

VICTORIA

Report

of the

CONSUMER AFFAIRS COUNCIL

for the

Year ended 30 June 1980

Ordered by the Legislative Assembly to be printed

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CONSUMER AFFAIRS COUNCIL

November, 1980.

The Honourable J.H. Ramsay, M.P.,
Minister of Consumer Affairs,
Victoria.

Sir,

In accordance with the Consumer Affairs Act 1972,
Section 7, the Consumer Affairs Council of Victoria has
much pleasure in presenting to you this Report concerning
the activities of the Council for the year ended 30th
June 1980 for tabling before both Houses of Parliament.

Yours faithfully,

Maureen Brunt, Chairman.

Council Members:

R.B. BROOKS

BARRY E. COAD, E.D.,

ANDREA M. FARRAN

K.T.H. FARRER, O.B.E.,

SUZANNE M. RUSSELL

PRUE SIBREE

J.A. TODD

K.L. VERTIGAN

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1. FUNCTIONS AND MEMBERSHIP OF THE COUNCIL

1.1 Functions of the Council

Section 6 of the Consumer Affairs Act 1972 states:

6. The functions of the Council shall be -
- (a) to investigate any matter affecting the interests of consumers referred to it by the Minister;
 - (b) to make recommendations with respect to any matter calculated to protect the interests of consumers;
 - (c) to consult with manufacturers retailers and advertisers in relation to any matter affecting the interests of consumers; and
 - (d) in respect of matters affecting the interests of consumers, to disseminate information and to encourage and undertake educational work.

1.2 Membership of the Council

Section 5(1) of the Act states:

5. (1) There shall be a council appointed by the Minister to be called the Consumer Affairs Council consisting of a person appointed as Chairman of the Council and at least seven and not more than nine other members of whom -

- (a) at least one shall be a person experienced in the manufacture of consumer goods;
- (b) at least one shall be a person experienced in retail trading in consumer goods;
- (c) at least one shall be a person experienced in advertising or sales promotion activities in connexion with consumer goods; and
- (d) at least four (including at least two women) shall be persons representing the interests of consumers.

The composition of the Council as at 30 June 1980 was as follows:

Chairman	Maureen Brunt	Other part-time appointments as Professor of Economics, Monash University, and Member, Trade Practices Tribunal.
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"A person experienced in the manufacture of consumer goods"

Dr. K.T.H. Farrer, O.B.E.,	Chief Scientist, Kraft Foods Limited; member, Food Science and Technology (Reference)
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Sub-committee, NHMRC;
member, Antarctic Research
Policy Advisory Committee;
vice-president,
Australian Academy of
Technological Sciences.

"A person experienced in retail trading in consumer goods"

Ron Brooks Director, James McEwan &
Co. Pty. Ltd.,

"A person experienced in advertising or sales promotion
activities in connexion with consumer goods"

Barry E. Coad, Marketing Services
E.D., Controller, Target Aust-
ralia Pty. Ltd.; member
of Victorian Executive,
National Advertisers
Association Of Australia;
Commissioned Officer -
Army Reserve (24 years
service).

"Persons representing the interests of consumers"

Andrea M. Farran Lawyer and publisher.

Suzanne Russell	Vice-chairman Consumers' Association of Victoria; Executive member, Australian Federation of Consumer Organizations; Council member, Australian Consumers' Association; Senior Lecturer in Home Economics, R.M.I.T.
Prue Sibree	Practicing Solicitor; Parent; member Metropolitan Transit Council; Family business.
James A. Todd	Chief Manager, Consumer Finance, with a major finance company; 25 years experience in the finance industry.
K.L. Vertigan	Retired Trade Union Official.

It is understood that it is proposed to amend S.5(1) of the Act to provide for the appointment of " at least ... one person experienced in the provision of consumer finance". Mr. Todd , has an extensive background in the finance industry.

At 30th June last there was one vacancy in respect of consumer representation in Council membership. But at time of writing this report that vacancy has been filled by the appointment of:

Yvonne Thompson

23 years experience as a consumer and homemaker; three children; involved in many community activities particularly relating to the handi-capped.

1.3 Retirement of Former Chairman and Members

There were large changes in the composition of the Council in the course of the year.

We record with regret the unexpected retirement, on medical advice, of the Council's Chairman for six years, Brigadier J.D. Purcell. That occurred in April of this year, the new Chairman being appointed in May. At its May meeting, the Council resolved to record the following minute of appreciation:

Council wishes to place on record its appreciation of Brigadier Purcell's qualities of leadership over the last six years. It notes particularly the harmonious and open way in which he has conducted Council business; his very easy accessibility to Council members; his level-headed and far-sighted approach to problems; the clarity of his thinking; and the respect in which he is held by consumer and business interests alike. It believes that the reputation of the Consumer Affairs Council has been enhanced under his leadership.

Four very valued members of the Council also retired in February of this year:

Mrs. Dorothy Hobson, B.E.M.

Mr. H.R. Hobson

Mr. A.W. Muddyman, J.P.

Mr. J.L. Waters, J.P.

The new Council wish to record appreciation of their long and outstanding service in the field of consumer affairs. The appointments of Mrs. Hobson and Mr. Waters, indeed, date from the first day of the constitution of the forerunner of this Council, the Consumers Protection Council, which came into being on 1 September, 1965. Mr. Muddyman was appointed not much later, in the course of the year 1968-1969. Mr. Hobson, too, has given generous service, his appointment being made in the course of the year 1973-74.

1.4 Role of the Council

At its meeting in March 1980, under the Chairmanship of Brigadier Purcell, the reconstituted Council held an initial discussion of its role in consumer affairs. It noted that the functions of the Council as stated in the Consumer Affairs Act 1972, S.6, are virtually identical with those originally defined for its forerunner in the Consumers Protection Act 1964. Members agreed that despite the formal functions remaining unchanged, in fact the activities and role of the Council over the years have been subject to constant change in light of the development of the Ministry of Consumer Affairs and the evolution of consumer affairs in the world at large. (See the following section).

Accordingly, there would be a need on a future occasion to give further thought to the role of the Council and the manner in which its work might best be organised.

In the meantime, the Council reaffirmed the objectives first formulated in 1975:

- a) to review sales, service and other business practices to determine whether they are, in part or whole, contrary to the interests of consumers;
- b) to consult with consumer groups and to receive representations from them in respect to matters affecting the interests of consumers;
- c) To consult with individual businesses, business organisations and associations, government departments and statutory bodies, with a view to eliminating, minimising or clarifying consumer problem areas;
- d) to advise the Minister of Consumer Affairs where new or amended legislation appears to be necessary in the interests of consumers;
- e) to inform the Minister of Consumer Affairs of business practices which appear to the Council to be undesirable or unethical;
- f) to assist in the formulation of consumer product and information standards;

- g) to assist in the consumer education programme.

