

IS IT A BIRD?

IS IT A PLANE?

NO

IT'S A LEMON!



submission

**Queensland Civil and Administrative Tribunal
and other Legislation Amendment Bill 2018**

Introduction

Lemon Laws 4 Aus (LL4A) is a lobby group founded by Connie Cicchini in 2014. The lobby group was established because of Ms Cicchini's and many other car owners' frustrations trying to get a remedy of repair, replacement or refund for a new motor vehicle with major or multiple problems.

Even though products sold within Australia are required to be of 'merchantable quality' or 'acceptable quality' these terms and definitions within the previous *Trade Practices Act* (TPA) and current *Australian Consumer Laws* (ACL) are regularly disputed between the supplier and the customer. Because of the lack of clear definitions for these terms related to 'quality', it is either difficult or impossible for many consumers who acquired a problematic new motor vehicle to get a refund or a replacement.

Ms Cicchini's lobbying activities started long before the formation of Lemon Laws 4 Aus in when she realised that even though there was legislation in place to protect consumers, many suppliers would choose to ignore the spirit in which the consumer laws were written. Far too many consumers were finding it impossible to get a refund or a replace and repairs for a faulty new vehicle even though those vehicles were apparently covered by a manufacturer's warranty and also the statutory Australian Consumer Guarantees.

Enforcement of the consumer protection laws was also on her radar as an issue because it is beyond the means of many consumers to have the time and money available to take on legal representation against a well-funded supplier in the Queensland Courts. An affordable option in the State of Queensland for example is to contact the Office of Fair Trading (OFT) so they can attempt to mediate with the supplier. If mediation through the OFT is unsuccessful then a complaint can be lodged with the Queensland Civil and Administrative Tribunal (QCAT) and has a claim limit of \$25,000 for minor civil disputes. The purchase price of a new vehicle in many instances is more than \$25,000 thus pursuing many lemon vehicle matters through QCAT is not a solution for many consumers.

Ms Cicchini gained further attention from her lobbying when in 2012 she covered her own lemon Alfa Romeo 147) in lemon stickers and got even more attention from the public and to which eventually resulted in Channel 9's A Current Affair running a story on her lemon vehicle in May 2012 titled 'What a Lemon'.

The momentum continued as she contacted who she could think of to raise awareness eventually turning to Katter's Australian Party and running as their Federal Candidate for the Seat of Brisbane in 2013 and later running as an Independent Candidate for the 2015 Queensland State Elections for the Seat of Ashgrove. Her main platform being the need of improving consumer protection laws and the introduction of Motor Vehicle Lemon Laws.

During the course of her lobbying about the inadequacies of the legislation a colleague who she assisted previously with a new Jaguar that had been in the workshop on numerous occasions told her about Ashton Wood and his "Destroy My Jeep" Social Media Campaign. Knowing that Jeep and Alfa Romeos were both manufactured by Fiat Chrysler Automobiles (FCA), she wasted no time in contacting Mr Wood and getting whole heartedly behind his campaign. Ms Cicchini at the time was also considering destroying her lemon vehicle and while campaigning for the 2013 Federal Election she realised that to get the story published the media usually preferred a story that would most likely get the readers' attention. About this time she had just created her concept for LL4A because she had also realised that the best way to get results for change in legislation was to focus on one area of concern and establish a lobby group and bring together like minded people.

Ms Cicchini had also met another significantly disgruntled and determined lemon car owner Mr Stewart Lette through Social Media. Mr Lette just happened to have owned a Fiat Freemont which was causing a serious amount of grief. The Freemont was also manufactured by FCA. Mr Wood, Mr Lette and Ms Cicchini then formed a very special and unique bond of disgruntled Fiat Chrysler Owners which ramped up the lobbying even further. Mr Lette even assisted Ms Cicchini's as her Campaign Manager for the 2015 Queensland State Election.

Mr Wood's Destroy My Jeep Campaign was crowd funding to raise money so he could afford to destroy his Jeep. Mr Wood's initial crowd funding attempt had failed. Second time around it did eventually succeed when Ms Cicchini came into some funds so she could contribute \$4000 towards Mr Wood's \$19,000 crowd funding campaign so it would get over the line so he could destroy his Jeep and give the media that big bang story. Ms Cicchini knew that if the Destroy My Jeep campaign had failed it might setback the push to spread awareness and to improve the consumer protection laws.

The lobbying expanded even further with Teg Sethi releasing a music video 'I Made a Mistake I Bought a Jeep' which went viral with over 2.5 million views in a very short amount of time. Mr Sethi's music video spread international awareness of his plight of trying to get redress from FCA and the dealership with his lemon Jeep in Australia. Tracy Leigh was having issues with a Lotus Caravan that she paid \$73,000 and had set up a very effective social media group called 'Lemon Caravans and RVs in Aus'. This group of disgruntled recreational vehicle owners now has in excess of 41,000 members.

