

Consumer Affairs Victoria Annual Report 2005–06

Report to the Minister for Consumer Affairs
for the year ended 30 June 2006



Marsha Thomson MP
Minister for Consumer Affairs

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Department of Justice

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Marsha Thomson MP
Minister for Consumer Affairs
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Dear Minister

Annual Report 2005–06

I present to you my report on the activities and operations of Consumer Affairs Victoria for the year ended 30 June 2006.

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

My annual report for 2005–06 highlights ongoing significant growth in the volume of activities undertaken by Consumer Affairs Victoria (CAV). Contacts with the organisation through the call centre, the new shopfront offices, by written communication and through the website increased significantly over the year. This reflects not just our more proactive approach to community engagement adopted over the past two years, but also a greater recognition of CAV in the community. Community recognition and profile are important to the effectiveness of CAV as a major marketplace regulator.

During the year CAV absorbed new functions including the funding and overseeing of general financial counselling. Financial counsellors provide a crucial service for vulnerable and disadvantaged consumers who may be struggling to meet even modest commitments. The advice and support these counsellors give to consumers is often critical to the avoidance of more serious problems which can arise when people find themselves in a debt spiral. At a time when the community's reliance on credit is at an all time high, support for financial counselling services has become even more critical. Other new functions acquired by CAV during the year were the regulation of private agents (commercial debt collectors) and patriotic funds. The latter follows the establishment of a new Victorian Veterans Council and the abolition of the Patriotic Funds Council, effective from August 2006.

CAV has a broad role as a service provider, regulator and policy adviser to the Minister for Consumer Affairs, Marsha Thomson MP, and achieved many things during the year. I note only a few of them here.

The Commonwealth Games was a major event for Victoria as a whole, but also for CAV. Our Commonwealth Games Strategy was comprehensive and well implemented. CAV organised and hosted another very successful National Consumer Congress at the start of the Games. We had a number of international visitors to the Congress. Coinciding with World Consumer Rights Day, an inaugural Consumer Affairs Victoria Lecture was also held. The Lecture was presented by Louise Sylvan, the Deputy Chair of the Australian Competition and Consumer Commission, in honour of Dr Maureen Brunt AO – a member of the Consumer Affairs Council from 1974 to 1980 and the Chair from 1980 to 1983.

A high priority during the year was placed on improving customer service and focus. Extensive staff training was conducted in this area and significant changes were made to boost knowledge and skill levels of call centre operators.



Call centre performance continued to improve both in terms of speed of response and consistency between operators. Further improvement is anticipated.

The emphasis on customer service coincided with the opening of shopfront premises in Ballarat, Bendigo, Morwell and Geelong, and offices in Mildura and Warrnambool. This followed the establishment of the Wangaratta shopfront as a pilot last financial year. Many of the community workers previously acting as agents for CAV were directly employed by the organisation, whilst other community organisations were engaged to provide advocacy services for consumers needing face-to-face assistance. The former community workers, including some who provided outreach education services throughout the year, have helped to build a stronger customer focus within CAV.

A major development towards the end of the year was the establishment of the Victorian Consumer & Business Centre at 113 Exhibition Street, Melbourne, on the ground floor of the new premises of CAV and the Department of Justice. Significant changes to organisational processes and procedures were necessitated by the new multi-skilling approach adopted by shopfront staff. The Centre is much more accessible than previous facilities and is expected to become an important resource for those interested in consumer affairs matters. The Centre houses the CAV and the Office for Small Business customer service counters, reflecting Government's commitment to more streamlined delivery of services.

Another feature of the year was the extensive legislative review program undertaken. Amendments were made to liquor and motor car trader legislation. Reviews of bodies corporate (also known as owners' corporations), incorporated associations, fundraising, business licensing, fair trading, conveyancing, funeral and credit legislation were all progressed during the financial year, with some legislative changes likely before the end of 2006. A large number of regulations were also reviewed during the year, some requiring detailed regulatory impact statements.

This legislative review work is intended to modernise and increase the effectiveness of the legislation. This can involve strengthening enforcement powers (as in the case of the liquor legislation amendments), making it easier for businesses to comply (as in the case of the motor car traders amendments, which allowed dealers to maintain their dealings books in electronic form), or filling gaps in the legislation, as was the case with some amendments to the retirement villages legislation which came into effect during the year. Wherever possible, CAV is looking to streamline its legislation. CAV is well aware of business concerns to reduce the weight of unwanted regulation. We are also well aware that businesses are often proponents of regulation that does not necessarily serve the consumer or broader community interests. Simplistic approaches to regulation reform are not generally successful and there is no substitute for detailed reviews involving the widespread consultation for which CAV generally aims.

Consumer law reform must also have a national focus as it is the differences between laws in the various jurisdictions which can cause uncertainty and increase compliance costs for businesses, to the ultimate detriment of consumers. CAV has been at the forefront of efforts to achieve regulatory reform at the national level over the past year. We have been actively leading efforts to reform the legislative and administrative frameworks affecting product safety and trade measurement. We have also been the key proponent of reform to credit laws and have been leading national working parties to achieve greater harmonisation of fundraising and estate agent regulation. We have been actively engaged in discussions to achieve reform in the area of business names registration.

It is important to harmonise our consumer laws, but it is also important to have the right laws. CAV has sought to place increased reliance on its general conduct legislation, especially the *Fair Trading Act 1999*. It is better to be able to take effective action under this law against the minority of traders who deliberately breach the law than to have laws which unduly restrict everyone, for example through onerous licensing requirements or unduly prescriptive industry-specific conduct rules. CAV continued in 2005–06 to make good progress in better utilising the full range of enforcement tools at its disposal. Use of better targeted civil and administrative remedies has grown. Significant efforts were also made during the year to educate traders about the provisions of the Fair Trading Act. The Commonwealth Games strategy and the compliance exercises conducted in both metropolitan and regional

CAV's efforts to drive regulatory reform have extended beyond its own legislation to include other areas of government. Within the Department of Justice, CAV is leading priority projects on best practice regulation and alternative dispute resolution. This work is expected to be expanded to accommodate the response to the Government's May 2006 budget announcement of a new approach to regulation involving the reduction of administrative and compliance cost burdens on business. CAV also continued to play an active role in the implementation of the Victorian Business Master Key project, managed by the Department of Innovation, Industry and Regional Development, that aims to make interactions with Government easier for small businesses. The Victorian Regulators' Forum, which is hosted by CAV and enables regulators to discuss common operational and governance issues with the aim of improving regulatory practice in Victoria, met once during 2005–06.

The coming year promises to be a watershed year for consumer policy in Australia. The National Consumer Congress stimulated discussion on the current state of consumer policy in Australia and highlighted that in numerous ways Australia has fallen behind world's best practice in this area. Following the Congress, the Ministerial Council on Consumer Affairs (MCCA) agreed to establish a working party to review consumer policy. CAV is leading this working party. In addition, following the report of the Australian Government's Taskforce on Reducing Regulatory Burdens on Business, chaired by Mr Gary Banks, the Productivity Commission has also been asked to undertake a review of consumer policy. Whilst the driver for the latter review has been the push for reduced regulatory burdens on business, it is vital that this review fully understands the importance of policies which empower consumers, allowing them to drive effective competition in markets, as well as the role of consumer policy in protecting consumers who are vulnerable and disadvantaged.

Australia's consumer policy framework has rapidly developed over the last 40 years. Victoria can justly be proud of its record in this area having established the first government consumer agency in Australia in 1965. It has led on many of the major developments since then.

This framework has very successfully dealt with many marketplace problems which have emerged over this time. As a result, consumer and community detriment has been reduced. Recent research commissioned by CAV and reported on in this annual report suggests that consumers still suffer substantial detriment from the problems they encounter in purchasing goods and services. Indeed the estimated dollar cost for consumers in Victoria is in excess of \$3 billion per annum. This substantial sum suggests we should be looking carefully at how to further enhance the consumer policy framework.

In the long term, CAV envisages a shift in emphasis away from protectionism and towards greater empowerment of marketplace participants, enabling informed and responsible decision-making. The vision provides an ideal to aim for. However, the real world falls short of being ideal in many ways and so policy makers and regulators will need to continue to make the fine judgements on interventions necessary to make markets work better and to look after the interests of vulnerable and disadvantaged consumers.

I would like to acknowledge the support CAV has received from Minister Marsha Thomson throughout the year and also that of the Secretary of the Department of Justice, Ms Penny Armytage and other Executive Directors of the Department. I have also appreciated working with the statutory office holders linked to the consumer affairs portfolio. The Executive Management Group (including Geoff Browne and Warwick Knight) and the Corporate Management Group have worked hard to achieve ongoing improvements in the organisation. CAV's success relies very much on the day-to-day work of all its staff and I would like to record my thanks for their fine efforts over the past year.



Dr David Cousins

Director

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As Victoria's leading consumer protection agency, Consumer Affairs Victoria aims to protect and promote the interests of consumers.

By engaging with both consumers and business in various ways, Consumer Affairs Victoria helps to make markets work better.

As a business unit of the Department of Justice, CAV plays a pivotal role in achieving the Government's priorities of improving:

- access to consumer protection services, particularly for vulnerable groups
- consumer awareness of rights and responsibilities
- access to alternative dispute resolution systems
- consumer confidence to use e-commerce.

Responsible for the administration of 46 Acts of Parliament as at 30 June 2006 (listed in Appendix 1), CAV undertakes a range of core business functions. These are to:

- provide information and advice
- educate consumers and traders on their rights and responsibilities
- seek to reduce disputes
- encourage and promote compliance with consumer laws
- enforce consumer laws
- regulate the consumer environment through licensing and business registration
- review the regulatory framework
- provide support to the operations of the organisation.

To deliver its core functions in 2005–06, Consumer Affairs Victoria pursued the following strategies:

- identify and address current and emerging marketplace issues
- ensure interventions in the marketplace are efficient and effective
- identify and address issues of concern to vulnerable and disadvantaged consumers
- provide leadership and advice in dispute resolution service design and delivery
- apply integrated compliance solutions (including information provision, education, and a range of enforcement tools)
- use targeted consumer and tenant information and education programs to contribute to the achievement of defined outcomes
- apply modern system and resource management methods and improvements within Consumer Affairs Victoria to optimise service delivery
- pursue a national focus on priority consumer protection issues
- take a customer-focused perspective on service delivery.

Structure of Consumer Affairs Victoria

As at 30 June 2006, the following branches reported directly to the Director of Consumer Affairs: Corporate Resources; Compliance and Enforcement; Education and Information; Consumer Policy; and Community Partnerships.

The Corporate Resources Branch is responsible for a range of services within CAV. These include strategic planning and performance reporting, and evaluation of CAV programs and services. It is also involved in managing executive services to the Director and the Minister; finance and trust fund management; grant programs; contracts; residential bonds; business information system administration and support; and human resources support for the business unit.

The responsibility of the Compliance and Enforcement Branch is to monitor traders' compliance with the law, and to take enforcement action where appropriate in terms of the *Compliance and Enforcement Policy Guidelines*.

Responsibilities of the Education and Information Branch include developing and managing education programs and public information relating to matters of concern to consumers and business.

The Consumer Policy Branch (formerly the Program Development and Evaluation Branch) develops, reviews and evaluates consumer policies and programs, and provides policy advice to the Minister for Consumer Affairs and to the Director. The Branch also prepares regulations and bills for the legislation program, and carries out public reviews of consumer legislation.

The newly-formed Community Partnerships Branch develops and enhances Consumer Affairs Victoria's links with the community to further CAV's goals and the needs of vulnerable and disadvantaged consumers who would otherwise not access CAV's services.

Six branches reported to the Deputy Director of Consumer Affairs Victoria as at 30 June 2006: Enquiries; Dispute Resolution; Licensing; Registration; Regional Operations; and Corporate Projects.



Dr Davis Cousins –
Director



Geoff Browne –
Deputy Director



Warwick Knight –
General Manager,
Corporate Resources



Peter Hiland –
General Manager,
Compliance &
Enforcement



Stephen Devlin –
General Counsel



Chris Noone –
General Manager,
Education &
Information



Paul Myers –
General Manager,
Consumer Policy



Lois Goodes –
Manager,
Community
Partnerships

The Deputy Director supports or delegates for the Director on a variety of organisational, strategic, priority and departmental matters, and is responsible for the activities and outputs of the majority of the operational branches of the organisation.

The Enquiries Branch provides information services to the public through a statewide telephone service, and via email and post.