New members noted that the subjects for investigation and discussion by the Council in recent years have originated from three main sources:

- (i) by request from the Minister;
- (ii) by reference from the Director of Consumer Affairs; and
- (iii) by reference from individual members of Council.

The Council would particularly welcome opportunities of meeting with consumer and business groups to discuss matters of mutual interest. The Council is always pleased to hear from individual consumers or business firms.

At a subsequent meeting, the Council endorsed the thinking behind the change in its title in its early history from the "Consumers Protection Council" to the "Consumer Affairs Council": the Council should be seen as a balanced body, primarily representing consumers, but trying to achieve a harmonious and efficiently functioning market-place for both consumer and business alike.

2. THE LAST DECADE: A "QUIET REVOLUTION" IN CONSUMER AFFAIRS.

What Mr. Justice White of the South Australian Supreme Court has written of the progress of consumer law in Australia generally over the last decade applies also to developments in Victorian consumer affairs:

There has been a "quiet but remarkable revolution" in consumer affairs. In this, the 1980 Annual Report, we take the opportunity to review the developments in consumer affairs in the preceding decade and to identify some of the challenges for the future.

The decade began with the creation of two of the present-day institutions, the Consumer Affairs Council and the Consumer Affairs Bureau. These two institutions were formed essentially by splitting the functions of the first consumer affairs body, the Consumers Protection Council, originally established by the Consumers Protection Act of 1964. (See the Time Chart of Developments in Victorian Consumer Legislation on the next page). That original body, comprising of a Chairman, five members, and a staff of three had been given the two-fold task of receiving consumer complaints and formulating advice on consumer matters to the then Minister, the Attorney-General.

The Consumer Protection Act 1970 repealed the 1964 Act, enlarged the Council and changed its name to the Consumer Affairs Council, and created the Consumer Protection Bureau, as a branch of the Department of Labour and Industry, principally to receive consumer complaints and advise consumers.

Time Chart: Principal Developments in Victorian
Consumer Legislation, and Administration.

1964 -

Consumers Protection Act

Established Consumers Protection Council to advise the Minister (the Attorney-General) on consumer matters and investigate consumer complaints.

1968

Administration of the Act transferred from the Law Department to the Department of Labour and Industry.

1970 -

Consumer Protection Act

Enlarged the Council and changed its name to the Consumer Affairs Council; created the Consumer Protection Bureau as a branch of the Department of Labour and Industry, principally to receive consumer complaints and advise consumers; repealed the 1964 Act.

Time Chart (continued.)

1972 -

Consumer Protection Act

Enactment of present day statute, largely a consolidation of certain provisions of the 1970 Act, the Goods Act, the Summary Offences Act, Footwear Regulation Act, Labour and Industry Act, and Door to Door Sales Act; new provisions in respect of unordered goods and services, and the safe design and construction of goods.

1973 -

Small Claims Tribunals Act

Made provision for establishment of Small Claims Tribunals, each constituted by a referee, to determine small consumer claims against traders.

1973 -

Motor Car Traders Act

Established Motor Car Traders Committee to license used car dealers; provided for regulation of car trading.

Time Chart (continued.)

1973 -

Amendments to Consumer Protection Act 1972
Ministry of Consumer Affairs Act.

Created the Ministry of Consumer Affairs and made provision for the appointment of a Director of Consumer Affairs to administer the Consumer Affairs Act and the Small Claims Tribunals Act.

1974 -

Amendments to Consumer Protection Act 1972

Title of Act changed to "Consumer Affairs Act", and of Bureau to "Consumer Affairs Bureau".

Mid-1970's

Decision that a Residential Tenancies Law will be enacted, and that it will be administered by the Ministry.

1977

Administration of Motor Car Traders Act transferred to the Ministry from the Chief Secretary's Department.

1978 -

Market Court Act

Provided for a Market Court consisting of a County Court Judge and two advisory members, to make orders in respect of traders who repeatedly engage in unfair conduct and deeds of assurance given to the Director.

The year 1971 saw the first Annual Report of the Consumer Affairs Council (for the period November 1970 to June 1971). The year 1971-72 was the first full year of operation of the Bureau (established also in late 1970). In those days the staff of eight was a tremendous advance on the staff of three with which the original Council had operated in its early years. It is interesting to compare these staffing numbers with the present-day staffing of the Ministry which, at mid-1980, amounts to 59 - a figure which, even so, does not accurately reflect the greatly enlarged task confronting the Ministry today (see Section 5).

No doubt the most significant legislative and administrative advances, however, were made in the years of 1972 and 1973. For Victoria's present Consumer Affairs Act was first enacted in 1972, largely as a consolidation of certain "consumer" provisions in existing legislation (see the Chart) with certain new provisions. Accompanying this legislation was the creation, in 1973, of two new institutions, the Small Claims Tribunals and the Motor Car Traders Committee. These developments then paved the way for the creation of the Ministry of Consumer Affairs under the umbrella of the Department of Labour and Industry, to administer the Consumer Affairs Act and the Small Claims Tribunals Act. Provision was made for the appointment of a Director of Consumer Affairs, and in June 1974 the first Director of Consumer Affairs, Mr. Norman Geschke, assumed office.

It is good to remember that Victoria has been the Australian state which pioneered consumer affairs legislation and institutions. The Consumers Protection Act 1964 was the first such Act to be enacted in Australia. Victoria was thus the first state to establish a body charged with the responsibility of investigating consumer complaints and of advising the Government on consumer problems. In 1973, Queensland and Victoria were the first states to make provision for the small claims tribunal, essentially a quasi-judicial body, constituted by a referee using informal procedures to negotiate and determine small consumer claims against traders. In 1978 there has been the Market Court Act, again a first, which provides for a Market Court to consist of a County Court Judge and two advisory members (one representing the interests of traders and one representing the interests of consumers) to make orders in respect of traders who persistently engage in conduct " deemed ... unfair to consumers". These orders may extend to prescribing particular trading activities of named persons, and thus can constitute (a path-breaking development) a form of "negative licensing".

These days, all the Australian states and the A.C.T. have enacted consumer legislation with a similar dual purpose to the 1964 Act: complaint handling and consumer policy advice.

All states and territories, with the exception of South Australia, have an independent advisory Consumer Affairs Council. Most states have small claims tribunals. In 1974 the Commonwealth enacted the Trade Practices Act with comprehensive provisions both in respect of "consumer protection" and the control of restrictive trade practices to be enforced by the Courts.

