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Australia's new product liability law

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(1993) 67 ALJ 516

Introduction

The new Pt VA of the *Trade Practices Act* is a derivative of the European Product Liability Directive of 1985. It remains to be seen how this European code will adapt to Australian judicial conditions.

There is certainly scope for adaptation. Significant substantive areas are not covered, or incompletely covered, leaving gaps which must be filled by judge-made law. In consequence, Australian judges face an onerous task of interpreting the new law and moulding it to our common law traditions.

In 1987, the United Kingdom adopted the Directive as part of its *Consumer Protection Act*. It has also been adopted in 12 other European countries. As yet, there have been no reported cases from the United Kingdom and little to indicate how the Directive will be applied elsewhere in Europe.

Australian judges may, therefore, have to assess the new law without the benefit of overseas precedent. This article examines aspects of the new law which are likely to attract their attention.

Defective goods

According to its Preamble, the new law is intended to "provide for the compensation of persons who suffer loss caused by defective goods". Those who suffer loss caused by goods which are not defective will not be compensated. It will therefore be critical to determine which goods are defective and which are not.

The dictionary definition of defect – "a falling short; a fault or imperfection" – begs the question of the standard against which the falling short must be measured. A cheap car may not offer the safety features of a Rolls Royce. A car manufactured in 1950 may not be as safe as a car manufactured in 1990. Yet neither may be defective.

In the case of the cheaper car, a cost/benefit analysis justifies its use without the more elaborate safety devices available on more expensive cars. In the case of the 1950 model car, it does not follow from the later development of safer models that earlier models were defective.

A definition of "defect" for product liability purposes needs to recognise and accommodate these factors.

Defining defect

Under the new law, goods have a defect "if their safety is not such as persons generally are entitled to expect" (s 75AC). The definition continues:

- (2) In determining the extent of the safety of goods, regard is to be given to all relevant circumstances including:

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- (a) the manner in which, and the purposes for which, they have been marketed; and
- (b) their packaging; and
- (c) the use of any mark in relation to them; and
- (d) any instructions for, or warnings with respect to, doing, or refraining from doing, anything with or in relation to them; and
- (e) what might reasonably be expected to be done with or in relation to them; and
- (f) the time when they were supplied by their manufacturer.

Two other provisions deal with the later development of safer products. Section 75AC(3) provides that:

- (3) An inference that goods have a defect is not to be made only because of the fact that, after they were supplied by their manufacturer, safer goods of the same kind were supplied.

Section 75AK provides a defence for manufacturers if it is established that the state of scientific or technical knowledge at the time when the goods were supplied by their manufacturer was not such as to enable the defect to be discovered. This is the so-called "state of the art" defence.

How will these definitions be applied in practice?

Persons generally

Defect is defined in terms of the safety expectations of persons generally. What type of people are persons generally? A similar question has arisen in cases of misleading or deceptive conduct in breach of Pt V of the *Trade Practices Act*. In those cases, the question is "What type of victim must be shown to have been misled?".

There has been a divergence of opinion over its answer. Should misleading conduct be measured against the standards of an intelligent man, a reasonable man, a gullible man, or a stupid man? The question is significant because, the more astute the relevant audience, the less likely it is that conduct will be taken to be misleading.

On one view, misleading conduct is measured against the section of the public to whom the conduct is directed, so that

once the relevant section of the public is established, the matter is to be considered by reference to all who come within it "including the astute and the gullible, the intelligent and the not so intelligent, the well educated as well as the poorly educated, men and women of various ages pursuing a variety of vocations" (Taco Co of Australia Inc v Taco Bill Pty Ltd ¹).

A more jaundiced view of the potential audience emerges from the following passage:

Broadly speaking, it is fair to say that the question is to be tested by the effect on a person, not particularly intelligent or well informed, but perhaps of somewhat less than average intelligence

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and background knowledge although the test is not the effect on a person who is, for example, quite unusually stupid. (Annand & Thompson Pty Ltd v Trade Practices Commission ²)

Another view is:

Section 52 does not expressly state what persons or class of persons should be considered as the possible victims for the purpose of deciding whether conduct is misleading or deceptive or likely to mislead or deceive. It seems clear enough that consideration must be given to the class of consumers likely to be affected by the conduct. Although it is true, as has often been said, that ordinarily a class of consumers may include the inexperienced as well as the experienced, and the gullible as well as the astute, the section must in my opinion be regarded as contemplating the effect of the conduct on reasonable members of the class. (Parkdale Custombuilt Furniture Pty Ltd v Puxu Pty Ltd ³)

It is noteworthy that only one of these judges took the option, which common law experience would suggest, of measuring misleading conduct against the standards of the reasonable man.