The CAV customer service counter in the newly-opened Victorian Consumer & Business Centre offers face-to-face information, advice and transactions for licensing, businesses and associations, consumers and tenants, relating to issues administered by CAV.

The Dispute Resolution Branch provides conciliation and mediation services to Victorian consumers, with the objective of empowering those involved to resolve the disputes themselves. Proceedings may be instituted or defended on behalf of members of the public in specific circumstances.

The Licensing Branch provides support to the Director of Liquor Licensing and the Business Licensing Authority in the administration of Victorian licensing schemes.

The Branch provides information and advice to the community, the Business Licensing Authority, the Director of Liquor Licensing, participants in regulated industry sectors, government agencies, and other stakeholders, in relation to licensing schemes.

The Registration Branch registers business names, incorporated associations, co-operatives and limited partnerships, and processes certain retirement village applications. Services are offered face-to-face, via mail and fax and, increasingly, online.

The Regional Operations Branch is responsible for developing and administering operational processes which affect regional services in Victoria. It also advises on the development of policy and legislation, corporate strategy, and business and operational planning, in relation to delivery of Consumer Affairs Victoria's core services across all Victorian regional areas.

The Corporate Projects Branch is responsible for a range of CAV initiatives. The Branch plans and co-ordinates cross-organisational responses to emerging issues and organisational priorities.



**Steven Scodella –
General Manager,
Enquiries**



**Paula Healey –
Manager,
Victorian Consumer
& Business Centre (CAV)**



**Dianne Bryans –
Acting General
Manager,
Dispute Resolution**



**Neil Taylor –
Acting General
Manager,
Licensing**



**Wally Korczynski –
Acting General
Manager,
Registration**



**Alison Smith –
General Manager,
Regional Operations**

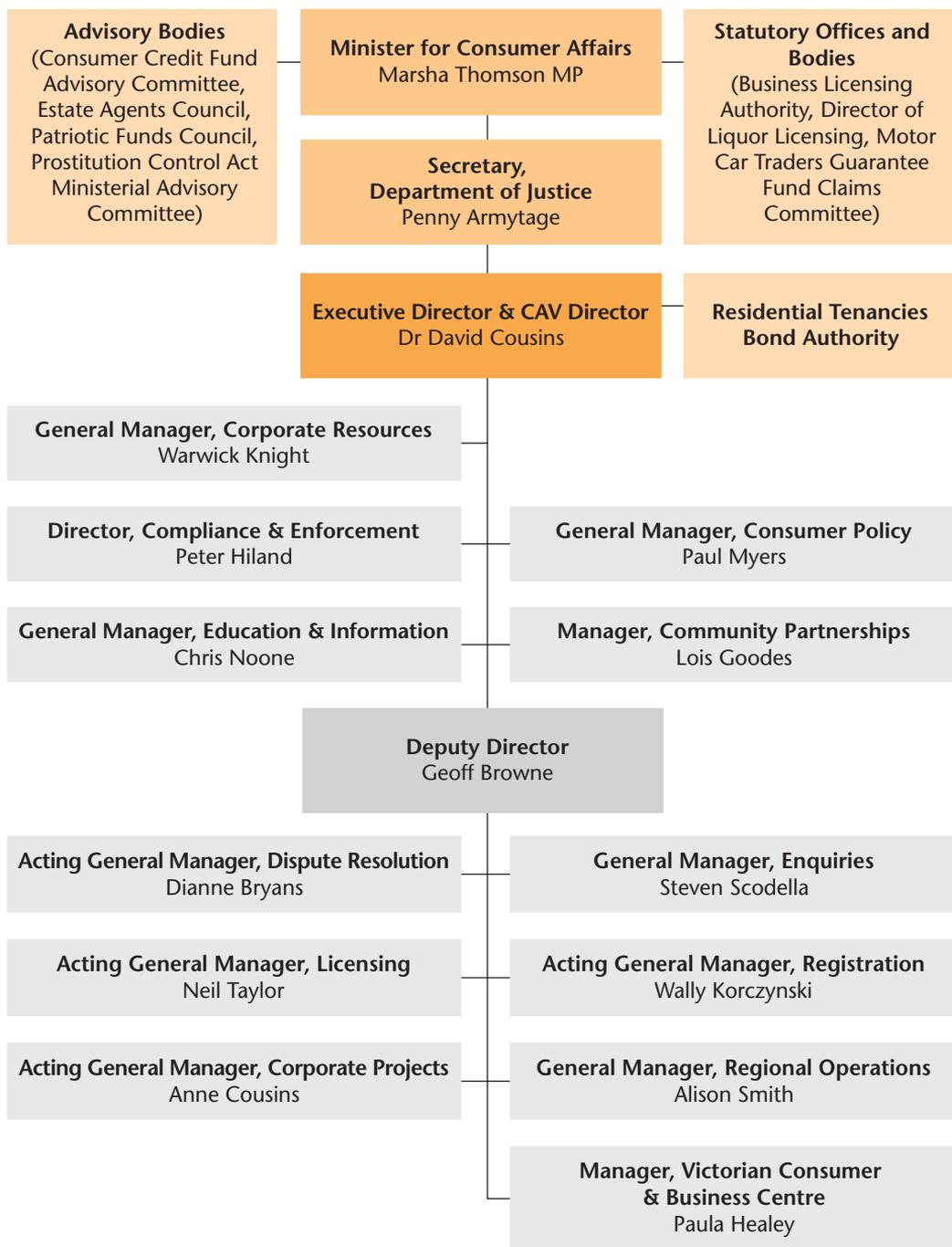


**Anne Cousins –
Acting General
Manager,
Corporate Projects**

Consumer Affairs Victoria also provided support services or worked with the following statutory bodies and corporations during 2005–06:

- Business Licensing Authority
- Consumer Credit Fund Advisory Committee
- Consumer Utilities Advocacy Centre
- Director of Liquor Licensing
- Estate Agents Council
- Motor Car Traders Guarantee Fund Claims Committee
- Patriotic Funds Council (replaced by the Victorian Veterans Council from August 2006)
- Prostitution Control Act Ministerial Advisory Committee
- Residential Tenancies Bond Authority.

Consumer Affairs Victoria 2005–06



Key achievements 2005–06

- Celebrated 40 years of consumer protection in Victoria
- Increased contacts for all CAV services, with particularly substantial increases in calls received by the Indigenous Consumers Unit and the Multicultural Consumers Unit
- Conducted quality enhancement program in contact centre
- Regional network of offices opened, with thousands of contacts with consumers across the State
- Victorian Consumer & Business Centre opened (a joint initiative with the Department of Industry, Innovation and Regional Development)
- Funded Financial Counselling Program and other consumer advocacy services
- Recovered a record \$3 million for consumers through dispute resolution, and in excess of \$140,000 for compensation for consumers through court action
- Continued growth in civil and administrative enforcement activities and corresponding levelling off in number of criminal enforcement activities, in line with compliance and enforcement strategy
- Conducted extensive monitoring activities in various sectors, in both regional and metropolitan Victoria
- Implemented strategy to address problems caused by unscrupulous itinerant traders
- Distributed 1,643,032 publications and 1,121,627 forms to consumers, tenants and business
- Launched and/or conducted major education campaigns around real estate, building and renovating, and legislative changes that affect consumers
- Led two Department of Justice projects, related to alternative dispute resolution and improved business regulation

- Processed thousands of licence and registration applications
- Successfully implemented the Commonwealth Games Consumer Protection Strategy
- Hosted the Third National Consumer Congress
- Established the first register in Victoria to keep details of retirement villages
- Commissioned extensive research into consumer detriment in Victoria – the first of its kind in Australia
- *Report of the Consumer Credit Review* released
- Implemented recommendations of the Body Corporate Review
- Report of the Fundraising Review released by the Minister for Consumer Affairs
- Government response to final report of review of the funeral industry released
- Continued consultations on regulation of incorporated associations
- Government response to report on consultations in relation to regulation of motor car traders released
- Led national review of trade measurement administration
- Contributed to national product safety review and several other national projects (harmonisation of estate agents legislation, fundraising, unfair contract terms)
- Seized 10,387 consumer products that contravened ban orders and regulations (highest number of seizures nationally) and had three ban orders approved and made by the Minister for Consumer Affairs
- Received over 18,000 liquor licence applications
- Addressed possible unfair terms in standard form contracts, in 13 industries
- Hosted the Alternative Dispute Resolution and Regulation meeting of the Victorian Regulators' Forum
- Progressed against National Indigenous Consumers Strategy measures for success

MCCA's Mission Statement

The Ministerial Council will advance consumer affairs and fair trading matters of strategic national significance, and where appropriate, will facilitate and encourage:

- the co-ordination of policy development and implementation by all jurisdictions to provide the best and most consistent protection for consumers
- consistency of policy and enforcement decisions for the suppliers of goods and services within a national marketplace
- national legislative consistency of major elements of consumer protection policy
- access to education and information for all consumers
- co-operation and consultation on consumer policy development and implementation between Australia and New Zealand
- proactive research and development strategies to ensure the readiness of fair trading agencies, consumers and business for the challenges beyond 2000
- consultation with government departments, the consumer movement, industry groups and interested parties, to ensure and maintain currency of the work of the Council.

Participation on the Ministerial Council on Consumer Affairs

National co-ordination is a priority in dealing with many consumer issues.

CAV contributes significantly to this process.

The Ministerial Council on Consumer Affairs (MCCA) is established by the Council of Australian Governments (COAG). MCCA comprises Commonwealth, state, territory and New Zealand Ministers responsible for consumer affairs and fair trading matters. It considers consumer affairs and fair trading matters of strategic national significance and where appropriate, develops a consistent approach to issues within the framework of an agreed Strategic National Consumer Affairs Agenda.

MCCA is also responsible for trade measurement, product safety, credit and regulation of the travel industry.

Ministers currently meet twice a year but matters are also progressed out of session. The position of Chair of MCCA rotates each year. Victoria will assume the Chair in September 2006.

The MCCA Strategic National Consumer Affairs Agenda identifies the projects MCCA intends to focus on for the next 12 months and foreshadows work that will be undertaken in the future. The Agenda is not exhaustive and does not stop MCCA from discussing or undertaking work on new issues that may arise during the year.

The Agenda is built on the following principal strategies:

Policy and legislative harmonisation – nationally co-ordinated and consistent policy development and implementation by all jurisdictions, including legislative consistency of major elements of consumer protection law and emerging policy issues.

Consistent enforcement – consistency of policy and enforcement decisions for the suppliers of goods and services within a national marketplace.

Education – access to education and information for consumers and suppliers.

Australia/New Zealand co-operation – co-operation and consultation on consumer policy between Australia and New Zealand.

Research – research into consumer concerns and trade practices.

The official site of the Ministerial Council at www.consumer.gov.au details the work program and key initiatives of the Council from time to time.

MCCA is supported by the Standing Committee of Officials of Consumer Affairs (SCOCA). This is comprised of:

- Directors/Commissioners of consumer affairs or fair trading in the states and territories
- General Manager of the Competition and Consumer Policy Division of the Commonwealth Treasury
- Deputy Chair of the Australian Competition and Consumer Commission
- Executive Director of Consumer Protection, Australian Securities and Investment Commission
- General Manager of the Ministry of Consumer Affairs, New Zealand
- a representative of the National Measurement Institute.

SCOCA generally meets about three times a year – twice in conjunction with the Council meeting and once separately. SCOCA's agenda and work program support MCCA but in addition it can consider a broader range of operational issues.

The same jurisdiction which chairs MCCA also chairs SCOCA – thus Victoria will assume the chair of SCOCA in September 2006.

Under SCOCA, there are four advisory committees which deal with different aspects of consumer protection:

- The Fair Trading Operations Advisory Committee is made up of consumer protection agency compliance officers and provides advice on the enforcement of consumer laws and fair trading operational issues.
- The Consumer Products Advisory Committee consists of consumer product safety officers and provides policy advice on product safety standards, bans and recalls.
- The Trade Measurement Advisory Committee is made up of consumer trade measurement officers and provides advice on technical and enforcement issues associated with trade measurement.

- The Uniform Consumer Credit Code Management Committee consists of credit and policy officers from consumer agencies and deals with matters relating to the management of the Uniform Consumer Credit Code, the nationally-consistent law which regulates consumer credit in Australia. Victoria (CAV) holds the Chair of this Committee.

In 2005–06, two of the most significant items considered by both SCOCA and MCCA have been trade measurement and product safety (see Chapter 6, pages 84 and 86 respectively). MCCA is required to report to COAG on both these matters before the end of 2006.

