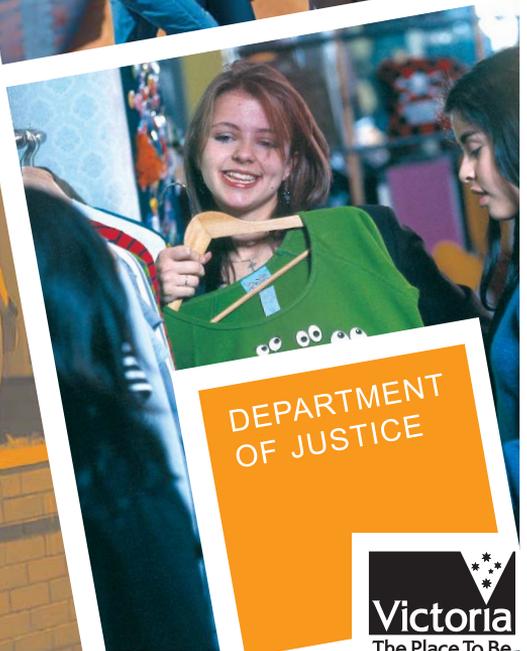


Consumer Affairs Victoria

Annual Report 2003–2004



Consumer Affairs
Victoria



DEPARTMENT
OF JUSTICE



Victoria
The Place To Be



Consumer Affairs Victoria Annual Report 2003-2004

Report to the Minister for Consumer Affairs
for the year ended 30 June 2004

Ordered to be printed December 2004
No. PP102 Session 2003/2004





John Lenders MP
Minister for Consumer Affairs



Department of Justice

Director
Consumer Affairs Victoria

3/452 Flinders Street,
Melbourne, Victoria 3000
GPO Box 123A
Melbourne, Victoria 3001
Telephone: (03) 9627 6017
Facsimile: (03) 9627 6040
Email: consumer@justice.vic.gov.au
DX210220

John Lenders MP
Minister for Consumer Affairs
1 Macarthur Street
EAST MELBOURNE VIC 3002

Dear Minister

Annual Report 2003-2004

I present to you my report on the activities and operations of Consumer Affairs Victoria for the year ended 30 June 2004.

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, particularly the vulnerable and disadvantaged, and do so in the context of making markets work better.



DIRECTOR'S FORWARD



Consumer Affairs Victoria (CAV) had a busy year in 2003-04. Our core work expanded more rapidly than expected, in part because of our higher profile in the community, and we have vigorously pursued the priorities set at the start of the year. Major changes to the Community Program followed an extensive review by the Government and resulted at the end of the year in a flurry of activity culminating in the opening of a new regional CAV office at Wangaratta and the establishment of mobile services in the northeast of Victoria and in the eastern metropolitan region. Change and revitalisation of CAV have benefited the community in many tangible ways, as outlined in this annual report, and have made CAV an exciting place to work.

Consumer Affairs Victoria is a business unit of the Department of Justice in Victoria. Its functions include policy advice (to the Minister for Consumer Affairs, John Lenders MP and the Department Secretary, Penny Armytage); service delivery, (for example providing a telephone enquiry service, third party complaint resolution and business registration and licensing); and business regulation. The Director of Consumer Affairs is a statutory position not generally subject to formal direction from the Minister or Secretary in the performance of his or her statutory functions. This is appropriate given the need to maintain consumer, business and community confidence in the independence of decision making by the Director. This Annual Report is the key public accountability mechanism for the Director to report on the exercise of his powers and functions.

Consumer Affairs Victoria currently administers 48 Acts of Parliament and is a major marketplace regulator in Victoria. The most important of these Acts is the Fair Trading Act. By emphasising the Fair Trading Act as our key enforcement tool it is considered that there will be greater consistency in conduct regulation across industries and lower compliance costs for businesses, especially if some industry specific legislation can be avoided.

Since taking on the position of Director I have continued to espouse strongly the important economic role performed by CAV. This is encapsulated in the objective 'helping to make markets work'. CAV is able to advise the Government on what the framework of rules should be within which traders are allowed to compete. CAV can also influence who the competitors are and whether they adhere to the rules established for them. It can enhance competition by empowering consumers to be more effective marketplace players. This integrated market perspective helps to obtain a better understanding of consumer problems and how they might best be addressed to enhance market performance.

I have also been a strong advocate for the adoption of broader national perspectives in applying consumer policy at the State level. In this respect, it was pleasing to note the initiative of the State and Territory Ministers during the year to sign a Joint Consumer Protection Agreement aimed at achieving better compliance and enforcement, improved products safety laws and dealing more effectively with property investment marketeers and scam mail operators.

Protecting and promoting the interests of vulnerable and disadvantaged consumers is and must continue to be a key focus for CAV. Understanding the basis for vulnerability and disadvantage, including its market context, is necessary for achieving effective interventions. Over the past year CAV has initiated significant work in this area. Targeting problems which are of particular concern to vulnerable and disadvantaged consumers and ensuring empowerment activities are appropriately directed to vulnerable and disadvantaged consumers have been important drivers of CAV action in 2003-04. The changes made to the Community Program have the potential, in my view, to enable far more effective engagement with vulnerable and disadvantaged consumers across the whole State.

CAV has made considerable progress across many fronts over the past year. The new management structure and management team introduced near the start of the year have assisted this progress. The more flexible and streamlined organisational structure has allowed for quicker responses, although coordination across the organisation still remains a challenge. The trade measurement and liquor licensing functions transferred to CAV last year have been successfully integrated into the wider organisation.

Awareness among staff of the need to deal with the systemic issues raised by complaints, rather than just dealing with them as one-off conciliation cases, has grown. An increased emphasis on assisting traders to comply with the law has been achieved, although much still remains to be done in this area. A more accountable and strategic approach to enforcement has also been achieved and there has been a greater willingness to utilise all available enforcement mechanisms. Substantial work has been done during the year on reviewing contracts in light of the new unfair contracts provisions of the Fair Trading Act. Many businesses have been amending their contracts in light of this new law. Its impact over time will be substantial.

The focus on credit and housing during the year has been in line with the economic importance of these areas in driving aggregate consumer demand and their impact on consumers. Product safety has also been

emphasised. It has been disturbing to find significant non-compliance with product safety laws. Indeed, more banned goods were seized over the past year by CAV inspectors than in any other year. It has also been disappointing that the courts have not seemed to regard non-compliance with the same degree of concern held by CAV. It is pleasing that there is a growing recognition of the need to review the effectiveness of Australian product safety laws in light of the approaches adopted in Europe and the United States of America.

Many problems that CAV deals with have existed for many years and there needs to be a reconsideration of the way they are dealt with, or indeed as is now the case, not dealt with. An obvious example here is the ease with which rogue traders can escape CAV action by utilising the bankruptcy laws and later re-establishing themselves in new phoenix organisations. A number of traders named for poor service in last year's annual report have taken this route this year, thus avoiding their obligations to compensate consumers for their poor trading. Amendment to the commonwealth corporations law is necessary to deal with this problem.

Whilst rationalisation of unnecessary or redundant consumer legislation remains a goal for CAV to achieve, a substantial program of legislation reviews was initiated in 2003-04. These reviews cover areas that are vital to everyday living for many Victorians. At the end of the year there were six major reviews of legislation in train led by MPs appointed by the Minister. CAV's record of achievement in responding to the need for urgent legislation reform during 2003-04 was impressive.

Other market interventions have also been reviewed. This report outlines the evaluations conducted of our major information campaigns, in line with a recommendation made by the Public Accounts and Estimates Committee of the Parliament.

Consumer information and awareness raising activities have continued throughout the year to be an area of CAV's strength. A significant education element has been added with the successful implementation of the Consumer Education in Schools Program. CAV

research confirmed that consumer education plays only a small part in most school curricula these days. Perhaps not surprisingly, surveys are showing low levels of financial literacy in the community and poor buying skills are evident on a day-to-day basis in the complaints reported to CAV. Consumer Affairs Victoria has worked closely with school educators and specialists to start to redress these concerns and has achieved considerable recognition for the work that has been done in designing new materials for teachers and children.

In line with our strategic priorities, substantial gains have also been achieved over the year in service delivery especially with the development and expansion of on-line services, the growth of website usage, faster call centre responses and reduced backlogs in complaint handling, investigation and registration activities.

Further work remains to be done to ensure Alternative Dispute Resolution schemes, whether part of Government, the courts or the private sector are utilised to the optimum degree and are operated effectively and efficiently.

I would particularly like to mention three key initiatives among the many taken during the year, which over time may have a significant impact on consumer policy and regulation. First, the National Consumer Congress organised by CAV in March 2004 provided a rare opportunity for the consumer movement and others across Australia to meet and discuss future directions. Coinciding with the Congress, CAV invited Dame Deidre Hutton, Chair of the National Consumer Council in the UK, to deliver a memorial address in honour of Ruby Hutchinson, a founder of the Australian consumer movement. This was a revival of scholarship in the field which has been sadly lacking for a number of years.

Secondly, the establishment of the Working Together Forum in Victoria was an important step toward achieving more effective dialogue between CAV and the major organisations representing consumer interests and the interests of vulnerable and disadvantaged

groups in the community. It is hoped that the forum will be an opportunity for open discussion on ways to progress issues of concern to the groups represented, to hear their views, and to build understanding of actions taken by CAV.

Thirdly, the establishment of a Regulators Forum in Victoria was an important step by CAV to achieve better understanding by regulators of what other regulators are doing and of how regulation may be improved. It is not just the quantum of what is on the statute book that defines the impact of regulation on business and the community. Often of more importance is how that regulation is actually implemented. If the Forum can point to ways of enhancing the quality of regulation by government agencies generally it will be a major step forward.

During the year I was privileged to be able to attend the Consumers International World Congress of consumer organisations held in Lisbon, Portugal and following the Congress to visit government and consumer organisations in the UK and Europe. These visits were conducted with the Queensland Commissioner for Fair Trading and provided a significant opportunity to learn about current consumer policy directions in other countries. A report back on the visits was provided to the Standing Committee of Officials of Consumer Affairs Agencies.

Finally, I would like to acknowledge the strong support and leadership provided for CAV during the year by the Minister for Consumer Affairs, John Lenders MP. CAV has benefited from the assistance provided to it by many other parts of the Department of Justice under the direction of the Secretary, Penny Armytage. CAV has also appreciated the opportunity to work with Members of Parliament on reviews during the year, including Mr Johan Scheffer, Ms Helen Buckingham, Ms Maxine Morand, Ms Dianne Hadden, Mr Luke Donellan and Mr Noel Pullen.

I would also like to acknowledge the work of the funded community agencies.

Many statutory bodies have continued to work in close partnership with CAV. In particular, I would like to mention the Business Licence Authority (Chair Ms Fiona Smith; Members Mr Stuart Ward and Ms Julianne Parsons); Motor Car Traders' Guarantee Fund Claims Committee (Chair Mr Stuart Ward); Director of Liquor Licensing (Mr Brian Kearney and Acting Director Ms Sue Maclellan); Estate Agents Council (Chair Mr John Dillon); Prostitution Advisory Council (Chair Ms Melanie Raymond); Patriotic Funds Council (Chair Mr Ray Ward); Defence Reserves Re-Employment Board (Chair Mr George Logan); Consumer Credit Advisory Committee (Chair Mr Denis Nelthorpe); Consumer Utilities Advisory Committee (Chair Professor Bill Russell); Housing Guarantee Fund Ltd (Chair Mr Garry Richardson) and Building Commission (Commissioner Mr Tony Arnell).

The Executive Management Group and the Corporate Management Group (comprising all the General Managers) have reacted positively to the challenges of the new structure and have driven achievement of the organisational objectives and priorities. For this they should be commended. In particular, I acknowledge the role played by our Deputy Director, Dr Claire Noone, in this regard. Finally, I wish again to acknowledge the dedication of the staff of CAV who have continued to demonstrate the highest ideals of public service in performing their tasks of helping to protect and promote the interests of consumers.



Dr David Cousins
Director
Consumer Affairs Victoria

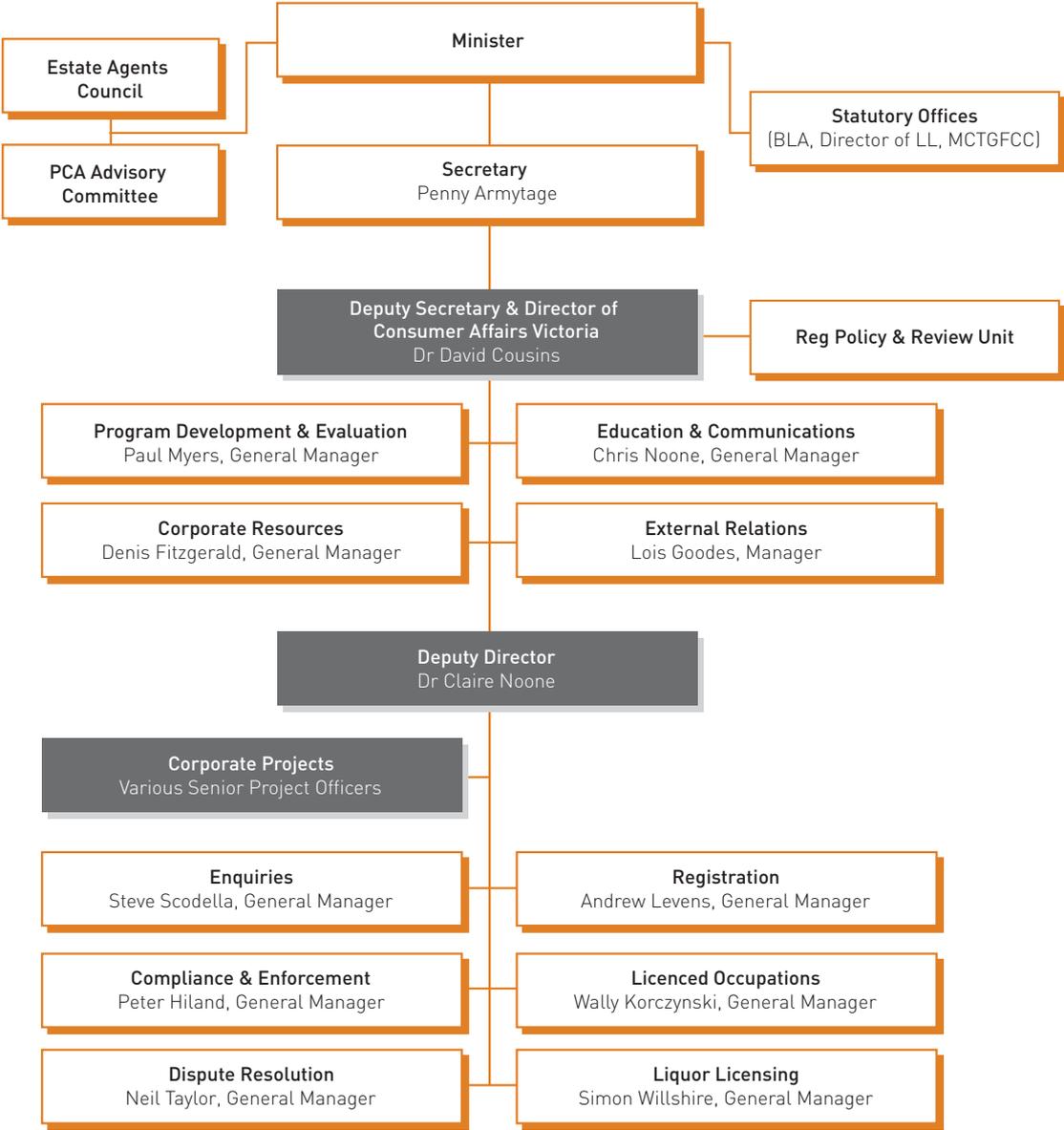
“ Contents ”

006	Director's Forward	031	Ensuring existing interventions in the marketplace are efficient and effective
014	Organisational structure	032	Ensuring problems are addressed in the right ways
015	About Consumer Affairs Victoria	032	Legislation reviews
016	Key achievements - the year in review	032	Bodies corporate
017	Looking forward	033	Retirement villages
019	Addressing current and emerging marketplace issues	033	Fundraising
020	Responding promptly to new problems	033	Incorporated associations
020	Credit and finance	034	Special Feature: Harmonisation of estate agents' licensing requirements
021	Vendor terms contracts	035	Victorian Property Fund
021	Debt collection guidelines	035	Victorian Regulators Forum
021	Finance and mortgage brokers	035	Implied conditions and warranties and waivers for recreational services
021	Credit and debt enquiries	036	Venture capital funds
021	Home building	037	Special Feature:
022	Property marketing		Evaluation of education initiatives
022	Scope of the application of the Domestic Building Contracts Act	037	Special Feature: Real estate education
022	Unfair contract terms legislation	038	Special Feature: Evaluating residential tenancies campaign
023	Scams	039	Special Feature:
024	Special Feature: Top five scams faced by Victorian consumers		New Country - New Home evaluation
025	On-line trading	041	Targeting issues of concern to vulnerable and disadvantaged consumers
025	Victoria leads national e-commerce working party	042	Empowering vulnerable and disadvantaged consumers
026	Best practice model	042	Improving access to services
026	Telemarketing	043	Indigenous Consumers Unit
027	<i>Estate Agents and the Sale of Land Act 2003</i>	043	Multicultural Consumers Unit
027	Improving fuel pricing	043	Funding for vulnerable and disadvantaged
027	Electricity marketing	045	New service delivery model
028	Furniture retailers	046	Promoting residential tenancies information
028	Fitness centres		
029	Voucher schemes		
029	Refunds		

046	Bilingual community educators	072	Product safety
047	Multicultural publications	075	Special Feature: Retail awards for compliance
049	Providing leadership in alternative dispute resolution	076	Trade measurement
050	Making dispute resolution accessible	078	Licensing and registration
050	Assessing complaints - successful outcomes	080	Prostitution regulation
051	Industry watch	080	Business names
051	BACV	081	Incorporated co-operatives
052	Solving problems more often	081	Government guarantee co-operatives
052	EARS	081	Limited partnerships
055	Residential tenancies	082	Liquor licensing
055	Goods left behind	082	Strengthening information and education services
055	Repairs	084	Spreading the word, empowering consumers
055	Rental assessments	084	Enquiries - the consumer frontline
059	Special Report: Problems with general traders	086	Residential tenancy issues
063	Strengthening compliance and enforcement	088	Residential Tenancies Bond Authority
065	Enforcing compliance	089	Getting the message out
065	New enforcement guidelines	089	Targeting young people
065	Fair Trading Act Amendments	091	Special Report: Improving financial literacy among young Victorians
065	Key investigation: metropolitan enforcement and compliance exercise	093	<i>Stuff</i> 2003
066	Key investigation: regional compliance and enforcement program	093	Targeting homebuyers and sellers
066	Major compliance program: Estate agent trust accounts	093	Real estate education campaign
066	Key prosecutions: domestic building	094	Estate agent education
067	Key prosecutions: credit	094	Spreading the word about liquor licensing
067	Key prosecutions: unconscionable conduct		
068	Key prosecutions: rogue traders		
069	Special Report: Consumer Affairs Victoria action over property marketing schemes		
070	Fundraising		
070	Estate agents		

094	Targeting domestic building consumers	113	Appendicies
094	Building and renovating	114	Appendix 1: Consumer Affairs community programs
096	Keeping businesses informed	116	Appendix 2: Consumer Credit Fund
098	Special Feature: National consumer congress – revival of the Ruby Hutchinson address	117	Appendix 3: Victorian Property Fund
099	Consumer Affairs Victoria papers	118	Appendix 4: Claims on Victorian Property Fund
099	Publications	119	Appendix 5: Claims paid and amounts recovered in 2003-4 by Motor Car Traders’ Guarantee Fund Claims Committee
099	A Consumer Affair	120	Appendix 6: Civil litigation in 2003-04
099	CAVlink	121	Appendix 7: Prosecutions completed
100	Media coverage	127	Appendix 8: Enforceable undertakings
100	Newspaper columns	132	Appendix 9: Trust funds managed by Consumer Affairs Victoria
101	Modernising Consumer Affairs Victoria	134	Appendix 10: Key financial indications
102	Training at Consumer Affairs Victoria	136	Appendix 11: Legislation administered by the Minister for Consumer Affairs
102	Legislation training	137	Appendix 12: Regulations and legislation made/revoked or commenced in 2003-04
103	Indigenous awareness	138	Appendix 13: CAV media releases 2003-04
103	Staff recruitment	142	Glossary
103	Supporting staff in a safe working environment	143	Contact Consumer Affairs Victoria
103	Rewarding long service		
104	Special Feature: On-line services		
108	Trust funds administered by Consumer Affairs Victoria		
108	Trusts held in the Public Account		
108	Residential Tenancies Bond Authority		
108	Trust funds - grant programs		
109	Consumer Credit Fund		
109	Victorian Property Fund		
110	Trust funds – claim guarantees		
111	Department of Justice Annual Report 2003-04		

Consumer Affairs Victoria





About Consumer Affairs Victoria

The core business functions of Consumer Affairs Victoria are to:

- provide information and advice to consumers, tenants, traders, landlords and the Government on consumer and tenancy issues
- educate consumers and traders of their rights, responsibilities and changes to the law
- seek to reduce disputes between consumers and traders and tenants and landlords
- promote and ensure compliance with consumer laws including product safety and trade measurement laws
- regulate the consumer environment through licensing and business registration
- ensure the regulatory framework is effective, and
- provide support to the operations of the organisation.



KEY ACHIEVEMENTS – THE YEAR IN REVIEW

1. Addressing current and emerging marketplace issues

- focus on credit and home building
- National E-Commerce Working Party – e- and m-commerce work program
- unfair contact terms and telemarketing legislation
- fuel pricing, telecommunications providers, fitness centres, hire car operators, furniture retailers
- real estate auction reforms

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

- legislative reviews – bodies corporate; retirement villages; fundraising; incorporated associations
- Victorian Property Fund
- changes to Fair Trading, Goods and Partnership legislation
- evaluation of information programs

3. Targeting issues of concern to vulnerable and disadvantaged consumers

- Victorian Award for Excellence in Multicultural Affairs
- Discussion paper — What do we mean by 'vulnerable' and 'disadvantaged' consumers?
- Working Together Forum
- Multicultural Consumers Unit
- New Community Program service delivery model
- Bilingual Community Educators

4. Providing leadership in alternative dispute resolution

- ADR on-line project
- more than 16,000 written complaints handled, up 29% from 2002-03
- named traders, good and bad
- \$1.86M recovered for consumers, up 45% from 2003-04

5. Strengthening compliance and enforcement

- new approach to compliance and enforcement
- greater emphasis on civil actions using the Fair Trading Act
- proactive inspection programs across the State
- application of new unfair contacts legislation
- first successful prosecution of a dummy bidder
- major credit cases; building and product safety prosecutions

6. Strengthening information and education

- *Consumer Education in Schools Background Report*
- Innovative *MoneyStuff* resource package distributed to all Victorian secondary schools
- New look *Stuff* magazine
- Real estate education campaign
- Building and renovating: a guide for consumers
- *CAVlink* launched
- National Consumer Congress
- Ruby Hutchison Memorial Address

7. Modernising Consumer Affairs Victoria

- Consumer Affairs Victoria restructure
- improvement of on-line services
- implementation of central learning and development function in Consumer Affairs Victoria – focus on Indigenous awareness and legislation-specific training
- intranet and website redevelopment
- implementation of new VPS structure and performance management arrangements
- revised processes for Victorian Property Fund and Consumer Credit Fund grants programs
- implementation of new Residential Tenancies Bond Authority operations contract
- new external service delivery contracts for trade measurement inspections, advocacy services and regional service delivery

LOOKING FORWARD

After consultation with the Minister, Secretary and key stakeholders, Consumer Affairs Victoria (CAV) identified a number of strategic priorities for the three year period 2003-2005.

CAV pursued these priorities over the past year and will continue to do so in the coming year when its strategic plan will be reviewed. CAV has set eight priorities to help it move towards its vision during the life of this plan.

1. Addressing current and emerging marketplace issues

This priority is about ensuring that we effectively and promptly identify any issues that adversely affect consumers and tenants. This will require an effective internal assessment and analysis function, efficient recording system and active monitoring of marketplace information. This priority addresses the way in which issues identified are then addressed in a co-ordinated way across CAV.

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

CAV intervenes in marketplace operation in numerous ways, including by assisting marketplace participants and regulating traders. CAV is aware that markets are subject to change and to ensure market interventions remain appropriate, CAV is proactively reviewing its existing interventions.

3. Targeting issues of concern to vulnerable and disadvantaged consumers

Consumer vulnerability is exposure to risk of detriment in consumption due to the interaction of market, product and supply characteristics and personal attributes and circumstances. The main cause of vulnerability is this interaction resulting in inadequate information, poor access to information and/or ineffective use of information. Consumer disadvantage is a persisting susceptibility to detriment in consumption.

Within this priority CAV will actively target issues of concern for the more vulnerable and disadvantaged members of the community.

4. Providing leadership in alternative dispute resolution

Alternative dispute resolution (ADR) is a method by which disputes are resolved outside of the formal court system. It may include conciliation, mediation and arbitration. This priority includes CAV developing best practice in our conciliation work including the development of on-line ADR. It involves taking a leadership role in ADR in the Department of Justice and across Government, including through the monitoring of industry-based ADR schemes.

5. Strengthening compliance and enforcement

CAV seeks, through education, conciliation, compliance and enforcement activities, to ensure that traders comply with the law. CAV aims to have effective, targeted compliance programs; a reputation as an effective enforcement agency; and full use of the Fair Trading Act for enforcement to reduce reliance on industry specific regulation.

6. Strengthening information and education services

Consumers can be more confident of being protected if they are aware of their rights and responsibilities under the law and know that traders are complying with the law. Consumers will need to know where to get information or advice. If we are to be confident that this will happen we will need to ensure that we continue to increase our visibility and access to information in the community. There will be a continued commitment to improving decision making skills and abilities by reaching young people through Victorian secondary schools as part of the curriculum, distributing information throughout the State and building on our stakeholder relationships. An integrated approach ensuring all functions of CAV contribute strategically to organisational outcomes will be a key factor to increasing our visibility.

7. Modernising Consumer Affairs Victoria

In order to effectively and efficiently deliver services to the Victorian community, we need to ensure that our people and our processes are the best they can be. We will document our processes and procedures, focus on improving our recruitment, learning and development and performance management and improve our IT systems.

8. National harmonisation

CAV's legislation and activities are primarily directed to assist Victorian consumers. However many businesses operating in Victoria also operate interstate and markets are frequently national in character. This means it is essential that solutions to consumer problems take full account of national implications. It is desirable that as much uniformity as possible be achieved across jurisdictions in legislation and its administration so as to minimise business compliance costs and maximise business and consumer understanding of the law.

CAV will, as far as possible, apply a national perspective in developing policy solutions to marketplace problems. In key areas this will mean that we will work with other agencies to adopt appropriate measures to enhance consumer protection.



Deputy Director Dr Claire Noone (sitting), Ian Clyde (sitting), David Haubenschild and Anne Cousins. Effective consultation and collaboration is crucial to CAV achieving its strategic goals.

“Addressing current and emerging marketplace issues”

1.0

- focus on credit and home building
- National E-Commerce Working Party – e- and m-commerce work program
- unfair contact terms and telemarketing legislation
- fuel pricing, telecommunications providers, fitness centres, hire car operators, furniture retailers
- real estate auction reforms



RESPONDING PROMPTLY TO NEW PROBLEMS

Consumer demand grew in 2003-04, influenced especially by the ready availability of credit and the buoyancy of the housing market.

Not surprisingly, credit and home building were significant areas of focus for CAV over the year. Concerns about youth debt especially linked to mobile phone usage prompted a closer look at the fairness of contract terms and the application of the provisions of Part 2B of the *Fair Trading Act* 1999 (the unfair contract terms provisions) in this and other problem areas.

Victorian consumers continued to be bombarded by unscrupulous operators of scams throughout the year and a greater emphasis was placed on providing timely warnings for the public. Substantial steps were taken to deal with issues raised by on-line trading and the use of telemarketing.

Other areas of concern dealt with during the year included real estate auctions, fuel pricing, electricity marketing, furniture retailing, fitness centres, voucher schemes and refund policies.

Wherever possible, CAV applied a national perspective to developing solutions to marketplace issues.

Credit and finance

CAV has deliberately focussed on credit and credit-related issues this year because:

- credit has become a major influence on consumption
- over-indebtedness is an emerging problem especially among many low income people and young consumers
- fringe credit provider marketing practices have raised particular concerns
- debt collection practices have caused concern.

Consumer Affairs Victoria has established a dedicated project team to help plan and co-ordinate its consumer credit function across the organisation. As a result, CAV has reinvigorated its enquiries and dispute resolution service, its approach to compliance and enforcement, as well as its capacity and commitment to review credit regulation. CAV is also actively pursuing ways to improve consumer credit education and information activities for both users and traders. Consumer Affairs Victoria continued to chair the Uniform Consumer Credit Code Management Committee (UCCCMC), the national committee responsible for overseeing national credit law.

UCCCMC oversees the administration and review of the Consumer Credit Code, and advises on current and emerging issues that affect it.

The Committee has a network of relationships with both industry and peak consumer bodies, and regularly consults with interested parties. Victoria's role as Chair gives Consumer Affairs Victoria the opportunity to lead the way in formulating new strategies designed to address credit problems experienced by consumers.

The projects that the Committee worked on during the year include:

- simplifying pre-contractual disclosure
- confirming the application of the Code to certain specialised lending practices
- exploring whether more can be done to assist consumers who want affordable small-amount, short-term credit, and
- fine-tuning mandatory comparison rate requirements.

This year, Consumer Affairs Victoria's key credit priorities included:

- addressing the problems consumers suffer with vendor terms contracts
- tackling misleading, dishonest or unfair practices engaged in by some finance and mortgage brokers
- examining the credit issues confronting our Indigenous communities
- debt collection practices, and
- the promotion of public discussion and research into consumer credit law and practice.

Vendor terms contracts

Vendor terms contracts (also known as 'wraps' or 'terms contracts') allow some consumers who cannot obtain credit from mainstream lenders such as banks or credit unions, to purchase a home by obtaining finance directly from the vendor. In many cases these contracts heavily favour the vendor. Often the purchaser pays well above the market price for the home and well over the prevailing interest rates to repay the loan.

In 2003-04 Consumer Affairs Victoria took successful legal action against a prominent vendor terms promoter. The Fair Trading Act was amended so that if necessary the unfair contract terms powers in Part 2B of the Act can be applied to vendor terms contracts.

The amendment enables regulations to be made to exclude certain classes of consumer contract from the general exemption for credit contracts from Part 2B.

Debt collection guidelines

Developed in response to public concerns about the practices of some debt collectors, the *Guidelines for Debt Collection* aims to assist the debt collection industry to understand its legal obligations when attempting to collect consumer debts under Victoria's consumer laws.

The Minister for Consumer Affairs, John Lenders, MP, released the guidelines publicly on 13 January 2004. Since then, the Guidelines have been widely distributed to financial counsellors in Victoria, major debt collection companies and professional industry associations representing the interests of the debt collection industry.

Finance and mortgage brokers

The present regulation of brokers was developed in the late 1990s. The market has progressed considerably since then and consumers now resort more frequently to brokers, especially for home finance. Approximately 40% of borrowers now use mortgage brokers when sourcing a home loan. Under the auspices of the Ministerial Council for Consumer Affairs, CAV has been working in conjunction with the other States and Territories to agree on an updated set of provisions that are designed to harmonise the regulation of brokers across Australia. In the meantime, Consumer Affairs Victoria continues to actively pursue brokers who do not comply with current recording and disclosure requirements.

Credit and debt enquiries

Considerable planning has gone towards expanding the capacity of Consumer Affairs Victoria's credit and debt enquiries service. This is in line with the view that Victorian consumers should have readily available to them independent comprehensive advice and assistance on credit and debt matters. CAV can also help when a consumer needs a dispute resolved or where enforcement action is appropriate.

Home building

The high demand for home building led to a significant increase in the number of complaints dealt with by Building Advice and Conciliation Victoria (BACV) in particular the initiatives to deal with the problem of many builders operating on an unregistered basis and without the required insurance cover.

