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*Consumer
Affairs Victoria*
*Confident
Consumers,
Protected
Communities*”

Annual Report
2002-2003



Report to the Minister
for Consumer Affairs for
the year ended 30 June 2003



John Lenders MP
Minister for Consumer Affairs



Department of Justice

Director
Consumer Affairs Victoria

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John Lenders MP
Minister for Consumer Affairs
1 Macarthur Street
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Dear Minister

Annual Report 2002-2003

I present to you my report on the activities and operations of Consumer Affairs Victoria for the year ended 30 June 2003.

The document has been prepared in satisfaction of section 102 of the *Fair Trading Act 1999* and Section 16 of the *Credit (Administration) Act 1984* for you to lay before each House of Parliament.

Yours sincerely

DR DAVID COUSINS
Director

Consumer Affairs Victoria

Our vision is for a Victoria where consumers act with confidence and where communities are protected.

We aim to:

- Protect and promote the interests of consumers
- Ensure markets operate in the interests of consumers and the wider community
- Improve access to consumer protection, particularly for the vulnerable and disadvantaged members of our society.

Director's Foreword



This report covers the activities of Consumer Affairs Victoria (CAV) over the financial year 2002-2003. CAV is a business unit of the Department of Justice. The past year has been one of significant change and re-vitalisation for CAV.

At the start of the year, after consultation with key stakeholders, CAV established new strategic priorities. These included a stronger focus on particular areas such as credit, product safety and e-commerce; an increased emphasis on education and information provision, especially for vulnerable and disadvantaged consumers; more effective enforcement of existing legislation; and strengthening of consumer laws.

Alongside our new priorities, CAV has acquired new responsibilities. Following the state election in November 2002 and Machinery of Government changes, the administration of liquor licensing and trade measurement was transferred to CAV. Both of these functions had been with Consumer Affairs prior to 1992. Responsibility for retirement villages and bodies corporate legislation was also assigned to CAV.

Adopting a national focus has been an important emphasis over the past year. Consumer protection regulation is implemented and administered by the Commonwealth and State and Territory governments. However, regulation is fragmented and lacks coherence. The unwieldy division of responsibilities between the Commonwealth and the States/Territories is one example of this and the consumer movement lacks organisation and resources to represent consumers effectively in numerous areas of policy debate within this framework. Change is needed and CAV has been working to effect this change.

Where appropriate, CAV has lead the national agenda on important issues. We have held major conferences and taken an active lead in the Fair Trading Futures workshops, involving all the jurisdictions. We have headed national working parties on e-commerce and home building regulation, and we have initiated new directions for consumer protection in relation to Indigenous consumers, product safety and finance brokers.

During the early part of the year a significant review of the efficiency and effectiveness of CAV in providing consumer protection outputs for the Government was conducted by a Steering Committee comprising senior officials from the Departments of Treasury and Finance, Premier and Cabinet as well as CAV. The review found that the CAV outputs were well founded in social justice and economic principles and community need. It found that output quality could be further enhanced if funding levels matched interstate benchmarks.

A key challenge for CAV is to improve service levels within its existing resource base. Some initiatives undertaken during the year in this respect were the development of a Customer Service Charter, a review and documentation of internal procedures and processes and adoption of more sophisticated call centre programming technology and benchmarking of the call centre against other public and private sector comparators.

Continuing investment in electronic processing has been vital to the achievement of service improvements. Online business registration and licensing transactions will allow for future improvements in processing speeds and accuracy, and in the longer term will help to contain costs.

Another important initiative during the year was to review the internal structure of CAV. Discussion papers on a new flatter organisational structure, aimed at maximising the effective utilisation of available resources, were developed and extensive consultation with staff and union representatives were held. The new structure was implemented shortly after the end of the financial year and new appointments have been made to key positions. The re-structure was in line with the Government's election commitments.

Among the many other highlights of the year, I would like to single out the following:

- The amendments to the Fair Trading Act, including provisions relating to unfair contract terms, a first for Australia;
- The Future Directions in Consumer Protection conference held by CAV in September 2002 with speakers including the leading consumer policy officials from the USA, UK and Canada.;
- Major education campaigns by CAV directed to migrants, culturally and linguistically diverse communities, tenants and landlords, and commencement of the development of a Consumer Education in Schools program;
- CAV's leadership in e-commerce issues especially through the chairing of the Ministerial Council working party, the development of publications and development of ShopSafe;
- The establishment of the Indigenous Consumers Unit within CAV;
- CAV's active involvement in promoting effective consumer protection in the petroleum industry (through terminal gate pricing transparency arrangements, temperature correction requirements and ethanol labelling) and the home building industry (especially through follow up work on the Percy Allan report into home building warranty insurance, and the establishment of Building Advice and Conciliation Victoria);
- Steps to develop a more effective enforcement policy through the development of public Enforcement Guidelines and more timely interventions. Significant matters during the year included the finalisation of long running cases involving breaches of the old Credit Act and action to deal with unfair marketing practices in the electricity retailing industry.

Effective enforcement is essential to the achievement of compliance with consumer laws and the avoidance of demands for new laws to deal with perceived abuses not being otherwise adequately dealt with. Some evidence reported during the year suggested that non-compliance with consumer laws was quite high. CAV's experience is that the majority of firms do seek to comply, but sometimes they fail to do so because they lack awareness of the law and do not have adequate compliance systems in place to avoid breaches. Sometimes firms do try to take short cuts in dealing with consumers, especially when competitive conditions in a market are tight.

CAV will seek in the coming year to expand our efforts to inform business of the law and changes to the law. We will work to encourage firms to adopt better complaint handling and compliance systems. Where appropriate we will seek to work more closely with industry associations to achieve these objectives.

Director's Foreword

For the small minority of firms that deliberately choose not to comply with the law and take advantage especially of the vulnerable and disadvantaged consumers, a vigorous enforcement approach is appropriate. An on-going challenge in this area is dealing effectively with the originators of scam mail. Another on-going challenge is responding quickly to the presence of rogue traders in local areas. There is evidence to suggest that organised crime rings are sometimes involved in scams and local area itinerant trader concerns.

Consumer protection is a key to ensuring markets operate effectively. Without informed and confident consumers, business will not flourish. Arguably the growth in e-commerce in Victoria has been retarded by consumer concerns about payment security, privacy and service levels with online trading. It is easy to be critical of regulation and it is more fashionable to be so these days. However, it would not be wise to under-estimate the enormous benefits the community obtains from an effective consumer protection framework. This is not to say the framework should not change over time; indeed it is essential that it does change to reflect changing market circumstances and community needs and values. To this end CAV intends to place greater emphasis on the evaluation of existing market interventions over the coming year.

I would like to acknowledge the exceptional support CAV has had over the year from the Ministers for Consumer Affairs (the Hon Christine Campbell and John Lenders) and the Departmental Secretaries (Peter Harmsworth and Penny Armytage).

Also I would like to acknowledge the on-going efforts of our funded community agencies in providing contracted services on behalf of CAV. Productive partnerships have been forged with many specialist and locally based community organisations.

I would also like to acknowledge the good working relationship CAV has had over the year with the statutory authorities within the portfolio including the Business Licensing Authority (Chair Fiona Smith), Motor Car Traders' Guarantee Fund Claims Committee (Chair Stuart Ward), Director of Liquor Licensing (Brian Kearney), Estate Agents Council (Chair John Dillon), Prostitution Advisory Council (Chairs Judy Dixon and Melanie Raymond), Patriotic Funds Council (Chair Ray Ward) and The Defence Reserves Re-Employment Board (Chair George Logan). Other bodies working closely with CAV over the year have been the Consumer Utilities Advisory Committee, which CAV was instrumental in establishing during the year (Chair Professor Bill Russell), Consumer Credit Committee (Chair Denis Nelthorpe) and the Housing Guarantee Fund Ltd (Chair Garry Richardson).

Finally, I would like to express my appreciation for the efforts of the staff in responding positively to the many changes over the past year. Our challenge for the coming year will be to build on the base established this year to implement further initiatives to help protect consumers, especially those who are vulnerable and disadvantaged and to make markets work better in the interests of all Victorians.



Dr. David Cousins

DIRECTOR CONSUMER AFFAIRS VICTORIA





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- Groundbreaking amendments made to the *Fair Trading Act 1999*
- Record \$6.9m ordered against ANZ
- \$1.28 million recovered through conciliation
- 77 successful prosecutions
- Victoria leads Australia in fuel industry reforms
- ShopSafe, online shopping simulator launched
- Victoria's first Indigenous Consumers Unit established
- Greater consumer protection under new real estate laws
- Innovations in online business registration and licensing
- Liquor licensing and trade measurement became part of CAV
- Two key conferences strengthen stakeholder alliances
- Service Charter created

“

The Year in Review

This year we laid the foundations
to become a national leader in
consumer protection

”

JUNE

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

The Year in Review

About Consumer Affairs Victoria

Consumer Affairs Victoria (CAV) protects and promotes the interests of consumers. To do this we:

- review and advise Government on consumer legislation and industry codes
- advise and educate consumers, tenants, traders and landlords on their rights, responsibilities and changes to the law
- register and license businesses and occupations
- conciliate disputes between consumers and traders, tenants and landlords
- enforce and ensure compliance with consumer laws.

The impact of CAV is far-reaching. We provide advice and assistance on matters of renting and accommodation, estate agents, building, shopping, credit and trading. We also license or register and regulate credit providers, estate agents, introduction agents, motor car traders, prostitution service providers, travel agents, second-hand dealers and pawnbrokers.



New name, new style, new responsibilities

CAV is a business unit of the Department of Justice. On 18 July 2002, the name Consumer and Business Affairs Victoria was formally changed to Consumer Affairs Victoria to communicate more effectively the priorities of the organisation. The aim is to make CAV more recognisable and easily accessible, particularly for vulnerable and disadvantaged groups.

During the year a new logo was created to incorporate the name change. The key feature of the logo is the quotation marks that represent solutions through dialogue. The marks emphasise CAV's commitment to communicating and interacting with consumers and stakeholders.

The logo will feature on all CAV publications and communications including those relating to Liquor Licensing and Trade Measurement. The two functions were transferred to CAV from the Department of Industry and Regional Development in December 2002 to reflect the common objective of protecting consumers and maintaining industry standards.

The Year in Review

The organisational structure

In 2002-2003 CAV operated with four internal divisions reporting to the Director, Dr David Cousins. The divisions were Policy and Dispute Reduction, Enforcement and Community Awareness, Corporate Operations and Business Services. An assistant director headed each division.

David Cousins Director & Deputy Secretary			
Elizabeth Forster Executive Assistant		Julie Hunt Manager Strategic Projects	
Maria Maikousis Portfolio Co-ordinator		Rod Overall Co-ordinator Strategic Policy	
Damian MacDonald Assistant Director, Policy & Dispute Reduction	Sue Maclellan Assistant Director, Enforcement & Community Awareness	Denis Fitzgerald Assistant Director, Corporate Operations	Frank Lovass Assistant Director, Business Services
Legislation Kerin Turner, Manager	Community Programs Cathy Merrick, Manager	Information Lynn Kirk, Manager	Business Affairs Andrew Levens, Manager
Policy Lois Goodes, Manager	Communications Chris Noone, Manager	Finance & Residential Bonds Ian Thom, Manager	Licensing Services Wally Korczynski, Manager
Operational Policy Anne Cousins, Manager	Investigations Neil Taylor, Manager	Information Technology Guy Treeby, Manager	Divisional Support Vince Lyneham, Manager
Assessment & Analysis Joan Wilkinson, A/g Manager	Legal Development Stephen Devlin, Manager	Enquiries Steve Scodella, Manager	
Estate Agents Resolution Service Russell Barclay, Manager	Product Safety & Standards Philip Hunter, Manager	Patriotic Funds Council Secretariat Wayne New, Executive Officer	
RT Inspections Paul Valerio, Manager	Divisional Support Aileen Webster, A/g Manager	Fair Go Redevelopment Project Jeff Smith	

Consumer Affairs Victoria Our results in 2002-2003

Priority 1: Strengthen compliance and enforcement

CAV seeks to ensure that all traders comply with the law through education, conciliation, compliance and enforcement activities.

Our Aims

- Effective and targeted compliance programs
- A reputation as an effective consumer protection enforcement agency
- Full use of the *Fair Trading Act 1999* for enforcement, to alleviate the need for industry specific legislation
- Effective and quick acting assessment and analysis function
- Timely and effective conciliation function

Our Results

- Record \$6.9 million ordered against ANZ
- Tough new powers introduced under the *Fair Trading Act 1999*
- 77 successful prosecutions
- 463 infringement notices issued
- 102 enforceable undertakings
- Dummy bidding and under-quoting at house auctions outlawed
- New enforcement guidelines introduced
- Four unsafe products banned
- Dedicated assessment and analysis function established
- \$1.28 million recovered for consumers through dispute resolution services

Priority 2: Target issues of concern to vulnerable consumers

Vulnerable consumers, such as those from diverse cultural and linguistic backgrounds, the geographically disadvantaged and those with disabilities, often find it difficult to access services.

Similarly, some members of the community such as youth and the elderly can be more vulnerable to certain market practices. CAV seeks to reduce barriers to our services and target issues of concern for the more vulnerable members of the community.

Our Aims

- Effectively target issues of concern to vulnerable consumers
- Increase the proportion of vulnerable consumers aware of our CAV services
- Create positive measures to offset barriers to vulnerable consumers accessing CAV services

Our Results

- Pilot of bilingual residential tenancy workers established to improve services to the Vietnamese and Arabic communities
- Indigenous Consumers Unit established
- *New Country, New Home* guides printed in 15 languages detailing the rights of new migrants looking for rental properties
- *Mind Your Money*, a teaching resource for English as a second language, increased awareness of consumer rights
- 76% of Victorians who speak a language other than English at home are aware of consumer protection services provided by the Government compared with 82% of all Victorians
- Consumer Utilities Advocacy Centre established to represent consumers in regulatory debate

The Year in Review

Priority 3: Strengthen information and education services and awareness of consumer issues and CAV

Consumers can be more confident of being protected if they are aware of their rights and responsibilities under the law.

Our Aims

- Consumers and traders are aware that they have rights and responsibilities
- Consumers are aware of where to go if they need help and ways in which they can protect themselves in the consumer environment
- CAV is seen as an authoritative source of information on consumer issues, both within Government as well as by the wider Victorian community as part of a web of information

Our Results

- One-day consumer protection conference canvassed strategies for consumer protection across Australia and internationally
- Instigated Consumer Education in Schools (CEIS) program
- New name and logo to raise awareness of CAV among the vulnerable and disadvantaged
- 75% of schools distributed youth consumer magazine, *Stuff*
- Business video produced to educate traders on their responsibilities
- More than 2 million publications and forms distributed
- Renting guidelines booklet updated and distributed to half a million Victorian renters and landlords

Priority 4: Establish partnerships in service delivery

CAV recognises that we are not the only agency working to protect consumers. In some cases, other agencies may deliver services that complement CAV services or be better placed to deliver particular services.

Our Aims

- Work in partnership with key agencies and groups to enhance communication, service delivery, policy development and compliance

Our Results

- Renewed contracts with 22 community agencies to deliver consumer protection services more broadly across metropolitan and regional Victoria
- Quarterly forums conducted with funded agencies to identify issues and trends
- Improved communication between CAV and other consumer agencies through conferences and workshops including stakeholder forums to consider future priorities
- CAV and Building Commission worked together to create Building Advice and Conciliation Victoria
- Victoria represented on national and local working parties related to e-commerce, product safety, credit and finance, building insurance, ADR, online transactions, plus more
- Dedicated external relations branch created in CAV restructure

Priority 5: Increase e-consumer protection and CAV's e-government capabilities

As the use of e-commerce increases, it is increasingly important to ensure that consumers and traders are aware of their rights and responsibilities. The Government has committed to increasing access to services via e-commerce.

Our Aims

- Ensure CAV is recognised as the lead agency on e-commerce consumer protection by other consumer protection agencies and the Victorian community – for expertise and excellence in promoting e-commerce issues
- Work towards increasing services online
- Work towards establishing an online complaint handling, or alternative dispute resolution (ADR) service

Our Results

- CAV led e-commerce national working party and released discussion paper on national minimum statutory standards for online trading
- ShopSafe, e-commerce simulator launched
- E-commerce fact sheets produced
- Established online “no change” business names renewal and first full year for business names search function. 14% of “no change” business name renewals completed online
- Legislation passed to enable further online developments including transactions for registering and changing business names and public registers of estate agents and motor car traders
- Residential Tenancies Bond Authority launched online viewing of bonds for agents

Priority 6: Increase consumer protection in relation to financial services issues

Issues around financial services are becoming increasingly important, particularly for senior Victorians. CAV has sought to increase its focus on providing consumer protection services in relation to financial issues.

Our Aims

- Work closely with consumer groups to assist consumers with financial issues
- Proactively deal with emerging issues of concern
- Ensure compliance with and policy development in relation to the credit code
- Support the work of consumer groups in this area
- Be seen as an advocate for consumers on financial issues

Our Results

- 200 industry, consumer and government participants at CAV's two-day Credit, Debt and Consumer Conference
- Ministerial Council of Consumer Affairs examined regulation of finance brokers at the instigation of CAV
- Additional \$2.46 million paid to the Consumer Credit Fund (CCF) following the settlement with the ANZ Bank
- Minister announced \$218,471 (ex GST) in grants from the CCF to community organisations
- Draft guidelines for debt collectors released
- 41,500 Christmas Credit Cards distributed warning of the dangers of credit over-commitment at Christmas
- Credit card over-commitment the subject of detailed research
- CAV became Chair of the national Uniform Consumer Credit Code Management Committee
- Fact sheets and information products prepared for the introduction of comparison interest rates

The Year in Review

Priority 7: Develop our people and our processes

CAV works to ensure that our people are motivated and can contribute effectively and our processes are efficient and effective in delivering services to our clients.

Our Aims

- Improve training and development opportunities
- Develop and implement an effective knowledge management strategy to ensure best use of information management tools
- Make the best use of the data we collect

Our Results

- Service charter implemented to monitor and improve customer service
- People development plan completed and dedicated Human Resources function established to improve the skills of staff
- Incorporation of Trade Measurement and Liquor Licensing into CAV to improve regulation in Victoria
- Streamlined automated telephone system improved response to calls
- Learning and development program reviewed
- Initiated cross-cultural awareness training and conducted tailored inhouse learning activities
- Upgrade begun of CAV complaints database, FairGo

Working with stakeholders

Consumer protection in Victoria operates within a complex stakeholder environment.

We work in partnership with consumer advocacy organisations, industry and trader associations, our regulatory counterparts and government policy committees. Balancing the rights, needs and demands of each of these groups requires a dedicated and strategic approach.

In 2002-2003 CAV held a number of events to strengthen our alliances. We hosted a major consumer conference, attracting speakers from across Australia and around the world. We conducted a two-day credit conference that led to mortgage and finance broking issues being placed on the national agenda. CAV's Director held quarterly forums with funded community program agency staff to discuss emerging issues and developments in CAV services. Also, as part of our strategic planning workshops with stakeholders, CAV consulted about key directions in consumer protection.

CAV is represented on numerous committees. We lead national working parties on e-commerce and building insurance. We consider national safety issues through the Consumer Products Advisory Committee and we were appointed Chair of the national Uniform Consumer Credit Code Management Committee. These are just a few of the many working partnerships that strive to develop new approaches to safeguarding consumer rights.

In 2002-2003 CAV developed a comprehensive framework for stakeholder engagement encompassing communication, prioritising, targeting and planning. Under a restructure to take effect in August 2003, CAV established an internal branch dedicated to external relations. The new branch will build strategic relationships to ensure that by working together we are better able to address the complexities of emerging consumer issues.

A national focus

CAV's legislation and activities are primarily directed to assist Victorian consumers. However, many businesses operating in Victoria also operate inter-state in markets that are frequently national in character. This means it is essential that solutions to consumer problems take full account of national implications. It is generally desirable that as much uniformity as possible be achieved across jurisdictions.

National Fair Trading Futures Workshop

The theme of national consistency was the focus of the second National Fair Trading Futures Workshop held in Brisbane in April, 2003. The first workshop was held in 2001-2002. The workshop was attended by senior consumer affairs officials from all jurisdictions, including New Zealand (excluding South Australia) as well as consumer and business representatives.

A key theme throughout the Futures Workshop was co-ordination of agencies and how to achieve a national focus on strategic issues. The discussion initially centred on credit and product safety with a particular emphasis on the finance broking industry and the need for an efficient regulatory approach. It is intended that the Futures Workshop will be held again in 2004.

Ministerial Council on Consumer Affairs

A key avenue for achieving uniformity is the Ministerial Council on Consumer Affairs (MCCA), comprising all State, Territory, Commonwealth and New Zealand Ministers responsible for consumer affairs and trade measurement matters. The Council meets at least once during the year and also handles matters out of session. In 2002, the former Minister for Consumer Affairs, Christine Campbell, attended a meeting of the Council in Adelaide.

The Council is advised and assisted by the Standing Committee of Officials of Consumer Affairs agencies (SCOCA). The Committee meets several times a year, and is supported by four advisory committees covering fair trading operations, credit, product safety and trade measurement. In order to inform SCOCA and MCCA on key national issues and consider appropriate policy responses, working parties are convened on specific issues comprising representatives from those jurisdictions with an interest in the area. Some of the issues considered by the Council and Committees in which CAV had a significant involvement included:

- e-commerce regulatory issues
- builders' home warranty insurance
- temperature correction for petroleum fuels
- unfair contract terms
- consumer credit
- Indigenous consumer protection
- regulation of the car-hire industry
- direct marketing
- mobile phone contracts
- payday and fringe credit providers
- product safety and standards issues.

The way ahead

With a view to addressing Victorian Government and Department of Justice priorities, after widespread consultation with stakeholders and industry groups, CAV has developed its strategic priorities for the coming three years.

1. Address current and emerging marketplace issues

CAV will increase its proactive focus addressing emerging issues that might have a negative impact on relationships between consumers and traders. We will also further develop our assessment and analysis function to quickly identify and act on marketplace trends.

2. Ensure existing interventions in the marketplace are efficient and effective

CAV will proactively review its existing interventions in key areas, including legislative and non-legislative regulation, compliance, information and education activities.

3. Target issues of concern to vulnerable and disadvantaged consumers

CAV will work to reduce barriers to accessing our services, and actively target issues of concern for the more vulnerable and disadvantaged members of the community.

4. Provide leadership in alternative dispute resolution (ADR)

We will develop our online ADR and self-help website initiatives, instigate best practice mechanisms for use in CAV ADR programs and, encourage and support industry based ADR.

5. Strengthen compliance and enforcement

CAV will work to ensure we have effective, targeted compliance programs and a reputation as an effective enforcement agency. CAV will make full use of the new powers available under the amended *Fair Trading Act 1999* to reduce reliance on industry-specific legislation.

6. Provide information and education services

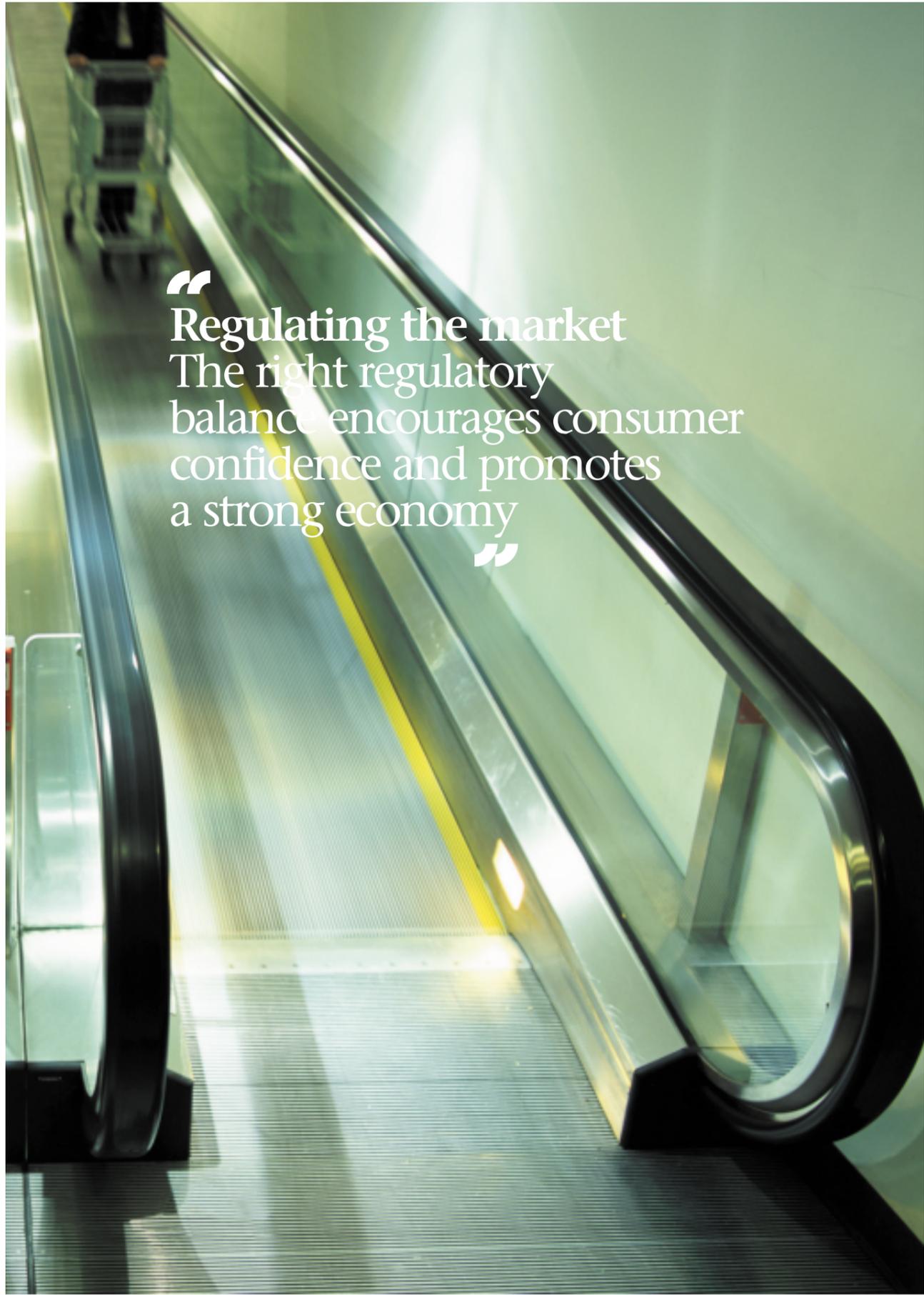
CAV will continue to focus on consumer education for vulnerable groups and will also boost consumer education for Victorian schools and for consumers dealing with real estate agents and domestic builders. The CAV website will be updated to provide increased access to information and online business transactions.

7. Modernise CAV

CAV will implement the internal restructure to ensure the organisation is aligned with its priorities. We will monitor and continually improve the skills of our people and the effectiveness of our processes.



- New powers under the *Fair Trading Act 1999* will ban unfair terms in consumer contracts and enable CAV to require traders to substantiate advertising claims
- Laws passed to outlaw dummy bidding at house auctions and ban under and over-quoting of properties
- Mandatory labels on petrol bowsers were introduced to detail ethanol content
- Draft guidelines were established to prevent unfair practices by debt collectors
- CAV leads a national approach to regulating finance brokers
- Victoria heads the national e-commerce working party



“
Regulating the market
The right regulatory
balance encourages consumer
confidence and promotes
a strong economy
”

Regulating the market

Building a fairer future

CAV monitors commercial marketplaces to identify trends in unethical or unfair practices. We examine industry codes of conduct, legislation and regulations to assess their effectiveness and make recommendations to government when new measures are considered necessary to protect consumer rights.

In 2002-2003 CAV began to lay the foundations that will make Victoria a leader in consumer protection throughout Australia.

Consumer protection powers were strengthened under changes to the *Fair Trading Act 1999*. New laws were passed to outlaw dummy bidding and over and under-quoting by real estate agents. The first mechanism was put in place to ensure petrol buyers were informed of ethanol content and significant moves were made towards a national regulatory framework in important areas of consumer protection.

Draft guidelines were produced to prevent unfair practices by debt collectors. CAV continues to lead an Australia-wide approach towards regulating finance brokers and we head a national working party examining consumer protection in relation to e-commerce.

Policies and laws work only as long as they remain relevant to the communities they service. Our society is one of rapidly developing technologies, evolving market places and changing demographics. Therefore, the legislative safeguards we put in place to protect consumers must be part of a process of continual review.

CAV encourages self-regulation where it is appropriate and effective. However, in certain industries consumer protection demands a stronger regulatory regime. As far as possible CAV applies a national perspective in developing policy solutions to marketplace problems. Uniformity in legislation and administration minimises business compliance costs and maximises business and consumer confidence. In key areas, CAV works with other agencies to adopt uniform measures to enhance consumer protection.

New legislation in 2002-2003

A stronger *Fair Trading Act*

A number of significant changes were made to the *Fair Trading Act* 1999 that will create a fairer environment for legitimate traders and clamp down on rogue traders.

The changes included new powers which:

- require traders to substantiate 'too-good-to-be-true' product claims
- issue warnings to the public about rogue traders
- temporarily suspend business licences of rogue traders
- obtain cease-trading injunctions against rogue traders
- issue 'show cause' notices to rogue traders as to why they should be allowed to continue trading.

For the first time under Australian consumer protection laws, unfair terms in consumer contracts will be banned and consumer contracts must be written in plain English. This action will protect vulnerable sectors of the community. The legislation also limits the hours and visit-duration of door-to-door selling and expands the cooling-off period to 10 days.

Breaches of the Act will incur increased maximum penalties from \$60,000 up to \$120,000 for companies and \$24,000 up to \$60,000 for individuals. The increase in penalties and changes to advertising requirements (see advertising section) commenced on 28 May 2003. However, the majority of the Act will not be proclaimed or commence until October 2003.

The changes were introduced into Parliament as the *Fair Trading (Amendment) Act* 2003. They follow the recommendations of the *Fair Trading Act* Review Reference Panel set up by the Minister in 2001 to review the Act's effectiveness in protecting vulnerable consumers.

Whilst Victorians have watched property prices soar in recent years, there has also been considerable attention drawn to a perceived culture of dishonesty operating within the house auction system. Many potential buyers have fallen victim to practices of dummy bidding and under-quoting often to find they had no real chance of purchasing the house they had set their sights on.

Acting on its commitment to fair and transparent auctions, the Victorian Government introduced legislation that will promote ethical real estate practices and protect purchasers, honest vendors and honest estate agents.

In May and June of 2003, reforms to Victoria's real estate auction system were passed by Parliament in the *Estate Agents and Sale of Land Acts (Amendment) Act 2003*. The changes are designed to eliminate dishonest and unacceptable practices at auctions and to give purchasers the confidence they are entering into fair negotiations.

The Act will amend the *Sale of Land Act 1962* by outlawing dummy and undeclared vendor bidding. Auctioneers will be able to make a bid on behalf of the vendor provided it is announced that the bid is a vendor bid. Significant penalties will apply for a breach of the new laws.

The Act also makes significant changes to the *Estate Agents Act 1980*. These changes prohibit under-quoting and over-quoting the selling price of real estate and require estate agents to record an estimated selling price in the sale authority entered into with the vendor. If an agent quotes a range, the difference between the top and the bottom of the range must not be more than 10 per cent of the lower amount.

The Act will also require an estate agent to pass the benefit of any advertising discounts or other rebates on to the consumer. The changes will also remove barriers to competition within the real estate industry and make a range of other changes to the licensing and regulation of estate agents.

CAV will work closely with industry and consumer representatives to ensure that estate agents and consumers are aware of their rights and responsibilities under these new laws which will commence from 1 February, 2004.

Other legislative reforms

- The *Residential Tenancies (Amendment) Act 2002* became effective under law on 1 July 2003. The amendments include: a return to the system under which rent increases may occur on 60 days' notice, but only once every six months. An increase from 90 to 120 days for notice to vacate without a specified reason and the reinstatement of an offence under the Residential Tenancies Act of non-compliance with Tribunal orders, enforceable by CAV.
- Changes were made during 2002-2003 to CAV's business licensing legislation to facilitate online transactions with CAV and the Business Licensing Authority. These provisions will be proclaimed to commence later in 2003.
- The *Utility Meters (Metrological Controls) Act 2002* took effect on 1 January 2003 applying the principles of Uniform Trade Measurement Legislation (UTML) to utility meters.
- A Bill to amend the *Travel Agents Act 1986* was introduced into the Autumn 2003 Parliamentary Sittings.
- As part of the Victorian package of reforms which has been developed in response to the national insurance crisis, the *Goods Act 1958*, was amended, enabling providers of recreational services to exclude implied contract conditions that services are provided with due care and skill and are fit for the purpose for which they are provided. A form setting out the contractual terms used to exclude the implied conditions, and requiring the signature of the customer consenting to the terms, was prescribed in the Goods (Recreational Services) Regulations 2003. It must be used to obtain a waiver, and it is an offence to use any other terms and any other form. These changes commenced on 1 May 2003.

Regulations commenced or revoked during 2002-2003

Regulations Commenced	Date Commenced
Fair Trading (Prescribed Safety Standard for Baby Walkers) Regulations 2002	1 November 2002
Fair Trading (Product Information Standards)(Petrol) Regulations	1 May 2003
Fair Trading (Safety Standard)(Basketball Rings and Backboards) Regulations	9 July 2002
Fair Trading (Safety Standard)(Bunk Beds) Regulations	1 November 2002
Fundraising Appeals (Amendment) Regulations	1 October 2002
Fundraising Appeals (Renewal) Regulations	1 November 2002
Goods (Recreational Services) Regulations	1 May 2003
Liquor Control Reform (Amendment) Regulations	6 May 2003
Liquor Control Reform (Prohibited Class of Liquor) Regulations	17 June 2003
Motor Car Traders (Fees) Regulations	1 March 2003
Prostitution Control (Amendment) Regulations	2 September 2002
Second-Hand Dealers and Pawnbrokers (Amendment) Regulations	1 September 2002
Second-Hand Dealers and Pawnbrokers (Exemption) Regulations	1 October 2002
Subordinate Legislation (Business Names Regulations (No 2) 1992 – Extension of Operation) Regulations	28 July 2002
Trade Measurement (Amendment) Regulations	1 July 2002
Trade Measurement (Fuel Measurement) Regulations	1 December 2002
Regulations Revoked	Date Revoked
Consumer Affairs (Product Safety)(Spirit Stoves) Regulations 1992	11 August 2002

**Victoria, leaders in fuel reform – *Regulating the market*
a special report**

Promoting transparency and competition in fuel markets

CAV regulates fuel sales in Victoria where there is evidence that the market is not operating efficiently and that this adversely affects prices for customers. Fuel markets can fail for a variety of reasons. However one of the main problems addressed over the last year was the lack of transparency of information between buyers and sellers. In particular CAV looked into the temperature at which fuel is measured for sale, the mixing of ethanol with petrol and the build-up of the wholesale price of fuel.