Other significant matters considered by SCOCA and MCCA are listed below.

Unfair contract terms

Currently Victoria is the only state in Australia with these provisions; however there has been a national working party considering the introduction of nationally-consistent legislation.

Consumer policy research

Victoria has been instrumental in calling for the development of a national research agenda which would be developed in close consultation with consumer organisations. MCCA has agreed that research be carried out in relation to mass-marketed scams and product safety.

Various credit issues

National regulation of finance brokers

Fringe credit providers

Issues relating to the Uniform Consumer Credit Code

Telemarketing and the proposed establishment by the Commonwealth Government of a Do Not Call register

Victoria and New South Wales released an options paper on harmonising respective telemarketing laws in August 2005. The two Governments also asked the Federal Government to establish a Do Not Call register to allow consumers to opt out of receiving telemarketing calls. In November 2005, both Governments set up a hotline to register the interest of Victorian and NSW consumers in a national Do Not Call register. The Victorian hotline received over 20,000 calls in support in four weeks. The Federal Government subsequently announced that it would establish the register and in June 2006 passed legislation to do so. The register is expected to be operational in early 2007.

Consumer Detriment Survey

Understanding Victorian consumers and the challenges they face is crucial to representing their interests in regulatory reform.

A current priority for both business and government is the reduction of the regulatory burden on business. This aim is important in further promoting efficient operation of markets, but regulation should also ensure that consumers are well positioned to drive effective competition in markets, and that those consumers who are vulnerable and disadvantaged are protected. Red tape reduction is desirable for both business and consumers.

In working towards achieving these objectives, one of the key requirements is a sound understanding of the current position of consumers in the marketplace.

During 2005–06 CAV undertook a survey of the types of problems consumers encounter in Victoria, and research into how much this is costing individuals and the economy.

This type of detailed information has never before been gathered in Australia, but in a similar study in 2000 by the United Kingdom Office of Fair Trading, 68 per cent of participants reported instances of detriment in the previous 12 months. This was quantified at £8.3 billion per year (1.1 per cent of GDP, or roughly £180 per annum for every adult in the UK), excluding emotional costs and unrevealed detriment – losses that consumers are not aware they have suffered.

CAV decided to go further than the UK survey and ask questions about:

- emotional costs associated with problems in markets
- how consumers behave after they encounter problems (who they complain to, whether they discuss experiences with friends and acquaintances and whether these experiences affect subsequent dealings with businesses)
- unrevealed detriment associated with credence attributes (characteristics that consumers cannot evaluate or measure even after consuming the product) such as 'organic' and 'environmentally friendly', and levels of confidence in claims made by sellers in such markets
- impulse spending and the extent to which it is regretted.

Key findings

Results for the Victorian population were extrapolated from a representative sample.

- There were an estimated 7.8 million different incidents of consumer detriment in Victoria in the 12 months ending March 2006.
- The total cost of this detriment is estimated at \$3.15 billion, corresponding to approximately 1.5 per cent of gross state product.
- This \$3.15 billion is distributed roughly equally between three main categories:
 - costs associated with repairing and/or replacing faulty products
 - costs associated with following up and resolving problems (for example telephone and travel costs)
 - personal time, measured using income data provided by respondents.
- The highest number of incidences occurred in the following categories (in descending order):
 - food and drink
 - utility services
 - electronics and electrical goods
 - clothing, footwear, cosmetics and personal products
 - transport (public and private) including repairs.

- Five categories of products and services accounted for 72 per cent of the estimated \$3.15 billion detriment. Home building, renovations and repairs topped the list, followed by: utility services; public and private transport, including repairs; banking, finance and insurance; and electronics and electrical goods.
- Complaining to the seller or provider of the goods or services is by far the most common behaviour after experiencing detriment (53 per cent), followed by inaction (26 per cent). Approximately 4 per cent of revealed consumer detriment is reported to Consumer Affairs Victoria, while a further 2 per cent is reported to other government services (for example an industry ombudsman, or police).
- Respondents experiencing detriment were asked whether they were satisfied with how the problem arose or how it was resolved. In all product categories well over half of respondents were dissatisfied ('very' or 'quite').
- In response to dissatisfaction, the behaviour most commonly reported was telling others not to do business with the offending party (61 per cent). Dissatisfied consumers also report doing less business themselves with offending traders (43 per cent) or doing no future business with them at all (56 per cent). Six per cent of those surveyed were involved in or contemplating formal action against traders.
- Emotional costs, such as annoyance, frustration, stress and disappointment were rated 'high' or 'very high' by 50 per cent or more of consumers experiencing detriment in the majority of categories of goods and services, with such costs appearing to rise with the value of the goods and services (for example 70 per cent of those experiencing detriment with building and renovations rated the emotional costs as 'high' or 'very high' compared with only 25 per cent for food and drink).
- A large proportion (around 65 per cent) of people state that if they experienced treatment they regarded as 'unfair' they would 'probably not' or 'definitely not' return to the same store in future, even if it were the most convenient, with competitive prices. This may indicate that consumers are willing to accept some inconvenience to avoid conducting future business with traders they believe have treated them unfairly.

- Goods with the credence attributes ‘free range’, ‘organic’ and ‘environmentally friendly’ are purchased by significant numbers of Victorian consumers but about half of the population surveyed were neither confident nor unconfident about the veracity of these claims.
- Four in five (79 per cent) of Victorian adults made at least one purchase valued at over \$20 in the past year that was unplanned and around 44 per cent regretted one or more of these.

The fact that such research has been conducted indicates the extent to which consumer policy in Victoria has developed since it first came into existence in September 1965, with the establishment of the Consumer Protection Council.

September 2005 marked the anniversary of 40 years of consumer protection in Victoria, which formally began with the establishment of the Council (the first such body in Australia). In its first year the Council considered questions such as whether milk should be date stamped, and whether frozen poultry should be sold with neck and giblets included.

Formal consumer protection in Victoria and Australia followed consumer protection movements led and inspired by people such as the tenacious crusader and politician Ruby Hutchison, whose role as a founder of the modern Australian consumer movement is widely recognised today.

The survey data gathered in the research conducted this year will be used to assist in determining future directions in consumer policy in Victoria.

*Consumer Detriment in Victoria:
A survey of its costs and
implications* is available at
www.consumer.vic.gov.au

Chapter One

Empowering Consumers

CAV works to understand the underlying causes of problems experienced by consumers, particularly the vulnerable and disadvantaged, and develop easily accessible information that is relevant to the audience and the issue.

Chapter Highlights

- Advanced Consumer Education in Schools program
- Progressed against National Indigenous Consumer Strategy measures of success
- Continued growth in calls to the Multicultural and Indigenous Consumers Units
- Convened four meetings of Working Together Forum
- Developed Disability Action Plan
- Educated consumers about legislative changes
- Launched campaign to promote *Building and Renovating: a guide for consumers*
- Conducted community education activities to raise awareness of CAV services

For consumers to exercise genuine choice and effectively advocate for themselves in the marketplace, they must be well informed and able to make appropriate decisions. This requires access to information that is accurate and relevant, as well as the skills necessary to make meaningful choices in various market sectors. It is especially important that some groups of consumers – because of their particular situation, attributes of the markets in which they participate, or a combination of both of these factors – are aware of the support services CAV offers. Such groups also benefit from more targeted information, skills development and interventions. CAV aims to understand well the particular needs of these distinct groups, and address these appropriately and sustainably.

CAV also runs extensive education and information campaigns about specific issues of concern to Victorian consumers, particularly those where the potential loss to consumers is substantial, such as real estate and building and renovating.

Another aspect of empowering consumers to represent their own best interests is ensuring that they are aware of the enquiries and dispute resolution services available through CAV, should they encounter difficulties (see Chapter 2 for reporting on these services in 2005–06).

Reaching vulnerable groups

Consumer Education in Schools

CAV initiated the Consumer Education in Schools (CEIS) program in 2003 with the aims of:

- improving young people's consumer and financial literacy skills
- broadening their awareness of consumer rights and responsibilities.

The program includes the development and distribution of teacher resources to assist teachers with this objective. CAV publishes five teacher resources: three books designed for use by teachers of Commerce, Maths and English respectively; *Health & Wellbeing* (a cross-curricular resource for use by teachers of health, physical education, personal development, and life skills for early school leavers); and *Consuming Planet Earth* (refer Activities 2005–2006).

National context

During 2005–06 CAV continued to contribute to the Standing Committee of Officials of Consumer Affairs, National Consumer and Financial Literacy strategy. In particular, CAV actively promoted the National Consumer and Financial Literacy Framework via the teacher networks established through the CEIS program. Through this Framework (developed for the Ministerial Council on Education, Employment, Training and Youth Affairs), all Australian school children will have access to financial literacy education in their compulsory years at school.

The Framework is a descriptive document that sets out appropriate educational goals in financial literacy for the school years 3, 5, 7 and 9. It will build levels of knowledge and understanding, competence, enterprise and responsibility to provide a sound basis for financial decisions students will face in adult life. The Framework is valuable to teachers, curriculum developers and those developing educational materials.

The Federal Financial Literacy Foundation has undertaken national research into financial literacy and implemented a multi-faceted national literacy information campaign. The Understanding Money website (www.understandingmoney.gov.au) is a major component of the campaign. Launched in July 2006, it provides information and tips on a range of topics, such as budgeting, saving, buying a car and understanding credit. The website includes a detailed description of CAV's CEIS school resources and also has links to the CAV website. The website introduces the educational materials listed on this site as 'assessed as being of good quality through the Foundation's Essential Elements Pilot'.

Activities 2005–06

- **Consumer Stuff! Challenge:** 478 students entered the 2005 competition, submitting creative ideas for communicating consumer messages to young people. The joint overall winners were two groups of students from Kilbreda College, Mentone. One group designed a shopping bag with the words ‘No refund’ signs are illegal’ printed on it, and the other group created an online quiz to test consumers’ resistance to online scams. Thousands of the refund bags have been produced and handed out at shopping centres and other venues, and the quiz has been added to the CAV website. Other prize-winning entries included board games, brochures and web pages.
- **Teacher resources:** All CAV’s teacher resources were updated to ensure alignment with the new National Consumer and Financial Literacy Framework (see ‘National context’) and reflect the new Victorian Essential Learning Standards curriculum. The updated resources were mailed to teachers across the State.

- **Launch of *Consuming Planet Earth*:** This cross-curricular resource is intended for use by teachers of Civics and Citizenship, Economics, Science, Geography, Environmental Studies, and Health and Physical Education. The book was produced to celebrate the start of the United Nations Decade of Education for Sustainable Development (2005–2014) and aims to provide students with the knowledge and skills to contribute towards a more sustainable Victoria by understanding that every decision a consumer makes has an impact on the environment. The book was launched by Minister Thomson at Princes Hill Secondary College, a school noted for its contribution to environmental education. Two thousand copies of the book were distributed to secondary schools after the launch.
- **Stuff magazine 2005:** The 2005 edition of this annual consumer publication for Victorian school leavers was launched in October 2005, with around 55,000 copies delivered to all year 12 students via their schools. The magazine provided young people with important information on a range of consumer issues, such as buying a car, mobile phones, renting, and shopping rights.
- **Ministerial visits:** The Minister for Consumer Affairs, Marsha Thomson MP, visited several Victorian secondary schools to speak to students about their consumer rights, and promote the teacher resources and competition.



Minister Thomson addressing students on consumer rights

Evaluation of CEIS teacher resources

In November 2005 Bartley Consulting was engaged to evaluate the use and penetration of CAV's resource books for teachers of Commerce, Maths and English, as well as the *Consumer Stuff!* Challenge. (*Health & Wellbeing and Consuming Planet Earth* were not included in the survey, as both were launched in 2005.)

The evaluation was undertaken to assist CAV in reviewing and modifying the CEIS program where needed, and specifically examined teacher perceptions and use of the resources.

Key findings

- 60 per cent of teachers were aware of the resources.
- 44 per cent of teachers who knew about the resources had used them in the past two years, while co-ordinators from 81 per cent of schools indicated they intended to use the resources in 2006.
- 79 per cent of teachers would recommend the resources to other teachers.
- Around 80 per cent of teachers agreed that the teacher resources are:
 - useful for improving students' consumer and financial literacy
 - useful for increasing students' awareness of their rights as consumers
 - relevant to year 10 students
 - well organised
 - interesting
 - comprehensive
 - valuable for teachers.