In consultation with the Building Commission, Consumer Affairs Victoria expanded its advice and information provision to consumers and traders and launched a blitz against builders who engaged in practices detrimental to consumers such as taking excessive deposits, not completing work on time or not completing works at all.

In March 2004, Consumer Affairs Victoria initiated criminal proceedings against 25 builders and four building companies for breaches of building and consumer legislation. This followed successful prosecutions against another 15 builders earlier in the year.

Property marketing

The activities of property marketers in encouraging people to invest in excessively priced property were a particular focus of concern during the year, especially with the demise of the Henry Kaye group of companies. The marketers often operated by attracting consumers to free seminars, using high pressure selling to get them to sign up for more expensive courses and to induce them to enter into contracts to purchase property with suspect valuations.

Consumer Affairs Victoria issued advice and warnings to consumers about operators. It also actively participated in discussions with other jurisdictions on appropriate responses to the problems highlighted.

In August 2003, the Ministerial Council on Consumer Affairs established a Working Party to consider possible new regulation to cover property investment advisors. Victoria argued strongly that it be implemented at the Commonwealth level given the national basis on which the industry operated and the existing role of the Australian Securities and Investments Commission in regulating financial investment advisors.

In November 2003, CAV launched a major civil case in the Victorian Civil & Administrative Tribunal (VCAT) against Australian Finance Direct Ltd. This company provided finance for customers of National Investment Institute, a Henry Kaye company that charged up to \$15,000 to attend its seminars/courses for potential property investors. This major case followed earlier action by CAV which resulted in orders being obtained in the Melbourne Magistrates' Court requiring substantiation of testimonials relating to the success of the Henry Kaye property investment strategy published by or on behalf of Henry Kaye and Investmentsource Pty Ltd.

Scope of the application of the Domestic Building Contracts Act

During the year a number of decisions of VCAT raised questions about the scope of the application of the *Domestic Building Contracts Act 1995*.

One case suggested that the Act applied to off-the-plan high rise units. This however gave rise to uncertainty as long standing industry practice had considered these contracts to be governed by the Sale of Land Act. The Government moved quickly to ensure industry practice prevailed by passing amendments to the legislation to confirm this.

Another case concerned the application of the Domestic Building Contracts Act to civil engineering works. The VCAT decision considered, again contrary to general industry belief, that the Act did cover these works implying that contractors should be registered building practitioners. Once again the Government indicated its intention to act quickly to remove the uncertainty caused by this decision and maintain the intent of the legislation.

Unfair contract terms legislation - a new way to deal with unfairness

In October 2003 amendments to the Fair Trading Act came into operation. The amendments banned the use of unfair terms in consumer contracts. These ground-breaking changes, the first of their kind in Australia, will have a significant impact on both businesses and consumers. This establishes Consumer Affairs Victoria as a national leader in business and consumer protection.

Previously, the Fair Trading Act offered some protection against unfair contracts but the old law did not consider the substantive fairness of the contract.

The amendments have the following effects:

- unfair terms in consumer contracts are now void
- certain terms in standard form contracts can be prescribed as being unfair
- it is an offence to use a prescribed term, and
- the Director of Consumer Affairs is now able to apply to VCAT for a declaration that a term is unfair.

Under Section 32 of the Fair Trading Act, a term in a consumer contract is considered unfair if it is contrary to the requirements of good faith and causes a significant imbalance in the rights and obligations against the consumer. 'Good faith' is a broad term that refers to a general concept of 'playing fair', especially when one party is in a position of power over another.

If a term in a consumer contract is considered unfair or as being a prescribed unfair term, it will result in that term being void. The contract will continue to bind the parties, but only if the contract is able to 'stand alone' without the unfair term.

In 2003-04 Consumer Affairs Victoria focused on raising awareness of the unfair contract terms amendments.

Consumer Affairs Victoria representatives attended several industry forums and contributed to discussions with a number of peak industry bodies about these key legislative changes. CAV also commenced reviews of various standard form contracts in targeted industries including:

- telecommunications, especially mobile telephones
- fitness, especially gym membership
- hire cars, and
- retail furniture.

Scams

Scams are schemes that aim to obtain financial advantage over consumers in a dishonest or deceitful way. In the 2003-04 financial year, Consumer Affairs Victoria received more than 1,400 enquiries and more than 500 enquiries and complaints about scams. In many cases the targets of these scams are vulnerable and disadvantaged people, including the unemployed, the young and the elderly. The use of email has significantly increased the number of scams operating internationally, and Australian consumers, like many consumers around the world, have been targeted by internet scam operators.

In an attempt to combat scam operators, CAV has developed an education-based strategy to address consumer concerns.



Scams are schemes that aim to obtain financial advantage over consumers in a dishonest or deceitful way.



SPECIAL FEATURE



Top five scams faced by Victorian consumers

Every year unsuspecting Victorian consumers are hoodwinked by false promises of lottery wins, once-only offers of instant wealth or effortless work-from-home jobs. In the meantime, conartists are constantly thinking up new ways to re-invent old scams. Consumer awareness and regulatory vigilance are crucial in order to combat scammers. Consumer Affairs Victoria identified the following as the top five scams faced by Victorian consumers in 2003-04.

Fax back schemes

Fax back schemes are a way of generating income for an operator by having consumers respond to a fax invitation for the provision of information on some subject. CAV's experience is that this information is often already publicly available or is of dubious quality. Faxes have advertised diets, either a '4-day-Diet' or improved sexual stamina through the '5-Day-Diet', employment opportunities, modelling/acting work and asked receivers to comment on a social cause. Consumers respond by completing and returning the fax to a 1900 number. The catch is that the fax contains large amounts of black ink which takes time to transmit (at a rate of approximately \$5.50 a minute). The fax can often take up to 10 minutes to complete so some consumers have received phone bills of \$55 and more.

Nigerian con

A stranger contacts you by email, fax or letter requesting help to transfer money out of a country in Africa, like Nigeria or Sierra Leone. Consumers are invited to pay a handling fee or provide bank account details in order to receive a cut of the proceeds. Once consumers take the bait, money is withdrawn from accounts, and not deposited as promised.

'Work from Home', envelope stuffing scheme

Advertisements in self-employment opportunities columns of local papers offer work 'stuffing envelopes'. Consumers are required to pay some money upfront for work that never eventuates. Instead, consumers receive a set of instructions outlining how they may con other people into the scheme.

Overseas lotteries/sweepstakes and prize award scams

Consumers receive an official-looking letter that states that they have won a prize of up to millions of dollars. The letter goes on to say that winners are required to pay a processing fee in order to claim their prize money or lottery win. One notorious example incorrectly claims affiliation with the genuine El Gordo Spanish Lottery.

Clairvoyant scams

A supposedly 'personalised' letter asks consumers to send an initial amount of around \$40 to \$80 to a PO box address and to sign a form to release confidential and personal information. Consumers are then asked to send more money to receive 'special' clairvoyant products or services, which are either never supplied or of little value.



ON-LINE TRADING

Consumer Affairs Victoria recognises that advances in technology have changed the way people do business. CAV has been leading the way nationally to promote consumer and business awareness of the commercial issues raised by technological changes and developments.

Victoria leads National E-commerce Working Party

Consumer Affairs Victoria leads a National E-Commerce Working Party that includes representatives from all States and Territories, the Commonwealth and New Zealand. The E-Commerce Working Party was formed to consider and report to the Ministerial Council on Consumer Affairs (MCCA) on the following matters.

National, minimum statutory standards for on-line traders

During the year, Consumer Affairs Victoria (on behalf of the Working Party) produced a discussion paper headed *On-line Shopping and Consumer Protection*. The paper considered various issues facing on-line shoppers including security concerns and whether there is a need for fair trading standards to be upgraded to take into account new retail technologies. The paper discussed several options ranging from retaining the current mix of consumer protection to the development of new, mandatory disclosure requirements.

A uniform approach to catching on-line rogue traders

Consumer Affairs Victoria prepared a paper on behalf of the Working Party that took a close look at whether each State's Fair Trading legislation was broad enough to cover the activities of traders operating across State boundaries, particularly in light of developments in on-line trading. On the basis of its findings, the Working Party was satisfied that existing legislation could be applied to traders regardless of where they

are located in Australia. However, the Ministers accepted the Working Party's additional recommendation that there is a need to ensure protocols are in place between the States and Territories to enable consumer complaints about cross-border traders to be handled appropriately.

Web Seals of Approval

During the year Consumer Affairs Victoria, on behalf of the Working Party, developed an options paper on Web Seals of Approval. Web Seals, often referred to as trustmarks, are third-party certification processes that indicate a particular business has agreed to be bound by certain rules or codes. For instance, on-line traders will often claim to be appropriately accredited for the purposes of privacy legislation, or claim to adhere to an applicable business standard. The Working Party found that while Web Seals could potentially play a significant role in enhancing the protection of consumers they do not currently provide an effective means of improving consumer confidence. The Working Party concluded that this was largely due to a lack of consumer awareness about Web Seal schemes. The Working Party recommended that consumer affairs agencies should work together to protect consumers by co-operatively developing consumer and trader awareness products to provide information about Web Seals.

Ministers were considering these recommendations at the end of the year in review.

M-commerce

M-Commerce, or Mobile E-Commerce, is the extension of e-commerce potential beyond the scope and limitations of access devices such as PCs or Television. Rapid technological advances mean that nowadays consumers are able to use mobile phones and other wireless devices to make on-line payments, access bank accounts, receive news or promotions, and conduct purchases.

During 2003-04 Consumer Affairs Victoria, on behalf of the Working Party, completed a report that outlined the expected availability of m-commerce services in Australia and described potential consumer issues that may arise.

In 2003-04, Consumer Affairs Victoria maintained an active involvement with the Consumer Protection Agencies Liaison Meeting and the M-Commerce Roundtable, a meeting of regulators set up by the Australian Communications Authority to discuss potential consumer protection issues surrounding the latest mobile telephone services.

Ministers have agreed that this paper should be circulated to relevant stakeholders for consultation.

Best practice model

During 2003-04, a Standing Committee of Officials of Consumer Affairs (SCOCA) Working Party chaired by Commonwealth Treasury reviewed the BPM, Australia's 'Best Practice Model' code of conduct for on-line traders. In its contribution to the review, Consumer Affairs Victoria argued that the BPM has not adequately influenced on-line business practices because few businesses have adopted BPM guidelines. CAV suggested that if the BPM is to remain the basis of Australia's approach to E-Commerce consumer protection, the guidelines should be more robust, and Commonwealth and industry groups should consider a comprehensive strategy to update, strengthen and promote the guidelines to Australian businesses.

Global sweep of on-line get-rich-quick schemes

As part of a global strategy by the International Consumer Protection and Enforcement Network, Consumer Affairs Victoria took part in a global 'sweep' of on-line get-rich-quick schemes. The sweep investigated 3,000 Australian sites. Fifty website co-ordinators were contacted about unbelievable promises, miracle cures, lottery scams, and other get-rich-quick schemes. More than 30 websites were either removed completely for spruiking misleading and deceptive content or otherwise forced to amend their content.

TELEMARKETING – HANGING UP ON THE HARD SELL

In December 2003 the *Fair Trading (Further Amendment) Act 2003* was enacted. The purpose of the amendments was to provide consumers with legislative protection from the unwanted intrusion and high pressure selling often associated with telemarketing. Similar legislation relating to door-to-door sales is already in place.

Telemarketing and door-to-door selling are personally invasive and generally unpopular sales methods that are sometimes associated with offensive hard-sell tactics. Vulnerable and disadvantaged consumers are particularly susceptible to these forms of selling because they are generally less able to resist pushy sales techniques.

The legislative amendments require telemarketers to:

- obtain consumers' explicit informed consent to a sale
- include a cooling-off period for consumers
- provide a written contract in clear and legible English, and
- adhere strictly to restrictions on the hours during which telemarketers may contact consumers.

Victoria is working closely with NSW to harmonise their respective telemarketing regulatory regimes. The aim is to reduce the compliance costs to industry and ensure greater understanding of the new rules for consumers.

ESTATE AGENTS AND SALE OF LAND ACTS (AMENDMENT) ACT 2003

In February 2004, the major provisions of the *Estate Agents and Sale of Land Acts (Amendment) Act 2003* came into effect. These provisions assist Consumer Affairs Victoria to address community concerns about the operation of real estate markets in Victoria, particularly transparency during the auction bidding process. The amendments make significant and important changes to the way residential real estate is bought and sold, and how estate agents are able to go about their business. Among other key provisions, the practice of under- and over-quoting property prices, dummy bidding at public auctions and estate agents retaining advertising rebates have been prohibited. Agents that breach the new provisions may incur severe penalties. CAV implemented a compliance and enforcement strategy incorporating proactive surveillance and reactive intelligence components to monitor the conduct of estate agents and the sale of residential properties. To coincide with the new laws CAV implemented a 12-month information and education campaign to raise awareness of the new legislation amongst consumers and estate agents.

IMPROVING FUEL PRICING

In October 2003 a public report was released on the review into mandatory terminal gate pricing of petrol and diesel. Terminal gate pricing came into effect in August 2001 under the *Petroleum Products (Terminal Gate Pricing) Act 2000*. Its purpose is to ensure that wholesalers and retailers have access to fuel at reasonable prices and to promote greater transparency in wholesale pricing.

Extensive consultation was undertaken to finalise the review report's recommendations. The review found that the objectives of terminal gate pricing were being achieved because of improved access to supply at terminals, more reasonable prices, and modestly enhanced transparency. However, while it was concluded that there was no need for fundamental changes to the Act, it was determined that adjustments could be made to improve its operation.

Suggested changes included:

- requiring that published terminal gate prices be temperature corrected to 15°C
- removing the obligation for declared suppliers to formally notify fuel shortages before refusing supply to customers
- revoking the declaration of the independent terminal operators
- allowing flexibility in the freight component of the landed international product price
- continuing and upgrading fuel price monitoring
- making technical amendments to clarify the drafting of a number of provisions of the Act to ensure certainty for industry, and
- upgrading price monitoring activities.

The recommendations are being implemented by the Government and CAV.

ELECTRICITY MARKETING

Consumer Affairs Victoria has worked closely with the Essential Services Commission and the Energy and Water Ombudsman during the year to ensure newly competitive energy markets are operating in the interests of consumers.

Complaints about marketing practices of retailers have been investigated where these raised concerns about compliance with the Fair Trading Act. In one case, involving a large utilities provider, Consumer Affairs Victoria applied for an injunction to stop

conduct considered inappropriate. This involved the transfer of customers to the large utilities provider without their full knowledge.

The application for the injunction was withdrawn after subsequent discussion resulted in actions by the company that addressed CAV's concerns and prevented the conduct reoccurring.

Another matter dealt with by CAV related to utility connection services that are agents of licensed utility retailers and often promote their services through estate agents.

Consumer Affairs Victoria had a significant input into the review of consumer safeguards conducted by the Essential Services Commission during the year. A Consumer Affairs Victoria employee was seconded to the Commission and methodology developed by Consumer Affairs Victoria in relation to understanding vulnerable and disadvantaged consumers was utilised by the Commission. CAV was also represented on the Market Code of Conduct Advisory Committee which made recommendations to the Commission about desirable changes to the Code of Conduct for Market Retail Energy in Victoria. Many amendments reflected changes to the Fair Trading Act.

A formal Memorandum of Understanding was signed by the Director of Consumer Affairs Victoria and the Chairman of the Essential Services Commission. This ensures a strong co-operative relationship between the two organisations.

Consumer Affairs Victoria continued to assist the Consumer Utilities Advocacy Centre (CUAC) during the year. This body, established by CAV, provides important consumer input into the regulatory decision making of the Essential Services Commission. In August 2003, the Minister for Consumer Affairs launched a new Rural and Regional Network, to be managed by CUAC. The Network will assist in both informing rural consumers about utility issues and in representing their views to the regulator.

FURNITURE RETAILERS – PROMOTING COMPLIANCE

In 2002-03 Consumer Affairs Victoria received more than 300 complaints covering a wide range of issues from consumers about furniture retailers. As a result, the retail furniture industry was the first to be targeted by a new integrated compliance approach. Consumer Affairs Victoria sent out over 500 information kits to Victorian furniture retailers. The kit contained a fact sheet outlining furniture retailers' obligations under the Fair Trading Act, including the prohibition of unfair contract terms in consumer contracts and the need to ensure that contracts are clear and legible. The kit also included helpful information about setting up an effective complaint handling process.

In the next financial year, Consumer Affairs Victoria will survey furniture retailers to measure the effectiveness of the education phase of the strategy.

FITNESS CENTRES

During 2003-04, Consumer Affairs Victoria received 165 complaints from members of fitness centres. Many of these complaints concerned the practice by fitness centre operators of continuing to direct debit from consumers' accounts beyond the term of membership contracts.

Consumer Affairs Victoria's 2002-03 Annual Report included a special report on the fitness industry that detailed concerns about post contractual debiting of members and the 'cold-calling' marketing practices of some gymnasium proprietors.

Consumer Affairs Victoria is also concerned that many complaints relate to members of Fitness Victoria, which had some years ago developed a voluntary code of conduct, with CAV's encouragement. Consumer Affairs Victoria has provided a detailed analysis and several recommendations to Fitness Victoria in an attempt to help improve the code of conduct and to encourage Fitness Australia to foster higher levels of awareness of its code of conduct among its members.

The response was disappointing as no positive steps appeared to have been taken to address CAV's concerns. CAV has since removed any implied Government endorsement of the code by requiring that Fitness Victoria remove from its website the following statement:

Members of the public are recommended to join a Fitness Victoria health and fitness centre by the Consumer and Business Affairs section of the Department of Justice.

Consumer Affairs Victoria continues to closely monitor the compliance of fitness centre contracts with unfair contracts terms provisions contained in the Fair Trading Act.

VOUCHER SCHEMES

In 2003-04 Consumer Affairs Victoria received a large number of complaints about the telemarketing of voucher booklets. Generally speaking, voucher booklets cost up to \$95 and purportedly entitle the purchaser to goods and services at significantly discounted prices. Complaints typically involve misrepresentations by the telemarketers. For example, often telemarketers fail to disclose conditions attached to offers, or incorrectly imply that consumers have won prizes in order to sell booklets. In some cases salespeople purportedly tricked consumers into buying vouchers by telling them they had won up to \$1,000 worth of vouchers and only had to pay a small amount

to collect their prize. Consumer Affairs Victoria has conciliated many of these complaints, however they raise concerns about the marketing practices of voucher book promoters. Consumer Affairs Victoria recently made application in the Magistrates' Court for an injunction against voucher book promoter Urban Promotions Pty Ltd (and its Director Adrian Cappola) in response to complaints about its conduct during the year. The matter awaits a hearing date.

REFUNDS

The number of enquiries about retail refunds peaks every year just after Christmas. During the 2003 post-Christmas period, refund enquiries increased from around 400 to just fewer than 900. This dramatic increase in the number of consumers making enquiries shows consumers generally don't understand traders' policies and their right to a refund.

Equally, traders often don't understand their obligations to comply with the Fair Trading Act when printing refund policies on cash register receipts. As a consequence, many appear to mislead consumers about the rights to a refund under the Act's implied warranty provisions.

To help understand this problem, Consumer Affairs Victoria gathered and analysed a large number of receipts containing refund policies.

CAV continues to undertake appropriate compliance and educational activities to ensure that trader refund policies adhere to the necessary requirements.

“
Ensuring existing interventions
in the marketplace are efficient
and effective
”

2.0

- legislative reviews – bodies corporate; retirement villages; fundraising; incorporated associations
- Victorian Property Fund
- changes to Fair Trading, Goods and Partnership legislation
- evaluation of information programs

**OPEN FOR
INSPECTION**

ENSURING PROBLEMS ARE ADDRESSED IN THE RIGHT WAYS

Consumer Affairs Victoria may intervene to correct marketplace problems in a number of different ways. Legislation can be initiated to prohibit undesirable conduct or traders can be encouraged to better self-regulate, for example by developing a code of conduct. Information and advice can be given to market participants. Enforcement action can be taken to ensure laws are adhered to. Whatever the form of market intervention it is important to ensure that it is effective in achieving desired objectives and efficient in doing so, at the least cost.

Over time legislation can, in particular, become less effective in protecting consumers and can distort the efficient operation of markets. Markets are dynamic so it is necessary to ensure that legislation keeps pace with change. Social regulation needs to remain in line with community attitudes.

Over time, Governments develop new priorities to build and encourage growth of the not-for-profit sector. Consumer Affairs Victoria administers legislation that is critical to the well-being and effectiveness of the community.

Legislation reviews

In 2003-04 Consumer Affairs Victoria undertook a number of legislation reviews in specific market sectors to assess the effectiveness and efficiency of current interventions. The review program will continue into 2004-05. Extensive consultation led by several Members of Parliament on behalf of the Minister of Consumer Affairs has been the hallmark of these reviews. Leadership by Government members has been a key feature of each review consultation process.

Paul Myers (right), General Manager Program Development & Evaluation, with Natalie Staub and Patrick L'Estrange. CAV's legislation review focussed on assessing the effectiveness and efficiency of current interventions.

032→ 2.0 – Marketplace interventions

Bodies corporate

In September 2003, the Minister for Consumer Affairs, John Lenders MP announced the commencement of a review by Helen Buckingham MP into the effectiveness and efficiency of the *Subdivision Act 1988* and the *Subdivision (Body Corporate) Regulations 2001*.

The review recognises the need to address an increase in numbers of high-rise apartments, an increase that has led to the growth in diversity and complexity of bodies corporate. It is looking at new approaches to managing these communities and the need for better dispute resolution processes.

Stakeholders have been engaged throughout the review, and Consumer Affairs Victoria received over 130 submissions in response to an Issues Paper released in October 2003. A *Future Directions Paper* was released in March 2004, setting out proposals on dispute resolution, protection of funds and other options for reform.

Consumer Affairs Victoria also produced a bodies corporate information brochure to improve understanding of bodies corporate and the requirements of the legislative framework. In March 2004, Consumer Affairs Victoria hosted a national seminar on bodies corporate legislation with the theme 'Building Communities'. It has also held several public forums and workshops throughout the review.

As at the end of June 2004, submissions were being considered for contribution to a final report.



Retirement villages

The retirement villages industry has changed significantly since the Retirement Villages Act was introduced in 1986. The industry has grown significantly in size and the nature of developments has changed. In 1986, 10.5% of the Victorian population was aged 65 years or over. According to projections by the Australian Bureau of Statistics this figure will increase to approximately 30% by 2051. Consequently, a 50% growth in the number of retirement villages Australia-wide is expected over the next 20 years. This emphasises the need to clarify and protect the rights of retirement village residents, while at the same time encouraging and supporting the expansion of an ethical and viable industry.

In April 2004, the Minister for Consumer Affairs, John Lenders MP, and review leader Maxine Morand MP launched proposals for greater transparency at the contract stage and an improved dispute resolution process. The review recommendations are being finalised following extensive consultation with relevant stakeholders.

Fundraising

In February 2004, the Minister for Consumer Affairs announced a review of the *Fundraising Appeals Act* 1998. Luke Donellan MP is leading the review. The review is considering how effective the regulatory framework has been in protecting the donating public from misleading practices while minimising the compliance burden on legitimate fundraisers.

Incorporated Associations

In November 2003, the Minister for Consumer Affairs announced a review of the *Associations Incorporation Act* 1981. The Act gives non-profit community organisations the benefits of corporate status and limited liability. The review, led by Dianne Hadden MP, is examining how effectively the regulatory scheme works for associations of varying size and diversity. A key aim of the review is to ensure that associations are supported in providing direct benefits to the community.

Following a period of preliminary consultation, a discussion paper was released and submissions have been received. The final report and recommendations are to be delivered to the Minister.

Motor car traders

In March 2004, the Minister announced a formal consultation lead by Noel Pullen MP on the *Motor Car Traders Act* 1985 and its administration. The consultation is aimed at assessing how effective the legislation is in achieving the needs of key stakeholders.

SPECIAL FEATURE



Harmonisation of estate agents' licensing requirements

Consumer Affairs Victoria is leading a national review of training and other licensing requirements affecting estate agents.

A major objective of the review is a national training package for the entire real estate industry that is more closely linked to the consumer protection objectives of real estate regulation. This will help ensure that people entering the industry for the first time, as well as those gaining a licence to sell and manage properties, have an understanding of the fair trading laws they operate under.

A consultant has been appointed to prepare a report in consultation with representatives of all States and Territories nominated by the Standing Committee of Officials of Consumer Affairs (SCOCA). There will also be a round of consultation with industry bodies, including the Real Estate Institute of Australia (REIA).

The REIA welcomed the review because of its intention to pursue a nationally consistent approach to licensing and education for the real estate profession, something that will have a positive impact on the business and professional needs of all involved in the industry as well as being of benefit to consumers.

A final report of the consultation is expected to be circulated to SCOCA late in 2004 and consideration will be given to how to move forward at that time.

It is intended that other aspects of licensing harmonisation will be subject to review after the initial work on competency standards is complete.



Victorian Property Fund (formerly the Estate Agents' Guarantee Fund)

The *Estate Agents Act* 1980 was amended in 2004 to overhaul the Estate Agents' Guarantee Fund. The Fund has been generating extensive surpluses for a number of years, but the range of purposes for which it can be used has not been updated or changed since 1994 when the Act was amended to remove public housing costs as a purpose to which the Fund could apply.

The National Competition Policy review of the Act in 2003 recognised that changes in the accommodation needs of the community as a consequence of an aging population and the trend towards higher density living arrangements in urban communities meant that it was timely to reconsider the Fund's purpose.

The amendments allow the Fund to be applied to a wider range of purposes, including:

- the regulation of retirement villages and bodies corporate
- the provision of housing for low income or disadvantaged Victorians
- the development of environmentally-sustainable housing.

At the same time, in recognition of the wider purpose of the Fund and its relevance to all Victorians, its name has been changed to the Victorian Property Fund.

Victorian Regulators Forum

In May 2004, Consumer Affairs Victoria and the Essential Services Commission co-hosted a meeting of over 40 Victorian Government regulatory agencies. The Forum provided an opportunity for regulators to discuss issues of common interest, share instructive experiences and consider how future collaboration could improve the effectiveness and efficiency of regulation in Victoria. Participant feedback was extremely positive and further forums are to be held in the future.

Implied conditions and warranties and waivers for recreational services

Changes were made to the *Fair Trading Act* 1999 to consolidate several implied conditions and warranties that apply to consumer contracts for the supply of goods and services. The new Part 2A of the Act, which sets out these implied terms, came into operation on 1 June 2004. These conditions and warranties have been transferred from the *Goods Act* 1958 to the Fair Trading Act to strengthen its role as the key consumer protection statute in Victoria.

The conditions and warranties set out the legal rights that underpin consumer contracts for the supply of goods and services in Victoria. The conditions and warranties apply even if there is no written contract between the trader and the consumer and even if other agreements have been made. Traders cannot avoid them, except in the supply of recreational services (see below). These are important consumer rights that ultimately determine whether consumers are entitled to a refund or other forms of compensation if goods are faulty or services are not delivered properly. As part of the transfer, the range of services to which the conditions apply was expanded to include the same broad range of services as set out in the *Trade Practices Act* 1974 (Cth).

Part 2A of the Act also sets out the provisions that allow suppliers of "recreational services" to ask their customers to agree to waive their rights to sue the supplier in accordance with the implied conditions in the Act. The waiver provisions relate to the implied conditions that services will be supplied with due care and skill and will be fit for their purpose. Recreational services include a broad range of physical activities including participation in sports, skiing, horse riding, indoor/outdoor climbing and other adventure tourism activities.

To complement the new Fair Trading Act waiver provisions, the new Fair Trading (Recreational Services) Regulations 2004 also came into operation on 1 June 2004. These Regulations set out consumer warnings, which must be included in all forms of waiver if the supplier wishes to seek a waiver under the Act. These warnings exist to alert consumers that they are being asked to agree to a waiver of their rights to sue under the Act.

Venture capital funds

The *Partnership Act* 1958 was amended in December 2003 to provide for the incorporation of limited partnerships. The amendments introduce a regime (the first of their kind in Australia) that aims to facilitate the investment of capital in important ventures in Victoria and Australia. They enable investors to form and register a new form of partnership, called an incorporated limited partnership, under which the partnership entity is incorporated and has a legal identity separate from the partners (investors). This and other features reduce the personal liability of partners for a partnership's liabilities yet retain the profit-sharing nature of a partnership. The incorporated limited partnership is also eligible to register as an entity for raising and managing venture capital with the Australian Pooled Development Funds Board and enjoy international best practice taxation treatment. The Australian Venture Capital Association Limited warmly welcomed the amendment.

SPECIAL FEATURE



Evaluation of Education Initiatives

Real estate education

The real estate education campaign provides a good example of how Consumer Affairs Victoria gets things done and how it monitors its effectiveness.

A direct response strategy underpinned the campaign. This included a prominent 'call to action' by mail, phone, internet and through estate agents inviting consumers to order *Real estate: a guide for buyers and sellers*. The consumer response to the 'call to action' was then measured to assess the campaign's effectiveness.

The real estate campaign consisted of:

- publication and distribution of Frequently Asked Questions For Estate Agents (FAQ)
- publication and distribution of - *Real estate: a guide for buyers and sellers*
- media releases and advertising via newspapers, magazines, radio and internet
- exhibitions (metropolitan) and public seminars (regional).

Pre-campaign activity focused on estate agents and aimed to inform agents about the amending legislation and to enlist their help in distributing the Guide.

The advertising component of the strategy aimed to:

- create awareness of the Guide among consumers in the real estate market
- encourage consumers to obtain a copy of the Guide, and
- further encourage agents to stock and distribute the Guide to clients and potential clients.

A mid-term report outlines some outstanding early results, including:

- 66% of agents had made the Guide available to consumers
- 90% of consumers who read the Guide considered they had a better understanding of the rules and regulations involved in buying and selling real estate
- 80% of consumers who had read the Guide agreed that they were sufficiently informed to avoid common pitfalls in buying and selling real estate
- 75% of consumers who had read the Guide agreed that they were more confident in their dealings with estate agents, and
- 75% of consumers agreed that they had a higher opinion of the regulation of the real estate industry.

The evaluation also highlighted the existence of a high level of awareness among estate agents about the availability of the Guide. Already 79% of agents interviewed were aware of the existence of the Guide, well ahead of pre-campaign estimates. Similarly, 24% of consumers were aware of the Guide, indicating that the campaign is on track to achieve a 40% 'end of campaign' objective.

Consumer Affairs Victoria will continue to monitor the effectiveness of the campaign.



SPECIAL FEATURE



Evaluation of Education Initiatives

Evaluating the residential tenancies campaign

Consumer Affairs Victoria conducted an education and information campaign to inform tenants, landlords and estate agents of substantial changes to the *Residential Tenancies Act 1997* in June and July 2003.

A major component of the campaign was a targeted direct mail of Consumer Affairs Victoria's *Renting a home: a guide for tenants and landlords*. The Guide was sent out to over half a million private tenants, private landlords and estate agents across Victoria.

A radio and print advertising campaign in English and eight other languages advised tenants and landlords to look out for the new renting Guide in their letterbox.

A detailed evaluation, conducted in August 2003 by Campbell Research, confirmed that the campaign was successful, and that all targets were achieved.

The evaluation used a quantitative research approach to conduct the evaluation. Three surveys were constructed for landlords, tenants and estate agents comprising of a core set of questions and a unique set of questions for each target group.

The evaluation reported that 99% of estate agents, 85% of landlords and 49% of tenants were aware that Victoria's home renting rules had changed.

Of these, 25% of agents, over 78% of landlords and 76% of tenants were aware of the changes to the rules through the Guide, *Renting a home: a guide for tenants and landlords* that had been distributed.

When asked if they read the Guide carefully, 35% of agents, 21% of landlords and 6% of tenants responded that they had.

Significantly, the evaluation showed that 86% of landlords and 54% of tenants kept a copy of *Renting a home: a guide for tenants and landlords* for future reference.

The evaluation also offered insights into how audiences would prefer to receive information about any future changes to renting rules. Over 85% of respondents in each group (estate agents, landlords and tenants) said that direct mail was the preferred method. Television was identified by tenants (67%) and landlords (42%) as their second preference media for the communication of future changes.

Consumer Affairs Victoria's efforts in relation to the residential tenancies campaign were recognised by its receipt of a Victorian Government Communications Award.