Victoria, along with the other states and the A.C.T., has progressively enacted, in the course of the decade, a great deal of "consumer legislation" whose role is essentially to supplement the institution of the market in the efficient and fair provision of consumer goods and services. While difficult to characterize shortly, in that this consumer legislation encompasses various aspects of the market relations between consumer purchasers and retail traders, its ambit is no less than the regulation of the totality of consumer transactions in goods and services (including finance, residential tenancies, professional services and real property). It is concerned to control undesirable selling practices (e.g. pyramid selling); misleading or deceptive advertising and misrepresentation generally; marking and labelling; product standards and unsafe products; implied terms and warranties and other contractual terms; and professional and trading qualifications. It is concerned with consumer education, information and advice. It is concerned to establish specialised institutions of consumer assistance (complaints handling, special tribunals and courts) and with enforcement of consumer legislation.

In retrospect, the main achievements of the decade may be summarized thus:

- . the acceptance by Government of a field of consumer affairs which requires distinctive legislation and administrative institutions;
- . the awareness by the Victorian public of the existence of the Ministry of Consumer Affairs and the use made of its organs of enforcement and redress;
- . the greater acceptance by traders of the requirements of consumer legislation and their willingness to discuss problems that impinge on consumers;
- . the establishment of the Ministry with its functions of settlement of consumer disputes, provision of education and advice, liaison with traders, provision of policy advice, and the institution of legal proceedings;
- . the recognition of the importance of consumer education both within the Ministry and the community at large, as expressed for instance in the inclusion of consumer education in the core curriculum of the majority of schools;
- . the creation of special institutions of consumer assistance, the Small Claims Tribunals, the Consumer Affairs Bureau, the Market Court, and the Motor Car Traders Committee;

- . the progressive evolution of "consumer legislation" , both that embodied in the Consumer Affairs Act and that constituted by more specialized statutes such as the Residential Tenancies legislation and the new credit bills, and
- . the development of institutions of federal-state cooperation, especially the twice yearly Meeting of Consumer Affairs Officers, the Standing Committee of Ministers of Consumer Affairs and the Commonwealth / States Consumer Products Advisory Committee.

It is appropriate, finally, in this Annual Report for 1980, not only to review past developments with satisfaction but also to record some of the accompanying challenges for the future.

The most important and most urgent of those is clearly the resolution of certain issues which have developed concerning the functions and organization of the Ministry of Consumer Affairs within the Department of Labour and Industry. In one sense the role of the Ministry might seem anomalous: it seeks to identify a coherent aspect of consumer affairs which can then be administered by the one Ministry, yet so much of the Government's decision-making as a whole is concerned with subjects which directly affect consumers.

Nevertheless that identification has been achieved: a coherent field of "consumer affairs" has been defined; a Ministry is working well; its functions are being enlarged to encompass the administration of the residential tenancies law as well as the anticipated credit legislation.

In view of the increasing responsibilities and demands upon the Ministry and the continuing development of the role it is to play, the Council considers that the existing attachment to the Department of Labour and Industry is no longer an appropriate one and accordingly recommends that a suitably independent organizational form for the Ministry be implemented as soon as possible.

It has become standard in commentaries upon Australian consumer protection to refer to the individual state's legislation in such terms as "ad hoc" and "piecemeal". Victoria is no exception. Moreover business-men are highly critical of the "fragmented" and "unco-ordinated" laws, of the need for national firms to comply with nine bodies of legislation (the laws of the Commonwealth, seven states and a territory). Contrasts are often drawn between the states' legislation and the "comprehensiveness", "unity", "elegance" and "enforcement strength" of the Commonwealth's Trade Practices Act 1974 (Part V and associated sections).

The Commonwealth, however, had the advantage of starting with a clean slate. For the states it has been a matter of progressive evolution from the Sale of Goods Acts of the nineteenth century. The Commonwealth has also had the advantage of greater financial capability. Nor would one wish the states simply to mirror the functions and approach of the Commonwealth. For there is a division of responsibility - a defining of complementary roles - which is, in our view, appropriate.

Nevertheless the second challenge for the 1980s we would wish to identify is the need to re-assess the Consumer Affairs Act itself, and to explore further the opportunities for developing complementary legislation and institutions with the Commonwealth and other states.

Finally, there is one problem of a more specialised character deserving of attention. This is the relative independence from consumer legislation of those activities which are the subject of occupational licensing, including the professions. There is some doubt as to whether the professions are within the ambit of the Consumer Affairs Act and the Small Claims Tribunals Act. Section 3 of the Market Court Act explicitly exempts traders subject to registration or licensing control or other authority. It is by no means obvious that exemptions are appropriate.

3. REVIEW OF PREVIOUS RECOMMENDATIONS OF THE COUNCIL

3.1 General

In the course of the last 18 months, the Council has undertaken a review of the recommendations contained in its Annual Reports from 1974 to 1979. This review has disclosed that most of the recommendations have been implemented or satisfactorily resolved. Sometimes the recommendation has resulted in specific legislation or administrative action; sometimes the recommendation has endorsed a proposal before the Government which has then been implemented; sometimes the recommendation has served to add one more voice to a more general chorus of advice and comment from the wider community.

As was observed in the preceding Section, successive Governments in the preceding decade have undertaken a great deal of "consumer" legislation and administrative reform. It is a source of great satisfaction to the Council that it has been involved in this on-going programme of consumer reform.

Much of the Council's work, it should be noted, cannot be summed up by the listing of "recommendations". This may be particularly so when the Council investigates a topic in depth. One of its most fundamental investigations of recent years, for instance, concerned the liquor industry and gave rise to a rather lengthy submission in December 1976 to the Davies Inquiry (Board of Inquiry Into The Operation Of The Liquor Control Act 1968). In the present year, there has been the Council's work on the Residential Tenancies Bill (Section 6) and its still continuing work on conveyancing.

3.2 Recommendations Implemented or Satisfactorily Resolved.

As we move into the 1980s, it is appropriate to review those recommendations dating from 1974 which have been implemented or satisfactorily resolved.

Work of the Ministry

That annual conferences of representatives of Government Consumer Affairs Authorities be held (1974).

Regular conferences of senior consumer affairs officers are now held.

That the Consumer Affairs Act be amended in such a way as to make it obligatory for companies, firms or organisations to reply to any correspondence of the Ministry of Consumer Affairs (1974).

The Consumer Affairs Act was amended in 1974 as recommended.

That the Government allot sufficient funds to expand the staff and activities of the Ministry to ensure that a comprehensive consumer education programme can be developed and implemented in the State which pioneered Consumer Protection in Australia (1976).

Additional staff and funds were provided.