In the light of these cases, what type of people will persons generally be taken to be? What knowledge and information should be taken into account in assessing what persons generally are entitled to expect? What level of knowledge will persons generally bring to bear on issues such as the safety of drugs, vaccines or complex machines?

In contentious cases, the safety of such products is likely to be controversial amongst medical and scientific experts. If the safety of products is assessed by reference to the knowledge of persons of less than average intelligence or even of average intelligence, quite unpredictable results could be expected. The preconceptions of the community may establish that petrol is inflammable, but they are unlikely to assist in assessing whether it is carcinogenic. Still less will they assist in assessing what side effects should be expected from newly-developed drugs or vaccines.

The Explanatory Memorandum for the new law equates persons generally with "the community". It says:

Sub-section 75AC(1) provides that goods are defective if they do not provide the level of safety which the community (that is, "persons generally") is entitled to expect (par 13).

If persons generally are to be equated with the community as a whole, a fairly sophisticated standard of knowledge may be brought to bear in assessing the safety of goods. The knowledge of expertly-qualified sections of the community may be taken to reflect the accumulated knowledge of the community at large. By ascertaining and applying this knowledge, the standards set may approach the so-called "state of the art" – the best knowledge available in the community as a whole.

Such an outcome is appropriate given the nature of the task of assessing the safety of, say, drugs, poisons or complex machinery, all of which may be the subject of litigation under the new law. It would

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appear to be a task which can only be performed by applying a sophisticated standard of knowledge. It is quite a different task from assessing who may be gulled by misleading or deceptive conduct.

If this approach is accepted, in appropriate cases, courts will receive evidence from suitably qualified experts in order to assess the safety of products, in much the same way as courts now receive expert evidence to establish duties of care in negligence cases.

There are, however, problems with this approach. If the expectations of persons generally reflect the accumulated wisdom of the community, the standard of safety they will apply will be indistinguishable from the "state of the art". In practice, defect will be defined in terms of a departure from the state of the art.

If that result were intended, it could easily have been achieved. Instead, the new law incorporates a definition of defect which operates subject to a state of the art defence. The interpretation that a defect exists whenever there is a departure from state of the art will leave no role for the state of the art defence to play – any product held to be defective will necessarily not be state of the art. The words "entitled to expect" may throw some light on this issue.

Entitled to expect

The definition uses the words "entitled to expect" when "expect" alone could well have sufficed. What significance should be attached to the addition of the words "entitled to"? A foundry worker may feel he is entitled to expect a clean work environment, but, realistically, may expect a polluted environment.

It is arguable that the words "entitled to" in the definition of defect incorporate some element of goal-setting. Under this approach, compensation will be payable when manufacturers fail to meet the *safety aspirations* of persons generally. Manufacturers will only escape liability where they are able to show that the state of the art was such that it was impossible to meet the standards of safety to which persons generally aspired at the time of manufacture. But this approach carries its own element of unreality.

In most cases, there will be no difference between what persons generally in fact expect and what they are entitled to expect. To argue that there is a difference, it will be necessary to assert, in the face of the fact that persons generally know that a given risk exists, that they are entitled to expect that it does not. The argument is therefore quite artificial.

The basis for an entitlement, in effect, to proceed on a fictitious assessment of the safety of a product may lie in some expectation that individuals should not be exposed to dangerous products. Thus, it may be argued that any number of products, known to be potentially dangerous, should be treated as defective. The argument would catch, for instance:

- alcohol – because some drinkers contract liver disease;
- butter and eggs – because they may increase cholesterol levels;
- petrol – because it sometimes explodes; and
- chocolate – because it contributes to obesity.

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It might well be asked, what entitlement do persons generally have to expect that an unreal situation should exist? Why should they be entitled to expect that petrol is safe when plainly it is not?

The argument that persons generally are entitled to expect what they do not in fact expect is flawed because it rests on the wrong assumption that a standard of perfection is achievable – that non-explosive petrol is possible, that non-fattening chocolate exists, and so on. Nothing in the new law supports such a fictitious approach.