SPECIAL FEATURE



Evaluation of Education Initiatives

New Country - New Home evaluation

Department of Immigration figures show that a majority of the 15,000 migrants and refugees who arrive in Victoria each year look to the private rental market for their first home. Consumer Affairs Victoria identified that many of these people are at risk of exploitation due to a lack of knowledge of tenancy rights and issues.

Between October 2002 and June 2003, CAV, in partnership with the Equal Opportunity Commission of Victoria (EOCV), ran an extensive information campaign called *New Country - New Home*. The purpose of the campaign was to fill an information gap for both landlords and tenants (potential and actual) regarding the rights and obligations of tenants and the equal opportunity issues that often confront these new entrants to the rental market.

The campaign comprised a mail-out of around 35,000 publications in a range of languages (including detailed information kits), face-to-face information sessions, and direct advertising to educate newly arrived migrants about renting a home in Victoria. The campaign also set out to inform landlords and estate agents of the challenges faced by new arrivals in entering the rental market.

The campaign was evaluated in November 2003.

The evaluation showed that the campaign met or exceeded most of its objectives. The evaluation highlighted that the CAV campaign:

- increased awareness in the community generally, particularly among landlords and estate agents, of the needs of newly arrived migrants and refugees
- increased knowledge among migrants and refugees of their legal rights and obligations as tenants
- promoted respect and understanding of cultural differences
- increased awareness among landlords and estate agents about equal opportunity in the rental market
- enhanced levels of mutual awareness of tenants and landlords needs, rights and obligations, and
- made relevant information more readily accessible to migrant and refugee communities.

Importantly, Consumer Affairs Victoria's messages were appreciated by potential tenants, landlords and estate agents. Many estate agents were interested to learn about a potential new rental market and CAV received many enquiries from landlords who, after being appraised of relevant facts about the plight of new migrants and refugees, wanted to offer their properties.



SPECIAL FEATURE



Evaluation of Education Initiatives Continued...

In-depth interviews were held with representatives from 12 Migrant Resource Centres and six members of the project steering group. Respondents rated the campaign highly effective in:

- meeting the challenges presented by the differences in language and culture of the target audience
- increasing migrant' knowledge of their legal rights and obligations in the rental market, and
- increasing the knowledge of landlords and estate agents about equal opportunity in the rental market.

Many interviewees thought that the project was timely and helpful. Interviewees were very impressed by the range of multilingual material produced for the benefit of newly arrived migrants and refugees. They also made special mention of the success of the campaign in raising levels of community awareness about an important social issue and noted the innovative nature of the project.

CAV will continue to work with multicultural groups.



“ Targeting issues of concern to vulnerable and disadvantaged consumers ”

3.0



- Victorian Award for Excellence in Multicultural Affairs
- Discussion paper — *What do we mean by ‘vulnerable’ and ‘disadvantaged’ consumers?*
- Working Together Forum
- Multicultural Consumers Unit
- New Community Program service delivery model
- Bilingual Community Educators

EMPOWERING VULNERABLE AND DISADVANTAGED CONSUMERS

Promoting access to consumer protection, particularly for vulnerable and disadvantaged consumers is a major objective for Consumer Affairs Victoria.

In March 2004, Consumer Affairs Victoria released the discussion paper, *What do we mean by 'vulnerable' and 'disadvantaged' consumers?*

The Paper aims to facilitate a common understanding of the terms 'vulnerable' and 'disadvantaged' between CAV and its stakeholders. This will assist CAV to evaluate the efficiency and effectiveness of current services, and determine how successfully they meet the needs of vulnerable or disadvantaged consumers. Ultimately, this will lead to improvements in the consumer protections afforded to them.

When considering vulnerability and disadvantaged in a consumer context, it is vital to not only take into account an individual's personal circumstances, but also the characteristics of markets and products that impact on consumer decision-making. The Paper suggested that the availability of affordable, understandable, and useful information are major defining factors.

IMPROVING ACCESS TO SERVICES

Working Together Forum

In August 2003 Consumer Affairs Victoria held the first of its quarterly Working Together Forums. The purpose of the Forums is to engage with the broader community, to share information, to identify emerging issues, and develop opportunities for collaboration. A key focus of the Forums has been issues for vulnerable and disadvantaged consumers including youth, senior citizens, Indigenous communities, low income earners, tenants, geographically-isolated communities and the disabled.

The Working Together Forums bring together the heads of key Victorian community and consumer organisations. It also joins two national organisations, the Australian Consumers' Association and the Consumers' Federation of Australia.

The Minister attended the first Forum as did key representatives from Victorian Legal Aid, Financial and Consumer Rights Council, Consumer Law Centre, Country Women's Association, Disability Advocacy Network, Tenant's Union of Victoria, Consumer Credit Legal Service, Youth Affairs Council of Victoria, Victorian Council of Social Services, and Victorian Aboriginal Legal Service.

Each member of the Forum was invited to provide a brief overview of their organisation and to raise issues for consideration. Ideas were exchanged, opinions were sought and discussed, and several proposals for joint activities were raised. Some of these included:

- opportunities for Consumer Affairs Victoria to utilise Victorian Aboriginal Legal Service's regional client service offices
- joint forums between Consumer Affairs Victoria and Youth Affairs Council of Victoria

- Consumer Affairs Victoria collaboration with the Tenants' Union of Victoria to minimise discrimination in the rental market and tackle safety in rental accommodation and the use of tenancy databases, and
- collaborative opportunities that may be funded by the Consumer Credit Fund.

As a direct result of issues raised by members representing disability groups at the Forums, CAV decided to employ a Disability Liaison Officer.

A formal Memorandum of Understanding between Consumer Affairs Victoria and the Victorian Aboriginal Legal Service was also signed outlining measures to ensure ongoing collaboration.

Indigenous Consumers Unit

Since its launch in May 2003, Consumer Affairs Victoria's Indigenous Consumers Unit (ICU) has worked extensively with Indigenous communities to improve consumer education and awareness and accessibility to Consumer Affairs Victoria's services. The ICU also works with State, Territory and Federal Governments to develop joint strategies for addressing Indigenous consumer issues.

In 2003-04 the ICU made more than 150 community visits throughout Victoria, and met with a range of Indigenous Co-operatives, community organisations and service providers, including health and education workers. The ICU worked with Indigenous communities to improve their capacity to recognise consumer rights, to raise awareness of complaints reporting processes, and to identify emerging consumer and tenancy problems. Information sessions on consumer credit, a significant emerging issue, were conducted in Bendigo and at the Gunditjimarra Aboriginal Co-operative in Warrnambool.

The Indigenous community identified utility issues, such as disconnection from essential services and billing complaints, as topics requiring attention. In partnership with the Energy and Water Ombudsman of Victoria, the ICU undertook an extensive seminar program, visiting Indigenous communities across Victoria.

A feature of the ICU's work has been its ability to facilitate and organise joint approaches by Government agencies to Indigenous communities thus reducing the demands placed on those communities. Organisations engaged in this process by CAV have included the Public Advocate, Equal Opportunity Commission, Energy and Water Ombudsman, and the DHS Concessions Unit.

Consumer Affairs Victoria produced a range of culturally appropriate brochures to improve access to information about basic consumer rights, shopping, credit, debt collection, buying a car, and renting. Consumer Affairs Victoria has also been active in raising Indigenous issues on the national agenda through its participation in the Ministerial Council on Consumer Affairs (MCCA) and the Standing Committee of Officials of Consumer Affairs (SCOCA). Following a Victorian Government initiative, a National Indigenous Consumer Strategy commenced development in 2003-04.

Multicultural Consumers Unit

Consumer Affairs Victoria launched a Multicultural Consumers Unit (MCU) in April 2003. The aim of the MCU is to improve access to Consumer Affairs Victoria's services for the multicultural community. Initially, it focused on raising awareness of the rights and responsibilities of tenants among the Vietnamese and Arabic communities but in early 2004 the MCU was expanded to include a broader range of ethnic communities and to deal with consumer issues as well. This year the MCU conducted 80 information sessions for 17 different ethnic communities across metropolitan Melbourne and regional Victoria.

Funding for vulnerable and disadvantaged consumers

The Consumer Law Centre Victoria received almost \$80,000 during the year to assist with its work in providing free legal services to vulnerable and disadvantaged consumers.



CASE STUDY



Consumer Affairs Victoria's message crosses the language barrier

A Vietnamese woman rented a property under a 12 month fixed term lease through an estate agent. She paid her rent one month in advance. At the end of her lease she gave notice in writing that she would not continue to rent the property. The woman had kept records of the rent she had paid and realised after hearing a Consumer Affairs Victoria officer speaking on Vietnamese radio that she had paid more rent than was required. She approached the estate agent who refused to refund the months rent. The tenant then contacted Consumer Affairs Victoria through the Vietnamese Helpline and CAV negotiated for the rent to be refunded in full.

New service delivery model

In June 2004, the Minister for Consumer Affairs, John Lenders MP, launched a new Community Program service delivery model. The aim of the new model is to make better use of existing resources to ensure the consumer needs of all Victorians, particularly those who are vulnerable or disadvantaged, are effectively addressed.

Minister Lenders appointed Mr Johan Scheffer MP to work with Consumer Affairs Victoria and to consult with community agencies and other stakeholders to develop the new service model. In March 2004 Minister Lenders formally adopted the recommendations set out in Mr Scheffer's report entitled *The Way Forward*.

Consumers in the North East (metropolitan) and Eastern (non-metropolitan) regions were the first to experience the new arrangements that include the following:

- Consumer Affairs Victoria as the first point of contact for all consumer and tenancy enquiries, information requests, and complaints
- establishment of regional offices
- mobile units capable of extending CAV's visibility and accessibility
- a more focused and strategic community education and awareness program
- provision of advocacy, tribunal representation and face-to-face assistance to the vulnerable and disadvantaged by CAV's funded community-based organisations
- a grants program accessible to community-based organisations for projects relating to specific consumer or tenancy issues or requirements in a particular community, or more broadly to consumer or tenancy policy issues in Victoria.

On 24 June 2004 Minister Lenders launched the new service model in the Eastern metropolitan region. This model provides face-to-face consumer and tenancy advice services in Knox, Ringwood and Lilydale. Advocacy services for the vulnerable and disadvantaged are provided by the Eastern Community Legal Service in eight locations throughout the region.

The Minister opened a Consumer Affairs Victoria office in Wangaratta on 25 June 2004. Four experienced consumer workers operate out of the Wangaratta office. They also manage the mobile service, which visits nearly 30 townships throughout the region.

In all other regions, new contracts are being finalised with community agencies where the new model will be implemented from June 2005. This model will improve access and deliver high quality consumer and tenancy services to all consumers throughout Victoria.



The Minister for Consumer Affairs, John Lenders MP, announcing the opening of the new CAV regional office at Wangaratta on 25 June 2004.

PROMOTING RESIDENTIAL TENANCIES INFORMATION

Bilingual Community Educators

Between August and November 2003, Consumer Affairs Victoria engaged Bilingual Community Educators from Turkish, Cantonese/Mandarin (Chinese), Arabic and Somali communities to deliver residential tenancies information to their respective community groups.

Consumer Affairs Victoria conducted sessions for the benefit of Chinese community members, and other sessions were held for the Arabic, Turkish and Somali audiences. Educators used the information sessions to deliver key CAV messages and to distribute translated information packs (such as *Renting a home: a guide for tenants and landlords*).

Bilingual Community Educators also undertook several additional projects specially designed to cater for non-English speaking groups. These included conducting residential tenancies information forums and translating educational literature.

Consumer Affairs Victoria's *Renting a home: a guide for tenants and landlords* was translated into eight languages: Arabic, Chinese, Greek, Italian, Russian, Serbian, Turkish and Vietnamese. These were distributed through ethnic community organisations, the Bilingual Community Educators and the MCU.

Additionally, a large print and an audio version of the Guide for the visually impaired was promoted through Vision Australia and distributed to disability agencies across the State.



Multicultural publications

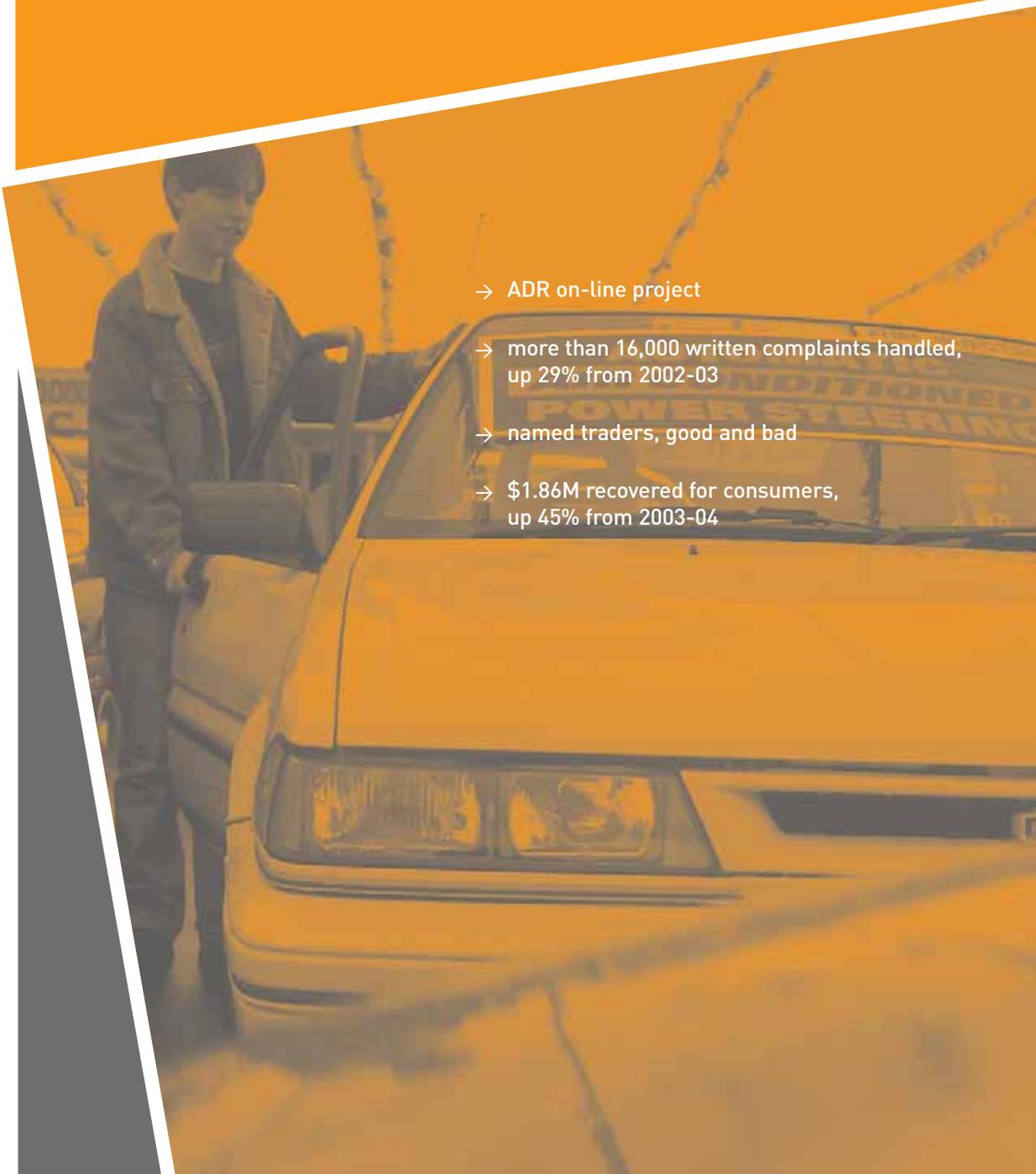
During 2003-04 Consumer Affairs Victoria maintained the following publications for multicultural audiences:

- *Renting a home: a guide for tenants and landlords* – a guide to renting laws in Arabic, Chinese, Greek, Italian, Russian, Serbian, Turkish and Vietnamese.
- *Mind your money* – an English teaching resource covering consumer rights and responsibilities.
- *Settling in* – an English teaching resource covering rights and responsibilities of tenants and landlords.
- *Better car deals* – a guide to buying a new or used car in Vietnamese, Arabic and Chinese.
- *New Country – New Home: Renting, Rights and Responsibilities* – booklets for newly arrived migrants in English and 13 languages and booklets for landlords and estate agents in English and four languages.
- A range of renting and shopping fact sheets in Arabic and Vietnamese.

Consumer Affairs Victoria's efforts in delivering important community information to multicultural audiences was recognised when on 9 December 2003 Consumer Affairs Victoria received the Victorian Award for Excellence in Multicultural Affairs – Award for Service Delivery to Multicultural Community – Consumer Education, offered by the Victorian Multicultural Commission.

“ Providing leadership in alternative dispute resolution ”

4.0



- ADR on-line project
- more than 16,000 written complaints handled, up 29% from 2002-03
- named traders, good and bad
- \$1.86M recovered for consumers, up 45% from 2003-04

MAKING DISPUTE RESOLUTION ACCESSIBLE

The provision of flexible alternative dispute resolution processes is a crucial part of an accessible and fair justice system capable of meeting the diverse needs of Victorian consumers. Providing reliable advice and effective mechanisms to resolve disputes are two key steps necessary to give ordinary Victorians a fair go in the legal system. This is particularly important for vulnerable and disadvantaged consumers.

Alternative Dispute Resolution (ADR) is a highly successful alternative to legal action. It is almost always quicker, more cost effective and less intimidating than traditional methods of resolving conflict, and provides consumers and traders with an opportunity to negotiate and conciliate in a co-operative rather than adversarial way. In circumstances where the vast majority of civil disputes relate to general consumer issues, Consumer Affairs Victoria attempts to utilise ADR to empower all consumers, particularly those who do not have the resources or the know-how to pursue resolution through the courts.

To maximise the capability of its ADR processes, CAV strives to make relevant information, resources and advice readily accessible to all consumers. In 2003-04, CAV made a concerted effort to reach out to regional consumers and to improve accessibility to educational resources and information by effective use of its website. On-line ADR services have been expanded with the development of self-help materials especially covering residential tenancies matters.

Consumer Affairs Victoria will continue to develop and apply ADR principles and processes with a determination that is underpinned by its commitment to accessibility, efficiency, fairness, independence and accountability.

ASSESSING COMPLAINTS – SUCCESSFUL OUTCOMES

Consumer Affairs Victoria's general ADR services assist consumers in resolving disputes involving a wide range of industry and business sectors. In addition, two industry specific ADR services are available. The Estate Agents Resolution Service (EARS) offers advice, information, mediation and dispute resolution on all types of estate agency matters. Building Advice and Conciliation Victoria (BACV) is an information, advice and dispute resolution service run jointly with the Building Commission.

In 2003-04, Consumer Affairs Victoria's combined dispute resolution services received more than 16,000 written complaints and requests (including those related to residential tenancies inspections), an increase of more than 29% on the previous year. Approximately 60% of those complaints were successfully resolved. Of the remaining 40%, more than two-thirds were dealt with by providing information and advice or were either withdrawn, outside of Consumer Affairs Victoria's jurisdiction or unsubstantiated. The bulk of the remaining complaints were matters in which consumers were either recommended to lodge applications at the Victorian Civil & Administrative Tribunal (VCAT) or were referred to an external agency (such as the Australian Competition and Consumer Commission, interstate fair trading agencies or industry specific ombudsman schemes).

Successful outcomes for consumers who purchased unsatisfactory goods and services included full or partial refunds and full repair or restoration.

In 2003-04, more than \$1.86M was recovered for consumers through dispute resolution activities, a 45% increase on last year's figures.

To provide consumers with the highest quality ADR service, Consumer Affairs Victoria has commenced a project aimed at improving processes and achieving best practice. One important initiative is the development of new case selection guidelines. The new guidelines make allocating resources to those in greatest need easier. Technological advancements have realised improvements in case management. Conciliation staff undertake ongoing training in dispute resolution methods and consumer law. All Consumer Affairs Victoria conciliation staff are qualified for membership to the Institute of Arbitrators and Mediators Australia.

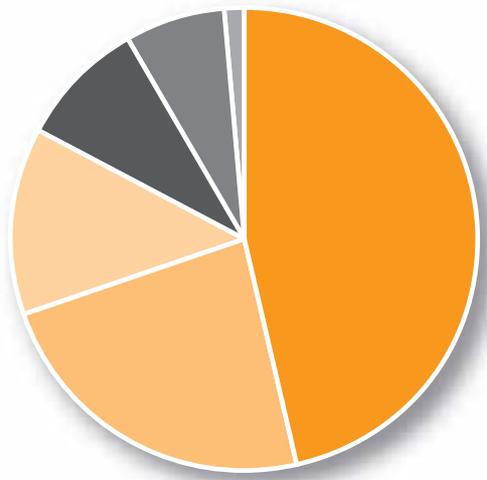
Industry watch

Consumer Affairs Victoria conciliates complaints over household goods, automotive products, building, estate agents, credit issues and tenancy matters. The household goods category encompasses far more than its name suggests and incorporates matters ranging from whitegoods to introduction agencies, contact sales (door-to-door), clothing and footwear to wealth creation schemes.

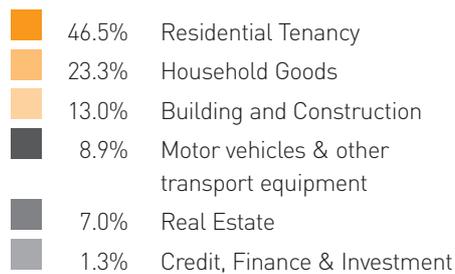
BACV

Building Advice and Conciliation Victoria (BACV) is a joint service offered by Consumer Affairs Victoria and the Building Commission. Its role is to reinforce consumer protection following changes to builders' warranty insurance. Consumer Affairs Victoria receives enquiries and written complaints from disputing parties in the building industry. Consumer Affairs Victoria conciliates these complaints, undertakes investigations for non-compliance, and takes enforcement action where appropriate.

Where complaints involve unsatisfactory work, they can be referred to the Building Commission for a technical inspection. Disciplinary action can be taken by the Builders Practitioners Board if builders fail to rectify shoddy work.



Industry watch



Solving problems more often

In its second year of operation, BACV received 20,120 enquiries and more than 1,600 complaints related to building matters. These figures represent an increase of 33% and 40% respectively over last year's figures. Forty-nine per cent of disputes were resolved either fully or partially in favour of consumers. A further 20% of matters were resolved by providing advice to the parties involved. The total amount recovered in redress was around \$630,000, an increase of approximately 44% on last year's figures.

The increase in consumers accessing the service is in part attributable to an increase in BACV's profile. This has been achieved by a variety of means, including the release of publications like the popular *Building and renovating: a guide for consumers*. In addition, BACV staff have been involved in public education campaigns such as providing a stand at the Housing Industry Association – New Ideas Home Show.



Real estate complaints by category

18.5%	Management Other
32.2%	Charges
5.7%	Conduct of Agent
6.7%	Documentation
28.2%	False/Misleading
8.7%	Advertising Property

EARS

Consumer Affairs Victoria's commitment to consumer friendly, efficient and effective complaint handling led to the establishment of the Estate Agents Resolution Service (EARS) in 2002. EARS offers a cost-free service dedicated to the provision of advice, information, complaint handling and dispute resolution on real estate matters.

In 2003-04, EARS has answered more than 10,500 enquiries from consumers and agents and responded to slightly less than 900 complaints concerning the conduct of estate agents in Victoria. Over the course of the past year, the willingness of consumers and estate agents to resolve their disputes without the need to resort to legal action realised settlements totalling \$217,177.

The introduction of legislative amendments to the Estate Agents and the Sale of Land Acts on 1 February 2004 resulted in significant changes to the way agents were able to conduct their business. In particular, under- and over-quoting of property prices was outlawed and severe penalties for dummy bidding at public auctions were introduced. EARS received 49 complaints of under- and over-quoting during the year.

Management of rental properties by estate agents on behalf of landlords continued to attract a high level of written complaints. Some 291 cases (28.2% of all matters) were referred to EARS for conciliation.

EARS also provides consumers with information and advice about alternative avenues in instances where EARS itself is unable to reach a mutually agreeable settlement.



CASE STUDIES



Consumer Affairs Victoria paves the way

A consumer had paving works undertaken by a paving company in 1997. After the paving works had been completed, the consumer noticed that the grouting was beginning to crumble and some of the pavers had shifted to create an uneven surface. The consumer had contacted the paving company continuously for a number of years but had been unable to resolve the problem herself.

She then wrote to Consumer Affairs Victoria to complain about the quality of the paving work and to seek BACV's assistance in resolving the matter.

Consumer Affairs Victoria contacted the paving company. After a further inspection, the paving company agreed to pull up any defective areas of paving and re-lay and re-grout them. In addition, the trader agreed to pressure wash and re-grout any other paving areas of concern. The consumer was very happy with the outcome because the area of paving was extensive and she would have incurred significant additional expense if she were forced to engage another contractor to remedy the defective work.

Building bridges

A building owner entered into a domestic building contract with a builder. The contract set out the nature of the works (which was an extension to an existing dwelling). The contract price was \$69,070. Building work on the extension started in August 2002 and was completed in December 2002. The building owner was dissatisfied with the work and gave written notice to the builder of a list of alleged building defects.

BACV contacted the builder and after lengthy discussions and extensive correspondence, the builder agreed to return to the property to rectify the faults. BACV assisted the parties to reach agreement over the list of defective items and the timeframe for completion of the work.

As a direct result of BACV's intervention there was a positive outcome for both parties without the need for an independent inspection or for the building owner to pursue an outcome through VCAT.

Withholding rent

A consumer informed Consumer Affairs Victoria that the managing agent of his rental property had also been given authority to sell it. When the property sold, the agent withheld rent paid over several months by the departing tenant in lieu of outstanding advertising expenses arising from the sale of the property.

EARS warned the agent that the delay to account for rent being held in the agency's trust account and the refusal to release the relevant funds to the landlord was in fact a breach of s49A of the *Estate Agents Act 1980*. Following EARS' intervention, the agent released funds totalling in excess of \$2,000 to the consumer. The agent also received a formal warning from Consumer Affairs Victoria regarding his conduct.

In instances where EARS becomes aware that there may have been continual or serious breaches of the law, it refers these matters for investigation and enforcement action if appropriate.



CASE STUDIES



Unreasonable pressure

A consumer wrote to EARS seeking a reduction in the commission charged by her estate agent. She alleged that the agent unfairly pressured her into accepting a lower price for her property.

The consumer claimed that at the time of negotiating the sale of her property she was considering two offers - an unconditional offer and a second higher offer that was conditional upon the prospective purchaser selling his own home. The agent recommended that the consumer accept the lower offer. She did, and the property was sold. The agent deducted his authorised commission (in excess of \$8,500) from the sale price. The vendor sought EARS assistance in seeking a refund of the difference between the two offers (approximately \$6,000) on the basis that the agent had acted unreasonably by pressuring the consumer to accept the lower offer.

The consumer also disputed a charge of \$1,500 for marketing expenses as she had only authorised maximum expenditure of \$400. Despite the agent denying the allegation, he offered a \$3,000 settlement in good faith, an amount that was unacceptable to the consumer. Following protracted negotiations, the offer was increased to \$4,000 and the matter resolved.

RESIDENTIAL TENANCIES

Consumer Affairs Victoria provides a free inspection service in line with obligations set out in the *Residential Tenancies Act 1997*. The service includes taking a record of goods left behind by vacating tenants, rent increases and repairs that tenants have been unable to convince landlords or agents to carry out.

The service caters for home tenancies, rooming houses and caravans across the whole of Victoria. In the past financial year over 6,500 requests were processed. Staff regularly find that they are able to successfully resolve tenancy issues without the need for further action to be taken at VCAT.

Goods left behind

When a tenant abandons a rental property and leaves goods behind, the estate agent or landlord may request a Consumer Affairs Victoria inspector to attend and compile a report.

Reports categorise goods that may be stored and those that may be disposed of in some other way. Attempts are then made to contact ex-tenants who, if they wish, may collect their belongings.

In 2003-04 around 4,200 requests for inspections concerned goods left behind matters.

Repairs

When a tenant is unable to get an agent or landlord to undertake repairs to a rented property, a Consumer Affairs Victoria inspector's report may be presented to a VCAT hearing where an order may be obtained compelling the agent or landlord to arrange and pay for repairs.

Often the intervention of a Consumer Affairs Victoria inspector will result in an approach being made directly to the landlord, thereby circumventing the need for a hearing. The assessment experience of Consumer Affairs Victoria inspectors is often a telling factor in resolving disputes of this nature.

In 2003-04, more than 1,600 requests for inspections concerned repairs inspections.

Rental assessments

An occupant of a rented property must receive at least 60 days notice of an impending rent increase. A tenant may make an application to Consumer Affairs Victoria within 30 days of the notification in circumstances where the tenant believes that the increase is not justified. A Consumer Affairs Victoria inspector will then assess the fairness (or otherwise) of the new rent.

An inspection will be undertaken in around 14 days from the time of the application. Often an independent local estate agent will be asked to assist with the assessment of the rent value. Depending on the outcome, the tenant may use the information in the report to initiate a hearing at VCAT, which must be done within 30 days of the report.

In 2003-04, around 970 requests for inspections concerned rental assessments.



CASE STUDIES



Misleading advertising – When sorry is the hardest word

A consumer went to a well-known department store after seeing advertising that offered a PlayStation 2 for \$248. The advertisement stated that the Playstation 2 came with certain accessories, one of which was a DVD remote control. When the consumer enquired about the deal, a staff member told her that there had been a mistake in the advertisement, and that the DVD remote control was not included in the advertised price. A further query about the advertising was met with an accusation that the consumer was “trying to get something for nothing”. The consumer asked to speak with a manager and was again told that there was “no way” a DVD remote control would be included in the advertised price. Feeling she had not only been misled, but also badly treated and embarrassed by store staff, the consumer complained to Consumer Affairs Victoria.

Consumer Affairs Victoria approached the Marketing and Customer Services Manager who admitted the advertisement had been incorrectly worded. To rectify the mistake, public apologies had been placed in the main daily newspapers in each State. To make amends for the unnecessary rudeness shown to the consumer, it was agreed that the store manager would contact the consumer with an apology, and an offer of a free DVD remote control.

Car advertising – Through hell and high water

A consumer purchased a new 4WD having seen TV advertising showing the same model crossing a river. In the advertisement, the subject 4WD was seen to be driving through water as high as mid-way up the doors. After the vehicle had ‘clocked up’ around 50,000kms, including some extreme usage in 4WD mode, the consumer discovered that his air-compressor bearing had failed. After dismantling, the dealership denied a warranty claim on the basis that the bearing was found to be full of mud and water. The consumer pointed out that the TV, website and print advertising encouraged usage through dust, water and mud (with care). The consumer also highlighted the engine layout places the compressor near the bottom of the engine so the bearing’s design should be able to resist water and mud. After considerable debate, the consumer complained to CAV, which resulted in the dealership agreeing to meet the \$250 repair cost.

Car dealership - Squeeze tactics backfire

A couple approached a car dealership and took an interest in one of their cars. They test-drove the car, decided not to buy it and left without signing any documentation. Over the next couple of hours they received four telephone calls from the car dealership's salesman who was attempting to persuade them to change their minds. Worn down, they agreed to pay a 'no obligation' \$500 holding deposit by credit card.

Two days later, they received an unsolicited a copy of a sale contract that they had not signed nor previously sighted. They responded by calling the dealership to advise it that they did not want to proceed with the purchase. They also asked for their \$500 deposit back. The salesman refused and claimed that he would "take them to court" to force them to complete the purchase.

The concerned couple approached a local solicitor who directed them to CAV to obtain an application for a VCAT hearing. Consumer Affairs Victoria saved them the trouble. With a single phone call, the \$500 deposit was returned.

Furniture - Worldwide withdrawal of faulty stools

A consumer purchased four bar stools from a large furniture chain for a total price of \$96. The consumer specifically asked the shop assistant whether the plastic legs of the stool would cause damage to her timber floor. She was assured that they would not. Contrary to the advice she had received, the consumer noticed that after a few weeks the stools had caused damage. The consumer obtained three quotes for repairs to the floor ranging from over \$1,000 to \$1,400. The trader denied responsibility, relying on the fact that it had not encountered any previous similar complaints about the product from their stores "anywhere in the world". However, at Consumer Affairs Victoria's urging, the store agreed to allow an expert in to examine the damage. The expert confirmed that the stools had caused the damage. The furniture store not only agreed to pay for the repair, but also took the stools off the market in all of their stores around the world!



