



Monday 30 July 2018

The Australian Law Reform Commission

Via email: class-actions@alrc.gov.au

Dear Australian Law Reform Commission

RE: Inquiry into class action proceedings and third-party litigation funders

I write regarding the inquiry into class action proceedings. CHOICE strongly supports the class action system; class actions are an important avenue for consumers seeking remedies against major corporations that have wronged them. We do not want to see this system undermined, and it appears to work well in its current form.

As a consumer advocacy body, CHOICE conducts investigations, runs campaigns and publishes news stories about businesses that have breached consumer law and caused harm to consumers. In the wake of these stories, we often receive an influx of communications from affected people wanting to know what they can do to receive appropriate redress. CHOICE can sometimes intervene on behalf of these people, negotiate directly with the business, and achieve a positive outcome for the individual. However, this is not always possible. For example, when a malfunctioning kitchen appliance has injured hundreds of consumers, it is not feasible for a not-for-profit body like CHOICE to negotiate outcomes for each affected individual. At the same time, reporting a complaint to the regulator is unlikely to result in a direct remedy being provided to the affected consumer, and pursuing individual legal action can be too expensive, particularly when the cost of the product and any associated medical bills are comparatively low. In these circumstances, joining a class action is really the only option that provides a realistic chance for a person who has purchased a faulty and dangerous product to receive just compensation. In consumer law matters, the prospective plaintiff generally has much less money than the defendant corporation, and is consequently less able to take on the costs associated with a court case. Class actions remove barriers that otherwise prevent an individual from accessing justice.

57 Carrington Road Marrickville NSW 2204

Phone 02 9577 3333 | Fax 02 9577 3377 | Email campaigns@choice.com.au | www.choice.com.au

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We note that the class action regime has provided just compensation for people across a range of legal matters, including consumer law matters. Product liability cases provide a particularly strong example of the benefits of class actions, such as the class action brought on behalf of 2000 people fitted with allegedly defective hip implants.¹ This matter was settled for \$250 million; 2000 affected people have been able to access compensation that they otherwise may not have, due to the class action system.

Any changes to the class action system resulting in less protections for consumers, or greater barriers to access justice, are vigorously opposed by CHOICE. It is particularly evident with the ongoing stream of scandals coming to light through the work of the Royal Commission, that now is the time to bolster consumer protections, rather than erode them.

For further information please contact CHOICE on sagar@choice.com.au

Yours sincerely,



Sarah Agar

Head of Campaigns & Policy

¹ *Stanford v DePuy International Ltd (No 6)* [2016] FCA 1452