In each of these areas Victoria has been the first State to intervene to improve the operations of the market for the benefit of consumers and industry, and as a state, Victoria leads the national agenda on these issues.

Measuring fuel temperatures for sale

When fuel is sold it is essential for the integrity and equity of the transaction that the basis upon which the volume of the fuel is measured is transparent to all parties. However, in the past when fuel was sold at terminals and refineries it was measured at the ambient temperature, which was variable and only known to the supplier. The price of the sale was then calculated on the volume at the ambient temperature. As this temperature is frequently high and the fuel cools and contracts during delivery and storage, resellers had less fuel available for sale.

Despite approaches to suppliers, resellers were unsuccessful in negotiating access to fuel at a common and known temperature. The Trade Measurement (Fuel Measurement) Regulations were introduced on 1 December 2002 to address the lack of transparency in volume measurement and the resulting market inefficiencies and inequities. As a result, all resellers are now able to buy petrol and diesel at refineries and terminals at a price based on the fuel's volume as if it had been measured at 15° Celsius, the Australian Standard temperature, regardless of the ambient temperature.

The Victorian Government was instrumental in achieving a national solution to this problem by proposing model regulations under Uniform Trade Measurement Legislation. These regulations have since been adopted by other States and Territories.

Ethanol content in fuel

CAV has also responded to concerns raised by motorists and businesses about the lack of information available to buyers when petrol that contained ethanol was sold. While ethanol is a renewable fuel and an octane enhancer, when mixed with petrol it reduces fuel economy and, depending on the vehicle and the amount of ethanol, may cause costly damage to engine components. However, up until 1 May 2003 when the Fair Trading (Product Information Standards) (Petrol) Regulations came into operation, motorists, and in some instances suppliers, were not aware if petrol contained ethanol, and where it was present they were not informed about the amount of ethanol mixed with the petrol.

The regulations require service stations to display a label on pumps disclosing if the petrol contains above or below 10 per cent ethanol. The labels must also include information about the use of ethanol blends in certain vehicles and equipment and advice on reduced fuel economy. To enhance recognition the labels are coloured and include warning symbols. A written notice disclosing the percentage of ethanol in a load of fuel must also be provided to any business purchasing fuel at wholesale. CAV is working with other State and Territory governments to recommend to the Commonwealth a national labeling regime, based on the Victorian arrangements, to promote uniformity in disclosure standards.

Assessing terminal gate pricing

Having introduced the *Petroleum Products (Terminal Gate Pricing) Act 2000* in August 2001 to overcome problems resellers were experiencing accessing fuel at terminals at transparent wholesale prices, CAV undertook a review to assess the effectiveness of the Act in achieving these objectives. A draft report, which found greater transparency and a moderate improvement in resellers ex-terminal access to petrol and diesel, is being considered by industry stakeholders. The final report will be completed in 2003-2004.

The future

Looking forward, CAV is working in conjunction with industry to identify transparency issues that may affect competition and pricing in LPG autogas markets. An industry working party has met and is providing comment on issues and potential action. CAV is also exploring ways to promote greater price transparency for LP bottled gas consumers and working in consultation with the Department of Infrastructure which is developing a voluntary retail code of practice for LP bottled gas suppliers.

Regulating the market

Tackling current and emerging issues

The credit and finance industries

Comparison interest rates

From 1 July, 2003 all credit providers are required to advertise comparison rates when they advertise interest rate percentages. CAV worked with the Uniform Consumer Credit Code Management Committee to develop the changes that allow consumers to make genuine comparisons between products from different credit providers.

A comparison rate is designed to identify for consumers the true cost of credit. It does this by requiring credit providers to calculate a percentage figure that takes account of interest, fees and charges. Consumers will also have access to a list of comparison rates that each credit provider must calculate for a standard set of loan amounts and loan terms.

CAV has prepared fact sheets, media releases, Frequently Asked Questions (FAQs) and explanatory texts which are distributed through the CAV website and to consumers of fixed-term credit products.

Uniform Consumer Credit Code Management Committee (UCCCMC)

In May 2003, Victoria assumed the Chair of the national UCCCMC, which oversees the Uniform Consumer Credit Code. The role complements CAV's priority to focus on credit and finance issues. Committee work will continue to address such issues as credit card over-commitment, fringe lending, refinement of disclosure obligations, exemption applications and the need to clarify the use of electronic communications in consumer credit.

Credit card surcharges

From 1 January, 2003 merchants have been permitted to charge consumers a fee for using a credit card. The charge is designed to offset the fee paid by the merchant to have the transaction processed. By 30 June, most merchants had chosen not to pass on the costs. CAV has cooperated with the Australian Securities and Investment Commission to provide general information and advice to consumers. CAV enquiry staff have received training in the new process.

Consumer Credit Fund Advisory Committee

The Consumer Credit Fund Advisory Committee is appointed under the *Credit (Administration) Act 1984* to make recommendations to the Minister for Consumer Affairs on what grants should be made each year from the Consumer Credit Fund (CCF).

The CCF was established to provide grants to non-profit making persons or organisations for:

- the provision of educational services
- advice and assistance to people who have obtained, or intend to obtain credit
- research into the use of credit.

The Committee comprises two representatives appointed by the Minister, two representatives from credit providers and two representatives from consumer organisations.

Eleven projects were approved in 2002-2003.

The projects, outlined in Appendix 2, comprised:

- research on the Consumer Credit Code, solicitor's mortgages and poverty and credit
- education to youth, non-English speaking people, and people with drug-related problems and mental disabilities
- publications including a re-print of a youth credit brochure.

This year CAV undertook an analysis of complaints about finance brokers. It was found that many brokers still charged upfront fees, despite this being against the law, that misleading conduct was rife and that broker contracts often did not divulge the full details of fees and commissions.

Recommendations that arose from the analysis included that consideration be given to reintroducing licensing and registration of brokers, that CAV promote national consistency of regulation and that the State of Victoria's regulations be upgraded to reflect market changes.

In the past five years there has been a dramatic rise in the level of brokering in Victoria. In 1999, when the last accurate figures were available before deregulation, there were around 540 brokers operating in the state. Because there is no licensing system at present, only estimates can be given, but the industry believes there are now anywhere between 1,000 and 2,000 individual brokers.

Mortgage broking, or home loans, accounts for much of the growth. In excess of one third of all home loans are now established through a broker. That figure is expected to rise to at least half within the next few years. Brokers are now proactive in seeking business including refinancing, debt reduction and reverse mortgages.

The Minister for Consumer Affairs and the Director of CAV have been instrumental in ensuring that national consistency in the regulation of broking is placed on the agenda of the Ministerial Council on Consumer Affairs. There is every prospect of a national agreement being established in the medium term.

In the interim CAV is working to ensure that the protection offered to Victorian consumers is sufficient to counter the potential wide-ranging consumer detriment that can arise when problems occur within this industry.

Regulating the market

Setting the agenda for online protection

An E-commerce Consumer Protection Plan was developed in 2001-2002 to support and feed into the Government's E-commerce strategy, *Victoria's E-commerce Advantage*. The Plan has two major aims; to protect and inform consumers and ensure that CAV is able to meet the challenges posed by technological developments.

Over 2002-2003, CAV's activities focused on one of the major issues underlying the up-take of e-commerce – consumer confidence. Consumers need to be assured that their online transactions will be at least as safe as the transactions they make in the traditional market. Consumers need to be certain that their personal information will be kept safe and not be abused. They need to know that security safeguards are in place to protect payment processes, and they need to be confident that they will receive the goods and services they ordered. Finally, consumers require an accessible and effective forum to achieve redress should they experience problems.

Victoria leads national e-commerce working party

Consumer protection in e-commerce relies on existing consumer protection legislation, both Commonwealth and State, and a voluntary, best practice model code of conduct *Building Consumer Sovereignty in Electronic Commerce: A Best Practice Model for Business* (BPM) which was launched by the Commonwealth Government in May 2000.

The effectiveness of this self-regulatory approach and the adequacy of the BPM have not been evaluated by the Commonwealth Government. Accordingly, at the Ministerial Council on Consumer Affairs (MCCA) meeting in August 2002, Victoria's Minister for Consumer Affairs succeeded in having several matters added to the strategic agenda for scrutiny.

A national E-commerce Working Party, comprising representatives from all states and territories, the Commonwealth and New Zealand, has been formed to consider and report back to MCCA on the matters detailed below.

National, minimum, statutory standards

With increasing consumer complaints and concerns about online selling practices, the Working Party has been asked to consider whether there should be some basic fair trading standards for online traders that take into account the nature of the medium.

These standards could require that all websites contain information such as: the name of the trader, a contact telephone number, a statement of all costs, and information about delivery, returns or refunds.

In the virtual world, consumers are less confident when they do not have the usual indicators about the trustworthiness of a particular trader. The consumer takes these indicators for granted in a store. Information which consumers become aware of automatically in a physical store needs to be spelled out in a virtual store. This may be necessary to reach a similar level of consumer protection online versus offline.

During the year under review, CAV, on behalf of the Working Party, completed a discussion paper that will be circulated among interested stakeholders.

A uniform approach to catching online rogue traders

On behalf of the E-commerce Working Party, CAV researched and prepared a discussion paper which looked at whether the coverage of each state's Fair Trading Act was broad enough to cover the activities of traders operating across state boundaries, particularly over the Internet. The paper considered whether it would be desirable and feasible to develop a cross-jurisdictional regime for prosecuting traders whose conduct breached either the Act where the trader resides or where the consumer resides. It also considered whether it would be desirable for individual states to adopt a uniform approach to extra-territorial issues and if so, what form such a regime might take. This work will be continued in the next financial year.

Web seals of approval

In January 2002, CAV released a discussion paper on Web Seals of Approval. Web seals of approval are third-party certification processes which indicate that a particular business has agreed to follow a set of rules or guidelines addressing, for example, privacy issues or business standards.

During the year, CAV on behalf of the Working Party, researched developmental advances of web seals. We also examined technological developments that might act as substitutes for web seals.

The findings of the Working Party together with options for future action are included in an options paper which will be circulated among interested stakeholders.

M-Commerce

Mobile e-commerce, or m-commerce, is the extension of e-commerce beyond the limitations of the PC or TV as access devices. Consumers now have the ability to use mobile phones and other wireless devices to make payments, access bank accounts, receive news or promotions, and conduct purchases.

The Report by this Working Party will outline the expected availability of m-commerce services in Australia. It will then describe the potential issues these services are likely to raise for consumers.

A refined discussion paper was circulated to a targeted group of industry stakeholders for an initial consultation. From this consultation, a comprehensive discussion paper will be drafted for a wider consultation among interested parties.

Exposing dodgy online deals

CAV investigators took part in a global 'sweep' of online travel operators that was organised by the International Consumer Protection and Enforcement Network. The sweep of more than 5,500 websites revealed a number of dodgy deals and claims, including an advertised 'super-low' price on a banner that was priced higher on a website or was not available at all. CAV also conducted its own sweep of Victorian e-traders. The results are detailed in Chapter Six of this Annual Report.

Regulating the market

Under the microscope

CAV monitors a range of industries and liaises with relevant bodies to ensure that consumers are protected. We contribute to reviews and are represented on working parties and committees. We encourage self-regulation where possible but when persistent problems threaten consumer protection we work to create an effective regulatory framework.

Debt collectors

Reports about growing levels of personal debt and concerns by consumer advocates about unfair practices adopted by some debt collectors, prompted CAV to develop guidelines for the debt collection industry.

The draft, *Debt Collection and the Fair Trading Act: Guidelines for Debt Collectors*, was circulated during the year and provided an overview of the existing legal obligations governing the practices of debt collectors. It highlighted the prohibition on undue harassment and coercion contained in section 21 of the *Fair Trading Act 1999*. The guidelines set out a number of "guiding principles" designed to assist debt collectors to manage their debt collection activities so as to avoid engaging in behaviour that may breach section 21 of the Act.

The draft guidelines met with a positive response from both industry and consumer groups. Following the release of the final version of the guidelines during 2003-2004, CAV will monitor compliance with the guidelines and take action against those debt collectors who engage in illegal or unethical conduct.

Builders warranty insurance

In August 2002, less than a year after the collapse of the HIH Insurance Group, Professor Percy Allan AM presented his final report on domestic builder warranty insurance to the Ministerial Council on Consumer Affairs (MCCA).

MCCA established a national Working Party, chaired by CAV's Director, to consider the recommendations of the report. The Working Party responded in December 2002 agreeing with the main finding of the National Inquiry that: "the cost and availability of homebuilders warranty insurance is as much a function of the regulatory framework governing the homebuilding process as the conditions applying to the insurance market".

While agreeing with many of the Report's recommendations, the Working Party was concerned that implementation of just some of the recommendations would still allow gaps in the system. To assess the Report's recommendations, the Working Party delineated from first principles an adequate consumer protection framework and the principal elements required to sustain that framework in a dynamic, competitive, informed and fair marketplace.

CAV continues to take a leading role in the Working Party, which is continuing with further tasks including research and investigation into implementation of its various recommendations.

Identity theft

CAV looked at efforts underway in Australia and internationally to assess the information available to consumers and the support structures set up for people who have had their identities stolen. Victims of identity fraud face potential liability for the debts and often incur a damaged credit file history.

CAV has sought to have the issue considered by MCCA to examine how consumer protection agencies might prevent identity fraud through raising awareness and educating consumers and industry on ways to shield identities, and assist those who are victims of such fraud.

Retirement villages

The *Retirement Villages Act 1986* is under review. The review aims to determine the effectiveness of the Act in clarifying and protecting the rights of retirement village residents while encouraging and supporting the development of an ethical and viable retirement village industry.

To this end during the past year CAV has held many discussions and meetings with residents and industry representatives. A total of 1,200 discussion papers were distributed. An expert was engaged to conduct an analysis of the fairness and reasonableness of retirement village contracts, particularly those containing a deferred management fee. A report presenting proposals for change is planned to be distributed to stakeholders.

The funeral industry

CAV is working with the funeral industry to examine options to improve conduct by funeral directors. The matter has also been placed on the agenda for the Standing Committee of Officials of Consumer Affairs (SCOCA), to consider whether additional regulation of the industry is required, and to investigate options for a uniform approach across jurisdictions.

Direct marketing

CAV contributed to a nationally coordinated review into the effectiveness of the Direct Marketing Model Code. The Code was developed to provide guidance to direct marketers to establish their own self-regulatory codes of practice.

Smash repair industry

The smash repair industry is seeking industry specific legislation or a code of conduct, prescribed under the *Fair Trading Act 1999* to regulate their dealings with insurance companies. Because the matter has national implications CAV called on the Australian Competition and Consumer Commission (ACCC) to examine the issues. Two discussions were convened by the ACCC with representatives from government agencies, the smash repair industry and insurers.

Car-hire

CAV participated in a national review of regulatory options for the car-hire industry. The review identified a range of industry practices which were a matter of concern. The public submission process revealed some disgruntled consumers who found themselves paying out far greater amounts than they expected, often debited from their accounts many months after the car had been returned. The review is examining the most appropriate regulatory response to these matters.

Building registration

The Building Commission is reviewing the building practitioner registration category system. CAV worked with the Building Commission to identify areas in which builders and consumers experience problems. CAV developed questionnaires used in interviews with a number of key consumer organisations. The Building Commission participated in those interviews.

CAV's comments to the review included information on complaints received at the BACV. The comments included proposals for improved consumer understanding, by expanding the current registration information and providing easy access for consumers to the information.

Tenancy databases

Consumer affairs agencies and tenant advocates are concerned about the effect on tenants of inaccurate or out-of-date entries on tenant databases. These databases are a reference for many estate agents when checking the suitability of applicants for rental properties. A national working party was established, with Victoria's support and participation, to fully examine regulation in this area.

Regulating the market

Retail electricity

The *Code of Conduct for Marketing Retail Electricity in Victoria*, sets consumer protection standards for the way in which electricity retailers can market electricity in Victoria. CAV continues to work closely with the Essential Services Commission (ESC) and the Energy and Water Ombudsman (Victoria) to ensure the Code is rigorously enforced. CAV is preparing a formal referral protocol with the ESC and is represented on the Marketing Code of Conduct Advisory Committee which provides expert advice to the ESC on systematic or material breaches of the marketing Code and on requests to the ESC on Code amendments or additions. A review of the Code is underway.

Educating real estate agents

CAV aims to maximise the effectiveness of compulsory training programs for prospective real estate agents and agents' representatives. Subsidised funding of the course for agents' representatives was continued in 2002-2003 to ensure industry access to the course. Student resource materials were updated to incorporate legislative changes affecting residential and retail tenancies, domestic building and fair trading matters.

A stakeholder working party provided industry with an opportunity to contribute to determination of the standards for compulsory training for estate agents and agents' representatives. New training standards are being developed on the national Property Development and Management Training Package.

In an important step towards establishing a national forum for consultation with the real estate industry, CAV chaired a meeting, on behalf of the Standing Committee of Officials of Consumer Affairs, with the Real Estate Institute of Australia, to discuss national regulatory issues. The first meeting focused on the need to develop consistent training standards between jurisdictions. This work will provide a framework for a national approach to developing real estate legislation.

Uniform Trade Measurement Legislation

The model Uniform Trade Measurement Legislation (UTML) is the subject of a National Competition Policy review that is in its final stages. The sale-of-meat regulations were identified as a restriction on competition and have been the subject of a national public benefit test that will finalise the review in 2003-2004.

During the year CAV worked with other States and Territories and the Commonwealth to develop a second round of amendments to the model UTML to reduce and improve business regulation and to improve consumer protection.

The *Utility Meters (Metrological Controls) Act 2002*, came into operation on 1 January 2003. It will apply the principles of UTML to utility meters. When fully operational, the Act will apply to approximately 5.8 million water, gas and electricity meters used for trade purposes. CAV is developing regulations for the Act that will apply to the gas industry. A regulatory impact statement will be prepared for the draft regulations. This statement is expected to be widely advertised in 2003-2004.

Raising the bar in safety standards

CAV is represented on a number of committees developing or reviewing Australian or joint Australian and New Zealand safety standards. As an active participant in these committees, CAV will comment on draft standards from the International Organisation for Standardisation (ISO). This work is becoming increasingly important given the trend to align domestic and international standards.

CAV was represented on Standards Australia Committees and reviewed and commented on certain consumer product standards, including car jacks and trolley jacks, fire extinguishers, children's nightclothes, children's toys and the levels of fire safety or potential for burning of textile products.

During 2002-2003 three new regulations came into affect to protect consumers from unsafe products.

Baby walker safety

After concerns both in Australia and overseas about the safe use of baby walkers, new standards were introduced in Victoria for all walkers manufactured after November, 2002. Because baby walkers allow children far greater mobility, they carry the potential for dangers such as small children falling downstairs, pulling down boiling kettles and gaining access to open fires and heaters. Most of the injuries reported are suffered by children less than 12 months old and mostly include damage to the child's head. Suppliers of baby walkers are now required to ensure that the product complies with the relevant international standard.

The new standards outlined in the Fair Trading (Prescribed Safety Standard for Baby Walkers) Regulations 2002, include requirements for folding mechanisms, seating, stability and friction bars. All walkers must also carry warning labels about the potential dangers.

Bunk bed safety

Falls from bunk beds are one of the most common causes of serious injury affecting young children. Almost half of these accidents result in fractures or concussion.

The most serious hazard posed by unsafe bunk beds is accidental hanging. Gaps in and around the bunk bed allow a child's body to fall through, but trap the head, these can cause the child to be hanged by their own body weight. In recent years there have been two deaths reported in Australia and there are about 200 associated injuries occurring in Victoria every year.

From 1 November 2002 new regulations prescribe safety standards for bunk beds. Suppliers are required to ensure that the bunk beds comply with certain safety requirements of the Australian/New Zealand Standard AS/NZS 4220. The standards are set out in the Fair Trading (Safety Standard) (Bunk Beds) Regulations 2002.

Basketball rings

The Fair Trading (Safety Standard) (Basketball Rings and Backboards) Regulations 2002 were made on 4 June 2002 and commenced operation on 9 July 2002. These prescribe safety standards for basketball rings and backboards for basketball rings by requiring certain written warnings and symbols to accompany their sale.

Consumer Products Advisory Committee (CPAC)

The Standing Committee of Officials of Consumer Affairs (SCOCA) established CPAC to provide advice on consumer safety matters and to develop and implement a national approach to consumer product safety issues.

CPAC met once during the year. It comprises representatives who are responsible for product safety and standards drawn from consumer affairs agencies in the Commonwealth, State and Territories of Australia and New Zealand.

Major issues discussed included development of an injury prevention program for nursery furniture, bunk beds, cigarette lighter standard enforcement, show-bags safety guidelines and Victoria's basketball ring/backboard program.

Regulating the market

Consultative bodies

Estate Agents Council

The Estate Agents Council is a statutory body with an advisory role. The Council's functions are defined in the *Estate Agents Act 1980* and include:

- monitoring the operation of the Act and regulations
- assessing the efficiency and effectiveness of the regulation of the real estate industry under the Act, and the need for further regulation or alternatives to regulation, such as deregulation or co-regulation
- monitoring the provision of services by estate agents and developments in the industry
- advising and making recommendations to the Minister for Consumer Affairs on policies
- considering applications for grants under section 76 of the Act and making recommendations to the Minister
- recommending to the Minister proposals for the reform of the Act and the administration of the Act.

The Council's 2002-2003 focus included:

- reviewing the need for professional indemnity insurance in the real estate industry
- establishing and facilitating a Consumer Liaison Reference Group
- examining the management of bodies corporate
- updating and publishing the *Guide to Real Estate Trust Accounting*
- progressing the *Guide for Auditors* project.

Prostitution Control Act Ministerial Advisory Committee

The Prostitution Control Act Ministerial Advisory Committee was established under the *Prostitution Control Act 1994* to advise the Minister for Consumer Affairs on issues related to the regulation and control of prostitution in Victoria. During the year the Committee met with external stakeholders with a view to advancing its work program and prioritising a range of issues for address.

Patriotic Funds Council of Victoria

The Patriotic Funds Council of Victoria (PFC) is a statutory authority established under the *Patriotic Funds Act 1958*. Patriotic funds are trust funds, including property, raised in connection with military service for ex-service personnel and their dependents. The PFC is also responsible for recommending on the distribution of Anzac Day Proceeds Funds, which are derived from the *Anzac Day Act 1958*.

Defence Reserves Re-Employment Board

The Defence Reserves Re-Employment Board (DRRB) is a statutory authority established under the *Defence Reserves Re-Employment Act 1995*. The primary function of the DRRB is to assist members of the Reserve Forces to regain employment on completing a period of qualifying service. The DRRB also has responsibilities under the *Discharged Servicemen's Preference Act 1943*, primarily in reporting to the Minister any breach of the Act which has occurred or is likely to occur in relation to employment of "veteran" servicemen and women in Victoria.

Consumer Utilities Advocacy Centre

The Consumer Utilities Advocacy Centre Ltd (CUAC) is an independent advocacy organisation. It was established to ensure that the interests of consumers in the State of Victoria, especially low-income, disadvantaged, rural and regional and Indigenous consumers, are effectively represented in the policy and regulatory debate on electricity, gas and water. It is a public company limited by guarantee, with its Member as the incumbent Minister for Consumer Affairs. CUAC is wholly funded by CAV.

CUAC's corporate objectives are:

- to provide a voice for Victorian utility consumers in the regulatory debate
- to increase the capacity of consumers and consumer advocates to influence the regulatory debate, particularly on issues affecting low-income, disadvantaged and rural consumers
- to research and to fund research into consumer utility issues, with a particular focus on low-income, disadvantaged and rural consumers, and to disseminate that knowledge as widely as possible
- to monitor consumer utility issues, particularly those affecting low-income, disadvantaged and rural consumers.



- More than 3 million points of contact with consumers
- ShopSafe launched, an Australian first in online shopping education
- Indigenous Consumers Unit established
- CAV conference canvassing the future of consumer protection
- Campaigns for the vulnerable assist new migrants, elderly and young people
- Consumers alerted to wave of scams
- 182,077 unique visitors to the CAV website



“
Empowering consumers
We arm Victorians with the
knowledge needed to become
confident consumers and
responsible traders
”

Empowering Consumers

CAV's vision for an informed public

Through our call centre, front counter, community programs, education and communication campaigns, CAV informs consumers, tenants and traders about their rights and responsibilities. Information is provided on matters as diverse as renting and accommodation, estate agents, building, shopping, credit, fundraising, business registration and licensing.

Advice and education are fundamental to creating confident consumers and protected communities. CAV's vision is for an empowered Victorian public: informed consumers who understand and know how to exercise their rights and responsibilities.

CAV is committed to delivering a range of innovative solutions to meet the varied needs of consumers. In 2002-2003 we established Victoria's first Indigenous Consumers Unit. In another first, we launched a simulator that trains people to shop safely online.

We established Building Advice and Conciliation Victoria (BACV) to provide dedicated support to building consumers, and we created education campaigns tailored for vulnerable and disadvantaged consumers.

CAV's education and communications strategies are designed to:

- raise awareness that there is a consumer protection agency which offers information, conciliation, and enforcement services
- inform consumers about their rights and responsibilities, how to access and exercise them, with a program of education and information specifically tailored for the needs of vulnerable members of our community
- inform businesses of their responsibilities under consumer law and the need to comply with these
- educate consumers and business on a range of current and emerging consumer issues.

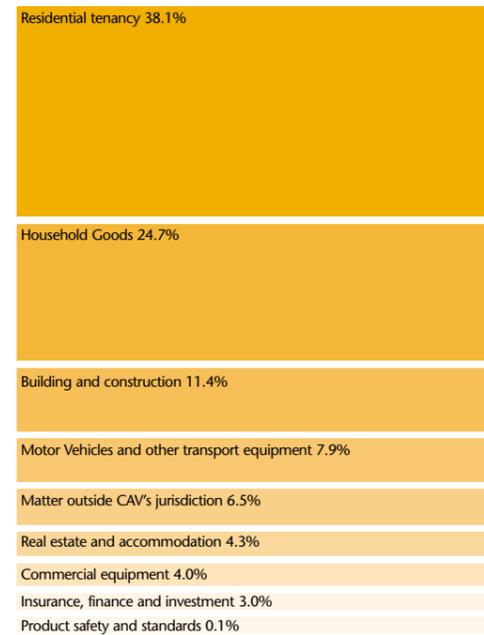
CAV wants the public to respond to a consumer problem by thinking: "I should be able to sort that out – but if I need advice I'll contact Consumer Affairs Victoria".

The consumer frontline

CAV aims to assist consumers, tenants and traders to resolve their own disputes by equipping them with information about their rights and responsibilities.

When a matter cannot be resolved between two parties our specially trained enquiry officers can provide informed advice on other avenues for assistance, including CAV's conciliation service or referrals to relevant outside agencies. Calls are also classified to help identify emerging consumer risks, allowing CAV to act promptly and minimise any potential harm.

During the year most calls to the enquiries line related to tenancy issues. But matters regarding household goods (a broad category that includes issues surrounding whitegoods, contact sales, introduction agencies, child modelling, mobile phones and more), building and construction and motor vehicles also rated highly.



Helping consumers

CAV administers 48 Acts of Parliament. Telephone enquiry officers are trained to explain how specific legislation can protect consumers. Below is a snapshot of how CAV officers make a difference, with abbreviated versions of the real advice given.

Urgent repairs

CAV will intervene when matters need immediate attention. When an elderly woman called at 3.30pm on a Friday because the hot water service in her roof had burst and water was flooding through the plaster, the problem was treated as urgent. CAV called the estate agent on the woman's behalf. A plumber fixed the problem that afternoon.

Motor car traders

A young man called after having paid a deposit on a used car on a Saturday morning. By Monday he realised that financially it would be too great a strain. CAV advised him that because his car was bought through a Licensed Motor Car Trader he had three working days to "cool off" but he would have to forfeit \$100 or 1 per cent of the purchase price.

Debt collectors

A consumer called CAV when an agent seeking to repossess his car had chased him along a street and attempted to stop him from driving away. Many consumers complain of heavy-handed practices employed by some debt collectors. CAV advises that the *Fair Trading Act 1999* offers consumer protection against harassment from debt collectors. Some cases are referred to the Australian Competition and Consumer Commission or may be directed to the Victoria Police.

Empowering Consumers

Bodies corporate

CAV took responsibility for bodies corporate at the beginning of 2003. Most enquiries relate to concerns about bodies corporate management and disputes between members about financial contributions to the body corporate. CAV informs the callers of their rights, suggests processes to resolve the dispute and when all avenues are exhausted, recommends the caller seek legal advice.

Furniture suppliers

An elderly woman paid a \$100 deposit on a \$600 cabinet that she expected to take delivery of in between six-to-eight weeks. After nine weeks, the store told her that it had sold her unit and she would have to wait another six-to-eight weeks. When the store refused to return her deposit, the consumer contacted CAV who advised her how to outline in a letter to the store her rights and the store's responsibilities. Her deposit was then promptly refunded.

Better client services

In December 2002, as part of planned improvements to its call centre technology, CAV upgraded the Interactive Voice Response (IVR) system. The IVR system is used by all CAV call centres, including enquiries, licensing and business registration, as well as the Department of Justice Help Desk. Overall this centre assists in handling more than 700,000 calls a year.

The automated, menu-driven, telephone system allows callers to choose from a number of options. Callers can listen to pre-recorded advice on common consumer issues, request information and forms by post or facsimile, or talk directly to an enquiries officer. The system allows callers to leave their details and their call will be returned by an officer, without losing their place in the queue. CAV's recorded information answering service is available 24 hours a day.

In 2002-2003, a total of 345,000 telephone enquiries were made to CAV regarding consumer, renting, real estate and building issues. This represented an increase of more than 6,500 or 1.9% on the previous year. Of those callers, 216,560 were helped by an enquiries officer, with the remainder having their enquiry managed via the IVR system. Many of the latter listened to recorded information or requested a CAV publication that outlined their legal rights or responsibilities.

CAV's system is now at the forefront of call centre technology. With significant service improvements instigated over the past year, the system provides an efficient service for meeting callers' needs. In 2002-2003 the number of callers that abandoned their enquiry while waiting on the telephone was reduced by more than 30 per cent, and the call-waiting time was reduced by an average of 66 seconds, with most calls now being taken within just over two minutes.

CAV Business Affairs is the area where business names are registered. Staff handled 126,500 telephone enquiries. Business callers made greater use of the improved IVR and of forms and transactions available on CAV's website. Another 65,000 calls were made to licensing staff and many people sought face to face contact with 60,820 individuals making registration and licensing enquiries at the CAV counter.

Making enquiries

General enquiries line	345,000
Business Affairs calls	126,500
Licensing calls	65,000
Licensing and registration counter visits	60,820
Consumer and tenancy counter visits	6,300
Website and email enquiries	2,340
Liquor Licensing enquiries	47,100
Residential Tenancy Bond Authority enquiries	102,100
Total	755,160

Of the total number of calls made to the enquiries line 15,000 were made to Building Advice Conciliation Victoria (BACV) and around 8,700 were made to the Estate Agents Resolution Service (EARS).

Non-English speaking consumers

Clients who have difficulty with English are assisted where possible by multi-lingual staff. Dedicated enquiry telephone lines were set up in 2003 for the Arabic speaking and Vietnamese communities. Clients can make use of the Telephone Interpreter Service and the Personal Relay Service for the deaf is available to assist people with hearing impairments. Enquiries can also be lodged via CAV's website and by email. In special circumstances enquiries officers will help consumers and tenants write formal letters of complaint.

For the first time in Victoria there is a dedicated team committed to protecting the consumer rights of Indigenous people.

In May 2003 the Minister for Consumer Affairs launched CAV's Indigenous Consumers Unit (ICU) with the aim of raising awareness of consumer rights and CAV services among a sector of our community that can be particularly vulnerable to consumer problems. The launch of this service was attended by a number of key Indigenous stakeholders. An information kit including brochures, flyers and posters promoting awareness of CAV services, was distributed to more than 250 Indigenous organisations throughout Victoria. Since the launch, there has been a focus on building working relationships with Indigenous service providers across Victoria.

The Indigenous community has a high incidence of low-level education, median family incomes are according to Australian Bureau of Statistics figures \$261 a week below that of non-Indigenous families and discrimination is an ongoing problem. When these factors combine with a lack of understanding of consumer rights and an aversion to confront unethical traders, then the risk of falling prey to consumer rip-offs is exacerbated.

The ICU employs three Indigenous officers to provide practical support to individuals and communities faced with resolving consumer, trader, tenant and landlord issues. The team also works to raise awareness about consumer rights and responsibilities.

The Unit is usually the first point of contact for an Indigenous consumer with a direct low-cost telephone number that ensures that Indigenous people in regional Victoria have equal access to services. Indigenous officers provide advice on issues from credit to renting, building a home or buying a car. While the range of consumer issues that affect every community will also affect Indigenous groups, there are already some common themes specific to these groups arising in our complaints.

From the time it began operating until the end of the financial year, the ICU received almost 100 enquiries of which 20 per cent were conciliated. Thirty per cent of the enquiries related to credit matters, most were in relation to the ability to make repayments on the credit provided. Residential tenancy matters comprised 20 per cent of enquiries with most people requiring help to facilitate non-urgent repairs on their premises. As common themes emerge, the ICU, in consultation with Indigenous communities, will develop and deliver tailored consumer education.

Case study: Helping 'Helen'

When Helen accidentally caused fire damage to the kitchen in her rented home her landlord demanded \$1,500 or \$80 a week to cover the cost of repairs.

The landlord's insurance company threatened Helen with legal action. Helen was unable to make the payments and she contacted the Indigenous Consumers Unit to ask how to negotiate reducing her payments to \$30 a week.

Helen told CAV that her landlord had not provided her with quotes or discussed costs. Helen was given detailed information about her tenancy rights and the responsibilities of the landlord. Indigenous officers helped her obtain additional quotes for the work that her landlord said was required. These quotes were estimated at a much lower rate of around \$320. The information provided gave Helen the confidence to reach a compromise with the landlord and an agreement was made to pay \$570.