Proving what persons generally are entitled to expect

Will it be necessary to call evidence to prove what persons generally are entitled to expect? This may be a contentious exercise, especially if courts are required to ascertain the prejudices, preconceptions and aspirations of the community.

Calling witnesses to prove the expectations of persons generally would seem to be inappropriate and unhelpful. The expectations of individuals may vary markedly. Synthesising the expectations of persons generally from the opinions of even large numbers of individual witnesses would be an invidious task.

In some circumstances, survey evidence may be possible, but it may be unwieldy and ineffective, especially where no consensus emerges from the group surveyed, or where competing surveys give different responses.

Reasonable men are not called in negligence actions to give evidence of the standards of behaviour they would accept. It would be strange if persons generally could be called in product liability actions to give evidence of their safety expectations.

After all, the notion of persons generally is only a conceptual device, as is the notion of the reasonable man. There is as much room for marked and tenable differences of opinion on safety standards between persons generally as there is between reasonable men. Airing those differences by evidence in a courtroom, however edifying it may be, destroys the value of the conceptual device.

Donoghue v Stevenson Contrasted

The new law was introduced, in part, at least, to overcome problems of proof which sometimes made it difficult for plaintiffs to succeed in actions under the principle in *Donoghue v Stevenson* .⁴ Has this goal been achieved?

The chart (p 526) compares the elements of an action under the new law with those of an action under *Donoghue v Stevenson* . It shows that an action under the new law should be considerably easier to prove. Plaintiffs are relieved of the burden of proving negligence in the design, manufacture or marketing of the product. Moreover, defendants have the burden of proving, on the balance of probabilities, the substantive defences in s 75AK . Those defences are:

- (a) that the goods were not defective when the manufacturer supplied them;

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- (b) that the goods were defective only because they complied with a mandatory standard;
- (c) that the state of scientific or technical knowledge when the goods were supplied was not such as to enable the defect in the goods to be discovered; and
- (d) that the goods were defective only because of the way they were incorporated in finished goods.

The benefits which these changes bring for plaintiffs may be illustrated by examining how cases decided under the common law would be decided if they were brought under the new law.

In *Kilgannon v Sharpe Bros Pty Ltd* ,⁵ the plaintiff failed at first instance because he was unable to prove which of the bottle manufacturer, the bottle filler or the distributor introduced the defect which caused the bottle to explode. If the case had been litigated under the new law, the plaintiff may not have encountered the difficulties he did in proving his case.

If the same action were brought under the new law, the bottle manufacturer and the filler of the bottle would potentially be liable as manufacturers. In order to escape liability, each of them would have to prove, on the balance of probabilities, that the defect in the bottle did *not* exist when they supplied it. As manufacturers of a mass-produced item, such as a bottle, they would find this a difficult burden to discharge. In this way, it may be said that the s 75AK defences effectively reverse the onus of proof.

The position is not, however, clear cut. On the one hand, plaintiffs have the burden of proving that a defect in the goods caused injury or loss. On the other, defendants have the burden of proving, for instance, that the defect did not exist when the goods were supplied or that the goods were "state of the art". In some cases, it will be difficult to determine where the burden lies.

In *Grant v Australian Knitting Mills* ,⁶ the plaintiff alleged he had contracted dermatitis from a residue of free sulphites in garments manufactured by the defendant. The presence of excess quantities of free sulphites might readily be regarded as a defect in the garments. However, after the garments were washed (as they had been), it was impossible to prove by direct evidence (as opposed to inference) what quantities of free sulphites were present when the garments were sold. If the case were litigated under the new law, it would be vital to determine whether the plaintiff had the burden of proving that the free sulphites were present or the defendant had the burden of proving that they were not. That determination might well decide the case.

A similar quandary may arise in the case of the "state of the art" defence. In *Todman v Victa Ltd* ,⁷ the issue was whether a lawnmower had been designed negligently. The plaintiff, who had been injured by an object thrown up by the mower, alleged that the machine lacked adequate guards. If the case were litigated under the new law, would the plaintiff have to prove the design defect, or would the defendant have to prove that the state of scientific or technical knowledge when the goods were supplied was not such as to enable the defect to be discovered?

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Risky products

What level of safety are persons generally entitled to expect of products the use of which is known to carry a risk of harm?