Information, Packaging and Labelling

That regulations be prescribed to require that when fruit juice is reconstituted from concentrate the labels of the product container should indicate that this is so (1976).

The Trade Practices Commission has issued a guide in which they recommend that when a product is reformed from a concentrate this should be recorded on the label. These guidelines are generally acted upon by industry.

That the Minister of Consumer Affairs request the Federal Minister for Business and Consumer Affairs to refer for examination and report by the Trade Practices Commission the matters of "ingredient labelling" and "nutritional labelling" of goods (1976).

Both of these matters are covered in the Trade Practices Commission Report on Packaging and Labelling of Goods in Australia. It can be expected that further action will flow from the Report.

That the Government should support the adoption of a policy that uniform Australia-wide legislation/regulation in the packaging and labelling field is essential, a clear recognition of the fact that Australia is one market place (1978).

A draft uniform bill has been prepared governing deception in packaging. The Council is giving further thought to policy in this area.

That it should be obligatory for the petrol consumption of motor cars, as determined by the S.A.A. standard AS 2077-1977, to be included in the technical data made available to prospective purchasers (1978).

The Commonwealth has published a booklet listing the petrol consumption of motor vehicles as determined by this standard. This is regarded as an acceptable approach.

Product Standards

That only portable fire extinguishers which had received approval of the Chief Fire Officer be distributed or sold, placed on display for sale or marketed in any manner whatsoever (1974).

The intent of this recommendation has been satisfied by regulations promulgated under the Consumer Affairs Act in 1978.

That urgent action be taken to finalise the machinery necessary to allow effective co-ordination of the prescription of consumer product standards (1976).

This recommendation has been satisfied by the establishment of the Commonwealth/States Consumer Products Advisory Committee.

That the Consumer Standards Advisory Committee be asked to consider the development of a standard by the Standards Association of Australia covering both the manufacture and fixing of imitation brick cladding (1978).

The Standards Association of Australia has formed a committee to draft a standard for imitation brick cladding.

Sales Methods

That firms engaged in door-to-door selling activities should be licensed (1974).

The recent Market Court will allow a system of negative licensing to be applied.

Advertising

That under the new Ministry of Consumer Affairs an Advertising Justification Tribunal be established (1974).

Shortly after this recommendation was submitted the Australian Advertising Standards Advisory Authority was created and the then Minister felt that this body should be given the opportunity to function before setting

up an additional body. Since then the Federal Trade Practices Act has been introduced with major involvement of the Trade Practices Commissioner in the advertising field. The intent behind the recommendation has to a large extent been satisfied, but the Council is giving further thought to the control of false representations and false or misleading advertising under the Consumer Affairs Act. (See Section 9).

That consideration be given to controlling the price advertising of new motor vehicles in such wise that the advertised price be the total price at which the vehicle is being offered to consumers, including any "delivery charge" and the statutory charges (1979).

The Trade Practices Commission is now examining the problem.

That the Consumer Affairs Act Ss. 13 (2) (A) and 13 (2) (B) be amended to extend the coverage of the provisions controlling real estate advertising (1979).

This recommendation has been accepted in principle.

Credit

That all contracts be amalgamated into one single and uniform form of credit contract (1974).

This recommendation is covered in the Credit Bill 1978.

That where there is some commercial link between the supplier of goods and the financier, the financier should incur some liability for the quality of the goods they are financing and should be required to take an interest in the representations made by the supplier in relation to the finance contract (1974).

This recommendation is covered by the Credit Bill.

That uniform disclosure of interest rates should be introduced to enable credit users to make comparative studies of the cost of credit (1974).

This recommendation is covered by the Credit Bill.

That the programme of Consumer Education in the use and extension of credit, especially in reference to the low income earners, should be increased and sufficient funds for such a programme should be released (1974).

This recommendation is covered by the Credit Bill.

That there should be control over re-possession, especially in relation to the market value of the goods re-possessed (1974).

This recommendation is covered by the Credit Bill.

That a debt management scheme for over committed debtors who need assistance to regain control over their financial affairs, and advice on budgeting and debt consolidation, should be incorporated into the functions of the Ministry of Consumer Affairs (1974).

This matter has been dealt with in the Sixth Report of the Australian Law Reform Commission, which will no doubt receive consideration by the Victorian Government in due course.

That there should be legislative requirements for a trader to disclose the fact whenever he is acting as an agent for an insurance or finance company (1974).

The recent Credit Bill has provisions meeting this recommendation.

That responsibility for the administration of the Credit Bills be vested in the Ministry of Consumer Affairs (1978).

This has now been agreed.

That the function of advising on consumer credit problems be retained by the Council, with explicit provision for the appointment of a member experienced in the provision of consumer credit (1978).

This has now been agreed. A member experienced in the provision of consumer credit has been appointed, and S.5 of the Consumer Affairs Act will be amended in due course.

Funerals

That the Attorney-General be advised that the facilities for the storage of unidentified bodies at the Melbourne Coroner's Court are totally unsatisfactory and there is an immediate need for the rectification of this situation (1975).

The Council was informed that in the existing building it is not practicable to make other arrangements at present, because of limitations of space but in the planning for a new building for the Forensic Services Centre, provision will be made to deal with the existing problems.

That the Treasurer be requested to undertake an immediate review of the current State probate duty benefit associated with funerals (1975).

The Council was advised by the Acting Treasurer that the current State probate duty benefit associated with funerals will be considered when the Act is next under review.

That there is an urgent need for most funeral directors to expand the amount of information available to the public in general (1975).

The Australian Funeral Directors' Association (Victoria) has produced a booklet designed to meet this recommendation.

That as a matter of urgency the Ministry of Consumer Affairs issue a pamphlet dealing with the arrangement of funerals (1975).

The Ministry has produced a pamphlet on funerals.

Furniture Removals

That the Ministry of Consumer Affairs produce a pamphlet setting out the arrangements which are necessary to accomplish a satisfactory removal; and highlighting the pitfalls associated with this type of transaction (1976).

The Ministry has satisfied this recommendation by producing a pamphlet.

That the Ministry of Consumer Affairs, including representatives of the Council, open negotiations with the Furniture Removalists Division of the Road Transport Association regarding the development and use of new forms of documentation which are equitable to both parties involved in removal and storage transactions.

In particular consideration should be given to the development of documentation which allows the simplest forms appropriate to the particular transaction to be used (1976).

Discussions were held with the Road Transport Association but finality has not yet been reached in developing a standard contract.

That consideration be given to including removal and storage contracts within the list of consumer contracts being developed under the auspices of the Standards Association of Australia (1976).