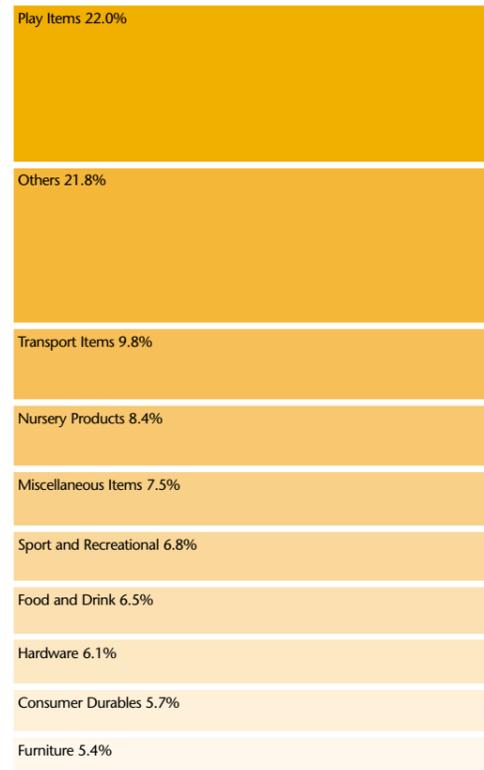
Case study: 'John's' second chance

In December 2002, John lost his job and began living off his credit card. When the balance reached more than \$6000 he missed two monthly payments and the credit card company demanded full payment within 37 days or the matter would be referred to a debt recovery agency. John was referred to the ICU by the Aboriginal Legal Service. CAV contacted the credit card agency on John's behalf and negotiated a payment plan whereby John agreed to pay \$20 a week. He found employment and the credit card company also agreed to remove a poor credit listing against John's name.

Product safety enquiries

During the year CAV received a total of 2,241 calls from consumers and industries seeking advice on matters relating mainly to the safe use and design of consumer products. This represents a 90% increase for the corresponding period in the previous year, and is 64.9% higher than totals for the 2000-2001 period.

The largest number of enquiries related to children’s play items.



Spreading the word

Consumers usually do not seek information about their rights until they experience a problem. CAV works with community groups and industry organisations to distribute information resources to groups at risk of having their consumer rights violated.

In 2002-2003 education and communications focused on:

- vulnerable consumers – young people, older people, Indigenous groups in the community and new immigrants
- e-commerce
- raising awareness of CAV’s role and services
- homebuyers and vendors
- credit
- business
- domestic building.

Protecting vulnerable consumers

CAV pays particular attention to the information needs of vulnerable and disadvantaged groups.

Consumers can be vulnerable in the marketplace due to such factors as limited choice, inadequate information and inability to influence actions by suppliers. In addition many consumers are disadvantaged in their decision making and in dealing with suppliers by limited financial and literacy skills, limited English language skills, limited mobility and low socio-economic status.

The needs of these groups are taken into account in all CAV education and communication plans. For example certain projects are specifically created for particular groups, such as newly arrived immigrants, young people, Indigenous communities and older people.

Culturally and Linguistically Diverse groups

Bi-lingual community educators

In response to evidence that verbal information can be more effectively received and understood than printed translated material, CAV has recruited four bilingual community educators. This team delivers consumer information to Arabic, Cantonese and Mandarin, Somali and Turkish-speaking communities. The educators will use information sessions, ethnic radio programs and ethnic newspapers to enhance awareness about CAV’s information programs and related services for consumers.

Every year, according to the Department of Immigration, more than 15,000 migrants and refugees arrive in Victoria and most look to the private rental market for their first home. Faced with cultural and language barriers, the risk of discrimination and exploitation is high if these consumers are not equipped with the right information.

The *New Country – New Home* campaign was developed to educate this group of tenants about the processes for finding a home and their rights in relation to the conditions of accommodation, leases and rental agreements. The campaign also provided information for landlords and estate agents about the special needs of new arrivals entering the private rental market and their responsibilities under consumer protection laws.

The campaign delivered information through statewide seminars, print advertising, Bilingual Educators (15 languages) and two booklets.

The booklet, *Renting a Home in Victoria: A Guide for Landlords and Estate Agents*, outlined in 5 languages, practical advice about:

- tapping into the potential market of 15,000 people who arrive in Victoria as migrants each year
- dealing professionally with newly-arrived migrants
- processing residential tenancy applications with unfamiliar identity documents and rental referees
- rights and responsibilities.

The second booklet, *Renting a Home in Victoria: A Guide for Migrants and Refugees*, provided advice in 14 languages about:

- preparing to look for a private rental property
- applying for a rental property
- rights and responsibilities as a tenant
- being treated fairly by a landlord or agent.

The campaign, which ran from October 2002 to June 2003, was managed by CAV, in partnership with the Equal Opportunity Commission Victoria (EOCV). The project was funded by an Estate Agents' Guarantee Fund grant to EOCV. The steering committee included the Real Estate Industry of Victoria, Tenants Union of Victoria, Springvale Community Aid and Advice Bureau, Office of Housing, North East Migrant Resource Centre and Department of Immigration.

Feedback from five target language communities revealed that the *New Country – New Home* booklets had filled an important information gap for new arrivals.

The majority of respondents to questions, asked through an interpreter, said they had previously not been aware of how to prepare to apply for a rental home and had not known about the documentation required to do so. The general response from the communities was summed up by a remark made by an Arabic-speaking participant: 'It's the first time I have read a booklet that contains very important information for tenants. This booklet is invaluable and well written'.

Empowering Consumers

Mind Your Money

Mind Your Money: Consumer Rights in Victoria is a resource for teachers of English as a second language. It is used to teach consumer rights and at the same time improve English proficiency.

Mind Your Money covers a range of consumer issues including signing contracts, buying a second-hand car, and borrowing money. Students develop their skills through listening, speaking, reading, writing and pronunciation exercises linked to CAV's multilingual fact sheets, which are supplied on CD-ROM. The kit also includes a book of worksheets, online exercises and an audio cassette.

The resource was developed by experts within CAV and with curriculum specialists from the Adult Multicultural Education Service (AMES). It provides an innovative way to present information to newly arrived migrants. These are a difficult group to reach with traditional educational tools. Newly arrived migrants, with low English proficiency are often unaware they have consumer rights in Victoria.

AMES found that *Mind Your Money* was making a difference. It found that 63 per cent of students were aware of CAV and said they had a better understanding of consumer issues after using *Mind Your Money*. Also, 82 per cent of teachers said that students were more aware of their consumer rights after using the resource.

The initial evaluation was backed up by anecdotal evidence. One student reported being able to solve a long-running dispute with a washing machine store. The new machine was faulty and the student had made numerous appeals for it to be repaired. After completing the lesson on consumer rights, he returned to the store with the relevant fact sheet in English and his own language. The repairs were then done quickly. The program will continue to be evaluated in 2002-2003.

Young people

Consumer Education in Schools

Secondary students are the focus of an education program to be implemented in 2004. Studies have shown that young Victorians may be vulnerable to unscrupulous traders because of ignorance about their consumer rights. The Consumer Education in Schools (CEIS) program aims to redress this imbalance by ensuring that young people have access to consumer information and advice.

An interactive website, video and CD-ROM are among the curriculum resources planned for teachers and students. As part of its research, CAV conducted focus groups with 220 students from eight metropolitan and regional secondary schools. The focus groups included general discussion about personal consumer experiences that form the basis for the CEIS program.

Stuff magazine

CAV has identified school leavers as a consumer group who are particularly vulnerable as they approach an independent lifestyle. In September 2002, CAV bulk mailed *Stuff* magazine to 58,000 school leavers at approximately 500 Victorian government and non-government schools.

2002 was the first year *Stuff* was bulk mailed directly to schools, with changes to privacy laws preventing the magazine from being direct-mailed to students. Of the schools that received the magazine 90 per cent said they would be prepared to distribute it again in 2003.

Copies of the magazine together with an order-form were forwarded to Victorian youth specific organisations as well as to council libraries.

The 2002 edition of *Stuff* contains consumer protection and other information about issues facing young people when they leave school. These include facts about: buying a car, finding somewhere to live, getting a job and further study options.

Older consumers

Older & Wiser

Every year, CAV hears stories of older people being misled by unscrupulous salespeople. To combat these tactics and inform older people about other consumer topics, CAV produces the magazine, *Older & Wiser*.

The 2003 edition of *Older & Wiser* was launched in May by the Minister for Consumer Affairs at the Greek Macedonian Senior Citizens Club in Glen Waverley. The latest edition includes more consumer protection information for seniors than ever before.

To promote the magazine further in the community, in June, the Minister also spoke at senior citizens centres in Monbulk and Balnarring.

Among the topics discussed in *Older & Wiser*, interpreting services, wills, insurance, real estate, retirement villages, gas and water utilities, dispute resolution and the seniors card are detailed. It also includes a comprehensive reference guide of contacts with other organisations able to assist with problems or provide advice.

Copies of *Older & Wiser* were distributed during Seniors Week and bulk mailed to all Victorian Senior Citizen Centres, bowls clubs and retirement villages following the launch.

Reports of cyber-thieves, online cons and poor credit card security make many consumers reluctant to attempt shopping online.

In an Australian first for consumer protection agencies, CAV is working to raise consumer confidence by making it possible to experience online shopping with no money and no risks.

In October 2002, CAV launched an e-commerce package that included an online application called ShopSafe™ and a website section dedicated to e-commerce education, supported by eleven fact sheets.

ShopSafe™ is targeted at consumers with little or no online shopping experience. It shows them what they should be looking for at each stage of web purchasing – Is the company real? Is my privacy protected? How do I know my credit card details are safe? – and provides advice to answer those questions. It is intended to guide and change consumer behaviour, rather than deliver detailed and specific information that may be quickly out of date and is difficult to understand by those who are new to online shopping. The application is accessible through the web at www.consumer.vic.gov.au/shopsafe.

The application is part of CAV's E-commerce Consumer Protection Strategy designed to provide consumers with the information and tools they need in order to operate online with caution and confidence. Although the strategy is specifically targeted at consumers, it is also relevant to business people, since it demonstrates the requirements of a safe, satisfying and legal shopping experience and highlights issues of concern to online consumers.

The new e-commerce section of the CAV website presents a range of information, frequently asked questions (FAQs) and the e-commerce fact sheets dealing with subjects that raise awareness about important considerations for online consumers. Internet Service Providers, Online Auctions, Online Scams, Online Privacy, Credit Card Security, Getting a Refund on Web Purchases, are just some of the topics covered.

ShopSafe™ and the other e-commerce resources are also available through a self-contained CD-ROM available for use by those without convenient access to the internet, and by educators and trainers.

The e-commerce ShopSafe™ package has stimulated great interest among agencies and organisations that play a lead role in educating Victorian businesses and communities about e-commerce. Over 4,000 CD-ROMs have been distributed to schools, libraries and other consumer protection organisations. CD-ROMs have also been made available to government agencies, such as Multimedia Victoria, Skills.net and GO Vic. ShopSafe™ demonstrations have been conducted for the State Government's eThinking group, the Society of Consumer Affairs Practitioners, regional Victorians (through GO Vic), Skills.net groups and the Australian eCommerce Network. In addition, during 2002-2003, there were almost 7,000 unique visitors to the e-commerce section of the CAV website, with over 15,000 pages viewed.

Empowering Consumers

Raising awareness of CAV's role

CAV Conference

CAV continually strives to build closer links with its many stakeholders. In September 2002, CAV held a major conference as a way to develop new and strengthen existing relationships with the organisations that share common ground in the consumer protection environment.

The conference focused on the future of consumer protection in Victoria, drawing on international and local experiences. It gave around 160 representatives from government agencies, industry and community groups a forum to exchange ideas for improving consumer protection in a changing environment.

Delegates from Britain, America and Canada addressed audiences on consumer protection in a global society, and on the role of consumer agencies in protecting vulnerable consumers. Keynote speakers included Moselle Thompson, Commissioner with the US Federal Trade Commission and chairman of the OECD Committee on Consumer Policy, Caroline Banks, Consumer Affairs Director with the UK Office of Fair Trading and Raymond Pierce, Deputy Commissioner of Industry Canada Fair Trading Branch, Competition Bureau.

The Australian Competition and Consumer Commission, state consumer protection agencies from WA and QLD, the Essential Services Commission, the Consumer Law Centre, Tenants Union and the Consumer Credit Legal Service also made presentations at the conference. Speakers from the Australian Retailers Association and AAMI discussed the role of the supplier of goods or services in consumer protection.

A Consumer Affair newsletter

CAV produces a Ministerial newsletter to provide stakeholders with information on current services and activities. The newsletter entitled *A Consumer Affair*, is sent to 4,000 consumer agencies and community stakeholders. In the upcoming year, *A Consumer Affair* will also be distributed in an electronic format.

Media coverage

CAV's media unit has been active in raising awareness about consumer protection activities. In 2002-2003, there were 2,375 CAV items featured in the media, of which 1,340 appeared in print media, and 1,035 featured on electronic media. This compared with almost 1,500 media items in the previous year, 2001, and about 700 items in 2000.

Newspaper columns

By issuing a CAV monthly column, the media unit continues to provide regular updates on consumer issues to regional and rural newspapers. The column outlines details of CAV's services, and contracted workers in the local areas, and provides warnings to Victorian consumers about potential traps. Since July 2002, CAV's columns have been published 53 times in 27 different regional papers. The following table demonstrates the topics featured for each column.

Column Issues	Topic
July 2002	Business names online
August 2002	BACV
September 2002	Show bag inspections
October 2002	Betting programs
November 2002	Itinerant traders
December 2002	Home safety
March 2003	Droughts, Water Quality and Filter Systems
April 2003	Wealth creation schemes
May 2003	Scams, Scams and More Scams
June 2003	Changes to Estate Agents Act

Distributing publications

CAV distributed more than 2 million pamphlets, brochures, magazines and forms in 2002-2003 through the CAV distribution centre, its contracted community agencies, estate agents, home shows, trade fairs, community groups, stakeholders and industry shop fronts. This compares with 1.8 million products distributed in 2001-2002. Key publications covered topics including domestic building, renting, general consumer matters, youth and seniors issues and rights for indigenous consumers. Many of the publications were translated into several languages. For example, *New Country, New Home. Renting a Home in Victoria: a Guide for Newly Arrived Migrants and Refugees* is available in English, Arabic, Cambodian (Khmer), Persian, Chinese, Turkish, Vietnamese, Somali, Tigrigna, Oromo, Tamil, Amharic, Dari and Burmese.

Encouraging responsible business

Keeping businesses informed of their consumer responsibilities is one of CAV's key communications strategies. Businesses that conduct themselves in a legal and ethical manner will benefit from increased consumer confidence.

A Business Video – 'Playing by the Rules'

In July 2002, a 15-minute video was produced by CAV to assist businesses to comply with consumer legislation. The video covers the rules relating to advertising, refunds, lay-by and false representation.

CAV receives many complaints each year because traders are not aware of their obligations to customers, or choose to ignore them. An increased awareness of the rules will help businesses to avoid getting into disputes, as well as assisting businesses to develop a loyal customer base, decrease the risk of prosecution and enhance the bottom line of the business.

One hundred and ninety-five copies of *Playing by the Rules* have been distributed to the Australian Retailers Association Victoria (ARAV), to major shopping complexes, local trader associations, local councils and to a range of other business groups.

Educating retailers on refunds and lay-bys

Research shows that many Victorian retailers are unaware of their responsibilities with regard to refund and lay-by procedures.

In 2002 a Geelong consumer agency worker reported to the media that 92% of 60 businesses surveyed failed to comply with refund laws. A survey conducted in October 2002 also showed that 14% of the stores sampled did not have a refund policy and only 15% of the stores surveyed displayed a clearly noticeable refund policy sign. The survey results also showed that 38% of the survey participants working in retail stores were not aware of government guidelines or laws about the refund of goods.

During July 2002 six Ministerial tours of regional shopping centres were conducted to promote accurate refund and lay-by procedures.

CAV now distributes refund and lay-by signs to all retail businesses registering through the Business Names registration function of CAV, with more than 2,000 refund and 4,000 lay-by signs distributed in 2002-2003.

Changes to Victoria's home rental rules

During 2002-2003 CAV conducted a major campaign to inform Victorians about the amendments to the *Residential Tenancies Act 1997*, and how these amendments would change the renting rules from 1 July 2003.

The aim was to build on recognition and community satisfaction with CAV's key information product *Renting a Home: A Guide for Tenants and Landlords*, known as the 'red book'. In 2000, a Client Satisfaction Survey found that 97% of tenants and 95% of landlords considered the book helpful. It also found that 86% of both tenants and landlords had been supplied with a copy of the guide at some time during a tenancy.

CAV consulted with the Tenants Union Victoria, Victorian Civil and Administrative Tribunal, Real Estate Institute Victoria and Office of Housing. Each of these organisations commented on drafts for the updating of the 'red book'.

In addition to updating the text, the 'red book' was given a new cover to ensure it would stand out in crowded estate agencies and housing agencies. Tenants and landlords who managed their own properties were sent copies of the 'red book' by direct mail with details of the main changes. Bulk copies were sent to estate agencies and community housing agencies.

CAV mailed out 500,000 copies of the guide, hosted a radio and print advertising campaign aimed at ensuring tenants and landlords checked their letterboxes for the updated 'red book'. The campaign ran from mid-June 2003 in local newspapers and a range of radio stations. The advertisements also appeared in the *Koori Mail* and were translated for eight multi-cultural newspapers and radio stations.

The new 'red book' cover featured on posters, postcards and a point-of-sale stand featured in estate agents and other distribution outlets.

Empowering Consumers

The updated 'red book' was translated into Arabic, Chinese, Greek, Italian, Russian, Serbian, Turkish and Vietnamese. Large-print and audio versions are also available for visually impaired tenants and landlords.

A campaign evaluation found that 99 per cent of agents, 85 per cent of landlords and 49 per cent of tenants were aware of the rule changes. This exceeds the campaign targets of 80 per cent of agents and 50 per cent of landlords and meets the target of 50 per cent of tenants.

CAV also updated its guide for caravan park residents and owners, the 'Purple Book' and the 'Blue Book' for residents, owners and managers of rooming houses. These were sent to residents and owner/managers where possible.

Credit education

Credit, Debt & the Consumer – a CAV conference

As part of National Consumer Day, in March 2003, CAV presented a two-day consumer credit conference entitled 'Credit, Debt & the Consumer'.

The conference provided an opportunity for consumer advocates to present their concerns and share information with CAV and other key credit bodies. Almost 200 delegates attended, including financial counsellors, Victorian and interstate consumer groups, peak industry bodies, interstate consumer protection agencies, credit providers and finance brokers. A range of major credit issues were discussed, including the regulation of mortgage brokers, credit card over-commitment, addressing avoidance activity and online consumer credit.

CAV received positive feedback. Finance broking has subsequently been placed on the national agenda and credit card over-commitment is now the subject of renewed attention.

An updated suite of six credit fact sheets were made available at the conference and on the CAV website. The fact sheets cover:

- Credit cards
- Borrowing Money
- Pay day lenders and the Consumer Credit Code
- Debt collectors – Your Rights
- Investment seminars and get rich quick schemes
- Finance Brokers

Christmas credit campaign

Due to the success of the 2001 Christmas Credit campaign, a Christmas card featuring 'Rudolph the in-the-red reindeer' was again distributed in 2002 to highlight credit card debt.

A total of 41,500 Christmas cards were distributed through a series of shopping centre promotional campaigns conducted throughout Victoria during November and December. A window display at Information Victoria during the period urged consumers 'not to be rash – use cash', and Information Victoria staff members distributed the Christmas cards to visitors to the centre.

The Christmas cards were also sent to financial counsellors and planners and a number of CAV stakeholders. CAV executives used the card as CAV's official Christmas card and all CAV contracted agencies were forwarded cards to distribute.

Wide media coverage was generated from the Christmas credit campaign in the metropolitan and regional media with many articles highlighting CAV's recommendations for smarter spending habits.

The campaign was also well received by interstate consumer protection agencies, with Consumer Affairs Tasmania (CAT) adopting CAV's Christmas credit campaign on a smaller scale throughout Tasmania for the Christmas 2002 period.

In August 2002, the Minister for Consumer Affairs issued a media release detailing the top six scams doing the rounds in Victoria. The Minister called on Victorians to send in any scam material they received. CAV was inundated. In the following three months more than 630 complaints were made about scams. Throughout 2002-2003 there were 845 complaints, up from 255 the previous year.

Almost 75% of all scams sent to CAV originate from overseas. Many are from Africa, Canada, the UK or the Netherlands. In these cases, CAV records the scams and liaises with other consumer agencies, but has no jurisdiction itself to act. We do however alert Victoria's consumers through the media and via the CAV enquiries line. CAV advises consumers to be careful about paying money upfront and to watch out for offers that sound 'too good to be true'.

A national effort

CAV along with the various fair trading agencies in each state, territory and New Zealand cooperate through the Fair Trading Operations Advisory Committee (FTOAC) to share knowledge in these areas. To address a scam at a federal level, CAV acts, when necessary, to alert the Australian Competition and Consumer Commission (ACCC) who operate in conjunction with the Federal Police.

Scam Alert System (SAS), is a new scam database system created under the auspices of FTOAC. It allows all FTOAC agencies to enter the scam complaints they receive into a common database, this can be searched by each agency.

This system is not available to the general public but Scamwatch, an online scam search facility is accessible at <http://www.scamwatch.gov.au/content/scams/scams.asp>.

The human cost

Scam operators frequently target vulnerable and disadvantaged consumers but they also cast their nets widely for people who are prepared to 'invest' large amounts of money in schemes. Early in 2003, a Melbourne consumer became entangled in a Nigerian Scam Mail or Nigerian Con as it has been called, losing savings of \$80,000.

A woman who sent information about more than 50 scams to CAV, said that she had sent away money to nearly all of them. She had waited in vain to win prizes such as TVs, cars, jewellery for her family. The most she had ever received from these efforts was a small brooch from the United Kingdom. She did not know she had been scammed until she read the Minister's warning in the newspapers. Subsequently the woman wrote to the Minister in the hope that others could also be alerted.

Top Six Scams (August 2002):

The fax-back fraud

This unsolicited fax comes in a range of guises. The fax may advertise diets, either a '4-Day-Diet' or improved sexual stamina through the '5-Day-Diet', employment opportunities and modelling/acting work. Consumers respond by completing and returning the fax to a 1900 number. The catch is, it contains large amounts of black ink which takes time to transmit (at a rate of \$5.50 a minute). The fax can often take up to 10 minutes to complete so some consumers have received phone bills for \$55 – a costly exercise and clever ploy by marketers.

Out-of-Africa con

A stranger contacts you by email, fax or letter requesting help to transfer money out of a country in Africa. In exchange for a cut of the proceeds, all you have to do is provide your bank account details. Once you do, your money goes out of, not into, your account.

"Work From Home", Envelope stuffing scheme

Advertisements in self employment opportunities columns offer work 'stuffing envelopes'. Consumers are required to pay some money up front for work that never eventuates. All you receive is a set of instructions on how to con other people into the scheme.

Edward L Green/Paul Collins chain letter

A chain letter boldly asks 'Could you become a millionaire within six months? Is it as easy as posting letters?' The letter states 'just follow the 3-Step instructions carefully and within 90 days you could receive up to \$270,000 in cash from an outlay of \$30 and 200 photocopies of this letter'.

Overseas Lotteries Certified Confirmation Centre/Universal Holding Centre lotteries

Consumers receive a letter alleging that they have won a prize, up to millions of dollars and are required to pay a processing fee in order to claim their prize money.

Clairvoyant scams

A supposedly 'personalised' letter asks recipients to send an initial amount of typically \$79.95 to a PO box and to sign a form to release confidential and personal information. They are then asked to send more money to receive 'special' clairvoyant products or services, which are either never supplied or are of little value.

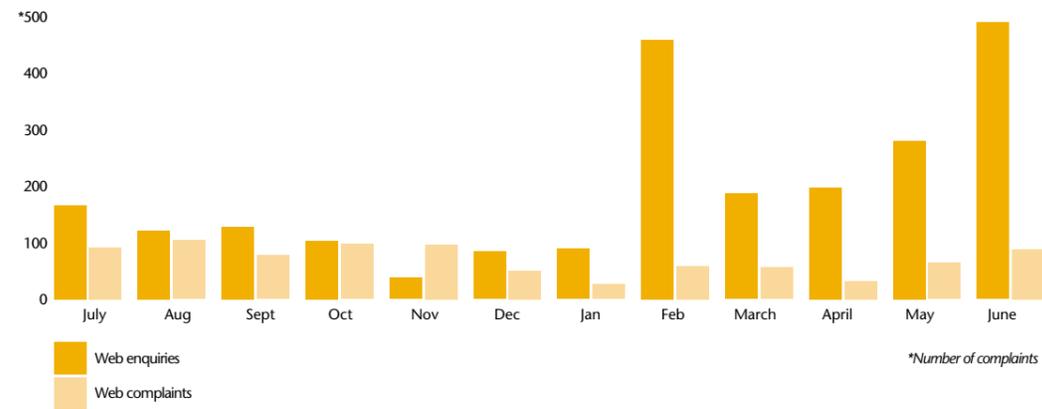
The CAV Website

In 2002-2003 there were 441,602 visits to the CAV website, averaging 36,000 a month, peaking at 45,152 visits in March. During the year, a number of significant additions were made to the site at www.consumer.vic.gov.au. ShopSafe™ was launched alongside a complementary e-Commerce section of the site providing consumers and online traders with useful information.

Also new to the site was the register of enforceable undertakings, allowing consumers to access the names of traders and licensees who had provided undertakings following CAV investigations of alleged breaches of consumer laws. Other additions include lists of banned and regulated products and a public register of fundraisers.

Consumers often use the website as their first contact with CAV. Online enquiries and written complaints made online increased significantly in the last months of 2002-2003.

Consumer and RT enquiries and complaints made to the CAV website



Empowering Consumers

Community programs

CAV is committed to developing strong links with communities that are disadvantaged to open up access to CAV's expertise for those in need of support.

The CAV Community Program contracts 22 organisations throughout Victoria to provide information, advice and conciliation through drop-in and telephone services. Ten of the agencies are in rural areas, seven are in metropolitan areas and five represent specialist groups. Details of the funded programs are listed in Appendix 1 of this annual report.

Agencies may telephone or write to a trader or landlord or help a consumer or tenant to prepare or conduct a case at the Victorian Civil and Administrative Tribunal (VCAT). Services are targeted for disadvantaged members of the community with an emphasis on providing education about individual's rights and responsibilities. Agencies are encouraged to empower consumers and tenants to resolve any disputes that may arise.

Tenancy specialist support services were also delivered by the Housing for the Aged Action Group, the Tenants Union of Victoria and tenants and landlords in the Inner Urban and Inner East regions.

Specialist consumer services were provided by the Financial and Consumer Rights Council and the Consumer Credit Legal Service.

During 2002-2003, more than 50,000 Victorians used the services of the funded community-based agencies. The agencies also conducted educational activities including talks, displays and newspaper, radio and television items.

Quarterly Community Sector Forums

CAV's Director meets quarterly with representatives from contracted community agencies to discuss current policy developments. The meetings provide an opportunity to keep community agencies informed of progress on legislation and community education programs, and recent actions to address consumer and tenancy issues.

At forums during 2002-2003, community workers provided input into the review of the Residential Tenancies Act and the Retirement Villages Act. They also discussed issues including provision of utility services to tenants, tenancy databases, minimum standards of housing and community education for young people purchasing motor vehicles.

Case study: Brimbank Community Centre Inc.

Across the western metropolitan region, consumers and tenants often find themselves struggling to understand their rights because of language barriers. The Brimbank Community Centre Inc. receives CAV funding to assist the people of this culturally and linguistically diverse area. In 2002-2003, more than 60% of clients who contacted Brimbank requesting help with tenancy issues, and 38% of those in need of consumer advice, spoke a language other than English. The four staff at the centre provide a range of community outreach services through multi-cultural, youth and disability groups. They conduct community education programs and landlord forums promoted through multi-cultural media as well as using CAV's *New Country, New Home* project to assist newly arrived migrants. In 2002-2003, Brimbank Community Centre assisted 4,047 clients, comprising 1,645 consumers and traders and 2,402 tenants and landlords.

Case study: Consumer and Tenancy Advice Service Inc. (Goulburn)

Listeners to ABC radio 2CO in Victoria's Goulburn region, or 3 ONE FM or Radio 3SR will undoubtedly be familiar with the work of the local Consumer and Tenancy Advice Service Inc (CATAS). The two workers at CATAS use regular media spots, including television appearances on WIN TV, to spread the word on consumer and tenancy rights. CATAS workers are situated in a region with a large proportion of indigenous people and immigrants from Iraq. The area is also home for many low-income earners. CATAS finds their clients are in great need of education about their rights. They deal most commonly with tenancy and consumer complaints related to repairs.

- 
- More than 60,000 new business names registered
 - Around 2000 applications to the Business Licensing Authority
 - 119,923 business names searched
 - 14,574 liquor licensing applications
 - Legislation paves the way for online innovations
 - \$664,110 paid on motor car claims
 - \$15,487 paid in claims from the Estate Agents Guarantee Fund



“
Registration and Licensing
By ensuring consumers know who
they are dealing with, we protect
consumers and promote business
confidence
”

4.0 Registration and Licensing

Encouraging fair and open markets

Registration and licensing make it possible for consumers to take a glimpse behind the scenes of the businesses they deal with. Just allowing consumers to know the identities of those who run the business creates a degree of transparency and encourages fair and open markets.

CAV registers business names and limited partnerships, and incorporates associations and co-operatives. We maintain public registers of these organisations and monitor their compliance, and support the Business Licensing Authority (BLA) in its occupational licensing functions.

The BLA, an independent body comprising two fulltime members, determines the licensing and registration of regulated occupations and industries. Entrants to these industries are screened and conditions can be placed on licences as one method of maintaining honesty and fairness in industry practices.

In December 2002, Liquor Licensing Victoria was transferred from the Department of Industry and Regional Development to CAV, reflecting the commonality of liquor licensing objectives to protect consumers and the community and maintain industry standards. The Director of Liquor Licensing, an independent statutory office-holder, makes licence determinations.

Innovations in online registration and licensing

The most visited pages of the CAV website are those that supply information about registering a business name. In the coming financial year not only will consumers be able to gain information but they will also be able to register a new business name online.

In 2002-2003 legislation was passed that enables provision of a number of online services including registration and changes to business names and online transactions for estate agents.

These online developments will significantly improve services to business by providing 24-hour access, seven days a week.

Other new transactions due to be launched later in 2003 include Incorporated Association Extracts, Incorporated Association Change of Details and Incorporated Association Extension of Time.

A User Access Module has been developed that will allow authorised users to log in using personal identification and a passcode. The module will be used initially by Public Officers of incorporated associations and later by business name owners and registered estate agents.

To enhance the effectiveness and efficiency of business names registration, CAV is developing an automated similar names test. The test will check for similar business names to the one a client wishes to register. This service will reduce time delays in registering a business name. The automated service will undergo user acceptance trials before being introduced.

Also under development is online access for Information Brokers which will be introduced later in the year. This service will be available at the same time that the Business Names Extract transaction is launched, to provide for the purchase of extracts online.

In 2004 public registers of estate agents and motor-car traders are expected to be made available online. This will enhance consumer protection in these areas.

The new legislation has addressed statutory issues regarding the number of signatures required for certain transactions. It also addressed a number of privacy issues.

Online transactions a hit

Existing online transactions are proving to be extremely popular with an average of 14 per cent of all 'no change' renewals of business names now completed online.

The Search of the Victorian Names Register, available since mid 2002, is proving very popular with clients. Persons starting a business can check their proposed business name before they submit an application for registration. Consumers and other businesses also use this Register to check if a business is operating under a registered business name, or to ascertain whether an association is incorporated.

An average of about 5,400 searches were made each month and approximately 2,700 requested a partial extract of information about a specific Business Name or Incorporated Association.

During 2002-2003, a total of 25,967 application forms and guides were downloaded from the Business Licensing Authority website.

Another major online development over the past year was the introduction of a public register of pawnbrokers, implemented to aid in the recovery of stolen goods and enforcement of consumer protection measures under the *Second-Hand Dealers and Pawnbrokers Act 1989*.

Business Registration

Business names

A business operating in Victoria is required to register its name with CAV unless the business is conducted under a person's own name, or under a company name registered by the Australian Securities and Investments Commission (ASIC).

The registration fosters accountability. It allows those entering into agreements, including financing, the sale of businesses, consumer purchases or as suppliers, to be able to accurately identify those with whom they are dealing.

In that way registration promotes both business confidence and consumer protection. The three yearly renewal of business name registration ensures that the register is current and accurate, and well placed to support its protection role.

CAV registered 60,036 new business names in 2002-2003, 3.9% more than in 2001-2002, bringing to 336,356 the number of business names on the register.

4.0 Registration and Licensing

There were 89,785 names renewals and changes to the business names register, a significant increase of 16.6%. Business names searches numbered 119,923, up 9.7% on 2001-2002, including those undertaken by private information brokers who are provided with business names data under contract with CAV. Information brokers normally relay the search results to individual clients electronically.

Associations, cooperatives and limited partnerships

Incorporated Associations

CAV registers incorporated associations and monitors their compliance in accordance with the requirements of the *Associations Incorporation Act 1981*.

Many clubs and special interest groups become incorporated associations to benefit their members, the majority of these are small groups of people or clubs, who may wish to gain legal status for their association to provide their group with legal rights. These may include the right to purchase property in the name of the club, or to sue or be sued. Incorporation offers some protection for office holders from the debts and liabilities incurred by the association, provided the association does not trade, make a profit for members or act negligently.

CAV supports the incorporation and operation of associations, providing advice on legislative requirements and the development of rules under the Act for the orderly conduct of association activities.

During 2002-2003, CAV incorporated 1,568 associations, an increase of 11.8% on 2001-2002. At 30 June 2003, the total number of incorporated associations was 29,982.

Incorporated Co-operatives

As with companies and incorporated associations, all members of incorporated co-operatives have legal status and limited liability. Under the *Co-operatives Act 1996*, a co-operative's Board of Directors is responsible to the membership (shareholders) in much the same way as the Board of a company.

Incorporated Cooperatives are formed and controlled by members for a specific purpose such as running a kindergarten or producing a service such as a wine club. They are often established for the conduct of a business activity, although the main purpose is not to make a profit for members (as is the case with a company), but to advance the co-operative's activities.

The Act provides for the formation, registration and management of a range of cooperatives including non-trading government guarantee cooperatives.

As well as keeping a register of all Victorian cooperatives, CAV is responsible for receiving annual returns, processing changes that cooperatives wish to make (such as a change of Director, registered office or rules), monitoring their operations and assessing and making recommendations to the Treasurer on applications for government guarantees.

Since the registration of a further 29 new cooperatives in 2002-2003 there are now 772 entities on the register.

Government Guarantee Co-operatives

Non-trading government Guarantee Co-operatives are usually formed to provide community services or benefits, including the acquisition, provision and maintenance of land and buildings for education, recreation, or other community purposes. Government Guarantee Co-operatives can also be created to promote and assist clubs, societies and other organisations for community use purposes.

Non-trading Co-operatives sponsored by school councils are the predominant users (99%) of this scheme. Since the scheme's inception in 1953, 2,287 guarantees have been issued.

Limited Partnerships

The *Partnership Act 1958* provides for the registration of limited partnerships. These are partnerships between at least one limited partner and at least one, but no more than 20, general partners.

Limited partners are passive investors in the business and do not manage the business. They have liability for its debts and obligations only in proportion to the amount they invest. This amount is shown on the Register of Limited Partnerships held at CAV.

