



Government of **Western Australia**
Department of **Mines, Industry Regulation and Safety**
Consumer Protection

MEDIA POLICY

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Consumer Protection Compliance Compendium

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1. Explanatory notes

1.1 Organisational background

The Department of Mines, Industry Regulation and Safety (the Department) is the State Government Department that brings together leadership in regulation and related activities for mines, petroleum, building, consumer protection, labour relations, and energy and worker safety.

The Consumer Protection Division (CP) assists Western Australians navigate local, national and global markets by helping consumers and traders, regulating business and enforcing consumer protection laws. This Media Policy (Policy) applies to all CP officers.

1.2 When did this Policy come into operation?

This Policy was originally drafted in 2006.

1.3 What is the purpose of this Policy?

The purpose of this Policy is to provide all CP officers, including those on contracts, with guidelines as to:

- who is authorised to communicate with the media; and
- which CP officers are authorised to communicate to the media,

so as to increase the level of accuracy in media reporting, improve positive responses to media enquiries, enhance the potential of CP to receive positive media exposure on its activities and ensure appropriate responses to potentially sensitive issues.

This Policy is to be read in conjunction with the [Disclosure Policy](#).

1.4 What is the scope of this Policy?

The scope of this Policy covers all information obtained by CP.

1.5 What is the legal status of this Policy?

This Policy provides general information and guidance about CP's approach to communicating with the media. This Policy:

- 1.5a is not legally binding on CP, any other division within the Department, other organisations (such as other government agencies) or statutory bodies empowered to regulate occupations in this State;
- 1.5b is general in nature and does not exhaustively address all the specific statutory limitations and considerations that may be relevant under the CP legislation;
- 1.5c does not confine, restrain or limit the discretion of CP to take any action; and
- 1.5d is not intended as a substitute for legal advice, legal processes or the professional judgment of CP's officers.

1.6 What is covered by the term “media”?

The term “media” in the context of this Policy applies to radio, television, newspapers and social media such as FaceBook and Twitter as well as other online and electronic formats and outlets. The term also applies to the personnel who work within the industry.

1.7 CP Media Officers

CP staff will most often deal with the Principal Media Liaison Officer. If the Principal Media Liaison Officer is not available, queries and contacts may be referred to another member of the CP media team, in particular the Journalist, or to another Media Officer in the Department. However, the CP Principal Media Liaison Officer is the first point of contact for media issues that arise in CP.

2. Role of Corporate Communications and the Customer Information Directorate

Responses to media issues that impact across the Department are coordinated at a corporate level. In addition, large communications contracts for the Department are managed by Corporate Communications.

Officers responsible for corporate media management should be notified in the case of major incidents and all relevant media statements should be provided to them (even if they were not published). In this way, if the issue begins to impact on other Divisions of the Department, a coordinated response can be prepared. In most circumstances the Principal Media Liaison Officer will ensure this happens.

3. Am I allowed to speak to the media? (Authorised Officers)

Only authorised officers are allowed to speak to the media. All authorised officers will be nominated by the Commissioner for Consumer Protection (the Commissioner) and/or relevant Directors. All authorised officers will be provided with media training. Wherever possible the most senior and the most qualified authorised officers will be put forward to make media statements.

To ensure all public comment is consistent and controlled, public comment on the activities of CP is restricted to the following authorised officers:

- Director General;
- Commissioner for Consumer Protection;
- Managers, General Managers and Directors, as authorised by any of the above;
- CP Media Officers, as authorised by any of the above; and
- any other officer as specifically authorised by the Commissioner or relevant Director.

It is appropriate that media receive comment from the relevant level of the organisation, and are made aware of any legal or commercial constraints on CP officers. In general terms, Directors or their nominated delegates should speak on matters of policy and administration which come under their direct control, and of which they have direct experience. The WA Public Sector Commission administrative instruction 728 – Media & Public Communications stipulates that selected public servants may be called on, as part of their official duties, to explain or provide information to the media or the general public in regards to their agencies' policies and activities.