CASE STUDIES



A hairy problem

A consumer entered into a hair growth program, having been told that if he saw no improvement in hair regrowth after the eight-month treatment the trader would guarantee a full refund. The consumer complained to CAV when the proprietor of the program withheld his deposit even though after eight months the consumer had not observed any regrowth at all.

A Consumer Affairs Victoria conciliator met with the trader's National Manager to examine multiple photos taken at various stages of the treatment. After much discussion about which were the 'before', and which were the 'after' photographs, it was concluded that no substantial hair regrowth could be sustained. Subsequent negotiations between the National Manager and Consumer Affairs Victoria resulted in a \$2,000 refund to a very happy customer.

A lost contract and a win for a consumer

A consumer purchased furniture to the value of \$950 from a furniture store by way of a direct debit credit contract with a finance company. After a considerable time she still had not received confirmation of the financial arrangement. The consumer made numerous attempts to have the direct debit implemented but the finance company denied knowledge of her application. In desperation, thinking that she would be listed as a bad debtor, she wrote to Consumer Affairs Victoria.

Consumer Affairs Victoria contacted the management of the furniture store who admitted that they had made an administrative error. They acknowledged the many attempts the consumer had made to resolve the problem, and to the consumer's great relief, offered to write off the loan completely.

Safe and warm

In the middle of winter, a sole parent telephoned the Consumer Affairs Victoria call centre, upset that her brand new gas heater had broken down and that it could not be repaired for a week. The sole parent, her new baby and four-year old child lived in a regional area where temperatures were sometimes as low as 4°C.

The dealer who had sold the heater informed CAV they could not make repairs themselves because its warranty clause stated that a technician authorised by the manufacturer must carry out the repairs. The manufacturer explained that the delay in repairing the consumer's heater was due to excess demand for gas technicians during the busiest time of year.

Consumer Affairs Victoria explained the urgency of the matter to both the dealer and manufacturer and discussed the various options available, including the possibility of honouring the warranty should the consumer use a gas technician that was not their own authorised technician, installing a brand new heater, or checking the installation of the current heater.

Within two hours of the consumer's phone call the dealer advised that the manufacturer had found a technician to visit the following day to repair the heater – six days earlier than originally planned.

SPECIAL REPORT



Problems with general traders

Each year CAV reports traders who have come to its attention who have been unwilling to resolve serious problems they have caused consumers.

2003-04 review and update

MaaX Spa Corporation Pty Ltd (under voluntary administration)

MaaX Spa was listed in Consumer Affairs Victoria's 2002-2003 Annual Report for poor customer service practices and poor product quality.

The company undertook to modify their practices and complaints against them decreased in 2003-04. MaaX Spa has since advised Consumer Affairs Victoria that it had gone into voluntary administration.

Stilinox International Pty Ltd

Stilinox was listed in Consumer Affairs Victoria's 2002-2003 Annual Report for its poor customer service, its failure to respond to enquiries, and its failure to repair or replace faulty goods. Specifically, the company marketed and sold consumer and household products by direct marketing sales methods. The company advertised and sold products on a 90 day '100%, no questions asked' money back guarantee. It did not honour the terms of its guarantee, nor did its lay-by documentation comply with the requirements of the *Fair Trading Act 1999*.

In September 2003, Consumer Affairs Victoria successfully obtained injunctions against Stilinox and its Directors, Mr Umberto Tassoni and Mr Patrizia Tassoni. The injunction prohibited Stilinox and the Tassonis (and other companies for which they also served as Directors) from supplying goods in a misleading way, making false and misleading representations to consumers, and providing goods materially different from those demonstrated by the company in the first instance.

SPECIAL REPORT



Problems with general traders – 2003-04 review and update

J G King Pty Ltd

J G King is one of Victoria's largest domestic construction companies. Consumer Affairs Victoria received a series of complaints from J G King's customers about a wide range of building defects that became apparent both during and after the construction process.

Consumer Affairs Victoria acted promptly after receiving the complaints to meet with J G King's Director and key operational staff to discuss the reasons for consumer concerns. Consumer Affairs Victoria also offered advice about complaints handling, education practices, and spoke about the range of options that confronted J G King if it was unable to improve its performance. Despite CAV's best efforts, J G King has failed to adequately address many of CAV's concerns. Consumer Affairs Victoria will continue to monitor J G King's conduct.

Glenvill Pty Ltd

Glenvill is a high profile domestic building company. Consumer Affairs Victoria became aware of Glenvill after receiving three complaints from concerned and frustrated consumers who reported significant structural defects to their new homes. Consumers reported problems as varied as cracked foundation slabs, incorrect wind load capacity, and significant material quality issues.

Consumer Affairs Victoria met with Glenvill's Director to emphasise the seriousness of the complaints and point out the ramifications of failing to rectify consumer concerns.

Furniture Galore

CAV has continued to receive a large number of complaints about Furniture Galore. These complaints relate to faulty furniture, delivery delays and poor customer service practices. CAV named Furniture Galore in 2001-02 as a result of its complaints numbers. CAV also met with the General Manager of the company in October 2003. Assurances were provided by the company during that meeting that a larger warehouse, implementation of a "live time" computer stock control system and the introduction of a customer complaints system conforming to the Australian Standard would assist in reducing the number of complaints being received. Complaints were monitored subsequent to the meeting and an initial reduction in numbers received was encouraging. However, this improvement has been short lived and once again complaints are increasing, with poor complaints handling practices evident. CAV is examining these new complaints to determine what action it can take to compel Furniture Galore to properly address the issues.





Problems with general traders –

Merringtons Optometrists

Consumer Affairs Victoria has received 90 complaints about Merrington Optometrists over an extended period. In recent times, complaints have escalated, with around 75% of all complaints being received in 2003 and 2004. The nature of the complaints vary, but usually concern allegations about the poor quality of goods supplied and customer service (particularly with regard to refunds). CAV has been concerned about the responsiveness of Merringtons to consumer complaints and the approaches made to it by CAV.

Consultation reaps dividends for consumers

Many traders responded positively to CAV's approaches concerning the complaints it received during the year. Here are some significant cases.

Think Furniture

Think Furniture came to CAV's attention after the receipt of several complaints relating mainly to poor complaint handling service, excessive delays in the delivery of goods, delivery of damaged goods and quality concerns.

After meeting with the Business Manager of Think Furniture, Consumer Affairs Victoria requested that the company respond to the concerns raised. Think Furniture have since advised that they have instituted new customer complaint handling systems, employed extra staff to be responsible for maintenance and quality control, installed a networked stock inventory system and modified their handling of warranty claims.

Consumer Affairs Victoria will continue to monitor Think Furniture's behaviour and any complaints received.

Thomas Jewellers (Aust) Pty Ltd

When CAV monitors the marketplace, large numbers of complaints received about an individual trader is not the only indicator that a problem may be emerging. In fact, often a small number of complaints about a trader received over a short period of time can be an equally telling factor. This was the case with Thomas Jewellers, a large and well-established retail jeweller.

In late 2003 and early 2004 a handful of complaints were received. Very few complaints had previously been received about this company. After examining the recent complaints CAV noted that Thomas' lay-by policy did not comply with the Fair Trading Act and that the way in which complaints were being handled by the company were ineffective. Thomas Jewellers' Managing Director was asked to meet with CAV to discuss these matters. The purpose of the meeting was not only to resolve existing complaints, but also to examine reasons for the increase in complaints and to suggest solutions.



SPECIAL REPORT



Problems with general traders – 2003-04 review and update

Thomas Jewellers (Aust) Pty Ltd continued...

The meeting was productive and resulted in the amendment of the company's lay-by policy and associated documentation. Agreement was also reached for the establishment of a more rigorous internal complaints handling process designed to assist resolving consumer complaints at the earliest possible opportunity. Monitoring of the business has occurred since the meeting but no further complaints have been received.

Shamrock Roofing Corporation Pty Ltd

Consumer Affairs Victoria received several complaints about Shamrock Roofing's allegedly defective roofing work and its delays in responding to complaints.

CAV staff visited Shamrock Roofing's offices and discussed the complaints with its Director and relevant operational personnel.

Consumer Affairs Victoria suggested a range of educational initiatives and effective complaints handling procedures. Shamrock Roofing's key personnel listened receptively and were quick to adopt effective internal changes.

Consumer Affairs Victoria has not received a complaint about Shamrock Roofing since.

Domaine Homes (Vic) Pty Ltd

Domaine Homes was the subject of several consumer complaints about workmanship and delays in responding to consumer concerns.

Consumer Affairs Victoria met with Domaine Homes to discuss the complaints and to suggest a range of internal administrative strategies that could assist it reducing response times to complaints about workmanship. CAV assured the company that it wanted to work together to achieve a positive outcome for all concerned. After a productive meeting, Domaine Homes received Consumer Affairs Victoria's advice enthusiastically and applied some of CAV's suggestions to its complaint handling procedure.

No further complaints have been received about Domaine Homes.

LG Electronics Australia Pty Ltd

In May 2004, CAV wrote to LG Electronics following a series of complaints over the preceding months. Whilst small in number, CAV was concerned that consumers were unable to resolve matters without CAV's intervention. Complaints generally related to delays and/or and unsatisfactory repairs, and the supply of spare parts.

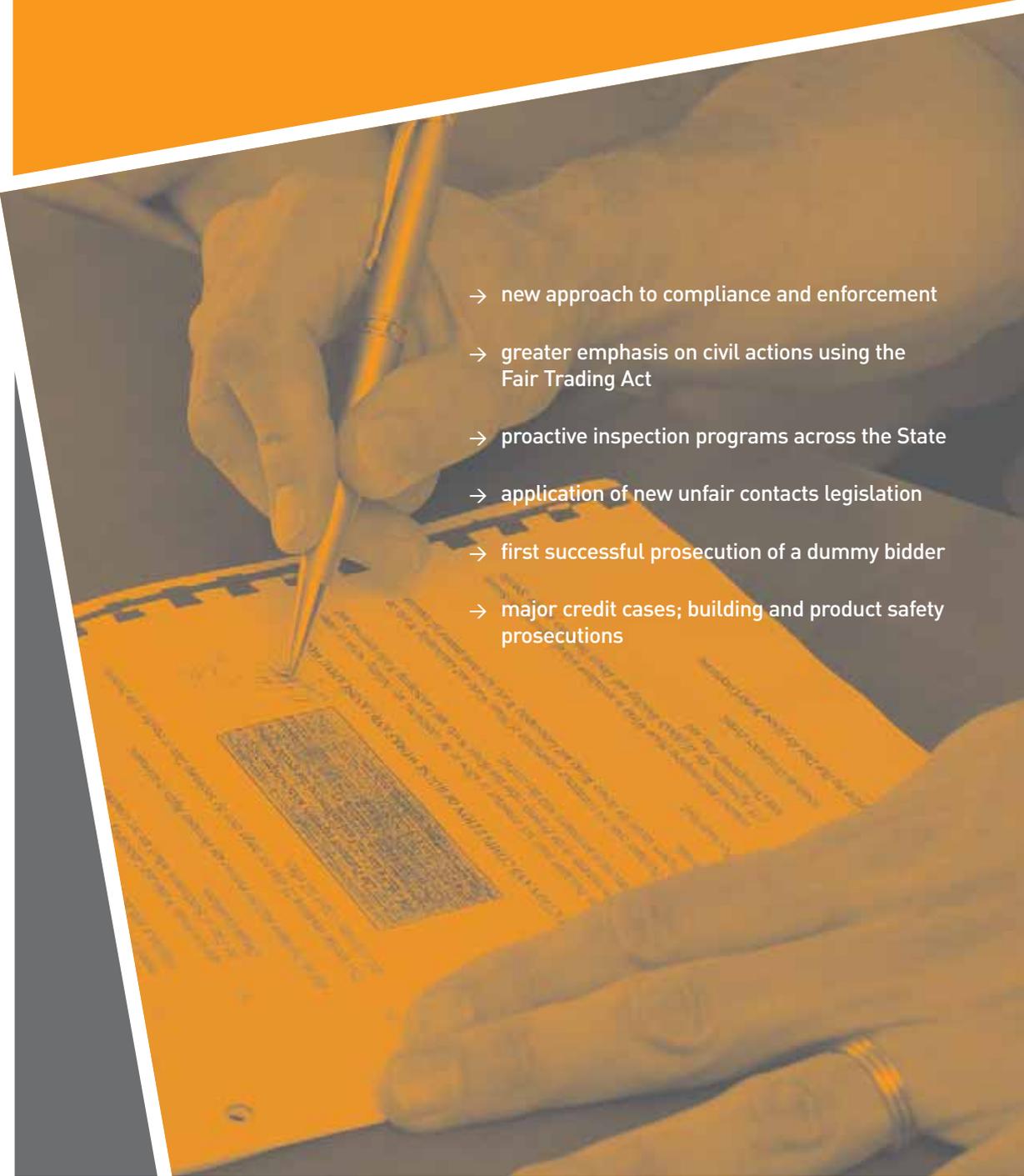
LG was quick to put measures in place to address CAV's concerns.

No further complaints have been received.



“ Strengthening compliance and enforcement ”

5.0

- 
- new approach to compliance and enforcement
 - greater emphasis on civil actions using the Fair Trading Act
 - proactive inspection programs across the State
 - application of new unfair contacts legislation
 - first successful prosecution of a dummy bidder
 - major credit cases; building and product safety prosecutions

Non-compliance with consumer laws causes harm to both consumers and ethical traders. Past efforts have not been fully effective in promoting and enforcing compliance in the absence of voluntary compliance by traders. There has been undue reliance on criminal prosecutions. Criminal action is appropriate when breaches of law are blatant but less relevant when the breaches are inadvertent and when the main objectives are to stop the undesirable conduct quickly and provide redress to consumers affected by the conduct.

In 2003-04 a new compliance and enforcement strategy was developed and new structures adopted to implement it. An Enforcement Committee comprising the Director, Deputy Director and General Manager, Compliance and Enforcement was established to oversee investigation and enforcement activity. The Investigations and Legal Development Branches were merged and a more flexible team structure was established. A Priorities Committee ensured that investigations undertaken were in line with specific priorities.

Compliance and enforcement activities were more targeted in 2003-04 and new strategies were applied. More emphasis was placed on trader education. Proactive compliance initiatives were launched rather than just responding to complaints. Policy in relation to infringement notices was more clearly articulated and administrative undertakings, which are published on the Consumer Affairs Victoria website, were revamped to ensure future compliance was emphasised. Increased emphasis was placed on the use of civil sanctions through injunctions. Major civil penalty cases were launched against fringe credit providers and a blitz on rogue builders was launched. A more effective approach to product safety compliance was applied in 2003-04.

“
Compliance and enforcement activities were more targeted in 2003-04 and new strategies were applied.
”

ENFORCING COMPLIANCE

Where matters cannot be resolved by other means, Consumer Affairs Victoria is empowered to investigate and act against traders and it has a number of enforcement tools at its disposal. In 2003-04, Consumer Affairs Victoria issued 223 infringement notices and enforceable undertakings. It also successfully obtained 79 injunctions, disciplinary actions and successful prosecutions against traders.

Compliance and enforcement outcomes 2003-04

Total of fines issued	\$503,600.00
Other penalties	\$36,483.00
Total of costs issued	\$48,284.98
Prosecutions, injunctions and disciplinary actions	79
Infringement notices and enforceable undertakings	223

NEW ENFORCEMENT GUIDELINES

In April 2004 Consumer Affairs Victoria implemented its new enforcement policy guidelines. The policy identifies the key objectives of enforcement as stopping illegal conduct, obtaining redress for consumers, preventing future non-compliance and where appropriate punishing offenders. The guidelines emphasise the timeliness of responses and discuss the factors influencing the use of the different enforcement remedies available to CAV. The guidelines were developed with input from key business and consumer stakeholders.

FAIR TRADING ACT AMENDMENTS

In October 2003, the major parts of the *Fair Trading (Amendment) Act 2003*, came into operation. The amendments included provisions making unfair terms in consumer contracts void. Wherever possible CAV attempts to regulate conduct through application of the relevant provisions of the *Fair Trading Act 1999* rather than relying exclusively on industry specific legislation.

KEY INVESTIGATION – METROPOLITAN ENFORCEMENT AND COMPLIANCE EXERCISE

In June 2004, Consumer Affairs Victoria conducted the first of its suburban shopping centre compliance visits. Inspectors targeted fair trading, product safety, trade measurement, and travel agent issues. As a result of the exercise several businesses were identified as having minor Fair Trading Act compliance issues and one outlet was considered to have significant compliance issues regarding refund and lay-by policies. Trade measurement inspectors tested 32 scales and 630 pre-packaged items. Product safety inspectors seized 60 items that breached banning orders or mandatory safety standards. Three warning letters to travel agents were sent following the visit.

KEY INVESTIGATION – REGIONAL COMPLIANCE AND ENFORCEMENT PROGRAM

In May 2004, Consumer Affairs Victoria undertook a regional compliance and enforcement exercise in Bendigo as part of a new program to meet the needs of consumers outside of the Melbourne metropolitan area. Officers conducted targeted inspections. In addition, the Director of Consumer Affairs Victoria met with five Bendigo-based industry associations. In total Consumer Affairs Victoria visited 67 retail premises, 89 business premises, 17 prescribed associations or incorporated associations and 45 hotels, restaurants and clubs. Inspections resulted in the issuing of 19 infringement notices and eight warning letters, and the seizure of 46 products subject to banning orders. The exercise received significant media coverage including three articles in the Bendigo Advertiser and a lead story on WIN television news.

MAJOR COMPLIANCE PROGRAM – ESTATE AGENT TRUST ACCOUNTS

A two year statewide compliance audit of estate agent trust accounts were finalised in 2003-04. The audit, which covered all licensed agents, resulted in 230 inspections including 151 formal warnings, 20 enforceable undertakings and one prosecution. Whilst the overall compliance rate was high, the audit did identify the need for many agents to improve practices. The most common problems included not completing monthly account reconciliations, inadequate accounting records and late banking of monies.

KEY PROSECUTIONS – DOMESTIC BUILDING

Mr Samuel Halaseh, who was not a registered building practitioner, acted as the director of Darlington Homes Australia Pty Ltd (DHA), a company that entered into several major domestic building contracts to build homes for various consumers. Halaseh, who was not qualified to undertake domestic building work, induced consumers into entering contracts with his company by using the registration and insurance numbers of other properly registered building practitioners. In the prosecution concerning one consumer, Halaseh was paid to complete a building to lock-up stage and represented in the contract that the work was covered by the appropriate insurance. Halaseh failed to complete the work, leaving the consumer with only the concrete slab and house frame. Halaseh did not have the insurance required to enable him to rectify the fault. Consequently, the consumer was unable to complete the construction of her home. The Magistrate convicted Halaseh on 36 charges. Halaseh was also fined \$270,750 (the highest possible fine in the circumstances) and ordered to pay \$2,422.24 in costs. In handing down his decision, the Magistrate described Halaseh as 'a rogue' and suggested that if the Magistrate had the power, he would have jailed him. The Magistrate also said that 'working people had one chance to build a dream home and to have those dreams destroyed by people such as Halaseh could not be tolerated'.

KEY PROSECUTIONS – CREDIT

In September 2003, Associated Premium Funding Pty Ltd (APF), a finance company, was ordered by the Victorian & Civil Administrative Tribunal (VCAT) to pay \$54,000 into the Consumer Credit Fund for breaches of the Consumer Credit Code. APF was also ordered to pay Consumer Affairs Victoria's legal costs of \$6,000. APF was found to have deliberately flouted the Consumer Credit Code and was also found to have devised an elaborate scheme to circumvent it. APF, which should not have been dealing in consumer credit, concocted a scheme to secure loans for people to purchase cheap cars. Instead of car loans the buyers would receive, without their knowledge, insurance warranties on the cars. The warranties, obtained through forged application documents, were then used so that the buyers' loans would be exempt from the Consumer Credit Code. As a result the loan documents failed to comply with the code in eight respects. APF entered into about 105 of these illegal contracts with consumers.



Peter Hiland, General Manager, Compliance & Enforcement. (left) and Stephen Devlin, Legal Counsel. A more targeted approach to compliance and enforcement has been a key priority for CAV in 2003-04.

KEY PROSECUTIONS – UNCONSCIONABLE CONDUCT

In June 2004, the Magistrates' Court awarded a consumer \$31,584 compensation after she was found to have been misled, deceived and treated unconscionably by property sales companies when buying a home under a vendor terms contract. Consumer Affairs Victoria investigated complaints against two companies, Astvilla Pty Ltd (Astvilla) and Perna Pty Ltd (Perna) and a company officer, Mr Livio Cellante. Astvilla, Perna and Cellante were alleged to have engaged in the practice of purchasing country properties at low cost and selling them on at greatly inflated prices to unsuspecting persons with little knowledge of the local market. For the first time Consumer Affairs Victoria initiated proceedings under the unconscionable conduct provisions of the Fair Trading Act. Astvilla, Perna and Cellante persuaded the consumer to purchase a property under a vendor terms contract for \$55,000. Astvilla, Perna and Cellante were in the process of purchasing the same property for \$25,600. Not only was the house undervalued but also Astvilla, Perna and Cellante concealed the true value of the house from the consumer. The consumer was also prevented from making a considered decision as a result of undue pressure placed on her to provide an immediate deposit to secure the house; a house that was said by the company to be highly sought after even though it had been on the market for seven years. The Magistrate found that the Astvilla, Perna and Cellante had contravened the unconscionable conduct provisions of the Fair Trading Act. The Magistrate also found that they had engaged in misleading and deceptive conduct.

The companies and Cellante have appealed the Magistrate's decision.

KEY PROSECUTIONS – ROGUE TRADERS

Kevin John Sims, also known as Simon Spain, operated modelling and entertainment agencies under the names Central Casting, Global Capital Casting and M.M. Promotions.

In February 2004, for the first time, the Director used S162A of the Fair Trading Act to publicly name a rogue trader. In doing so Consumer Affairs Victoria warned consumers not to deal with Kevin John Sims when looking for work as a model or actor.

Sims advertised in the employment sections of newspapers throughout Victoria and promised work in modelling or the entertainment industry. He demanded an upfront registration fee.

Consumer Affairs Victoria received numerous complaints about Sims' activities and his failure to honour promises and assurances given to prospective actors and models.

Consumer Affairs Victoria subsequently sought an injunction in the Magistrates' Court, prohibiting Sims from engaging in misleading and deceptive conduct and running businesses as a modelling agent, casting agent or employment agent. In addition to the injunction to cease trading, the Court ordered Mr Sims to refund \$7,491 to the 23 people who had not received services paid for.

In another matter, a consumer repeatedly sought redress after they purchased an allegedly defective lounge suite from Yarrabee Investments Pty Ltd trading as Leather Lounges Direct. Leather Lounges Direct failed to adequately address the consumer's complaints so the consumer approached Consumer Affairs Victoria for assistance. CAV had received several complaints about the trader from other consumers in the past. CAV's Director commenced an action in VCAT on behalf of the consumer in which it sought a refund of the purchase price. After considering the evidence, VCAT upheld the consumer's complaints by finding that the lounge suite was defective. Further, VCAT also found that there was strong evidence to suggest that Mr John Apostilidis, the Director of Yarrabee Investments Pty Ltd, had acted in a threatening and intimidating manner towards the consumer on more than one occasion. It ordered Yarrabee Investments Pty Ltd to pay \$1,000 to the consumer.

SPECIAL REPORT



Consumer Affairs Victoria action over property marketing schemes

In July 2004, Consumer Affairs Victoria was successful in a legal action against Australian Finance Direct (AFD), a company that financed the Henry Kaye investment seminars.

VCAT ruled that AFD had breached the Uniform Consumer Credit Code (UCCC) by failing to disclose the real interest rate charged on loans provided to Henry Kaye customers.

AFD breached the UCCC by charging and not disclosing to its customers a 'holdback fee'. VCAT ruled that in all loans this 'fee' was 10%, but in some cases it ran as high as 50%. A hold back fee is a percentage of a loan that (in this case) was retained by AFD to supplement the interest charged and was not paid to National Investment Institute Pty Ltd, another of Kaye's affiliated companies.

A further hearing will be held in VCAT to determine what civil penalty will apply to the breaches. AFD faces potential fines of up to \$2M, as each breach of key requirements of the UCCC attracts a fine of up to \$500,000.

An appeal in the Supreme Court has since been lodged by AFD.



FUNDRAISING

During the last financial year more than 700 organisations either registered as fundraisers or renewed their previous permissions to conduct fundraising appeals.

In administering the registration process, Consumer Affairs Victoria placed conditions on eight fundraisers in order to cap the administration costs associated with conducting fundraising appeals.

In one case, a large retailer was conducting fundraising activities without being a registered fundraiser under the *Fundraising Appeals Act 1998*. In addition, only 20% of gross proceeds were being passed on to the beneficiary. Consumer Affairs Victoria required that the retailer cease all fundraising activity until it had secured registration as a fundraiser under the Act. As a result of this intervention, the retailer applied for registration as a fundraiser and increased by 30% the amount of gross proceeds from all fundraising appeals being passed on to beneficiaries.

Consumer Affairs Victoria inspectors have visited fundraisers during their metropolitan and regional compliance visits. The purpose of the visits has been to ensure that all funds being raised were being properly accounted for and distributed in accordance with the purposes for which they were being raised. Consumer Affairs Victoria inspectors have also sought to confirm that all fundraising records were being kept in accordance with the provisions of the *Fundraising Appeals Act*.

ESTATE AGENTS

On 1 February 2004, the major parts of the *Estate Agents and Sale of Land Acts (Amendment) Act 2003* came into effect. Among other key provisions, these laws made the under- and over-quoting of property prices illegal. They also introduced significant penalties for dummy bidding at public auctions. To coincide with the new laws, Consumer Affairs Victoria implemented a compliance and enforcement strategy to proactively monitor the conduct of estate agents and the sale of residential properties in Victoria.





CASE STUDIES



Key prosecution – First dummy bidder caught by new real estate laws

A dummy bid is made when an auctioneer makes or accepts a false bid either 'out of thin air' or from a planted participant in the crowd. Dummy bids at auctions cloud what should be a transparent and fair process.

Earlier in the year, a Berwick man became the first person to be caught out under new laws that prohibit dummy bidding at auctions.

On 1 September 2004, the man pleaded guilty in the Melbourne Magistrates' Court to making seven dummy bids during the auction of a property in Miller St, Berwick on 28 February, 2004. The Magistrate found that he made seven dummy bids in an attempt to elevate the auction price of a friend's property. He ultimately purchased the property with his final bid despite having no intention of going through with the sale.

The offender was placed on a 12-month good behaviour bond and was required to pay \$750 into the Court Fund and pay legal costs in excess of \$1,000.

Key prosecution – Real Estate

Bond's Real Estate Sales Pty Ltd employed John Talia as an agent's representative. His wife Susan Ann Talia was a Director of the agency. John Talia was commissioned to sell a property that he ultimately sold pre-auction to a company that was controlled by his wife. This fact was not disclosed to the vendor, nor was permission obtained from the Director of Consumer Affairs Victoria for the purchase in line with the Estate Agents Act. The purchase took place after the person negotiated with the vendor on price and advised them not to go to auction. The agency received \$12,000 in commission. A subsequent valuation of the property indicated that it had been sold below market value. At a VCAT hearing, John Talia was fined \$5,000 and suspended for four and a half months. His wife was reprimanded and fined \$2,500 and the agency was reprimanded and fined \$5,000.

The Officer in Effective Control of the agency, Mr Whye Wah Roy Moo, agreed to surrender his estate agent's license for three years for failing to properly supervise the running of the agency. He also agreed to re-pay the vendor the amount of commission charged on the sale of the property and the \$16,000 difference between the sale price and the subsequent valuation of the property.

PRODUCT SAFETY

One of Consumer Affairs Victoria's most important functions is to protect consumers from the risk of injury or death caused by products or services that are dangerous or fail to meet prescribed standards.

The Fair Trading Act provides the power to:

- ban the supply of unsafe goods
- recall consumer goods that pose a safety risk, and
- impose safety and information requirements by regulation.

In 2003-04, Consumer Affairs Victoria received over 2,200 calls from consumers and industry generally seeking advice on matters related to product safety. Consumer Affairs Victoria also conducted more than 260 investigations into the safety of consumer products.

In 2003-04 Consumer Affairs Victoria increased its safety compliance activities and inspected more than 350 premises to ensure consumer products complied with ban orders and regulations.

Inspectors also examined more than 300 show bags at the Royal Melbourne Show, and inspected:

- toy retailers as part of their annual pre-Christmas toy survey
- stores known or suspected of selling 'ice-pipes'
- displays at the Annual Toy, Hobby and Nursery Fair
- Bendigo retailers as part of the regional compliance and enforcement exercise, and
- stores as part of the metropolitan compliance and enforcement exercise.

Consumer Affairs Victoria issued numerous warning letters to retailers that were found to be selling banned products. It also launched its first prosecution for breaches of product safety laws.



CASE STUDY



First product safety prosecution

Go Lo Discount Stores trade from numerous locations across Australia including Victoria. In June 2002, a Consumer Affairs Victoria product safety inspector purchased items from its Sunshine store including a toy aeroplane, a toy helicopter, and a candle with a wooden base. On further investigation it was discovered that the products breached Australian safety standards because parts could break off and cause a choking hazard and in the case of the candle, the product was the subject of a permanent ban order in force in Victoria due to its base being flammable and therefore a fire hazard.

In January 2003 a Consumer Affairs Victoria product safety inspector purchased a portable basketball ring and backboard set from a Go Lo store in Reservoir. The set did not comply with regulations passed in 2002 requiring warning labels to be affixed to the set.

Under s33 of the Fair Trading Act it is an offence to supply goods which fail to comply with prescribed safety standards, whilst s44 of the Act makes it an offence to supply goods which are subject to a permanent ban order.

On 3 December 2003, Go Lo pleaded guilty to the charges in the Magistrates' Court.

The Magistrate took into account the company's plea of guilty and co-operation with Consumer Affairs Victoria in its investigation. He also took into account the material submitted by the company which disclosed the fact that it had implemented substantial and extensive compliance reforms. He also noted that the maximum penalties applicable were substantial. He considered that in circumstances where the company had no prior convictions in Victoria it was not necessary to record a conviction. To ensure ongoing product safety compliance he adjourned the proceedings to December 2004 on the basis of Go Lo's undertaking of good behaviour and on a further condition that Go Lo contribute \$10,000 to the Royal Children's Hospital within 30 days. He also ordered Go Lo to pay court costs in excess of \$500.

In January 2004, the Minister for Consumer Affairs made an order to permanently ban the supply of 'ice pipes' in Victoria. Ice pipes are used for smoking methamphetamine crystals, commonly known as 'ice' or 'crystal meth'. Smoking 'ice' can lead to irreversible brain damage and death.



CASE STUDY



Key product safety enforcement action - Dangerous toys no fun at all

Consumer Affairs Victoria inspectors seized 35 banned toys from several retail outlets in Melbourne. As a result a wholesaler, SJS Imports Pty Ltd (SJS), was implicated in the supply of banned goods. Consumer Affairs Victoria obtained a search warrant to search SJS' premises and seized 3,400 individual products that breached three separate Consumer Affairs Victoria ban orders. Seized items included toy guns with small suction darts that posed a choking hazard. Acting on new intelligence a few weeks later Consumer Affairs Victoria executed a new search warrant and seized nearly 150 banned toy guns and in excess of 4,600 disposable cigarette lighters that contravened the Consumer Affairs (Product Safety) (Lighters) Regulations 1998. The lighters were extremely dangerous because of their propensity to explode and potentially cause serious injuries.

Consumer Affairs Victoria has since commenced enforcement action against SJS and its Directors, Mr Hu Sheng Xie and Ms Jen Yung Wang seeking (among other things) injunctions to prevent trading and an independent audit of SJS' compliance program.

SPECIAL FEATURE



Retail awards for compliance

Consumer Affairs Victoria's Retail Excellence Award was the latest addition to Australian Retailers Association of Victoria's retail awards program for 2004. The Awards focus on compliance with consumer protection legislation and dealing with consumer complaints effectively. Consumer Affairs Victoria's sponsorship of the Award was seen as an effective way of promoting the importance of compliance with consumer laws by retailers.

