



# Better Trading

Issue 24: March 2012



## Cooling off proves hot topic in 2011

Allowing an out for consumers who enter into contracts to buy goods and services without comparing deals is called a 'cooling off period'.

If you sign a contract to buy a car in Western Australia there is no cooling off period. When you buy a gym membership you've got 48 hours to change your mind. And if you purchase something that costs more than \$100 and the seller approached you uninvited, such as at your front door, you've got 10 business days to cancel the contract. Confused?

Cooling off periods, and consumer concerns surrounding them, were one of the main issues of 2011 identified by Consumer Protection's Market Intelligence Unit. In fact there were 791 calls from people wanting to know more.

A cooling off period is the length of time you have to cancel a contract without penalty. But there are very limited circumstances when consumers have that option. This means it is very important for people to resist high pressure tactics, to take time to consider a deal and if possible get other quotes before signing a contract.

Half of the calls about cooling off periods last year concerned motor vehicle purchase. The reality is that when you sign a contract to buy car in WA it's a done deal. It is therefore imperative that consumers think really carefully and read the fine print before putting pen to paper. Would-be car buyers should not let the euphoria surrounding their potential purchase cloud their judgement or they could be left with the empty feeling of having signed up for a vehicle they were only thinking about buying. In most cases there is no need to sign to work out a deal; the contract finalises the terms and should only be signed when both parties are in total agreement and after what was decided verbally is documented accurately.

Other States do offer cooling off periods on motor vehicle sales and this may be contributing to the confusion.

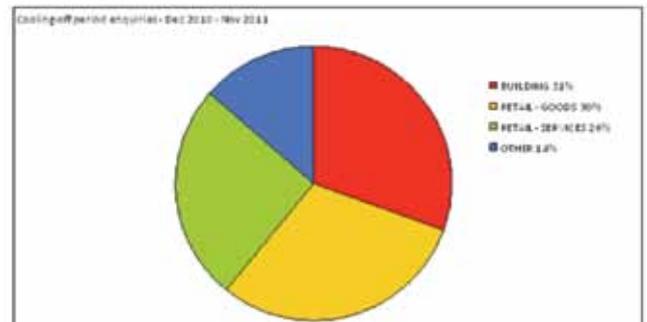
Recently Consumer Protection's Motor Vehicles branch has had some reports from consumers who claim car salespeople have incorrectly told them that there would be no obligation to buy if they signed on the dotted line. Consumer Protection is taking a keen interest

in allegations of this nature and can investigate whether there has been a misrepresentation, which is an offence under the Australian Consumer Law.

One of the few times a cooling off period applies is with a health club or gym membership. As previously stated, you get 48 hours to change your mind under Western Australia's Fitness Industry Code of Practice.

Only 12% of cooling off period enquiries in the last year related to door-to-door sales but that's when consumers are most protected. Door-to-door, telephone or telemarketing salespeople have to give a 10 business day cooling off period if the purchase costs more than \$100. During that time no money can be taken and services cannot be carried out. Full protections of the Australian Consumer Law apply for all uninvited approaches; even in shopping centre car parks.

You can read more about cooling off periods at [www.commerce.wa.gov.au/consumerprotection](http://www.commerce.wa.gov.au/consumerprotection). Click the Seniors' Housing Centre logo for information on the five day cooling off period for retirement village residence contracts.



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2012 is shaping up to be a year of change and review for a range of consumer issues, many building on the momentum of the previous year.

Ensuring a fair, equitable and sustainable housing rental market will continue to be a priority for Consumer Protection in 2012. Implementation of significant amendments to residential tenancy laws will affect about 195,000 tenancies in WA and involve a comprehensive education campaign. Major changes to come into effect include:

- bonds will need to be lodged with the Bond Administrator in all cases and will no longer be held by agents;
- introduction of new standard lease agreements in plain language;
- property condition reports will be compulsory;
- fairer regulations relating to tenancy databases; and
- increased powers to deal with anti-social behaviour by public housing tenants.

Boarder and lodger tenancy will also be a focus, with rising house rental charges and the growth in demand for this type of accommodation coming from international students and fly-in fly-out workers. Improved clarity about rights and obligations for both boarders and lodgers and those offering rooms for rent will be the subject of consultation during the coming year. The statutory review of laws covering park homes will also be completed in 2012, with development of policy recommendations and legislative amendments following an extensive consultation process.