Any CP officer who is not an authorised officer but is contacted by the media should forward the query to the CP Principal Media Liaison Officer so that an appropriate response can be coordinated. The officer should not answer any queries on behalf of the Department or CP but instead inform the journalist:

“All media enquiries are handled by our media area. If you provide your name, media organisation, contact phone number and the nature of your enquiry, I will forward your request to an officer who will contact you shortly”.

Details of the media query must then to be passed on to the CP Principal Media Liaison Officer and the relevant manager or general manager. Media queries can be forwarded to the CP Media Officers by email at [CP – Media](#).

3.1 Authorisation of Senior Regional Officers

Senior Regional Officers have the authority to speak to local media about services that they provide to the local community and about CP-related issues of interest to the local community. Comments should be confined to operational information, approved speaking notes and statements of fact.

Senior Regional Officers will liaise with the CP Principal Media Liaison Officer on their forward program of media contacts.

If contentious issues arise that impact beyond a region, Senior Regional Officers must seek approval and guidance from CP Principal Media Liaison Officer before making any media comment.

Senior Regional Officers must not comment to the media on broader Policy areas or consumer issues without prior consultation with CP Principal Media Liaison Officer. If any situation is unclear, the Senior Regional Officer should seek the advice the CP Principal Media Liaison Officer.

4. I am authorised to speak to the media. What can I discuss with them?

Authorised officers should consider their communication with the media as an opportunity for CP to clearly state its position regarding consumer protection issues and to spread its message to the Western Australian community. This opportunity, however, must be confined to the parameters set out in this Policy.

Authorised officers must be cognisant of and comply with their responsibilities under the Department's Code of Conduct. In particular, authorised officers are reminded that if they make a public comment in a private capacity, it should not purport to represent the government and not relate to their duties as a public service officer.

Information about matters with legal implications generally will be confined to the following areas. For such matters, the Principal Media Liaison Officer provides content for speaking notes or media releases that is reviewed and approved by Legal Services.

- Information on the public record may be released, such as court or tribunal proceedings which have commenced and are therefore already available to the public via different forums such as court listings. However, care must be taken not to release information on matters that are about to commence or have commenced in a court or tribunal but have not yet concluded, in such a way as may give rise to a contempt of court. In these cases, the Principal Media Liaison Officer will seek advice from Legal Services. Given the complexities and potential ramifications of contempt, the lawyer with conduct of the matter should be consulted. If the lawyer with conduct of the matter is not available, and the situation is urgent, the Legal Services Duty Lawyer should be contacted.
- Information relating to the identity of a person granted a Spent Conviction Order should not be disclosed to the media without prior consultation with Legal Services. As a general rule, the making of a Spent Conviction Order should preclude any comment to the media that names the individual who is the subject of the Spent Conviction Order. The Commissioner's approval should be obtained before such information is released. In some circumstances the Commissioner may preclude disclosure of other information relating to the matter.
- The Commissioner can issue a statement or make public comments about a trader, person or product in regard to the supply of unsatisfactory or dangerous goods or services, or regarding traders engaged in unfair business practices ONLY if it is in the public interest and is an appropriate time to do so. These issues must be considered by Legal Services. For guidelines as to when it may be appropriate to name a trader or product, refer to the "Checklist for Naming" contained in the [Public Naming of Traders Policy](#).

By publicising the information above, the Western Australian public is informed about the action CP is taking with respect to entities which break the law. In addition, traders are provided with information about the appropriate and expected standards with which they are expected to comply.

5. What am I not allowed to disclose to the media?

Authorised officers should not disclose to the media that CP is currently investigating any person or entity without the approval of the Commissioner. A CP investigation is usually commenced on the basis of allegations made by members of the public. These allegations must be substantiated. A decision about whether to commence proceedings does not occur until CP has finalised its investigation and gathered all relevant evidence. A brief of evidence is then provided to Legal Services for assessment as to whether there is a reasonable prospect of conviction. The Commissioner must sign any Authority to Prosecute. Therefore, disclosure to the media that an investigation relating to a person or an entity has commenced or is proceeding could pose a risk to the investigation and to the reputation of the agency. Nevertheless, as noted in the *Public Naming of Traders Policy*, from time to time circumstances may arise when it is in the public interest to name a trader before an investigation is concluded. This must only be done with authorisation of the Commissioner.