In their submissions, businesses answered questions about their understanding of traders' compliance obligations under the Fair Trading Act and showed evidence of effective complaint handling systems.

Based on the quality of submissions received, it was clear that many firms have a general understanding of compliance obligations and apply innovative complaint handling solutions. However, formal compliance processes are yet to be given as much attention as they should in the daily running of a retail business.

Compliance goes further than just having a good refund policy. It is about having systems and checks in place to ensure a business is consistently complying with consumer laws.

The following businesses won Consumer Affairs Victoria Retail Excellence Awards:

Small - Medium Category

Joint winners

- Zentini Pty Ltd, Queen St, Melbourne
- Semaarn Salons, High St Armadale; Bourke St, Melbourne; Clarendon St, South Melbourne

Large Category

- Coles Supermarkets, Victoria

Franchised Business Category

- Bakers Delight, Maroondah Hwy, Chirside Park



TRADE MEASUREMENT

Consumer Affairs Victoria administers the *Trade Measurement Act 1995* and the associated *Trade Measurement Regulations 1995*. Consumer Affairs Victoria's officers assist business, industry and consumers by giving advice about and inspecting instruments used for measurement for trade purposes. According to the National Measurement Institute \$300B of goods are sold by measurement in Australia mainly by the food manufacturing, petroleum, agriculture, extractives, wholesale and retail sectors every year.

In total over 250 complaints were received and investigated during 2003-04. Nearly 60 of the complaints were later found to be justified.

In 2003-04 Consumer Affairs Victoria inspected over 5,200 trade premises and issued scores of warning letters for minor breaches of the trade measurement legislation. These breaches related to short weight/measurement across a range of food products; gross weighing, primarily of meat products; non-compliance with labelling requirements; short measure with the sale of firewood; incorrect use of instruments used for trade purposes; public weighbridge breaches, and other matters.

During the year, 155 infringement notices for trade measurement offences were issued, equating to fines of around \$72,900. The notices imposed a range of penalties, primarily for short measurement at petrol pumps and short measurement of pre-packed articles on sale at supermarkets across the State. A further three prosecutions were pursued civilly.





CASE STUDY



Consumer Affairs Victoria works with a leading fuel retailer to benefit fuel consumers

Consumer Affairs Victoria undertook a program to identify and target 'high risk' trade measurement instruments and practices in 2003-04. In doing so, CAV focused particularly on the retail petrol industry. One result of its program was that a leading fuel retailer agreed to re-certify all of its petrol pumps across Victoria that are more than two years old. Further, the retailer has committed to tighten the tolerance requirement of its meters. As a result, any meter outside of +/- 0.2% tolerance will be re-certified. This will ensure consumers actually get what they pay for.

This action followed the issuing of a number of infringement notices to the company.

LICENSING AND REGISTRATION

Licensing and registration of businesses and occupations provides front-line protection for all Victorian consumers by screening entrants into markets.

Consumer Affairs Victoria builds consumer confidence in regulated industries by:

- ensuring that only eligible businesses and individuals enter and remain in these industries
- providing public registers of these organisations, and
- monitoring compliance with relevant laws.

Consumer Affairs Victoria provides administrative services for the Business Licensing Authority (BLA), which is governed by the *Business Licensing Authority Act 1998*. The BLA is the decision maker in respect of the licensing and registration of estate agents, motor car traders, prostitution service providers, second-hand dealers, pawnbrokers, credit providers, introduction agents, and some finance brokers.

In 2003-04, Consumer Affairs Victoria carried out inquiries in relation to more than 2,000 license and registration applications. These inquiries resulted in around 7% of applicants either withdrawing applications or having licences refused. The BLA determined 1,845 applications, refusing 46, and imposed conditions or restrictions on 109.

The number of appeals to VCAT against all BLA decisions to refuse a license, registration or permission application increased on the previous year to 38% of all refusals.

Other key outcomes for the year were:

- four conditional Victorian estate agents' licenses were granted to interstate applicants
- a public register of endorsed pawnbrokers was made available on the BLA website
- an information pack including a trader's guide was sent to 180 new pawnbroker license endorsees,
- three hundred and seven claims against the Motor Car Traders' Guarantee Fund were finalised, 171 claims were admitted in part or whole, 44 claims were refused and 92 claims were withdrawn, and
- a total of around \$650,000 was paid from the Fund and more than \$245,000 was recovered from traders against whom claims had been admitted.

Number of occupational licenses and registrations 2003-04

DATE	No. at 30.6.03	No. at 30.6.04	Applications Received	Applications Granted
Estate Agents	6,458	6,888	667	629
Motor Car Traders	2,200	2,205	194	161
Travel Agents	954	948	64	59
Credit Providers	697	777	165	152
Prostitution Service Providers	179	180	25	18
Introduction Agents	73	60	20	20
Pawnbrokers	6,970	6,797*	802	763

*Includes 153 endorsed pawnbrokers



CASE STUDIES



Closure of second-hand dealer and pawnbroker business

Mr Van Khoa Nguyen, a registered second-hand dealer and pawnbroker conducted a jewellery business in Footscray. On 2 July 2003, whilst conducting surveillance, police observed a burglary suspect enter Mr Nguyen's premises and exchange a small amount of jewellery for \$50 cash. Mr Nguyen did not request identification from the suspect nor did he record details of the transaction as required under the Act.

On 13 February 2004, Mr Nguyen, pleaded guilty at the Sunshine Magistrates' Court to one charge of "possessing property reasonably suspected of being the proceeds of crime" and one charge of "failure to maintain a record book as a second-hand dealer". The first offence is an offence involving dishonesty and is punishable by three months imprisonment. It is also a disqualifying offence as defined in s3 of the Act.

On 12 May 2004, BLA refused Mr Nguyen permission to continue to be registered as a second-hand dealer and pawnbroker on the basis that permission would be contrary to the public interest. Permission was also refused because the offence was connected to Mr Nguyen's carrying on of the second-hand dealing and pawnbroking business and no special circumstances led to the offence. As a consequence of BLA's decision Mr Nguyen's registration was cancelled and his business ceased to operate.

Motor Car Traders' Guarantee Fund – A win for the good guys

The Motor Car Traders' Guarantee Fund protects consumers who suffer a loss as a result of certain conduct of licensed motor car traders. Sometimes, if a claim against the Fund is admitted by a motor car trader, the Committee will commence legal action to recover from the motor car trader (or against the motor car trader's Directors personally) amounts paid out to an aggrieved consumer.

Forty-five claims, valued at more than \$103,000, were paid to consumers as a result of the conduct of Dandenong motor car trader Kingstrate Pty Ltd in 2003-04. Offences included failure to pay stamp duty and transfer fees to VicRoads. Over a two-year period 148 claims arose as a result of the conduct of the motor car trader and in excess of \$380,000 was paid to aggrieved consumers out of the Fund.

The Committee instituted action in the Supreme Court of Victoria against Mr Michael Rimanic, the sole Director of Kingstrate Pty Ltd, to recover the amount paid out of the Fund.

The BLA determined that it would grant Mr Rimanic permission to work in a customer service capacity as an employee of a motor car trader, subject to a series of stringent conditions. At the same time, the Committee resolved its legal action against Mr Rimanic. By 30 June 2004, in accordance with the terms of the permission decision and the settlement of the Committee's action against him, Mr Rimanic had repaid \$150,000.

PROSTITUTION REGULATION

Consumer Affairs Victoria administers the *Prostitution Control Act 1994*. Victoria Police and local government also have significant responsibilities under the law. The objects of the Act are to protect children from exploitation and coercion, lessen the impact of prostitution-related activities on the community, seek to ensure criminals are not involved in the industry and seek to ensure brothels are not located in residential areas or areas frequented by children.

Following action by the Australian Federal Police, CAV sought and obtained the suspension of a brothel licence during the year. It was alleged illegal sexual slavery offences involving overseas workers had occurred at the brothel.

An Inter-departmental Committee was established during the year to examine concerns about compliance with the legislation. Allegations of illegal trading were investigated and CAV established closer co-operation with Commonwealth and State agencies. Toward the end of the year, the Minister announced a package of measures aimed at ensuring improved compliance and harm minimisation initiatives that could be undertaken. Importantly, these measures would be funded by increased licence fees, the first increases since the Act was introduced.

BUSINESS NAMES

All businesses operating in Victoria are required to register a business name with Consumer Affairs Victoria unless the business is carried on under a person's own name or under a company name registered by the Australian Securities and Investments Commission (ASIC).

Consumer Affairs Victoria registered 64,006 new business names in 2003-04 - 6.6% more than in 2002-03 - bringing to 342,503 the number of business names on the register. There were also 86,544 names renewals and changes to the business names register. Business names searches numbered 122,749, up 2.4% on 2002-03, including those undertaken by private information brokers who are provided with business names data under contract with CAV.

Incorporated associations

Consumer Affairs Victoria registers incorporated associations, monitors their compliance and provides advice on their legislative requirements under the *Associations Incorporations Act 1981*.

Over 1,500 new associations were incorporated during 2003-04, a decrease of 4.3% on the previous year. At 30 June 2004, the total number of incorporated associations was 30,529, an increase of 547. Of these, approximately 2,255 were prescribed and 28,274 were non-prescribed. Prescribed associations are large organisations with revenues of at least \$200,000 and/or assets of \$500,000.

Associations are required to lodge an annual return including certain financial details. A total of 21,623 annual returns were processed for the year.

Incorporated co-operatives

Co-operatives incorporated under the *Co-operatives Act 1996* have legal status and limited liability. A co-operative's board of directors is responsible to the membership (shareholders) in much the same way as the board of a company.

As well as keeping a register of all Victorian co-operatives, Consumer Affairs Victoria is responsible for receiving annual returns, processing changes that co-operatives 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.

With the registering of 20 new co-operatives in 2003-04 there are now 759 entities on the register.

Government guarantee co-operatives

Non-trading government guarantee co-operatives are usually formed for the purpose of providing 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.

Since the scheme's inception in 1953, over 2,300 guarantees have been issued. Currently 200 active guarantees exist. Twenty seven new guarantees totalling \$5.227M were executed in 2003-04. The total value of guarantees outstanding currently is \$18,639,803.

Limited partnerships

The *Partnership Act 1958* provides for the registration of limited partnerships. Following amendments, which came into effect in December 2003, the Act now provides for the registration of incorporated limited partnerships.

Limited partnerships are formed when a partner or group of partners want to limit their financial liability to specific maximums. The limited partnership must be located in Victoria.

There are 64 limited partnerships currently on the register, 18 more than last year.

The creation of incorporated limited partnerships seeks to facilitate the flow of funds into Victoria by venture capital funds that have been established as limited partnerships in order to gain the advantages provided by the Commonwealth's *Venture Capital Act 2002* (VCA). Under the VCA, registered funds are entitled to flow-through taxation treatment and capital gains tax exemption.

This State Government initiative followed submissions from the Australian Venture Capital Association Limited. The submissions suggested that the limited partnership provisions of Partnership Acts in Australia needed to be amended to complement recent legislative changes by the Commonwealth to provide taxation benefits to venture capital funds that invest in Australia.

At 30 June 2004, four incorporated limited partnerships have been registered.

LIQUOR LICENSING

Consumer Affairs Victoria supports the Director of Liquor Licensing in administering the *Liquor Control Reform Act 1998*. The Director of Liquor Licensing is a statutory appointment.

The Act establishes a licensing system to regulate the supply and consumption of liquor in Victoria.

A major focus of the Act is to minimise the harm arising from the misuse and abuse of alcohol in the community by controlling the circumstances under which liquor is made available. This is reflected in a number of ways, including:

- the licensing decisions
- licence conditions
- offence provisions
- enforcement, and
- training activities.

In 2003-04 Consumer Affairs Victoria processed 16,628 liquor-licensing applications. The number of licensed premises increased by 8% to 16,511.

Consumer Affairs Victoria seeks to ensure that potential licence holders and others approved under the Act are "suitable", have relevant training, and adequate knowledge of the Act.

Licence conditions are used to minimise potential negative impacts on the community. As a result, they are drafted to be pragmatic and enforceable.

The Act provides for over 60 offence provisions addressing issues of concern such as underage drinking, drunkenness, anti-social behaviour in and around licensed premises, and disturbance of the neighbourhood amenity.

Ongoing enforcement of liquor laws is the responsibility of Victoria Police. CAV has a strong partnership with Victoria Police to support their enforcement activities.

Consumer Affairs Victoria contributes to the whole of government alcohol-related agenda including the development of the Victorian Alcohol Action Plan, the implementation of the recommendations from the Royal Commission into Aboriginal Deaths in Custody Report, the Live Music Taskforce, and the Inner City Entertainment Precinct working party.

In 2003-04 Victoria Police issued 3,415 on the spot infringement notices against licensees for breaches of the Act.

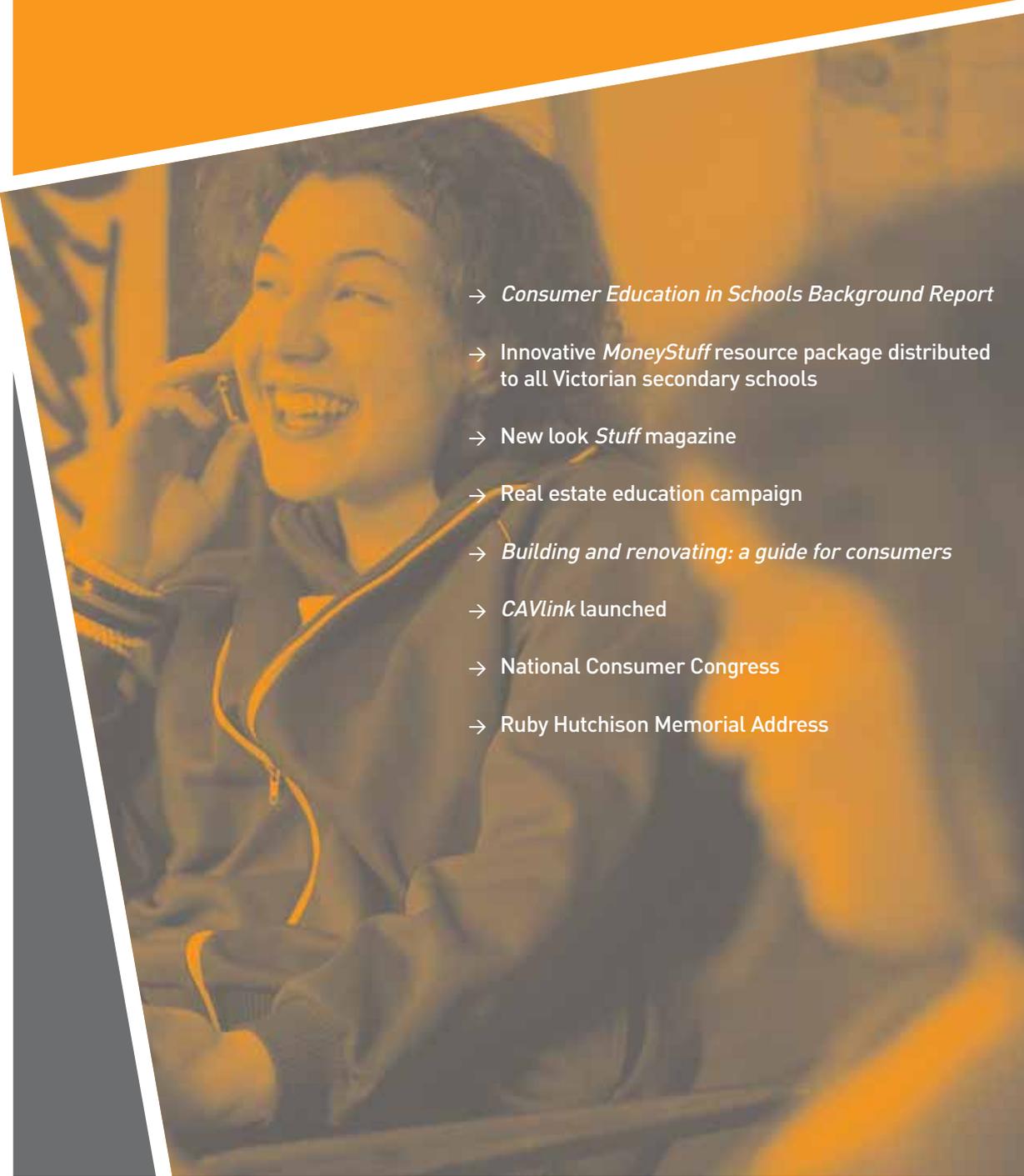
Also, 24 disciplinary proceedings against licensees were lodged with VCAT on the grounds that the pattern of behaviour brought into question their suitability to remain a licensee. VCAT regularly imposes substantial fines (on average \$6,500) and/or orders that the liquor licence be varied, suspended or cancelled. Persons may also be barred from the liquor industry.

In 2003-04 more than 6,700 Proof of Age cards were issued. These cards assist licensees to comply with their responsibilities concerning underage persons on licensed premises.

The Stonnington Safe Venues Liquor Accord was developed during the year to help deal with issues surrounding late light licensed businesses in the area. The Accord will bring together licensees, Victoria Police, the Director of Liquor Licensing/Consumer Affairs Victoria, VicRoads and local government representatives. It follows a model successfully applied in other areas of the State.

“ Strengthening information and education services ”

6.0

- 
- *Consumer Education in Schools Background Report*
 - Innovative *MoneyStuff* resource package distributed to all Victorian secondary schools
 - New look *Stuff* magazine
 - Real estate education campaign
 - *Building and renovating: a guide for consumers*
 - *CAVlink* launched
 - National Consumer Congress
 - Ruby Hutchison Memorial Address

SPREADING THE WORD, EMPOWERING CONSUMERS

Consumer Affairs Victoria applies an integrated approach that accesses the full range of tools available to it to influence marketplace behaviour. Consumer education and information is often one of those tools.

Likewise, ensuring traders are aware of their obligations under the law is necessary if CAV is to achieve effective compliance and enforcement outcomes.

Providing up-to-date, readily accessible, and easily understood information about consumer protection and marketplace obligations that recognises the needs of all consumers is crucial to the success of CAV as a regulator.

Savvy consumers who are able to assert an awareness of their rights and exercise good buying skills are more likely to avoid unsatisfactory outcomes in the first place.

Well-informed consumers are confident consumers, and confident, demanding consumers are good for the economy. They raise business standards, encourage innovation, and increase competition.

This year, CAV has worked hard to inform the market of important statutory and regulatory changes, and to advise consumers of their day-to-day rights. It has embraced on-line technologies to inform consumers and has also engaged consumers and traders about the importance of understanding the special needs of the vulnerable and disadvantaged. It has also made the education of our youth in money matters a priority.

ENQUIRIES – THE CONSUMER FRONTLINE

Consumer Affairs Victoria deals with thousands of enquiries from Victorians each year. Enquiries are received by phone, letter, email, on-line, and face-to-face over the counter. Consumer Affairs Victoria also provides information to consumers and traders to assist them with exercising their rights and avoiding disputes.

Enquiries officers have a broad understanding of the 48 Acts of Parliament administered by CAV and they are trained to explain how specific legislation could assist consumers.

“

Savvy consumers who are able to assert an awareness of their rights and exercise good buying skills are more likely to avoid unsatisfactory outcomes in the first place.

”

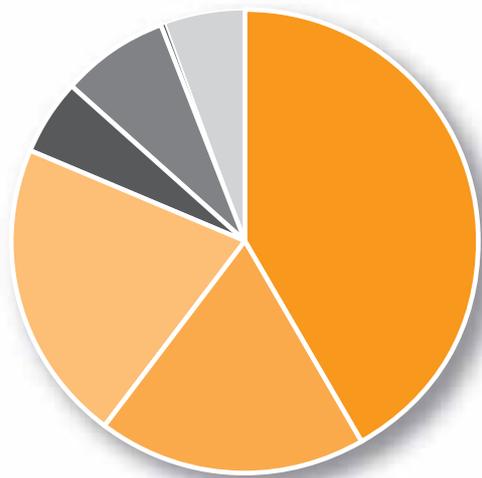
Where a matter cannot be resolved between two parties, CAV enquiries officers provide advice on alternative avenues for assistance. In 2003-04, Consumer Affairs Victoria handled more than 570,000 telephone information requests. These included nearly 240,000 calls requesting information and advice on the purchase of consumer goods and services and residential tenancy issues, around 105,000 calls regarding residential tenancy bond issues and just under 120,000 business registration issues. A 24-hour self-help telephone system also provided many callers with pre-recorded information on common renting and consumer issues.

A number of significant service improvements made throughout the year saw a 5.8% increase in the total number of calls to staff compared to 2002-03, and decreased call abandonment rates. Service improvements also resulted in a decrease in caller waiting times and an increase in the number of calls answered within service level targets.

Consumer Affairs Victoria assisted nearly 75,000 consumers with face-to-face counter enquiries at its office in Melbourne in 2003-04. Of those enquiries:

- 56,541 concerned general registration
- 7,324 concerned consumer and tenancy matters
- 5,341 concerned licensed occupations, and
- 5,487 concerned liquor licensing.

A total of 12,871 email information requests were made to CAV, including 6,756 requests for information and advice about the purchase of consumer goods and services, 4,160 business registration enquiries and 1,560 on residential tenancy bond issues. Consumer Affairs Victoria also received more than 600,000 visits to its website, an increase of more than a third on last year.

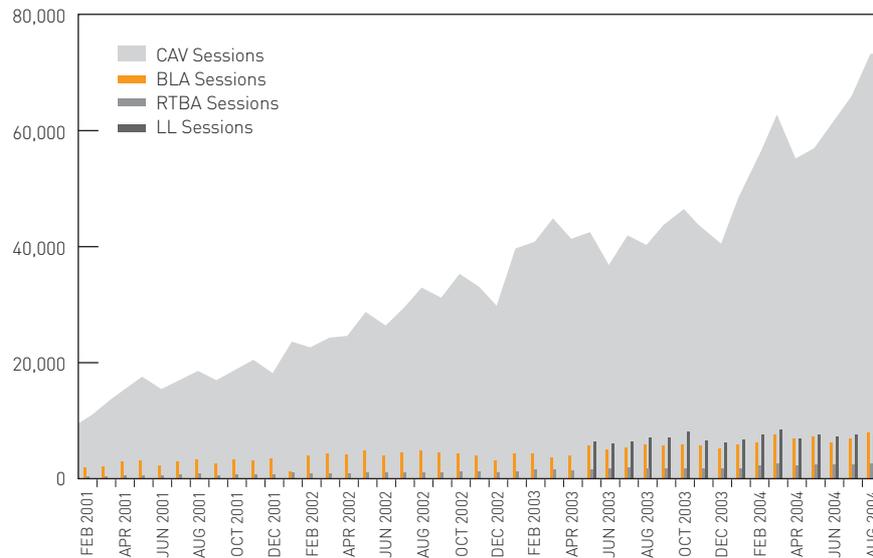


Consumer enquiries

	41.9%	Consumer & Residential Tenancy
	18.5%	Rental Tenancies Bond Authority
	21.0%	Registration
	5.3%	Licensed Occupations
	7.6%	Liquor Licensing
	0.4%	Product Safety
	5.3%	Funded Groups (estimated)

Consistent Growth

Visitor sessions per month



FEBRUARY 2001 – AUGUST 2004

1 A visitor session is a series of page views, page requests, or page downloads served in an unbroken sequence from within the site to the same visitor.

Consumer Affairs Victoria enquiries officers assist consumers with a wide range of issues relating to the purchase of goods and services. Examples of the wide array of questions asked by consumers include:

- What are my rights if I've purchased goods from overseas on the internet?
- I've changed my mind about a second hand car I purchased yesterday. What can I do?
- How do I find a reputable builder?
- I bought a VCR at a sale and now it doesn't work. What are my rights?
- The shop I bought my shoes from won't listen to my complaint. Can you help?

RESIDENTIAL TENANCY ISSUES

Consumer Affairs Victoria staff also answered over 90,000 requests by Victorians for information and advice regarding residential tenancy issues. Examples of the types of questions received include:

- My landlord won't repair the heater in my house. What can I do?
- I've received a notice to vacate for rental arrears. What should I do?
- The landlord attends the premises without giving notice. Can he do that?
- I found another apartment and want to break my lease. What are my rights?
- My landlord wants to keep some of my bond. I don't agree. What can I do?



CASE STUDIES



Breaking a lease

A consumer contacted CAV for advice regarding breaking a lease. He had been transferred to Melbourne by his employer for a 10 month period, but had committed to a 12-month lease. His employer had recently advised him that at the end of the 10 months he would be required to return interstate. The consumer was hoping to avoid having to pay rent for the remaining two months.

Consumer Affairs Victoria advised that a tenant leaving a property early is usually liable for lease breaking costs. These might include advertising expenses, rent until a replacement tenant is found, and a re-letting fee charged by the agent. The consumer was advised that his options included finding a replacement tenant himself and introducing them to the landlord who would not be able to reject the tenant without good reason. He could also consider applying to VCAT under s234 of the Residential Tenancies Act to be released from the lease on hardship grounds, although this was unlikely to be supported, as he knew the duration of his assignment in Melbourne.

Power surge

A consumer contacted CAV for advice about a property she was renting through an estate agent. For several months she had been experiencing power surges in the house, which had, amongst other things, destroyed three of her electrical appliances. Eventually the agent arranged for an electrician to repair the wiring, but a request to replace the appliances was refused. Consumer Affairs Victoria advised the consumer to serve a breach of duty notice relating to the landlord's failure to maintain the property in good repair, and to include evidence of the extent of the damage, such as receipts for replacement appliances. Should the landlord refuse compensation, the consumer was advised to consider lodging an application to the VCAT Residential Tenancies List.

RESIDENTIAL TENANCIES BOND AUTHORITY

The Residential Tenancies Bond Authority (RTBA) is a statutory authority established by the *Residential Tenancies Act 1997*. Its purpose is to hold all Victorian residential tenancy bonds, including those applicable to long-term caravan and rooming house residents. During the year the RTBA call centre was transferred into the Enquiries branch.

The RTBA holds bonds in a neutral capacity as trustee for landlords and tenants and can only repay bonds as agreed by the landlord and tenant, or as directed by the Victorian Civil & Administrative Tribunal (VCAT) or a court. As of 30 June 2004, RTBA held around 338,500 bonds, valued at more than \$295.2M, an increase of approximately 8.43% in the number of bonds since June 2003 and around 11.2% rise in value.

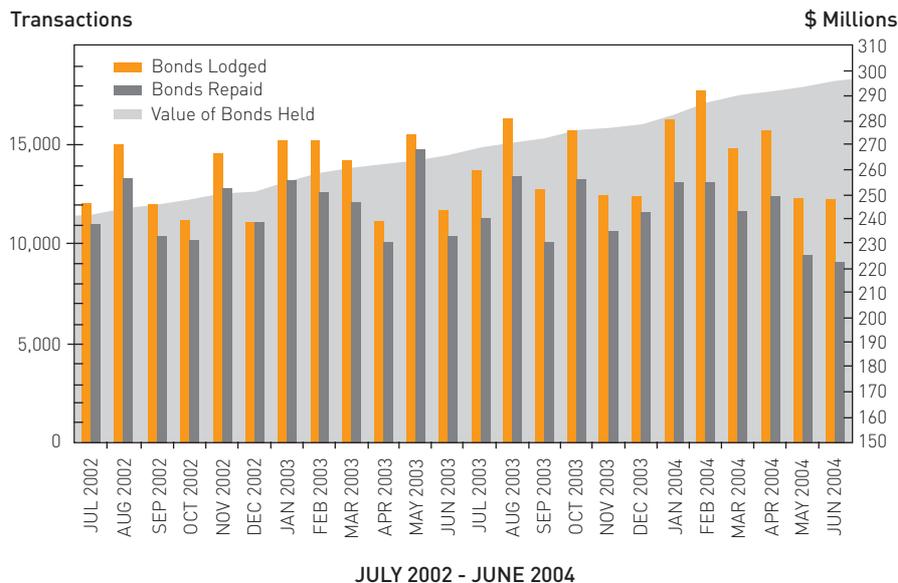
During the year, more than 170,900 residential tenancy bonds were lodged, 144,599 bond claims were paid and more than 30,380 bonds were transferred.

The RTBA telephone enquiry service is available by calling a 1300 number anywhere in Australia for the cost of a local call. In 2003-04 the call centre received more than 105,000 telephone calls from tenants, landlords, and estate agents.

Since 2003 there has been an increase in the number of estate agents registering to use the web-based facility, RTBA Online. This allows agents registered with RTBA, to view their bond holdings on-line. In the near future it will also allow tenants and landlords to access bond information and print out plain paper forms to perform bond transactions.

Copies of the RTBA Annual Report to Parliament are available by calling 1300 137 164. Additional information is also available on www.rtba.vic.gov.au.

Bond Lodgements and Claims



GETTING THE MESSAGE OUT

Consumer Affairs Victoria aims to ensure that consumers and traders understand their rights and responsibilities under the law. Consumer Affairs Victoria also seeks to raise levels of consumer self-awareness so consumers know how to protect themselves, and are aware of the range of services available if they need help. As part of its priority to target vulnerable and disadvantaged consumers, CAV has implemented an education campaign to improve financial and consumer literacy skills, particularly amongst young people. Another highlight was a comprehensive education and information campaign designed to inform homebuyers and sellers and estate agents of their rights and responsibilities under the new laws.

TARGETING YOUNG PEOPLE

Christmas credit

Consumer Affairs Victoria launched its 2003 Christmas Credit Campaign with a clear message to young consumers - avoid a credit hangover in the New Year.

Australian Consumers' Association research indicates that 57% of all credit card holders between the ages of 18 and 24 have credit card debt. This research also indicates that 18 to 24 year olds are 38% more likely to have credit debt than other credit card holders. This age group is particularly vulnerable as they often lack the necessary debt management skills.

Consumer Affairs Victoria targeted the 2003 campaign towards consumers aged between 18 and 24 through radio advertising. The key message of the campaign was to avoid a credit hangover by using cash rather than credit.

In addition to the radio campaign, *Rudolph...in the Red Reindeer* Christmas Cards were distributed directly to consumers at Flinders Street Station and Melbourne Central Station. The cards extolled the message, 'Don't be rash, use cash'.

Consumer education in schools

In 2003 Consumer Affairs Victoria initiated a Consumer Education in Schools (CEIS) project to address low levels of financial and consumer literacy, and high levels of debt amongst young people. Young Australians represent a \$4B a year commercial market and are increasingly the target of subtle marketing tactics and a culture of competitive consumption. Young consumers are purchasing products such as mobile phones and cars without understanding the complexity of the contracts they execute or the actual total costs involved. A low level of awareness of consumer rights and responsibilities makes young consumers a highly vulnerable target.

In March 2004, the Minister for Consumer Affairs launched *MoneyStuff*, a package of best practice curriculum material written and produced by Consumer Affairs Victoria.

The *MoneyStuff* package included resource books for teachers, an interactive website, and a wallet-sized information card for young consumers. The resource books, which were written by Victorian year 9 and 10 curriculum experts, were sent to Maths, English and Studies of Society and Environment co-coordinators to all Victorian secondary schools. The resources are designed to assist students in key areas of concern identified by CAV such as credit cards, mobile phone contracts, buying a car, consumer rights and responsibilities and residential tenancy issues.

Other elements of the CEIS project undertaken to raise awareness of financial and consumer literacy and to promote *MoneyStuff* in 2003-04 included:

- a Youth and Debt Forum held in March for 200 middle school students and their teachers at the Melbourne Exhibition Centre
- the launch of the inaugural *MoneyStuff* Challenge competition for secondary students, in May by the Minister for Consumer Affairs
- ongoing collaboration with young consumers, teachers, parents, youth workers and other key stakeholders, and
- funded workers and community education officers raising awareness of *MoneyStuff* in regional and metropolitan schools.

Concerns over rising youth debt has been recognised nationally. Consumer education for young Australians is now a very high priority for all states and CAV will continue to play a significant national role.

“
Consumer education for young Australians is now a very high priority, and CAV will continue to play a significant role.
”

SPECIAL REPORT



Improving financial literacy among young Victorians – combating the affluenza epidemic

Young Australians are becoming increasingly influential in the marketplace.

It is estimated that young Australians represent a potential market valued at \$4B. That's big money. And businesses are chasing their share.

