation, and coordination in administration and enforcement of the Australian Consumer Law (April 2010) Arrangements for trans-Tasman mutual recognition of product safety bans and standards are streamlined through passage and implementation of ACL (see timelines for project 1.1 above) Improved alignment of Australian and NZ laws on consumer guarantees through passage of the national 	<p>Compliance and Dispute Resolution</p> <p>Policy and Research</p> <p>Policy and Research</p>	<p>Australian Government – ACCC</p> <p>Australian Government – Treasury</p> <p>Australian Government – Treasury</p>

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Project	Outputs	SCOCA Advisory Committee	Project Lead Agency
	<p>consumer guarantees law (see project 1.2 above) as part of the ACL (1 January 2011).</p> <ul style="list-style-type: none"> ○ Development of policy making framework for MCCA and SCOCA policy-making and decision-making (see project 3.1 above) takes account of SEM principles (December 2010) 	Policy and Research	Australian Government - Treasury
5. Develop a common approach for gathering and analysing intelligence on issues in consumer product and service markets.			
5.1 Develop a consistent approach across all jurisdictions for gathering and analysing market intelligence.	<ul style="list-style-type: none"> ● Identification of the key information required to progress the SCOCA agenda and monitor the external environment (December 2010). ● An analysis of information currently collected by jurisdictions and an understanding of where gaps exist (December 2010). ● Development of a preferred, harmonised approach (December 2010). ● An understanding of the mechanisms used internationally to collect market intelligence and identification of potential partnering opportunities (December 2011). 	Compliance and Dispute Resolution	Australian Government - ACCC
6. Implement a national communication strategy to educate businesses and consumers on Australia's new consumer laws.			
6.1 Undertake the necessary activity to promote the introduction of the ACL.	<ul style="list-style-type: none"> ● Revision and rationalisation of all necessary Commonwealth, State and Territory information and educational material on consumer law issues so it is consistent with the new ACL Legislation (31 December 2010). ● Preparation and conduct of a simple and targeted complementary communication campaign to introduce the new ACL to key stakeholders, businesses and consumers (30 November 2010 – 31 March 2011). 	Education and Information	Victoria
6.2 Undertake the necessary activity for the introduction of the National Unfair Contract Terms law.	<ul style="list-style-type: none"> ● Preparation and conduct of a separate, simple and targeted communication campaign for the introduction of the National Unfair Contract Terms law (May 2010 for commencement on 1 July 2010). 	Education and Information	Victoria Australian Government – ACCC and ASIC
6.3 Identify the terms and messages which will be used	<ul style="list-style-type: none"> ● Nationally consistent information and education materials available about consumer guarantees, 	Education and Information	Victoria

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Project	Outputs	SCOCA Advisory Committee	Project Lead Agency
to promote consumer guarantees.	including extended guarantees, which are tailored to consumers and traders (September 2010).		Australian Government - ACCC
7. Develop and implement a policy and research program to inform MCCA's consumer policy agenda.			
7.1 Develop a policy agenda to inform future decisions.	<ul style="list-style-type: none"> Review and collation of existing research reports and projects across jurisdictions and development of a single portal for accessing consumer research information (December 2010). A summary of the key messages arising from previous research and their implications for future action/research as part of MCCA's consumer policy agenda (December 2010). A focussed consumer policy research program (July 2011). The initiation of a new research project which is drawn from the agreed research program (July 2012). 	Policy and Research	Australian Government - Treasury
8. Develop the national capacity of Australia's consumer agencies.			
8.1 Establish operational arrangements and a training package for the implementation of the ACL.	<ul style="list-style-type: none"> Consistent compliance messages and complementary operating procedures/mechanisms established to ensure a common approach to compliance with the ACL (December 2010). Implementation of mechanisms for the appropriate handling of enquiries, complaints and enforcement actions between the ACCC and State enforcement bodies for new best-practice provisions in the ACL (December 2010). 	Compliance and Dispute Resolution	UCT: Australian Government - ACCC ACL: NSW
8.2 Establish operational arrangements and a training package for the implementation of the UCT.	<ul style="list-style-type: none"> Consistent compliance messages and complementary operating procedures/mechanisms established to ensure a common approach to compliance with the UCT, starting with enquiries (July 2010). Identification of mechanisms to ensure specific messages on industries, contracts and clauses are disseminated for the appropriate handling of enquiries, complaints and enforcement actions (July 2010). Resourcing and implementation of identified mechanisms to ensure compliance (July 2010). 	Compliance and Dispute Resolution	UCT: Australian Government - ACCC ACL: NSW
8.3 Establish operational arrangements and a training package for the implementation of product safety	<ul style="list-style-type: none"> Consistent compliance messages and complementary operating procedures/mechanisms established to ensure a common approach to compliance for product safety (December 2011). 	Compliance and Dispute Resolution	UCT: Australian Government - ACCC