A suggested draft contract has been forwarded to the Standards Association of Australia following agreement by C.S.A.C. that such a standard contract should be produced. The Standards Association of Australia has established a sub-committee to draft an appropriate standard.

Home Purchase

That the disposal of deposit monies in respect of home purchase should not be permitted until such time as the transaction has been completed or until the purchaser or his solicitor have signed an agreement to the release of the money (1979).

The Sale of Land (Deposits) Act 1980 now controls disposal of deposit moneys in accordance with the intent of this recommendation.

Insurance

That insurance companies be examined as to their economic soundness and financial backing and should be required to lodge more substantial guarantees at the time of incorporation than are presently required (1974).

Federal legislation now satisfies this recommendation.

Introduction Agencies

That the Ministry should develop an appropriate code of ethics to be observed by firms engaged in this industry.

A draft code of ethics has been prepared and issued to a number of introduction agencies and to the public.

Motor car trading

That whenever a specific Motor Car is advertised the registration number of the Motor Car is to be shown in the advertisement in a distinct manner (1974).

Regulations under the Motor Car Traders Act now meet this recommendation.

That legislation be passed requiring the year-model (the date of first registration) of the car to be shown on every document issued at the time of sale (1974).

This recommendation is covered in a general way by regulations under the Motor Car Traders Act.

Residential Tenancies

That legislation be introduced to regulate the payment and refunds of rental bonds (1974).

This is covered in the recent Residential Tenancies Bill.

3.2 The Remaining Recommendations

By and large, the remaining recommendations have either been set down for further study or have been withdrawn (for one reason or another). As regards the former group, we reaffirm the importance of devising effective means of control of:

- . Mutual home loan funds;
- . Misleading advertising of employment opportunities (franchising, owner-operated businesses etc.);
- . Funds held in trust by the travel industry.

The Council is alarmed that nothing has been done to control the activities of mutual home loan funds in Victoria, despite a recommendation made some five years ago. It is however, understood that the Ministry of

Housing is giving attention to the drafting of suitable legislation to control this type of operation. Admittedly, the subject is a complex one; but it is urged that top priority be given to enacting appropriate legislation in the forthcoming year.

Members are not convinced that there are adequate controls over professional services and door-to-door sales, but have resolved to maintain a watching brief for the present. There is one recommendation, made in the Annual Report for 1977-78, which should be clarified. In the earlier Report it was said:

The Council accordingly recommends to the Minister of Consumer Affairs that legislation be introduced under the Consumer Affairs Act 1972 requiring that where a concession charge is offered to children, a child should be defined as a person up to and including 15 years of age.

The intent was not to recommend a form of price control but rather to draw attention to a form of misleading advertising. Where a trader advertises a "concession for children" without further particularization, the Council reaffirms its recommendation that a child should be defined as a person up to and including 15 years of age (i.e. until the 16th birthday).

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4. AMENDMENTS TO CONSUMER AFFAIRS ACT

The Council had referred to it by the Hon. J.H. Ramsay, M.P., Minister of Consumer Affairs, a list of certain amendments under consideration. Amongst those endorsed by Council were the following, which members regard as of importance:

- . S.8 - Functions of Consumer Affairs Bureau
This section to be amended to ensure that there be no question concerning the Bureau's power to handle professional services.
- . Ss.13(2A), 13(2B), 13A, 13F - False or misleading advertising and misleading marking of prices. These sub-sections to be amended to include reference to real property.
- . S.14 - Door to Door Sales
This section to be amended to cover lay-by or option to purchase.
- . New provisions
Other amendments to enact provisions in respect of -
 - (a) Misleading statements/advertisements re home-operated businesses/franchises;
 - (b) Deposits refundable if goods cannot be supplied in time specified;
 - (c) Prescribed guarantee and warranty documentation;
 - (d) Misleading offers of employment;
 - (e) Unsolicited advertising;
 - (f) Banning of unsafe products;

At a subsequent meeting it was decided to set up a Working Party to formulate precise recommendations concerning the control of unsafe products.

As regards the amendments concerning real property and professional services, members commented that, in principle, the Act should apply without discrimination or immunity to all classes of dishonest or undesirable market transactions. But the coverage of real estate in the Act is not comprehensive; and there is some doubt as to whether the term "services" in S.8 encompasses professional services.

The contemplated amendments to Ss.13(2A), 13(2B), 13A, and 13F would constitute some modest advance as regards transactions in real estate. At the time of writing this report, the Government has made a decision, in principle, to enlarge the coverage of the Act as regards bait advertising of real estate. The Council welcomes any initiatives in extending the coverage of "consumer legislation" to encompass real estate.

5. CAPABILITIES OF THE MINISTRY

On more than one occasion in the course of the year the Council has had occasion to discuss staffing shortages within the Ministry. The Chairman, in turn, was requested to discuss the situation with the Minister. While the Council is, in its design and operation, independent of the Ministry, a body established to furnish independent advice to the Minister, it is nevertheless in an unusually good position to observe the Ministry at work.

It was observed, first, that something of a crisis was occasioned by the Government's budgetary stringency in 1979 which gave rise to its temporary pruning of expenditures upon the manning of all Ministries. The Consumer Affairs Bureau was forced for approximately 12 months to carry two vacancies and severely reduce overtime. No doubt other Victorian Ministries had their problems with the cuts. But for the Ministry of Consumer Affairs the cuts were implemented against this background, that it is a small Ministry whose responsibilities are constantly growing. The staffing establishment, and even more the actual appointments, tend to lag behind responsibilities perennially. Thus any temporary cut-backs place particularly severe pressures upon staff.

The more fundamental problem, however, is precisely this longer term one which stems from the Ministry's growth in responsibility - the enlarged functions entrusted to it by the Government and its growing standing with the general public.

While staffing has tripled over the past five years, the total members employed amount only to 59. The figures are:

	As at June:				
	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>
Consumer Affairs Bureau	21	34	39	41	45
Small Claims Tribunals	4	4	6	7	7
Motor Car Traders Committee*-	-	-	4	5	7
	<u>25</u>	<u>38</u>	<u>49</u>	<u>53</u>	<u>59</u>

* Some considerable work also undertaken by Committee Members (as distinct from staff).

It is understood, at time of writing, that the establishment for the forthcoming year (apart from any special provision that may be made for administration of the Residential Tenancies law) is unchanged from that of 1979.

The Consumer Affairs Bureau is under especial pressure. Over the years the demands upon the Bureau as an organ of consumer redress and enforcement have vastly increased. The year 1979-80 was notable, too, for the establishment of the Market Court, and the initiation by the Director of the first actions and deeds of assurance.