So-called inherently dangerous products include petrol, chemicals, explosives, drugs, tobacco and alcohol. The Explanatory Memorandum (par 22) deals specifically with these products:

Similarly, there is a class of goods which can conveniently be referred to as "inherently dangerous products". Products in this class include tobacco, guns and knives. Because such products are, by definition, inherently dangerous and known to be such, community expectations in relation to these products must include an understanding of the degree of risk involved in their use. In the case of products for which the nature of the danger is well known to the general community, the community expects (and must accept) a degree of risk.

What do persons generally expect of the safety of such products? In the case, for instance, of alcohol, persons generally may expect quite severe health effects if the product is used to excess. They may, perhaps, expect that the product will affect some people more than others. They may expect that some people will suffer genetic or psychological predisposition to alcohol-induced disease. They may expect that other people will consume alcohol into old age with no apparent ill-effect. In short, expectations of the safety of risky products are quite complex.

The new law does not use the word "risk". Considerations of risk are, however, introduced by references to safety. Safety is not an absolute concept – it cannot be guaranteed. To say that a product is safe implies that the risks inherent in its use have been reduced to acceptable limits. Thus, the statement, "Cars are a safe form of transport", is reasonable even though thousands die each year in car accidents.

Losses arising from the use of risky products, such as cars, may fall within or without the scope of the risk generally expected from their use. Five situations are possible:

- (1) Losses may fall within the scope of the risk which persons generally expect, as in the case of a "routine" car accident;
- (2) Losses may fall outside the scope of the risk which persons generally expect because of unexpected risks created by the user, as in the case of a car accident caused when the driver has a heart attack;
- (3) Losses may fall outside the scope of the risk which persons generally expect because of unexpected risks created by the manufacturer, as in the case of a car accident caused by a brake failure which the driver could not anticipate;
- (4) Losses may fall outside the scope of the risk which persons generally expect because of unexpected risks created both by the manufacturer and the user, as in the case of a car accident caused by the drunkenness of the driver, but exacerbated by the failure of the driver's seat belt; and
- (5) Losses may fall outside the scope of the risk which persons generally expect because of unexpected risks created neither

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by the user nor by the manufacturer, as in the case of a car accident which occurs when one car is thrown onto another during a cyclone.

The user should only have an action in categories (3) and (4), in which the goods do not perform according to the safety expectations of persons generally because of an unexpected risk created wholly or partly by the manufacturer. In category (1), the user should have no action, because the goods are not defective. They perform according to the safety expectations of persons generally. In category (2), the user should not have an action. The accident results from an unexpected risk created, albeit unwittingly, by the user. In category (5), the loss is caused by events which cannot be traced to the user or the manufacturer.

This analysis focuses on cause of loss, not on blame for loss. It would be easy to suggest cases falling within categories (2) and (3) involving blameworthy conduct on the part of the driver and the manufacturer. In category (2), rather than suffering a heart attack, the driver may have failed to pay proper attention to his driving. In category (3), the brake cable may have been assembled incorrectly during manufacture. Under the new law, however, it is not necessary to show blame or negligence, at least on the part of the manufacturer.

Who bears the risk of risky products?

The new law does not contain a complete defence of *volenti non fit injuria*. This omission may, however, be insignificant in the case of risky products in the light of the foregoing analysis. If products whose use is known to carry a risk are not defective as regards losses falling within the scope of the risk, whatever risk may be inherent in their use will fall on the user.

Defects discovered after supply

Theoretically, at the trial of a liability action, the plaintiff must prove:

- (1) the level of safety which persons generally are entitled to expect from a particular product;
- (2) that the action goods did not reach that level of safety; and
- (3) that the plaintiff suffered loss because the action goods did not meet the required level of safety.

The time at which the plaintiff must prove each of these facts is critical.

In proving that his or her loss was caused by the action goods, the plaintiff in a liability action may rely on the best technical, medical and scientific evidence available at the time of trial. The same evidence may, however, be irrelevant in proving what persons generally were entitled to expect of the safety of the product.

The new law does not specify when the plaintiff must prove the level of safety which persons generally were entitled to expect from the product in question. The preferable view would appear to be that the relevant time is the time of supply by the manufacturer.