General partners are directly responsible for the management of the business and have unlimited liability for its debts and obligations. General partners have the power to bind the limited partnership. There are 46 limited partnerships on the register.

The Australian Venture Capital Association Ltd, (AVCAL) represents bodies, formed in Australia to seek venture capital both domestically and overseas. The Association presented a submission to CAV in early 2003 stating that the limited partnership provisions of the *Partnership Act 1958* were inadequate to cater for the special requirements of venture capital formation. In response to AVCAL's submissions, CAV considered a need for amendments to the Act.

Business Registration Fees Reviewed

The Business Names Regulations (No2) 1992, which outlined associated fees were due to sunset in mid 2002 but were extended by one year to allow a review to be completed. A Regulatory Impact Statement was issued for public comment prior to remaking the fees regulations to come into effect in late July 2003.

Fee levels have been adjusted to reflect more closely the cost of providing various services. While some fees will increase, a number will be reduced, deleted or will remain unchanged. Lower fees will apply to some services to be offered on the Internet to encourage electronic lodgement.

This will be the first change to fees for these services since 1998. Fees in the State of Victoria remain the lowest in Australia except for those charged in the Northern Territory. The business names registration fee remains at \$70 and has not been increased since 1994 as a result of ongoing improvements to service delivery.

Licensing regulated businesses and occupations

Occupational licensing and registration builds consumer confidence by screening entrants into industries and preventing those with backgrounds prone to unethical behaviour from inclusion.

The Business Licensing Authority seeks to ensure that only eligible businesses and individuals enter these industries. It maintains industry standards by imposing conditions on licences and it provides access to accurate public registers and information.

CAV supports the BLA in administering and enforcing licensing and registration. The BLA is governed by the *Business Licensing Authority Act 1998* and administers the licensing and registration provisions for the following Acts:

- *Consumer Credit (Victoria) Act 1995*
- *Estate Agents Act 1980*
- *Motor Car Traders Act 1986*
- *Prostitution Control Act 1994*
- *Second-hand Dealers and Pawnbrokers Act 1989*
- *Travel Agents Act 1986*
- *Introduction Agents Act 1997.*

Over the past financial year, more than 65,000 calls were made to licensing staff and CAV conducted enquiries into 1,926 new applications. The year was marked by a decline in those wanting to be travel agents (34% less) and motor car traders (9% less) while recording an increase in those wanting to be estate agents (6.5% more) and credit providers (15% more).

The figures reflect the economic health of the varying industries. For example, the travel sector has been beset with problems arising from the loss of consumer confidence in travel. Following a range of global disasters, 51 travel agents surrendered their licences during 2002-2003. Of this number 32 had been prompted to relinquish their licences by not maintaining membership in the Travel Compensation Fund, a mandatory national compensation scheme designed to protect consumers.

The BLA refused 91 (5%) of all licence and registration applications and imposed conditions or restrictions on 127 (6.5%).

CAV also assisted the BLA in its consideration of 108 individuals or companies requesting permission to be licensed or to continue to be licensed in spite of a criminal record, insolvency or a claim for compensation by a consumer having been admitted against them. These applications resulted in 25% of applicants either being refused licences or withdrawing an application upon being informed by CAV of serious concerns regarding their involvement in a particular occupation.

The number of appeals to the Victorian Civil and Administrative Tribunal against all BLA decisions to refuse a licence, registration or permission application increased slightly from figures recorded over the previous year to 18% (20) of all refusals.

4.0 Registration and Licensing

Number of Occupational Licences and Registrations 2002-2003

	Estate Agents	Motor Car Traders	Travel Agents	Credit Providers	Prostitution Service Providers	Introduction Agents	Second-hand dealers & pawnbrokers
No.@ 30.6.00	5623	2198	1025	437	152	61	6811
No.@ 30.6.01	5799	2195	998	642	169	73	6901
No.@ 30.6.02	6094	2196	962	641	170	64	6862
No.@ 30.6.03	6458	2200	954	697	179	73	6930*
Applications received	621	171	50	125	32	22	905
Applications granted	593	152	55**	118	21	21	867

* includes 182 endorsed pawnbrokers

** includes 15 applications pending from the previous year

Motor car trading has historically been exposed to a number of unethical practices. Unlicensed backyard dealers, 'rebirthing' of stolen cars, falsification of records are among the dishonest activities licensing seeks to prevent.

In 2002-2003 the BLA licensed 152 motor car traders and CAV uncovered 41 unlicensed operators. Unlicensed dealers pose a risk for consumers because they do not provide the legal protection offered by Licensed Motor Car Traders (LMCTs), including cooling-off periods.

Conditions are imposed on licences to ensure greater protection for consumers. The most common condition is "wholesale only", which means the licensee may only sell vehicles to other licensed motor car traders and *not* to members of the public.

A wholesale condition is usually imposed at the request of a trader, often because there is no requirement to demonstrate financial capacity to meet the *Motor Car Traders Act's* consumer protection warranty provisions. As at 30 June 2003, 10% of all 2,200 LMCT's had a wholesale condition imposed on their licence.

The BLA also pays particular attention to those who are issued licences to sell motor vehicles at public auction. This is because the sale of motor cars at auction allows a trader to accept vehicles on consignment from the public and avoid consumer protection, roadworthy and warranty provisions.

Because of the possibility of 're-birthing' stolen cars, the BLA now automatically imposes conditions on new public auction licences to ensure the trader is running a legitimate operation. As at 30 June 2003 there were 15 LMCT's with a Public Auction Endorsement.

Another common condition imposed is the requirement of an applicant to provide a Bank Guarantee in favour of the Motor Car Traders' Guarantee Fund Claims Committee to an amount determined by the BLA. This may range from \$5,000 to \$100,000 or more. This ensures the trader has the capital to meet any claims for compensation.

Blitz on auction houses

During the year CAV conducted a review of licensed motor car traders authorised to conduct sales at public auctions. The review set out to determine whether the licensees were conducting auctions, and if so, if they were complying with the *Motor Car Traders Act 1986*.

Overall compliance with the legislation was found to be good, however one issue of concern was the extent to which auction stock might be available for direct sale to the public. Traders offering motor cars for direct sale to members of the public, as opposed to those offered by public auction, are required by law to display certain particulars about the vehicle. The information required includes the name and address of the last registered owner, the odometer reading, the cash price of the vehicle and the year of first registration. In certain circumstances traders are also required to provide statutory warranties on used vehicles that are sold other than at public auction.

CAV will continue to monitor traders authorised to conduct public auctions to ensure that if auction stock is available for direct sale, the traders are meeting the requirements of the law.

**Claims made on the Motor Car Traders’
Guarantee Fund**

The Motor Car Traders’ Guarantee Fund provides consumers who incur a loss through dealings with licensed motor car traders with a mechanism to apply for compensation.

The Motor Car Traders’ Guarantee Fund Claims Committee determines claims quickly and informally. This avoids consumers being forced to pursue recovery through other time-consuming and costly legal options or having to absorb the losses.

The importance of the Fund became evident after a major motor car trader went into external administration on Christmas Eve 2002. Many consumers were left exposed to potential losses.

Before ceasing to trade, Kingstrate Pty Ltd had operated from 2 car yards in Dandenong under several names including Dandenong Suzuki and Dandy Car Mart.

In the second half of the 2002-2003 financial year, the Claims Committee admitted 103 claims against Kingstrate Pty Ltd resulting in payments of \$279,208.18 from the Fund (representing the second highest amount that has been paid out of the Fund against any motor car trader).

Most of the admitted claims arose from the trader’s failure to pay on to VicRoads the transfer fees and stamp duty collected from consumers when they purchased their cars. The consumers were made to pay the fees and duty again to ensure that registration was transferred into their name.

The Claims Committee also admitted 34 claims totalling \$79,678.35 against Terebic Pty Ltd. Terebic Pty Ltd had notified the BLA that it operated from a second car yard, situated at 720 Geelong Road, Brooklyn under the name of CT Car Sales (in addition to its principal yard in Cheltenham) for 3 months from July 2002 until October 2002.

All of the admitted claims related to transactions emanating from the Brooklyn car yard during the three-month period that it operated. As a result of the admission of the claims, the motor car trader licence held by Terebic Pty Ltd was automatically suspended.

The large number of claims involving Kingstrate Pty Ltd and Terebic Pty Ltd contributed to significant increases from the previous year in the overall numbers of claims received (by about 400%) and finalised (by about 270%) in 2002-2003. Subsequently there was an increase of approximately 66% in the amount paid out of the Fund on admitted claims. The amount recovered to the Fund by action taken by the Committee against motor car traders also rose significantly (by about 250%).

Of the 334 claims received the Committee admitted 178 and refused 11. A further 49 claims were withdrawn, either as a result of motor car traders resolving them or the claimant not pursuing the claim. Around \$664,000 was paid on admitted claims and \$186,000 was recovered from traders.

Estate Agents' Guarantee Fund

If a licensed estate agent, agent's representative or employee of a licensed estate agent misappropriates trust money, any person who has suffered a loss because of the misappropriation may make a claim on the Estate Agents' Guarantee Fund (EAGF).

Twelve claims, totalling \$15,487 were allowed from the EAGF in 2002-2003. A further \$21,960 was paid in interest and costs for claims. Details of the claims are in Appendix 4.

Travel Compensation Fund

All licensed travel agents are required to be a participant in the Travel Compensation Fund (TCF). The fund provides for compensation of consumers who lose money when a travel agent ceases trading due to financial collapse.

The TCF monitors the financial security of all licensed travel agents in Australia, except in the Northern Territory. To become a participant in the TCF, applicants are required to demonstrate they have sufficient financial resources to conduct the business of a travel agent. All participants are required to renew membership annually, providing audited financial statements and a certified Annual Financial Review return to confirm that they continue to have sufficient financial resources.

The TCF operates under a Deed of Trust subscribed to by all States and Territories except the Northern Territory. The Board consists of 11 members, appointed by the Ministerial Council on Consumer Affairs. The Council also nominated the independent chairperson.

The Board of Trustees, comprises:

- an Independent Chairperson
- four representatives of State and ACT Governments
- four representatives of the travel agents industry
- two representatives of consumers.

The State of Victoria is currently represented by Ms Sue Maclellan, Assistant Director, Enforcement and Community Programs. Ms Maclellan is a trustee on behalf of the State Government of Victoria and Associate Professor Suzanne Russell is a representative of consumers.

In 2002-2003 the TCF paid out the highest amount ever granted to claimants mainly because of the financial collapse of Ansett/Traveland which had occurred in the previous year and significant collapses in the year. A total of \$11,109,413 was paid in eligible claims to some 4,547 claimants. Of the claims received 1,128 related to Victorian consumers. In Victoria claims were made to the fund after six travel agents failed. A total of 24 travel agents failed across Australia.

Case study: Convicted agent serves 100 hours of community service

When Wayne James Yurisich failed to keep proper financial records of the travel agency of which he was a Director, many of his clients' holiday plans were ruined and they were forced to seek compensation.

Mr Yurisich was convicted and ordered to serve 100 hours of community service after pleading guilty to not keeping accurate financial records of the business.

CAV prosecuted Mr Yurisich when a trust account deficiency of approximately \$260,000 was found in the licensed travel agent Ja Ja Pty Ltd, trading as Harvey World Travel Croydon. He was also charged with one count of trading under an unregistered business name. Ja Ja's travel agent licence was cancelled and 44 claims were made against the TCF.

4.0 Registration and Licensing

Operating across state borders

During the year the Productivity Commission commenced a review of the *Mutual Recognition Act 1992 (MRA)* and the Trans-Tasman Mutual Recognition Scheme (TTMR). CAV made a significant contribution to a whole-of-Victorian-Government submission addressing areas for reform, including strategies for greater harmonisation of occupational regulation across Australia.

The mutual recognition principle is that goods sold in one state or territory may be sold in another and individuals who are registered to practise in one state or territory are entitled to practise that occupation in another.

The MRA provides a mechanism for this to occur within Australia and the TTMR provides a similar arrangement between Australia and New Zealand.

Consequently over the last ten years, 546 estate agents had been the only individuals licensed by the BLA under the MRA and one estate agent was licensed by it under TTMR. This is largely because the Victorian estate agents' regulatory scheme mostly licenses individuals and requires a relatively high qualification for entry into the industry.

There is an increasing trend for licences and registrations to be issued to corporations. For example, 69% of Victorian licensed travel agents are corporations. However, these companies cannot take advantage of the MRA and TTMR schemes as it currently only applies to individuals. In the case of estate agents, while there are 4,802 individual licensed estate agents, there are 1,661 licensed estate agent corporations.

Liquor licensing

In December 2002 Liquor Licensing was relocated from the Department of Innovation Industry and Regional Development to CAV, as part of the Department of Justice.

In 2002-2003 the liquor and licensed hospitality industry, as measured by the number of licensed premises, expanded by more than 10% to 14,027, with 42% of all licensed businesses situated in regional Victoria. During the year, 14,574 licence applications were determined and 47,101 requests were made for advice.

Liquor licensing offences

The *Liquor Control Reform Act 1998* includes 61 offence provisions applicable to licensees, bar staff and/or the general public, including youth. Fifty-one of these offences are subject to infringement notices.

In 2002-2003 Victoria Police issued 3,950 infringement notices for breaches of the Act, with 2,820 (73%) of such notices issued to youth (minors) in possession of and/or consuming alcohol.

Proceedings were also issued against 23 licensees at VCAT seeking disqualification and/or suspension of the licence on the grounds that the pattern of their behaviour, principally as reflected in the number and nature of infringement notices issued to them, brought into question their suitability to remain a licensee. Penalties applied by VCAT ranged from an average fine of \$7,000 up to disqualification from being a licensee, manager or employee of, or within a licensed business premises for 25 years.

Minimising alcohol's potential harm

A key objective of Liquor Licensing is to contribute to minimising the harm caused by alcohol abuse and misuse. Harm minimisation seeks to reduce the potential for alcohol to be abused and to lower the potential for harm resulting from the abuse of alcohol associated with road fatalities, assaults and criminal offences, domestic violence and hospital admissions due to falls, accidents or assaults.

To achieve this objective, conditions are placed on licences, and hours of trade varied, to address community concerns and mitigate harm. If the privilege of holding a licence is abused, police can apply to VCAT to vary, suspend or cancel the licence.

Throughout the year 32,563 licensees, hospitality staff and students participated in 2,540 Responsible Serving of Alcohol (RSA) workshops. There were 7,785 Proof of Age cards issued and information was disseminated to the industry through the Liquor Licensing Victoria web site, electronic newsletters, printed material and CD-ROMs. Forty-seven seminars on liquor laws were held for smaller sporting clubs.

Case study: Moo Joose

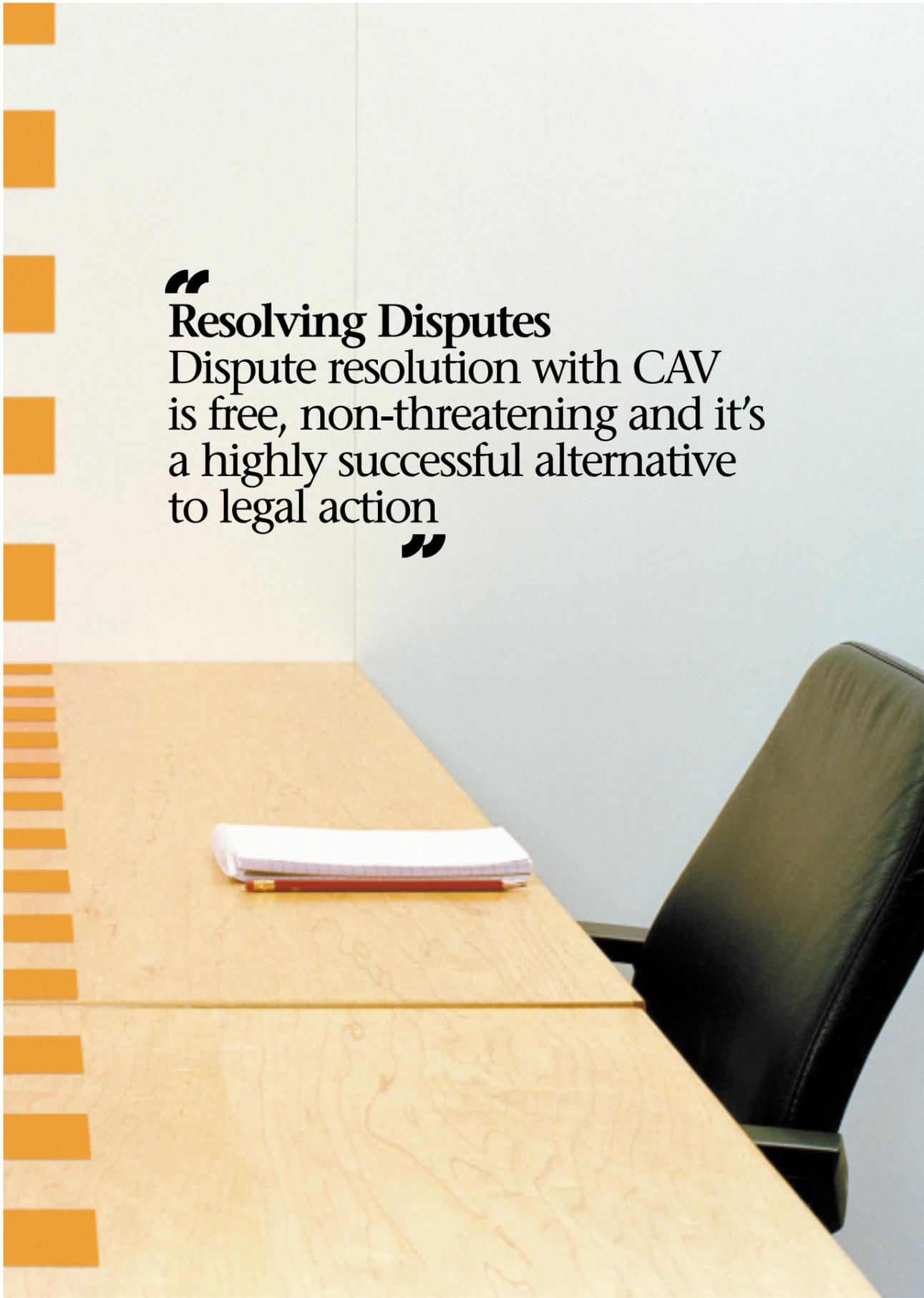
Concerns about the problem of underage drinking, prompted the State Government to announce on 17 April 2003, that it would regulate to prohibit retailers from selling low-fat, flavoured, alcoholic milk. The announcement followed a decision in the Victorian Civil and Administrative Tribunal which upheld the decision of the Director of Liquor Licensing to refuse a pre-retail liquor licence to a distributor for the sale of a product known as Moo Joose. This product was described in the decision as “essentially a coloured and flavoured skim-milk, with the addition of ethol alcohol at the same level as full strength beer”.

The regulations are aimed at preventing low-fat alcoholic flavoured milk from being obtained and consumed by minors.

The Liquor Control Reform (Prohibited Class of Liquor) Regulations 2003 came into operation on 17 June 2003. The regulations prohibit alcoholic milk products that have not more than 20 grams of milk fat per kilogram from being supplied for consumption off licensed premises. The offence carries a maximum penalty of \$3,000. The regulations also prohibit such products from being supplied in a sealed container for consumption on licensed premises. That offence also carries a maximum penalty of \$3,000.

Under the regulations it is only permissible legally to supply alcoholic milk products that have not more than 20 grams of milk fat per kilogram, in unsealed containers, on licensed premises.

- 
- A photograph of a wooden desk in a room with light-colored walls. On the desk, there is a red notebook and a pen. The image is overlaid with a semi-transparent white box containing a list of achievements. On the right side of the image, there is a vertical decorative element consisting of a series of orange squares of varying sizes.
- \$1.28 million recovered for consumers
 - 12,480 written complaints
 - Faster turnaround in managing complaints
 - BACV received 1200 written complaints in its first year
 - Enhanced assessment and intelligence gathering
 - More than 900 written complaints to the Estate Agents Resolution Service
 - Bilingual tenancy program established



“
Resolving Disputes
Dispute resolution with CAV
is free, non-threatening and it’s
a highly successful alternative
to legal action
”

5.0 Resolving Disputes

Acting the go-between

CAV's Dispute Resolution Service is a highly successful alternative to court action. It is quicker, more cost effective and less intimidating. Dispute resolution provides consumers and traders with an opportunity to negotiate and conciliate in a cooperative way.

During 2002-2003, the combined dispute resolution services offered by CAV received 12,480 written complaints, up 11% on the previous year. More than \$1.28 million was recovered for consumers.

Successful outcomes for consumers included full or partial refunds towards the purchase of unsatisfactory goods and services and repair or restoration of goods or services.

Disputes that provided information about breaches of the law or systemic concerns about industry practices were referred to other areas of CAV for further investigation, media alert or policy consideration.

Assessing complaints

In January 2003, CAV created a specialist Assessment Analysis team responsible for central intelligence gathering. The team conducts ongoing assessments of problem traders, emerging and industry trends and practices. It has already made progress speeding up the response time to cases with a target to assess all complaints and allocate them to industry-based conciliators within five days of receipt.

In working towards a best practice approach, CAV has set a goal for 80% of all cases to be conciliated within five weeks of receipt at CAV.

Case selection guidelines

CAV aims to assist consumers, particularly those who are vulnerable or disadvantaged. Dispute resolution is valuable because it is a free service, aims to be non-threatening and conciliators are available to assist those with special needs.

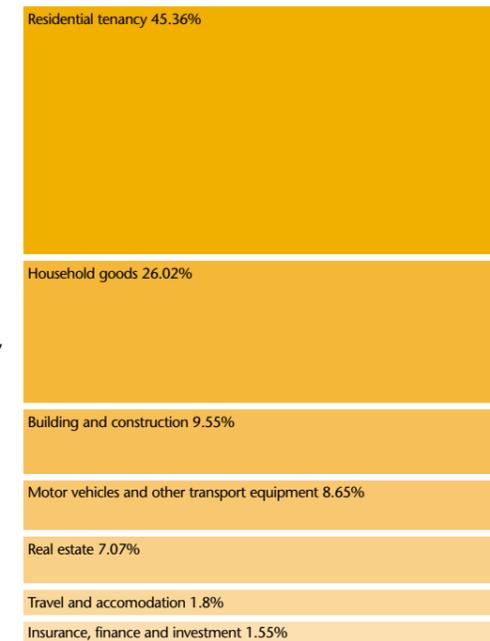
In an effort to better apply resources to those most in need, CAV is establishing case selection guidelines. Discussions are being held about minimum dollar amounts for disputes to be conciliated. Other considerations that might be included involve situations where court action is pending, where a trader has already made a reasonable offer to provide goods, services or compensation to the claimant. Consumers will always be offered guidance to help resolve disputes themselves.

It is anticipated that the case selection guidelines may have the potential to reduce case volume numbers by up to 20% allowing greater resources to be applied where they are most needed.

Industry Watch

Complaints conciliated by CAV largely fall into the following categories: household goods, automotive, building, estate agents, credit, tenancy, travel and accommodation. The Household Goods category encompasses far more than its name suggests; matters ranging from whitegoods to introduction agencies, child modelling, contact sales (door-to-door), clothing and footwear to wealth creation schemes.

Matters conciliated by CAV



The credit industry

In 2002-2003, CAV received more than 150 complaints requiring conciliation over the activities of credit and finance broker complaints. Many related to hardship, over commitment and repossession matters. Of these, a large number could be assisted, usually by agreement to vary the repayments of the contract. The relationship between larger finance companies and conciliators remains open to fast and efficient settlements.

The issues relating to finance brokers have not been as successful to resolve. This is because so many of these are 'fly-by-nighters' who target the most vulnerable in our communities and cause the most damage. However a number of these have been prosecuted and media releases have also been issued to alert the general public of the pitfalls of dealing with unknown (and too-good-to-be-true) finance brokers.

Case study: Credit not given when credit was due

In 1997, a young man agreed to help his mother obtain a loan to pay for a home security system that she would pay out. The mother, who suffered a mental illness, ceased making payments, but the son was unaware of this until May 1999, when the finance company placed a default notation against his name on a credit reference database. The young man immediately entered into an agreement to meet the repayments on the loan. This matter was finalised in 2002. Unfortunately the finance company failed to have this noted on the credit reference database.

When he attempted to obtain a home loan, the young man was shocked at being informed that due to the still listed default his application was declined. CAV contacted the original finance company and the credit database notation was brought up to date. A further call, to the home loan provider, resulted in an agreement to review the consumer's home loan application with every chance of it being granted.

Door-to-door sales

The techniques used by some door-to-door sellers continues to require CAV intervention. Unscrupulous salespeople target vulnerable groups in their own homes, particularly elderly people and those who are unwell. Some companies are not aware of the selling tactics of their employees until CAV brings a complaint to their attention.

Case study: Taking advantage of the elderly

In 1998, an 87-year-old man bought a vacuum cleaner from a Lux Pty Ltd saleswoman ("because she was nice to me") for about \$1,700. The cleaner did not get much use. In 2002, the same saleswoman contacted the man and said she needed to do a service check on the unit. On arrival she said the unit's pipe had rusted and that he should update his cleaner.

The man then purchased another cleaner priced at \$2,495 but discounted to \$2,095. He was given a \$55 trade-in on his 4-year-old unit. He paid \$2,040 cash. At that time, the man was unwell with a variety of ailments including dementia. He could not use the cleaner because he was too frail. He has since been admitted to a nursing home and his daughter has power of attorney. When his daughter became aware of what had happened, she contacted the company but was unable to resolve the problem.

After CAV discussed the complaint with Lux, it was agreed that \$2,040 would be refunded to the man. In addition, the company agreed to provide him with an equivalent cleaner to his trade in with the assurance that it would be in good working order.

Introduction Agencies

The Victorian Government has legislation in place to ensure that Introduction Agencies operating within the state, and consumers who deal with them, have clear, enforceable rights and obligations. The laws also place restrictions on those who can operate in the industry. However, CAV is aware of a number of interstate introduction agencies that advertise in local newspapers and prey on vulnerable consumers by not complying with the Victorian legislation. In the last financial year CAV received 44 complaints against Introduction Agencies, 32 of these went to conciliation.

Case study: Preying on the vulnerable

Affinity, is an introduction agency, based in NSW which advertised its services in the Shepparton News, promising a speedy matchmaking service.

A Shepparton man made contact and was later telephoned and told that he could meet a woman that night and that there were 40 women in the area that he could be matched with. The man then paid the agency \$2,500. He did not receive any introductions at all. And when he asked for his money back, he was told that the company's "Board" had denied his refund request.

A man from Cobram saw the same advertisement and made contact. He was given similar assurances. He paid \$2000 over the phone. He did however receive an introduction but felt that the person to whom he had been introduced had not fitted the criteria he had requested. Subsequently he also was not successful in obtaining a refund from the introduction agency.

CAV was successful in achieving partial refunds for both consumers. The Shepparton man was refunded \$2,000 and the Cobram man, \$1,700.

Child modelling

During 2002-2003 CAV received 36 complaints that led to conciliation about practices within the child modelling industry. Parents had paid money to modelling agencies with the expectation that their children would receive casting or modelling work. The parents usually responded to an advertisement about child modelling and would arrange to meet with the agency. During such meetings the agents often built-up the expectations of both the parent and the child to an unreasonable level, before asking for a 'small' processing fee to give the child exposure.

Case study: Not a model agency.

A mother paid \$498 for her daughter to have her photo placed on the Internet where she would get casting or modelling work through the Polkadotts Entertainment Group. The woman reported that she was told that her daughter had "the right looks, would get heaps of work, make heaps of money and would be perfect for the job". After 12 months the daughter had no work and had not received a call

Another woman paid \$498 to have the same agency represent her daughter to talent agencies for a one-year period. Included in the price was a photo print, plus access to the agency's website which was supposed to be updated as the girl grew older. The website was inactive so the consumer wrote to the company seeking details when they intended to update and make the website active. The mother wrote three letters, all of which remained unanswered, and her telephone calls were ignored. The agency did offer a six-month membership extension but by this time, the mother did not believe that this was an acceptable compromise.

CAV pointed out to Polkadotts that the latter consumer would be entitled to a refund because they had not provided the service as contracted and further noted that the consumer had lost all confidence in them. The agency agreed to provide the woman a full refund.

***Megan's story *not her real name**

A six-month gym membership was a great way to help me get fit before my big trip overseas. Paying by direct debit also meant I didn't have to fork out the whole amount up-front from my travel savings. At the end of the six-month contract I told the centre I wouldn't be rejoining, and said my good-byes.

It wasn't until I returned to Australia, more than a year later, that I discovered the gym had continued to deduct fees every month from my account. The gym said there was no end date on the contract and that I had never officially cancelled it. I'd spent almost \$1,000 for a gym pass I wasn't using and that I thought was finished. What's more, I would have to give one month's notice to cancel the membership right now. It just didn't seem fair.

Monthly debits that just don't stop

Complaints made to CAV about gym contracts are rising. In 2001-2002 there were 56 complaints conciliated. In 2002-2003 the figure rose to 74. An overwhelming 93% of recent complaints are about contractual issues. A common concern is the practice of direct debiting, from a bank account long after the consumer stops attending the gym and despite the fact that they believe their membership had expired or been cancelled. In many cases consumers have complained that they were not informed of what they were signing or of the nature of the contract.

Third party marketing companies are often used by fitness centres to recruit new members. The sales practices and representations made by these organisations, often with no affiliation to the gym itself, have led to some consumers being misled or not understanding the complexity and level of commitment to which they have agreed.

'Cold calling' with special offers

CAV examined the conduct of the Lifeforce Group who market gymnasiums under commercial agreement. The company 'cold called' people in the gym's region telling them they had "won" or been selected for a special offer. The offers included free periods of membership. Consumers who contacted CAV were invited to inspect the centre's facilities and some reported that once inside they felt pressured by the sales pitches and so signed the contracts.

CAV twice inspected gyms marketed by Lifeforce. During one inspection, a CAV officer was offered a 16-day comfort guarantee allowing her to call back at any time during this period to advise of cancellation. On her second visit the CAV officer was asked to sign a contract. When she expressed concern about not having discussed it with her partner, she was told she could cancel if required. However, the agreement did not allow for a comfort guarantee or a cooling-off period. This was a common theme in complaints. The gymnasium in question and the marketing company were advised of the findings of CAV's inspections and 10 contracts were cancelled without penalty.

CAV has also held discussions with a number of other gymnasiums against which numerous complaints were made. Issues raised included alleged misrepresentations made by the fitness centres, the coverage of pre-sales agreements that did not equate with the services offered, the ongoing charging for contracts that were assumed to have expired and the more general issues of how complaints were being handled by fitness centres.

The industry association, Fitness Victoria, has a voluntary code of conduct to provide guidance to members on appropriate standards of conduct. The Code states that members must offer a cooling-off period, and outlines a complaints process for members to follow.

CAV is concerned about the effectiveness of the code and the way it is enforced. An agreement has been made to work with the industry to encourage a more robust self-regulatory framework.

CAV will continue to target unfair trading practices by fitness centres. New powers under the *Fair Trading Act 1999* prohibiting unfair terms in contracts may provide a legislative option to the problem.

Mobile Phones

CAV conciliated 132 complaints concerning mobile phones during 2002-2003. Of these, the bulk of complaints concerned issues of mobile phone quality and fitness for purpose, particularly in relation to the ability of mobile phones to resist humidity. Problems of this nature are made worse by many phone manufacturers and their agents, when they refuse to honour warranties where any corrosion of circuitry occurs.

Case study: Listening to the calls on mobile phone problems

One consumer told CAV that when they complained to the mobile phone company of the effects of humidity on their mobile phone, they were told that despite there being no misuse of the phone, their sweat could have caused the corrosion. Another consumer complained that they returned a phone under warranty to a manufacturer's repair centre only to be told that corrosion on the circuitry was visible under a magnifying device and hence the problem was not a manufacturing defect. They were then charged \$30 for the phone inspection. CAV has approached many manufacturers seeking a fairer outcome for consumers who have experienced such problems and has advocated general improvements in industry standards in a variety of forums.

Online Auction Fraud

Online auctions are emerging as an area of concern for consumers. Complaints to CAV during the year mostly concerned transactions where sellers failed to supply products after payment was made. Underlying causes of this problem include several factors: sellers can remain anonymous, sellers can easily operate from distant locations or overseas, and the lack of scrutiny exercised by many prominent online auction sites when bids are placed. CAV has produced a variety of fact sheets and publications in an attempt to make consumers aware of potential hazards of such online auction purchases.

In addition to this, where the online seller has been shown to be in trade or commerce, CAV has attempted conciliation with the aim to remedy the situation. Unfortunately many auction transactions are of a private nature thereby limiting CAV's ability to directly intervene.

Case study: A diamond deal

A woman called CAV after she had purchased a diamond ring on the Internet but had not received it. The woman explained to CAV that she had written to the seller requesting that the ring should either be delivered or her money refunded. The seller, however, was not willing to do either of these options. When the seller refused to identify themselves, CAV traced and then contacted them to discuss the matter. Under the *Fair Trading Act 1999*, it is an offence for a person in trade or commerce to fail to supply goods which have been paid for. CAV cautioned the seller, and was successful in recovering the woman's money.

Phone cards

CAV continues to receive complaints concerning telephone cards with two common themes. Consumers are either charged for their call-times at a higher rate than was advertised or they are unable to get through to the country they are calling. Most complaints concern cards that use phone networks that have been imported into Australia rather than Australian networks. When complaints of this type have been received CAV has made enquiries to determine the identity of the importer/distributor of the cards and approached them to remedy the situation. On many occasions CAV has successfully recovered refunds on behalf of consumers.

Case study: Making the right call

In one instance, a consumer bought a phone card intending to call Italy and Austria but when he tried to use it he was told he had no credit left. He called the assistance number listed on the card and left messages to try to remedy the situation himself but his messages were not returned. When the man returned to the shop where he purchased the card they would not take responsibility for the problem. CAV made enquiries to determine the identity of the card's producer. It was found that the card was made overseas and used a foreign telecommunications network. CAV subsequently contacted the importer of the card and negotiated a full refund on behalf of the consumer.

The automotive industry

CAV conciliated more than 1000 cases related to the automotive industry in 2002-2003. Many problems occur when consumers buy a motor vehicle without conducting sufficient background research on the vehicle, its history and market reputation. Other problems arise when the consumer places too much trust in the trader at the time of signing the contract.

Case study: When a tractor is not all it seems

A Tasmanian man, passing through Melbourne, purchased a small tractor for a job he intended to take on in northern New South Wales. With seemingly little research he purchased what appeared to be a smart 20-year-old diesel tractor.

His luck ran out when the NSW work did not eventuate and the tractor he had purchased required major and expensive engine repairs. Back in Tasmania his repairer observed that the vehicle was a tractor made for use in water-filled rice paddies. It is not uncommon for such "grey-market" vehicles to be sold in Victoria, either for parts or for outright sale. No redress was available for the man, since no particular representations were made, and he had virtually taken a gamble on the tractor's appearance.