Schoolies

As reported last year, 2004–05 was the first year in which CAV took an active role in addressing issues emerging from the Schoolies celebration, an annual end-of-year event in which VCE students celebrate after taking final exams.

The Victorian Government has adopted a Whole of Government approach to Schoolies, led by the Premier's Drug Prevention Council.

In 2005–06, CAV made detailed advice and information on issues of concern to Schoolies participants and their families available on the CAV and *youthcentral* websites. Issues covered range from liquor licensing to accommodation rights.

Accommodation over Schoolies is an issue that raises concerns every year, in relation to aspects such as descriptions of accommodation in advertising, advertised prices, requests for bonds, and terms and conditions of hire.

Consumer Affairs Victoria is working with the Surf Coast Shire to improve its code of practice for accommodation providers, and strengthen consumer protection for school leavers.

The current code (to which accommodation providers in Lorne, Torquay and other towns in the municipality have subscribed, through the efforts of the Shire) outlines the responsibilities of accommodation providers when booking accommodation and requesting bonds, and covers anti-discrimination issues.

Indigenous consumers

Indigenous Consumers Unit dedicated phone line 1300 66 15 11

The Indigenous Consumers Unit (ICU) was established in May 2003 to reduce cultural barriers in CAV service delivery, and increase awareness and use of the specialised services CAV makes available to Victoria's Indigenous communities. The ICU incorporates direct service provision via a dedicated 1300 helpline number, and consumer awareness and educational activities. The ICU works closely with Victorian Indigenous communities and government and non government organisations, to ensure consumer and tenancy programs are directly relevant to the lives of Indigenous Victorians.

Progress against the National Indigenous Consumer Strategy measures of success

In 2005 CAV participated along with other agencies in the development and finalisation of the National Indigenous Consumers Strategy (NICS) *Taking Action, Gaining Trust*. The NICS was released in 2005, and identifies eight key areas of national priority for consumer agencies (listed in order of importance as determined by the NICS Committee):

- 1 employment of Indigenous staff in consumer agencies
- 2 advocacy of Indigenous consumers' interests
- 3 housing
- 4 financial management and banking
- 5 motor vehicles and boats
- 6 trading practices
- 7 arts industry
- 8 managing Indigenous community organisations.

The ICU identified national priorities 1, 2, 3, 4 and 8 as of most relevance to Victorian Indigenous people. While the other priorities are important, they are largely addressed by CAV more generally through existing legislation and practices.

Outcomes 2005–06

Priority 1

- Employment of Indigenous staff in consumer agencies is fundamental for building links with communities and providing quality customer service. Consumer Affairs Victoria currently employs two Indigenous staff in the ICU. The ICU also works actively with other government agencies and Indigenous-controlled non government organisations providing services to Indigenous communities, to improve access and simplify complaint procedures to meet the needs of Indigenous consumers.

Priority 2

- Maintained awareness of consumer issues facing Indigenous Victorians through networking and analysis of enquiries to the ICU's 1300 number (volume of calls received increased by 30 per cent as against 2004–05).
- Provided leadership for review of the Keys for the Community project and its redevelopment as *Justice for Kooris – Community Together: Information, Rights, Action*. This project is designed to promote inter-agency co-operation in addressing under-utilisation of consumer agency services by Indigenous people, by promoting awareness of the services and developing referral processes between agencies.

Priority 3

- Developed and piloted a training program for tenants and landlords in Indigenous co-operatives.
- Initiated a partnership with the Commonwealth Department of Family and Community Services and Indigenous Affairs to develop a joint training workshop delivered at the annual Indigenous Housing Conference in Echuca.
- Developed a memorandum of understanding with Indigenous Business Australia for the delivery of a program to address issues affecting Indigenous people in the private rental market.

Priority 4

- Received a grant from the Consumer Credit Fund and began developing a program to raise awareness of credit and debt issues among Indigenous youth and their families.

Priority 8

- Worked with the Office of the Registrar of Aboriginal Co-operatives, Aboriginal Affairs Victoria and Swinburne University to develop and deliver a three-day Introduction to Governance training program for board members and senior staff at three locations in Victoria and promote the Certificate IV in Governance course developed by the partnering agencies.

Ninety per cent of CAV staff have attended Indigenous Cultural Awareness training.

Case Study

The ICU received a phone call about problems arising from a rental rise for a group of elders residing in community housing. The complaint related to the amount of the rental increase, the processes used by the landlord to implement the increase, and issues relating to the completion of repairs and maintenance.

The dispute had been going on for over 12 months and by the time the ICU was contacted communication between the landlord and the tenants had substantially broken down.

The ICU provided information and advice in its initial response, which led to an invitation to attend a general information meeting to inform the tenants of their rights and responsibilities under the *Residential Tenancy Act 1997*.

CAV subsequently organised a meeting with the body that funds the housing, members of the board of the co-operative, housing staff and the elders. Each party's rights and responsibilities were explained to all present. After some discussion the parties reached an agreement and all the issues were resolved. CAV also provided some mediation to assist in rebuilding relationships between the elders and the housing staff.

Following this success story, CAV has developed a partnership with the funding agency to deliver training on the Act to staff from 20 Indigenous organisations they fund.

Non English-speaking Victorians

Language-specific consumer enquiry phone lines

- Arabic 1300 65 55 03
- Cantonese and Mandarin 1300 72 66 56
- Russian 1300 65 55 03
- Vietnamese 1300 85 51 10

Victorians from non English-speaking backgrounds (NESB) commonly face barriers to accessing services that English-speaking Victorians take for granted. CAV's Multicultural Consumers Unit (MCU) works with NESB communities, community service providers and other government agencies, to identify and develop programs that target the needs of consumers and tenants in this group, with a particular focus on new and emerging communities. The MCU also provides direct advice and assistance through language-specific hotlines to speakers of Arabic, Vietnamese, Mandarin, Cantonese and Russian, to improve responsiveness and quality of service.

Summary of activities 2005–06

- 53 per cent growth in calls received on dedicated lines.
- Developed customised consumer and tenancy education and outreach services for newly arrived migrants from the Horn of Africa for a pilot project to be delivered in partnership with Springvale Community Aid and Advice Bureau.

- Developed standardised education messages, delivered through a series of presentations and fact sheets translated into various languages.
- Delivered monthly Mandarin and Cantonese language radio programs focussing on consumer and tenancy rights and responsibilities.
- Contributed to the Department of Justice three-year cultural diversity plan.

Case Study

A consumer called CAV's Chinese Helpline, complaining about the conduct of a motor car trader who refused to refund a deposit.

According to the consumer, she had signed a contract at the trader's premises and paid a \$500 deposit under pressure from the trader, who had promised that if she changed her mind after discussing the matter with her husband, she would receive a refund.

The consumer and her husband returned to the car yard the following day. The trader informed them that the consumer had a contract for the purchase of a new car, which did not include a cooling-off period, and that they had to purchase the car or incur the penalty for breach of contract.

CAV established that the car had been registered with VicRoads under the trader's company. By law, a motor car cannot be deemed new if it has already been registered on display for sale. Hence, the consumer was legally entitled to a three day cooling-off period.

The consumer returned to the trader and presented this argument. The trader cancelled the contract unconditionally, offering a full refund.

English second language curriculum resources

In 2001 and 2002, CAV contributed to the development and production of two resources for teachers of recent NESB migrants to Australia.

These resources (*Settling In* and *Mind Your Money*) were evaluated in the 2005–06 financial year to determine:

- how many Victorian Adult Migrant English Program (AMEP) teachers are aware of the resources
- how many Victorian AMEP teachers use the resources
- the usefulness of the resources for teachers in the classroom.

The evaluation showed excellent awareness and usage of the products and indicated a need for materials around money for audiences with especially low literacy levels – particularly African refugee arrivals.

At the end of the reporting period CAV was updating the products to include recent legislative changes, and exploring options for wider distribution of the resources.

Key findings

Settling In

- Virtually all teachers surveyed were aware of *Settling In* (95 per cent).
- 80 per cent of teachers surveyed had used *Settling In*.
- 81 per cent of teachers surveyed envisaged using the resource in the future.
- Most respondents regarded the components of *Settling In* as ‘very useful’ for ESL students. Few respondents described any part of the *Settling In* resource as ‘not useful’.

- Respondents rated the student workbooks as the most useful component for increasing student knowledge of housing and tenancy rights (79 per cent).

Mind Your Money

- Most teachers surveyed were aware of *Mind Your Money* (86 per cent).
- 48 per cent of teachers surveyed had used *Mind Your Money* and 67 per cent intended to use *Mind Your Money* in the future.
- Nearly all components of the *Mind Your Money* kit were regarded by respondents as ‘very useful’ for ESL students. Few respondents described any part of the resource as ‘not useful’.
- Respondents rated the online resources as the most useful component for increasing student knowledge of everyday consumer rights and responsibilities (92 per cent).

Working Together Forum

The Working Together Forum was established by the Director of CAV to:

- strengthen communication between CAV and the communities it serves
- raise awareness of the issues impacting on vulnerable and disadvantaged groups
- build sustainable relationships between CAV and community and consumer organisations
- help identify issues and opportunities that are common among groups and organisations, for collaborative work
- inform strategic policy development and service delivery practices within CAV
- promote understanding of the broader consumer protection environment
- promote understanding of the role and activities of CAV and member organisations.

The Working Together Forum met four times during 2005–06. These meetings provided community representatives with the opportunity to raise systemic issues and enabled CAV to further develop initiatives aimed at assisting specific sectors of the community.

During 2005–06 a number of agencies raised issues concerning the vulnerability of residents in caravan parks and retirement villages. This input assisted CAV in implementing its education campaign for retirement village dwellers (see page 11) and contributing to the establishment of Residents of Retirement Villages Victoria Inc (see Chapter 2, page 39).

Community agencies' input in relation to a range of credit issues (particularly credit options for low income earners, reverse equity mortgages and pay-day lending) continued to inform CAV's activities in its ongoing credit program (see Chapter 6, page 96).

Other key issues related to the additional support which vulnerable and disadvantaged consumers may require from CAV when lodging complaints, which CAV addresses through the advocacy services it funds (see Chapter 2, page 36).

Members of the Working Together Forum

Action for Community Living
 Australian Consumers Association
 Brotherhood of St Laurence
 Consumer Credit Legal Service & Consumers' Federation of Australia
 Consumer Law Centre Victoria
 Consumer Utilities Advocacy Centre
 Council on the Ageing
 Country Women's Association
 Federation of Community Legal Centres
 Financial and Consumer Rights Council
 Housing for the Aged Action Group
 Tenants Union of Victoria
 Victoria Legal Aid
 Victorian Aboriginal Legal Service
 Victorian Council of Social Services
 Youth Affairs Council of Victoria

Disability strategy

As reported in 2004–05, CAV undertook significant investigation of the nature and extent of consumer issues experienced by people with disabilities, culminating in a decision to develop a strategy for addressing these issues.

During 2005–06 CAV developed a Disability Action Plan, which will be distributed to the disability, community and industry sectors in 2006–07, for comment. The plan proposes a range of options for addressing consumer disadvantage experienced by people with disabilities, and issues relating to goods and services marketed to people with disabilities, to be undertaken by CAV in partnership with other government departments, industry, the wider community and the disability sector.

The plan also outlines proposals for improved accessibility of CAV's education and information services to people with disabilities, including changes to publication and distribution methods.

Issues of concern

Educating consumers about legislative changes

To empower consumers to advocate for their statutory rights and fulfil their obligations under the legislation, CAV runs campaigns to make consumers aware of any changes to legislation.

Retirement villages

There are approximately 400 retirement villages in Victoria and around 25,000 retirement village residents. At any time, many Victorians are thinking about their long-term accommodation options. Moving into a retirement village is a major financial and lifestyle decision and it is crucial that CAV provides support and information to help people make informed decisions.

To address this need CAV publishes the *Guide to Retirement Village Living*.

In February to May 2006 CAV ran a campaign intended to prompt people to request a copy of the Guide (which included information about the impact of legislative changes which came into effect in 2005–06 – see Chapter 5, page 80) by telephone, freepost mail or online.

The effectiveness of different advertisement themes and placements in various newspapers and radio stations was measured on an ongoing basis, and varied according to their effectiveness in generating the desired response.

By financial year end there had been 7,433 requests for the Guide and 12,036 copies sent out. After the third phase of the campaign is concluded in 2006–07, a formal evaluation will be conducted to measure its effectiveness in terms of raising awareness of the *Guide to Retirement Village Living* among village managers, residents and prospective residents.