Support for seniors' housing will continue as a priority with proposed Retirement Villages Act amendments and changes to the Code of Conduct for Retirement Villages. Information about these planned changes and general information about seniors housing options, including a database of all retirement villages and park homes, is available through the Seniors' Housing Centre. This education program delivered in partnership with the Council on the Ageing WA will inform the community about the impact of these changes once passed by Parliament.

Consumer protection in the real estate and motor vehicles industries will be the subject of a wide-ranging review. Regulations proposing the national licensing of real estate agents, business agents and sales people will be the subject of consultation in WA. The question of whether strata managers should be licensed in WA is also being examined, given the significant growth of large high-value strata developments in recent years.

Motor vehicle dealer and repairer legislation will also be reviewed to assess the operation of these laws in the marketplace.

As part of the COAG reforms, the popular WA-based Register of Encumbered Vehicles (REVS) was recently rolled into the new national Personal Properties Security Register (PPSR) which brings together about 20 different registers being operated by various Government agencies. The benefit of this move to consumers is enormous, as people can now get access to a wider range of information from one central database anywhere in Australia. Later in the year, it is proposed the state-based business names registers will also become national and be administered by the Australian Securities and Investments Commission (ASIC). Both are major steps forward in harmonising government services and costs between States.

The Australian Consumer Law is now entering its second year and we will continue to give it a high priority, with a focus this year on misleading representations. Traders will be required to substantiate what appear to be 'questionable' claims being made in advertising and promotional campaigns as well as part of the sales and marketing process. Of particular interest will be claims relating to weight loss remedies, environmental claims and discounts being offered by group buying promoters.

# Big deposits a hefty issue

Paying large deposits for goods and services is proving to be a risky business. Consumer Protection received more than 400 enquiries and 113 complaints in 2011 from consumers who had paid deposits, but the trader then failed to supply the goods or services.

A vast majority of the calls and complaints involved consumers paying a deposit of more than \$5,000 with one consumer paying \$60,000 up front. These are large amounts to put at risk if the trader fails to deliver or faces financial difficulties that prevent the provision of the service or goods.

Generally Consumer Protection's advice is to pay no more than 10% deposit, and only if it's required to secure the sale. Certainly never pay the full amount upfront until the item has been delivered, or the work carried out.

In the case of a product being custom-built for a customer, the trader may have a valid reason to request a higher deposit, but those circumstances would be rare.

Consumers may consider using a credit card to pay for large deposits as there is a possibility of claiming a charge reversal should something go wrong.

Traders are required by law to deliver the products or carry out the services within an acceptable timeframe. The Australian Consumer Law clearly states that work must be completed in accordance with a contract stipulating a date of completion, or within a reasonable timeframe.

Traders may be in contravention of this law if they sign contracts, accept deposits and then don't carry out the work for several months. What is a reasonable timeframe will depend on the particular circumstances.

About 40 per cent of the enquiries about deposits related to solar installations, about 20 per cent related to building, construction and handyman services and about 20 per cent related to the installation of patios, garages, sheds, fencing and roofing.

Some tips about deposits:

- Aim to pay no more than 10% deposit to secure goods or services prior to work starting.
- Remember building contracts for amounts over \$7500 are covered by the Home Building Contracts Act and deposits must not exceed 6.5% of the contract price.
- Be wary of paying for incomplete work or materials that haven't yet been supplied.



- Explore the option of progress payments e.g. part on delivery of materials, at milestone points in the construction process and the balance when the job is completed to a satisfactory standard and within the agreed timeframe.
- Consider the benefits of using a credit card to pay a deposit, as you may be able to seek a charge reversal if there is an extensive delay in the work being carried out or if the business goes under.
- Know the risks of putting down a large deposit and try not to pay money which you cannot afford to lose.
- If you feel you are being pressured into paying a high deposit and are uncomfortable about it, talk to Consumer Protection.

Read more about emerging trends at [http://www.commerce.wa.gov.au/consumerprotection/Content/Consumers/Emerging\\_Trends\\_.html](http://www.commerce.wa.gov.au/consumerprotection/Content/Consumers/Emerging_Trends_.html)



## Consumer Protection on 100.9 FM Noongar Radio

Consumer Protection's presence on the radio in Western Australia continues to grow, with a regular segment secured on Perth's Aboriginal station – 100.9 FM Noongar Radio.