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This view is supported by the following provisions of the new law:

- the direction to take account of the time of supply in determining the safety of goods (s 75AC(2)(f));
- the prohibition on inferences of defect where safer goods become available after the manufacturer supplied the action goods (s 75AC(3)); and
- the state of the art defence, which fastens on what was discoverable at the time when the action goods were supplied (s 75AC(1)(c) ; and
- the defence that the defect alleged to have caused the loss did not exist when the action goods were supplied by the manufacturer (s 75AK(1)(a)).

As a matter of interpretation, at least, the time of supply of the action goods seems to be the relevant time to assess the level of safety which persons generally were entitled to expect. It probably follows that the question of whether there was a departure from that level of safety, and hence whether the goods were defective, should also be assessed at the time of supply.

This problem of timing creates acute problems for products thought to be safe when the manufacturer supplied them, but later shown to be unsafe. With such products, evidence of the harmful effect of the product which came to light after it was supplied will be led at trial to prove that the product caused the injury alleged.

However, that same evidence should not be relevant to prove that the products were defective. To prove that the products were defective, attention must be turned to the level of safety which persons generally were entitled to expect of them when they were supplied by their manufacturer. By definition, at the time of supply, nothing will have been known of the harmful effect proved to exist at the trial. No relevant expectation of safety could therefore have been formed at the time of supply.

If the harmful effect discovered after supply was that the products were carcinogenic, no expectation could have been formed before supply of direct relevance to that propensity. If knowledge of the harmful propensity did not exist at the time of supply, persons generally would presumably have expected that the products were not carcinogenic. The products would therefore be held to be defective, since that expectation was not met.

The manufacturer would be left to the defence that the state of scientific or technical knowledge at the time of supply was not such as to enable the defect to be discovered. Axiomatically, the defect will have been discovered by the trial. How will the manufacturer argue that the defect proved at trial was not capable of being discovered at the time of supply?

In practice, therefore, the state of the art defence may prove to be illusory.

Different considerations may apply if, when the products were supplied, it was suggested, but not proved, that they were carcinogenic. The manufacturer of such products may have been able to avoid liability by warning consumers of a risk that the product was carcinogenic or that its use entailed a health risk. This

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would suggest that a manufacturer who innocently supplies products later proved to be carcinogenic will be in a worse position than a manufacturer who knowingly supplies products suspected of being carcinogenic who adopts the expedient of warning of the possible risk. This would be a surprising result.

Can warnings obviate defects?

A whole range of dangerous products, including drugs, pharmaceuticals, cleaning agents, paints, solvents, herbicides and pesticides is found in most Australian houses. In each case, a limited expectation of their safety is held, largely created by the extensive warnings on their packaging. Indeed, in many cases, the warnings are required by statute.

Common sense would suggest that persons generally should only be entitled to regard such products as defective if they demonstrate a dangerous characteristic not covered by the warning material. Yet a warning does not remove the harmful characteristic of a dangerous product. If analgesics are harmful, their harmful effect is not diminished by a warning of that propensity. The warning only gives consumers an opportunity of avoiding the harmful propensity by following the directions given or by avoiding the product altogether.

Under the new law, if directions or warnings create an expectation in persons generally that, for instance, persistent use of analgesics should be avoided, analgesic manufacturers will not be liable for harm caused by analgesics taken contrary to the directions, because persons generally will not be entitled to expect that analgesics taken excessively are safe. This applies whether or not individual users of analgesics ever read the directions or warnings. The test of defect is an objective test based on the expectations of persons generally. The subjective expectations of individual users are quite irrelevant.

This may lead to unexpected results in the case of persons unable to heed warnings. Young children, non-English speakers and the intellectually-impaired may be quite unable to understand warnings given on the packaging of a product. If the test of the expectations of persons generally is rigorously applied in the objective manner suggested in the Explanatory Memorandum, dangerous products with detailed warnings of their dangerous characteristics will not be treated as defective. Those who suffer loss because they are not able to understand the warnings may be barred from recovery.

A challenge for Australian courts

The new law embodied in Pt VA of the *Trade Practices Act* promises to revolutionise Australia's product liability law. Whether it will simplify the law is another question altogether.

Challenging concepts, foreign to our common law tradition, are introduced. Interpreting these concepts and adapting them to Australian legal conditions will pose a challenge for Australian courts.