Members of the Council of some years standing have noted, even so, dramatic improvements in the productivity of the Bureau in handling complaints: there is now a store of knowledge and expertise within the Bureau; there is widespread acceptance of the Bureau's work by the trading community; and there have been certain technical improvements (e.g., in the organization of the telephone lines !).

Yet the Council has observed some sense of frustration in the Ministry: there is always the immediate "complaint" which cuts in upon the time available for more fundamental consumer work. There is, for instance, the couple whose house is literally disintegrating around them through failure of some cladding material; there is the couple whose existing and future savings are seemingly tied up in a mutual home loan fund; there is the lad about to lose some thousands of dollars upon a motor car whose front and rear have been concocted from two different models. These demands upon time are difficult to resist. They are important. But there is the awareness by the staff that a complaint is no more than a symptom of an underlying problem, and that the most important work must lie in establishing the general causes of consumer problems and remedying those problems.

There is a constant problem facing management in attempting to juggle priorities between satisfying the demands of consumers for immediate redress and taking longer term preventive action. Yet there is the lack of manpower and finance which would permit the Ministry to undertake very much of the more fundamental work of:

- . Research
- . Policy recommendation
- . Dissemination of information
- . Education, especially liaison with teachers and educational institutions
- . Liaison with traders.

To a degree, the approach enforced upon the Ministry is then appropriately characterized as a band-aid approach.

Nevertheless the Council would like to congratulate the Ministry for what it has been able to achieve in these more fundamental areas within its staffing constraints. It hopes that the anxieties expressed in relation to the staffing requirements for the Residential Tenancies branch (see Section 6) are unfounded, and that the Ministry will at the very least be able to maintain its on-going capability.

6. RESIDENTIAL TENANCIES LAW REFORM

In last year's Annual Report, the Council expressed its support for the concept of the Residential Tenancies Bill, first introduced into the Parliament in December 1978. The Council welcomed the decision of the Government to allow the Bill to stand over until the next session of Parliament, in order that interested parties in the community could have a chance to study the proposed new law and comment upon it.

In Council's opinion, the revised (1979) Bill overall, has benefitted from this exposure. From the beginning, members have viewed this legislation as affording enhanced protection both to tenants and landlords; and the revised Bill, as well as incorporating a number of technical improvements, in our view adopts a more even-handed approach than the first and embodies some recognition of the need to promote an efficient as well as fair market-place for residential tenancies. Members were pleased to note that every one of the Council's recommended amendments has been incorporated in the revised Bill (although, to be sure, similar suggestions may have been made by others).

However, some of the amendments incorporated in the 1979 Bill appear to have been made in rather piecemeal fashion and, in the process, in the Council's view some new defects are to be found in the legislation.

Accordingly, the Council made detailed representations to the Attorney-General upon a number of matters in relation to the 1979 Bill, including the following:

Clause 11 - Functions of the Director

Clause 63(1) provides that a tenant may request the Director to carry out an investigation

- (a) where it is considered that the rent payable is excessive having regard to the fact that the landlord has reduced or withdrawn goods, services or facilities provided with the rented premises, or
- (b) where he has received notice from the landlord of an increase of rent and the tenant considers that the increase is excessive.

Clause 11 (a) (ii) seems to provide a much wider discretion to the Director than is provided for under Clause 63 and should be amended to limit the Director's investigations into excessive rent to the circumstances provided for under Clause 63.

Clauses 44 and 45 - Residential Tenancies Tribunal

The Consumer Affairs Council views with concern firstly the provision in clause 44(2) that a duly qualified legal practitioner may conduct the case of a party to proceedings before the Tribunal in certain defined circumstances and secondly

Clauses 44 and 45 -Residential Tenancies Tribunal
continued.

the provisions in clause 45 that the Tribunal may make an order for costs representing disbursements and/or legal costs at the prescribed scale. It believes that clause 44 should be amended to read similarly to section 30 of the Small Claims Tribunals Act 1973 and that no costs should be allowable to or against any party to a proceeding before the Tribunal (see Section 30 of the Small Claims Tribunals Act 1973), and recommends accordingly.

Clause 54 - Residential Tenancies Fund

The Consumer Affairs Council supports the proposition that the Director may make loans, but not grants, from the Fund.

Clause 61 - Receipt for Rent

The Council believes that when a payment is made in cash, a receipt should be made out and given to the person making the payment immediately, and recommends that sub-clause 1(a) be amended accordingly.

In respect of sub-clause (2), the Council believes that a receipt for the payment of rent should include a statement of the period of rental covered by the payment. It understands that because of the flexible arrangements allowed by the Housing Commission for payment of rents that the Housing Commission just cannot meet the requirement; and the Council accepts that this situation probably has to continue.

Clause 61 - Receipt of Rent continued

It believes, however, that Housing Commission tenants are entitled to receive say, once a quarter, a statement giving details of their rental position. The Council recommends that sub-clause (2) should be amended accordingly, i.e., to include a statement as to the period of rent, but allowing the Housing Commission to provide a statement quarterly.

Rent Generally

There are two matters which were covered in the 1978 Bill which have been omitted from the 1979 version

- (a) the taking of goods for non-payment of rent was prohibited. The Council believes this provision should be reinstated;
- (b) a person could not require that rent be paid by post-dated cheque. The Council believes that this provision should also be reinstated with the further proviso that should a tenant so wish, e.g. prior to departing on holidays, he should be able to offer a post-dated cheque in payment of rent.

The Council recommends that the Bill should be amended accordingly.

Clause 62 - Rent Increases

Sub-clause (2) requires a landlord to give at least 30 days notice of his intention to increase the rent. Having regard to the fact that many tenants will be paying their rent four weeks in advance, and that a tenant just may not be able to afford an increase in the rent and may have to look for alternative accommodation, 30 days notice seems to the Council to be a little bit short. The Consumer Affairs Council therefore recommends that sub-clause (2) be amended to provide for 60 days notice of intention to increase the rent being given to a tenant.

Clause 63 - Investigation of Rent Increases

Sub-clause (2) provides that rent "shall be regarded as excessive if it is significantly more than the rent payable for comparable rented premises let by a landlord in the locality" of the rented premises, the subject of the complaint. This would seem to allow a tenant to find one isolated property within a locality where the rental being asked was generally much higher and then use that one isolated property as a basis for claiming that the rent was excessive. The Council does not believe that this is the intent behind the legislation and therefore suggests that the wording of sub-clause (2) be amended to eliminate the possibility of this sub-clause being misinterpreted.

Division 3 - Security Deposits

With the exception of clause 70(b), where reference is made to payments of amounts in respect of a contract or insurance relating to the performance of a tenant's obligations etc., the whole of this division relates to the payment and disposal of security deposits. This Council supports the concept of security deposits and believes that the use of insurance in lieu of security deposits should be discouraged.