Rooming houses and caravan parks

Provisions in the *Residential Tenancies Act 1997* affecting caravan park and rooming house residents were amended during 2005–06 (see Chapter 5, page 80).

Caravan park owners and rooming house managers were notified of the changes through a direct mail campaign. In addition, the CAV publications *Caravan parks: a guide for residents, owners and managers* and *Rooming houses: a guide for residents, owners and managers* were updated, and forms were provided for people to order the new versions. It is mandatory to provide these Guides to all new residents of caravan parks and rooming houses.

Building and renovating campaign launched

Every year thousands of Victorians build or renovate their homes. Most have positive experiences but where things go wrong, the financial and emotional costs can be high. CAV publishes *Building and renovating: a guide for consumers* to assist home builders and renovators to avoid pitfalls and address them if they arise.

In June 2006 CAV launched a campaign to promote the Guide. This follows evaluation of the previous promotional campaign, which indicated that consumers want access to information about building and renovating, in one publication, and to have its availability advertised.

Once the campaign has been completed, an evaluation will be conducted and results will be reported in due course.



Real estate campaign

Consumer Affairs Victoria publishes *Real estate: a guide for buyers and sellers*, which is distributed via estate agents and banks, and was promoted in a direct marketing campaign run from February 2004 to June 2005.

The high uptake of the Guide in the 2004–05 campaign has demonstrated that consumers moving into and out of the real estate sector have a need for this information. An evaluation of the campaign showed that there was strong support for a government Guide on buying and selling real estate – during the campaign over 200,000 copies of the Guide were distributed to consumers, and demand is ongoing to date.

An evaluation of the campaign showed that:

- 86 per cent of consumers and 72 per cent of estate agents were supportive or strongly supportive of a government department publishing the Guide
- the Guide was very useful to consumers – almost 70 per cent read at least the chapters that applied to particular challenges that they were facing, while 45 per cent read all or most of the Guide
- adjustments to advertising placement were successful in improving response rates, which significantly reduced the cost per copy of distributing the Guide.

CAV will be building on this success and learning from the campaign and proposes to begin a new campaign in the 2006–07 financial year, with the long-term aim that reading the Guide becomes part of the culture of buying and selling a home in Victoria.

The direct marketing approach will again be used, and the effectiveness of media placement and content of advertisements will be tracked on an ongoing basis.

Promoting access to consumer resources

Metropolitan community education

Outputs 2005–06

- 265 presentations to over 8,500 participants
- 17 major shopping centres visited
- Over 500 trader education kits distributed
- Information display stands at 15 libraries, making available over 50 different information products

The consumer services offered by CAV (see Chapter 2) are vital in supporting consumers to advocate for their own interests, obtain justice and drive effective competition in the marketplace. An essential aspect of CAV's consumer empowerment role, therefore, is ensuring that consumers are aware of these services and how to access them.

CAV conducts community education to raise awareness of its services at a face-to-face level, particularly with vulnerable and disadvantaged consumers.

Interactions with community groups and the public at large provide an important opportunity to reach consumers and to exchange information between CAV and various communities, which is used to improve customer focus in delivery of services.

CAV community educators also support broader issue-specific education and information campaigns, and are also able to provide timely feedback to CAV on emerging consumer issues and concerns.

Community education is also a high priority in regional areas of Victoria (see Chapter 2, page 34).

Royal Melbourne Show

Consumer Affairs Victoria's display at the 2005 Royal Melbourne Show offered some fun and interesting ways for both children and parents to learn about the services provided by CAV.

A favourite activity for the younger visitors was a competition to name a special Consumer Super Hero to celebrate 40 years of consumer protection in Victoria. Other children's activities included:

- playing a themed handball game to win a Consumer Power cape
- drawing a picture on a free Consumer Affairs Victoria calendar
- entering the Consumer Quiz to win a family pass to The Lion King.

While children were occupied with these activities, CAV staff were on hand to provide accompanying adults with advice and publications on a range of topics, including credit and debt; renting, buying or selling a home; building and renovating; and buying a car.

Online availability

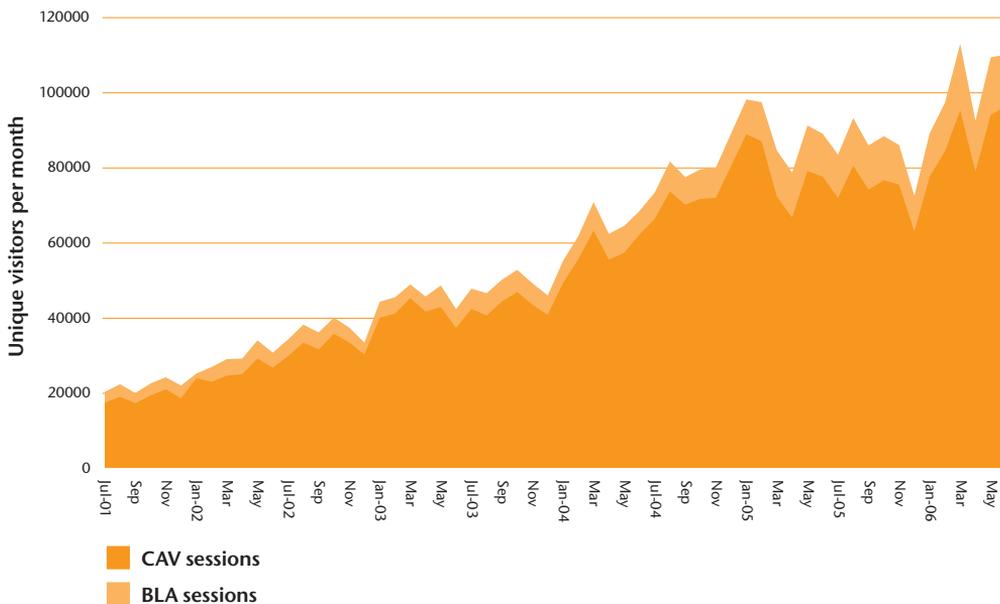
Most of CAV's publications are made available online, which for many people makes it easier to access the information.

The continued steady growth in use of the CAV and the Business Licensing Authority (BLA) websites bears this out, with the sections relating to renting and accommodation, buying and selling property, building and renovating, motor cars, and shopping and trading proving to be the most popular consumer-related sections of the site.

The publications most frequently downloaded are *Renting a Home: a Guide for Tenants and Landlords* and *Real Estate: a Guide for Buyers and Sellers*.

The CAV website is one of the top 20 most frequently accessed Victorian Government online engagement points, and the search phrase 'consumer affairs' is consistently one of the 20 most frequently used by visitors to www.vic.gov.au, the Victorian Government online entry point.

Visitor sessions per month to CAV & BLA websites



Explanatory note: 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. CAV visitor sessions include Residential Tenancies Bond Authority and liquor licensing visitor sessions.

December 2004 – new CAV website launched.

Data averaged for December 2004–February 2005.

Chapter Two

Services for Consumers

CAV services enable Victorians with consumer and tenancy problems to know and pursue their rights, which assists them to fulfil their market role of driving effective competition.

Chapter Highlights

- Opened Victorian Consumer & Business Centre (a joint initiative with the Department of Industry, Innovation and Regional Development)
- Received over 570,000 calls to the Consumer Helpline
- Conducted quality enhancement program in contact centre
- Recovered almost \$3 million for consumers through dispute resolution services
- Established CAV regional network, opening four regional offices and two sub offices
- Funded Financial Counselling Program and other consumer advocacy services

One of CAV's key functions is to deliver information, dispute resolution and advocacy support services to consumers to help them avoid problems with their purchases, or overcome these when they arise. The CAV contact centre provides both traders and consumers with information about their rights and obligations and how to enforce or fulfil these; dispute resolution services assist parties to negotiate settlement of disputes; and advocacy services funded by CAV support consumers who are not in a position to advocate for themselves, or need assistance in doing so.

The contact centre is the first point of call for consumers across the State. It is complemented by CAV's network of offices across the State, which includes the CAV customer service counter in the new Victorian Consumer & Business Centre in central Melbourne, and regional branch, sub-branch and mobile offices. As a result, Victorians in every local government area in regional Victoria can access CAV's services face-to-face. The regional network promotes the Statewide enquiries service offered by the contact centre, and regional community educators highlight awareness of the services provided by CAV, particularly among those community sectors that are most likely to need to access them.

Consumer Helpline 1300 55 81 81

Web www.consumer.vic.gov.au

Email consumer@justice.vic.gov.au

Victorian Consumer & Business Centre,
113 Exhibition Street, Melbourne

Enquiries

The CAV contact centre is promoted as the first point of contact for all Victorians requiring consumer or tenancy advice or assistance, Statewide. The contact centre provides practical, situation-specific information and advice in response to phone calls, enquiry letters, and emails.

In November 2005 a hotline operated jointly by CAV and the New South Wales Office of Fair Trading fielded over 20,000 calls in support of establishment of a 'Do Not Contact' register, which would enable Victorians to opt out of being approached for contact sales. The Federal Government has since announced the establishment of a national 'Do Not Contact' register in 2007.

2005–06 Outputs

- 571,184 phone calls to Consumer Helpline
- 21,098 emails received
- 1,382 enquiry letters received
- 6,407 counter visits
- Percentage of calls answered in under two minutes increased from 75 per cent to 76 per cent
- Call abandonment rate down from 6 per cent to 5 per cent

Quality enhancement program

In 2005–06 CAV embarked on a program designed to further enhance the quality of the contact centre's customer service. The program was developed on the basis of recommendations arising from a benchmarking exercise conducted by KPMG in October 2005, and recommendations made in *The Way Forward Report* of 2004.

System changes

- New contact centre telephone technology was installed in December 2005, which has enabled:
 - routing of calls to the most appropriately qualified operator in the first instance
 - easier and faster navigation of telephone functions for staff
 - better information provision
 - improved reporting
 - increased in-house system administration capability, resulting in improved system efficiency and reliability
 - real-time access to staff activity by supervisors, allowing more effective performance management.

Summary of enquiries received 2003–04 to 2005–06*

	2003–04	2004–05	2005–06
Telephone	540,000	550,000	570,000
Counter	7,300	6,700	6,400
Email	6,700	11,100	11,100
Written	1,100	1,700	1,300

*Rounded down to nearest hundred

- A review of the case management system resulted in tendering and contracting for a replacement system in order to enable:
 - improved work practices in the contact centre, for example the ability to take complaints by phone and enter these directly into the case management system
 - a single centralised system for tracking all calls to all contact services offered across CAV.

It is anticipated that the new system will be operating by November 2006.

Structural changes

During 2006 the contact centre was restructured with the objectives of facilitating:

- high quality service to customers
- continuous quality management
- increased on-the-job staff mentoring and development
- business and system improvements
- multi-skilling of staff
- reduced staff turnover.

As a result the following new positions were created in the contact centre:

- operations and performance manager
- quality assurance manager
- training and development officer
- project officer.

In addition, the team leader role was re-designed to focus on on-the-job coaching and training for staff, and senior enquiries officers were appointed to deal with calls requiring more detailed technical assistance.

Business process changes

- A trial of taking complaints directly over the phone (as opposed to advising callers to lodge written complaints) was initiated. This allowed immediate assessment and referral of complaints. A review of the trial will be completed in August 2006.
- Call observation and call coaching were introduced to measure the quality of advice given by staff and support performance development, allowing for improvements to:
 - monitoring of quality against agreed standards
 - recruitment, induction and training programs
 - call handling systems and processes
 - identification of common customer problems and trends.

Case Study

Often consumers are able to resolve disputes with traders themselves, simply by having certainty about what their rights are.

One consumer called the contact centre in connection with a pair of sunglasses she had purchased for \$420 from a trader specialising in eyewear. The caller informed the enquiries officer that after a short period the sunglasses had broken. She had taken the glasses back to the shop feeling confident that they would be replaced or repaired, as they were still under warranty, but was informed that she would have to pay for repairs. The consumer was of the opinion that the sunglasses had broken because they were defective (not because of any fault on her part) and that repairs should therefore be covered by the warranty. However, as she required the sunglasses for the summer months she agreed to the \$40 repair charge.

Two weeks later the store manager telephoned the consumer and advised that the store was unable to repair the sunglasses, as certain parts were not available.

The manager offered the consumer a 40 per cent discount on a new pair of glasses instead. The consumer indicated that she was highly dissatisfied with this proposal, but the manager was adamant that this was the only offer he was prepared to make.