(Chart, page 526)

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MATTER TO BE PROVED	Donoghue v Stevenson	WHO HAS THE ONUS OF PROOF?	PART VA , TRADE PRACTICES ACT	WHO HAS THE ONUS OF PROOF?	COMMENT	IS THE PLAINTIFF'S BURDEN EASIER UNDER PT VA THAN UNDER Donoghue v Stevenson ?
Who is liable?	A manufacturer which	Plaintiff	A corporation, which, in trade	Plaintiff	The test under Pt VA is simpler	Yes

	<p>manufactures products which it sells:</p> <p>(i) in such a form as to show that it intends them to reach the ultimate consumer in the form in which they left the manufacturer with no reasonable possibility of intermediate examination, and</p> <p>(ii) with the knowledge that the absence of reasonable care in the preparation or putting up of the products will result in an injury to the consumer's life or property.</p>		<p>or commerce, supplies goods manufactured by it.</p>		<p>than the Donoghue v Stevenson test. Moreover, in cases where the identity of the manufacturer is in doubt the plaintiff has the benefit of the unidentified manufacturer provision (s 75AJ).</p>	
<p>How does the liability arise?</p>	<p>The manufacturer negligently breaches the duty which it owes to the consumer to take reasonable care.</p>	<p>Plaintiff</p>	<p>The goods have a defect, that is, their safety is not such as persons generally are entitled to expect having regard to all of the matters referred to in s 75AC .</p>	<p>Plaintiff</p>	<p>Under Pt VA , the plaintiff does not have to prove that the manufacturer was guilty of negligence in manufacturing the product As Senator Tate said in his original <i>Second Reading Speech</i> , "The difficulty in proving negligence is one of the factors identified in existing law which can lead to injustice". Under Pt VA , the plaintiff need only prove</p>	<p>Yes</p>

					that the goods have a defect.	
When is compensation payable?	The breach of duty results in injury to the plaintiff which is not too remote.	Plaintiff	Because of the defect, an individual suffers injuries.	Plaintiff		No difference
What factors bar or reduce the plaintiff's right of recovery?	(a) Voluntary assumption of risk by the plaintiff	Defendant	The contributory acts or omissions of the individual who suffers the injury or loss (s 75AO)	Defendant		No difference
	(b) Contributory negligence	Defendant				
Matters which, if proven by <i>the defendant</i> will allow it to escape liability?	None		(1) The defect did not exist when the action goods were supplied (s 75AK(1)(a))	Defendant	This effectively reverses the traditional onus of proof. Under <i>Donoghue v Stevenson</i> , the plaintiff must prove that the defect existed when the goods were supplied by the manufacturer.	Yes
			(2) Compliance with a mandatory standard (s 75AK(1)(b))	Defendant	This effectively reverses the traditional onus of proof. Under <i>Donoghue v Stevenson</i> , the plaintiff must prove that although the goods complied with a mandatory standard, the manufacturer was nevertheless negligent because the goods did not meet some higher standard.	Yes
			(3) The state of the art of defence (s 75AK(1)(c))	Defendant	This effectively reverses the traditional onus of proof. Under <i>Donoghue v Stevenson</i> , the plaintiff must prove that the goods were not state of the art, if he or she	Yes

					wishes to prove negligence by reference to that fact.	
			(4) In the case of components, the defect is attributable to the way the finished goods were or packaged (s 75AK(1)(d))	Defendant	This effectively reverses the traditional onus of proof. Under <i>Donoghue v Stevenson</i> , the plaintiff bears the onus of proving that component parts of a finished product were manufactured negligently.	Yes

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- * Partner, Clayton Utz, Melbourne
- 1 (1982) 42 ALR 177 at 202 per Deane and Fitzgerald JJ.
- 2 (1979) 40 FLR 165 at 176 per Franki J.
- 3 (1982) 149 CLR 191 at 199 per Gibbs CJ.
- 4 [1932] AC 562.
- 5 (1986) 4 NSWLR 600.
- 6 (1936) 54 CLR 49.
- 7 [1982] VR 849.

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- Annand & Thompson Pty Ltd v Trade Practices Commission
- Donoghue v Stevenson
- Grant v Australian Knitting Mills
- Kilgannon v Sharpe Bros Pty Ltd
- Parkdale Custombuilt Furniture Pty Ltd v Puxu Pty Ltd
- Taco Co of Australia Inc v Taco Bill Pty Ltd
- Todman v Victa Ltd