During her time running as a Federal Candidate Ms Cicchini became aware of the Queensland Government E-Petitions and suggested to her colleagues Mr Wood and Mr Lette to raise a number of Petitions.

These E petitions were for:

Amendment to the Queensland Civil and Administrative Tribunal claim limit (*Attachment 1*)

Posting Date: 01.10.2014
Principle Petitioner: Connie Cicchini
Sponsoring Member: Peter Wellington MP

Improving the consumer laws in Queensland for new car buyers (*Attachment 2*)

Posting Date: 16.10.2014
Principle Petitioner: Stewart Lette
Sponsoring Member: Yvette D'Ath MP

Reinstatement of the Statutory Warranty for used vehicles more than 10 years old with more than 160,000 km on the odometer (*Attachment 3*)

Posting Date: 25.11.2015
Principle Petitioner: Connie Cicchini
Sponsoring Member: Robert Katter MP

Statement

It has been a wonderful journey to finally see the Queensland Civil and Administrative Tribunal and other Legislation Amendment Bill presented to Queensland Parliament on the 15th November 2018 and not only have myself acknowledged for my contributions but also the contributions of my associates Stewart Lette and Ashton Wood towards the push for legislative changes to improve the consumer protection laws.

When I first started my lobbying someone said to me that I would never be able to change legislation.

I would also like to commend every individual who has made their contributions towards the public enquires and to the people who have been able to condense the consumer issues down to a mere Bill of 44 printed pages with Explanatory Notes consisting of 20 printed pages. That is a mammoth effort by all involved. I would sincerely like to thank everyone who supported us along the way.

In Summary

In principal I wish to support the Queensland Civil and Administrative Tribunal and Other Legislation Amendment Bill 2018 with the following amendments:

Amendment 1

Allow for inflation for future new vehicle purchases and adjust the Queensland Civil and Administrative Tribunal Act 2009 Chapter 5 General 240 Review of Act to include an extra provision being:

(2) (e) to review the claim limit at intervals of 3 years so as to reflect the increasing costs of purchasing a new vehicle

or alternatively

Remove the claim limit so as to be consistent with the:

Victoria Civil and Administrative Tribunal and the New South Wales Civil and Administrative Tribunal where a vehicle is purchased new and;

as Recommendation 7 of the Lemon Laws Inquiry Report:

The committee recommends the government change the Queensland Civil and Administrative Tribunal (QCAT) jurisdictional limit of \$25,000 for matters involving new motor vehicles with major defects. Government committee members recommend the limit be removed, so no cap applies.

Jurisdictional limits for motor vehicle claims

TRIBUNAL OR COURT MAXIMUM	AMOUNT CONSUMERS CAN CLAIM
Australian Capital Territory Civil and Administrative Tribunal	\$25,000
New South Wales Civil and Administrative Tribunal	Where the vehicle is new and is substantially for private use: Unlimited For other motor vehicle consumer claims: \$40,000
Northern Territory Civil and Administrative Tribunal	\$25,000
Queensland Civil and Administrative Tribunal	\$25,000 (proposed amendment \$100,000)
South Australian Magistrates Court: minor claim	\$12,000
Tasmanian Magistrates Court: minor civil claim	\$5,000
Victorian Civil and Administrative Tribunal	Unlimited
Western Australian Magistrates Court: minor case claim	\$10,000

Consumers whose claims are greater than the jurisdictional limit of the relevant tribunal or small claims court can choose to file a general court application. The appropriate court is usually the Magistrates Court or equivalent. However, for some claims it could be the Supreme Court.

(Jurisdictional limits for motor vehicle claims from: New Car Retailing Industry – a market study by the ACCC Draft Report August 2017 page 136)

Currently the act is as follows:

Queensland Civil and Administrative Tribunal Act 2009 Chapter 5 General

240 Review of Act

(1) The Minister must review this Act—

- (a) within 3 years after the commencement of this section; and
- (b) at further intervals of 5 years.

(2) The objects of the review include—

- (a) deciding whether the objects of this Act remain valid; and
- (b) deciding whether this Act is meeting its objects; and
- (c) deciding whether the provisions of this Act are appropriate for meeting its objects; and
- (d) Investigating any specific issue recommended by the Minister or the president, including, for example, whether any provision of an enabling Act affects the effective operation of the tribunal.

(3) The Minister must, as soon as practicable after finishing a review under subsection (1), table a report about the outcome of the review in the Legislative Assembly

Amendment 2

Add to Queensland Civil and Administrative Tribunal Act 2009 section 94 to allow for an extra provision being:

50B Expediting hearing

(c) If the vehicle is unable to be used or is unsafe or in the case of a recreational vehicle it is the permanent dwelling of the consumer.