Clause 70 - Maximum Security Deposits

In principle the Council believes that the security bond should be limited to the equivalent of one month's rent. It cannot find the logic behind fixing an amount of \$100 or indeed any other amount as a control for limiting the maximum amount of security deposit which may be demanded. The Council therefore recommends that clause 70 be amended to provide that a landlord or agent acting for a landlord shall not demand a security deposit the total amount of which exceeds the equivalent of one month's rent. Clause 71 would also be much more meaningful if clause 70 were amended as recommended.

Clause 73 - Condition Reports

The Council was amazed to find in the 1979 Bill that the condition report only has to be signed by the landlord. The Council strongly supports the concept of condition reports as provided in the 1978 Bill, as it is only by this means that the arguments which arise in respect of the condition of the property at the time of letting and at the time of cessation of the tenancy can be resolved. The Council strongly recommends that clause 73 be withdrawn and a new clause along the lines of clauses 90 and 100 of the 1978 Bill be substituted in lieu.

Clause 77 - Entitlements to Security Deposit

Under sub-clause (3) a landlord who believes that he is entitled to compensation for loss or damage is required to serve notice on the tenant of his claim for compensation within fourteen days of the tenant giving vacant possession and he then has a further fourteen days in which to make an application to the Tribunal for determination of his claim. Under sub-clause (5) the tenant has three business days from the time of service of the notice to lodge an objection. This seems to be an inequitable arrangement, and the Council recommends that the time for the landlord to make his application and for the tenant to lodge his notice of objection should be fixed at three business days.

Clause 77 - Entitlements to Security Deposit
continued.

The Council also believes that the agreement referred to in clause 77 (1) (b) should be in writing. It is too important an agreement to be left as a verbal one. Finally, the Council believes that when bond money is to be returned as envisaged in clause 77 (2), fourteen days is an unduly long period to allow the landlord to repay an amount which is not in dispute. The Council recommends that this period should be reduced to seven days.

Clause 86 - Tenant with Child

This clause deals with refusal to let premises to persons intending to live on the premises with a child. Sub-clause (2) specifies the permissible exclusions from this requirement. The Council has strong reservations about the exclusions mentioned in (c) and (d), as they confer upon the landlord the right to decide what is suitable for occupation by a tenant with a child. The decision as to whether particular premises are or are not suitable for occupation by a tenant with a child should be one for the tenant. The Council therefore recommends that sub-clauses 2(c) and 2(d) be deleted.

Clause 114 - Premises Destroyed or Unfit

Clause 114(1) gives a tenant the right to give notice of his intention to vacate rented premises where the rented premises have been totally destroyed, rendered unsafe or are unfit for human habitation. The Council believes that this clause should be extended to cover the situation when the premises have been damaged to an extent which makes them no longer acceptable for the tenant under the existing tenancy agreement. Sub-clause(2) would appear to be inappropriate to a periodic tenancy agreement when the rental period may well be less than 28 days. The Council recommends that clauses 114(1) and (2) be amended accordingly.

Finally the Council wishes to re-affirm the observation made in its Annual Report for 1978-79 in connection with the administration of the legislation once it is passed into law.

The Council believes, that with this particular piece of legislation, both landlords and tenants, and particularly the latter, will be seeking to take advantage of their new rights virtually from the date of proclamation of the Act.

It is vital therefore that the whole of the administrative machinery necessary to give effect to the new legislation be established prior to the date of proclamation. There will be no time for a gradual build up of staff and operating methods; the nature of the provisions in the new law demand that the whole of the administrative machinery must be capable of operating effectively from day one. The Council trusts therefore that a realistic view will be taken of the staffing needs of the Bureau and Tribunals, and that adequate time will be allowed for the recruitment and training of staff and the development of operating procedures etc.

The new staff requirements will be substantial, the organizational demands immense. Effectively a whole new operation has yet to be created within the Ministry of Consumer Affairs. The Council therefore urges in the strongest possible terms that immediate action be taken to install the appropriate administrative structure so that the legislation can be proclaimed without undue delay.

7. STANDARDS ASSOCIATION OF AUSTRALIA - DRAFT AUSTRALIAN STANDARD FOR MOTOR VEHICLE SALES CONTRACTS

The Council made detailed comment to the Standards Association of Australia upon its Draft Standard issued on 1 October, 1979.

The Preface to that Draft Standard explained its purpose as follows:

This draft standard contract was prepared by a working group of the Association's Committee on Consumer Transactions. Its preparation was undertaken as one of a series of standards requested by the Department of the Capital Territory Consumer Affairs Bureau, on a subject of contract conditions for a variety of consumer transactions, including car sales. Some contracts previously in use were by their nature very one-sided, and the consumer was given no choice but to agree to inequitable conditions. In any event, there are obvious advantages to all parties if the conditions of the contract are set out clearly and unambiguously, and this draft aims to do this.

This draft is confined to the case of cash sales (or cash within 30 days) and does not seek to cover the case of hire purchase sales.

While it may be desirable for hire purchase sales to be covered by a standard contract such as this, the committee responsible felt that it would be unrealistic to attempt to do this before current moves for review and reform of credit laws are completed. The draft would, however, be suitable for use for sales where the purchaser has arranged his finance independently of the motor dealer (e.g. by a bank loan).

In one sense, the Council's comments were of a technical nature. But it may be of general interest to record some of the topics canvassed, as they are indicative of the problems already encountered by consumers and firms in clarifying the agreed contractual terms of what has become an extraordinarily complex retail transaction.

Purchase Vehicle Details - "New" or "Used"

Is a car which has been used as a demonstration model a new or used car? Many advertisements imply that they are new cars. The Council believes that they should be classified as used.

Age of a Vehicle

The Council agrees that there have been great problems in identifying the age and year of manufacture of vehicles and notes the proposal to include both the year of manufacture and compliance date. The Council feels that even the date of manufacture can be given different meanings and wonders whether "built date" to signify the final date when a complete vehicle is accepted for quality standards and ready for delivery to the dealer might not be more meaningful.

Price of the Purchased Vehicles

This Council has been concerned for some time now at the practice prevalent throughout the Industry of advertising the price of vehicles as X number of dollars with an asterisk, with a note generally in small print that the asterisk denotes "plus on road costs", plus "delivery charges, registration, stamp duty, third party insurance" or similar notations. The Council believes that the advertised price of a vehicle should be the total price the consumer is expected to pay, excluding statutory charges. It follows therefore that the Council believes that the separate listing of delivery charges and freight should be deleted.