Children and adolescents are quite deliberately targeted by highly sophisticated marketing campaigns that bombard young Australians with a staggering array of new products.

The challenge for CAV is to stay ahead of the game. This means empowering young consumers with the skills to become well-informed and assertive consumers.

A phenomenon that is of particular concern is 'affluenza'.

Affluenza refers to the increasing tendency of young Australians to spend beyond their means. The ready availability of credit combined with a 'must have' mentality has led to worrying levels of consumer debt amongst our youth. This increase in spending is compounded by the lack of a corresponding increase in financial literacy among young people.

The CEIS project is Consumer Affairs Victoria's response to these troubling consumer trends.

A background research report set out to:

- investigate how consumer education was taught nationally and internationally
- determine the level of awareness about CAV and consumer rights and responsibilities amongst school students and other young Victorians, and
- ascertain best practice in terms of education methodology, information campaigns aimed at young people and the teaching of consumer and financial literacy.

The research included:

- visiting a range of government/non-government, metropolitan and country schools to discuss consumer issues with students and teachers
- a teacher questionnaire sent to members of the Victorian Commercial Teachers' Association
- establishing a 12 member teacher focus group to provide advice and feedback, and
- two youth roundtable discussions with disadvantaged early school leavers.



SPECIAL REPORT



Improving financial literacy among young Victorians – combating the affluenza epidemic continued...

Some key research findings were:

- In Victoria consumer issues and money management are often part of an elective subject in middle school. Many young people lack essential life skills and are resigned to learning from their mistakes.
- Parents often overestimate their own financial skills and their ability to teach their children how to manage money but can benefit from their children's consumer and financial education.
- Consumer education resources are often outdated and areas of growing concern such as M-commerce and internet scams receive little attention.

Overall, CAV concluded that in a fast changing world and global marketplace, young consumers needed more than just information and advice, they needed the skills to be able to analyse and use both. The essential skills CAV wants young consumers to be armed with are:

- money management
- communication
- problem-solving
- critical and creative thinking, and
- emotional intelligence.

These skills are the building blocks that enable people to become smart consumers who can make discerning choices, manage their money effectively, and have the confidence to resolve problems and the ability to seek further information and advice when required. While laws and markets will always change, these essential skills will enable young Victorians to move through life 'independent, informed and in control' as consumers who are well aware that ▲ debt = ▼ freedom'.

Consumer Affairs Victoria launched the first stage of CEIS in March 2004. The project provided resource books for middle school teachers of Commerce, English and Maths. Consumer Affairs Victoria also set up an interactive educational website (in partnership with the NSW Office of Fair Trading). In May 2004 the first *MoneyStuff* Challenge competition for Victorian secondary students was launched.



Stuff 2003

In August 2003 Consumer Affairs Victoria published the fourth edition of *Stuff* magazine. *Stuff* provides young people with comprehensive information about their consumer rights and responsibilities as consumers. The new look magazine was distributed to Victorian school leavers and includes advice on buying a car, moving out of home, getting a job, enrolling to vote, mobile phone contracts, housing loans and banking. This year's edition also included two new sections on responsible partying and tax tips. This year the launch of *Stuff* was organised by students of Brentwood Secondary College along with contributions from Northland Secondary College and Lorne P12 College. The Minister for Consumer Affairs, John Lenders MP, joined the students to launch the 2003 edition.

Stuff was mailed to all VCE co-ordinators for distribution to all Year 12 students, TAFE colleges and youth groups throughout metropolitan and regional Victoria.

TARGETING HOMEBUYERS AND SELLERS

Real estate education campaign

On 1 February 2004, the major provisions of the *Estate Agents and Sale of Land Acts (Amendment) Act 2003* became operational. These provisions have made the way estate agents conduct their businesses and the way residential property is bought and sold in Victoria more transparent. Major changes include the outlawing of dummy bidding at public auctions, and a crack down on estate agents that under- and over-quote property prices and retain advertising rebates.

To coincide with the new laws Consumer Affairs Victoria implemented a 12-month information and education campaign to inform consumers and estate agents about the new legislation. A central component of the campaign is the booklet, *Real estate: a guide for buyers and sellers*. The Guide provides an overview of the steps involved in a real estate transaction and advises consumers on how the legislation provides them with greater protection. The Guide also includes comprehensive information and advice on home finance.

A direct response advertising campaign involving print, radio and internet commenced in February. Its purpose was to encourage consumers to obtain the Guide either by calling a 1800 number, ordering on-line, or by visiting their local estate agency. As of 30 June 2004 a total of 108,750 Guides had been ordered. This included more than 13,760 individual consumer orders and in excess of 97,200 orders from estate agents.

Other components of the education campaign included:

- a summary of the *Estate Agents and Sale of Land Acts (Amendment) Act 2003*, sent to 4,695 licensed estate agents with a Guide order form
- four Consumer Affairs Victoria Homebuying and Selling Seminars, attended by over 400 people in May in regional Victoria featuring presenters from Consumer Affairs Victoria, Archicentre, The Real Estate Institute of Victoria and the Law Institute of Victoria
- updated homebuying and selling information on the Consumer Affairs Victoria's website
- an exhibit at the Housing Industry Association Homeshow, and
- active compliance and enforcement action.

An extensive evaluation is to be undertaken in August 2004 to determine the effectiveness of the campaign to date and to direct the future strategy.

Estate agent education

In 2004 Consumer Affairs Victoria developed two new real estate courses to meet the mandatory training requirements for estate agents and their authorised employees (known as agents' representatives) under the *Estate Agents Act 1980*. The purpose of the training is to ensure that practitioners are sufficiently competent to perform services satisfactorily.

The Course in Property (Agents' Representatives) and the Certificate IV in Property (Real Estate Agency Practice) were accredited by the Victorian Qualifications Authority and prescribed under the Estate Agents (Education) Regulations 2004 earlier this year. The courses will be delivered by approved registered training organisations in January 2005.

SPREADING THE WORD ABOUT LIQUOR LICENSING

Licensing information is disseminated to the community and industry through traditional media and active participation during the year in around 200 regional focus seminars, licensee Accord meetings, Club seminars and trade shows and an electronic newsletter called the *Grapevine*.

Education and training aims to develop knowledge of, and compliance with, the liquor laws and to promote a culture of responsible service throughout the liquor and hospitality industries. Throughout the year 39,221 licensees, hospitality staff and students attended Responsible Serving of Alcohol workshops provided by Consumer Affairs Victoria accredited training providers, principally through the TAFE sector. Training material on responsible serving for clubs is also available on CD.

In March 2004 CAV introduced mandatory training for all new entrants to the industry. Since then, 735 new entrants have undertaken the Licensee's First Step course, at William Angliss TAFE, a compulsory requirement for those seeking a liquor licence.

The aim of the course, the first of its kind, is to help entrants to the industry understand their responsibilities under liquor law, including issues such as underage drinking, and drunkenness and anti-social behaviour.

Other topics covered by the training include:

- the legislative environment for liquor licensees
- understanding your liquor licence
- best practice in managing licensed premises
- responsible serving of alcohol.

TARGETING DOMESTIC BUILDING CONSUMERS

Building and renovating

Building Advice & Conciliation Victoria (BACV) commenced operation in July 2002. BACV receives phone enquiries and written complaints, and provides advice and conciliation services for parties who are in dispute.

An ongoing information and education strategy has been developed to promote awareness of BACV and to educate consumers and builders on ways to avoid – or where necessary resolve – domestic building disputes. A number of new education and information initiatives designed to raise consumer awareness of BACV were implemented in 2003-04. These included a combination of print and electronic publications, strategic distribution of publications through stakeholders and a series of face-to-face exhibits and seminars.

Building and renovating: a guide for consumers was launched at the HIA Home Ideas Show in April 2004 (at which CAV sponsored a major exhibit). Consumer Affairs Victoria distributed around 35,000 copies of the Guide at the show and BACV conciliators were on hand to provide face-to-face information and advice to the many interested consumers that visited the stand. By the end of the year, CAV had distributed over 105,000 copies of the Guide.

The following initiatives were also undertaken during the year:

- Distribution of 100,000 copies of Building Advice and Conciliation Victoria Information for Consumers.
- Distribution of the BACV advertising brochure to all home owners who obtained a building permit.
- New web pages on domestic building launched on the CAV website.
- Developed relationships with key stakeholders to provide more strategic distribution of BACV publications.
- Conciliators made presentations at two regional and four metropolitan Building Display Centre seminars.



KEEPING BUSINESSES INFORMED

In 2003-04 CAV undertook a range of education and information activities to inform businesses and industry groups of their rights and obligations to consumers under the law.

Conferences

Over the past year CAV has used public conferences, forums and seminars as an important part of its program to educate and inform businesses, stakeholders and the wider community.

The benefits of holding these events include:

- building relationships with industry and other key stakeholders
- raising awareness of changes to legislation among traders and consumer advocates, and
- gaining feedback from stakeholders on how CAV can better tailor its activities in the marketplace.

Whenever possible, Consumer Affairs Victoria takes steps to recover the costs of events, such as charging registration fees for delegates, gaining corporate sponsorship and funding events in partnership with other organisations.

In the 2003-04 financial year CAV conducted six highly successful and important conferences.

- The Unfair Contract Terms seminar was held on 7 November 2003 to assist businesses in understanding amendments to the Victorian Fair Trading Act 1999.

These changes, the first of their kind in Australia, have a significant impact on contract terms. Traders that fail to comply with the legislation subject themselves to the risks of the contract being declared void, prosecution, and financial loss.

The Seminar attracted attendees from a range of industry sectors and was also used as a platform to release new unfair contract terms guidelines, *Preventing unfair terms in consumer contracts*.

- The Conference for the Food and Grocery Industry was held on 13 November 2003.

The Conference brought together food and grocery manufacturers and retailers to discuss compliance issues with breaches in the Trade Measurement Packaging Regulations and the benefits of implementing effective quality management processes.

A trade measurement guide for packers, importers and sellers of pre-packaged food, beverages and groceries was launched at the conference. The guide was endorsed in March 2004 by the Trade Measurement Advisory Committee for use Australia wide, an achievement in keeping with Consumer Affairs Victoria's national voice on important consumer issues.

- The Motor Car Industry Forum was held on 3 March 2004 in partnership with the Victorian Automobile Chamber of Commerce.

The Forum, again a first for Consumer Affairs Victoria, was aimed at motor car traders and relevant industry representatives. It provided an opportunity for CAV to hear first hand about current industry issues from industry insiders. Importantly, it also provided an opportunity for industry members to gain a greater understanding of CAV's role in regulating the industry.

The Forum generated significant interest. Feedback from attendees indicated that they regarded the Forum as informative and useful.

→ A National Consumer Congress, in partnership with the Australian Consumer Movement, was held on 15 and 16 March 2004.

The Congress provided a forum for discussion on consumer issues amongst consumers, business and government. It brought together a wide range of experts in consumer protection to provide a national, bi-partisan and informed focus on contemporary consumer affairs issues and future challenges. It also provided an opportunity to promote best practice amongst consumer affairs practitioners in business and government.

The Congress was held on World Consumer Rights Day. This commemorates the day (15 March 1962) when US President John F Kennedy articulated his four basic rights for consumers – the right to safety, the right to be informed, the right to choose and the right to be heard.

The Congress provided the ideal opportunity to revive the Ruby Hutchison Memorial Address – which had not been delivered for a number of years – in honour of one of Australia’s consumer protection icons. Dame Deidre Hutton, Chair of the United Kingdom’s National Consumer Council, made this year’s address.

→ The Bodies Corporate Seminar was held on 25 and 26 March 2004.

It brought together key stakeholders and interstate and international regulators to discuss the future direction of bodies corporate legislation. The Seminar, which was well attended, was a key component of the bodies corporate review. It provided a platform to release the *Future Directions Paper: Bodies Corporate*, which contains proposals and options to improve the effectiveness and efficiency of the general operations of bodies corporate.

→ The Victorian Regulators Forum was held on 20 May 2004. Consumer Affairs Victoria and the Essential Services Commission co-hosted this meeting of over 40 Victorian Government regulatory agencies.

The purpose of the Forum was to provide an opportunity for regulation practitioners to discuss issues of common interest, share instructive experiences and consider the potential for future collaboration to improve the effectiveness and efficiency of regulation in Victoria. The feedback from participants was very positive and indicated a broad support for further collaborative activities among regulators. Consumer Affairs Victoria will be organising a further meeting of the Forum focussing on safety regulation.



The Minister for Consumer Affairs, John Lenders MP, addressing the National Consumer Congress. The Congress was held in Melbourne on 15 March 2004, also World Consumer Rights Day.

SPECIAL FEATURE



National Consumer Congress – Revival of the Ruby Hutchison Address

A National Consumer Congress, in partnership with the Australian Consumer Movement, was held on 15 and 16 March 2004.

Fittingly, the Congress commenced on World Consumer Rights Day and one of the highlights was the revival of the Ruby Hutchison Memorial Address. Ruby Hutchison is an icon of Australian consumer protection advocacy having been instrumental in the establishment of the Australian Consumers' Association.

Dame Deidre Hutton, Chair of the United Kingdom's National Consumer Council, delivered this year's address.

Dame Hutton acknowledged Ruby Hutchison's determination, social vision and entrepreneurship and emphasised that it is not just setting up an organisation that matters, but rather setting it up with a passion and purpose that serves society that is crucial.

Dame Hutton's address pointed out four vital functions that she believed consumers need associations to carry out on their behalf:

- A product evaluation system that caters for services as well as goods.
- The delivery of comprehensive direct advice about consumer issues through public information.
- A well researched policy formulation platform.
- Individual and collective representation that factors in efficient extra judicial dispute resolution methods.

She also provided her vision for the challenging issues that are likely to confront consumer affairs regulators in the 21st century. Dame Hutton emphasised the growing influence of technology and the growth of information economy with its astonishing ability to manipulate information and its imposing impact on consumers' day-to-day lives. She also discussed the increase in impacts of individual risk management and that public service providers should measure the level of service that they offer consumers by reference to the public's particular requirements. Sustainability of resources will become more relevant as will the specific needs of disadvantaged consumers.



CONSUMER AFFAIRS VICTORIA PAPERS – KEEPING STAKEHOLDERS INFORMED

Consumer Affairs Victoria publishes many discussion and issues papers as part of its strategic communication with stakeholders and major industry groups. These papers are distributed to the organisations that best represent or understand the interests of Victorian traders and consumers. Consumer Affairs Victoria monitors the feedback of these key organisations when formulating policy and legislation as well as having an input into the information the organisations circulate to their members.

In 2003-04, Consumer Affairs Victoria produced the following discussion papers.

Date	Topic
SEP 2003	E-Commerce and the Consumer Credit Code
NOV 2003	Consumer Education in Schools: Background Report
JAN 2004	Unfair Contract Terms (released by the Standing Committee of Officials of Consumer Affairs (SCOCA) Unfair Contract Terms Working Party chaired by Victoria and Queensland)
JAN 2004	Guidelines for debt collection: debt collection and the <i>Fair Trading Act 1999</i>
MAR 2004	What do we mean by 'vulnerable' and 'disadvantaged' consumers?
MAR 2004	Future Directions Paper: Bodies Corporate
MAR 2004	Review of the <i>Associations Incorporation Act 1981</i>
MAR 2004	Review of the <i>Retirement Villages Act 1986</i> : Proposed Legislative Changes
JUNE 2004	On-line Shopping and Consumer Protection Discussion Paper (released by SCOCA E-commerce working party and chaired by Consumer Affairs Victoria)

Publications

During the financial year more than 2,684,000 publications and forms were distributed via the CAV distribution centre, its contracted community agencies, estate agents, home shows, trade fairs, community groups, stakeholders and industry shop fronts. The total number of publications, including pamphlets, brochures, magazines and forms is comparable to the previous financial year where the main emphasis was on changes to the residential tenancies legislation. This year the key publications distributed targeted domestic building and the real estate sector with more than one million residential tenancies forms alone being distributed during 2003-04.

A Consumer Affair

Consumer Affairs Victoria produced a Ministerial newsletter, available in both print and electronic form, to provide stakeholders with information on current services and activities. A *Consumer Affair* was sent to 4,000 community agencies, consumer organisations, libraries, Senior Citizen Centres, schools, local councils, Community Legal Centres, Centrelink offices, and interstate consumer protection agencies.

CAVlink

CAVlink is an electronic newsletter that is produced quarterly at www.consumer.vic.gov.au/CAVlink. It has been developed to facilitate communication between Consumer Affairs Victoria and significant stakeholder organisations. The newsletter, which is emailed to 1,000 recipients and is available on-line, is one way of informing CAV's closer stakeholders about directions in compliance and enforcement policy and other operational activities. *CAVlink* is also a medium for communicating important Consumer Affairs Victoria reforms and projects.

Media coverage

The primary role of the Media Unit is to raise awareness of consumer protection issues and activities at Consumer Affairs Victoria. In 2003-04, 162 media releases were distributed to media outlets in Victoria and a total of 2,345 references to CAV and its programs and activities appeared in the media. Of these 1,594 appeared in print and 751 were broadcast by either radio or television.

Newspaper columns

The Media Unit provides regional and rural newspapers with updates on issues of interest to consumers with an emphasis on those of particular relevance to non-metropolitan consumers.

Topics covered during the year included:

- changes to the Fair Trading Act
- the role of trade measurement in protecting consumers
- common problem areas for young consumers
- unclaimed money and how to search for it at no cost
- understanding vendor terms contracts, and
- buying or moving furniture.

“
The primary role of the Media Unit is to raise awareness of consumer protection issues and activities at Consumer Affairs Victoria.
”

“Modernising Consumer Affairs Victoria”

7.0

- Consumer Affairs Victoria restructure
- improvement of on-line services
- implementation of central learning and development function in Consumer Affairs Victoria – focus on Indigenous awareness and legislation-specific training
- intranet and website redevelopment
- implementation of new VPS structure and performance management arrangements
- revised processes for Victorian Property Fund and Consumer Credit Fund grants programs
- implementation of new Residential Tenancies Bond Authority operations contract
- new external service delivery contracts for trade measurement inspections, advocacy services and regional service delivery

At the core of Consumer Affairs Victoria's success in raising awareness of, and regulating for, consumer protection in Victoria is its people and the organisational values that they adhere to.

Consumer Affairs Victoria values its staff and its structures, and regularly reviews both to ensure it operates efficiently and effectively. In 2003-04 CAV implemented a major restructure to help align the organisation with its strategic priorities.

Consumer Affairs Victoria also continues to monitor and improve its services to ensure that the needs of consumers are met and that its staff is provided with effective training and support.

TRAINING AT CONSUMER AFFAIRS VICTORIA

In 2003-04 CAV implemented a central Learning and Development function and Committee to direct staff training in areas designated as corporate priorities and in alignment with branch learning and development plans. More than 80% of Consumer Affairs Victoria staff attended training programs in the financial year.

Legislation training

Legislation training was a corporate training priority for CAV in 2003-04. Significant effort was put into delivering training suitable for the variety of Consumer Affairs Victoria staff working closely with legislation, particularly the Fair Trading Act, consumer credit law, and regulation theory.

Training staff in various aspects of the Fair Trading Act has been a key priority for CAV. In 2003-04, 20 staff undertook a Certificate in Fair Trading, developed for CAV in conjunction with the Sir Zelman Cowen Centre at Victoria University. The program was delivered by an experienced barrister and included contributions by government and industry speakers.

Consumer Affairs Victoria staff undertook training focused on misleading and deceptive conduct, and unconscionable conduct provisions of the Fair Trading Act.



Denis Fitzgerald, General Manager, Corporate Resources (right) and Richard Harvey. Consumer Affairs Victoria's staff training is at the core of CAV's success in raising awareness of, and regulating for, consumer protection.

Indigenous awareness

Ninety-nine staff attended Indigenous Awareness Training in 2003-04. Consumer Affairs Victoria determined that Indigenous awareness was a corporate training priority to ensure that the new Indigenous Consumers Unit reflected a broader CAV approach to dealing more effectively with Indigenous consumers.

Other staff learning and development highlights included:

- Regular fortnightly staff presentations on a range of topics from CAV subject experts as well as external speakers.
- Significant training undertaken in relation to the development of new or existing information technology applications, including the new coding system for FairGo, the new Automated Names Test, EDMS document management system and the Consumer Affairs Victoria Possible Parliamentary Questions.
- Staff attended workplace health training sessions.
- Staff attending Department of Justice Corporate Training Program courses in areas such as project management and conflict negotiation.
- Staff undertaking a touch-typing course.

Staff recruitment

CAV strengthened its internal systems for recruitment, including developing a unique position description repository that allows position descriptions to be displayed on the CAV intranet.

Consumer Affairs Victoria induction process has also been reviewed and improved to assist managers to ensure that their staff become efficient and productive as quickly as possible while also gaining a positive first impression of the organisation. The newly developed approach involves a half-day CAV specific induction session, an intranet new starters page incorporating the staff induction and information manual, and an expanded induction checklist.

There has been considerable activity since November 2003 in ensuring an effective translation of staff to the new VPS Career Structure.

Supporting staff in a safe working environment

Sessions were conducted for staff in June 2004 on Workplace Health. The aims of the sessions were to:

- promote good ergonomic work practices with the intention of reducing the incidence and severity of injury to staff
- raise awareness of the risk factors commonly associated with office workstations and present ways to minimise these risks through preventative work practices
- raise awareness of the consequence of injury at work
- increase staff knowledge of their responsibilities in relation to ergonomics and their own health and safety including what actions they can take as individuals to prevent injuries occurring, and
- train staff in ergonomic principals so that they can independently minimise the risk of injury through setting up and maintaining a suitable workstation.

More comprehensive sessions were provided for managers.

Rewarding long service

Consumer Affairs Victoria again recognised long serving staff through its annual Long Service Awards. In December 2003, the Minister for Consumer Affairs presented award recipients with an engraved dish in recognition of their dedication to Consumer Affairs Victoria and its predecessor bodies over the past 20 years. The Awards were made to:

Andrew Doran
Stephen McDonald
Colin Mann
Dianne Rishworth
Paul Russell
Norma Steeneveld
Lori Williams
Simon Willshire

SPECIAL FEATURE



On-line Services – embracing new technology

Improving on-line services

As part of its aim to remove barriers to on-line services, CAV has improved access to on-line business registration and licensing transactions.

On-line ADR - making technology work for consumers

The Department of Justice's *Strengthening ADR* initiative aims to make ADR more accessible to the wider community in Victoria. Consumer Affairs Victoria has worked closely with other Justice agencies to launch the *disputeinfo* website pilot in October 2003. The website, available at www.justice.vic.gov.au/disputeinfo includes general advice about resolving disputes as well as an interactive module that walks consumers through common dispute scenarios, including tenancy disputes.

Research has shown that users of Consumer Affairs Victoria's on-line services want to be able to complete processes and transactions on-line. Consumer Affairs Victoria is working to redevelop its existing on-line enquiry and complaint forms to allow consumers to submit enquiries or complaints over a whole range of consumer issues via the internet.

Consumer Affairs Victoria has developed a future service model for on-line dispute resolution that will provide a range of self-help and assisted options for resolving disputes and to expedite unresolved issues. The model is to be presented at the United Nations Economic and Social Commission for Asia and the Pacific Annual Forum on On-line Dispute Resolution in July 2004.

On-line licensing services

Consumer Affairs Victoria has continued to build on-line service delivery capacity for regulated occupations and industries. Significantly, more than 24,000 application forms and guides were downloaded from the Business Licensing Authority (BLA) website <http://www.consumer.vic.gov.au/bla/blasite.nsf> during the year.





On-line Services – embracing new technology continued...

The following developments have significantly improved services to consumers and businesses by providing a 24/7 on-line service:

- An on-line public register of pawnbrokers to aid in the recovery of stolen goods and enforcement of consumer protection measures under the *Second-Hand Dealers and Pawnbrokers Act 1989*.
- An on-line public register of licensed motor car traders and estate agents.
- An on-line facility for licensed estate agents to lodge their annual statements and pay their annual license fee, as well as update the records of the business.
- An on-line facility for employers to update the employment status of estate agent representatives in their employ.
- An electronic communication module enabling estate agents to receive instant communication from Consumer Affairs Victoria and BLA by email.

On-line liquor licensing services

Liquor Licences Online is an on-line service that makes full details of every Victorian liquor licence available at the click of a mouse.

In 2003, CAV introduced several on-line liquor licensing innovations, including:

- Responsible Service of Alcohol Refresher Course (RSA), an on-line refresher course for bar staff.
- Club Seminar Online, an on-line tool designed to inform club officials of the latest legal developments and RSA practices.
- On-line application form downloads.
- *The Grapevine*, a monthly electronic newsletter containing the latest information on liquor licensing issues.



SPECIAL FEATURE



On-line Services – embracing new technology continued...

On-line registration

In 2003-04, CAV has achieved significant success in enhancing the availability of business registration and licensing transactions on-line. A major achievement has been the implementation of the similar Business Names Test, which was automated in September 2003. This is now a core part of the on-line delivery of Business Names Registrations, launched in May 2004. Early interest in on-line registration has been strong with more than 500 on-line registrations a week, or more than one third of business name registrations, being received on-line.

Other on-line services made available in the 2003-04 include:

- Details of Incorporated Association Extracts and Extracts of Business Names and the facility to pay by credit card.
- The ability of Public Officers of Incorporated Associations to obtain an ID and pass code which allows them to change their details, apply for extensions of time to hold an annual general meeting, or to lodge an annual statement.
- The Renewal of Business Names where no changes are required. (An average of about 25% of no change renewals are now done on-line, up from around 14% a year ago.)
- Searching of the Victorian Business Names Register, which allows new businesses to 'try out' proposed business names to see if anything similar is currently registered, and also allows consumers and traders to check that they are dealing with businesses that have a registered business name.
- Searching of the Victorian Incorporated Associations Register, which provides details of the incorporation number, the correct name and the year of last lodgement of an annual statement.

In the last year over 7,000 people per month have searched the registers and more than 3,000 people per month have sought a partial extract of information about a business name or incorporated association.





On-line Services – embracing new technology continued...

Legislation to enable on-line delivery

In order to remove barriers to further on-line delivery, five business registration and licensing schemes were reviewed (Business Names, Incorporated Associations, Estate Agents, Motor Car Traders and Travel Agents). The legislative changes are contained in the Business Licensing Legislation (Amendment) Act, which came into operation in November 2003.

The key feature of the legislation is the removal of the requirement for multiple signatures where the risks can be adequately managed through one signature. The legislation also tackles a number of privacy issues.

Further transactions are being implemented.

Consumer Affairs Victoria website development

Consumer Affairs Victoria also undertook to redevelop its website to improve the on-line delivery of services to consumers and businesses. The redevelopment was founded on extensive customer research involving over 400 people, including both regional and metropolitan consumers. Helping users of the site easily find what they are looking for is a major objective and is consistent with Consumer Affairs Victoria's interest in keeping consumers informed. The refurbished site is designed to provide improved navigation supporting easy location, natural language searching and multiple discovery pathways.



TRUST FUNDS ADMINISTERED BY CONSUMER AFFAIRS VICTORIA

Consumer Affairs Victoria administers two types of trust funds – Public Account Trusts and Residential Tenancies Bond Authority (RTBA) Trusts.

Trusts held in the Public Account

Six trusts are held in the Public Account:

- Consumer Credit Fund
- Domestic Building Fund
- Victorian Property Fund
- Motor Car Traders' Guarantee Fund
- Prostitution Control Fund
- Residential Tenancies Fund

Appendix 9 provides an outline of these funds. The monies of these funds are held as Trust Accounts in the Trust Fund maintained pursuant to s19 of the *Financial Management Act 1994*. Each fund is established by specific legislation for specific purposes.

Residential Tenancies Bond Authority

Since 1 July 1998 the *Residential Tenancies Act 1997* has required all tenancy bonds to be lodged with the RTBA. The bonds are held on trust jointly for the landlord and the tenant. The RTBA operates two accounts. Details of both are included in Appendix 9.

The major functions of receipt, registration and repayment of bonds has been outsourced since the commencement of the RTBA. Computershare Pty Ltd currently performs these services under a contract.

Trust Funds - grant programs

Consumer Affairs Victoria manages grants made from the Consumer Credit Fund and the Victorian Property Fund (formerly the Estate Agents' Guarantee Fund).

Whilst grants made from these funds are made for specific reasons, the core purposes of the grants are consistent with the following Consumer Affairs Victoria priorities:

- addressing current and emerging marketplace issues
- strengthening information and education services to consumers, and
- targeting vulnerable and disadvantaged consumers.

A review of Consumer Affairs Victoria's grants processes has recently been completed. As a result of this review, the administrative framework (incorporating policy and procedures), the application guidelines, the application form and the standard terms and conditions for grants have been revised.

In undertaking these revisions, particular attention has been paid to conforming to the relevant requirements and guidance in the following publications:

- Victorian Department of Treasury and Finance, *Standing Directions of the Minister for Finance under the Financial Management Act, June 2003*
- Australian National Audit Office, *Administration of Grants: Better Practice Guide, May 2002*
- Victorian Auditor General's Office, *Grants to Non-Government Organisations – Improving Accountability, 2000*
- Inter-Government Committee Review of Grants Processes, and
- Victorian Auditor General's Office's Draft Parliamentary Report on Grants to the Cambodian Association of Australia.

Consumer Credit Fund

Consumer Affairs Victoria has worked closely with the Consumer Credit Fund Advisory Committee (which was set up to advise the Minister regarding appropriate use of the Fund) over the course of the last year. A five-year strategic plan was developed in early 2004 that set out the Fund's goals and the manner in which it should be administered. The initial round of funding under the new arrangements was advertised in April 2004.

The Fund was established by the *Credit (Administration) Act 1984*. On the recommendation of an Advisory Committee the Minister for Consumer Affairs can make grants from the Fund for the purposes of providing:

- education services about credit
- education, advice or assistance (excluding the conduct of legal proceedings) to persons to whom credit has been, is or may be provided under credit contracts, or
- research about the use of credit.

Preference is given to applications that recognise the needs of people:

- of non-English speaking background
- Indigenous Australians
- with limited education
- with low income
- with disabilities, or
- affected by regional or rural issues.

The Minister approved grants totalling \$89,760 in 2003-04. Details of the grants made pursuant to the Act are in Appendix 2.

Victorian Property Fund (formerly the Estate Agents' Guarantee Fund)

In May 2004 an amendment to the *Estate Agents Act 1980* changed the name of the Estate Agents' Guarantee Fund to the Victorian Property Fund (VPF). The amendment also expanded the uses for which the funds may be used. Now, under s76(3) of the *Estate Agents Act*, the Minister for Consumer Affairs may approve grants from the Fund for the following purposes:

- (a) community education, advice or information services regarding:
 - (i) the sale, purchase, lease or transfer of interests in real estate or businesses
 - (ii) the provision of finance or credit for the purpose of the sale, purchase or lease of real estate or businesses
 - (iii) the provision of finance or credit for the acquisition of any right to reside on land
 - (iv) subdivision bodies corporate
 - (v) retirement villages
 - (vi) residential tenancy rights and any other rights to reside on land
 - (vii) other consumer protection matters relating to interests in land
- (b) programs that promote the ownership of real estate
- (c) the training of estate agents and agents' representatives

- (d) dispute resolution and advocacy services in relation to disputes involving:
 - (i) the sale, purchase, lease or transfer of interests in real estate or businesses
 - (ii) the provision of finance or credit for the purpose of sale, purchase or lease of real estate or businesses
 - (iii) a resident, or proposed or former resident, of a retirement village regarding his or her residence right in that retirement village
 - (iv) a subdivision body corporate or a member of a subdivision body corporate or an occupier of a lot arising in relation to the operation of subdivision bodies corporate
 - (v) the provision of estate agency services or subdivision body corporate management services
 - (vi) other consumer protection matters relating to interests in land
- (e) reviewing, reforming or researching the law and procedures or reviewing and researching the markets for real estate regarding:
 - (i) the sale, purchase, lease or transfer of interests in real estate or businesses
 - (ii) the provision of finance or credit for the purpose of sale, purchase or lease of real estate or businesses
 - (iii) subdivision bodies corporate
 - (iv) retirement villages
 - (v) other consumer protection matters relating to interests in land
- (f) projects facilitating:
 - (i) the registration of interests in land
 - (ii) the compilation of other information relating to the ownership or use of land
- (g) projects providing or facilitating housing assistance for low income or disadvantaged Victorians, or
- (h) projects regarding:
 - (i) the development of environmentally sustainable housing
 - (ii) the protection of Victoria's natural and architectural heritage.