Every fortnight Indigenous Community Education Officer Teena Forrest will chat to Station Manager Wayne Binder about the latest issues affecting Aboriginal consumers.

Topics so far have included the laws surrounding door-to-door sales and a warning about tax refund scams.



# Geraldton man loses thousands in Malaysian travel scam

A Geraldton man lost \$3,500 after becoming a victim of a Malaysian travel brochure scam targeting Western Australians. This is the latest in a long line of recent travel scams.

On this occasion almost 2,000 of the glossy travel brochures containing fake 'scratchie' lottery tickets were intercepted by Australia Post. It's thought however hundreds of the brochures could have already been delivered to WA homes.

The 8-page brochure was sent under the name of four fake Malaysian travel companies – **Enjoi Vacation, Phantasi Holiday, Lavender Holiday or Sentosa Traveling Group.**

Anyone who received the brochure appeared to be a 'winner' with one of the two 'scratchie' tickets contained in the brochure revealing a prize of either US\$130,000 or US\$160,000.

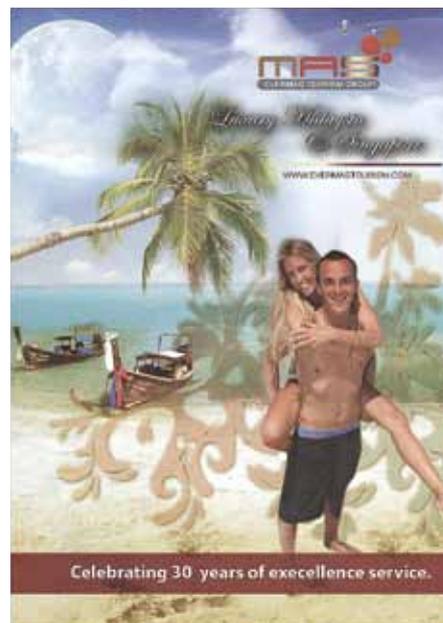


The sting came in the terms and conditions printed on the 'scratchies' which stated that winners were obliged to provide personal information for further verification and pay taxes and other mandatory charges. These conditions are designed to groom the recipient to pay an upfront fee to secure the winnings – a typical example of an advance fee fraud.

The scam advises recipients to provide a scanned copy of their passport as well as their bank account details, and pay half of \$7,000 in government taxes. This \$3,500 had to be sent by wire transfer to agents in Asia before the prize money can be released to the 'winner'. None of those that participated in the scheme received any further money.

Previous Malaysian travel scams named by Consumer Protection include:

- Greenery Tourism (in October 2011)
- Vmac Holiday Group (in July 2011)
- EverMas Tourism Group (in September 2010)
- Euphoria Travelling Group (in December 2009)
- Malaysia Starize Travelling Group (in April 2009)



Warnings about the latest version of the scam were issued by Consumer Protection WA's media and the department's websites. The advice to consumers was not to respond to this unwelcome arrival in their mail box and dispose of the brochures and fake 'scratchie' tickets immediately.

More information on scams is available at [www.scamnet.wa.gov.au](http://www.scamnet.wa.gov.au).



## General Legislative Updates

### Proposals for the regulation of prepaid funerals

A Consultation Regulatory Impact Statement (RIS) and discussion paper has been released with options for the possible regulation on the prepaid funerals industry. Papers may be downloaded from: [www.commerce.wa.gov.au/Consultations](http://www.commerce.wa.gov.au/Consultations)

Reminder submissions are now due.

### Competition and Consumer Amendment Regulations (No. 2) 2011 Clth

Previously *Australian Consumer Law* prohibited the supply and payment of goods or services, during the 10 business day cooling off period for unsolicited consumer agreements.