Travel & Accommodation

A large number of complaints in the travel industry are the result of cancellations. In the main this has been connected to situations such as the Bali bombing and the SARS epidemic. Consumers who cancel bookings complain about the charging of cancellation fees, amendment fees and the forfeiting of deposits. Consumers need to be aware that any cancellation is subject to the Terms & Conditions of the agreement with the booking agent. Complaints also concern dissatisfaction with the quality of accommodation and facilities. In 2002-2003 CAV conciliated 150 matters relating to the travel industry.

Case study: Travel worries after the Bali bombing

A man booked a holiday for his family of six to travel to Bali. Following the Bali bombing in 2002 he decided to cancel his holiday and requested a refund of the deposit. To his surprise the Travel Agent advised him that his agreement was subject to a cancellation fee of \$150 per person and because there were six people in his family he would have to forfeit \$900.

The man thought that under the circumstances the \$900 cancellation fee would be waived. When the travel agent refused the man wrote to CAV. CAV acknowledged that the travel agreement allowed for the cancellation fee. However, the trader finally agreed that the consumer could place the \$900 toward another holiday.

When the man attempted to arrange his holiday the travel agent insisted that he should spend as much as had been agreed in the original costs associated with the holiday to Bali. The man did not feel safe taking his young family overseas and wanted to holiday in Queensland. Initially the Travel Agent refused the request, but CAV pointed out that during previous negotiations no such restrictions were agreed upon, therefore the Travel Agent should allow the consumer to travel to the destination of his choice. The matter was resolved and the family enjoyed a holiday in Queensland.

Household Furniture

Complaints to CAV relate to a wide variety of goods from lounge suites to outdoor furniture and cover a broad range of issues including delays in delivery, cancellations and requests for refunds of deposits, warranty problems and the delivery of faulty furniture.

Delivery delays may result if the furniture is imported from overseas but consumers should be wary of requests for large upfront deposits. This was evident when House of Chesterfield went into liquidation this year leaving people who had paid significant deposits without their furniture. Consumers should never pay the full amount up front. A deposit and the remainder owing should be paid upon delivery of the furniture. In 2002-2003 CAV conciliated 305 complaints over household furniture.

Case study: Money paid but no lounge suite

A consumer purchased a lounge suite and paid \$2,100. Upon delivery she noticed a fault in the fabric and reported it to the trader. The trader allowed her to select another lounge suite and she agreed to pay the extra \$600 that the new suite cost. She agreed to this new suite because she was assured it would be delivered in two weeks. Many weeks passed and there was no delivery. Finally four months later the woman wrote to CAV. CAV obtained an undertaking from the trader that unless the furniture was delivered within 10 days the woman would receive a full refund. The trader could not supply as promised and gave the consumer a full refund for \$2,700.

Often CAV detects significant trends in complaints against specific traders that do not necessarily represent breaches of the law but do indicate poor customer relations practices. In these cases CAV seeks to work with the traders to resolve existing disputes and create systems that prevent future problems.

Traders named in 2001-2002

A number of traders were named in the 2001-2002 CAV Annual Report following concerns over the volume and type of complaints made about them by consumers. CAV monitored the activities of those traders in 2002-2003.

Of the four Real Estate franchises named, all received more complaints in 2002-2003 than the previous year.

Barry Plant Doherty informed CAV that it was introducing a “red carpet guarantee” of the service customers could expect. The company said that training was being improved and consideration was being given to the implementation of a customer service charter.

Stockdale and Leggo told CAV it had improved its training for employees and was actively monitoring complaints received in relation to its franchises.

Ray White and **LJ Hooker** did not advise CAV of any customer service improvements. CAV will continue to monitor complaint trends against these companies.

Of the other companies named, the number of complaints about **Nokia** mobile phones decreased and complaints against **Lazaway Pools and Spas** also reduced.

Harvey Norman introduced a centralised complaint handling system. CAV will monitor its effectiveness.

Furniture Galore was named in 2001-2002 after CAV received a large number of complaints of faulty furniture, delivery delays and poor customer service. In the past year complaints against Furniture Galore doubled. Duresta Pty Ltd, the company that trades as Furniture Galore responded to a request for information and told CAV it was constructing a new warehouse and introducing computer systems that should improve responsiveness to customers in relation to the location of an order. However, no system or training has been put in place to address customer service issues that make up a large proportion of complaints made to CAV.

Issues with traders in 2002-2003

In 2002-2003 CAV worked a number of companies to address customer service issues that had formed the basis of complaints made by consumers.

Stilinox International Pty Ltd

Over the last year consumer affairs agencies around Australia received many complaints regarding the activities of Stilinox International Pty Ltd that markets the sale of homewares through an invitation to a free dinner and marketing event. Consumers complained that the company had poor customer service, failed to respond to enquiries and failed to repair or replace faulty goods.

The Director of the company and staff met with CAV to discuss these issues. CAV was appointed by the other states to co-ordinate action. As a first step to achieving compliance, a complaints handling officer was appointed by the company to review all complaints lodged at CAV and other interstate consumer affairs agencies. This resulted in refunds being obtained, goods being returned or replaced and other problems resolved. Due to ongoing issues CAV will seek an injunction against Stilinox International and its sole director in an attempt to stop consumer complaints.

5.0 Resolving Disputes

MaaX Spa

MaaX Spa manufactures spas and has claimed to CAV to have some 70% of the Melbourne market. CAV has received a number of complaints regarding this firm concerning the delivery of goods, failure to supply, incorrect lay-by forms and failure to attend the Victorian Civil and Administrative Tribunal. Consumers also complained that the company had poor customer services, failed to respond to enquiries and failed to repair or replace faulty goods.

The Director of the company and staff met with CAV to discuss these issues. The company has undertaken a restructure of the organisation and has appointed key staff particularly in the service area to be more responsive to consumer complaints. The company is also introducing better quality control measures on the assembly of the product. Response times are now measured and the company has instituted an after service system to ensure that consumers are satisfied. The company is not intending to use lay-by as a form of payment for goods.

Casia Pty Ltd trading as Driveseal

Casia Pty Ltd trades as Driveseal. The company seals and stencils driveways. This year there were significant complaints regarding the activities of Driveseal. The company operates by way of contact door-to-door sales and has contractors who undertake the work.

Complaints related to failure to supply refunds, failure to undertake rectification works and customer service issues including failure to return calls or respond to letters. Investigations also revealed that the documentation used by Casia did not comply with the *Fair Trading Act 1999*.

The Director of the company met with CAV and was soon able to detect the person within the company who had not complied with the legislative requirements. The company immediately made refunds to all who were eligible to receive a return of their deposit and immediately undertook rectification works for all those had lodged complaints.

The company has now prepared new documentation that complies with the contact sales provisions of the Act and has modified the conditions of the contract. The company has undertaken to ensure that a compliance program is implemented and that staff receive appropriate training.

Estate Agents Resolution Service (EARS)

The sales methods employed by real estate agents have featured regularly in the media in the past year. Equally they have prompted many consumers to contact CAV's Estate Agents Resolution Service.

EARS provides advice and dispute resolution on residential real estate matters. The service was set up in April 2002 and so this year was its first full year of operation. In 2002-2003 EARS received around 8,700 calls and more than 900 written complaints. Of those, 56 cases were recommended for investigation for possible enforcement action. Fifteen cases required face-to-face conciliation meetings.

Complaints against agents cover a wide range of matters including expenses incurred without the written authority of the vendor, dummy bidding, underquoting in advertising the expected selling price of property and the inducement of consumers to sign exclusive sale authorities by over estimating the value of their home.

Consumers were also concerned about situations where a genuine offer to purchase properties was not passed on to vendors. Concerns were raised where the consumers were told that they had been successful in buying a property only to find out later that the vendor had signed a contract accepting another buyer's offer. The failure of agents to collect deposits on behalf of vendors and the alleged false and misleading advertising and promotion of property features also attracted complaints.

A high proportion of complaints made to CAV concerned alleged estate agent mismanagement of rental properties. In one instance, an estate agent agreed to pay compensation of more than \$2,000 to a consumer. The consumer had been paying the agent a fee to manage a tenanted investment property on their behalf. The property was subsequently vacated and left in a state of disrepair by the departing tenants. The agent acknowledged that there had been inadequate inspection of the property by his staff during the tenancy. This had meant that the agents were unaware of the extent of the damage until the tenants had left. The compensation was used to assist in paying for the repairs necessary to enable the property to be re-let.

5.0 Resolving Disputes

Working with the real estate industry

EARS encourages and assists real estate agents to develop in-house complaint handling mechanisms. One example of this process at work involves Woodards (Network) Pty Ltd. This real estate agency launched its Customer Services Charter in May 2003. The Charter commits the company to delivering to its clients 'the highest level of service'. If a client has a complaint, they can ring a toll free number provided by the company.

Case study: When the contract doesn't cover everything

A property owner signed a contract with a real estate agent to manage their rental property. The 'exclusive leasing authority' stated that in return for a fixed percentage of the rent the agent would screen prospective tenants, collect the rent, attend to maintenance issues and inspect the property on a six-monthly basis. Unfortunately, the section of the authority papers stipulating the maximum amount the agent could spend on behalf of the property owner for urgent repairs was not completed.

When electrical repairs were required, the agent contacted the property owner with a quote from a qualified electrician for \$2,385. The owner said they would arrange for their own electrician to do the work but without further discussion, the agent gave the go ahead to the aforementioned tradesman. The work was completed and the owner was sent an account for the full amount. At the same time, the owner also received advice from their electrician questioning the need for the major works, indicating that repairs could have been safely completed for less than \$300.

Unable to resolve what had now become a dispute, the owner lodged a written complaint with EARS. A CAV officer contacted the agent who was unable to show evidence of any authorisation for the repairs. The officer pointed out the deficiencies in the information contained in the original authority and the agent agreed to meet the full cost of \$2,385.

Building Advice and Conciliation Victoria (BACV)

BACV commenced operations on 1 July 2002 to reinforce consumer protection following changes to builders warranty insurance. The service is offered jointly by CAV and the Building Commission.

CAV provides advice on all building matters. It disseminates consumer information, receives and conciliates complaints and investigates legislative breaches with a view to prosecuting when appropriate.

During BACV's first year of operation CAV received 15,200 telephone enquiries and 1200 written complaints related to building matters. Of this number 470 complaints were resolved with full or partial redress, 170 were referred to other authorities and 240 were resolved without redress. A number of complaints could not be sustained or were withdrawn. Seventy-nine cases required further investigation by CAV for breaches of building and contractual laws and regulations. More than \$440,000 was recovered for consumers either as money or as the value of works carried out.

In 2002-2003 BACV conducted proactive industry meetings with domestic builders for new homes, additions and alterations. Builders and contractors were advised of consumer protection provisions under the *Domestic Building Contracts Act 1995* and the *Fair Trading Act 1999*. BACV found businesses welcomed the advice recognising that positive customer relations are good for business.

Case study: A matter of principle

Of all building related calls made to CAV, up to 38 per cent relate to contractual matters, 12 per cent are over defective goods and eight per cent are querying the reputation of a builder (although specific information cannot be given). More often than not the cases are not clear cut and the conciliation process requires both parties to cooperate.

In one such case a consumer who complained that they had received a defective kitchen had called on the supplier to repair the problem. The supplier argued that they had returned to make repairs on two occasions and the underlying problem was not caused by their company. The contract between the parties did not cover the issues at dispute. A BACV conciliator was now caught-up between two volatile parties, both parties were using heated and emotional language. Both felt they had been wronged and that the dispute was not a battle for money but a matter of principle. After much negotiation, the conciliator found middle ground. They negotiated the disputed amount down from \$1000 to \$250 which the parties jointly donated to the Royal Children's Hospital.

Residential Tenancies

Residential Tenancies Inspection Service

CAV operates a Residential Tenancies Inspection Service (RTIS) that reports on goods left behind by vacating tenants, rent increases and repairs that tenants have been unable to convince landlords or agents to carry out. In 2002-2003, around 5,700 requests were made for inspections. While it is not strictly a conciliation service, inspectors often find their intervention successfully resolves tenancy issues and prevents the need for parties to take further action through VCAT.

Repairs

In 2002-2003, around 25 per cent of all residential tenancy inspections related to repairs. The *Residential Tenancies Act 1997* requires that tenants follow a process for notifying the landlord or estate agent of repairs needed. If the repair items are not rectified, the tenant may request the Director of CAV to investigate and report on the repairs needed. Providing a report to the tenant and the landlord or agent enables the tenant to apply to VCAT for an order against the landlord to carry out the repairs.

Most tenants prefer not to pursue their issues through a Court or Tribunal. To this end inspectors frequently make representations to the landlord or estate agent in an attempt to find a resolution beneficial to all parties. When agents retaliate against tenants seeking repairs, often by issuing notices to vacate, inspectors will intervene and inform the agent of their obligations under the Act. More than 90% of tenants' repair issues are resolved through the intervention of CAV's residential tenancies inspectors, eliminating the need for applications to be made to VCAT.

Government works together to help the vulnerable

Sometimes it takes the pooled resources of whole-of-Government to protect the vulnerable. In one such instance, residential tenancy inspectors worked with the Department of Human Services (DHS) to ensure a woman and her children, who had fled from her rented home because of domestic violence, were reunited with their belongings. The family was moved to a safe house by DHS in such haste that they left behind everything they owned, including their furniture. CAV was contacted by the landlord, who wanted the goods removed from the property. There was, however, no forwarding address to send them on to. Inspectors made enquiries and found that the woman was in a protected location. CAV arranged with DHS to pay for the removal and delivery of the goods without the family's security being placed at risk.

Rent assessments

During the year residential tenancies inspectors were requested to conduct 660 rental assessments.

Legislation requires that a landlord or their estate agent must give specific written notice at least 60 days before a rental increase is due. The notice must also inform the tenant that they may request the Director to investigate and report on whether the proposed increase is excessive.

If the tenant intends to challenge the increase at VCAT, they will require a rental assessment report. More than 95% of all requests for rental assessments are successfully negotiated by RT inspectors between the landlord or estate agent and the tenant. In most cases it is not necessary for a hearing to go before the Tribunal.

Goods left behind

The most common request for an inspection and report received by CAV's residential tenancies inspectors is initiated by landlords or their estate agents. These requests are often instigated when the former tenant has left goods at the rented property after they have vacated. In 2002-2003 there were around 3,600 requests related to goods left behind.

Landlords and estate agents want goods removed to enable the property to be cleaned and re-let. There can be a variety of reasons why tenants fail to remove their goods at the end of the tenancy agreement. What to others may be goods of little or no worth can be valuable or costly for the tenant to replace.

RT inspectors encounter situations where landlords or their estate agents claim that the former tenant cannot be contacted and the return of goods is not possible. Inspectors are often able to trace the tenant and make arrangements for the collection of goods.

5.0 Resolving Disputes

Bilingual Tenancy Project

In line with the Government's support for Victoria's multicultural communities, CAV introduced its Bilingual Tenancy Project during 2002-2003.

Recognising culturally and linguistically diverse communities, (CALD), CAV selected the Arabic and Vietnamese communities to target its Residential Tenancies services.

The Arabic and Vietnamese communities represent a significant proportion of consumers within the residential tenancies market and a high proportion of residents from these communities are tenants.

A number of large multicultural communities have had time to establish and develop their community networks and Victorian Government programs have, in the past, been targeted to those communities. Statistical data reveals that the Arabic and Vietnamese communities are under-represented in accessing CAV's residential tenancies services.

CAV's Bilingual Tenancy Project has been designed to raise awareness among targeted communities about CAV's residential tenancies services and to remove barriers that may impede these groups from accessing such services.

During December 2002 and January 2003, CAV employed Vietnamese and Arabic workers. The workers provide residential tenancy services which address language and cultural barriers and assist in establishing partnerships with key community groups to ensure that issues are identified, solutions explored and services are tailored to those most in need.

A promotional campaign began in May 2003. The campaign was designed to alert the Arabic and Vietnamese communities to the new CAV services available.

Residential Tenancies Bond Authority

The Residential Tenancies Bond Authority (RTBA) is a statutory authority established by the *Residential Tenancies Act 1997*, to hold all Victorian residential tenancy bonds including those applying to long term caravan and rooming house residents. The RTBA is constituted by the Director of CAV.

The RTBA holds bonds in a neutral capacity as trustee for landlords and tenants. The RTBA can only repay bonds as agreed by the landlord and tenant, or as directed by the Victorian Civil and Administrative Tribunal (VCAT) or a court.

During 2002-2003, Computershare Investor Services Pty Ltd (a controlled entity of Computershare Limited, a publicly listed registry company), undertook the core processing activities of registering bonds and making repayments on behalf of the RTBA.

As at 30 June 2003, the RTBA held 312,205 bonds, valued at \$265.5 million. This represents an increase of 10.6 per cent in the number of bonds since 30 June 2002, and an increase of 10.9 per cent in value. During the year 160,000 residential tenancy bonds were lodged, claims were paid on 140,000 bonds and 23,000 bonds were transferred.

The major development in RTBA services during 2002-2003 was the introduction of a web-based facility that allows agents, registered with the RTBA, and their staff, to view their RTBA bond holdings online.

Further details concerning the RTBA may be obtained from its Annual Report to Parliament. Copies are available by telephoning the RTBA on 1300 137 164. The RTBA website – www.rtba.vic.gov.au – also provides information about the RTBA.

Online Alternative Dispute Resolution

Alternative dispute resolution (ADR) provides an important step in making justice and redress available to everyone in the community.

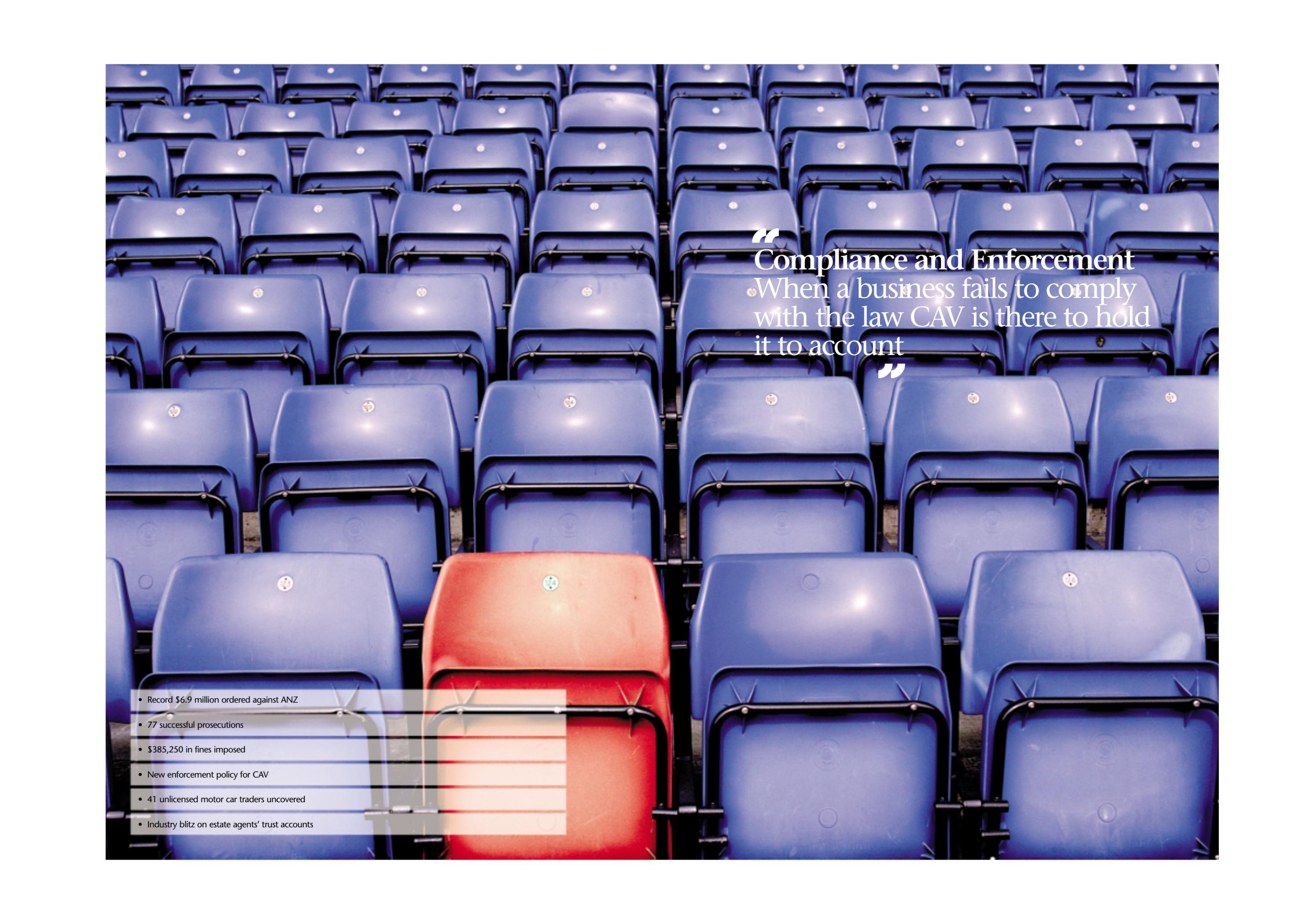
In 2002-2003 the Department of Justice announced a multi-dimensional initiative to strengthen ADR. A key element of this initiative was to develop online systems to make ADR and ADR services more accessible to the wider community in Victoria.

CAV is jointly piloting this Online ADR component with the Disputes Settlements Centre of Victoria. It will include an information website on ADR, providing consumers with self-help information about the ADR process, techniques and problem-based advice. The website will also feature an interactive module that will walk consumers through common dispute scenarios.

Stage two of the project will research the feasibility of a real-time online ADR system, allowing CAV to deliver current ADR services, such as conciliation, in real time over the internet. This service will not replace existing offline services, but will provide another pathway for people to interact with conciliators.

In 2002-2003 CAV worked to develop content for the information website, including general advice on solving disputes and information about rights and responsibilities and interactive scenarios centred on common tenancy disputes. In time these scenarios will be expanded to include all common consumer and tenancy disputes. CAV also participated with research into developing an online ADR system.

It is anticipated that the information website will commence online in 2003-2004. The Online ADR system is still under development.



“
Compliance and Enforcement
When a business fails to comply
with the law CAV is there to hold
it to account
”

- Record \$6.9 million ordered against ANZ
- 77 successful prosecutions
- \$385,250 in fines imposed
- New enforcement policy for CAV
- 41 unlicensed motor car traders uncovered
- Industry blitz on estate agents' trust accounts

Effective enforcement

In 2002-2003 CAV achieved a major victory for consumers. The ANZ Bank was challenged for failing to properly disclose fees and charges, and a record penalty was awarded.

It is CAV's duty to protect consumers where the law is broken and in doing so we pursue justice with equal vigour, whether the offender is a backyard swindler or an industry giant.

During the year CAV successfully prosecuted 77 individuals from builders to travel agents, retailers and motor car traders. Industry blitzes were carried out, fundraisers were targeted, dangerous products were banned and the activities of licensed and regulated occupations were monitored.

An increased focus has been placed on using the powers available under the *Fair Trading Act 1999*. The Act promotes and encourages fair trading and a competitive and fair market. It regulates trade practices, provides for the safety of goods or services, regulates off-business premises sales and lay-by sales and provides for codes of practice.

An intelligent compliance and enforcement program

During the year CAV reviewed its Enforcement Policy. The new policy provides a considered framework through which CAV will approach its enforcement activities and manage the demands of significant and emerging issues.

Particular importance has been placed on applying resources to incidents of false and misleading representations, unconscionable conduct, harassment and coercion, particularly in the credit and finance area.

CAV concentrates on matters identified as being of major or strategic significance with priority also given to conduct affecting vulnerable or disadvantaged consumers.

When determining whether a matter needs further investigation CAV considers the following enforcement criteria:

- jurisdiction
- seriousness of the offence
- culpability of the alleged offender
- special circumstances surrounding the complaint
- sufficiency and quality of evidence
- relevant antecedents
- alternative compliance strategies
- CAV's priorities and program commitments
- statutory requirements.

The aims of CAV enforcement are to stop the offending conduct, ensure consumers are compensated for the detriment suffered, prevent future breaches from occurring and to punish offenders where appropriate.

Enforcement options available to CAV include:

- civil penalty applications
- civil remedies (usually before a tribunal)
- corrective advertising
- disciplinary action
- enforceable undertakings
- infringement notices
- injunctive action
- prosecution
- public naming.

It is intended that CAV's enforcement priorities will be reviewed regularly, in consultation with its key stakeholders, to ensure that significant and emerging issues are appropriately addressed.

In December 2002 the ANZ Bank was ordered to pay fines and compensation as part of a settlement package totalling \$6.9 million in the biggest ever penalty for credit law violations in Australia.

The ANZ Bank had breached the now superseded *Credit Act 1984* in more than 250,000 personal loan contracts across five jurisdictions. An estimated \$550 million in credit charges had been paid under those contracts.

The breaches included failure to disclose insurance commissions, other fees and charges, the correct amount financed, and the inclusion of more than one interest rate on loans. The loan contracts in question were entered into between 1985 and 1996.

The extent of the problem first surfaced in 1992 when the Victorian Consumer Credit Legal Service alerted the bank to the fact that a large proportion of ANZ contracts contained errors or omissions which amounted to non-compliance with the Act.

In 1993 ANZ applied to the then Victorian Credit Tribunal seeking to have the errors rectified or excused. In 1995 the Tribunal ordered the bank to advertise in the daily newspapers advising consumers of the possibility that they may be affected by the proceedings. More than 1,500 callers responded.

The proceedings were advertised again in 2001 with several hundred more consumers coming forward. In all, more than 2,000 individuals joined the proceedings. CAV was also joined as a party to represent the interests of all Victorian consumers.

In a case that spanned nine years, ANZ was found to have deliberately stalled legal proceedings under a ‘containment’ strategy outlined in the bank’s internal documents. In its final determination the Victorian Civil Administrative Tribunal (VCAT) made adverse findings regarding the bank’s conduct of the proceedings. It found that ANZ’s tactics were motivated by a number of factors including the desire to avoid public scrutiny of its poor compliance record and the attendant bad publicity.

The settlement against ANZ included \$5.25 million in civil penalties and \$1.65 million in compensation to consumers. The settlement was negotiated by CAV on behalf of consumers in Victoria and other states, and was endorsed by the relevant regulatory authorities in the other affected jurisdictions.

The landmark decision sent the message to financial institutions that a high price is paid for failing to abide by the law.

Enforcement activities

Outcomes for 2002-2003

CAV investigated 1,091 complaints involving alleged breaches of legislation during 2002-2003, compared to 1,063 the previous year. Seventy-seven offenders were successfully prosecuted. A total of \$385,250 was ordered in fines. Other penalties ranged from a wholly suspended jail term, community based orders and bonds.

Thirteen injunctions were obtained restraining unlicensed persons from trading in motor cars and general traders from making false or misleading representations. Thirty-four hearings against licensed traders were heard before VCAT with disqualifications, reprimands and fines resulting.

Enforceable undertakings under section 146 of the *Fair Trading Act 1999*, achieved good outcomes during 2002-2003 with 102 undertakings being entered into. Enforceable undertakings are an intermediate enforcement measure. They are used where there has been a demonstrated breach of the law, but it is considered that an undertaking can achieve a more timely and effective outcome.

Infringement notices allow CAV to achieve positive enforcement outcomes without having to resort to resource-intensive prosecution. Infringement notices were used to address strict liability offences under the *Motor Car Traders Act 1986*, such as failing to enter particulars into the dealings book or failing to display a Form 7 disclosure notice on a used car. More positive enforcement outcomes were achieved using this method than by prosecution alone. During the year, 463 infringement notices were issued of which 287 concerned motor car traders, the remainder involved trade measurement matters, between December 2002 and June 2003.

CAV achieves enforcement outcomes using both criminal prosecution and civil orders. A table of civil litigation appears as Appendix 6 of this Annual Report. During the year, a total of 408 criminal offences were proven. Details of the prosecutions are set out in Appendix 7.

Legislation used in prosecutions during 2002-2003

Act	No. of Offences Proven	Persons charged per Act
<i>Fair Trading Act</i>	63	25
<i>Travel Agents Act</i>	3	3
<i>Business Names Act</i>	12	9
<i>Domestic Building Contracts Act</i>	84	26
<i>Building Act</i>	39	17
<i>Estate Agents Act (incl. Regulations)</i>	139	19
<i>Fundraising Appeals Act</i>	11	3
<i>Motor Car Traders Act</i>	32	9
<i>Introduction Agents Act</i>	11	2
<i>Prostitution Control Act</i>	1	1
<i>Consumer Credit/Administration Acts</i>	7	5
<i>Trade Measurement Act</i>	1	1
<i>Residential Tenancies Act</i>	5	2
	408	122*

*The number of persons charged per Act is greater than the number of persons with proven charges (77) as some defendants were charged with offences against more than one Act.

CAV scores penalty against soccer clinic

CAV has placed increased emphasis on using the *Fair Trading Act 1999* as an enforcement tool. In 2002-2003, 25 people were charged with offences under the Act, more than double the previous year's figure of 12.

During the year, CAV used the Act's requirement for honesty in advertising to stop a Melbourne soccer clinic from falsely claiming to give young people a chance to play against the top European teams. The European Football Institute Pty Ltd, trading as Australian Soccer Scouting Organisation (ASSO), claimed in its advertising that it had an affiliation with 30 top European soccer clubs.

CAV contacted several clubs who denied the affiliation existed. CAV obtained orders in the Melbourne Magistrates' Court preventing the Institute from advertising an affiliation with the clubs without first obtaining written proof. The orders also required the Institute to give all participants in its clinics a letter clarifying its true relationship with the European soccer clubs and its lack of affiliation and the opportunity to withdraw from the clinic and obtain a full refund after the first day. Further, the Institute was required to hold 20 per cent of the monies it received from conducting the clinics in reserve to pay for any refunds which were requested.

A builder not on the level

CAV charged 26 people with offences under the *Domestic Building Contracts Act 1995* during 2002-2003. During the year this Act led to more successful CAV prosecutions than any other consumer protection legislation. The Act provides that domestic building work over the value of \$5,000 must be undertaken by a registered builder as there are many traps for consumers who deal with unregistered builders.

In one case, Mr David Douse, of Chadstone, was unregistered and uninsured as a builder when he agreed to renovate and extend a couple's home. The agreement was never put in writing.

Mr Douse accepted cash payments totalling \$100,600 without providing receipts and then failed to complete the work. The consumers lost more than \$70,000, and did not pursue legal action, as Mr Douse was an undischarged bankrupt.

Mr Douse was convicted and fined \$10,000 plus costs of \$545.70 for the offences charged under the *Building Act 1993*, the *Domestic Building Contracts Act 1995*, *Fair Trading Act 1999* and the *Business Names Act 1962*.

Real estate agent commits fraud

A Melbourne real estate agent prosecuted for fraudulent misappropriation was one of 19 people charged by CAV with 139 offences under the *Estate Agents Act 1980*, during 2002-2003.

Phillip James Bedford, of Berwick, was a licensed estate agent who traded as Home Zone Real Estate. He misappropriated approximately \$58,000 received from vendors as deposits on properties sold by him and used the money to pay off personal and business debts. The deficiency in money, which should have been held in the agents trust account, was revealed during an inspection by investigators from CAV. As a result, Mr Bedford's accounts were frozen and he was ordered to cease trading. He was charged under the *Estate Agents Act 1980*, for not retaining monies in his trust account until paid to the entitled person, and on charges relating to misappropriating trust funds. Mr Bedford was convicted and fined \$100,000, plus costs of \$633.67, and vendors involved recovered their monies.

Tampering with the clock

In 2002-2003 nine people were charged with 32 offences under the *Motor Car Traders Act 1986*. In one case a licensed motor car trader was found to be tampering with odometers and falsifying service records.

Mr Edward Gold, formerly Eduard Zolotarev, trading as Ajax Group Wholesale of St Kilda East, was charged with five breaches of the Act after CAV investigated a consumer's suspicions that vehicle service records provided by Mr Gold were not accurate.

Evidence given to the court indicated that the odometer reading on one vehicle had been reduced from about 230,000 kilometres to 93,000 kilometres. Mr Gold also falsified service records to make them consistent with the lower odometer reading. He was convicted and fined \$5,000 and ordered to pay \$600 compensation to the consumer.

Crossing jurisdictions

CAV conducted an investigation into a mail scam run by a Hong Kong registered company, Health Tips Ltd, that operated out of Queensland. The company sent unsolicited mail throughout Australia under the names of clairvoyants "Marie France" and "Maria Duval". As a result of the CAV investigation the company shut down its Australian operations.

The alleged "clairvoyants" operated by sending letters to unwitting consumers promising fortune and happiness in return for money, which was paid by post. The letters preyed on vulnerable people by promising them wonderful outcomes such as 'how to achieve your dreams' and 'win the lottery'.

CAV investigators executed three search warrants on a mail centre used by Health Tips Limited and seized 824 letters. Approximately \$32,078 in refunds were requested and agreed to be paid to consumers by Health Tips Limited. An amount of \$9,993 in money orders, cheque or credit card payments was returned to consumers. CAV's actions also prevented the processing of hundreds of credit card transactions by the company. Health Tips Limited also agreed to continue to honour requests for refunds.

CAV later assisted the UK Office of Fair Trading in its investigations of the activities of this company in the UK.

Conman preys on the lonely

Gregory Elliott made his living by preying on the vulnerable and lonely. Also known as Gregory Whillance, Mr Elliot ran an introduction agency where he enticed consumers to sign contracts by promising them many more introductions than he was able to deliver. He failed to provide written agreements and received more than 30% of the contract price before the provision of any services. He was found guilty of acting as an Introduction Agent while ineligible. Mr Elliott was given a six-month prison sentence, suspended for two years and ordered to pay costs of \$1,035.80 and restitution of \$1,650 to consumers. On the same day, Mr Elliott was prosecuted by the police and found guilty of obtaining property and financial advantage by deception with respect to his introduction agency.

Prostitution advertising on the net.

During the year CAV prosecuted Nascon Pty Ltd after it published an advertisement for prostitution services on the Daily Planet Brothel website. The advertisement breached the strict advertising restriction under the *Prostitution Control Act 1994* and its Regulations. The advertisement was offensive as it referred to race and the ethnic origins of sex workers. The case was important as it was initially argued that the advertising requirements under the Act did not apply to the Internet. The Court accepted CAV's legal argument that this was not the case. CAV took further action in this area and the Victorian Government amended the Prostitution Control Regulations to further clarify advertising requirements for prostitution services.

Switched on electricity marketing

The Victorian electricity market was opened up to full retail competition in January 2002. Protocols were established between CAV, the Essential Services Commission (ESC) and the Office of the Energy and Water Ombudsman of Victoria (EWOV), regarding the handling of complaints involving marketing conduct of retail electricity suppliers.