Both the Estate Agents Council and Consumer Affairs Victoria undertake the evaluation of funding applications. This joint evaluation assists in the formulation of recommendations to the Minister for Consumer Affairs.

The Minister approved grants totalling \$4,446,085 in 2003/04.

Details of the Grants are in Appendix 3.

TRUST FUNDS – CLAIMS GUARANTEES

Motor Car Traders' Guarantee Fund

The *Motor Car Traders Act 1986* (the MCTA) establishes a regime for the regulation of the conduct of motor traders. In addition to setting out a fee-based licensing regime for motor car traders, it also includes measures to protect consumers who suffer a loss as a result of certain conduct of licensed motor car traders. The MCTA provides a mechanism by which aggrieved consumers can apply to the Motor Car Traders' Claims Committee for compensation. Successful claims are paid out of the Motor Car Traders' Guarantee Fund. The ability to determine claims quickly and informally avoids consumers pursuing recovery through other lengthy and costly legal options or otherwise having to simply absorb their losses.

Claims on guarantee funds totalled \$649,782.50 in 2003-04.

Details of the claims are in Appendix 5.

Victorian Property Fund

If a licensed estate agent, an agent's representative or an 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 VPF.

Claims on guarantee funds totalled \$54,258.37 in 2003/04.

DEPARTMENT OF JUSTICE
ANNUAL REPORT 2003-04

Consumer Affairs Victoria is a division of the Department of Justice. The Department is required to report to Ministers and the Parliament annually under the *Financial Management Act 1994*. The Department of Justice's Report contains more detail on CAV output performance, audited financial statements, workforce members and composition and compliance with occupational health and safety, whistleblower and freedom of information legislation.

“ Appendices ”

8.0



Appendix 1

Consumer Affairs Community Program

2003-04 Funding

The Consumer Affairs Community Program contracts community-based agencies to provide consumer protection services to consumers, tenants, and landlords across metropolitan and rural Victoria.

Funding provided in 2003-04 under the Consumer Affairs Community Program is detailed below.

Consumer Affairs Community Program 2003-04 Funding

Regional services	Value (Ex GST)*
Anglicare Victoria (Gippsland) 53-55 Buckley Street, MORWELL 3840	\$158,175
Child and Family Services Ballarat Inc. 115 Lydiard Street North, BALLARAT 3350 also at: 12 Grant Street, BACCHUS MARSH	\$149,269
Community Connections (Victoria) Ltd. 135 Kepler Street, WARRNAMBOOL 3280 also at: 33 Otway Street, PORTLAND 3305 and at: Currawong Family Services 92 Thompson Street, HAMILTON 3300	\$188,919
Community West Inc. 822 Ballarat Road, DEER PARK 3023	\$243,449
Consumer and Tenancy Advice Service Inc. (Goulburn) 162 Maude Street, SHEPPARTON 3630	\$199,574
Consumer and Tenancy Advice Service Inc. (Upper Murray) 110 Hume Street, WODONGA 3690 also at: 32 Ford Street, WANGARATTA 3677	\$178,539
Consumer and Tenant Resource Centre Outer East Inc. Suite 11, 5-7 Chandler Road, BORONIA 3155	\$163,097
Jindara Community Program Inc. 202 Myer Street, GEELONG 3220	\$220,539
Mallee Tenancy Advice Service Inc. 1/152 Pine Avenue, MILDURA 3500 also at: 300 Campbell Street, SWAN HILL 3585	\$243,079
Peninsula Community Legal Centre Inc. Chatsworth House Suite 2-4, 431 Nepean Highway, FRANKSTON 3199	\$253,410
Springvale Community Aid and Advice Bureau Inc. 5 Osborne Avenue, SPRINGVALE 3171	\$184,836
St Luke's Anglicare 175-187 Hargreaves Street, BENDIGO 3550	\$180,722
Tenants Union of Victoria Ltd (Consumer and Tenant Advice Service Northern) 251 High Street, PRESTON 3072 also at: 175 Glenroy Road, GLENROY 3046	\$283,903
Uniting Church (Kilmany Unitingcare) 126 Raymond Street, SALE 3850 also at: 49 McCulloch Street, BAIRNSDALE 3875	\$152,208
Wimmera Unitingcare 185 Baillie Street, HORSHAM 3400	\$122,562

Appendix 1

Consumer Affairs Community Program (continued)

Specialist consumer services	Value (Ex GST)
Consumer Credit Legal Service Inc. 1st Floor Bank House 11-19 Bank Place MELBOURNE 3000	\$151,085
Financial and Consumer Rights Council Inc. Level 13, 227 Collins Street MELBOURNE 3000	\$71,937
Specialist tenancy services	Value (Ex GST)
Family Access Network Inc. 1030 Whitehorse Road BOX HILL 3128	\$96,885
Housing for the Aged Action Group Inc. 2nd Floor, Ross House 247-251 Flinders Lane MELBOURNE 3000	\$80,728
Tenants Union of Victoria Ltd. 55 Johnston Street FITZROY 3065	\$104,847
Tenants Union of Victoria Ltd. (Inner Urban Regional Tenancy Advice Service) 55 Johnston Street FITZROY 3065	\$255,383
Tenants Union of Victoria Ltd. (Rooming House Service) 55 Johnston Street FITZROY 3065	\$146,803
Total	\$3,829,948

*Value is reported exclusive of GST as representing the net cost to Consumer Affairs Victoria.

Appendix 2

Consumer Credit Fund

Consumer Credit Fund Grants Approved in 2003-04

Grant Recipient	Value Approved* (Ex GST)	Description of Funded Program
Credit Helpline Victoria Limited	\$72,760.00	Telephone advice service
Public Interest Law Clearing House (Vic) Inc.	\$17,000.00	Advocating for financially and socially disadvantaged people in rural and regional areas in debt and credit matters
Total	\$89,760.00	

*Value is reported exclusive of GST as representing the net cost to the Fund.

Further recommendations for funding were under consideration by the Minister as at 30 June 2004. During the year payments were also made on grants approved in previous years.

Appendix 3

Victorian Property Fund (formerly the Estate Agents' Guarantee Fund)

The *Estate Agents Act* 1980 was amended in 2004 impacting on the Estate Agents' Guarantee Fund. Criteria for use of the Fund have been amended and at the same time, in recognition of the wider purpose of the Fund and its relevance to all Victorians, its name has been changed to the Victorian Property Fund.

The National Competition Policy review of the Act in 2003 recognised that changes in the accommodation needs of the community as a consequence of an aging population and the trend towards higher density living arrangements in urban communities meant that it was timely to reconsider the fund's purpose.

The amendments will allow the Fund to be applied to a wider range of purposes, including:

- the regulation of retirement villages and bodies corporate
- the provision of housing for low income or disadvantaged Victorians
- the development of environmentally-sustainable housing.

Grant Recipient	Value Approved* (Ex GST)	Description of Funded Program
Department of Human Services	\$350,000.00	Group Self Build Program 2003-04
Department of Innovation, Industry and Regional Development	\$3,342,727.00	Under New Management Phase 2
The Real Estate Institute of Victoria	\$512,633.00	Professional Development Program 2003-04
Stock and Station Agents Association	\$68,600.00	Professional Development Program 2003-04
The Real Estate Institute of Victoria	\$171,225.00	Information Service 2003-04
Total	\$4,446,085.00	

*Value is reported exclusive of GST as representing the net cost to the Fund.

During the year payments were also made on grants approved in previous years.

Appendix 4

Claims on Victorian Property Fund (formerly the Estate Agents' Guarantee Fund)

Victorian Property Fund Claims allowed 1/7/2003 to 30/6/2004	Value
Beech Lynch & Co Pty Ltd	\$520.00
Sandra Mary Bryant	\$1,931.00
Glenn Ronald Cuthbert (deceased)	\$2,187.50
Joseph John Farrugia	\$249.00
Peter Wolseley Garrison	\$41,607.87
John Roland Le Hunt & Property Buyers Network (Vic) Pty Ltd	\$3,313.00
Peter Wyss	\$4,450.00
Total	\$54,258.37

Appendix 5

Claims Paid and Amounts Recovered in 2003-4 by Motor Car Traders' Guarantee Fund Claims Committee

From November 2003, the Motor Car Traders' Guarantee Fund Claims Committee must notify the Business Licensing Authority of all claims admitted on the Fund against motor car traders, and the Business Licensing Authority must record details of the admitted claims on the Register of Motor Car Traders.

Trader	No. of claims	Total amount paid	Amount recovered
Alaco Pty Ltd	1	\$9,203.02	\$9,203.02
Automotive Fleet Management Pty Ltd	1	\$1,118.10	
Barberio, Frank	10	\$104,824.88	
Bougias, Ilias	4	\$31,342.04	
Cars on Dorset Pty Ltd	1	\$425.00	
Carter, Reginald Patrick	2	\$1,098.50	
Hasford (Vic) Pty Ltd	1	\$1,497.10	
Kingstrate Pty Ltd	45	\$103,249.88	\$150,000.00
Meko Pty Ltd	2	\$840.50	
National Motor Company Pty Ltd	2	\$19,270.53	
Pigdons Pty Ltd	1	\$9,787.77	
Pro Cycle Pty Ltd	1	\$684.30	\$684.30
Protec Holdings Pty Ltd	1	\$6,000.00	\$3,000.00
R.A. McDermott & Co (Sales) Pty Ltd	2	\$80,000.00	\$35,000.00
Ribwel Pty Ltd	2	\$31,016.00	
Robert Hill Motors Pty Ltd	27	\$34,244.60	
Schaefer, Robert Jack	2	\$19,062.63	
Splendour Enterprises Pty Ltd	2	\$836.50	
Supa Dupa Car Sales Pty Ltd	18	\$106,135.88	
Terebic Pty Ltd	14	\$14,074.87	
Travaglini, Nicolino & Albanese, Tania	6	\$3,721.00	\$7,015.20
Unlicensed trader	1	\$17,000.00	
Villastar Pty Ltd	6	\$29,043.95	\$4,000.00
Ward Motors Pty Ltd	17	\$23,083.00	
Wynwall Pty Ltd	1	\$1,505.85	
York, Nihal	1	\$716.60	\$716.60
Total	171	\$649,782.50	\$209,619.12

Appendix 6

Civil Litigation in 2003-04

Court/Tribunal	Act	No. of Matters
Supreme Court		
Reinstatement Applications	Associations Incorporation Act	5
Leave Application		3
County Court		
Appeals (Defendants)	Motor Car Traders Act	1
Magistrates' Court		
Injunctions	Motor Car Traders Act	4
	Fair Trading Act	14
Issued Civil Complaint		3
Defendant Civil Complaint		1
Victorian Civil and Administrative Tribunal		
Credit Applications	Credit Act	3
Disciplinary Inquiry	Estate Agents Act	12
	Prostitution Control Act	2
Review of Decision of BLA	Estate Agents Act	12
	Motor Car Traders Act	2
	Prostitution Control Act	1
	Second-Hand Dealers and Pawnbrokers Act	2
Review of Decisions of Director Liquor Licensing	Liquor Control Reform Act	4
Review of Decision of Motor Car Traders Guarantee Fund Claims Committee		3
Review of FOI Decision	Freedom of Information Act	1
Review of Decision of Director	Fundraising Appeals Act	1

Appendix 7

Prosecutions Completed

Date of Hearing	Defendant	Court	Act	Section /Regs	No. of Offences	Fines \$	Costs \$	Other Orders
7/7/03	Clow Holdings Pty Ltd	MC	FTA	19(1)(b)	1	250	168	With conviction
<i>Prosecution of a company and the two Directors for failure to supply as contracted.</i>								
7/7/03	Gary Robert Mepstead of Seaford	MC	FTA	19(1)(b)	1	250	168	With conviction
<i>See Clow Holdings Pty Ltd result.</i>								
7/7/03	Terence Hynes of Seaford	MC	FTA	19(1)(b)	1	250	168	With conviction
<i>See Clow Holdings Pty Ltd result.</i>								
30/7/03	Power Pacific International Media Pty Ltd	MC	FTA	27(1)	7	5,000	666	With conviction
<i>Prosecution of a company for publishing advertisements without authorisation.</i>								
30/7/03	Spacelink Holdings Pty Ltd	MC	FTA	27(1)	3	5,000	666	With conviction
<i>Prosecution of a company for publishing advertisements without authorisation.</i>								
6/8/03	Impact Building and Electrical Pty Ltd	MC	DBCA	29	1	5,000		With conviction
			DBCA	11(1)(a)	1			
			DBCA	30(2)	1			
			DBCA	31	4			
			BA	16(1)	1			
			BA	136(2)	1			
<i>Company was prosecuted for being an unregistered and uninsured builder, receiving excessive deposit and offences in relation to contract and permit breaches.</i>								
6/8/03	Mark Crellin of Wandin North	MC	DBCA	29	1	5,000	508	With conviction
			DBCA	11(1)(a)	1			
			DBCA	30(2)	1			
			DBCA	31	4			
			BA	16(1)	1			
			BA	136(2)	1			
			FTA	12(n)				
<i>Sole Director of Impact Building and Electrical Pty Ltd.</i>								
8/8/03	Frank Valentic of Elwood	MC	EAA	93	1	3,000	1,050	Without conviction
<i>Prosecution of applicant for an estate agent licence for furnishing false particulars in the application.</i>								
28/8/03	Ron Wallace of Keilor	MC	FTA	29	1	2,000		Without conviction
			BNA	5	1			
			BA	16, 136, 176	8			
			DBCA	11, 29, 31	6			
<i>Prosecution of an unregistered and uninsured builder.</i>								
2/9/03	Franchise and Business Alliance Brokers Pty Ltd	MC	EAA	12	1	5,000	476.01	With conviction
<i>Prosecution of an unlicensed estate agency.</i>								
2/9/03	John Prosser of Glen Iris	MC	EAA	12	1	3,000	476.02	Without conviction
<i>Prosecution of applicant for an estate agent licence for furnishing false particulars in the application.</i>								
3/9/03	Samuel Halaseh of Kew	MC	DBCA	29, 11, 131(1), 40(2)	21	270,750	2,422.24	With conviction
			BA	136(2), 137, 176(1)(d), 176(2)(a), 246	6			
			FTA	11, 12(n), 19(a)	9			
<i>Prosecution of an unregistered and uninsured builder.</i>								

Appendix 7

Prosecutions Completed (continued)

Date of Hearing	Defendant	Court	Act	Section /Regs	No. of Offences	Fines \$	Costs \$	Other Orders
5/9/03	Claire Batey of Wantirna South	MC	EAA	55(3)	1	1,100	350	Without conviction
<i>Employee of an estate agency who was beneficially interest in the sale of a property the agency was commissioned to sell.</i>								
9/9/03	Steven Rombotis of Diamond Creek	MC	FTA BNA	19 5A	2 1		740.37	With conviction, released upon entering a Bond to be of good behaviour for 12 months with condition that he contributes \$800 to Court Fund
<i>Accepting payment without supply.</i>								
19/9/03	Australian Kidney Foundation Collections Pty Ltd	MC	FTA FAA BNA	12(n) 12(f) 17A 44 5(1)	1 1 1 1 1	10,000	2,453.38	Without conviction
<i>Prosecution of a fundraiser for misrepresentations and fundraising breaches.</i>								
19/9/03	Terence William Blackwell of Ringwood East	MC	FTA FAA BNA	12(n) 12(f) 17A 44 5(1)	1 1 1 1 1			Without conviction, good behaviour bond with condition to a charity conducting research into kidney disease
<i>Director of Australian Kidney Foundation Collections Pty Ltd.</i>								
24/9/03	CTR Pty Ltd	MC	MCTA	36(2)(a)	1	500		With conviction
<i>Company prosecuted for consignment selling of a motor car.</i>								
24/9/03	Peter Raymond Di Nicolantonio of Cranbourne South	MC	MCTA	36(2)(a)	1	500	800	With conviction
<i>Director of CTR Pty Ltd</i>								
29/9/03	Michael Almenara of Sunbury	MC	DBCA BA FTA	29 176(2)(a) 12(l)	2 1 1	10,000	8,552.98	With conviction
<i>Prosecution of an unregistered and uninsured builder.</i>								
1/10/03	Lorraine Wilkinson of Kerang	MC	TAA FTA	6 19	1 4	10,000	527.47	With conviction, \$18,914 to be paid to the Travel Compensation Fund, \$55 court costs.
<i>Prosecution of Director of company who continued to trade after travel agent's licence was suspended, an injunction had been issued and contempt of injunction findings made.</i>								

Appendix 7

Prosecutions Completed (continued)

Date of Hearing	Defendant	Court	Act	Section /Regs	No. of Offences	Fines \$	Costs \$	Other Orders
6/10/03	Adriatic Travel Pty Ltd of St Kilda	MC	TAA FTA	6(1)(a) 19(1)(a)	4 6	10,000		With conviction
<i>Prosecution of company whose travel agent's licence had been suspended for failure to lodge its audited financial statements, though continued trading through its Sole Director. The company failed to supply services.</i>								
6/10/03	Tatjana Cिकic of Maidstone	MC	TAA FTA	6(1)(a) 19(1)(a)	4 6	10,000	800	With conviction
<i>Ms Cिकic, Director of Adriatic Travel Pty Ltd, accepted monies from the public for travel services whilst the company's licence was suspended for failure to lodge its audited financial statements. The travel services were not provided.</i>								
6/10/03	Springreef Pty Ltd of Tweed Heads, NSW	MC	FTA FTA	27(1) 12(n)	1 1	3,500	1,030.40	With conviction
<i>Prosecution of publisher asserting a right for payment without obtaining prior written and signed consent and making a false, misleading or deceptive representation.</i>								
8/10/03	Profit Wyse Building Services Pty Ltd of Mentone	MC	DBCA DBCA DBCA BA BA FTA	29 11(1) 31(1) 136(2) 176(2a) 12(n)	1 1 1 1 1 1	1,500	465.86	With conviction
<i>Prosecution of unregistered, uninsured builder who falsely represented that he was insured.</i>								
8/10/03	Rick Anthony Waters of Ventor	MC	DBCA DBCA DBCA BA BA FTA	29 11(1) 31(1) 136(2) 176(2a) 12(n)	1 1 1 1 1 1	1,500	465.86	With conviction
<i>Co-accused Sole Director of Profit Wyse Building Services Pty Ltd.</i>								
13/10/03	Ian Spouse of Chadstone	MC	DBCA DBCA BA FTA	29 31(1) 136(2) 12(n)	1 1 1 1	5,000	2,189.90	With conviction
<i>Prosecution of an unregistered, uninsured builder who falsely represented that he used monies received from a consumer to pay another firm for their design work and soil testing.</i>								
16/10/03	Owen Charles Bailey of Parkville	MC	MCTA	7	1	5,000	894.20	With conviction
<i>Unlicensed motor car trading.</i>								
26/11/03	Peter Taylor of Hampton Park	MC	DBCA DBCA BA FTA	11(1)(b) 29 136(2) 19(1)(a)	1 1 1 1		1,558.08	With conviction, community based order to complete 50 hours of community work within 12 months
<i>Prosecution of unregistered, uninsured builder who demanded an excessive deposit and failed to provide services.</i>								
2/12/03	Christopher John McLeod of Mt Martha	MC	DBCA DBCA FTA BNA	29 31(1)(n) 19(1) 5	1 1 1 1	1,000	701.86	With conviction
<i>Prosecution of unregistered, uninsured builder trading under an unregistered business name, who failed to complete work.</i>								

Appendix 7

Prosecutions Completed (continued)

Date of Hearing	Defendant	Court	Act	Section /Regs	No. of Offences	Fines \$	Costs \$	Other Orders
2/12/03	Elias Servetas of Reservoir	MC	DBCA	29	1	5,000	1,594.60	With conviction
			DBCA	31(1)	1			
			DBCA	11(1)	1			
			DBCA	40(3)	1			
			BA	136(2)	1			
			BA	176(l)(b)	1			
			BA	176(2a)	1			
			FTA	19(1)(a)	2			
			FTA	29(f)	2			
			BNA	5	2			
			BNA	5A(2)	2			
			<i>Prosecution of unregistered, uninsured builder trading under an unregistered business name, who failed to complete work.</i>					
2/12/03	John Servetas of Reservoir	MC	DBCA	29	1	5,000	1,200	With conviction
			DBCA	31(1)	1			
			DBCA	11(1)	1			
			DBCA	40(3)	1			
			BA	136(2)	1			
			BA	176(l)(b)	1			
			BA	176(2a)	1			
			FTA	19(1)(a)	2			
			FTA	29(f)	2			
			BNA	5	2			
			BNA	5A(2)	2			
			<i>Prosecution of unregistered, uninsured builder trading under an unregistered business name, who failed to complete work.</i>					
3/12/03	Shaun Smith of King Park	MC	DBCA	29	1	2,000	1,553.43	With conviction
			DBCA	31(1)	1			
			DBCA	11(1)(b)	1			
			BA	136(2)	1			
			FTA	19(1)(a)	1			
			BNA	5	1			
<i>Prosecution of unregistered, uninsured builder trading under an unregistered business name who failed to provide services.</i>								
3/12/03	Youngdown Pty Ltd	MC	FTA	33(1)	3		571.50	Without conviction, good behaviour bond, \$10,000 to nominated charity
			FTA	44	1			
<i>Prosecution of trader selling toys breaching Australian safety standards and subject to permanent ban orders in Victoria.</i>								
9/2/04	Allan King, aka Michael Ahmed of Burwood	MC	MCTA	7(1)	1	30,000	1,587.89	With conviction
<i>Unlicensed trading in motor cars.</i>								
5/3/04	Greg Flessas of Keysborough	MC	MCTA	35(2)	25	10,000	1,044	With conviction
				38(1)	25			
<i>Odometer tampering and failure to keep accurate records. Prior to the hearing Greg Flessas paid \$15,000 in compensation to consumers.</i>								
2/4/04	Marcus Balkin of Hawthorn	MC	DBCA	29(1)	1	5,000	1,593.39	Without conviction
			DBCA	31(1)	1			
			BA	136(2)	1			
			BA	176(1)	1			
			FTA	19(1)(a)	1			
<i>Prosecution of unregistered, uninsured builder who failed to complete work and had incorrect contract.</i>								

Appendix 7

Prosecutions Completed (continued)

Date of Hearing	Defendant	Court	Act	Section /Regs	No. of Offences	Fines \$	Costs \$	Other Orders
5/4/04	Gregory Bruce Buckley of Yarraville	MC	FTA	12	30		982.50	Conviction, released upon entering into a 12 month Community Based Order. Ordered to pay \$2,945 compensation
<i>False representations in relations to services.</i>								
28/4/04	Omar Bol of Roxborough Park	MC	MCTA	7	1		106.75	Without conviction, undertaking to be of good behaviour for 12 months with condition to pay \$500 to Court Fund
<i>Prosecution of unlicensed Motor Car Trader</i>								
28/4/04	Rex Peter Muldoon of Berwick	MC	MCTA	7	1		\$107.97	Without conviction, undertaking to be of good behaviour for 12 months with condition to pay \$500 to Court Fund
<i>Prosecution of unlicensed motor car trader.</i>								
4/5/04	Benjamin Newman of Trafalgar	MC	DBCA	29(1)	1		1,050.23	Convicted, placed on Community Based Order for six months, ordered to pay \$2,769 to consumers
			DBCA	11(1)	1			
			FTA	11	1			
<i>Unregistered, uninsured builder who demanded an excessive deposit and made false representations in relation to services.</i>								
13/5/04	Omar Hayek of Donald	MC	MCTA	7(1)	1	5,000	500	With conviction
<i>Unlicensed motor car trading.</i>								
20/5/04	Hexagon Group Pty Ltd of Armadale	MC	DBCA	29(1)(c)	1	3,000	951.00	Without conviction (Result of appeal to County Court 13/10/04)
			DBCA	11(1)(a)	1			
			DBCA	31(1)	1			
			BA	136(2)	1			
			FTA	11	1			
<i>Prosecution of unregistered, uninsured builder who demanded an excessive deposit, used the incorrect contract, engaged in conduct that misled the consumer.</i>								
20/5/04	Leonard McCash of Armadale	MC	DBCA	29(1)(c)	1	1,500	2,999.44	Without conviction (Result of appeal to County Court 13/10/04)
			DBCA	11(1)(a)	1			
			DBCA	31(1)	1			
			BA	136(2)	1			
			FTA	11	1			
<i>Co-accused Director of Hexagon Group Pty Ltd.</i>								

Appendix 7

Prosecutions Completed (continued)

Date of Hearing	Defendant	Court	Act	Section /Regs	No. of Offences	Fines \$	Costs \$	Other Orders
25/5/04	Nick Butera of Reservoir	MC	DBCA	29(1)	1	15,000	1,295	With conviction
			DBCA	11(1)(b)	1			
			DBCA	31(1)	1			
			BA	136(2)	1			
			FTA	11	1			
			FTA	19(1)(a)	1			
<i>Prosecution of unregistered, uninsured builder who demanded an excessive deposit, used the incorrect contract, engaged in conduct that misled the consumer and failed to complete the works.</i>								
26/5/04	Earle Misso trading as "Exquisite Home Maintenance" of Dandenong	MC	DBCA	29(1)	1	2,000	1,255	With conviction
			DBCA	11(1)	1			
			DBCA	31(1)	1			
			BA	136(2)	1			
			FTA	11	1			
			BNA	5	1			
<i>Prosecution of unregistered, uninsured builder who demanded an excessive deposit, used the incorrect contract and engaged in conduct that misled the consumer. He traded under the unregistered business name "Exquisite Home Maintenance".</i>								
26/5/04	George Young trading as Splash Bathroom Renovations of Croydon	MC	DBCA	29(1)	1	1,500	1,558	Without conviction
			DBCA	11(1)(b)	1			
			DBCA	31(1)	1			
			BA	136(2)	1			
			BA	16(1)	1			
			BA	176(2a)	1			
FTA	19(1)(a)	1						
<i>Prosecution of unregistered, uninsured builder who demanded an excessive deposit, used the incorrect contract, performed building work without a permit, engaged in conduct that misled the consumer.</i>								
25/6/04	Malcolm Davies trading as "Wimmera Decking & Pergolas" of Stawell	MC	DBCA	29(a)	1		1,271.50	\$500 12 month good behaviour bond
			DBCA	31(1)	1			
			BNA	5	1			
<i>Prosecution of unregistered builder who used the incorrect contract and was trading under an unregistered business name.</i>								

Abbreviations

BA	<i>Building Act 1993</i>
BNA	<i>Business Names Act 1962</i>
DBCA	<i>Domestic Building Contracts Act 1995</i>
EAA	<i>Estate Agents Act 1980</i>
FTA	<i>Fair Trading Act 1999</i>
FAA	<i>Fundraising Appeals Act 1998</i>
MCTA	<i>Motor Car Traders Act 1986</i>
TAA	<i>Travel Agents Act 1986</i>

Appendix 8

Enforceable Undertakings

Date	Promise	Section/Act	Breach summary and nature of understanding
4/7/03	Milisav Ristic 5 Kinlora Avenue Epping 3076	S16(1)(2) EAA	Milisav Ristic was employed as an agent's representative by a company which was the holder of an estate agent's licence. Milisav Ristic was ineligible to be employed as an agent's representative. Milisav Ristic undertook not to act as an agent's representative unless he is eligible to be employed as such and until he has attended and passed the prescribed course for agent's representatives.
8/7/03	James Andrew Weight 4 Moorabbin Street Sandringham 3191	S16 EAA	James Andrew Weight was employed as an agent's representative by two companies whilst ineligible. James Andrew Weight undertook to comply with the provisions of the Act.
11/7/03	Dragan Spirovski 352 Main Road West St Albans 3021	S16, 35, 47, 49A, 50, 59, 63 EAA S35 RTA R22, 23, 25, 27, 28, 35, 36 EA(GAA) Regs	Dragan Spirovski is a licensed estate agent and Officer in Effective Control of Danny & Co Real Estate Pty Ltd. It is considered that he breached the Acts and the Regulations in that he did not sight evidence that an agent's representative had passed the prescribed course, notify of the commencement or cessation of employment of an agent's representative, authorise an agent's representative in writing, did not have a copy of authority to act as managing agent, bank monies within the prescribed period, issue receipts, record tenants receipt of condition report and non payment of bond to bond authority, keep trust receipt or cheque registers, complete trust receipts, maintain trust account registers, complete trust account reconciliation statements. Dragan Spirovski undertook to comply with the provisions of the Legislation and the Regulations.
11/7/03	Mathew Charles Northeast 128 Lava Street Warrnambool 3280	S16 EAA	Mathew Charles Northeast was employed as an agent's representative by two companies whilst ineligible. Mathew Charles Northeast undertook to comply with the provisions of the Act.
11/7/03	Edwin Russell Northeast 128 Lava Street Warrnambool 3280	S16(4), 35(06) EAA	Edwin Russell Northeast is the Officer in Effective Control and Director of Northeast Stockdale & Leggo. Investigations revealed that he did not sight a Police certificate or a copy of course qualifications prior to employing a person as an agent's representative, nor did he notify the Registrar of the commencement of the agent's representative. Edwin Russell Northeast has undertaken to comply with the requirements of the Act.
14/7/03	Peter Anton Dore 29 Eucalypt Grove Heathcote Junction 3758	R36 EA(GAA) Regs	Peter Anton Dore is a licensed estate agent and Officer in Effective Control of Stott Real Estate (Kilmore) Pty Ltd. It is considered that he breached the Regulation because he failed to verify the accuracy of trust account reconciliations but signed them as being accurate. Peter Anton Dore undertook to comply with the Regulation.

Appendix 8

Enforceable Undertakings (continued)

Date	Promise	Section/Act	Breach summary and nature of understanding
17/7/03	Frank Giurleo 28C Ashley Street Footscray West 3012	S4, 30A, 49, 50, 63 EAA S35, 406 RTA R22, 25, 27, 28, 35, 36 EAA(GAA)Regs	Frank Giurleo is a licensed estate agent and Officer in Effective Control of G & G Realty. It is considered that Frank Giurleo breached the Acts and the Regulations in that he failed to formally appoint a person who performed the functions of an estate agent, ensure that a licensed estate agent or a manager was present at an estate office, to provide vendors and landlords with a copy of authority to sell or rent or to act as managing agent, provide information in relation to commissions, to issue receipts, record that tenants received condition reports and to pay bond money to the bond authority, to keep a trust receipt or cheque register, maintain a register of trust cheque forms, maintain trust account journals and ledgers, complete trust account reconciliations. Frank Giurleo undertook to comply with the Legislation and the Regulations.
17/7/03	Timothy John Bolton 93 Martin Street Brighton 3186	S55 EAA	Timothy John Bolton is an employee of a licensed estate agent. Mr Bolton's wife purchased property from the licensed estate agent that employed her husband. Mrs Bolton did not obtain the written permission of the Director prior to completing the contracts of sale. Timothy John Bolton undertook not to directly or indirectly purchase property whilst as an employee of an estate agent unless he has the written permission of the Director.
21/7/03	Paul Ivan Pavlovich 391 Autumn Street Herne Hill 3218	S11, 29, 31 DBCA S136(2) BA S29 FTA	Paul Ivan Pavlovich entered into a contract for the supply and installation of kitchen cabinets. The contract price was \$6,500. It is considered that Paul Ivan Pavlovich breached the Acts as he failed to register as a builder prior to undertaking major domestic building works, received an excessive deposit, did not have a written contract and he failed to include his business address in published advertisements. Paul Ivan Pavlovich undertook to comply with the requirements of the Acts.
28/7/03	Wesfarmers Landmark Ltd 31-33 Beverage Drive Tullamarine 3043	S30 EAA R11 EA(PC)Regs	The company is a licensed estate agent. Investigations determined that a branch office of the company operated without a branch manager. The company undertook to comply with the Act and the Regulations.
28/7/03	Downie's Coins Pty Ltd ACN 097 060 663 255 Johnston Street Abbotsford 3067	S12 FTA	Downie's Coins Pty Ltd is a corporation which deals in coins. Downie's advertised coins as being part of a "Sovereigns of the Horsham Hoard". Investigations concluded that the coins were not from the "Horsham Hoard". It was considered that consumers were misled. Downie's undertook to publish a corrective statement and to comply with the Legislation.
31/7/03	Anthony John Wilson Level 11 303 Collins Street Melbourne 3000	S16 & 35 EAA	Anthony John Wilson is the Officer in Effective Control of FPD Savills (Vic) Pty Ltd. Anthony John Wilson authorised persons to act as agent's representatives without sighting copies of Police certificates and also failed to notify the Registrar of the commencement of various employees as agent's representatives. Anthony John Wilson undertook to comply with the Legislation.
7/8/03	Michael John Hibbert 4 Harbinger Court Mulgrave 3170	S16 EAA	Michael John Hibbert was employed as an agent's representative whilst ineligible to be so employed. Michael John Hibbert undertook to comply with the provisions of section 16 of the Act.