Currently Queensland Civil and Administrative Tribunal and other Legislation Amendment Bill 2018 is as follows:

50B Expedited hearing

An expedited hearing under the QCAT Act, Section 94 may be conducted for a proceeding under section 50A if –

- (a) The amount or value of other relief sought in the proceeding is not more than \$25,000; or
- (b) the president of the tribunal considers it appropriate having regard to –
 - (i) the nature and complexity of the proceeding; and
 - (ii) the views of the parties to the proceeding;
 - (iii) anything else the president considers relevant.

Conclusion

I believe there is still further work to do before it becomes easier for consumers to more quickly get redress for faulty new cars and in my opinion the general culture within the new car retailing sector needs to significantly improve. We still continue to have consumers contact us with problems trying to get a redress, if they can get redress at all even if the motor manufacturer is part of an ACCC Administrative or Court Enforceable Undertaking. The ACCC's New Car Retailing Industry Study reported concerns of the pattern of behaviour of the Motor Industry. The issues raised in that document I believe is enough to warrant a Royal Commission into the Vehicle Industry.

In a response from the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry it was reported by Sydney Morning Herald on the 26th November 2018.

"National Australia Bank chairman Ken Henry has admitted it could take 10 years for NAB to fix its culture issues and says boards should not be responsible for "ensuring" eradication of misconduct inside a bank"

Because of the general entrenched culture that currently exists within the Motor Industry I believe that change within the Vehicle Industry may take a significant amount of time. I believe further enforcement along with possible criminal charges for misleading and deceptive conduct maybe necessary to improve trade practices.

I would also like to be included in the oral hearings for Queensland Civil and Administrative Tribunal and other Legislation Amendment Bill 2018.

Kindest Regards

Connie Cicchini

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Attachment 1

The screenshot shows a mobile browser view of the Queensland Parliament website. At the top, there is a status bar with icons for signal, battery, and time (8:05 pm). Below that is a navigation bar with a back arrow, an information icon, and the URL 'Parliament.qld.gov.au'. The main content area features the Queensland Parliament logo and a search bar. A navigation menu includes 'Home', 'Explore Your Parliament', 'Work of the Assembly', 'Work of Committees', and 'Members'. The 'Work of the Assembly' section is active, showing a list of links like 'What's New', 'Sitting Dates', and 'Petitions'. The 'Petitions' link is selected, leading to a page titled 'Amendment to the Queensland Civil and Administrative Tribunal claim limit'. This page includes details about the principal petitioner (Connie Cicchini), the sponsoring member (Peter Wellington MP), and the total number of signatures (171). A text box contains the petition's content, which requests the House to increase the claim limit from \$25,000 to \$50,000. At the bottom, there is a footer with copyright information and a navigation bar with icons for home, search, and back.

Attachment 2

The screenshot shows a mobile browser view of the Queensland Parliament website. At the top, there is a status bar with icons for signal, Wi-Fi, battery, and time (8:09 pm). Below that is a navigation bar with a back arrow, an information icon, and the URL 'Parliament.qld.gov.au'. The main content area features the Queensland Parliament logo and a search bar. A navigation menu includes 'Home', 'Explore Your Parliament', 'Work of the Assembly', 'Work of Committees', and 'Members'. The 'Work of the Assembly' section is active, showing a list of links like 'What's New', 'Sitting Dates', and 'Petitions'. The 'Petitions' link is selected, leading to a page for a specific petition: 'Improving the consumer laws in Queensland for new car buyers'. This page includes details such as the principal petitioner (Stewart Lette), the sponsoring member (Yvette D'Ath MP), posting and closing dates, and the total number of signatures (215). A text box contains the petition's content, which discusses the need for 'Lemon Laws' in Queensland to protect consumers. At the bottom of the page, there is a footer with copyright information and a grid of links for various website sections.

Attachment 3

The screenshot shows a mobile browser view of the Queensland Parliament website. At the top, there is a status bar with icons for signal, battery, and time (8:02 pm). Below that is a navigation bar with a back arrow, an information icon, and the URL 'Parliament.qld.gov.au'. The main content area features the Queensland Parliament logo and a search bar. A navigation menu includes 'Home', 'Explore Your Parliament', 'Work of the Assembly', 'Work of Committees', and 'Members'. The 'Work of the Assembly' section is active, showing a list of links such as 'What's New', 'Sitting Dates', and 'Petitions'. The 'Petitions' link is selected, leading to a page titled 'Reinstatement of the Statutory Warranty for used vehicles more than 10 years old with more than 160,000 km on the odometer'. This page includes details about the principal petitioner, Connie Cicchini, and the sponsoring member, Robert Katter MP. It also contains a section for the speaker and members of the legislative assembly, explaining the background of the petition and the request for reinstatement of the statutory warranty.

END OF SUBMISSION.