CAV initiated an injunction application against TXU after the EWOV referred a number of complaints regarding the retailer's marketing conduct.

Ensuring compliance

Compliance standards apply to occupations that are either licensed or regulated by specific legislation. Businesses that require a licence to operate are known as licensed occupations. Other businesses that are subject to the control of a specific Act, but which do not require the grant of a licence to operate, are known as regulated occupations. CAV inspectors monitor the activities of both types of occupations to ensure compliance with the relevant Acts. Acts for which compliance monitoring is undertaken include:

- *Estate Agents Act 1980*
- *Motor Car Traders Act 1986*
- *Travel Agents Act 1986*
- *Prostitution Control Act 1994*
- *Introduction Agents Act 1997*.

During 2002-2003, CAV inspectors proactively monitored the activities of estate agents, motor car traders and travel agents.

Estate agent inspection program

CAV conducted 107 inspections of newly licensed estate agents to ensure that these new entrants to the market were made aware of their obligations from the outset. The inspections involved an examination of the agents' trust account books and records to ensure that clients' funds were managed in accordance with the stringent requirements of the *Estate Agents Act 1980* and its associated regulations.

Motor car traders inspection program

Under the *Motor Car Traders Act 1986*, licensed motor car traders are required to keep an up-to-date dealings book documenting their acquisitions and disposals. They are also required to display certain information on vehicles being offered for sale. CAV's proactive motor car traders inspection program continued during 2002-2003. The aim of the program was to check that these fundamental consumer protection requirements were being met. Infringement notices, or "on the spot" fines were issued for failure to comply with these requirements. During the course of the year CAV conducted 250 inspections and issued a total of 287 infringement notices against 63 motor car traders who had failed to comply. The number of breaches detected has been decreasing yearly which indicates that the program is achieving greater compliance within the industry.

Travel agents inspection program

The *Travel Agents Act 1986*, requires among other things, that a travel agent be licensed and be a member of the Travel Compensation Fund. A compliance program was conducted during 2002-2003 that monitored travel agents who were suspended from the Travel Compensation Fund, to ensure that they did not continue to operate as travel agents and put consumers at risk. The purpose of the program was to protect consumers by ensuring that that these basic consumer safeguards were in place. As a result of this program charges of unlicensed trading were laid against two travel agents that continued to trade after they were suspended from the fund.

Industry blitzes

As well as ongoing enforcement activities, CAV conducted industry-based blitzes targeting problem areas.

Motor Car Traders

A person who carries on the business of trading in motor cars must be licensed under the *Motor Car Traders Act 1986*. The Act deems a person to be a motor car trader if they buy, sell or exchange, or offer to buy, sell or exchange, four or more cars per year. Unlicensed motor car traders do not provide the same amount of protection to consumers and can therefore place consumers' money at risk. For example, there are no warranties provided nor is there a cooling-off period if a consumer changes his or her mind. Also a car purchased from an unlicensed motor car trader is not covered by the Motor Car Traders Guarantee Fund.

CAV has a proactive program which relies on new investigative techniques to identify unlicensed motor car traders operating in Victoria. In 2002-2003, 41 unlicensed traders were identified, of these five were successfully prosecuted and fined a total of \$63,200. Of the others identified, CAV successfully sought court injunctions to stop eight from trading without a licence and a further 17 were required to enter into enforceable undertakings. The remaining 11 received formal warnings requiring them to cease trading without being licensed.

E-Trader Compliance

CAV conducted an Internet sweep involving 380 searches of Victorian-based websites to check their level of compliance against consumer protection laws and the Commonwealth's voluntary e-commerce code, *Building Consumer Sovereignty in Electronic Commerce – A Best Practice Model (BPM)*. The project identified a number of alleged legislative breaches on a range of business' websites.

The e-trader compliance project targeted motor car traders, real estate agents, travel agents, credit providers, finance and wealth creation websites. They were assessed against their compliance with their specific industry Act and the Commonwealth's BPM.

Nearly 99 per cent of the 380 sites searched did not fully comply with a selection of BPM requirements while only five sites (1.3 per cent) did fully comply. Inspectors found that compliance with the BPM for the 160 estate agents sites searched was low.

Inspectors found that of the searches completed regarding motor car traders, 96 sites were found to allegedly breach various requirements of the *Motor Car Traders Regulations 1998*. The search results for travel agents revealed 15 sites that allegedly breached the *Travel Agents Act 1986*.

Compliance is being sought from traders whose sites did not comply with consumer protection legislative provisions. The program highlighted that traders appeared to have little knowledge of the Commonwealth's BPM.

Estate Agents

In October 2001 an inspection program began to conduct trust account inspections of estate agencies in Victoria over a two-year period. Three accounting firms, acting at the direction of CAV, were allocated specific geographical areas and targeted agents in those areas. From October 2001 to 30 June 2003 a total of 2,039 inspections were conducted. These inspections identified a number of potential breaches of the *Estate Agents Act 1980* and its associated Regulations, which were referred for further investigation. A total of 215 matters were referred on for investigation which resulted in the prosecution of one agent, 16 agents entering into enforceable undertakings pursuant to section 146 of the *Fair Trading Act 1999* and 146 formal warnings were issued.

Fundraising under the spotlight

Early in 2002 new requirements became effective for fundraisers to be registered, replacing the old system of notifying of an intention to conduct a fundraising appeal.

During the financial year 620 organisations registered as fundraisers or renewed their previous permissions to conduct fundraising appeals.

The new system provides for greater accountability with the introduction of a public register of fundraisers. This register can be viewed online and provides information on organisations that are entitled to fundraise. It also includes the expiry date, contact details of the fundraiser, the beneficiaries and any conditions, imposed by the Director of Consumer Affairs in relation to the fundraising activity.

An industry blitz

During the 2002-2003, CAV examined the operations of 58 fundraisers for matters including no registration, ineligible people involved in fundraising activities and failing to comply with the administrative requirements of the *Fundraising Appeals Act 1998*. As a result, CAV has undertaken two successful prosecutions with one prosecution pending, nine fundraisers have entered into enforceable undertakings, three have received formal written warnings and one had conditions imposed on its registration.

In administering the registration process, conditions were imposed on six fundraisers and two were de-registered. During the registration process, CAV regularly required applicants to provide further information regarding:

- the nature of their fundraising activities
- the manner in which proceeds were to be distributed to beneficiaries
- the identity and consent of beneficiaries
- percentage of proceeds earmarked for use as administrative expenses
- names of people involved in the fundraising, including appeal managers and people exercising significant influence.

Police history checks were conducted as required.

Administration Costs

When donations are made to charities, the question of how much goes to intended recipients and how much is spent on administrative costs is more often than not left undisclosed. In one case during the year, CAV found a fundraiser allocating 75 per cent of donated monies to administration.

In that case conditions were imposed on the fundraiser, with the consent of the beneficiary, to reduce administrative expenses from 75% of the total funds received to 50% in the first year with a view to further reductions in future years.

In 2002 CAV published Guidelines on administrative expenses. These explain what will be taken into account by the Director of Consumer Affairs when making decisions about 'reasonable' administrative expenses in conducting an appeal. The Guidelines explain how the Director determines whether administrative costs are excessive and when the Director would impose a condition on the distribution of funds.

Clothing collection bins

In September 2002 new regulations and requirements were introduced for the labelling on clothing collection bins located in car parks and service stations around Victoria.

The labels enable the public to distinguish between organisations collecting clothing for distribution to the public or sale as rags and those commercial operators who are in business. The labels are required to identify the total amount of funds raised from the collection of clothing and the percentage of money spent on paying expenses.

Probity checks

The law aims to ensure that money donated to fundraising activities does not fall into the hands of unscrupulous operators. CAV will not register any fundraiser if an appeal manager has been found guilty of disqualifying offences within a period not less than 10 years before the application was lodged. Disqualifying offences include those involving fraud, dishonesty, violence or drug trafficking that is punishable by imprisonment for three months or more, or an offence under the *Fundraising Appeals Act 1998*.

Fundraisers must consent to police checks when they apply to be registered. The person who makes the application declares that to the best of their knowledge no appeal manager or associate to the appeal is a disqualified person. It is therefore important that relevant enquiries on employees are conducted before applying for registration.

In 2002-2003 three organisations were found to have employed people who were ineligible to be appeal managers. The organisations faced refusal to be registered as a fundraiser. Try Youth and Community Services sought to register as a fundraiser and included as appeal managers two people who were ineligible. The two people later resigned from the organisation and the Executive Director entered into an enforceable undertaking in relation to making a false statement in an application. One of these ineligible people was then discovered to be working for another fundraiser. This fundraiser had failed to undertake adequate probity checks of its employees. The person is no longer an employee of the fundraiser.

The third organisation, Arthritis Foundation of Victoria, had an employee who had committed disqualifying offences while working for the Foundation. The Foundation had failed to make adequate enquiries prior to previous notifications to CAV of the intention to fundraise and had failed to notify CAV within 28 days once the offence was known. At the time of registration, CAV made enquiries and placed a condition on the registration of the Foundation in relation to the employment of the person.

Product safety investigations

CAV investigates allegations of unsafe products and services. We also issue bans and restrict supply when safety is compromised and we assist in developing safety standards.

Preliminary investigations are carried out to determine the level of risk associated with products that consumers have alleged were hazardous. The risk analysis takes into consideration the maximum potential injury, the probability of a hazard occurring, hazard recognition and the availability of the product. If the product is deemed to have a moderate risk an extended investigation is carried out.

In 2002-2003, CAV conducted 215 investigations into the safety of consumer products, up from 145 investigations the previous year. Play items accounted for 38 per cent of products examined.

Investigation reports

In the last year investigations covered a diverse range of products from novelty toys to chemical-smelling kitchen utensils, laser-light key rings, risky hair products and candles with lead core wicks.

Laser lights – a potential eye danger

CAV and Victoria police worked together when a laser-light on the end of a key ring became a serious safety risk for school children. After a secondary student suffered an eye injury while playing with the key ring, the product was submitted to CAV for testing against the Australian Standard that deals with laser products. The Standard is called up in the Control of Weapons (Amendment) Regulations 1998, which is administered by Victoria Police. The regulations prohibit the import, manufacture, sale, possession and use of laser pointers with a laser beam emission limit greater than one milliwatt. CAV liaised with the Police Radio Electronics Division to carry out the testing. The result was that the product failed the mandatory labelling requirements and the police seized remaining stocks from the supplier's premises.

Expanding spiders

An expanding novelty spider purported to grow by 600 per cent was deemed a significant risk to children if they swallowed even a part of the toy. In July 2002, CAV issued a warning to a store chain found selling the “grow toys” on the grounds that they presented an ingestion or inhalation hazard. The company removed all stocks from sale and placed a warning notice in the Herald Sun. Warnings were displayed in shop fronts. CAV inspectors conducted follow-up inspections to ensure all items were removed from sale.

Lead candle wicks

During the pre-Christmas toy survey a number of candles suspected of containing lead core wicks were purchased by product safety inspectors and submitted to an accredited laboratory for testing. The wicks were found to contain in excess of 90% lead. These breaches of the banning order have been the subject of further investigation by CAV.

Banning Orders

The *Fair Trading Act 1999* allows the Minister for Consumer Affairs to ban products deemed unsafe. In 2002-2003, four products were banned.

Yo-Yo balls

In May 2003 CAV was advised of international bans on the sale of potentially dangerous toys called Yo-Yo Balls. Consumer affairs agencies in the United Kingdom, Switzerland, Germany and France banned the toys due to their potential to cause a strangulation hazard. It was reported that eight strangulation incidents involving this product during children's play had occurred in the UK. Availability of this product within Australia appeared to be widespread and the popularity of the product with children was very high. The products are described as liquid and novelty filled balls or shapes – (with or without nodules) – that are connected by a stretchable or elasticised cord that is capable of extending to at least 500 mm in length with or without a small loop at one end to put a finger through. The product has since been banned in Victoria.

The York folding chair

In September 2002 the York wooden folding chair was involved in the partial amputation of a consumer's finger. When the consumer shifted the chair back, the rear seat disengaged from the upright back rest causing it to scissor down on his hand. The consumer had his finger surgically reattached without complication.

Subsequent to this incident, an order has been made banning any folding chair which features as part of its folding mechanism, hinged or pivoting sections which permit the chair to be folded, and where the distance between components forming a trapping space is less than 5 millimetres and where the seat is not permanently attached to the back of the chair.

Pull Back Action Target Guns

In October 2002 a six-year-old NSW boy died while playing with a Pull Back Action Target Gun. It is believed the boy choked to death after firing a rubber dart into his mouth while riding in the family car. Subsequently CAV banned the supply of toy guns having projectiles that present a choking hazard to children. The order bans goods comprising a dart gun set, consisting of a model of a firearm, with or without a target, together with one or more suction-tipped darts which, whatever their orientation, fit entirely within the small parts cylinder when tested in accordance with 5.2 (small parts test) of the Australian/New Zealand Standard AS/NZS ISO 8124.1:2002 Safety of toys, Part 1: Safety aspects related to mechanical and physical properties (ISO 8124-1:2000 MOD) including, but not limited to the “Pull-Back Action Target Game”.

High velocity toy air guns

Some toy air guns that shoot projectiles at high speed were considered a potentially serious risk to children's eyes. A banning order was made to prohibit goods known by the name of “BB Air Sport Gun” or “Pietro Beretta” or by any other name, that are projectile toys where the energy of the projectile is controlled by a discharge mechanism (for example, a spring or pneumatic system and that does not comply with clauses 7.15.3(a) and/or 7.15.3(b) of Australian Standard AS 1647.2 – 1992, Children's toys) (safety requirements) Part 2: Constructional requirements.

Safety recalls

The Commonwealth Product Safety Recalls website at www.recalls.gov.au has been a useful resource providing information about voluntary safety related product recalls and allowing information to be shared between regulators.

On this site, the register of Alleged Hazardous Products, including recalls, has been used by CAV to provide information and advice to consumers and traders. CAV has also maintained its own database of product safety investigations and enquiries on safety and standards matters and the databases are used for monitoring trends in product related problems.

Product safety inspections and visits

From January this year CAV increased its emphasis on product safety compliance. Regular inspections of retail stores were conducted in the metropolitan, regional and country areas. Consumer products were checked for safety compliance with ban orders and regulations. During the six months consumer products were examined in 148 premises.

Safe toys and showbags

In August 2002, prior to the Royal Melbourne Show, CAV inspectors examined 297 show bags for potentially dangerous products. For the first time in 15 years there were no dangerous products found. Inspections were also carried out at the Rural Shows in Benalla, Kyabram and Mildura where no unsafe products were found.

It was good news also when product safety officers visited the 2003 Australian Toy, Hobby and Nursery Fair at the Melbourne Exhibition Centre. More than 200 exhibitor displays were inspected covering an extensive range of toy and nursery products soon to be released on to the market. Staff fielded many questions from exhibitors regarding product safety requirements and in particular, interpretations of product safety standards.

Christmas toy survey

CAV inspectors visited 53 metropolitan and country toy retailers as part of the annual pre-Christmas toy survey. Forty toys were purchased for investigation for compliance with mandatory safety standards and ban orders. Some toy guns failed the tests and retailers were instructed to remove these from sale and were also warned that they could face prosecution if they continued to sell the prohibited products.

Keeping retailers in check

During December 2001 CAV banned mini jelly cup confectionery containing the ingredient Konjac, as the mouth size servings did not dissolve readily when placed in the mouth and could cause a choking hazard. After receiving information that the product may be on sale in Melbourne, product safety officers inspected 14 stores and two suppliers were found to be in breach of the ban order. Appropriate enforcement action is pending against the offending suppliers.

Banned toy guns

A joint survey of traders by officers from CAV and the ACCC was conducted in metropolitan Melbourne to check on outlets suspected of supplying banned toy guns. Two suppliers were found to be in breach of a ban order prohibiting the supply of toy guns that fire projectile darts, and the suppliers faced disciplinary action.

Trade measurement

CAV's trade measurement regulatory program ensures that consumers get what they pay for and that traders benefit from improved stock control. Inspectors authenticate the accuracy of transactions where the value of goods and services are determined by measurement.

CAV examines labelling of pre-packed articles, liquid measurement on licensed premises, petroleum products, the net weight of meat, firewood and garden and landscape material sold by volume or mass. Information and support is also provided regarding the use of private weighbridges and measuring instruments to ensure compliance with the law.

For the period 15 December 2002, (when trade measurement responsibilities were transferred to CAV) to 30 June 2003, 135 consumer complaints were received. Of these 38 (28%) were found justified. Of the justified complaints, 8% related to deceptive trading, 3% to gross weighing, 58% to incorrect measurement, 8% to labelling of pre-packed articles and 23% to incorrect measurement practices.

During that time trade measurement investigators visited around 2,300 business premises and issued 176 infringement notices containing penalties to the value of \$86,200 for a range of breaches of the *Trade Measurement Act 1995*. One prosecution was taken with fines totalling \$1,500.

In one case CAV issued a Melbourne-based company with infringement notices totalling \$2,000. The company had been selling underweight '20 kilogram' packaged firewood at service stations. Another consumer paid \$180 for two metres of wood but received barely a metre. When inspectors attempted to track down the supplier who had advertised in the local paper, the mobile number given had been disconnected.

Compliance Program for Incorporated Associations and Co-operatives

During 2002-2003 CAV continued its compliance program to ensure that incorporated associations and cooperatives lodge annual statements with the Registrar. The annual statements for these are available for inspection by members of the public.

As a result of increased compliance monitoring and follow-up activities by CAV, there have been significant improvements in compliance with annual return lodgement during the past few years. The table below illustrates the improvements in compliance.

Percent of Associations and Co-operatives with Annual Returns lodged.

As at 30 June	1999/00	2000/01	2001/02	2002/03
Prescribed Associations	58%	74%	84%	86%
Non-prescribed associations	38%	53%	71%	77%
Co-operatives	44%	51%	44%	69%

During 2002-2003, a cancellation program was undertaken which resulted in the cancellation of 1,108 incorporated associations. The associations were deemed by the Registrar to be no longer in operation as they had not lodged annual statements for three or more years and had not responded to a 'show cause' notice.

Over the year, CAV investigated written complaints about 183 incorporated associations and cooperatives and conducted 109 compliance inspections. Matters commonly investigated by CAV include failure by incorporated bodies to meet financial reporting obligations, failure to comply with legislative requirements when passing special resolutions, failure to follow proper winding-up procedures and provision of false information on documents lodged.

Other matters commonly raised with CAV relate to breaches of the rules of an incorporated association or cooperative, particularly in relation to the conduct of general meetings, elections and expulsion of members. CAV does not intervene in these matters but advises complainants of the options available to assist them in resolving their disputes or grievances. The rules of an incorporated association or cooperative form a contract between the entity and its members. A dispute concerning performance of obligations under the rules may be resolved using the grievance procedure that must be included in the rules of an incorporated association or cooperative. If no resolution can be achieved through mediation, the incorporated entity or any of its members may apply to the designated Court for an order to enforce the rules. The Registrar cannot enforce the rules of an incorporated association or cooperative on behalf of its members.



- A new service charter for CAV
- A corporate restructure takes on board CAV's new responsibilities
- Staff training enhanced
- Review shows CAV meets Government priorities
- Privacy Statement developed



“
**Consumer Affairs:
Behind the Scenes**
People, their ideas and commitment,
are the fuel that powers Consumer
Affairs Victoria
”

*Consumer Affairs Victoria:
Behind the scenes*

Our people and our commitment

CAV is seeking to be a leader among consumer protection agencies. At the core of all CAV activities are the organisational values that assert our dedication to caring for people, giving and taking responsibilities, working together and recognising people's achievements.

In 2002-2003 CAV developed a Service Charter which included these values. The charter is our commitment to providing timely, accurate and accessible services to Victoria's diverse communities.

CAV regularly reviews levels of client satisfaction with our services and examines procedures and strategies to minimise barriers to access. The charter will be updated regularly and will involve client consultation.

Restructuring Consumer Affairs

As a result of the machinery of Government changes in December 2002 CAV took responsibility for the functions of liquor licensing, trade measurement including utility meter inspections, bodies corporate and retirement villages.

These changes provided impetus for a restructure that will better align CAV's structure to its strategic priorities. A new position of Deputy Director will be created to act as Chief Operating Officer. The Deputy Director will be responsible for day-to-day service delivery across seven operational branches and will head up major corporate projects.



Consumer Affairs Victoria: Behind the scenes

Privacy

To comply with new privacy laws CAV ensures that the range of personal information gathered to carry out work adheres strictly to the laws and that personal information is used only for the purposes for which it was collected.

CAV is committed to the maintenance of responsible and fair handling of personal information. To this end CAV has reviewed its information handling practices across the organisation to ensure privacy compliance. CAV has also developed a Privacy Statement which sets out how CAV as an organisation manages and stores personal information. The Privacy Statement also provides instructions on how complaints can be made about our handling of personal information. CAV has also redesigned its forms to incorporate privacy protection and privacy notices.

Keeping staff up-to-date

CAV has identified enhanced training and development as a major priority within the organisation. In 2002-2003 learning focused on developing skills specific to responsibilities and in line with CAV's priorities. Programs were also offered to develop general office support skills such as occupational health and safety and first aid.

Training was provided in the areas of office software skills, project management, research skills for communications plans, recruitment selection skills and the presentation of information.

Specific education relating to CAV's values and responsibilities included presentations on relevant legislation, competency based training on the CAV Service Charter, Indigenous awareness training and dispute resolution and conciliation skills.

Education programs were provided by the Department of Justice, Swinburne University and the Institute of Arbitrators and Mediators Australia, and a range of inhouse tailored programs were also offered.

Twenty-five staff were awarded a 'Practitioners Certificate in Mediation and Conciliation'.

Supporting staff in a safe working environment

As part of the Department of Justice, CAV participates actively in programs to provide a safe working environment and support for staff in their working arrangements and relationships.

Occupational Health and Safety is a priority focus within all Government organisations. Under the framework of the *Occupational Health and Safety Act*, staff elected representatives undergo training in this area and provide a point of contact for the identification of hazards and issues and how to act on or address these as they arise. Managers are also kept informed about their responsibilities in this area. Reviews of personal security arrangements and external advice to staff on ergonomic arrangements were among specific activities in 2002-2003.

Equal opportunity is another ongoing focus within the organisation. This is reflected in our staff recruitment and development, and in our advice on appointments to advisory boards and committees. The establishment of units within CAV to address diversity issues in consumer protection in indigenous and culturally diverse communities, and the targeting of specific consumer protection programs to these communities, complements efforts to ensure that diversity within CAV is achieved and adequately supported.

Rewarding long service

CAV launched its inaugural Long Service Award in December 2002. The Minister for Consumer Affairs presented award recipients with an engraved dish in recognition of their dedication to CAV and its predecessor bodies over a period of 20 years.

The Awards were made to:

Pushie Brown, Gary Byron, David Carter, Anne Cousins, Greta Garratt, David Hall, Bruce Harris, Ross Holt, Sally Landberg, John Lolas, Anne Paul, Iris Stafrace, Joan Taylor, Paul Valerio and Joan Williams.

Liquor licensing and trade measurement staff joined CAV at the end of 2002. The following staff with more than 20 years of service are acknowledged: Andrew Doran, Dianne Rishworth, Paul Russell, Norma Steeneveld and Simon Willshire.

Reviewing our services

An Output Review of CAV was instigated by Cabinet's Expenditure Review Committee (ERC) in 2002 and undertaken jointly by the Department of Treasury and Finance and CAV. The Review was prepared for the ERC and the detail of its contents are therefore Cabinet-in-confidence.

The review found that CAV's outputs were well supported in economic and public policy terms and in accord with Government's policy priorities. CAV's programs were effective, efficient and integrated with other agencies without overlapping with them.

Benchmarking CAV's enquiries service

In May 2003 CAV undertook to benchmark our Enquiries Service with other call centres across Australia through Benchmarking Partnerships. The main aims of benchmarking include achieving improved performance, identifying and adapting best practice and encouraging creative thinking. Stage one, which involved data collection and analysis, was completed in 2002-2003. Stage two will focus on identifying learning opportunities.

Upgrade of CAV's complaints database

CAV's 'FairGo' database supports the provision of services to consumers as well as compliance and enforcement activities including: written and telephone advice, dispute resolution (complaints), residential tenancies inspections, investigations, legal advice, certain applications under the licensing and registration schemes, prosecutions and other forms of enforcement.

The main purpose of the FairGo codes or classification systems are:

- to record the subject and nature of client contact
- to produce reports on service provision
- to provide more accurate information about marketplace events.

In 2002-2003, CAV began reviewing and improving the coding system used in FairGo. The broad aim of the project was to develop a reduced and simplified set of codes suitable for recording both enquiries and complaints. The new FairGo codes are to be implemented along with a number of system enhancements.

Ombudsman's Report

In April 2003 the Ombudsman Victoria released a report about the then Department of Natural Resources and Environment, the Department of Justice and the Estate Agents Guarantee Fund (EAGF).

The report related to a funding application made to the EAGF in 1999-2000. The then Consumer and Business Affairs was the administrator of the EAGF.

The Ombudsman found that there was no conspiracy to defraud the EAGF or any attempt to do so. He also found that no individual officers involved in the matter acted with anything less than the most proper motives.

Consumer Affairs Victoria: Behind the scenes

How CAV is funded

CAV's activities are funded from appropriations from the Government's Consolidated Fund and from seven specific purpose trust funds.

In 2002-2003 actual expenditure from the various sources of funding was:

Funding Source	Value (\$ million)	% of total Funding
Appropriations	19.756	46.2
Consumer Credit Fund	0.154	0.4
Domestic Builders Fund	2.092	4.9
Estate Agents Guarantee Fund	7.305	17.1
Motor Car Traders Guarantee Fund	3.181	7.4
Prostitution Control Fund	0.520	1.2
Residential Tenancies Fund	6.339	14.8
Residential Tenancies Bond Authority	3.404	8.0
	42.751	100.0

Note: CAV direct expenditure only, excludes appropriation expenditure incurred by the Department of Justice in providing common service and infrastructure.

Expenditure from Appropriations is higher than in previous years due to the inclusion of six months expenditure for Liquor Licensing and Trade Measurement following their transfer to CAV. Included within the Appropriations expenditure are monies specifically appropriated for the operation of the Patriotic Funds Council and Defence Reserves Re-employment Board.

Appropriations expenditure is offset by \$11.024 million in fees and fines collected and paid to Consolidated Revenue in respect of various activities including Business Names, Liquor Licensing, and Trade Measurement.

The trust funds remain an important source of funding for CAV's activities, meeting 53.8% of the total 2002-2003 expenditure. Expenditure is drawn from trust funds to meet specific purposes that relate solely to that fund, and also in proportion to their use of shared activities like enquiries, enforcement, and administration.

In addition to funding CAV's expenditure, the Domestic Builders Fund and the Residential Tenancies Fund also contribute to the cost of operation of their related hearing lists at the Victorian Civil and Administrative Tribunal. Details of the legislative framework under which the trust funds operate is included as Appendix 9. Further details of CAV's revenue, expenditure and trust fund balances is included as Appendix 10 of this Annual Report.

Appendices

Appendix 1: Consumer Affairs Community Program

CAV's Community Program contracts regional community-based agencies to provide information and education services to consumers, tenants and landlords. It also provides dispute resolution and advocacy services to consumers and tenants, especially to disadvantaged members of the community. Some specialist and statewide service providers are also contracted. Below is a chart detailing the contracted agencies.

Community Program – Out-sourced Regional Services, 2002-2003 were:

Contracted Agency	Value Of Contract (Excl GST)
Jindara Community Program Inc. 202 Myer Street, GEELONG 3220	\$213,082
Anglicare Gippsland. 53-55 Buckley Street, MORWELL 3840	\$152,826
Child and Family Services Ballarat Inc. 115 Lydiard Street North, BALLARAT 3350 also at: 12 Grant Street, BACCHUS MARSH	\$144,221
Kilmany Family Care. 113 Cunningham Street, SALE 3850 also at: 49 McCulloch Street, BAIRNSDALE 3875	\$147,061
Community Connections (Victoria) Ltd. 26 Fairy Street, WARRNAMBOOL 3280 also at: 33 Otway Street, PORTLAND 3305 also at: Currawong Family Services. 92 Thompson Street, HAMILTON 3300	\$182,530
Consumer and Tenancy Advice Service Inc. 162 Maude Street, SHEPPARTON 3630	\$192,825
St Lukes Anglicare. 175-187 Hargreaves Street, BENDIGO 3550	\$174,611
Mallee Tenancy Advice Service Inc 1/152 Pine Avenue, MILDURA 3500 also at: 300 Campbell Street, SWAN HILL 3585	\$234,859
Consumer and Tenancy Advice Service Northern Tenants Union of Victoria Ltd 251 High Street, PRESTON 3072 also at: 175 Glenroy Road, GLENROY 3046	\$274,303
Consumer and Tenancy Resource Centre Outer East Inc. Suite 11, 5-7 Chandler Road, BORONIA 3155	\$157,582
Consumer and Tenancy Advice Service Inc 110 Hume Street, WODONGA 3690 also at: 32 Ford Street, WANGARATTA 3677	\$172,501
Brimbank Community Centre Inc. 822 Ballarat Road, DEER PARK 3023	\$235,216
Springvale Community Aid & Advice Bureau Inc. 5 Osborne Avenue, SPRINGVALE 3171	\$178,585
Peninsula Community Legal Centre Inc. Chatsworth House Suite 2-4, 431 Nepean Highway, FRANKSTON 3199	\$244,841
Wimmera Community Care. 185 Baillie Street, HORSHAM 3400	\$118,418

Out-sourced Specialist Consumer Services, 2002-2003

Contracted Agency	Value Of Contract (Excl GST)
Consumer Credit Legal Service. 1st Floor, Bank House 11-19 Bank Place MELBOURNE 3000	\$145,976
Financial and Consumer Rights Council Inc. Level 13, 227 Collins Street MELBOURNE 3000	\$69,504

Out-sourced Specialist Tenancy Services, 2002-2003

Contracted Agency	Value Of Contract (Excl GST)
Family Access Network. 1030 Whitehorse Road BOX HILL 3128	\$93,609
Tenants Union of Victoria Ltd. 55 Johnston Street FITZROY 3065	\$246,747
Housing for the Aged Action Group Inc. 2nd Floor, Ross House 247-251 Flinders Lane MELBOURNE 3000	\$77,998
Tenants Union of Victoria Ltd. 55 Johnston Street FITZROY 3065	\$101,301
Tenants Union of Victoria Ltd. Rooming House Service 55 Johnston Street FITZROY 3065	\$141,839
TOTAL	\$3,700,435

Appendix 2: Consumer Credit Fund

Grant Recipient	Value Approved (Excl. GST)	Description of Funded Activity
Brimbank Community Centre Inc.	\$14,047	Credit Education Project for migrants, refugees and disabled people.
Consumer and Tenant Resource Centre Outer East	\$23,125	A program of eight short plays about credit purchases for secondary schools.
Consumer Credit Legal Service (CCLS)	\$6000	Research into emerging consumer problems.
Consumer Credit Legal Service (CCLS)	\$32,363	Research on solicitors lending to vulnerable consumers.
Consumer Law Centre Victoria	\$33,700	Do the Poor Pay More?: Research & Education Project.
Credit Helpline	\$33,153	To develop information products and enhance technological systems.
Good Shepherd Youth and Family Services	\$32,000	Research project and development of credit training and information kits.
Good Shepherd Youth and Family Services	\$8,000	Feasibility project on No Interest Loans Scheme (NILS).
Odyssey House Victoria	\$18,100	Credit education services & assistance to persons in the Odyssey House communities.
Port Phillip Community Group	\$2,665	Information sessions on credit for recipients of the Disability pension & persons with acknowledged mental health problems.
Victorian Arabic Social Services	\$15,318	Education campaign for the Arabic community based on Mind Your Money teaching resources.
TOTAL	\$218,471	

**Appendix 3:
Grants from Estate Agents'
Guarantee Fund**

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Under Section 76(3) of *The Estate Agents Act 1980*, the Minister for Consumer Affairs may approve grants from the EAGF for six purposes:

- a) Community education programs relating to the sale, purchase or lease of real estate or businesses.
- b) Programs that promote the ownership of real estate.
- c) The training of estate agents and agents' representatives.
- d) Promoting the mediation or conciliation of disputes between estate agents and the public.
- e) Reviewing or reforming the law and procedures concerning the lease or transfer of interests in land.
- f) Projects facilitating the registration of interests in land or compilation of other information relating to the ownership of land.

As well as needing to fit the above purposes, applications are reviewed against other criteria, including but not limited to, the value for money; the merits of the program, the ability to reach the target audience; the capacity of the applicant to perform; and the availability of alternatives.

Grants considered by the Estate Agents Council and CAV, and approved by the Minister for Consumer Affairs during 2002-2003, were:

Grant Recipient	Value Approved (Excl. GST)	Description of Funded Program
Real Estate Institute of Victoria	\$548,207	Professional Development Program for Real Estate Agents and Representatives for 2002-2003
Real Estate Institute of Victoria	\$34,809	Home Buyers Seminars
Real Estate Institute of Victoria	\$7,273	Commercial Property Seminar 2002
Boroondara City Council	\$15,000	Series of case studies into 'Shop Top' living
Victoria Law Foundation	\$46,822	Reprinting of booklets ' <i>Common Ground – Your Guide to Body Corporate Law and Living</i> ' and website version.
Credit Helpline	\$63,870	Provision of telephone advice service for consumers entering into credit arrangement for real estate.
Total	\$715,981	

During the year payments were made for programs approved in previous years.