At this point the consumer opted to contact CAV. The enquiries officer who took the call confirmed that the consumer was within her rights to have the glasses repaired or replaced at no cost. The officer explained the options available to the consumer to resolve the dispute, and reassured her that CAV would be willing to accept a complaint about the matter if necessary.

The consumer later contacted CAV to thank the officer who had taken her call, and advised that by drawing on the information provided she had been able to negotiate a full refund on the sunglasses.

Victorian Consumer & Business Centre

In June 2006, CAV relocated from 452 Flinders Street and 80 Collins Street to the Southern Cross building at Exhibition Street as part of a larger relocation of many sections of the Department of Justice.

The new premises incorporate a ground floor shopfront, on the corner of Little Collins and Exhibition Streets. It replaced two previous counter operations at Flinders and Collins Streets. The new facility is shared with the Office of Small Business (Department of Industry, Innovation and Regional Development) and has its own address – 113 Exhibition Street.

The Centre delivers information, advice and transactions for licensing, business and associations, and consumer and tenancy issues.

The move to the Southern Cross building has afforded CAV the opportunity to combine all our services and to re-energise service delivery standards and interaction with our stakeholders and the wider community.

The Centre, which opened on 13 June 2006 with business hours of 8:30am to 5:00pm Monday to Friday, is designed to be a 'one stop shop' for traders and consumers.

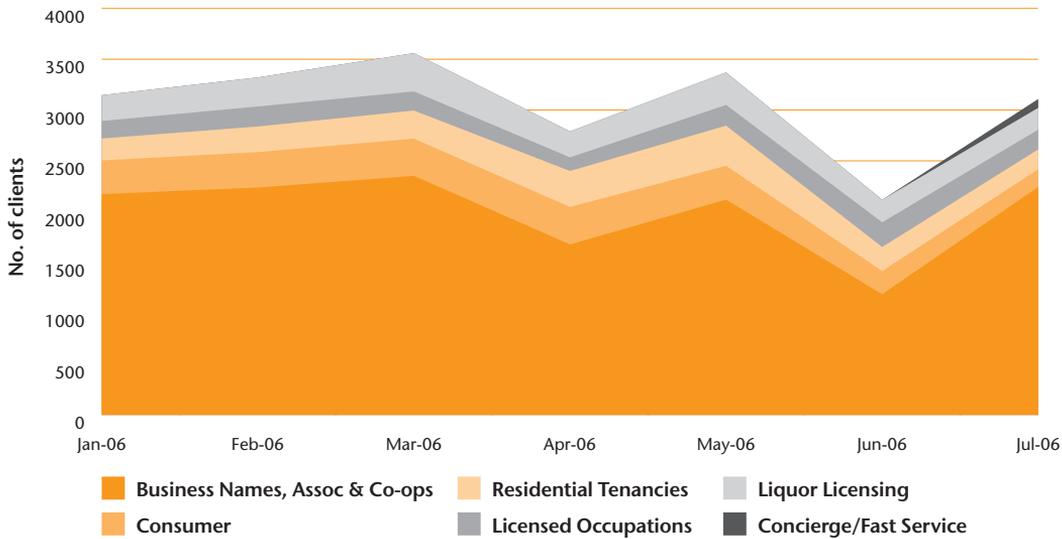


Ministers Thomson and Haermeyer opening the Victorian Consumer & Business Centre



Historic trade measurement instruments displayed in the Victorian Consumer & Business Centre

Visits to Consumer Affairs Victoria 2005–06



Since the opening, the number of one-on-one case management style enquiries has increased, and CAV staff members have been able to devote more time to customers, especially those with tenancy and consumer issues.

The Centre has displays designed to help clients increase their knowledge and understanding of CAV services and also has a large range of resource materials to assist with any problems.

Complaints

In the majority of cases, consumers who contact CAV because they are dissatisfied with a trader's conduct are informed about their rights in the particular situation and are encouraged to try to resolve the problem themselves with the trader. Where this proves unsuccessful, or where it is inappropriate to refer the consumer back to the trader as a first option (for example because the trader is in flagrant breach of the law or the situation is urgent) CAV advises consumers to raise a complaint. Complaints raised in metropolitan Victoria are then referred to CAV's First Line Enforcement division (FLE). (Regional offices process complaints independently.)

FLE quickly reviews and assesses written complaints to determine how they should be dealt with and forwards them to the relevant sections of CAV. Where appropriate, FLE undertakes the initial investigation and initiates low level administrative enforcement actions.

Spotlight on telecommunications

Deceptive and misleading advertising

In mid 2005, Consumer Affairs Victoria received complaints regarding broadband advertising by internet service providers (ISPs). The broadband products were described as 'unlimited' when in fact the plans in question were subject to download limits, after which service was restricted to dialup speed. This limitation was disclosed only in fine print. Consumer Affairs Victoria viewed these representations as deceptive and misleading, and took issue with the ISPs.

Major ISPs including iiNet, Optus and Primus accepted Consumer Affairs Victoria's view on the matter and expunged the offending terminology from their advertising.

Telstra Bigpond revised its website to make the 'unlimited' claim less prominent, and in early 2006–07 indicated that it would cease to use the word 'unlimited' in relation to Bigpond broadband plans.

Door-to-door sales

CAV received a significant number of complaints about the conduct of door-to-door sales representatives of Hutchison 3G Australia, better known as 3 Mobile. The most common complaints related to failure to supply paperwork in connection with cooling-off periods, and making verbal promises that were not reflected in the written contracts.

Consumer Affairs Victoria raised these issues with Hutchison and although Hutchison co-operated in resolving individual complaints, CAV continued to receive complaints, indicating an ongoing problem.

In November 2005, Hutchison advised CAV that it would close its door-to-door sales operation.

Unfair conduct

TPG Internet offered a 1,500k ADSL service for \$49.95 per month. This product was heavily marketed and was extremely popular. TPG decided to phase out the plan and migrate customers to a more expensive product. However, TPG only gave 14 days' warning to affected customers, meaning they had to decide quickly whether to accept the price increase, move to another TPG product, or change to another provider.

To complicate matters, a term of TPG's consumer contracts required departing customers to give 30 days' notice of their intention to terminate the service. TPG also initially refused to offer pro rata refunds of service fees paid in advance (as required by TPG) to customers who chose to leave TPG as a result of the variation.

Acting on a consumer complaint, Consumer Affairs Victoria made contact with TPG and put the view that it was unfair for TPG to rely on the 30-day notice period when TPG had unilaterally varied the pricing for the service, and that customers who elected to choose another provider as a result of the variation should receive a refund of the unused portion of any prepaid services.

As a result, TPG agreed not to enforce the 30-day notice period and to provide pro rata refunds to customers affected by the withdrawal of the \$49.95 plan.

Dispute resolution

Alternative dispute resolution (ADR) is an important aspect of making justice and redress available to everyone in the community. ADR is a highly successful alternative to legal action. It is generally quicker, more cost effective and less intimidating. It provides consumers and traders with an opportunity to negotiate and conciliate in a co-operative way. The dispute resolution service offered by CAV is a cost effective and highly successful alternative to court action, with 65 per cent of complaints being successfully resolved at CAV.

CAV's general ADR service provides assistance to parties in resolving disputes involving a wide range of industry and business types. In addition, two industry-specific services are available: the Estate Agents Resolution Service (EARS) (which offers advice, information, mediation and dispute resolution on all types of estate agency matters) and Building Advice and Conciliation Victoria (BACV), an information, advice and dispute resolution service offered jointly by Consumer Affairs Victoria and the Building Commission. CAV inspectors also perform residential tenancies inspections, which are needed in various situations.

Most complaints conciliated by CAV fall into the following categories: household goods (encompassing subjects as varied as white goods, introduction agencies, contact or door-to-door sales, clothing and footwear, and travel), automotive, building, estate agents, credit and tenancy.

Across all the CAV dispute resolution services parties are encouraged to resolve disputes between themselves. Where dispute resolution is inappropriate or unsuccessful,

consumers may receive advice about alternative options. CAV also considers whether enforcement action against traders would be appropriate within the *Compliance and Enforcement Policy Guidelines* (see Chapter 4, page 66).

Together, the dispute resolution and residential tenancy inspection services, combined with First Line Enforcement, finalised 18,457 written complaints and requests in 2005–06. This represents a steady increase in the number of complaints received over the past three years, reflecting CAV's enhanced profile and work that has been undertaken to improve accessibility of services.

Successful outcomes obtained for consumers during 2005–06 included full or partial refunds of amounts paid towards the purchase of unsatisfactory goods and services and repair or restoration of goods and services. Almost \$3 million was recovered for consumers in 2005–06 through CAV's dispute resolution activities. This is a 40 per cent increase over the year, building again on a consistent increase over the past three years.

Total complaints finalised 2005–06, by subject matter

Residential tenancy	38%
Household goods	34%
Building and construction	10%
Motor vehicles and other transport equipment	10%
Real estate	5%
Credit, finance and investment	3%

Raising the bar

From the volume and nature of complaints received in connection with particular traders, it can become clear that internal complaints-handling mechanisms are lacking. Helping traders to arrange systems for dealing with complaints (thereby minimising the need for consumers to escalate complaints to an external agency such as CAV) is a priority for CAV, and significant work was done in 2005–06 to encourage businesses to take up this opportunity. Best business practice guidelines are being developed to assist this function.

The following are some notable examples of outcomes achieved in 2005–06.

GM Holden Ltd

CAV staff made an on site visit to GM Holden Ltd's Port Melbourne office and met with its executive customer liaison. GM Holden Ltd presented an overview of its customer service processes and facilities to CAV representatives, and a number of consumer complaints that remained unresolved were discussed. Some complaint outcomes improved as a result. Further improvements are expected, flowing from the increased communication between GM Holden Ltd and CAV.

GE Money

CAV staff attended a meeting with GE Money to discuss and co-ordinate dispute-handling processes with the aim of expediting the resolution of any future complaints received. Issues of response times, clear directions to customers and general customer recognition were raised. GE Money demonstrated how they had already attempted to address these issues.

They also agreed to consistently monitor their customer service with these things in mind to maximise the future efficiency of their service delivery as it relates to consumer problems.

Discount Electrical Centre

CAV staff met with the director of Discount Electrical Centre (DEC) over the high level of complaints being received concerning defective goods, misleading advertising, and customer service issues. During the meeting, representatives discussed how to systematically address these issues to prevent further complaints being received. As a consequence, DEC has reviewed its processes and has appointed internal staff to deal with all complaints. CAV will continue to monitor complaint levels in respect of this trader.

VCAT Monitoring

During 2005–06 staff attended Victorian Civil & Administrative Tribunal (VCAT) hearings, and reported on VCAT decisions on matters that had come through CAV but had not been resolved by conciliation.

Benefits to CAV of such monitoring include increased marketplace intelligence, training for staff, measurement of conciliation success, and access to information that can be used in future conciliation with the party or parties involved.

General conciliation

During 2005–06, CAV resolved disputes from a wide range of industries.

Overall the general conciliation team finalised 4,763 complaints about goods and services. Of these, 70.7 per cent were resolved through conciliation and the value of money or goods recovered as a result of negotiated settlements was \$1,340,161.

Case Study

Consumer Affairs Victoria received a complaint concerning defective paint and poor panel fit on a Ford Focus. The consumer had requested a replacement from Ford without success. He then engaged an engineer to make a professional report detailing the problems and submitted this to Ford in support of his complaint. Dissatisfied with Ford's response, the consumer then contacted CAV.

After discussion with CAV, Ford acknowledged the problems with the vehicle and agreed to replace it.

Industry watch

The highest number of general consumer complaints was recorded in the category 'Computers, Electronics and Telecommunications'. This indicates that more people are making use of comparatively new technologies such as mobile phones and computers, and that these are raising issues for consumers.

Disputes in relation to mobile phones increased by 68 per cent; in relation to home entertainment systems (such as MP3 players) by 60 per cent; and in relation to computers by 18 per cent.

There were also significant increases in the number of complaints received in the lifestyle and leisure; personal goods and services; credit and finance; and fuel categories.

The number of disputes in relation to bodies corporate, residential tenancies and retirement villages also increased substantially during the year. Bodies corporate and retirement villages are new conciliation areas for CAV, and (along with residential tenancy disputes) will in future be handled by the new dedicated residential accommodation team established in 2005–06, which will commence duties in July 2006.

Case Study

There has been a noticeable increase in complaints to CAV in relation to online auction sites, partly reflective of the increasing popularity of online auction shopping.