Appendix 8

Enforceable Undertakings (continued)

Date	Promise	Section/Act	Breach summary and understanding
22/8/03	Henry Birner 191 Balaclava Road Caulfield North 3161	S16 EAA	Henry Birner is a Director and Officer in Effective Control of Talbot Birner Morley Pty Ltd. Investigations determined that he employed a person who was ineligible to be so employed as an agent's representative without sighting a Police certificate. Henry Birner undertook to comply with the provisions of section 16 of the Act.
22/8/03	Talbot Birner Morley Pty Ltd 191 Balaclava Road Caulfield North 3161	S16 EAA	Talbot Birner Morley Pty Ltd is a licensed estate agent. Investigations determined that a person who was ineligible was employed as an agent's representative without a Police certificate being sighted. The corporation undertook to comply with the provisions of section 16 of the Act.
27/8/03	Leopold Royston Levy 70 Quinns Parade Mt Eliza 3930	S55 EAA	Leopold Royston Levy is an employee of a licensed estate agent. Mr Levy's wife purchased property from the licensed estate agent that employed her husband. Mr Levy lodged an application seeking approval but did so after a legally binding Contract Note had been executed. It is considered that this breached the requirements of the Act. Leopold Royston Levy undertook not to directly or indirectly purchase property whilst as an employee of an estate agent unless he has the written permission of the Director.
3/9/03	Luciano Rendina 519 Macaulay Road Kensington 3031	S16 & 35 EAA	Luciano Rendina is a licensed estate agent and the Officer in Effective Control of Rendina Real Estate Pty Ltd. Luciano Rendina employed various persons as agent's representative without sighting a Police certificate and also failed to notify the Registrar of the commencement of various employees as agent's representatives. Luciano Rendina undertook to comply with the Legislation and that it would cause a compliance audit to be conducted within three months of entering into this undertaking.
3/9/03	Rendina Real Estate Pty Ltd ACN 083 161 264 519 Macaulay Road Kensington 3031	S16 & 35 EAA	Rendina Real Estate Pty Ltd is a licensed estate agent. The corporation employed various persons as agent's representative without sighting a Police certificate and also failed to notify the Registrar of the commencement of various employees as agent's representatives. The corporation undertook to comply with the Legislation and that it would cause a compliance audit to be conducted within three months of entering into this undertaking.
17/9/03	Mark Gerard Farrar 14 Carlsson Court Altona North 3025	S7 MCTA	Mark Gerard Farrar sold or offered for sale 11 motor vehicles. Mark Gerard Farrar is not a licensed motor car trader. It is considered that he breached the Act by trading in motor cars without a licence. Mark Gerard Farrar undertook to cease to trade as a motor car trader in contravention of the Act.
17/9/03	Martin Joseph O'Sullivan 29 Landers Road Trentham 3458	S55 EAA	Martin Joseph O'Sullivan is an employee of a licensed estate agent. Mr O'Sullivan's wife purchased property from the licensed estate agent that employed her husband. No written permission was given by the Director to Mrs O'Sullivan to purchase the property. It is considered that this breached the requirements of the Act. Martin Joseph O'Sullivan undertook not to directly or indirectly purchase property whilst an employee of an estate agent unless he has the written permission of the Director.

Appendix 8

Enforceable Undertakings (continued)

Date	Promise	Section/Act	Breach and nature of understanding
17/9/03	Marshall Frederick Rushford 622 Glenhuntly Road Caulfield 3162	S12 FTA R6 & 7 EA (PC) Regs	Marshall Frederick Rushford is a licensed estate agent and the Officer in Effective Control of Hocking Stuart (Caulfield) Pty Ltd. The company and Marshall Frederick Rushford were responsible for the publication and distribution of an advertisement that misled consumers regarding the number of units in a development that were available for sale. Marshall Frederick Rushford undertook to comply with the Legislation and the Regulations.
17/9/03	Hocking Stuart (Caulfield) Pty Ltd ACN 078 007 119 622 Glenhuntly Road Caulfield 3162	S12 FTA R6 & 7 EA (PC) Regs	Hocking Stuart (Caulfield) Pty Ltd is a licensed estate agent. Marshall Frederic Rushford is a licensed estate agent and the Officer in Effective Control of Hocking Stuart (Caulfield) Pty Ltd. The corporation and Marshall Frederick Rushford were responsible for the publication and distribution of an advertisement that misled consumers regarding the number of units in a development that were available for sale. The corporation undertook to comply with the Legislation and the Regulations.
17/9/03	Dinh Nhat Dung Pham Suite 730 1 Queens Road Melbourne 3004	S12 EAA	Dinh Nhat Dung Pham, as a director of Stable One Pty Ltd, employed personnel to act as sales representatives in contravention of section 12 of the Act. Dinh Nhat Dung Pham undertook to comply with the provisions of section 12 of the Act.
17/9/03	Angelo Krestas 3 Griffiths Street Brighton East 3187	S12 EAA	Angelo Krestas, as a Director of Krestas Nominees Pty Ltd, employed personnel to act as sales representatives in contravention of section 12 of the Act. Angelo Krestas undertook to comply with the provisions of section 12 of the Act.
8/10/03	Avedis Addis Haigazian 31 Illawarra Crescent North Dandenong 3175	S16 EAA	Avedis Addis Haigazian was employed as an agent's representative whilst ineligible to be so employed. Avedis Addis Haigazian undertook to comply with the provisions of section of the Act.
15/10/03	Janet Margaret Carland 5 Bruce Street Bannockburn 3331	S55 EAA	Janet Margaret Carland is a licensed estate agent employed by Keane Nominees Pty Ltd trading as C J Keane & Co. Ms Carland and Mr Peter Carland purchased property that C J Keane & Co had been commissioned to sell. No written permission was given by the Director to Ms & Mr Carland to purchase the property. It is considered that this breached the requirements of the Act. Janet Margaret Carland undertook to comply with the provisions of section 55(3) of the Act.
15/10/03	Peter Lyal Carland 5 Bruce Street Bannockburn 3331	S55 EAA	Peter Lyal Carland is a licensed estate agent employed by Keane Nominees Pty Ltd trading as C J Keane & Co. Ms Janet Margaret Carland and Mr Peter Carland purchased property that C J Keane & Co had been commissioned to sell. No written permission was given by the Director to Ms & Mr Carland to purchase the property. It is considered that this breached the requirements of the Act. Peter Lyal Carland undertook to comply with the provisions of section 55(3) of the Act.
15/10/03	Keane Nominees Pty Ltd 23 Fenwick Street Geelong 3220	S55 EAA	Keane Nominees Pty Ltd is a licensed estate agent corporation and was commissioned to sell a residential property. The property was purchased by Mr P and Ms J Carland, both of whom are licensed estate agents and employed by the corporation. Mr and Ms Carland did not have the prior written approval of the Director. It is considered that this breached the requirements of the Act. The corporation undertook to comply with the provisions of section 55 of the Act.
9/2/04	Patrizia Tassoni 307 St Kilda Street Brighton 3186	S12, 19, 83 & 90 FTA	Patrizia Tassoni was Sole Director of Mattreses Direct Pty Ltd for a period of time in 2003. The company marketed and sold consumer and household products by direct marketing and sales methods. The company advertised and sold products on a 90 day 100% no questions asked money back guarantee. It did not honour this guarantee. The company's lay-by documentation did not comply with the requirements of section 83. Patrizia Tassoni undertook to comply with the provisions of the Act and further not to be involved in direct marketing or sales.

Appendix 8

Enforceable Undertakings (continued)

Date	Promise	Section/Act	Breach summary and nature of understanding
9/2/04	Umberto Tassoni 307 St Kilda Street Brighton 3186	S12, 19, 83 & 90 FTA	Umberto Tassoni was Sole Director of Mattresses Direct Pty Ltd between 28/3/2001 and 28/7/2003. He, again, became sole Director in November 2003. The company marketed and sold consumer and household products by direct marketing and sales methods. The company advertised and sold products on a 90 day 100% no questions asked money back guarantee. It did not honour this guarantee. The company's lay-by documentation did not comply with the requirements of section 83. Umberto Tassoni undertook to comply with the provisions of the Act and further not to be involved in direct marketing or sales.
15/6/04	Nazan Bol 81 Ravenhill Boulevard Roxburgh Park 3064	S7 MCTA	During the period 10/1/02 and 6/2/03 Nazan Bol offered more than four cars for sale. Nazan Bol was not a licensed motor car trader. It is considered that Nazan Bol breached the Act by trading in motor cars without a licence. Nazan Bol undertook to cease to trade as a motor car trader in contravention of the Act.
30/6/04	Margaret Lillian Dixon 15 Callantina Road Hawthorn 3122	S11, 31 & 29 DBCA S136 BA	Margaret Lillian Dixon, as a Director of Kenyon Kitchens Pty Ltd, did enter into a major domestic building contract when the company did not have a Director who was registered to perform domestic building work, demanded and received an excessive deposit, used a contract that did not comply with the Domestic Building Contracts Act and did not have the required insurance. Margaret Lillian Dixon undertook to comply with the Legislation and to contribute to the refund of monies to consumers.
30/6/04	John Kenyon Unit 1 56 Fordham Avenue Camberwell 3124	S11, 31 & 29 DBCA S136 BA	John Kenyon, as a Director of Kenyon Kitchens Pty Ltd, did enter into a major domestic building contract when the company did not have a Director who was registered to perform domestic building work, demanded and received an excessive deposit, used a contract that did not comply with the Domestic Building Contracts Act and did not have the required insurance. John Kenyon undertook to comply with the Legislation and to contribute to the refund of monies to consumers.
30/6/04	Paul Henry Hodgson 31 Reynolds Road Wattle Glen 3096	S11, 31 & 29 DBCA S136 BA	Paul Henry Hodgson, as a Director of Kenyon Kitchens Pty Ltd, did enter into a major domestic building contract when the company did not have a Director who was registered to perform domestic building work, demanded and received an excessive deposit, used a contract that did not comply with the Domestic Building Contracts Act and did not have the required insurance. Paul Henry Hodgson undertook to comply with the legislation and to contribute to the refund of monies to consumers.

Abbreviations

BA	<i>Building Act 1993</i>
DBCA	<i>Domestic Building Contracts Act 1995</i>
EAA	<i>Estate Agents Act 1980</i>
EA(GAA)Regs	Estate Agents (General, Accounts and Audit) Regulations 1997
EA(PC) Reg	Estate Agents (Professional Conduct) Regulations 1997
FTA	<i>Fair Trading Act 1999</i>

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	Major expenditure purpose
Consumer Credit Fund	<i>Credit (Administration) Act 1984</i> S86AA – 86AC	Credit provider contributions Interest on investments	Grants relating to consumer credit education and research as permitted by s86AB of the Act Secretarial support to the Consumer Credit Fund Advisory Committee
Domestic Builders Fund	<i>Domestic Building Contracts Act 1995</i> S124	Part share of the Domestic Builder registration fees and Domestic Building Dispute Levy collected by the Building Commission Income on investments Fees collected by the Victorian Civil and Administrative Tribunal relating to the Domestic Building List Fines	Administration of the Act Costs relating to the Domestic Building List of the Victorian Civil and Administrative Tribunal
Motor Car Traders' Guarantee Fund	<i>Motor Car Traders Act 1986</i> S74 - 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> S66	Licensing fees Fines Interest on investments	Administration of the Act
Residential Tenancies Fund	<i>Residential Tenancies Act 1997</i> S491 – 498A	Transfers from Residential Bonds Investment Income Account Interests on investments Fees collected by the Victorian Civil & Administrative Tribunal relating to the Residential Tenancies List Interest on individual bond trust accounts	Administration of the Act Tenancies List of the Victorian Civil & Administrative Tribunal
Residential Bonds Investment Income Account	<i>Residential Tenancies Act 1997</i> S436	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

Appendix 9

Trust Funds Managed by Consumer Affairs Victoria (continued)

Fund	Act of Parliament	Source of Income	Major expenditure purposes
Residential Bonds Account	<i>Residential Tenancies Act 1997</i> S435	Bonds lodged with the Residential Tenancies Bond Authority	Repayment of bonds
Victorian Property Fund (formerly known as the Estate Agents' Guarantee Fund)	<i>Estate Agents Act 1980</i> S71 - 91	Interest on estate agents' trust accounts Interest on investments Licensing fees Fines	Administration of the Act and other real estate related legislation as permitted by s75 of the Act Grants relating to real estate as permitted by s76(3) of the Act Operation of the Estate Agents Council Guarantee claims

Additional information on the trust funds income, expenditure and balances is contained in the table of Key Financial Information, Appendix 10.

Appendix 10

Key Financial Indicators

	Output & Special Appropriations	Motor Car Traders' Guarantee Fund	Victorian Property Fund
Consumer Affairs Victoria Revenue			
Fees		2,314,916	1,337,474
Fines		30,020	16,483
Appropriations from the Consolidated Fund	22,421,284		
Investment income		70,189	11,173,373
Interest from external trust accounts			30,104,798
Recovery of claims paid		240,137	
Other income		3,402	1,500
Transfer from Residential Bonds Income Investment Account			
Total Consumer Affairs Victoria Revenue	22,421,284	2,658,664	42,633,628
Victorian Civil & Administrative Tribunal fees			
Total Revenue	22,421,284	2,658,664	42,633,628
Consumer Affairs Victoria expenditure			
Employee costs	12,356,955	1,422,437	3,002,636
Community Agency funding	972,256	164,440	24,313
Grants	77,524		3,018,884
Claims on Guarantee Funds		659,322	27,871
Outsourcing of registry services			
Printing, stationery and other office supplies	741,371	69,081	720,062
Postage and communication	743,661	42,643	136,034
Contractors, consultants and professional services	822,477	135,486	1,673,345
Information technology	1,095,012	24,699	39,490
Trade measurement outsourcing contracting costs	1,205,008		
Rent and property services	1,871,505	177,431	328,447
Other Consumer Affairs Victoria operating costs	1,785,515	105,410	708,052
Prostitution Control Fund subsidy	250,000		
Consumer Utilities Advocacy Centre payment	500,000		
Total direct Consumer Affairs Victoria expenditure	22,421,284	2,800,949	9,679,134
Departmental governance, executive and corporate support funding			
Total Consumer Affairs Victoria Output cost			
Victorian Civil & Administrative Tribunal Trust Fund funding			
Victorian Civil & Administrative Tribunal employee costs			
Other Victorian Civil & Administrative Tribunal operating costs			
Total Trust Fund expenditure		2,800,949	9,679,134
Trust Fund opening equity		1,114,314	177,509,900
Surplus / (Deficit)		(142,285)	32,954,494
Prior period adjustments			(51,874)
Trust Funds closing equity		972,029	210,412,520

Notes:

1. A further \$295.3 million is held in the Residential Bonds Account representing bonds held on trust for landlords and tenants. Full details of this are shown in the separate annual report for the Residential Tenancies Bond Authority.
2. Consumer Affairs Victoria collected totalling \$14,217,617 which was paid into the Consolidated Fund. This amount is accounted for separately from those funds available for use by Consumer Affairs Victoria.

Appendix 10

Key Financial Indicators (continued)

Residential Tenancies Fund	Residential Bond Income Investment Account	Consumer Credit Fund	Prostitution Control Fund	Domestic Builders' Fund	TOTAL FROM TRUST FUNDS	TOTAL
			276,103		3,928,493	3,928,493
			14,141		60,644	60,644
816,096	14,691,331	222,324	14,631	139,690	27,127,634	27,127,634
485,156					30,589,954	30,589,954
		428,917	19		240,137	240,137
					433,838	433,838
10,800,000	(10,800,000)					
12,101,252	3,891,331	651,241	304,894	5,319,691	67,560,701	89,981,985
1,748,177				301,067	2,049,244	2,049,244
13,849,429	3,891,331	651,241	304,894	5,620,758	69,609,945	92,031,229
2,301,599	674,120		370,521	1,774,776	9,546,089	21,903,044
2,651,462				85,163	2,925,378	3,897,634
		45,589			3,064,473	3,141,997
					687,193	687,193
	1,900,331				1,900,331	1,900,331
332,704	198,200		10,014	336,838	1,666,899	2,408,270
180,142	184,036		7,629	38,122	588,606	1,332,267
250,556	110,725	4,042	54,320	45,301	2,273,757	3,096,234
39,664	5,739		18,205	31,779	159,576	1,254,588
						1,205,008
268,851	88,183		45,236	161,572	1,069,720	2,941,225
183,438	99,743	372	30,744	435,598	1,563,357	3,348,872
			(250,000)		(250,000)	
						500,000
6,208,416	3,261,077	50,003	286,651	2,909,149	25,195,379	47,616,663
						3,821,933
						51,438,596
5,257,384				964,979	6,222,363	
1,689,974				475,410	2,165,384	
13,155,774	3,261,077	50,003	286,651	4,349,538	33,583,126	
16,576,223	841,872	3,893,655	255,719	2,061,533	202,253,216	
693,655	630,254	601,238	18,243	1,271,220	36,026,819	
1,552				3,398	(46,924)	
17,271,430	1,472,126	4,494,893	273,962	3,336,151	238,233,111	

Appendix 11

Legislation Administered by the Minister for Consumer Affairs

Acts of Parliament assigned to the Minister for Consumer Affairs as at 30 June 2004

- 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*
(excluding 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*
(excluding 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*
Sections 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
Section 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 1988 - Part 5; Section 38; and Section 43 (in so far 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. This Act is jointly administered with the Treasurer*
- 48 *Utility Meters (Metrological Controls) Act 2002*

Appendix 12

Regulations and Legislation Made/Revoked or Commenced in 2003-04

Regulations commenced in 2003-04	Date commenced
Liquor Control Reform (Fees)(Amendment) Regulations 2003	1 July 2003
Residential Tenancies (Amendment) Regulations 2003	1 July 2003
Fair Trading (Safety Standard)(Bunk Beds)(Amendment) Regulations 2003	22 July 2003
Business Names Regulations 2003	27 July 2003
Associations Incorporation (Fees) Regulations 2003	29 July 2003
Co-operatives (Fees) Regulations 2003	28 July 2003
Partnership (Limited Partnerships) Regulations 2003	28 July 2003
Fair Trading (Amendment) Regulations 2003	9 October 2003
Travel Agents (Amendment) Regulations 2003	1 November 2003
Motor Car Traders (Amendment) Regulations 2003	1 November 2003
Estate Agents (General, Accounts and Audit)(Amendment) Regulations 2003	1 November 2003
Business Names (Amendment) Regulations 2003	1 November 2003
Associations Incorporation (Amendment) Regulations 2003	1 November 2003
Estate Agents (Contract)(Amendment) Regulations 2003	1 February 2004
Sale of Land Regulations 2004	1 February 2004
Estate Agents (General, Accounts and Audit)(Amendment) Regulations 2004	1 February 2004
Estate Agents (Education) Regulations 2004	1 February 2004
Residential Tenancies (Amendment) Regulations 2004	18 May 2004
Associations Incorporation (Amendment) Regulations 2004	18 May 2004
Consumer Affairs (Product Safety)(Lighters)(Amendment) Regulations 2004	1 June 2004
Fair Trading (Recreational Services) 2004	1 June 2004
Goods (Revocation) Regulations 2004	1 June 2004

Regulations revoked in 2003-04	Date revoked
Credit (Annual Percentage Rate) Regulations 1993	(Sunset) 7 December 2003
Estate Agents and Agent's Representatives (Courses of Instruction and Examinations) Regulations 1995	(Revoked) 1 February 2004
Goods (Sales and Leases) Regulations 1995	(Revoked) 1 June 2004
Goods (Recreational Services) Regulations 2003	(Revoked) 1 June 2004
Business Names Regulations (No 2) 1992	(Revoked) 27 July 2003

Legislation made in 2003-04	Date of assent
<i>Fair Trading (Further Amendment) Act 2003</i>	27 May 2003
<i>Travel Agents (Amendment) Act 2003</i>	21 October 2003
<i>Partnership (Venture Capital Funds) Act 2003</i>	2 December 2003
<i>Estate Agents and Travel Agents Acts (Amendment) Act 2004</i>	18 May 2004
<i>Domestic Building Contracts (Amendment) Act 2004</i>	8 June 2004
<i>Fair Trading (Consumer Contracts) Act 2004</i>	16 June 2004

Appendix 13

CAV media releases 2003-04

Date	Title
3/7/03	Howard Government ignores call from motorists
3/7/03	Banned guns Seized in Ballarat raid
16/7/03	Odyssey House credit education service boost
17/7/03	Bracks Government boost for vulnerable consumers
17/7/04	When oils ain't oils
17/7/03	Public housing fair and affordable
24/7/03	Consumer and tenants service boost in Ballarat
25/7/03	Consumer and tenants service boost in Shepparton
25/7/03	Consumer and tenants service boost for the Wimmera
25/7/03	Consumer and tenants service boost for North East
28/7/03	Consumer and tenants service boost for the Mallee
1/8/03	State and Territory Ministers score victory on investment spruiker Regulation
1/8803	Government welcomes independent audit of Red Cross
8/8/03	Consumer awareness boost for Springvale
12/8/03	Consumer and tenancy advice boost for the South West
12/8/03	Consumer and tenancy advice boost for Geelong
14/8/03	Regional Victorians gain voice on Utilities issues
14/8/03	Students encouraged to become consumer savvy
14/8/03	Consumer and tenancy advice boost for Gippsland
15/8/03	TXU agrees to adopt fairer marketing practices
15/8/03	Safety experts remove dangerous item from showbags
19/8/03	Victoria to reap benefits from venture capital reforms
21/8/03	Stonnington Safe Venues Liquor Accord launched
21/8/03	Sex slavery brothel licence suspended
21/8/03	Dummy bidding ruled out from February
22/8/03	Pakenham students get consumer savvy
28/8/03	<i>Stuff</i> to keep young people out of hot water
29/8/03	Consumer Credit Fund grows
3/9/03	Building conciliation service protects consumers
3/9/03	Cleaning up unscrupulous sales tactics
3/9/03	\$270,000 fine for bad builder
5/9/03	Northland students become consumer savvy
5/9/03	Consumers beware of top five scams
9/9/03	Consumer and tenants service boost for Preston
9/9/03	Consumer and tenants service boost for Bendigo
9/9/03	Consumer advice for Whittlesea students
9/9/03	Building conciliation service protects consumers
11/9/03	Bracks Government to examine body corporate rules
17/9/03	Web seals: trusted on-line confidence boosters
19/9/03	Fundraiser on bond and fined \$10,000
25/9/03	Annual returns for local associations
2/10/03	EARS still listening

Appendix 13

CAV media releases 2003-04 (continued)

Date	Title
3/10/03	Unregistered Sunbury builder fined
3/10/03	Kerang Travel Agent receives a five month sentence
9/10/03	Home builder alert
9/10/03	Commonwealth website guidelines ignored
10/10/03	Dandenong Travel Agency fined \$20,000
10/10/03	Commonwealth stalls on Ethanol labelling
16/10/03	Bracks Government reins in telemarketers
17/10/03	Inspectors remove banned toy guns from Geelong Show
21/10/03	Bodies Corporate guidelines launched
22/10/03	Toy safety push
29/10/03	Drink companies fined \$50,000 for packing short measure
30/10/03	Finance brokers caught out
30/10/03	Commonwealth reneges on Ethanol labelling deal
6/11/03	Action taken against wealth seminar provider
7/11/03	Roxburgh Park couple restrained from selling cars
7/11/03	Bracks Government balances power in consumer contracts
7/11/03	New liquor licensing informations for clubs
8/11/03	Consumers reward Geelong traders
13/11/03	Under weight? Over filled? Just right!!
16/11/03	Progress on retirement village recommendations
18/11/03	New advice to reduce building disputes
25/11/03	Overseas scams warning
26/11/03	More consumer seek Consumer Affairs help
26/11/03	Consumer Affairs Victoria concerned about credit and debt
27/11/03	Dangerous banned toys found in Christmas safety blitz
28/11/03	Study aims to help clubs and associations
3/12/03	Another credit provider breaches the Code
3/12/03	Bracks Government looks to improve consumer and tenancy advice services
4/12/03	Retailer ordered to pay Children's Hospital \$10,000
4/12/03	Consumer Affairs responds on Henry Kaye
13/12/03	Christmas Credit Trap
14/12/02	Inspectors target Christmas fare
18/12/03	Consumer Affairs Victoria withdraws charges against James Tostevin
23/12/03	Funeral industry practices under review
23/12/03	Christmas refunds
7/1/04	Howard Government spares property hustlers
16/1/04	Complaints about gym contracts on the rise
16/1/04	New debt collection guidelines protect consumers
22/1/04	Bracks Government bans sale of 'ice' pipes
22/1/04	Interim Consumer Affairs Service detailed
22/1/04	Smooth transition to new Consumer Advice Service
30/1/04	New real estate laws take effect

Appendix 13

CAV media releases 2003-04 (continued)

Date	Title
2/2/04	Body corporate review widened
3/2/04	Funeral industry review
4/2/04	Comment called for on unfair contracts
5/2/04	Free booklet explains new real estate laws
10/2/04	Victoria joins international internet sweep
11/2/04	Consumer Affairs warns consumers about Kevin John Sims
13/2/04	Mattresses Direct restrained
13/2/04	A King of unlicensed car traders?
13/2/04	Chain letter scam returns
13/2/04	Don't end up with a broken heart this Valentine's Day
26/2/04	Fundraising Act under review
3/3/04	Furniture removalist complaints rise
3/3/04	New training schemes for liquor industry newcomers
3/3/04	Bracks Government consults with car industry
5/3/04	More consumers to benefit from expanded services
5/3/04	Licensed motor car trader fined \$10,000
10/3/04	Consumer Affairs Victoria crackdown on shonky builders
11/3/04	New school resources target youth debt
12/3/04	Founder of Australian Consumer Movement remembered
12/3/04	Federal Labor takes on property investment spruikers
12/3/04	State signs first joint consumer protection agreement
16/3/04	Government gives certainty to 'off-the-plan' contracts
17/3/04	Vulnerable and disadvantaged defined
22/3/04	New services for consumers
24/3/04	Warning on curtain and blind cords
25/3/04	Towards more livable bodies corporate
25/3/04	Incorporated associations discussion paper
6/4/04	Changes to retirement village laws proposed
6/4/04	Eastern suburban consumer service update
6/4/04	North East Victoria consumer service update
7/4/04	New guide for renovators and builders
8/4/04	Holiday promotor sentenced to 240 hours community work
10/4/04	Finance provider facing penalties of up to \$18M
10/4/04	Unregistered, uninsured and unwelcome
11/4/04	Don't get burned by underweight firewood
12/4/04	Details of fundraising review announced
15/4/04	Brunswick brothel manager approval refused
18/4/04	Consumer Affairs inspectors reveal faulty bowsers
22/4/04	Consumer Affairs inspectors seize 3,400 banned toys
30/4/04	Consumer Affairs Victoria crackdowns on illegal motor car traders
3/5/04	Consumer Affairs targets Bendigo
7/5/04	Last orders for Liquor Licensing Chief

Appendix 13

CAV media releases 2003-04 (continued)

Date	Title
9/5/04	South West agencies funded
11/5/04	Furniture retailers reminded of their Fair Trading obligations
11/5/04	Retailers rewarded for Consumer Service Excellence
13/5/04	Expert real estate advice for regional consumers
13/5/04	Bracks Government to examine need for review of Infrastructure Works Laws
14/5/04	Certainty for 'off-the-plan' sales
16/5/04	Credit contracts consumers protected from unfair terms
17/5/04	Consumer Affairs Victoria moves to reassure developers and infrastructure builders
19/5/04	Information session for Vietnamese and Cambodian communities
23/5/04	Victorian Property Fund to help more consumers
26/5/04	Consumer Affairs Victoria restrains unlicensed travel agent
27/5/04	Estate agent complaints rise
27/5/04	Consumer agencies collaborate to improve outcomes for Indigenous consumers
27/5/04	Consumer Affairs Victoria prosecutes first of 25 builders
28/5/04	Bracks Government reforms prostitution licensing
1/6/04	Consumer protection for adventure tourists
4/6/04	Consumer Affairs inspectors seize banned toy guns
4/6/04	Competition promotes savvy young consumers
17/6/04	Multicultural consumer service visits Holmesglen
18/6/04	CAV prosecutes shonky model and employment agent Simon Spain
21/6/04	Importer has banned goods seized again
22/6/04	Property group found to have misled consumer
24/6/04	On-line shopping protection discussion begins
25/6/04	Urgent warning on disposable cigarette lighters
25/6/04	New North East consumer service model launched
25/6/04	New consumer service model launched
25/6/04	New Eastern metropolitan consumer service launched

Glossary

Acronym	Full title
ACCC	Australian Competition and Consumer Commission
ADR	Alternative Dispute Resolution
AIA	<i>Associations Incorporation Act 1981</i>
ASIC	Australian Securities and Investment Commission
BACV	Building Advice & Conciliation Victoria
BLA	Business Licensing Authority
BPM	Best Practice Model
CA	<i>Credit (Administration) Act 1984</i>
CCF	Consumer Credit Fund
CEIS	Consumer Education In Schools
CUAC	Consumer Utilities Advocacy Centre
DOJ	Department of Justice
EARS	Estate Agents Resolution Service
EAGF	Estate Agents' Guarantee Fund
EOCV	Equal Opportunity Commission Victoria
FTA	<i>Fair Trading Act 1999</i>
FOI	Freedom of Information
ICU	Indigenous Consumers Unit
MCCA	Ministerial Council on Consumer Affairs
MCU	Multicultural Consumers Unit
MCTA	<i>Motor Car Traders Act 1986</i>
RTBA	Residential Tenancies Bond Authority
SCOCA	Standing Committee of Officials of Consumer Affairs
UCCC	Uniform Consumer Credit Code
UCCCMC	Uniform Consumer Credit Code Management Committee
VCA	<i>Venture Capital Act 2002</i> (Commonwealth)
VCAT	Victorian Civil & Administrative Tribunal

Contact Consumers 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 55 81 81

Household goods/services enquiries

Motor vehicle enquiries

Residential tenancies enquiries

Bodies corporate enquiries

Building Advice and Conciliation Victoria (BACV)

1300 55 75 59

Business names enquiries

1300 36 16 73

Business licensing enquiries

1300 13 54 52

Residential tenancies bond enquiries

1300 13 71 64

Estate Agents Resolution Service (EARS)

1300 73 70 30

Indigenous enquiry line

1300 66 15 11

Arabic enquiry line

1300 65 55 03

Vietnamese enquiry line

1300 85 51 10

Liquor licensing

09 9655 6696

Trade measurement

1300 36 55 00

National Relay Service

133 677 (for callers who are deaf or have a hearing or speech impairment)

Fax CAV on:

Consumer enquiries

(03) 9627 6007

Residential tenancies enquiries

(03) 9627 6223

Published by:

Consumer Affairs Victoria
452 Flinders Street
Melbourne 3000
December 2004

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

© Copyright State of Victoria 2004

This publication is copyright. No part may be reproduced by any process except in accordance with the provisions of the *Copyright Act 1968*.

Authorised by the Victorian Government
452 Flinders Street
Melbourne 3000

Printed by: McLaren Printing
11-19 Lithgow Street
Abbotsford 3067

ISBN: 0-9757133-8-8

C-28-01-813



Consumer Affairs Victoria

Level 2/452 Flinders Street
Melbourne, Vic, 3000

Telephone 1300 55 81 81

Facsimile (03) 9627 6007

Email consumer@justice.vic.gov.au

Website www.consumer.vic.gov.au