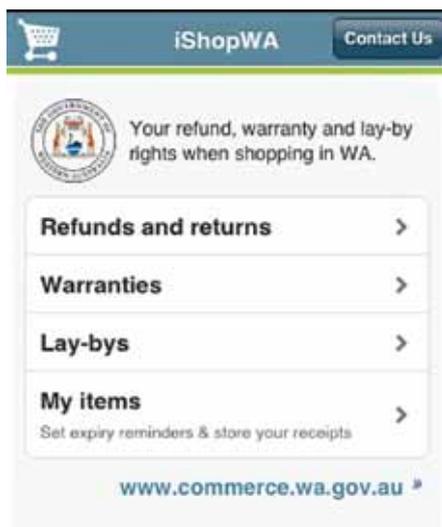
The amendment regulations allow dealers and suppliers to supply goods (but not services) during the 10 day cooling off period when they are purchased through an unsolicited agreement and are up to the price of \$500. The new regulations will not permit dealers or suppliers to accept any payment for goods during the cooling off period.

# Consumers smart thanks to phone app

Remembering your rights when talking with a trader, especially if there is a dispute between the two can be hard.

To help consumers keep this important information at their fingertips, Consumer Protection has developed a new smartphone app called iShopWA.

The app can be down loaded free from the iTunes or the android market place.



Those who download the app will always be able to check where they stand when it comes to refunds, warranties and lay-bys in WA even if out shopping at the time.

There is a facility to store photos of receipts, relieving worries if the docket is lost in the wash or accidentally thrown away.

The app also has a reminder system which can be set for warranty, gift voucher or online coupon expiry dates, or pick-up dates for items on lay-by.

Consumer Protection is encouraging consumers to use the app to email photos of illegal 'no refund' shop signs along with the location/name of the business where the picture was taken.

Information about unlawful shop signs will then be sent to the store to educate traders on what wording is appropriate in relation to refunds or exchanges.



Consumer Protection can also supply the business with a sign that is legally acceptable.

A number of reports have already been received since the app was launched in late December 2011. To date around 2,500 smartphone users have downloaded the app.

Find out how to download the app by clicking through to [www.commerce.wa.gov.au/iShopWA](http://www.commerce.wa.gov.au/iShopWA).

## Sharing pearls of wisdom at Broome's North West Expo

 Consumer Protection officers will attend the 10th annual North West Expo, held on 5 and 6 May, to provide information and field questions about fair trading matters.

Every year over 6,500 people visit the expo which invites industry, companies, community groups and government agencies from the Pilbara and Kimberley to promote their achievements and contribution to the region.

Senior Regional Officer, Luke Eaton, is keen to keep educating traders and consumers about their rights and obligations under the Australian Consumer Law, but is prepared to handle anything that comes his way.

"The scope of work that Consumer Protection does for the community is immense," he said.

"I expect to be taking enquiries about tenancy, scams, fuel prices, product safety, car repairs, home buying, warranties, incorporated associations and just about everything in between."

He might even be joined by one of Consumer Protection's crowd-pleasing mascots to help spread the message, so if you're around for the expo, be sure to stop by the Department of Commerce booth.

Venue: Broome Recreation and Aquatic Centre, near corner of Frederick Street and Cable Beach Road, Broome.

Contact: Senior Regional Officer, Luke Eaton on (08) 9191 8400 or email [luke.eaton@commerce.wa.gov.au](mailto:luke.eaton@commerce.wa.gov.au) for further information.



# New Face in the North

Former Community Education Officer, Luke Eaton, has swept into Broome to fill in for Senior Regional Officer, Annetta Bellingeri, while she takes some well earned leave to travel abroad.

Luke has occupied various roles in his three years with Consumer Protection head office in Perth, that are sure to serve him well



during his four month tenure in the Kimberley region.

Having grown up in the Wheatbelt, Luke was keen to get back to the bush for a while, but loves that he'll still be by the sea.

"Somehow I had never made it to Broome on my travels, but I didn't have to think hard when the chance to work here came up," he said.

"Annetta left some awfully big shoes to fill so I've been flat out engaging with consumers and businesses across the Kimberley since I arrived.

"I've really enjoyed taking up the media responsibilities, but the most rewarding aspect is the hands-on approach you can have here, finding local solutions to patterns of problems."



Luke will be around until early June so consumers, traders, tenants and landlords in the Kimberley can email him at [luke.eaton@commerce.wa.gov.au](mailto:luke.eaton@commerce.wa.gov.au), call 9191 8400 or drop by the office at Woody's Arcade on Dampier Terrace, Broome.