Appendix 4:
Claims paid by Estate Agents'
Guarantee Fund

agent's name	No. of claims paid	Value of claims paid
Sandra Mary Bryant	1	\$650.00
Joseph John Farrugia	3	\$1,484.00
Peter Wolseley Garrison	1	\$7,268.42
Jerome Joseph Borazio	4	\$3,852.30
Beech Lynch & Co Pty Ltd	3	\$2,232.33
TOTAL	12	\$15,487.05

Appendix 5:
Claims paid by Motor
Car Traders' Guarantee Fund

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Name of Trader	No. of claims	Value of Claims Paid (Excl. GST)
Affordable Car Sales P/L	2	\$773.50 (\$773.50 recovered)
Ball, Kelvin	1	\$32,829.00
Ean Kay Nominees P/L	1	\$137.00
Greyline Network P/L	1	\$12,851.40 (\$7,000 recovered)
Hastford (Vic) P/L	6	\$40,612.99
Kingstrate P/L	103	\$279,208.18
Kirkridge P/L	1	\$706.00
Melbourne Motorcycles P/L	2	\$8,671.12
National Motor Company P/L	5	\$18,418.13 (\$7,000 recovered)
Peter Wade Car Sales P/L	1	\$665.00
R.A. McDermott & Co (Sales) P/L	1	\$40,000.00 (\$40,000 recovered)
Ribwel P/L	2	\$23,756.23
South Gippsland Autofarm P/L	1	\$500.00
Terebic P/L	34	\$79,678.36
Thirty-Eighth Vobarb P/L	1	\$22,000.00 (\$22,000 recovered)
Travaglini, Nicolino & Albanese, Tania	8	\$3,294.20
Unlicensed traders	6	\$56,036.26
Woods & Reeves P/L	1	\$38,517.75 (\$38,517.75 recovered)
Zeland P/L	1	\$5,455.00
TOTALS	178	\$664,110.12

**Appendix 6:
Civil Litigation in 2002-2003**

Court / Tribunal	Act	No of Matters
Supreme Court Reinstatement Applications	Associations Incorporation Act	11
County Court Appeals (Defendants)	Domestic Building Contracts Act Motor Car Traders Act Introductions Agents Act Travel Agents Act	1 1 1 1
Magistrates' Court Injunctions	Motor Car Traders Act Fair Trading Act	9 4
Recovery proceedings on behalf of the MCTGFCC	Motor Car Traders Act	1
Victorian Civil and Administrative Tribunal Credit Applications	Consumer Credit Code Credit Act	2 1
Disciplinary Inquiry	Estate Agents Act Liquor Control Reform Act	11 23
Review of Decision of Business Licensing Authority	Estate Agents Act Motor Car Traders Act Prostitution Control Act Second Hand Dealers & Pawnbrokers Act	9 3 7 2
Review of Decision of Motor Car Traders Guarantee Fund Claims Committee		9
Review of FOI Decision	Freedom of Information Act	2
Review of Decision of Director	Fundraising Appeals Act	1

Appendix 7: Enforcement Actions

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Date of Hearing	Defendant	Act	Section/ Regs	No. of Offences	Fines \$	Costs \$	Other Orders
2 Jul 02	Taradon Pty Ltd of Kerang	MCA	135	1	1,500	1,350	Without Conviction
	Lorraine Wilkinson of Kerang			1	1,500	1,350	Without Conviction
Breach Summary <i>The company and director had both been ordered to cease trading as a Travel Agent. This action was taken against the company and the travel agent for failing to comply with the initial Court Order.</i>							
11 Jul 02	Kirk John Wynne of Tallia Qld	FTA	27(1)	1	5,000	990	Without Conviction
Breach Summary <i>Publisher asserting a right for payment without obtaining prior written and signed consent.</i>							
12 Jul 02	Wayne James Yurisich of Malvern	TAA	39(a)	1		450	With Conviction. 12 month community based order with special condition to serve 100 hours community work
		BNA	5	1			
Breach Summary <i>Director of a Licensed Travel Agent that failed to keep proper accounting records and which traded under an unregistered business name.</i>							
11 Jul 02	Karin Wemmering of Croydon	DBCA	11(1)	1	4,000	545	
		DBCA	29	1			
		DBCA	31(1)	3			
		BA	136(2)	1			
Breach Summary <i>Builder charged with being unregistered, having no insurance, receiving excessive deposits and failing to have correct contract.</i>							
30 Jul 02	Nemet Pty Ltd of Echuca	EAA	16(4)	6	2,100		Without conviction
		EAA	35(6)	2			
		BNA	5	1			
Breach Summary <i>An estate agent corporation failing to carry out eligibility checks on agent's representatives, failing to notify the BLA of employment or cessation of employment and carrying on business under incorrect name.</i>							
30 Jul 02	Gomer Handel Aubrey of Echuca	EAA	29B	1	700	750	Without conviction
		EA(GAA) Regs	36	1			
Breach Summary <i>Licensed estate agent failing to properly supervise estate agency business and failing to verify trust account reconciliation statements.</i>							

Appendix 7: Enforcement Actions

Date of Hearing	Defendant	Act	Section/ Regs	No. of Offences	Fines \$	Costs \$	Other Orders
31 Jul 02	Anthony Byrne of Tyabb	DBCA	29	1	250	850	Without conviction
		DBCA	11	1			
		BA	136(2)	1			
		FTA	29(1)	1			
Breach Summary <i>Unregistered and uninsured builder who also had business documents without proper details shown.</i>							
31 Jul 02	Ian Jeffrey Daley of Carlton North	FAA	62	1		500	Without conviction undertaking to be of good behaviour for 12 months with payment of \$250 to the Court Fund
Breach Summary <i>Providing false information in relation to a fundraising appeal notice.</i>							
31 Jul 02	National Foundation for Childrens Cancer of Carlton North	FAA	62	2	6,000		Without conviction
		FAA	44	1			
		FAA	9(c)	3			
Breach Summary <i>Charged involving an incorporated association providing false information in relation to a fundraising appeal and later failing to supply information as requested and having insufficient information on collectors identification badges.</i>							
2 Aug 02	Graeme Ford of Coolaroo	FTA	19(1)(a)	2	2,500	400	Conviction
		FTA	12(n)	1			
		FTA	29(1)(f)	3			
		BNA	5(1)	2			
Breach Summary <i>Co-accused with Coolaroo Pty Ltd.</i>							
2 Aug 02	Coolaroo Pty Ltd	FTA	19(1)(a)	1	2,500		Conviction
		FTA	12(n)	1			
		FTA	29(1)(f)	1			
Breach Summary <i>Company accepting deposits and failing to provide goods and services and advertising under an unregistered business name.</i>							
6 Aug 02	Landmark Garden Landscapes Pty Ltd of Heidelberg	DBCA	31(1)	1	500		Without conviction
Breach Summary <i>Incorrect building contract.</i>							
6 Aug 02	Gregory Lee Jenkins of Diamond Creek	DBCA	31(1)	1			Without conviction Undertaking to be of good behaviour for 12 months
Breach Summary <i>Incorrect building contract.</i>							

Date of Hearing	Defendant	Act	Section/ Regs	No. of Offences	Fines \$	Costs \$	Other Orders
7 Aug 02	Paul Tenaglia of Sunbury	DBCA	31(1)	4	1,000	631.80	With conviction
		DBCA	29	1			
		DBCA	11	1			
		BA	136(2)	1			
		BNA	5	1			
Breach Summary							
<i>Builder charged with being unregistered and having no insurance, receiving excessive deposits, having incorrect contract and trading under an unregistered business name.</i>							
7 Aug 02	Walter E Jones Valuers Pty Ltd of Frankston	EAA	59(1)(b)	3	2,000	645.10	Without conviction
		EAA	59(1)(a)	2			
		EAA	63	3			
		EA(GAA) Regs	35	2			
Breach Summary							
<i>Licensed estate agent failing to bank monies to Trust within time and failing to keep full and accurate accounting records.</i>							
7 Aug 02	Helen Ann Jones of Frankston	EAA	59(1)(a)	2	1,000	645.10	Without conviction
		EAA	59(1)(b)	3			
		EAA	63	3			
		EA(GAA) Regs	35	2			
Breach Summary							
<i>Co-accused director with Walter E Jones Valuers Pty Ltd.</i>							
12 Aug 02	Harry Fairall of Longwood	MCTA	7	1	2,000	1,800	Conviction
Breach Summary							
<i>Unlicensed motor car trading.</i>							
20 Aug 02	Scott Smart of Lara	MCTA	38(4)	1	750	621.87	With Conviction
Breach Summary							
<i>Falsely representing the accuracy of an odometer</i>							
27 Aug 02	Dodo Internet Pty Ltd of Melbourne	FTA	29(1)	2	1,000	645.10	Without conviction
Breach Summary							
<i>Advertising without including the name and address of the place of business of the person.</i>							

Appendix 7: Enforcement Actions

Date of Hearing	Defendant	Act	Section/ Regs	No. of Offences	Fines \$	Costs \$	Other Orders
28 Aug 02	Cemal Mani of Roxburgh Park	FTA FTA BNA	19(1)(a) 29(1)(f) 5(1)	2 2 2	15,000	641	With conviction
Breach Summary <i>Tradesman who failed to supply services, failed to include full business address and business documents and carried on business under an unregistered business name.</i>							
28 Aug 02	Yan Hui Sun of Caulfield South	FTA	12(f)	5	2,000	919	With conviction
Breach Summary <i>Travel Agent advertising and representing that she had affiliation that was false.</i>							
3 Sep 02	Frank David Romeo of Thornbury	EAA EAA	63(1)(a) 59(1)(b)	1 12		375	Without Conviction 12 month bond to be of good behaviour and to pay \$500 into the Court Fund
Breach Summary <i>Breaches in relation to inadequate accounting and failing to retain moneys in an estate agents' trust account.</i>							
5 Sep 02	FDR Holdings Pty Ltd of Thornbury	EAA EAA	63(1)(a) 59(1)(b)	1 12		375	Without Conviction 12 month bond to be of good behaviour and to pay \$500 into the Court Fund
Breach Summary <i>Breaches in relation to inadequate accounting and failing to retain monies in an estate agents' trust account.</i>							
9 Sept 02	Peter Mitropoulos of Wheelers Hill	MCTA MCTA	7 38(4)	1 2	4,000	450	Without conviction
Breach Summary <i>Charges relating to unlicensed motor car trading and making a false representation on an odometer.</i>							
9 Sept 02	Alan Caton of Mornington	EAA EA(GAA) Regs	94(1) 36	3 1		450	Without conviction 12 months bond to be of good behaviour and \$400 to paid to the Court Fund
Breach Summary <i>Charges in relation to an estate agent who failed to appoint an auditor and failed to have accounts audited.</i>							
10 Sept 02	Lifford Group Holdings Pty Ltd of Melbourne	EAA EA(GAA) Regs	16(5) 36	1 9	7,000	645	Without conviction
Breach Summary <i>Estate agent company that employed an ineligible agent's representative and did not verify rental and sales trust account reconciliations.</i>							

Date of Hearing	Defendant	Act	Section/ Regs	No. of Offences	Fines \$	Costs \$	Other Orders
11 Sep 02	Paul Drennan of McCrae	BA	176(2A)	1	1,200	569.40	Without conviction
		BA	136(2)	1			
		DBCA	29(a)	1			
		FTA	12(f)	1			
		FTA	29(1)(f)	1			
Breach Summary							
<i>Prosecution of an unregistered, uninsured builder who advertised as being a member of a housing association when false.</i>							
12 Sep 02	Guiseppa Spatari of Hoppers Crossing	BA	137B(2)(b)	1	1,500		Without conviction
		BA	137B(2)(c)	1			
		BA	137B(2)(d)	1			
Breach Summary							
<i>Prosecution of an owner builder who failed to provide purchasers with building warranty insurance and certificates of existing insurance and setting out the warranties implied into the contract.</i>							
25 Sept 02	Ihsan Daner of Delaney	DBCA	29(b)	1	1,000	520.40	Without conviction
		DBCA	31(1)(a)	1			
		BA	136(2)	1			
Breach Summary							
<i>Prosecution of an unregistered builder including charges in relation to being uninsured and having incorrect contract.</i>							
9 Oct 02	Philip Bedford of Berwick	EAA	91(1)(a)	6	100,000	633.67	With conviction
		EAA	59(1)(b)	1			
Breach Summary							
<i>Misappropriation of vendors money by an estate agent.</i>							
9 Oct 02	Edward Gold (aka Eduard Zolotarev) of St Kilda East	MCTA	38(1)	1	5,000	936.24	With conviction
		MCTA	38(4)	1			
		MCTA	82AR	2			
		MCTA	14(2)	1			
Breach Summary							
<i>Charges in relation to falsely representing the accuracy of an odometer, failing to comply with conditions of licence and failure to produce documents to inspectors.</i>							
10 Oct 02	Anthony Fraschilla of Hampton Park	DBCA	31(1)(n)	1		733.38	With conviction
		DBCA	31(1)(q)	1			12 month good behaviour bond
		DBCA	32(2)	1			
Breach Summary							
<i>Charges involved unregistered, uninsured builder who also failed to include details in the building contract.</i>							
15 Oct 02	Suat Tamaz of Roxburgh Park	DBCA	29(b)	1	3,000	704.67	With conviction
		DBCA	31(1)(a)	1			
Breach Summary							
<i>Domestic builder who was uninsured and used inappropriate contract.</i>							

Appendix 7: Enforcement Actions

Date of Hearing	Defendant	Act	Section/ Regs	No. of Offences	Fines \$	Costs \$	Other Orders
16 Oct 02	Paramount Steel Building Solutions Pty Ltd of North Melbourne	DBCA FTA FTA	31 19(1)(a) 11	1 2 1	8,000	503	Without conviction
Breach Summary <i>Prosecution of a builder who took excessive deposits and failed to deliver services.</i>							
16 Oct 02	John Buff of Doncaster	DBCA	29(c)	2			Without conviction 12 month bond to be of good behaviour with condition to pay \$2,000 to the Court Fund
Breach Summary <i>Director co-accused of Paramount Steel Building Solutions Pty Ltd.</i>							
21 Oct 02	Brian McLean of North Coburg	IAA	37	1	2,000	451.52	With conviction
Breach Summary <i>Provision of false information in relation to a notice of intention to act as an introduction agent.</i>							
30 Oct 02	Lifetime Property Maintenance Pty Ltd of Melbourne	FTA FTA DBCA	19(1)(a) 61(1) 11(1)(b)	4 2 3	10,000		Convicted
Breach Summary <i>Charges relating to failure to provide services, breach of contact sales and accepting excessive deposits under domestic building contract.</i>							
30 Oct 02	Angelo Augustus of Ivanhoe	FTA FTA DBCA	19(1)(a) 61(1) 11(1)(b)	5 2 2	20,000	1,000	Convicted
Breach Summary <i>Sole director of Lifetime Property Maintenance Pty Ltd that failed to provide services, breached the contact sales provisions and received excessive deposits under a domestic building contract.</i>							
1 Nov 02	Goodings Pty Ltd of Chelsea	EAA EAA EAA EAA	35(6) 16(4)(a) 16(4)(b) 47(1)	4 11 2 11	6,000	450	Without conviction
Breach Summary <i>Estate agents company that failed to notify the Business Licensing Authority in relation to the appointment of agent's representatives and failed to do proper police checks on appointments.</i>							
1 Nov 02	Wayne Goodings of Chelsea	EAA EAA EAA EAA	35(6) 16(4)(a) 16(4)(b) 47(1)	4 10 2 10	6,000	450	Without conviction
Breach Summary <i>Director of estate agency company that failed to notify the Business Licensing Authority of appointments of agent's representative and failed to obtain appropriate police reports.</i>							

Date of Hearing	Defendant	Act	Section/ Regs	No. of Offences	Fines \$	Costs \$	Other Orders
1 Nov 02	Inter-Air Services Pty Ltd	TAA	39T	1	1,000	350	With conviction
Breach Summary <i>Failure to comply with the request of an inspector to provide information and documents.</i>							
1 Nov 02	Nejla Ilhan	TAA	39T	1	1,000	350	Without conviction
Breach Summary <i>Director of travel agent who failed to provide information and documents when requested by an inspector.</i>							
8 Nov 02	David Douse of Chadstone	BA DBCA BA FTA FTA BNA	176(2A) 31(1) 136(2) 19(1)(a) 29(1)(f) 5A(2)	1 1 1 1 1 1	10,000	545.70	With conviction
Breach Summary <i>Unregistered and uninsured builder failed to complete work and traded under an unregistered business name.</i>							
11 Nov 02	Michael James of Keilor	MCTA	7(1)	1	10,000	473	With conviction
Breach Summary <i>Unlicensed motor car trading.</i>							
26 Nov 02	Steve Fuller of Melton	DBCA DBCA BA FTA FTA	11(1)(a) 29 136(2) 12(f) 19	1 1 1 1 1	10,000	450	With conviction
Breach Summary <i>Unregistered and uninsured builder who demanded excessive deposits and falsely represented that he was a member of an association and who failed to provide services.</i>							
26 Nov 02	John Tyler of Noble Park	DBCA DBCA DBCA BA BNA FTA FTA	29 11(1)(b) 31(1) 136(2) 5(1) 12 29	1 1 1 1 1 1 1	1,000	450	Without conviction
Breach Summary <i>Unregistered and uninsured builder who falsely claimed a membership to an association and who traded under an unregistered business name.</i>							

Appendix 7: Enforcement Actions

Date of Hearing	Defendant	Act	Section/ Regs	No. of Offences	Fines \$	Costs \$	Other Orders
26 Nov 02	Gregory Elliott (aka Gregory Whillance) of Coburg	IAA IAA IAA FTA	14(1) 25(1) 27(1) 12(n)	1 13 6 6		1,035.80	Six months imprisonment wholly suspended for two years.
Breach Summary <i>Ineligible person acting as an Introduction Agent, failing to provide a written contract and making misrepresentations to consumers.</i>							
26 Nov 02	Nascon Australia Pty Ltd of Ivanhoe	PCA	17	1	1,000		Without conviction
Breach Summary <i>Advertising in breach of the prostitution control regulations.</i>							
2 Dec 02	Craig Burns of Hoppers Crossing	EAA	16(2)	2		250	Without conviction bond to be of good behaviour for a period of 12 months with payment of \$500 to the Court Fund
Breach Summary <i>Acting as an agent's representative when ineligible to do so.</i>							
5 Dec 02	Kevin Phipps of Dicky Beach Qld	DBCA DBCA DBCA BNA BA	29 11 31(1) 5(1) 136(2)	1 1 4 1 1	8,000	770.15	With conviction
Breach Summary <i>Unregistered and uninsured builder who traded under an unregistered business name and demanded excessive deposits.</i>							
6 Dec 02	Mathew Batten of Clayton South	CCVA CCVA FTA CAA	37D(2) 37M 29(1) 37	1 1 1 1	4,700	450	With conviction
Breach Summary <i>Prohibited person engaged in finance broking.</i>							
21 Jan 03	Michael Meehan of East Malvern	EAA	16(2)	1	400	350	With conviction
Breach Summary <i>Acting as an agent's representative when ineligible.</i>							
21 Jan 03	Zovco Grojko of North Geelong	RTA RTA RTA RTA	35 66 405 406	1 1 1 1	1,000	475	Without conviction
Breach Summary <i>Landlord failed to provide correct documentation to tenant and failure to lodge the bond with the RTBA.</i>							

Date of Hearing	Defendant	Act	Section/ Regs	No. of Offences	Fines \$	Costs \$	Other Orders
23 Jan 03	Andrew Hastas of Heathmont	EAA FTA	12(1)(b) 29(1)	16 1	17,000	1408.73	With conviction
Breach Summary <i>Acting as an estate agent when not licensed.</i>							
30 Jan 03	Allan King (aka Michael Ahmed) of Burwood	MCTA	7(1)	1	43,200	507	With conviction
Breach Summary <i>Unlicensed Motor Car Trading.</i>							
3 Feb 03	Geoffrey Wrightman of Beaumaris	EAA	59(6)	1	600	400	Without conviction
Breach Summary <i>agent's representative failing to lodge deposit monies with employer within time.</i>							
5 Feb 03	Donald Wentman of Upwey	DBCA FTA	31(l)(i) 12(n)	1 1	750		Without conviction
Breach Summary <i>Registered builder acting outside of registration limits.</i>							
21 Feb 03	Michael Almenara of Sunbury	DBCA	29	4	10,000	8552.98	Conviction (appeal lodged)
Breach Summary <i>Unregistered building contractor.</i>							
28 Feb 03	Lucio Gangitano of Dingley Village	MCTA	7(1)	1	4,000	412.36	With conviction
Breach Summary <i>Unlicensed motor car trading.</i>							

Appendix 7: Enforcement Actions

Date of Hearing	Defendant	Act	Section/ Regs	No. of Offences	Fines \$	Costs \$	Other Orders
18 Mar 03	Eagle Carpentry Pty Ltd of Hawthorn	DBCA	29(a)	1	2,000	650	With conviction
		DBCA	31(1)(g)	1			
		DBCA	31(1)(i)	1			
		DBCA	31(1)(n)	1			
		DBCA	31(1)(q)	1			
		DBCA	11(1)(b)	1			
		BA	136(2)	1			
Breach Summary <i>Unregistered and uninsured builder with incorrect contract and demanding excessive deposits.</i>							
18 Mar 03	Ruben Fuentes of Deer Park	DBCA	29(a)	1	2,000		Without conviction
		DBCA	31(1)(g)	1			
		DBCA	31(1)(i)	1			
		DBCA	31(1)(n)	1			
		DBCA	31(1)(q)	1			
		DBCA	11(1)(b)	1			
		BA	136(2)	1			
Breach Summary <i>Director of Eagle Carpentry Pty Ltd charged with same offences.</i>							
26 Mar 03	Global Finance Solutions Pty Ltd of Braeside	CCVA	37C(2)	1	1,000	450	
Breach Summary <i>Finance broking company engaging in finance broking with ineligible person.</i>							
2 Apr 03	Australian Partfinders Pty Ltd of West Melbourne	FTA	19(1)	1	5,000	300	With conviction
Breach Summary <i>Company failing to provide services.</i>							
14 Apr 03	Baycorp Finance Pty Ltd of Hampton	CCVA	37C(2)	1	3,000	1,679	With conviction
		CCVA	37M	1			
Breach Summary <i>Finance company trading with director being ineligible and also charging an upfront fee on application.</i>							
17 Apr 03	Timothy Rickard of Mornington	MCTA	14(2)	6	3,000	300	Without conviction
		MCTA	35(2)	10			
Breach Summary <i>Licensed motor car trader selling cars in breach of condition of licence.</i>							

Date of Hearing	Defendant	Act	Section/ Regs	No. of Offences	Fines \$	Costs \$	Other Orders
24 Apr 03	Dersim Constructions Pty Ltd of Melbourne	BA	137B(2)	9	3,000		Without conviction
Breach Summary <i>Building company failing to provide warranty insurance.</i>							
24 Apr 03	Muslum Kocamis (aka Michael Kanic) of Essendon	BA	137B	9	3,000	500	Without Conviction
Breach Summary <i>Director of Dersim Construction Pty Ltd charged as co-accused.</i>							
6 Jun 03	David Bailey of Mount Evelyn	DBCA DBCA DBCA BA BA BA FTA FTA FTA BNA	29(1) 31(1) 11(1) 16(1) 136(2) 176(2A) 29(f) 19(1)(a) 19(1)(b) 5	1 1 1 1 1 1 2 1 1 1	2,000	1,057.22	Without conviction
Breach Summary <i>Unregistered and uninsured builder who failed to provide services.</i>							
10 Jun 03	Miry Lev of Moorabbin	DBCA DBCA BA FTA	29(a) 31(1) 136(2) 62	1 1 1 1	2,000	1,374.22	Without conviction
Breach Summary <i>Unregistered and uninsured builder engaging in domestic building contract work.</i>							
11 Jun 03	Anthony Lakkis of Keilor Park	RTA	424(1)	1	100	711	With conviction
Breach Summary <i>Failure to notify RTBA of transfer of rights and duties of a landlord.</i>							
18 Jun 03	CSR Ltd	TMR	32(1)	1	1,500	2,000	Without conviction
Breach Summary <i>Used for trade a weighbridge in order to determine an end-and-end measurement without complying with the regulations</i>							

Appendix 7: Enforcement Actions

Date of Hearing	Defendant	Act	Section/ Regs	No. of Offences	Fines \$	Costs \$	Other Orders
19 Jun 03	Michael Italiano of Kew	MCTA MCTA	36(2) 48(1)	1 2	2,000	840	
Breach Summary <i>Selling motor vehicles without cancellation of registered security interest.</i>							
25 Jun 03	Geoffrey Dennis of Marlo	FTA DBCA BA DBCA	11 29 137 31(1)	1 1 1 1	3,000	1,303.40	With conviction
Breach Summary <i>Unregistered and uninsured builder.</i>							
25 Jun 03	Gazebos Pty Ltd of Parkdale	DBCA DBCA BA	11(1) 31(1) 136(2)	1 3 1	1,500	677.50	With conviction
Breach Summary <i>Unregistered and uninsured builder.</i>							
25 Jun 03	Ross Howell of Parkdale	DBCA DBCA BA	11(1) 31(1) 136(2)	1 1 1	1,500	677.50	With conviction
Breach Summary <i>Director of Gazebos Pty Ltd charged as co-accused.</i>							

Abbreviations

BA	Building Act 1993
BLA	Business Licensing Authority
BNA	Business Names Act 1962
CA	Crimes Act 1958
C(A)A	Credit (Administration) Act 1984
CC(VA)	Consumer Credit (Victoria) Act 1995
DBCA	Domestic Building Contract Act 1995
EAA	Estate Agents Act 1980
EA(GAA) Regs	Estate Agents (General, Accounts and Audit) Regulations 1997
MCA	Magistrates Court Act 1989
FAA	Fundraising Appeals Act 1998
F(PM)A	Funerals (Pre-Paid Money) Act 1993
FTA	Fair Trading Act 1999
FTA 1985	Fair Trading Act 1985
IAA	Introduction Agents Act 1997
MCTA	Motor Car Traders Act 1986
PCA	Prostitution Control Act 1994
RTA	Residential Tenancies Act 1997
RTBA	Residential Tenancies Bond Authority
TMR	Trade Measurement Regulations 1995
TAA	Travel Agents Act 1986

**Appendix 8:
Enforceable Undertakings**

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Enforceable Undertakings under S146 of the Fair Trading Act 1999

Date of Undertaking	Promisee	Act	Section	Breach Summary	Nature of Undertaking
1 Jul 02	Peter Sweeney of Victoria Amateur Turf Club of Caulfield	TAA	4	Unlicensed trading as a travel agent.	To comply with the requirements of the Act to be properly licensed prior to conducting business as a travel agent.
2 Jul 02	Dell Computer Pty Ltd of Frenchs Forest	FTA	29	Failure to include full address of the company's business in advertising material.	To comply with the requirements of the Act.
4 Jul 02	Woodards Balwyn Pty Ltd of Balwyn	RTA	229	Failure to comply with the provisions of the Act in relation to the termination of a tenancy agreement.	To comply with the provisions of the Act.
4 Jul 02	Adrian John Hoogenbosch of Healesville	EAA	16(4), 35(6) & 49A(1)	Failed to sight a certificate from the Chief Commissioner of Police or take reasonable steps to ensure that a person was eligible to be an agent's representative and the use of a form of appointment that had not been approved by the Director.	To comply with the requirements of the Act in relation to the appointment of agent's representatives and to use forms which have been approved by the Director.
5 Jul 02	Gary Peer & Associates Pty Ltd ACN 006 688 295 and Gary David Peer of Caulfield North	EAA	16(4) & 47	Failure of the Officer in Effective Control to sight a certificate from the Chief Commissioner of Police or take reasonable steps to ensure that a person was eligible to be an agent's representative.	To comply with the requirements of the Act in relation to the appointment of an agent's representative.
7 Jul 02	KP Real Estate Pty Ltd ACN 066 864 551 trading as Elders Real Estate – Kilmore & Gregory Joseph Stute of Kilmore	EAA & EA(GAA) Regs	16(4), 49A, 50 & 63(3A) & R35(1) & 36	Corporation and the Officer in Effective Control failed to sight a certificate from the Chief Commissioner of Police or take reasonable steps to ensure that a person was eligible to be an agent's representative, failure to maintain full and accurate accounting records, failure to complete and keep trust account reconciliation statements, failure to secure written authority for properties that are to manage or sell.	To comply with the requirements of the Act and the regulations in relation to the appointment of an agent's representative and to accurately maintain all accounting and business records.
8 Jul 02	David Bishop of St Helena	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act.

Appendix 8: Enforceable Undertakings

Date of Undertaking	Promisee	Act	Section	Breach Summary	Nature of Undertaking
9 Jul 02	Amanda Jane Bishop of St Helena	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on her own behalf or on behalf of any other person in breach of the Act.
9 Jul 02	Clayton Real Estate Pty Ltd	EAA	16 & 55	Corporation failed to sight a certificate from the Chief Commissioner of Police or take reasonable steps to ensure that a person was eligible to be an agent's representative and to obtain the permission of the Director for an employee to purchase a property the real estate agency had been commissioned to sell.	To comply with the requirements of the Act in future if an employee or prohibited person wishes to purchase a property and in relation to the appointment of agent's representatives.
9 Jul 02	Eliza Karamoulidis of Clayton	EAA	55	Failure to obtain the permission of the Director to purchase a property the real estate agency had been commissioned to sell.	To comply with the requirements of the Act in future if she wishes to purchase a property.
9 Jul 02	Harold George Ramsey of Clayton	EAA	16(4), 29B, 30AA & 55	Failure to sight a certificate from the Chief Commissioner of Police or take reasonable steps to ensure that a person was eligible to be an agent's representative, to obtain the permission of the Director for an employee to purchase a property the real estate agency had been commissioned to sell and to ensure that the agency acted lawfully and in accordance with good estate agency practice.	To comply with the requirements of the Act in future if an employee or prohibited person wishes to purchase a property, in relation to the appointment of agent's representatives and to ensure that the agency acted lawfully and in accordance with good estate agency practice.
10 Jul 02	Stephen J Whyte of Benalla	MCTA	7	Unlicensed motor car trading	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act.
12 Jul 02	Michelle Vale of Eltham North	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act.
14 Jul 02	Carrum Downs Real Estate Pty Ltd ACN 092 029 304 trading as Ray White Carrum Downs & Leslie James Flanders of Knoxfield	EAA	12,16 & 35	Corporation conducted the business of an Estate Agent whilst not licensed, Corporation and the Officer in Effective Control failed to sight a certificate from the Chief Commissioner of Police or take reasonable steps to ensure that a person was eligible to be an agent's representative and to notify the Registrar of appointment details.	To comply with the requirements of the Act in relation to the appointment of an agent's representative and to accurately maintain all accounting and business records.

Date of Undertaking	Promisee	Act	Section	Breach Summary	Nature of Undertaking
15 Jul 02	Michael Calabrese of Traralgon	RTA	405 & 406	Failed to lodge a bond with the RTBA.	To comply with the provisions of the Act.
15 Jul 02	Ardie Lika of Footscray	RTA	405 & 406	Failed to lodge a bond with the RTBA.	To comply with the provisions of the Act.
15 Jul 02	Nick Lika of Footscray	RTA	405 & 406	Failed to lodge a bond with the RTBA.	To comply with the provisions of the Act.
17 Jul 02	Neil Jarvie of Yarrambat	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act.
18 Jul 02	Blackburn & Lockwood Australia Pty Ltd ACN 005 870 735 trading as Blackburn & Lockwood Frankston & Robin Maxwell Wearne of Frankston	EAA	29B & 30AA	Corporation and Officer in Effective Control failed to ensure that the agency acted lawfully and in accordance with good estate agency practice.	To comply with the provisions of the Act and to conduct business in accordance with good estate agency practice.
22 Jul 02	Jim Alexander & Associates Pty Ltd ACN 053 962 422 of Ormond	EAA	64 (1)	Corporation failed to cause trust accounts to be audited within 3 months of the end of the financial year.	To comply with the provisions of the Act.
22 Jul 02	James Michael Alexopoulos of South Yarra	EAA	29B & 64	Officer in Effective Control failed to cause trust accounts to be audited within 3 months of the end of the financial year and to conduct business in accordance with good estate agency practice.	To comply with the provisions of the Act and to conduct business in accordance with good estate agency practice.
23 Jul 02	Woolworths Ltd ACN 000 014 675	FAA	17A	Conducted a fundraising appeal on behalf of the Red Cross when not registered to do so.	To comply with the requirement of the Act to register as a fundraiser prior to conducting a fundraising appeal.
24 Jul 02	Noel Jones (Balwyn) Pty Ltd ACN 093 826 076 & Michael David Nolan of Balwyn	EAA	16(4)	Corporation and Officer in Effective Control failed to sight a certificate from the Chief Commissioner of Police or take reasonable steps to ensure that a person was eligible to be an agent's representative.	To comply with the requirements of the Act in relation to the appointment of an agent's representative.
1 Aug 02	DFA Property Consultants Pty Ltd ACN 074 618 107 trading as Derek Feldman Australia & Derek Joseph Feldman of Waverley	EAA & Sale of Land Act	59, 64 & 65	Corporation and Officer in Effective Control failed to cause trust accounts to be audited within 3 months of the end of the financial year and failed to obtain written authority to withdraw commission from trust account prior to settlement.	To comply with the requirements of the Acts.

Appendix 8: Enforceable Undertakings

Date of Undertaking	Promisee	Act	Section	Breach Summary	Nature of Undertaking
4 Aug 02	Kiriakos Karagiorgakis	MCTA	7	Trading as a motor car trader without being licensed.	To cease trading as an unlicensed motor car trader.
8 Aug 02	Mavis Lillian Buman of Doncaster	MCTA	405 & 406	Failed to lodge a bond with the RTBA.	To comply with the provisions of the Act.
16 Aug 02	Feriza Yamankol of Shepparton	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act.
22 Aug 02	Adrian C Cahill of Shepparton	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act.
29 Aug 02	Tampa Flats Pty Ltd ACN 071 871 497 trading as Robert Gordon Real Estate & Robert Joseph Gordon of Wallan	EAA & EA(GAA) Regs	16 & 47 & R22,28 & 35(1)	Corporation and Officer in Effective Control failed to sign a certificate from the Chief Commissioner of Police or receive a written notice from the BLA to ensure that a person was eligible to be an agent's representative, to maintain registers of cheques and receipts and to complete monthly trust account reconciliations.	To comply with the requirements of the Act and the regulations in relation to the appointment of an agent's representative and to maintain full and accurate records.
4 Sep 02	Lance Clifford Hall of Mt Evelyn	EAA	16(1)(c) & 16(2)	Acted as an agent's representative whilst disqualified to act.	Will not act as an agent's representative unless he is eligible to be employed as one.
5 Sep 02	Peter Bowman Pty Ltd ACN 007 044 475 & Peter Bowman of Narre Warren	EAA	16B	Corporation and Officer in Effective Control caused or permitted a person to be appointed as an agent's representative who was not eligible.	To comply with the requirements of the Act in relation to the appointment of an agent's representative.
13 Sep 02	Chesterton & Co Real Estate Pty Ltd ACN 007 122 152 of Clayton	EAA	16	Corporation employed as an agent's representative a person who was not eligible.	To comply with the requirements of the Act in relation to the appointment of an agent's representative.
13 Sep 02	Violeta Ristevski of Epping	EAA	16(1)(c) & 16(2)	Was employed as an agent's representative when she was ineligible.	Will not act as an agent's representative unless she is eligible to be employed as one.
16 Sep 02	Rodney C Duffy of Buninyong	MCTA	7	Unlicensed motor car trading	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act

Date of Undertaking	Promisee	Act	Section	Breach Summary	Nature of Undertaking
25 Sep 02	Advance Real Estate Pty Ltd ACN 071 131 612 & Peter Nicholls of Werribee	EAA	16	Corporation and Officer in Effective Control caused or permitted a person to be appointed as an agent's representative who was not eligible.	To comply with the requirements of the Act in relation to the appointment of an agent's representative.
29 Sep 02	90 Mile Beach Real Estate Pty Ltd ACN 092 253 917 & Leslie Charles Arnold Malins of Golden Beach	EAA	55	Failure to obtain the permission of the Director to purchase a property the real estate agency had been commissioned to sell.	To comply with the requirements of the Act in future if an employee or prohibited person wishes to purchase property.
2 Oct 02	King and Heath Pty Ltd ACN 081 636 375 trading as King 7 Heath First National & James Kevin Howlett of Paynesville	EAA	55	Failure to obtain the permission of the Director to purchase a property the real estate agency had been commissioned to sell.	To comply with the requirements of the Act in future if an employee or prohibited person wishes to purchase property.
4 Oct 02	Sam Panettieri of Carlton	EAA	16(1)(c) & 16(2)	Was employed as an agent's representative when he was ineligible.	Will not act as an agent's representative unless he is eligible to be employed as one.
9 Oct 02	Paradigm Realty Pty Ltd ACN 081 231 585 trading as GCK & Associates & George Chris Kypriotis of South Melbourne	EAA & EA(GAA) Regs	63 R27	Corporation and Officer in Effective Control failed to keep full and accurate trust accounting records and to complete monthly reconciliations.	To maintain full and accurate records in compliance with the Act and Regulations.
9 Oct 02	Robin Daley Holdings Pty Ltd ACN 005 077 841 & Robin Stanley Daley of Cranbourne	EAA	55	Failure to obtain the permission of the Director to purchase a property the real estate agency had been commissioned to sell.	To comply with the requirements of the Act in future if an employee or prohibited person wishes to purchase property.
15 Oct 02	George Stephen Racz of Berwick	EAA	63(1) & 64(1)	Failed to cause trust accounts to be audited within 3 months of the end of the financial year, to keep full and accurate trust accounting records and to complete monthly reconciliations.	To maintain full and accurate records in compliance with the Act.
17 Oct 02	Wendy Christine Keogh of Berwick	EAA	16(1)(c) & 16(2)	Was employed as an agent's representative when she was ineligible.	Will not act as an agent's representative unless she is eligible to be employed as one.
17 Oct 02	J and J Pty Ltd ACN 068 008 293 & Graeme Edward Johnston of Berwick	EAA	16B	Corporation and Officer in Effective Control caused or permitted a person to be appointed as an agent's representative who was not eligible.	To comply with the requirements of the Act in relation to the appointment of an agent's representative.
6 Nov 02	Spalding, McCutcheon Pty Ltd Real Estate ACN 004 410 888 & Richard Paul McCutcheon of Ararat	EAA	55	Failure to obtain the permission of the Director to purchase a property the real estate agency had been commissioned to sell.	To comply with the requirements of the Act in future if an employee or prohibited person wishes to purchase property.

