

# ACCAN National Conference 2019

11 September 2019



**Rose Webb**

Deputy Secretary, Better Regulation Division

Commissioner NSW Fair Trading

**Department of Customer Service**

# About the Complaints Register



**43,000**  
complaints  
every year

The Register is the first of its kind in Australia and launched in **August 2016**



From **2016**, Fair Trading liaised with business about the register and good business practices



Following engagement with those businesses, complaints about them **reduced by 30% on average**



Number of traders with 10 or more complaints each month has **decreased**



From July 2016 to June 2019, the **reduction has been 26% each year on average**



Since August 2016, there have been more than **455,000 views** of the register

# Complaints Register

+ a b l e a u

Show Summary

## Detailed Complaint Register

Click on a **Location** to see **Products & Issues** for that **Location**  
 Click on a **Product Group** to see **Locations & Issues**  
 Click on an **Issue** to see which **locations** had that issue & with what **products**

Select a Trader from this drop down list:

Apple

Select a month from this drop down list:

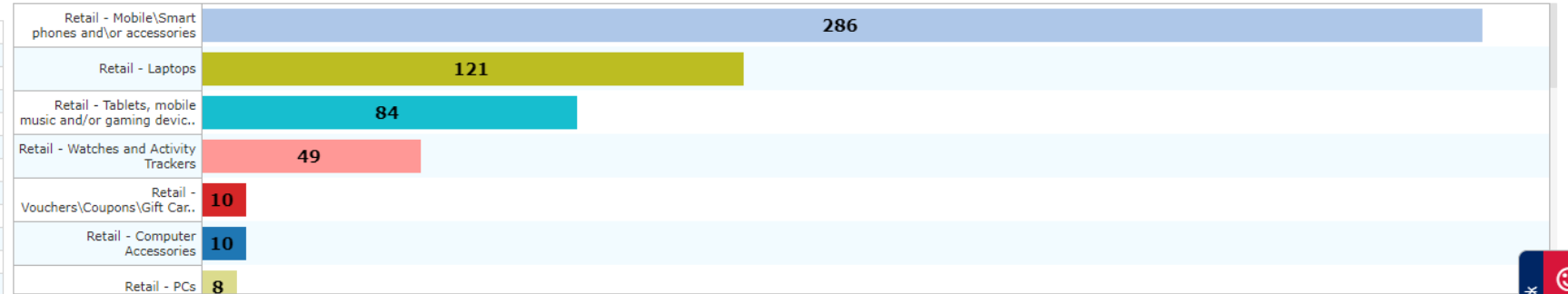
(All)

### Complaint Totals by Store Location

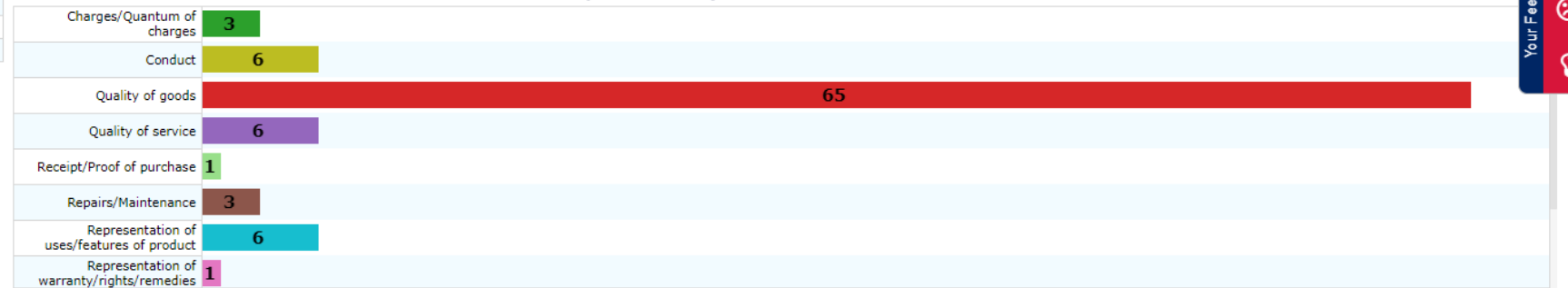
Click on a location to display details

BONDI JUNCTION	38
BROADWAY	39
CANBERRA (ACT)	4
CARINDALE (QLD)	1
CASTLE HILL	58
CHADSTONE (VI..)	1
CHARLESTOWN	23
CHATSWOOD	37
HORNSBY	7
HORNSBY WEST..	16
MARIBYRNONG (..)	3
MIRANDA	36
ONLINE	137
PENRITH	29
ROBINA TOWN C..	4
SYDNEY	177