It is important to note that not every investigation undertaken by CP results in the instigation of legal proceedings. Other outcomes include educational or warning letters and of course a finding that there is no case to answer.

Other information which should never be released to the media includes the following:

- Cabinet submissions and decisions (unless specifically authorised by the Minister);
- a trader's personal information and any other information of a confidential nature, including transcripts or records of interview;
- information about individual businesses, complaints, charities, associations unless approved by the Commissioner;
- any legal advice obtained by CP including any advice obtained from Legal Services or external Counsel; and
- any information that has been obtained from the shared information platform ACLink unless approved by the Director or Commissioner.

For a fuller list of matters restricted in media comments see Appendix A. Prior legal advice should be obtained whenever releasing documents obtained from third parties. This includes transcripts from court hearings as issues of copyright may arise.

Should a member of the public contact ANY CP officer to lodge a complaint regarding a media publication or comment, the query should be forwarded to the relevant Director and the CP Principal Media Liaison Officer.

6. Guidelines for behaviour

This Policy acknowledges the media's right to report the news, and the right of the public to have access to information about consumer protection issues and initiatives.

Every contact with the media represents an opportunity for CP to clearly state its position, inform the public and disseminate a message.

Reports on topical issues will be broadcast with or without CP's assistance. Therefore, it is in the best interests of all parties for CP to view media contact as an opportunity to ensure accurate and complete reporting of issues, and to cooperate and assist media whenever possible.

Wherever possible, the most senior and the most qualified spokesperson will be put forward to discuss issues in the media.

6.1 Attitude

For many people, their only relationship with CP will be through the media so staff should convey a courteous and professional image.

It is worth remembering that journalists are often not familiar with CP's operations. Staff should therefore be prepared to explain procedures and aspects of operations to prevent misunderstandings and mistakes. Staff should use plain English in all dealings with the media. Acronyms and technical jargon should be avoided whenever possible.

Cooperation will always work better than attempts to control or obstruct the media. Officers should seek the advice of the CP Principal Media Liaison Officer for tips on how to achieve this.

Staff with complaints about treatment from media should refer these to the CP Principal Media Liaison Officer.

6.2 Admitting mistakes

Mistakes happen, by journalists as well as by the people they deal with. The quickest way to deal with a mistake is to admit the misunderstanding, apologise and learn from it. If there is the potential for legal implications officers should report this to the CP Principal Media Liaison Officer.

6.3 “No comment” and “off the record”

Consumer Protection representatives should not use the phrase: “No Comment”. If a journalist feels there is a story it is unlikely that this statement will deter them. The story will be published or aired in any case and is likely to be inaccurate without CP’s comment, however limited.

For example, it is far better to explain with

“I’m sorry, I can’t tell you anything about that because it is a policy issue” or “I can’t discuss that as it has legal and commercial sensitivities”.

Before making a statement of this type, CP staff should seek further advice from the CP Principal Media Liaison Officer as it may be possible for a more senior staff member to provide a more complete response.

There is no such thing as “off the record”. If a situation arises in which you are being urged to provide information “off the record”, resist the urge and contact the CP Principal Media Liaison Officer.

6.4 Acknowledging Lodgement of Complaints

From time to time, a complainant may tell the media that they have lodged a complaint with CP. If approached by the media, staff should refer the media contact to the Principal Media Liaison Officer. In practice, following discussions with the relevant Director, the Principal Media Liaison Officer is likely to confirm that the complaint has been received and that CP is “looking into it”. No specific comment will be made about the case. Media contacts of this type must be handled on a case by case basis by the relevant Director and the Principal Media Liaison Officer.

6.5 Exclusive interviews, briefings or comments

In general, all journalists should be treated equally, with equal rights to information and comment.