Appendix 8: Enforceable Undertakings

Date of Undertaking	Promisee	Act	Section	Breach Summary	Nature of Undertaking
12 Nov 02	Cheap as Chips Steam & Dry Cleaning Services Pty Ltd ACN 056 233 393 of South Yarra	FTA	29	Failure to include the full address of the place of business in print advertising.	To comply with the provisions of the Act.
11 Nov 02	Zeidi Rushani Rushanovski of Footscray	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act.
15 Nov 02	Melbourne Land & Property Specialists Pty Ltd & Joy Louise Haines of Melbourne	EAA FTA	13A, 29(b) & 42(1) 12	Corporation and Officer In Effective Control failed to properly supervise agent's representatives.	To comply with the provisions of the Acts and to conduct business in accordance with good estate agency practice.
19 Nov 02	Keren Holdings Pty Ltd ACN 068 721 344 & Karen Ellaine Barker of Langwarrin	EAA	90 (1)	Corporation and Officer in Effective Control failed to correct a deficiency in trust account ledgers.	To comply with the provisions of the Act and to conduct business in accordance with good estate agency practice.
25 Nov 02	Tweed Sutherland & Co Pty Ltd ACN 005 230 142 trading as Tweed Sutherland First National Real Estate & Craig Charles Tweed of Bendigo	EAA	55	Failure to obtain the permission of the Director to purchase a property the real estate agency had been commissioned to sell.	To comply with the requirements of the Act in future if an employee or prohibited person wishes to purchase property.
17 Dec 02	Mario Costanzo of Fitzroy North	EAA	16B	Officer in Effective Control caused or permitted a person to be appointed as an agent's representative who was not eligible.	To comply with the requirements of the Act in relation to the appointment of an agent's representative.
17 Dec 02	Chamber Real Estate (Vic) Pty Ltd ACN 051 051 382 of Fitzroy North	EAA	16B	Corporation caused or permitted a person to be appointed as an agent's representative who was not eligible.	To comply with the requirements of the Act in relation to the appointment of an agent's representative.
19 Dec 02	Ray White (Victoria) Pty Ltd ACN 054 890 587 of Camberwell	FAA	17A	Conducted a fundraising appeal on behalf of Can Teen – The Australian Organisation for Young People Living with Cancer.	To comply with the requirement of the Act to register as a fundraiser prior to conducting a fundraising appeal.
24 Dec 02	Fitzroys Pty Ltd ACN 078 941 107 & Rodney Milton Fitzroy	EAA	55	Failure to obtain the permission of the Director to purchase a property the real estate agency had been commissioned to sell.	To comply with the requirements of the Act in future if an employee or prohibited person wishes to purchase property.
2 Jan 03	Flinders Realty Pty Ltd ACN 072 227 886 trading as Biggin & Scott Brighton & K Charles of Hamilton & Paul Nicholas Denver of Elsternwick	EAA	16(4)	Corporation and Officer in Effective Control failed to sight a certificate from the Chief Commissioner of Police or take reasonable steps to ensure that a person was eligible to be an agent's representative.	To comply with the requirements of the Act in relation to the appointment of an agent's representative.

Date of Undertaking	Promisee	Act	Section	Breach Summary	Nature of Undertaking
3 Jan 03	Jim Lazogas & Company Pty Ltd ABN 26 076 429 786 & Dimitrios Lazogas of Oakleigh	EAA	16(4), 35(6) & 47(1)	Corporation and Officer in Effective Control failed to sight a certificate from the Chief Commissioner of Police or receive a written notice from the BLA to ensure that a person was eligible to be an agent's representative.	To comply with the requirements of the Act in relation to the appointment of an agent's representative.
6 Jan 03	CJ Financial Services Pty Ltd ACN 099 549 854 trading as Gotcha Car & Insurance Brokers of Keysborough	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act.
16 Jan 03	Arkadian Holdings Pty Ltd ACN 081 118 710 of Fairfield	EAA	16B	Corporation caused or permitted a person to be appointed as an agent's representative who was not eligible.	To comply with the requirements of the Act in relation to the appointment of an agent's representative.
16 Jan 03	George Vrakas of Thornbury	EAA	16B	Caused or permitted a person to be appointed as an agent's representative who was not eligible.	To comply with the requirements of the Act in relation to the appointment of an agent's representative.
16 Jan 03	Joy Lorraine Allan of Frankston	EAA	16, 29B & 55	Failed to sight a certificate from the Chief Commissioner of Police or take reasonable steps to ensure in relation to 12 people that each was eligible to be an agent's representative and to obtain the permission of the Director for an employee to purchase a property the real estate agency had been commissioned to sell.	To comply with the requirements of the Act in future if an employee or prohibited person wishes to purchase a property and in relation to the appointment of agent's representatives.
16 Jan 03	Stockdale & Leggo Patterson Lakes Pty Ltd ACN 007 181 946 of Patterson Lakes	EAA	16(4)	Corporation failed to sight a certificate from the Chief Commissioner of Police or take reasonable steps to ensure in relation to 12 people that each was eligible to be an agent's representative.	To comply with the requirements of the Act in relation to the appointment of an agent's representative.
17 Jan 03	The Animal Welfare League of Victoria trading as Lort Smith Animal Hospital of North Melbourne	FAA	17A	Conducted a fundraising appeal whilst not registered from 1 January 2002 to 1 October 2002.	To comply with the requirement of the Act to register as a fundraiser prior to conducting a fundraising appeal.
20 Jan 03	Helen Mary Whiteside of Malvern	EAA	12(1)	Agent's representative incorrectly described themselves as a licensed estate agent.	To comply with the provisions of the Act.
20 Jan 03	Alexander Robertson & Co Pty Ltd ACN 073 601 091	EAA	16B	Corporation caused or permitted a person to be appointed as an agent's representative who was not eligible.	To comply with the requirements of the Act in relation to the appointment of an agent's representative.

Appendix 8: Enforceable Undertakings

Date of Undertaking	Promisee	Act	Section	Breach Summary	Nature of Undertaking
20 Jan 03	Black Star Publishing & Consulting Pty Ltd of West Footscray & Nigel Brigden of Warrandyte & Mark Andrew Gittins of St Kilda	EAA FTA BNA CC(V)A	12 12 & 29 5 37(I)(Q) & (R)	Corporation and its directors conducted business as an estate agent whilst unlicensed, published advertising that was likely to mislead and deceive the public, did not publish the full name and address of the company in its advertising, carried on business using an unregistered business name and made false and misleading statements to induce person to enter into a credit contract.	To comply with the provisions of the Acts.
22 Jan 03	The Da Silva Group Pty Ltd ACN 093 686 125 & Andrea Da Silva of Altona	EAA	16(4)	Corporation and Officer in Effective Control failed to sight a certificate from the Chief Commissioner of Police or take reasonable steps to ensure that a person was eligible to be an agent's representative.	To comply with the requirements of the Act in relation to the appointment of an agent's representative.
23 Jan 03	The Victorian Animal Aid Trust trading as Animal Aid of Coldstream	FAA	17A	Conducted a fundraising appeal whilst not registered from 1 January 2002 to 1 October 2002.	To comply with the requirement of the Act to register as a fundraiser prior to conducting a fundraising appeal.
28 Jan 03	Bonnie Babes Foundation Inc of Wantirna South	FAA	17A	Conducted a fundraising appeal whilst not registered from 1 January 2002 to 1 November 2002.	To comply with the requirement of the Act to register as a fundraiser prior to conducting a fundraising appeal.
31 Jan 03	The Australian New Zealand Breast Cancer Trials Group Ltd of Waratah	FAA	17A	Conducted a fundraising appeal whilst not registered from 1 January 2002 to 1 November 2002.	To comply with the requirement of the Act to register as a fundraiser prior to conducting a fundraising appeal.
2 Feb 03	Mark Thompson of Eaglemont	EAA	12	Failure to be licensed as an estate agent whilst conducting the business of an estate agent.	To cease acting as an estate agent unless licensed.
6 Feb 03	Justin Mark Carberry of Bacchus Marsh	EAA	16(2)	Was employed as an agent's representative when he was ineligible.	Will not act as an agent's representative unless he is eligible to be employed as one.
6 Feb 03	Scott Cameron Waldron of Bacchus Marsh	EAA	16B	Caused or permitted a person to be appointed as an agent's representative who was not eligible.	To comply with the requirements of the Act in relation to the appointment of an agent's representative.
8 Feb 03	Stockdale and Leggo (West) Pty Ltd ACN 061 082 684 of Bacchus Marsh	EAA	16B	Corporation caused or permitted a person to be appointed as an agent's representative who was not eligible.	To comply with the requirements of the Act in relation to the appointment of an agent's representative.

Date of Undertaking	Promisee	Act	Section	Breach Summary	Nature of Undertaking
10 Feb 03	Clive Anthony Dixon of Marungi	MCTA	7	Unlicensed motor car trading	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act
28 Feb 03	Challenge Cancer Support Network Inc of West Melbourne	FAA	17A	Conducted a fundraising appeal whilst not registered from July 1999 to January 2003.	To comply with the requirement of the Act to register as a fundraiser prior to conducting a fundraising appeal.
11 Mar 03	Joseph Morris of Melbourne	FAA	62	The making of a false statement and giving false information.	To comply with the provisions of the Act.
12 Mar 03	Kenneth George Redford of Apollo Bay	EAA	55	Failure to obtain the permission of the Director to purchase a property the real estate agency had been commissioned to sell.	To comply with the requirements of the Act in future if an employee or prohibited person wishes to purchase property.
18 Mar 03	Blue Star Capital Ltd of Surfers Paradise	FTA	21	Issuing documents that purported to have been issued by the Magistrate's Court of Victoria.	To comply with the requirements of the Act.
18 Mar 03	Graeme Lindsay Lord of Glen Iris	EAA	16(2)	Was employed as an agent's representative when he was ineligible.	Will not act as an agent's representative unless he is eligible to be employed as one.
20 Mar 03	Real Life Aid Inc of Essendon Airport	FAA	17A	Conducted a fundraising appeal whilst not registered from January 2001 to 31 December 2001.	To comply with the requirement of the Act to register as a fundraiser prior to conducting a fundraising appeal.
21 Mar 03	Profcoll Pty Ltd	FTA	12	Making a false and misleading representation with respect to the price of goods or services.	To comply with the requirements of the Act.
26 Mar 03	Chris Taylor of Geelong	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act.
9 Apr 03	Ash Properties Australia Pty Ltd of Melbourne	EAA	12	Corporation failed to hold an estate agent's licence whilst conducting the business of an estate agent.	To cease acting as an estate agent unless licensed.
9 Apr 03	Hugh Stephen Magee of Hawthorn	EAA	12	Failed to hold an estate agent's licence whilst conducting the business of an estate agent.	To cease acting as an estate agent unless licensed.

Appendix 8: Enforceable Undertakings

Date of Undertaking	Promisee	Act	Section	Breach Summary	Nature of Undertaking
9 Apr 03	Renato Cenedese of Hampton	EAA	12	Failed to hold an estate agent's licence whilst conducting the business of an estate agent.	To cease acting as an estate agent unless licensed.
14 Apr 03	Michael Gerard Hinds of Altona	EAA & EA(GAA) Regs	16, 35 & 49A 23, 28, 35(1) & 36	Failure to ensure that a person was eligible to be employed as an agent's representative, to maintain cheques and receipts, to verify trust account reconciliation, to obtain a managing authority for a property and to notify the Registrar of the cessation of an agent's representative.	To comply with the requirements of the Act and of the Regulations.
18 Apr 03	Rustu Senol of Coburg	FTA & EA(PC) Reg	12 24(1)(d)	Agent's representative incorrectly described themselves as a licensed estate agent.	To comply with the provisions of the Act and of the Regulations.
30 Apr 03	Lachlan Meredith Cox of Black Rock	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act.
16 May 03	Gregory Maxwell Donald of Geelong	EAA & EA(GAA) Regs	64 35 & 36	Failure to have trust accounts audited by a qualified person, to undertake trust account reconciliations and to verify trust account reconciliations within 14 days.	To comply with the requirements of the Act and of the Regulations.
21 May 03	Dinner Plain Central Reservation and Accommodation Service Pty Ltd of Dinner Plain	EAA	12	Failure to hold an estate agent's licence whilst conducting the business of an estate agent.	To cease acting as an estate agent unless licensed.
26 May 03	Maya Salim of Clayton	RTA & FTA	96, 97, 99, 124, 273, 405 & 406 12	Failure to provide copies of condition reports, written statement of rights & responsibilities, to lodge bond with RTBA. Obtained excessive bond, required the payment of utility charges that were not separately metered, attempted to evict tenant.	To comply with the requirements of the Acts.
27 May 03	Vincent Cavallo of Vermont South	DBCA & BA	11, 29 & 31 16(1)	Failure to be registered as a builder, to obtain building permit. The form of contract did not comply with the Act and to obtain excessive deposit.	To comply with the requirements of the Acts and to make restitution.

Date of Undertaking	Promisee	Act	Section	Breach Summary	Nature of Undertaking
27 May 03	Geoffrey Wayne Cleaver of South Yarra	EAA	16, 29B, 49A & 63	Officer in Effective Control failed to sight a certificate from the Chief Commissioner of Police or take reasonable steps to ensure that a person was eligible to be an agent's representative, to verify trust account reconciliation and to obtain a managing authority.	To comply with the requirements of the Act in relation to the appointment of an agent's representative and the conduct of estate agency business.
29 May 03	Paul Borg of Mt Evelyn	DBCA & BA & BNA	8, 11, 29 & 31 16 12	Failure to be registered as a builder, to obtain building permit, implied warranties had not been met, advise of change of business address. The form of contract did not comply with the Act and to obtain excessive deposit.	To comply with the requirements of the Acts and to make restitution.
2 Jun 03	Nicholas Leslie Cartledge of Ascot Vale	EAA	16	Officer in Effective Control failed to sight a certificate from the Chief Commissioner of Police or take reasonable steps to ensure that a person was eligible to be an agent's representative.	To comply with the requirements of the Act in relation to the appointment of an agent's representative.
7 Jun 03	Shane Damien McIntyre of Tullamarine	EAA & EA(PC) Reg	30 11	Failure to ensure that licensed or approved person managed a branch office.	To comply with the provisions of the Act.
10 Jun 03	Peter Wilson of Cobram	EAA & EA(GAA) Regs	16, 40, 47, 49, 50 & 63 22, 23, 28, 35 & 36	Officer in Effective Control failed to sight a certificate from the Chief Commissioner of Police or take reasonable steps to ensure that a person was eligible to be an agent's representative, to bank monies by the end of the next business day and keep appropriate trust accounting records, to correctly mark receipts, to verify trust account reconciliations and to specify commissions.	To comply with the requirements of the Act in relation to the appointment of an agent's representative and the conduct of estate agency business.
10 Jun 03	Malik Zaveer of Hallam	MCTA	7	Unlicensed motor car trading	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act.

Appendix 8: Enforceable Undertakings

Date of Undertaking	Promisee	Act	Section	Breach Summary	Nature of Undertaking
11 Jun 03	David McPhee of Mildura	EAA & RTA & EA(GAA) Regs	16, 47, 49, 50, 59 & 63 35 23 & 36	Officer in Effective Control failed to sight a certificate from the Chief Commissioner of Police or take reasonable steps to ensure that a person was eligible to be an agent's representative, to inform the Director that trust account had been opened, to bank monies by the end of the next business day and keep appropriate trust accounting records, to correctly mark receipts, to verify trust account reconciliations and to specify commissions, to provide vendors with a copy of authority to sell and to obtain authority to manage property.	To comply with the requirements of the Act in relation to the appointment of an agent's representative and the conduct of estate agency business.
16 Jun 03	Jim Parnell of Katamatite	EAA & EA(GAA) Regs	16, 35, 47, 49A, 50, 59 & 63 22, 23, 24, 27, 28, 35 & 36	Officer in Effective Control failed to sight a certificate from the Chief Commissioner of Police or take reasonable steps to ensure that a person was eligible to be an agent's representative, to bank monies by the end of the next business day and keep appropriate trust accounting records, to correctly mark receipts, to verify trust account reconciliations and to specify commissions.	To comply with the requirements of the Act in relation to the appointment of an agent's representative and the conduct of estate agency business.
17 Jun 03	Gerald Francis Betts of Port Melbourne	EAA	55	Failure to obtain the permission of the Director to purchase a property the real estate agency had been commissioned to sell.	To comply with the requirements of the Act in future if an employee or prohibited person wishes to purchase property.
19 Jun 03	Graeme Wayne Male of St Arnaud	EAA & EA(GAA) Regs	49A(2) & 63(1) 32 & 35(1)	Failure to maintain trust accounts, to correctly complete monthly trust account reconciliations, to retain reconciliations, to enter into trust account records details of trust monies received and to retain selling and management authorities.	To comply with the requirements of the Act and the regulations and maintain complete and accurate accounting records.
19 Jun 03	Gregory John Wasmund of Beacon Cove	EAA	55	Failure to obtain the permission of the Director to purchase a property the real estate agency had been commissioned to sell.	To comply with the requirements of the Act in future if an employee or prohibited person wishes to purchase property.

Abbreviations

BA	Building Act 1993.	FAA	Fundraising Appeals Act 1998 Regulations 1997.
BNA	Business Names Act 1962.	F(PM)A	Funerals (Pre-Paid Money) Act 1993.
CC(V)A	Consumer Credit (Victoria) Act 1995.	IAA	Introduction Agents Act 1997.
CC(V)C	Consumer Credit (Victoria) Code.	MCTA	Motor Car Traders Act 1986.
DBCA	Domestic Building Contracts Act 1995.	MCTA Regs	Motor Car Traders Act Regulations 1998.
EAA	Estate Agents Act 1980.	PCA	Prostitution Control Act 1994.
EA(GAA) Regs	Estate Agents (General, Accounts and Audit).	RTA	Residential Tenancies Act 1997.
EA(PC) Reg	Estate Agents (Professional Conduct) Regulations 1997.	SHDPA	Second Hand Dealers and Pawnbrokers Act 1989.
FTA	Fair Trading Act 1999.	TAA	Travel Agents Act 1986.

**Appendix 9:
Trust Funds Managed by
Consumer Affairs Victoria**

Consumer Affairs Victoria manages eight distinct funds established by Acts of Parliament. Two of these funds relate to the Residential Tenancies Bond Authority.

The authority for and purposes of these funds is as follows:

Fund	Act of Parliament	Source of Income	Expenditure purposes
Consumer Credit Fund	<i>Credit (Administration) Act 1984</i> Ss. 86AA – 86AC	Credit provider contributions. Interest on investments.	Grants permitted by s. 86AB of the Act. Administration of the Act.
Domestic Builders Fund	<i>Domestic Building Contracts Act 1995</i> S. 124	Part share of the Domestic Builder registration fees and Domestic Building Dispute Levy collected by the Building Commission. Income on investments VCAT fees relating to the Domestic Building List Fines.	Administration of the Act. VCAT costs relating to the Domestic Building List. Grants permitted by s.124(3)(d) of the Act.
Estate Agents' Guarantee Fund	<i>Estate Agents Act 1980</i> Ss. 71 – 91	Interest on estate agents' trust accounts. Interest on investments. Licensing fees. Fines.	Administration of the Act. Additional outlays permitted by s.76(3) of the Act. Operation of the Estate Agents Council. Guarantee claims.
Motor Car Traders' Guarantee Fund	<i>Motor Car Traders Act 1986</i> Ss. 74 – 75	Interest on investments. Licensing fees. Fines. Recovery of claims paid.	Administration of the Act. Guarantee claims.
Prostitution Control Fund	<i>Prostitution Control Act 1994</i> S. 66	Licensing fees. Fines.	Administration of the Act.
Residential Tenancies Fund	<i>Residential Tenancies Act 1997</i> Ss 491 – 498A	Transfers from Residential Bonds Investment Income Account. Interests on investments. VCAT fees relating to the Residential Tenancies List. Interest on individual bond trust accounts.	Administration of the Act. VCAT costs relating to the Residential Tenancies List. Payments for Research & education permitted by s. 495 of the Act.
Residential Bonds Investment Income Account	<i>Residential Tenancies Act 1997</i> S. 436	Interest received from the investment of the Residential Bonds Account, and Residential Bonds Investment Income Account.	Administration of the Residential Tenancies Bond Authority Any amount declared as an additional amount to be added to the bond upon repayment (none yet declared). Transfers to the Residential Tenancies Fund
Residential Bonds Account	<i>Residential Tenancies Act 1997</i> S. 435	Bonds lodged with the Residential Tenancies Bond Authority	Repayment of bonds.

Please refer to Key Financial Information table for additional information.

Appendix 10: Key Financial Indicators 2002-2003

	Revenue to the Consolidated Fund generated by CAV	Appropriations & Special Appropriations to CAV from the Consolidated Fund	Consumer Credit Fund	Domestic Builders Fund
CAV Revenue				
Fees	9,702,649	–	–	–
Fines	285,354	–	–	250
Sales of goods and services	723,897	–	–	–
Appropriations from the Consolidated Fund	–	18,443,983	–	–
Investment income	–	–	105,218	40,958
Interest from external trust accounts	–	–	–	–
Recovery of claims paid	–	–	–	–
Other income (note 4)	312,221	60,436	2,461,725	–
Consumer Utilities Advocacy Centre funding (note 5)	–	770,000	–	–
Transfer from RTBA	–	–	–	–
Transfers from Building Commission	–	–	–	4,039,144
Total CAV Revenue	11,024,121	19,274,419	2,566,943	4,080,352
VCAT fees	–	–	–	271,578
Total Revenue	11,024,121	19,274,419	2,566,943	4,351,930
CAV expenditure				
Employee costs	–	10,360,303	–	1,440,966
Community Agency funding	–	857,973	–	83,473
Grants from Trust Funds	–	–	130,336	–
Claims on Guarantee Funds	–	–	–	–
Outsourcing of registry services	–	–	–	–
Other CAV operating costs	–	7,286,143	23,595	567,330
Consumer Utilities Advocacy Centre payment	–	770,000	–	–
Total CAV Expenditure	–	19,274,419	153,931	2,091,769
VCAT employee costs	–	–	–	914,609
Other VCAT operating costs	–	–	–	473,113
Total Expenditure	–	19,274,419	153,931	3,479,491
Transfer to Consolidated Fund	11,024,121	–	–	–
Surplus / (Deficit)	–	–	2,413,012	872,439
Prior period adjustments (note 6)	–	990,154	–	60,153
Trust Funds Closing equity	na	na	3,893,655	2,061,533

Notes:

- The information in this table has been drawn from the data supporting the Audited Financial Statements of the Department of Justice, but is not itself an audited financial statement.
- Revenue and expenditure is shown net of GST. The net amount of GST recoverable from or payable to the Australian Taxation Office is recognised in the accounts of the Department of Justice.
- Values shown for the Residential Tenancies Bond Authority relate solely to the Residential Bonds Income Investment Account. At 30 June 2003 a further \$265.5 million was held in the Residential Bonds Account representing bonds held on trust for landlords and tenants.
- Other income for the Prostitution Control Fund represents a transfer of funds from CAV Appropriations.
- Funding for the Consumer Utilities Advocacy Centre was initially an appropriation to the Department of Treasury and Finance, subsequently transferred to Consumer Affairs Victoria.
- These adjustments relate to purchase of assets in previous years for use in activities related to the trust funds which through a system fault were initially treated as a cost to appropriations.

Estate Agents' Guarantee Fund	Motor Car Traders' Guarantee Fund	Prostitution Control Fund	Residential Tenancies Bond Authority	Residential Tenancies Fund	TOTAL FROM TRUST FUNDS
1,256,009	2,265,078	284,718	-	-	3,805,805
-	60,101	8,443	-	-	68,794
-	-	-	-	-	-
-	-	-	-	-	-
9,444,579	86,039	16,648	12,370,329	843,426	22,907,197
27,076,937	-	-	-	411,476	27,488,413
-	199,221	-	-	-	199,221
11,124	42,128	250,000	-	49,890	2,814,867
-	-	-	-	-	-
-	-	-	(8,900,000)	8,900,000	-
-	-	-	-	-	4,039,144
37,788,649	2,652,567	559,809	3,470,329	10,204,792	61,323,441
-	-	-	-	1,708,919	1,980,497
37,788,649	2,652,567	559,809	3,470,329	11,913,711	63,303,938
2,464,198	1,691,199	355,995	563,473	2,069,797	8,585,628
23,027	158,309	-	-	2,554,740	2,819,549
1,954,304	-	-	-	-	2,084,640
15,487	747,807	-	-	-	763,294
-	-	-	2,117,611	-	2,117,611
2,847,989	583,553	163,703	723,277	1,714,014	6,623,461
-	-	-	-	-	-
7,305,005	3,180,868	519,698	3,404,361	6,338,551	22,994,183
-	-	-	-	5,096,978	6,011,587
-	-	-	-	1,514,439	1,987,552
7,305,005	3,180,868	519,698	3,404,361	12,949,968	30,993,322
-	-	-	-	-	-
30,483,644	(528,300)	40,110	65,968	(1,036,256)	32,310,616
(900,711)	(108,703)	(6,990)	1,864	(35,767)	(990,154)
177,509,900	1,114,314	255,719	841,872	16,576,223	202,253,216

***Appendix 11:
Legislation Administered by
Consumer Affairs Victoria***

**Acts of Parliament assigned to
the Minister for Consumer Affairs
as at 30 June 2003**

1. Associations Incorporation Act 1981
2. Business Licensing Authority Act 1998
3. Business Names Act 1962
4. Carriers and Innkeepers Act 1958
5. Chattel Securities Act 1987
(Except Part 3 – which is administered
by the Minister for Transport)
6. Collusive Practices Act 1965
7. Companies (Administration) Act 1981
8. Consumer Credit (Victoria) Act 1995
9. Co-operatives Act 1996
10. Credit Act 1984
11. Credit (Administration) Act 1984
12. Credit Reporting Act 1978
13. Defence Reserves Re-employment Act 1995
14. Discharged Servicemen's Preference Act 1943
15. Disposal of Uncollected Goods Act 1961
16. Domestic Building Contracts Act 1995
(Except Part 5 – which is administered
by the Attorney-General)
17. Estate Agents Act 1980
18. Fair Trading Act 1999
19. Frustrated Contracts Act 1959
20. Fuel Prices Regulation Act 1981
21. Fundraising Appeals Act 1998
22. Funerals (Pre-Paid Money) Act 1993
23. Goods Act 1958
24. Hire-Purchase Act 1959
25. House Contracts Guarantee Act 1987
26. Introduction Agents Act 1997
27. Landlord and Tenant Act 1958
28. Liquor Control Reform Act 1998
29. Marketable Securities Act 1970
30. Motor Car Traders Act 1986
31. Partnership Act 1958
32. Patriotic Funds Act 1958
33. Petroleum Products (Terminal Gate Pricing)
Act 2000
34. Petroleum Retail Selling Sites Act 1981
35. Prostitution Control Act 1994
36. Residential Tenancies Act 1997 (ss.24, 25, 27,
32, 33, 45-48, 74-77, 82, 90, 91, 102, 103,
104(1), 104(4), 104(5), 105(2), 105(3), 124,
128, 130-134, 141-212, 214, 215, 230, 232-234,
241, 277, 291-333, 335-341, 343-366, 373-376,
385, 388, 390, 395-398, 400-439, 486-504,
506-511; s.66(1) jointly with the Minister for
Housing; the Act is otherwise administered by
the Attorney-General, the Minister for Housing
and the Minister for Planning
37. Retirement Villages Act 1986
38. Sale of Goods (Vienna Convention) Act 1987
39. Sale of Land Act 1962
40. Sea-Carriage Documents Act 1998
41. Second-Hand Dealers and Pawnbrokers Act 1989
42. Subdivision Act – Part 5; section 38; and section
43 insofar as it relates to Part 5 and section 38.
The Act is otherwise administered by the
Minister for Planning.
43. Trade Measurement Act 1995
44. Trade Measurement (Administration) Act 1995
45. Travel Agents Act 1986
46. Trustee Act 1958
47. Trustee Companies Act 1984, jointly with
the Treasurer
48. Utility Meters Control (Metrological Controls)
Act 2002

Acronym	Full title		
ACCC	Australian Competition and Consumer Commission	IVR	Interactive Voice Response
ADR	Alternative Dispute Resolution	LMCT	Licensed Motor Car Trader
AMES	Adult Multicultural Education Service	MCCA	Ministerial Council on Consumer Affairs
ARAV	Australian Retailers Association Victoria	MCTGF	Motor Car Traders Guarantee Fund
ASIC	Australian Securities and Investment Commission	MCTGFCC	Motor Car Traders Guarantee Fund Claims Committee
BACV	Building Advice & Conciliation Victoria	PFC	Patriotic Funds Council
BLA	Business Licensing Authority	REIV	Real Estate Institute of Victoria
BPM	Best Practice Model	RTBA	Residential Tenancies Bond Authority
CAV	Consumer Affairs Victoria	RTIS	Residential Tenancies Inspection Service
CAT	Consumer Affairs Tasmania	SCOCA	Standing Committee of Officials of Consumer Affairs
CATAS	Consumer and Tenancy Advice Service	SAS	Scam Alert System
CCLS	Consumer Credit Legal Service	TCF	Travel Compensation Fund
CEIS	Consumer Education In Schools	TTMR	Trans Tasman Mutual Recognition
CPAC	Consumer Products Advisory Committee	UCCCMC	Uniform Consumer Credit Code Management Committee
CUAC	Consumer Utilities Advocacy Centre	UTML	Uniform Trade Measurement Legislation
DHS	Department of Human Services	VCAT	Victorian Civil and Administrative Tribunal
DOJ	Department of Justice	VCOSS	Victorian Council of Social Services
DTF	Department of Treasury and Finance	VECCI	Victorian Economic Chamber of Commerce and Industry
EARS	Estate Agents Resolution Service	VGSO	Victorian Government Solicitors Office
EAC	Estate Agents Council		
EAGF	Estate Agents Guarantee Fund		
EOCV	Equal Opportunity Commission Victoria		
ERC	Expenditure Review Committee		
ESC	Essential Services Commission		
EWOV	Energy and Water Ombudsman of Victoria		
FTOAC	Fair Trading Operations Advisory Committee		
FOI	Freedom of Information		
HGF	Housing Guarantee Fund		
ICU	Indigenous Consumers Unit		
ISO	International Organisation for Standardisation		

Contact Consumer Affairs Victoria

Write to us at:

Consumer Affairs Victoria

GPO Box 123A
Melbourne 3001

FAX: (03) 9627 6007

Email: consumer@justice.vic.gov.au

Website: www.consumer.vic.gov.au

Consumers can also email enquiries or submit complaints via forms available on the CAV website.

CAV is open for enquiries Monday to Friday between the hours of 8.30am and 4.30pm at Level 2, 452 Flinders Street, Melbourne.

Industry Complaint Handling Processes

Traders who are part of an industry association often have access to dispute resolution mechanisms available through their association. Generally this is a free service and one that can be explored by consumers if a resolution cannot be achieved via the member trader.

Victorian Civil and Administrative Tribunal (VCAT)

VCAT adjudicates disputes between consumers and traders, tenants and landlords, and traders against traders. It is responsible for a Civil Claims List and a Residential Tenancies List. Determinations made at VCAT are legally binding and enforceable. Enquiries can be made to VCAT on 9628 9700.

Telephone CAV between 9.00am and 5.00pm Monday to Friday:

General enquiries

1300 558 181

Household goods/services enquiries

Motor vehicle enquiries

Residential tenancies enquiries

Bodies corporate enquiries

Building Advice and Conciliation Victoria (BACV)

1300 557 559

Business names enquiries

1300 361 673

Business licensing enquiries

1300 135 452

Residential tenancies bond enquiries

1300 137 164

Estate Agents Resolution Service (EARS)

1300 737 030

Indigenous enquiry line

1300 661 511

Arabic enquiry line

1300 655 503

Vietnamese enquiry line

1300 855 110

Liquor licensing

9655 6696

Trade measurement

1300 365 500

Personal Relay Service for the Deaf (PRS)

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Published by:

Consumer Affairs Victoria
452 Flinders Street
Melbourne 3000

November 2003

Also published on www.consumer.vic.gov.au

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Authorised by the Victorian Government,
452 Flinders Street
Melbourne 3000

Printed by: Strathcourt Printing

11-19 Lithgow Street, Abbotsford 3067

ISBN: 0-9750813-4-9

C-03-01-726