## Reving on out

When you buy a second hand car, caravan or boat privately in Western Australia you'd normally carry out a Register of Encumbered Vehicles (REVS) check with Consumer Protection to make sure there was no money owing on it. However things have now changed after a new national vehicle checking system became operational on 30 January 2012.

Although it's the end of an era after 23 years of REVS giving us peace of mind when buying second-hand vehicles privately in WA, the new Personal Property Securities Register (PPSR) system will be much better for buyers. Really we're trading up to the next model.

PPSR incorporates more than 20 pre-existing registers, which were operated by various Commonwealth, State and Territory agencies.

The rolled-into-one system is run by the Insolvency and Trustee Service Australia on behalf of the Federal Attorney-General's Department.

With so many people buying and selling inter-State, it makes sense to have an Australia-wide system.

PPSR allows checks to be carried out on a more extensive range of personal property, including cars, aircraft, intellectual property, crops and livestock.

The PPSR will also report on written-off or stolen vehicles via a link to the Written Off Vehicle Register (WOVR), operated by the WA Department of Transport.

Searches of the PPSR are accessible via the internet at [www.ppsr.gov.au](http://www.ppsr.gov.au) or by phoning 1300 007 777.



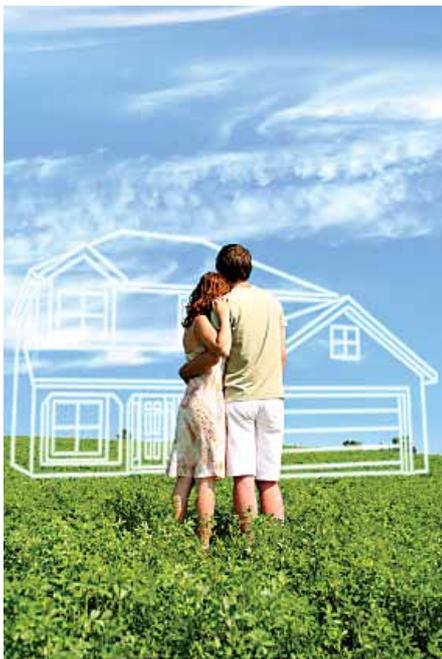
Personal Property Securities Register



As was the case with REVS, licensed motor vehicle dealers must guarantee clear title to any car that they sell. For them the bonus of PPSR is that it eradicates the need to do multiple searches in different States or Territories of Australia.



# Building industries get more time for new laws



An extension of time has been granted for the implementation of the final piece of the Government's package of building industry legislation,

The new *Building Act 2011* introduces a new approval process and allows state and local governments to issue permits and enforce compliance with building standards, which will modernise Western Australia's outdated laws.

Additional protection for adjoining owners from building work affecting their land will also be available for the first time.

The building Act is part of the package which improves consumer protection by setting standards, making sure contractors have the



skills, experience and financial capacity to deliver what they promise, and provides a single place for consumers to get information about building matters and make complaints.

After recent consultations with building, housing and local government representatives, the Minister decided to push out the commencement of the Building Act to 2 April 2013. These reforms require us to be responsible and flexible in our approach and further time is needed to ensure the community gets the intended benefits with as little disruption as possible.



The new legislation replaces laws dating back to 1939 – Western Australia has a vibrant and professional building industry that needs a modern framework to help it thrive.

This legislation creates a fair and innovative environment for builders and consumers, while providing a range of modern services to fast track building applications and reduces red tape.

Fact file:

- Acts, regulations and forms can be viewed at [www.buildingcommission.wa.gov.au](http://www.buildingcommission.wa.gov.au)
- Further information [info@buildingcommission.wa.gov.au](mailto:info@buildingcommission.wa.gov.au) or by calling 1300 489 099.



## Compliance

### Boat retailer fined

**Amett Pty Ltd**, trading as Saltwater Marine in South Fremantle, was fined \$1,500 and manager **Mr Brett Martin** was fined \$750 on two counts of failing to comply with safety regulations relating to the sale of two new Trailcraft boats in 2010. The company and manager were ordered to pay Court costs of \$766.



# Don't be a jackass campaign



The WA winner of a national product safety competition was presented with his prize by the Commissioner for Consumer Protection and says he'll be using the \$350 Adrenalin voucher to tick off an item on his "bucket list" – a ride in a helicopter.