It can be a challenging practice to give journalists “exclusive” interviews or “tips offs” on CP activities. If an event is important enough to attract major media attention then all journalists should have equal access.

However there may be occasions when it is in CP’s best interests to cooperate with one journalist or media outlet. This decision should be made on a case-by-case basis, involving the CP Principal Media Liaison Officer and the relevant Director.

6.6 Major incidents

It is the responsibility of the authorised officer and the CP Principal Media Liaison Officer to ensure the needs of the media are met in a timely manner during major incidents.

In the event there is no authorised officer or Principal Media Liaison Officer available on the spot, all public comments should be avoided. An authorised officer should be contacted as soon as possible, by mobile phone if necessary.

In all cases, the Commissioner, appropriate Director and the CP Principal Media Liaison Officer must be informed of any information released or comments made to the media.

The CP Principal Media Liaison Officer will notify corporate media officers as soon as practical and circulate any prepared statement to them (even if they were not published). In this way if the issue begins to impact on other Divisions of the Department, a coordinated response can be developed.

7. Handling media enquiries

7.1 Handling media Enquiries

The following points provide an outline of the media management process within CP.

All media enquiries are to be immediately directed to the CP Principal Media Liaison Officer. Officers are not to discuss any subject with a media representative, unless authorised by the relevant Director or the Commissioner.

Upon receiving a media enquiry, the CP Principal Media Liaison Officer will:

- determine the nature and level of the media enquiry/media issue;
- identify the responsible CP branch or officer;
- identify the key issues; and
- determine deadlines for responding to the enquiry.

The CP Principal Media Liaison Officer will then consult with the Commissioner and/or Director to:

- seek approval to make a statement;
- determine sensitivities;
- examine political and strategic implications;
- determine an appropriate spokesperson;
- advise and assist relevant parties;
- meet other aspects of the media request;
- formulate a timely response;
- seek advice from Legal Services as appropriate; and
- check the shared information platform ACLink.

In the case of political matters, enquiries will be directed to the Minister's Media Secretary for response. In appropriate cases, the Minister's office will be kept informed of media issues that arise.

7.2 Preparing media statements

When requesting a media statement, staff should supply the CP Principal Media Liaison Officer with a short summary of the relevant points in relation to the matter (preferably via email or in hard copy, although a verbal briefing may be arranged on request). It is vital that the person preparing the summary information, to be used as the basis of the media statement, confirms with the relevant Manager/General Manager/Director that all the facts are accurate.

The CP Principal Media Liaison Officer will prepare the appropriate statement. All written media statements should be developed in consultation with the CP Principal Media Liaison Officer before approval by the Branch Manager or General Manager, Legal Services, the relevant Director and the Commissioner.

Statements should be issued to the media on the appropriate media statement letterhead. The CP Principal Media Liaison Officer will then make an electronic or hard-copy version available to the Commissioner, all Department staff and the Minister's office (circulated via email). Media statements are to be published on the Department's website as soon as possible.

In any media statement, the appropriate authorised officer should be identified as the spokesperson. If comment is required the spokesperson should be aware of the media's deadlines and do their best to work within these time constraints.

If other agencies are involved, the CP Principal Media Liaison Officer will ensure there is consultation to prevent conflicting information being published. For this reason relevant media officers will work to ensure there is only one government spokesperson nominated on any joint issues.

In the case of joint media statements, where there is more than one party involved in an issue, it is important that measures are established to ensure consistency in all media communications.

In the event of a protracted media issue, the CP Principal Media Liaison Officer will schedule regular briefing updates wherever possible. This will allow CP to be open and informative, while making media information much easier to collect.

Once media statements have been issued, ACL regulators agree to post on the shared information platform ACLink as soon as practicable.¹

7.3 Managing media conferences

Formal media conferences and other “set-piece” television interviews will be planned and coordinated whenever possible by the CP Principal Media Liaison Officer.

At all CP media events, the nominated authorised officer should be identified to the media as the spokesperson. At the event the spokesperson should make themselves known to any media present. The spokesperson should confirm to the media they will be responsible for any comment made on behalf of CP.