Common complaints involve clear breaches of contract that may also have been breaches of consumer law, for example:

- non delivery
- unreasonably delayed delivery
- delivery of goods that didn't match the description provided by the seller
- goods that were faulty or of unsatisfactory quality.

Research

During 2005–06, CAV completed an industry and market study that examined the problems facing consumers who transact by way of internet-based auctions and the existing protections available to consumers when something goes wrong with a transaction in this sector.

The study showed that internet-based auctions offer efficient market transactions, and are fast becoming a new channel for small and micro businesses.

Further, although the common problems experienced by consumers in this sector are covered by existing consumer protection legislation, enforcement can be difficult because scammers are able to hide behind fake identities.

Education and information

As a result of this study, CAV will implement a consumer education strategy, involving leading industry players, to assist consumers to trade safely on online auction sites.

Compliance monitoring

The study also gave rise to a compliance monitoring exercise, in which 428 online auction stores were checked for compliance with the *Fair Trading Act 1999* with the following results. The exercise revealed a degree of non compliance in the sector. Some of the sites monitored had return or refund policies (22 per cent) or terms and conditions relating to warranties (3 per cent) which may have misled consumers about their rights. A number of fundraising appeals were unregistered, and several motor car traders, travel agents and liquor stores were unlicensed. Almost half the online auction stores did not display their full trader names and either the full business address or telephone number, as required by legislation.

CAV has written to many of these stores advising them of their responsibilities under consumer protection legislation, and is also speaking with the industry and state and federal regulators, to encourage a national approach to educating all traders about their responsibilities when trading online.

Enforcement action

Where appropriate CAV will initiate court proceedings against offending traders. Having received a number of complaints from consumers living in Victoria and interstate who had purchased computers from www.encoresystems.com.au, a website belonging to Encore Systems Pty Ltd ('Encore'), CAV investigated this trader. Complainants alleged that they did not receive goods they ordered online, or that the goods they received were not the goods ordered, or were faulty or defective. CAV applied to the Magistrate's Court for declarations and injunctions against Encore and its former director Michael Shea. The Court found that Encore and Shea had contravened the *Fair Trading Act 1999*, and issued injunctions effectively restricting Encore and Shea to operating on a cash-on-delivery basis. Encore and Shea were directed to put notices on all websites through which they trade, informing potential buyers of the orders. All the consumers involved in the case obtained refunds, as directed by the Court.

General conciliation complaints finalised 2005–06, by subject matter

General consumer	3,165
Automotive & transport	1,136
Credit & finance	325
Tenancy & accommodation	117
Other	20
Total	4,763

Building Advice and Conciliation Victoria (BACV)

- CAV received 15,217 telephone enquiries and finalised 1,890 written complaints relating to building matters.
- There were 55,549 visits to the building and renovating section of the CAV website.
- 50.4 per cent of the disputes finalised in 2005–06 were resolved by conciliation.
- \$1,366,100 was recovered for consumers during this process.
- CAV made 244 requests to the Building Commission for independent technical inspection reports to assist in conciliation where allegations of defective building works were made.
- BACV staff took part in education campaigns with the public such as providing a stand at the annual Home Show.

Case Study

An elderly consumer and her daughter visited the Victorian Consumer & Business Centre in a distressed state. The consumer was having a house built as a gift for her son, and the builder had terminated the building contract before completion of the building works.

The builder had advised the consumer that he was walking away from the contract because if he completed the house under the building contract he would be out of pocket by \$40,000, and because the consumer had deliberately breached the payment terms of the contract.

The consumer sought legal advice from a specialist building solicitor, who wrote two letters to the builder but received no response. By this stage the consumer had incurred \$2,000 worth of legal costs, and legal representation at the Victorian Civil & Administrative Tribunal (the next step a solicitor would take) would have added substantially to this total. It was at this time that the solicitor advised the consumer of the BACV service, and the consumer contacted CAV.

On investigation, CAV formed the view that the builder's allegation of breach of payment terms was without substance.

A CAV conciliator contacted the builder and made him aware of several legislative provisions that related to his conduct. After some persuasion he agreed to return to the site and complete the house at the original price.

Estate Agents Resolution Service (EARS)

- The dedicated EARS enquiry line received 14,245 calls.
- 927 written complaints against estate agents were finalised.
- Settlements totalling \$286,181 were brokered.

EARS staff conducted presentations on real estate issues to both consumers and industry representatives throughout Victoria, attended divisional meetings of Real Estate Industry of Victoria in Warrnambool, Moe, Mildura, Wodonga and Watsonia, and spoke at monthly First Home Buyer seminars conducted by mortgage broker Mortgage Choice.

EARS complaints finalised 2005–06, by subject matter

Property mismanagement	320
Charges	139
Other conduct of agent	116
Misleading advertising	115
Trust monies	74
Misleading representations	60
Unlicensed trading	42
Documentation	41
Soliciting listings	20
Total	927

Case Study

EARS received a complaint from a prospective purchaser alleging that an agent had posted false and misleading pictures of a property on the internet. The prospective purchaser had made his enquires from interstate and lodged his interest in the property on the basis of the pictures. The prospective purchaser travelled to Victoria to inspect the property, only to discover that the images portrayed on the internet were not actual images of the property. The prospective purchaser sought compensation for his travel and other costs.

CAV contacted the agent, who acknowledged that the pictures on the internet were in fact false and misleading. EARS negotiated a settlement of \$500 compensation to be paid by the agent to the prospective purchaser and warned the agency about its conduct.

Residential tenancies inspection service

- CAV inspectors responded to 6,201 requests for inspections from tenants, landlords and estate agents.
- Inspectors issued 4,647 reports as a result of these inspections.
- Staff conducted regular presentations to consumers and industry representatives about the service's role in regulation of the private rental market.
- Meetings were held with traders and industry bodies with the aims of addressing systemic consumer issues, improving compliance with legislative obligations, and promoting general improvements to customer service.

Residential tenancy inspections 2005–06, by subject matter

Goods left behind inspections	4,055
Repairs inspections	1,194
Rental assessment inspections	948
Various other inspection requests	4
Total	6,201

Summerhill Residential Park

During 2005, a number of residents of the Summerhill Residential Caravan Park, owned and operated by Ellerton Lodge Pty Ltd, objected to increases in rent. They applied to the Director of Consumer Affairs Victoria under the *Residential Tenancies Act 1997* to investigate and report whether the proposed rent was excessive. After the Director provided a report finding that in his opinion the proposed rent was excessive, these residents commenced proceedings in the Victorian Civil & Administration Tribunal (VCAT) to have the increases declared excessive and set aside.

In the course of the proceedings the owners and operators of Summerhill argued, as part of their defence of the fee increases, that Summerhill was not a 'caravan park' for the purposes of the *Residential Tenancies Act 1997*, and therefore the Act did not apply to Summerhill. If this were the correct position, the rights and obligations of residents would be wholly defined in their resident's agreement with Ellerton Lodge Pty Ltd.

The Director of Consumer Affairs Victoria was joined as a party to these proceedings, as an interested party, for the purpose of providing an independent expert report on the critical question of whether the residential units situated at Summerhill were 'movable dwellings', given that a caravan park is defined in the *Residential Tenancies Act 1997* as 'an area of land on which moveable dwellings are situated for occupation'.

On 9 January 2006, VCAT released a preliminary decision in the proceeding, finding that Summerhill was a caravan park for the purposes of the *Residential Tenancies Act 1997*.

On 29 June 2006, VCAT ruled that the fee increases were excessive and set them aside. VCAT also made rulings in favour of residents in relation to an unreasonable rule in existence at the premises and dismissed an application for possession brought by Ellerton Lodge against another resident.

Department of Justice Alternative Dispute Resolution strategic priority

The Alternative Dispute Resolution (ADR) sector is developing rapidly, and is currently broad and diverse, with a wide variety of services on offer from many different providers, both in government and the private sector.

More research and policy analysis is required to enable government to ensure that its own ADR services are efficient, effective and appropriate, and to provide leadership to private sector ADR schemes to ensure citizens are adequately protected.

An ADR research and strategy development project was initiated in October 2005.

The substantive components of the priority are funded through the Legal Services Commission. The project is overseen by a steering committee chaired by the Executive Director of Consumer Affairs and includes the Executive Directors of Legal and Equity and Court Services of the Department of Justice.

Preliminary work undertaken in 2005–06 includes a study of issues for private ombudsman schemes (September 2005), a study of economic issues for ADR schemes (April 2006), and a literature review (continuing).

The project will also include a community survey, review of current ADR schemes, and collection and analysis of data and information in relation to both the demand and supply sides of the ADR sector. This will involve:

- examining existing ADR service delivery schemes operating in Victoria, including private and public schemes and those instituted by the Commonwealth Government

- a survey of citizens and business regarding awareness of, and attitudes to, existing ADR schemes as well as individuals' experiences of ADR including outcomes, and barriers to awareness and participation in ADR.

Problem traders

While not all complaints received by Consumer Affairs Victoria are justified, many are. Also, a seemingly low number of complaints will often nonetheless indicate problems on a more significant scale, since many consumers do not opt to lodge formal complaints when they experience consumer problems.

The need for traders to improve business practices that cause detriment to consumers is of ongoing importance.

Of note, the following businesses have been the subject of high levels of complaints over the previous 12 months and/or have consistently handled disputes very poorly.

Apple Computers Australia Pty Ltd

CAV continues to receive a large number of complaints concerning Apple products. In 2005–06 over 40 complaints against Apple Computers Australia Pty Ltd (more than double the amount received last year) were made to CAV. Most complaints involved problems with Apple iPods in connection with screens, memory storage and battery life, for example.

Consumers seem equally angry about the quality of Apple's customer service (which is consistently reported to be extremely poor) and alleged attempts to placate consumers with second-hand 'refurbished' iPod replacements, which have further problems.

I-Witness Solutions

CAV continues to receive a substantial number of complaints against this trader. Complaints involve a broad range of products such as cameras, televisions and motor bikes, but a common theme reported by consumers is that the products are faulty on delivery and the trader will not reimburse courier costs which are sometimes more than the cost of the product itself.

Krupp IFG Pty Ltd

CAV has received 34 complaints against this trader in the last year, involving the supply of furniture different from what was ordered. The company director has refused to correspond with CAV and at the end of the financial year this trader was under further investigation.

Nokia Australia Pty Ltd

In the last financial year CAV received almost 50 complaints against Nokia Australia Pty Ltd and its agents. This is significantly higher than the number of complaints received about other phone manufacturers, and double the number of complaints received about this company in the previous financial year.

Most complaints concerned Nokia's failure to repair defective mobile phones.

When consumers contact Nokia for redress, they are told that the problems they are experiencing have been caused by customer misuse. In some instances Nokia advises that the problems are caused by sweat condensation inside the phone. Customers maintain that mobile phones should be fit to withstand such conditions, which are part of normal operating conditions. Consumers report that customer service staff at Nokia are usually particularly unhelpful and rude. This attitude has also been generally prevalent in CAV's dealings with the company.

Plega Health Care

Complaints received against this trader doubled to reach 40 in the past financial year. The complaints involve delays in supplying products such as scooters, lift chairs and electric beds ordered by elderly and disabled consumers. Consumers report that Plega's listed service agents are also often unwilling to perform repair work. In addition, Plega has failed to honour undertakings to give refunds within a reasonable time.

Serendipity Photography

CAV has received a significant level of complaints against this trader. The complaints involve long delays in the supply of wedding photographs and albums which have been ordered. This trader also delays honouring undertakings they have made to CAV when settling disputes.

Think Furniture

Many complaints against this trader received in 2005–06 concerned the non supply of furniture that had been paid for.

This trader has now ceased trading.

VG Refrigeration

This trader has a history of quoting for fridge repairs, accepting payment, and then failing to do the work. In some cases the trader then agrees to make a refund but does not honour the agreement.

Update on traders named in 2004–05 annual report

Some traders that have been the subject of high volumes of complaints in previous financial years put CAV's recommendations and assistance into practice, resulting in reduced complaint levels. Others continue to flout the law and remain under CAV's scrutiny, and some go out of business.

Interstate Taxi Trucks/Regal Removals/Backloads.com/Cobb & Co

CAV continues to receive complaints concerning this trader, alleging goods damaged in transit, loss of property, delays in collection and/or delivery, and under-quoting. Consumers report that their complaints are not dealt with appropriately and that staff and the company owner are often rude and unhelpful. This trader has been inflexible when contacted by CAV and at the end of the financial year was under investigation.

Kresta Blinds

Last financial year it was reported that this trader did not appear to have an effective complaint-handling system and was non-responsive to CAV's attempts to conciliate complaints.