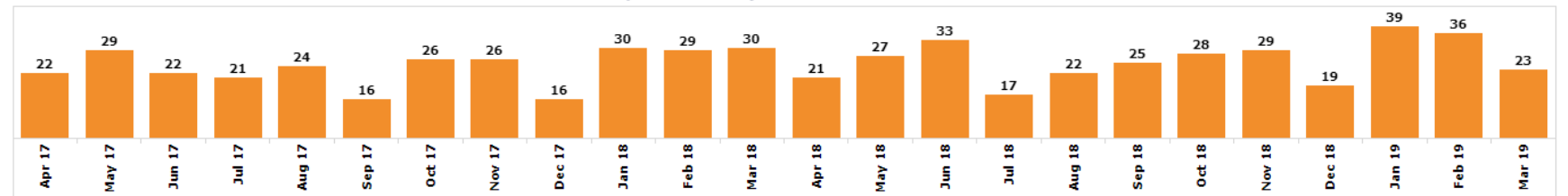
### Complaint Totals by Product



### Complaint Totals by Issue (only displayed from January 2019 onwards)



### Complaint Totals by month for last 24 months



## Trends in mobile phone-related complaints



**1,249**

complaints in  
2016-17

↓ 15%

**1,438**

complaints in  
2017-18

↓ 37%

**898**

complaints in  
2018-19



Since **August 2017** Fair Trading has published around **1,000 complaints** about mobile phones on the Complaints Register, relating to businesses including **Android Enjoyed, Apple, Samsung, and Kogan.**

# Enforcing compliance

## Digital Marketing and Solutions Pty Ltd

- Online seller which traded as Android Enjoyed and Camera Sky with limited physical presence in Australia
- Public warning was issued in 2016 following a number of complaints in particular:
  - Failure to supply goods in reasonable time (or at all)
  - Failure to repair or refund defective goods within a reasonable time
  - False and misleading representations that goods were in stock or would be supplied in reasonable time
- Enforceable Undertaking in January 2017
- Fair Trading continued to receive complaints (637 from January 2017 – July 2018)

## Outcome

NSW Supreme Court action resulting in pecuniary penalties of \$3,150,000 for the company and director

# Android Enjoyed complaints on the register

+ a b | e a u



Show  
Summary

## Detailed Complaint Register

Click on a **Location** to see **Products & Issues** for that **Location**  
 Click on a **Product Group** to see **Locations & Issues**  
 Click on an **Issue** to see which **Locations** had that issue & with what **products**

Select a Trader from this drop down list: Android Enjoyed

Select a month from this drop down list: (All)

### Complaint Totals by Store Location

Click on a location to display details

ONLINE	<b>320</b>
--------	------------

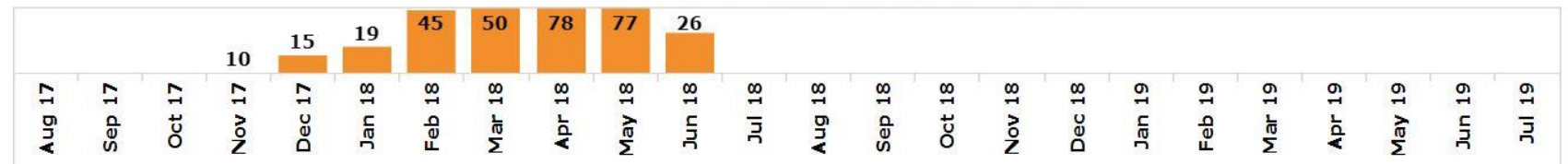
### Complaint Totals by Product

Retail - Mobile\Smart phones and/or accessories	<b>273</b>	Business Name: <b>Android Enjoyed</b> Product Types : Retail - Mobile\Smart phones and/or accessories Number of Complaints: <b>273</b>
Retail - Tablets, mobile music and/or gaming devic..	<b>19</b>	
Retail - Laptops	<b>9</b>	
Retail - Watches and Activity Trackers	<b>8</b>	

### Complaint Totals by Issue (only displayed from January 2019 onwards)



### Complaint Totals by month for last 24 months



# What is a Consumer Guarantee Direction?

Where a dispute about certain goods valued between

**\$25 and \$3000  
(excl GST)**

remains unresolved after Fair Trading's complaint handling process, and:

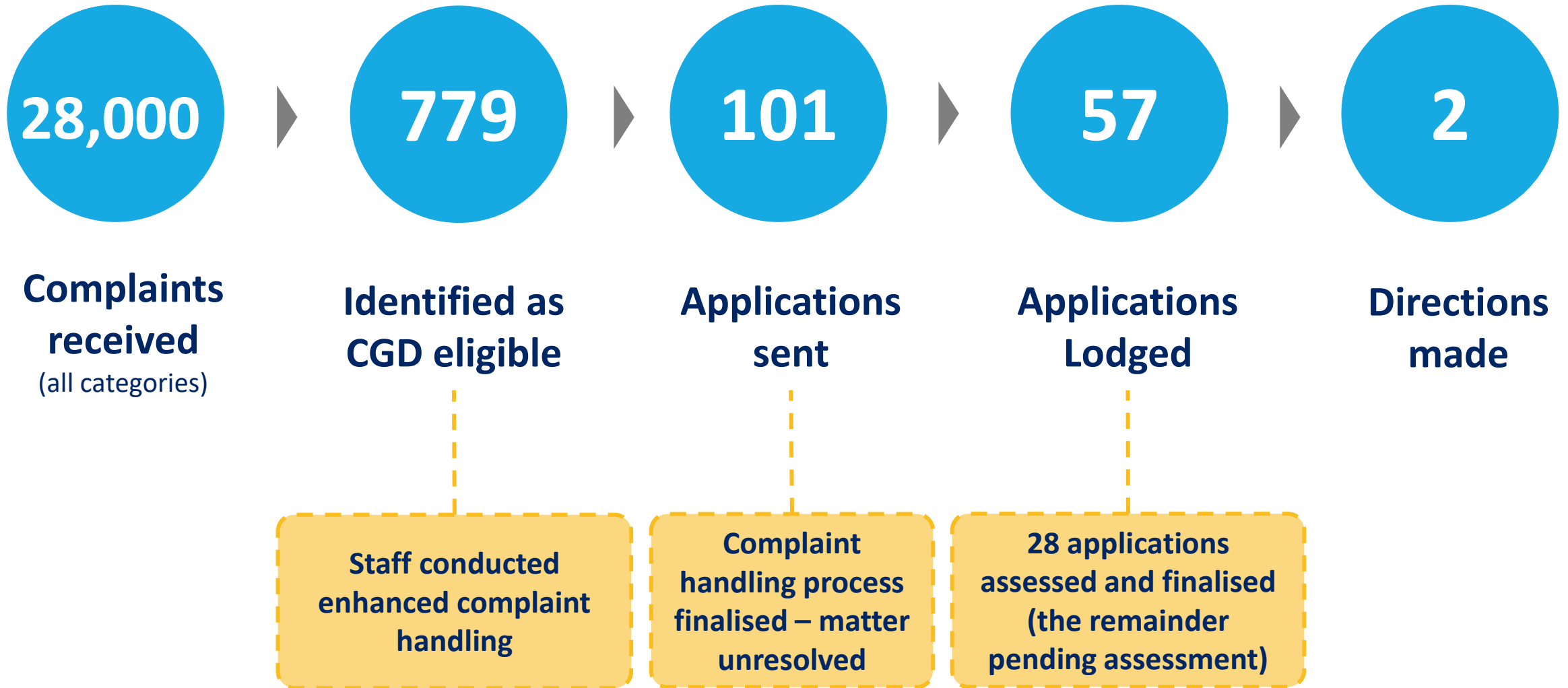
- ✓ It meets the relevant criteria, and
- ✓ There is a breach of a consumer guarantee relating to products (s54-57 of the ACL), and
- ✓ After an assessment of all the available evidence, it is fair and reasonable in all the circumstances:



NSW Fair Trading can direct the business to

**refund or repair  
or replace  
the good.**

# Consumer Guarantee Directions Statistics - 28 December 2018 to 31 August 2019





## **First Direction Issued for a breach of section 56 – Guarantee that goods sold match the description**

James bought a branded water filter cartridge from a website which was described as removing cryptosporidium. He received a generic cartridge.

James lodged a complaint with Fair Trading.

James was provided with the option to apply for a Consumer Guarantee Direction.

James's application was assessed and accepted, then written submissions were requested from the parties.

It was fair and reasonable in all the circumstances to issue a direction.

On 3 July 2019, the business was directed to provide a refund of \$43 to James within 28 days.

James has since advised that the business has not complied so he is considering pursuing enforcement action with the Local Court.