8. Withdrawal of media releases

If CP publishes information online about a particular matter, and then for any subsequent reason the need or appropriateness for the continued publication no longer exists, the information must be removed.

To ensure that this occurs, the CP Principal Media Liaison Officer will review all published media releases at least annually so as to ensure that out-of-date information is removed.

9. Use of naming powers

When the Commissioner decides to use powers under s.57 [Fair Trading Act 2010](#) or s.223 *Australian Consumer Law* to name a trader, CP’s Public Naming of Traders Policy should be consulted. This Policy makes it a requirement for legal advice to be sought before a final decision to name a trader is made.

All traders named should be added to the Named Traders Register, a list and summary of any media statements that mention names of individuals, traders or products, which is for internal use. This Register will be reviewed every 12 months by the CP Principal Media Liaison Officer.

When in doubt contact Legal Services for advice and direction.

¹ Dispute Resolution and Compliance & Enforcement Protocol Please note that this document is not available to the public.

10. After hours contacts

Due to the deadlines associated with media enquiries there is often a need to be able to supply accurate, timely information after hours, on weekends OR public holidays.

After hours and mobile phone numbers of all authorised officers will be supplied to the CP Media Officers. An authorised officer nominated as a spokesperson for a particular matter must advise media staff in advance if they are unavailable after hours and nominate an appropriate staff member to make comment should it be required.

Direct contact numbers for CP spokespeople will not be provided to the media unless otherwise agreed. In most cases a CP Media Officer will call the relevant CP spokesperson and ask that officer to contact an individual media representative.

11. Complaints

Mistakes by both journalists and CP officers will occur. These are generally the result of inexperience, a misunderstanding or simply working under the pressure of very tight timeframes. Should a journalist make a mistake it is essential they are made aware of this error so they can make attempts to correct it.

With some exceptions, significant errors are generally corrected immediately by media outlets. Minor errors may not be corrected.

Generally, a letter to the editor is sufficient in regards to a newspaper, or a phone call to the newsroom of a radio or television network will result in the report being corrected.

There are monitoring bodies within the media, with responsibility to regulate and ensure accuracy in reporting, however their powers are limited. Officially, these bodies have the capacity to fine journalists breaching the journalists' Code of Ethics, so it is important that significant, on-going breaches are reported to the appropriate body.

These bodies are:

- [Australian Communications and Media Authority \(ACMA\)](#) – radio and television
- [The Australian Press Council](#) – newspapers

If staff have a complaint against the media it should be directed to the CP Principal Media Liaison Officer along with a briefing note explaining the circumstances of the media report. Corporate media officers will be involved in dealing with any complaints against the media.

12. Application of this policy

This Policy applies to all CP staff.

13. Review of this policy

This Policy will be reviewed regularly to ensure it remains relevant to CP's needs.

APPENDIX A

What cannot be released to the media and why?

Cabinet submissions and decisions

Cabinet information is held in the strictest confidence and can have a significant impact on CP's operation. Transcripts, drafts, attachments, copies or any comment on such documents should not be released without prior approval of the Director-General.

Comments reflecting on the demeanour or character of other parties

Comment on the conduct or character of other parties should be avoided. There should be no reason for CP officers to comment on these matters under any circumstances. In fact, there is significant legal risk involved in making such comments.

Communications

Transcripts or actual copies of confidential tape recordings and/or documents relating to CP activities should not be released without the prior approval of the Commissioner or Director General. Staff should be mindful of the secrecy provisions of relevant legislation when considering the release of privileged information.

Confidentiality/personal information

Authorised officers should ensure they have read and understood CP's Disclosure Policy concerning the restrictions on the release of personal and/or confidential information. Prior legal advice should be obtained before releasing documents from third parties.

The disclosure of personal information can adversely affect the image of CP and its ability to responsibly handle information. It also may adversely affect related parties. This can jeopardise CP's public image and place management of public comment with the media, which may lead to the media controlling the pace and direction of an enquiry.