Christopher Byrnes from Stirling, who is a car enthusiast and member of a four wheel drive club, entered the Don't be a jackass competition after hearing about it via Twitter (@ConsumerWA).

After watching the 'anti-manual' for DIY car repairs at [http://www.youtube.com/watch?feature=player\\_embedded&v=3Fq0nh31BPp](http://www.youtube.com/watch?feature=player_embedded&v=3Fq0nh31BPp) he then correctly answered that on average there are 160 injuries a year associated with jacks.

Mr Byrnes said he was delighted to be among eight winners across the whole of Australia.

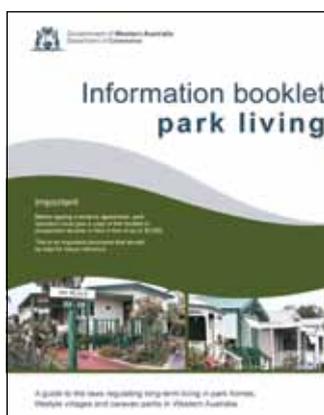
"I've never really won anything before and flying in a helicopter was on my bucket list, so winning this competition means it's actually going to happen. From there I plan to have some lessons so hopefully I can be a chopper pilot."

Mr Byrnes, who has formerly been involved in outdoor adventure activities for kids and considers himself to be a safety advocate, also praised the campaign.

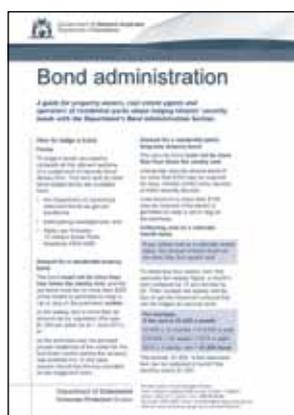
"Having a background in education I think showing the wrong things to do when using jacks is really effective. A video just showing the right way to go about it wouldn't create as much interest and highlighting incorrect behaviour, that can be the norm for some, is a way to make people conscious that it's dangerous."



## Publications



**Park living** – An information guide to the laws regulating long-term living in park homes and caravan parks in WA



**Bond Administration** – A guide for property owners, real estate agents and operators of residential parks about lodging tenants' security bonds with the Department's Bond Administration Section.



**Buying a car – a buyer's checklist** – Buying a car is a big investment for most people. Make sure you do your homework before doing the deal, regardless of whether it's through a private seller or with a car yard.

## Upcoming Events

- Wheatbelt Compliance Sweep
- World Consumer Rights Day

6-10 March  
15 March

- The Consumer Protection Awards
- National Consumer Fraud Week

23 March  
19-25 March

## February

- 23/02/2012 – Safety investigation launched into imported Off Road Vehicles
- 22/02/2012 – Fuel price advice for Perth drivers
- 21/02/2012 – Travelling commment alert for Bunbury
- 20/02/2012 – Central Wheatbelt benefits from consumer campaign
- 17/02/2012 – Advice for Air Australia customers
- 15/02/2012 – Fuel price advice for Perth drivers
- 10/02/2012 – Unregistered painter fined
- 08/02/2012 – Fuel price advice for Perth drivers
- 02/02/2012 – Lotto email scam prompts warning
- 01/02/2012 – Fuel price advice for Perth drivers



## January

- 30/01/2012 – Consumer Protection in Norseman and Esperance
- 25/01/2012 – Fuel price advice for Australia Day
- 25/01/2012 – REVS vehicle checks go national
- 20/01/2012 – Prominent boat retailer fined over safety breach
- 18/01/2012 – Fuel price advice for Perth drivers
- 18/01/2012 – Consumer confusion over cooling off periods
- 17/01/2012 – Popularity of consumer smartphone app soars
- 13/01/2012 – Pool Safety
- 12/01/2012 – Geraldton man loses thousands in Malaysian travel scam
- 11/01/2012 – Fuel price advice for Perth drivers
- 11/01/2012 – Westpoint director's appeal rejected (Norman Carey)
- 04/01/2012 – Fuel price advice for Perth drivers



## Contact us

If you need information or advice on any consumer protection issue:

- contact our Consumer Protection Advice Line on 1300 30 40 54 from anywhere in Western Australia for the cost of a local call; or
- visit our website at: [www.commerce.wa.gov.au/consumerprotection](http://www.commerce.wa.gov.au/consumerprotection)

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