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Project	Outputs	SCOCA Advisory Committee	Project Lead Agency
	<ul style="list-style-type: none"> • Identification of mechanisms to ensure specific messages reach businesses and consumers for product safety (December 2011). • Resourcing and implementation of compliance mechanisms for product safety (December 2011). 		ACL: NSW
8.4 Establish operational arrangements and a training package for the implementation of the National Consumer Guarantees law	<ul style="list-style-type: none"> • Agreed compliance messages and operating procedures/mechanisms established to ensure a common approach to implementation of the National Consumer Guarantees law (September 2010). • Identification of mechanisms to ensure specific messages reach businesses and consumers in relation to the National Consumer Guarantees law (December 2010). • Resourcing and implementation of compliance mechanisms for the National Consumer Guarantee (December 2010). 	Compliance and Dispute Resolution	Victoria Australian Government – ACCC and ASIC

Appendix I: Operational Priorities

Project	Outputs	SCOCA Advisory Committee	Project Lead Agency
9. Renew the National Indigenous Consumer Strategy.			
9.1 Coordinate focus on National Indigenous Issues.	<ul style="list-style-type: none"> Reviewed National Indigenous Consumer Strategy 2010/2015 (December 2009). 	Education and Information	NSW
10. Review consumer protection in the travel and related travel-services markets.			
10.1 Review the travel and travel-related services market, focusing on the Travel Compensation Fund.	<ul style="list-style-type: none"> Selection of a consultant (December 2009). Draft Report presented to SCOCA (May 2010). SCOCA has reviewed the report with particular reference to protections for consumer travel deposits and consumer issues related to budget airlines (May 2010). Finalisation of report by SCOCA (June 2010). Development of response to the findings (June 2011). Implementation of a response (July 2013). 	Policy and Research	Australian Government - Treasury, Victoria and WA (jointly)
11. Refine MCCA/SCOCA governance arrangements and raise the profile of both groups.			
11.1 Develop a strategic agenda for MCCA.	<ul style="list-style-type: none"> MCCA Charter (December 2009). MCCA Strategic Plan (December 2009). Establishment of a review process to monitor implementation of the Strategy and Charter (December 2009). 	Policy and Research	SCOCA (WA, Victoria and SA)
11.2 Review and refine the governance arrangements of SCOCA.	<ul style="list-style-type: none"> Finalised membership of each SCOCA advisory committee (February 2010). Agreement on a project management methodology/checklist which advisory committees can use to scope, monitor and report on projects (April 2010). Establishment of a mechanism which can be used by each advisory committee to identify and escalate projects (April 2010). Agreement on a process for how projects will be reported back by advisory committees to SCOCA (April 2010). Confirmation of the principle role of an advisory committee (priorities projects, provide strategic input into projects, vet project plans, make recommendations and seek approval from SCOCA) (April 2010). 	Policy and Research	SCOCA (WA, Victoria and SA)