Confidential information should not be discussed with anyone who does not have a legitimate reason for access to the information, particularly members of the public or the media.

Contract issues

Comment on commercial contracts should be avoided unless prior approval has been granted by the Director General or Commissioner.

Legal advice

Legal advice may be provided either internally by Legal Services or externally from the State Solicitor's Office, solicitors and barristers. This advice is provided for CP's exclusive use in relation to specific circumstances. The advice is privileged. It should not be circulated outside CP without the full approval of the Attorney General. Circulating legal advice amounts to a waiver of privilege.

Legal matters

Comments on matters, which are before the courts, have possible legal ramifications or require sensitive media response should be referred to Legal Services.

Disclosure of transcripts obtained during trial and court proceedings to another party may give rise to copyright issues.

Matters under investigation

Authorised officers should never disclose that CP is currently investigating a person or an entity without the prior approval of the Commissioner. A CP investigation is usually commenced on the basis of allegations made by members of the public. These allegations must be substantiated. A decision about whether to commence proceedings does not occur until CP has finalised its investigation and gathered all relevant evidence. Disclosure to the media before an investigation has been completed could pose a risk to the investigation and to CP's reputation.

As noted in the *Public Naming of Traders Policy*, from time to time circumstances may arise where it is in the public interest to name a trader before an investigation is concluded. This must only be done with authorisation of the Commissioner.

It is important to note that not every investigation undertaken by CP results in the instigation of legal proceedings. Other outcomes include educational or warning letters.

Matters before the courts

Inappropriate comments about a matter which is before a court or tribunal can lead to contempt of court or possible prejudice of court cases, and may have a negative impact on CP's position. The Principal Media Liaison Officer will seek legal advice in each case, prior to any media comments being made about matters currently before the courts or still within an appeal period.

Personal opinions

Personal opinions and anecdotal "off the cuff" comments must be avoided as they can be taken out of context, or be seen to be representative of the official position of the Department.

CP officers are not to publicly criticise any individual or representative body including other government departments, courts or tribunals, industry representatives, event sponsors, sub-contractors, government representatives or government policy. Departures from this will occur only when the Director-General, Commissioner and other officers' statutory roles oblige them to make public comment about such individuals, companies or groups.

Photographs of businesses or members of the public

Officers should take care with the distribution of photographs of CP initiatives which may have some media sensitivities. Photographs are a high priority within news organisations and are a valuable tool to support a story.

Photos which show members of the public or identify individuals or businesses should be avoided unless there is a clear public interest to use them. For example, in the past, when the public has been warned about travelling conmen and their photographs have been used to alert the community about their identity. If file shots or photos are to be used they should always be cleared with the appropriate Director prior to release to media, as copyright and privacy issues must be considered.

Policy matters

CP officers (other than the Commissioner) should not comment on policy issues unless previously and specifically authorised to do so.

Privacy

CP officers must be aware of the rights to privacy of members of the public. People's privacy must be respected at all times and CP officers should not:

- take media onto public or private sector workplaces without permission;
- permit media to photograph or video private activities especially if those activities may have a negative impact on CP, its key stakeholders or customers;
- release to the media personal details on CP officers, individuals or representative bodies including other government departments, industry representatives, sponsors, sub-contractors, government representatives or government policy; and
- release to the media confidential papers, corporate files or notes of meetings.

Release of names or company details

Information about individual businesses, complaints, charities, associations must not be released to the media without prior specific authorisation from the Commissioner prior to its release.

Spent convictions

When a Spent Conviction Order has been made by a court, no disclosure of information about the matter should be made to the media without first seeking legal advice and obtaining authorization from the Commissioner. Generally, the departmental position is that upon the making of a Spent Conviction Order any comment to the media that names the individual is precluded unless there are extenuating circumstances. In all instances the issue should be considered by Legal Services and the Commissioner.

Statements implying liability on the part of other parties

CP representatives should be cautious when making comments which may suggest liability on the part of other parties. Any suggestion of this nature can result in a lawsuit on a range of legal grounds.