Default by Purchaser

The Council believes that the contract should not make provision for forfeiture of deposit on default by the purchaser.

Price Variation - New Vehicles

This Council would like to see the purchase price quoted in the contract being a firm price.

However, it accepts that this is not always possible, (e.g., long lead times with imported vehicles). The important thing is that when a price increase is to be imposed, the purchaser should have the option of rescinding the contract.

However, we believe that the purchaser should not be entitled to cancel the contract because of any variation in registration fees, third party insurance or stamp duty.

Irrevocable Order for Unique Vehicle

The Council recommends the deletion of this clause. To define something as unique presupposes that there is a standard product from which the product being offered differs to such an extent that it can be defined as being unique, i.e., of which there is only one, un-equalled, having no like or equal or parallel (The Concise Oxford Dictionary).

Irrevocable Order for Unique Vehicle continued
Having regard to the philosophy of the four largest local manufacturers of offering the customer the widest range of options, it would be possible for a dealer to claim that virtually any vehicle is unique, if he so wishes. The difficulties of definition of so-called vehicle are so great that in the opinion of this Council the clause should be deleted from the contract. The Council does not accept that dealers would have the great difficulties which they envisage in satisfactorily disposing of the so-called unique vehicle.

Cancellation ("Cooling-off" Period)

The Council recommends that this clause should also be deleted. We do not accept that dealers should have a right of cancellation, as is provided in many order forms now in use, in order to allow the sales staff to receive confirmation of their actions by more senior management. Dealer managements must accept responsibility for the actions of their subordinates and must develop and enforce marketing policies and practices which ensure that sales staff can act in accordance with those policies. It is not good enough to "tie-up" a consumer with a contract which the management can then cancel.

Cancellation ("Cooling-off" Period) continued
From the consumer's viewpoint we would rather encourage the development of responsible consumer attitudes and exercising all due care before signing a contract rather than encouraging an attitude that it doesn't much matter - I can cancel the contract in 48 hours anyhow. This clause should be deleted.

Warranty Period for Used Vehicles

The Council feels that the dealer should only have to state the warranty conditions applicable in his State. The Council further believes that warranties should be restricted to the original purchaser.

8. SOME OTHER MATTERS CONSIDERED DURING THE YEAR

8.1 The Market Court

The Council welcomes the establishment of the Market Court which came into operation on 1 June 1979. In the course of the year, it received reports of the first two cases, the first concerning five companies engaged in the house-cladding industry and the second a person engaged in selling puppies which were not of merchantable quality. It noted that while the Director has been successful in each of the actions, these initial applications had uncovered certain problems with the legislation which would need to be remedied by appropriate amendments to the Market Court Act.

8.1 The Market Court continued

The Council is of the view that this pioneering legislation, the first of its kind in Australia, is of such importance as to warrant the most careful monitoring of its effectiveness in these early years of its operation. It is inevitable that there will be teething problems, and desirable amendments to the Act should be incorporated expeditiously.

8.2 ABC Elizabeth Bond Programme

The Council regretted the decision by the ABC to discontinue the radio programme featuring the Director of Consumer Affairs, Mr. Norman Geschke, on 3LO each Monday at 8.30a.m. It wrote to the Commission, emphasizing the importance of the 8.30 time-slot, immediately following the programme AM, in capturing a large cross-section of the listening public, including people driving to work. The letter noted that

All members of this Council have been the recipients of the most praiseworthy comments on the contents and importance of the Geschke talks from a very wide spread of members of society. Clearly the programme has had a tremendous impact on the community at large in informing consumers on the one hand and traders on the other of the problems of the market-place.

8.2 ABC Elizabeth Bond Programme continued

However, the ABC indicated in its reply that while it valued Mr. Geschke's work on 3LO it wished to reserve the 8.30 time for a new "current affairs" programme. While unhappy with this decision, the Council resolved to record its appreciation of the contribution that had been made by Elizabeth Bond, Norman Geschke and the ABC to consumer affairs.

8.3 Some Building Societies Advertising

The attention of the Council was drawn to some building societies' advertising practice in emphasizing assets without reference to liabilities (which would substantially reduce these assets). Such advertising, it was concluded, could be seriously misleading. The matter was referred to the Registrar of Cooperative Societies and Building Societies.

9. MATTERS UNDER CONTINUING CONSIDERATION

Hair treatment

False representations and false or misleading
advertising

Control of unsafe products

Electronic point of sale systems

Conveyancing

Vehicle title

9. MATTERS UNDER CONTINUING CONSIDERATION continued

Class actions

Regulation of insurance brokers

Mutual home loan funds

Trust funds, particularly for travel agents
and insurance brokers.

Packaging and labelling laws

The Council's work on the hair treatment industry is nearing completion. It has been undertaking an investigation within the following terms:

- (i) To examine the laws which have particular applicability (Consumer Affairs Act, Health Act, Market Court Act, Small Claims Tribunals Act, Trade Practices Act) with the objectives both of assessing the adequacy of the laws and of referring any doubtful practices to relevant authorities.
- (ii) To consider whether there could be any merit in a Code of Practice for the Industry (for instance, as regards disclosure, the nature of the contract).

9. (iii) To examine the applicability of guarantees and warranties to the Industry (for instance, the durability of hair pieces).
- (iv) To examine the available advertising material in light of the Regulations under the Health Act and the Media Council Guidelines; and more particularly, to ascertain the coverage of the Advertising Guidelines, for instance, to printed materials (leaflets, handbills, etc.).

Council's findings on Hair Treatment will be reported in the next Annual Report. Meanwhile it records one important finding thrust upon it in the course of its investigation, viz., that the Consumer Affairs Act is seriously inadequate in its provisions with respect to false or misleading advertising and false representations generally. The most relevant provisions are those of Part II, Division 2 - False or Misleading Advertising (though Part III, Division 1 - Merchandise Marks is also a general provision of some relevance). Accordingly, the Council will undertake an investigation in the forthcoming year into the manner in which Part II, Division 2, may be extended and strengthened.

10. APPRECIATION

The Council wishes to express its thanks for the support given to it by the staff of the Ministry of Consumer Affairs and for the ready co-operation received from those government departments and other organisations from whom the Council sought advice during the year.

Although the resignation of the first Director of Consumer Affairs, Mr. Norman Geschke, and his subsequent appointment as Ombudsman came outside the period of this report, Council considers that his contribution was such that it would like to record immediately an expression of appreciation of his work.

Victoria was fortunate to have as its first Director a person of such outstanding and unique qualities. Council intends to record in its next report an account of his contribution to Consumer Affairs.

REPORT OF THE CONSUMER AFFAIRS COUNCIL