CAV compiled a three-year history of its interactions in connection with Kresta, and in October 2005 wrote to the company outlining all the issues this analysis revealed. The letter contained recommendations on how Kresta could improve its customer service.

Kresta's complaint-handling system has since improved, and the number of complaints received by CAV has decreased.

Merringtons Pty Ltd

In all, CAV has received in excess of 100 complaints from consumers in relation to this trader, which was named in the *2003–04 CAV Annual Report* as a problem trader. The nature of the complaints varies, but they typically include allegations of defective or poor quality goods, substandard levels of customer service and refusals to provide refunds. The trader remained under investigation in 2004–05.

During 2005–06, Consumer Affairs Victoria sought injunctions in the Supreme Court to stop Merringtons, through its employees and agents, from making misleading representations to customers, and from accepting payment for prescription glasses unless it can supply the prescription glasses as ordered, and fit for their purpose.

Consumer Affairs Victoria will also be seeking refunds for a number of complainants, and an order that Merringtons implement and maintain a compliance program to ensure it adheres to the *Fair Trading Act 1999*.

The matter will be heard in the 2006–07 reporting period.

Save Direct

CAV is pleased to note that complaints against this trader have significantly decreased since reporting in 2004–05. CAV received only two complaints against this trader in this reporting period, both of which were quickly resolved.

Wal Jones Real Estate

This agency was prosecuted by CAV in 2002 for several regulatory breaches relating to the administration of funds, and in 2004–05

CAV reported that it continued to receive complaints against the trader. Complaint numbers declined in 2005–06, and CAV will continue to monitor this trader.

Westside Car Sales

CAV continued to receive complaints against this trader in 2005–06, and at financial year end was considering further action against the trader.

Regional network

During 2005–06, Consumer Affairs Victoria implemented a new regional service delivery model following a pilot in Wangaratta in 2004–05.

The primary objectives for 2005–06 were to implement the network, and to increase public recognition of, and access to, CAV services.

Implementation of an efficient and effective CAV network across regional Victoria

From 1 July 2005, CAV established four additional regional offices at Geelong, Ballarat, Bendigo and Morwell. Two sub offices in Warrnambool and Mildura were also established. These offices, along with the office opened in Wangaratta in May 2004, form the CAV regional network.



Minister Thomson and CAV staff at the opening of the Geelong regional office

Outputs 2005–06

- 4,799 face-to-face enquiries
- 4,372 telephone enquiries
- 1,786 complaints conciliated
- 912 visits to regional traders
- 1,577 visits by mobile services to more than 65 towns
- Provision of forms and information around business and liquor licensing and registration
- Development of relationships with host organisations in more remote areas of Victoria to allow face-to-face access to CAV services in these areas
- Launches of regional offices and promotion in media
- 1,689 additional community engagement activities

Increased public recognition of, and access to, CAV services

Outputs 2005–06

- Visits to regional schools to promote *Consumer Stuff* and inform on other youth issues
- Information provision in regional libraries and community centres
- Education and information on changes to the law, for example changes to retirement villages legislation
- Regional support for various CAV projects, for example Commonwealth Games initiative

Case Study

An elderly consumer, whose wife was very ill, had bought two beds and mattresses for \$7,520 via a contact sale at his home. The consumer cancelled the contract within the cooling-off period, and it was agreed that the trader would charge \$500 for collection of the products and cleaning of the mattresses, and that the consumer would be refunded within three weeks. After four weeks, no payment had been made. Instead, the trader had informed the consumer by letter that the refund would be made in three instalments over a six-week period.

The consumer contacted the Morwell office. CAV in Morwell contacted the trader, and negotiated a full refund for the consumer. The consumer was happy with the outcome and assistance given.

Funding for consumer support services

Consumer Affairs Victoria funds a range of community organisations to achieve outcomes sought by government.

These arrangements include:

- funding not-for-profit agencies to provide:
 - financial counselling services to low-income families and individuals facing financial difficulty
 - advocacy services to vulnerable and disadvantaged consumers and tenants
 - specialist support services to CAV and advocates in the areas of consumer credit, aged tenants, rooming house and caravan park residents, and general tenancy issues

- funding not-for-profit agencies for policy research and advocacy
- grants from the Consumer Credit Fund for specified purposes
- grants from the Victorian Property Fund for specified purposes.

As foreshadowed in last year's report, funding of agencies under the CAV Community Program was cut from 1 July 2005. Direct provision of consumer and tenancy services by CAV's own staff from its head office, the newly established regional offices, and mobile services operating in rural areas of Victoria, replaced the services previously offered by funded agencies. This direct service delivery was complemented by the advocacy and specialist support services noted above.

Financial Counselling Program

Administration of the Financial Counselling Program was transferred from the Department of Human Services to Consumer Affairs Victoria as a result of a machinery of government change effective from 1 July 2005. Problem Gambling Financial Counselling was transferred to the Department of Justice's Office of Gaming and Racing at the same time.

Financial counselling is available to low-income families and individuals facing financial difficulty. Counsellors can assist with:

- explaining financial options and the potential consequences of not paying bills, fines, or other debts
- working out budget and payment strategies
- helping to negotiate with creditors

- providing advice about government services or benefits, like bond assistance, rent or mortgage relief, or concessions for household bills
- indicating possible ways to recover fines and costs, or overcome legal action to seize assets
- providing information about other legal rights and options, such as bankruptcy
- providing referrals to other organisations that can help.

The CAV Financial Counselling Program is delivered by 44 community-based not-for-profit agencies funded under agreements originally established by the Department of Human Services. Each agreement establishes a geographic area in which services are to be provided, a target number of services to be delivered, and quality measures like timeliness and client satisfaction.

CAV also funds the peak organisation for the Victorian financial counselling sector, the Financial and Consumer Rights Council Inc.

The 2005–06 cost of the Financial Counselling Program was \$4,981,616.12. Of this amount, \$2,004,204.23 was funded by the Community Support Fund.

Appendix 9 reflects details of the funding provided to the various agencies during 2005–06.

Advocacy services

Consumer Affairs Victoria funds seven community-based agencies to provide vulnerable and disadvantaged consumers with advocacy services in Victoria. The advocacy program is part of CAV's focus on protecting and promoting the interests of consumers, particularly the vulnerable and disadvantaged.

CAV works closely with advocates to ensure that vulnerable and disadvantaged consumers receive assistance that meets their specific needs.

Vulnerable and disadvantaged consumers may require assistance with private residential tenancy disputes (including eviction, rent arrears, urgent repairs, bond refunds, caravan park and rooming house matters), and consumer disputes (concerning such things as faulty goods and services, unfair contracts, refunds and motor vehicle or household furniture repossessions).

Advocates can assist by:

- appearing and supporting consumers at Victorian Civil & Administrative Tribunal (VCAT) hearings
- preparing materials for VCAT hearings
- providing consumers with support and guidance in disputes with traders or landlords, including document preparation and negotiation
- reviewing documents and explaining these to consumers
- providing information and advice on rights, responsibilities and processes.

Case Study

When John telephoned the CAV contact centre he was distressed and kept stating that he just wanted help to get his money back. The operator asked John a few questions about his consumer problem, and it became apparent that he needed help from a CAV advocacy service.

John was immediately and directly transferred to a CAV-funded advocate, and an appointment was scheduled for the next day.

After meeting with John, the advocate discovered that John suffered from an acquired brain injury which resulted in him having difficulty understanding information quickly and remembering things. The advocate also identified that a door-to-door salesman had sold him an expensive new vacuum cleaner, which he did not need or want. John had given the salesman a \$100 deposit and signed a direct debit agreement authorising regular deductions from his bank account until the vacuum cleaner was fully paid for. As John lived on a disability allowance, he did not have enough money for other living costs after each payment was debited from his account.

The advocate contacted the seller and, after some negotiation, arranged a full refund for John.

Funding of \$1,306,556 to seven agencies was approved in 2005–06. See Appendix 8 for details.

Also in 2005–06, five agencies conducted programs under funding provided by Consumer Affairs Victoria.

Peninsula Community Legal Centre

Examples of projects undertaken by Peninsula Community Legal Centre (PCLC) include:

- **Civil Claims Project.** This project was designed to assist consumers who were representing themselves at the VCAT Civil Claims List, thereby enabling more efficient application and hearing processes. Over a six-month period, PCLC conducted six workshops with 35 consumers and community agency workers attending. The participants found the information and resources extremely beneficial.
- **Young Renters Project.** This project was designed to develop and conduct workshops to educate young people about their tenancy rights and responsibilities, and assist participants to secure and maintain first-time rental accommodation. The Project Reference Committee included estate agents, youth workers, community organisations and representatives from local government and Centrelink.

Consumer Credit Legal Service

The Consumer Credit Legal Service (CCLS) specialises in credit and debt issues. It also provides legal advice, casework assistance, education and training, and follow-up research for community agencies that assist consumers with credit problems.

Consumer Law Centre Victoria

The Consumer Law Centre Victoria assists low income and vulnerable consumers to achieve just outcomes to consumer disputes. Legal assistance is provided in relation to a wide range of consumer issues, including defective home security alarm systems, vendor terms mortgages, defective goods and services, telecommunications contracts, rent to buy car contracts, and unfair penalties for cancellation of education courses.

Housing for the Aged Action Group

The Housing for the Aged Action Group (HAAG) provides free and confidential advice to older people living in rented accommodation. During 2005–06, HAAG initiated a campaign to improve the conditions of caravan and residential park residents in Victoria, by organising a forum attended by 100 participants. At the end of the forum a statewide Caravan and Residential Park Residents Working Group was formed, and a report on the forum (*Living in Limbo: Caravan and residential park residents statewide forum report*) was published.

Tenants Union of Victoria

The Tenants Union of Victoria (TUV) provides a statewide service to caravan park and rooming house residents. It is also funded to undertake projects on CAV's behalf. For example during 2005–06 TUV undertook research into issues involved in the regulation of accommodation, particularly the development of fair contractual arrangements that protect the rights of all parties, and appropriate dispute resolution processes. TUV also conducted research into unfair contract terms in residential tenancy contracts.

Consumer Credit Fund

During 2005–06 grants from the Consumer Credit Fund (CCF) were used to provide monies for everything from local education programs run by not-for-profit community agencies, to programs for assisting migrant groups with credit issues.

The Migrant Resource Centre North West Region Inc received funding of \$10,000 for its *Bringing the Law to the Community* program, which was used to make basic information about credit available in DVD format in four African languages.

The New Hope Foundation received \$9,745 for a program called *Managing Personal Credit and Budgeting Daily: an educational program for newly arrived migrant communities in south-eastern Victoria*, which assists migrants and refugees from the Horn of Africa to become familiar with the nature of credit and the way in which credit works in Australia.

Along with not-for-profit-bodies, the Director of Consumer Affairs can also apply for special purpose funding. Enquiries and complaints about consumer credit and debt continue to rank among the most common matters that Indigenous Victorians raise with Consumer Affairs Victoria. During the year the Director successfully obtained funding of \$44,601 for a program called *Educating Young Indigenous People and their Families about Credit and Debt*. It is designed to provide tailored financial literacy material as well as a credit and debt resource guide.

Research associated with the Consumer Credit Review (see Chapter 6, page 97), focusing on small amount cash lending, was able to proceed during 2005–06 in part because of a contribution from the CCF. The research will help government and others to understand more fully how vulnerable and disadvantaged consumers obtain credit and on what terms, which in turn will assist in developing consumer policy around the issue.

For details of all grants made from the CCF in 2005–06 see Appendix 11.

Victorian Property Fund

In April 2006, the Minister for Consumer Affairs Victoria approved one of the largest ever single grants to be made from the Victorian Property Fund (VPF). The grant of almost \$6 million to VicUrban will be used to fund the construction of 37 three-bedroom homes that will be made available to families who currently do not have access to housing, through housing associations registered with the Registrar for Housing.

Housing associations are not-for-profit community-based organisations. The Registrar ensures that the accommodation is used for the purposes for which it is provided, and appropriately managed to ensure long-term benefits to the target group.

Grants of this nature have been made possible by legislative amendments made in 2004, that expand the scope of the statutory provisions setting out the purposes for which grants can be made.

Another project funded from the VPF that came to fruition in 2005–06 is the establishment of a retirement villages residents' association to:

- provide information and support to members
- educate members and the broader community on the issues affecting retirement village residents
- contribute to policy debate and advocate on behalf of retirement village residents
- promote interaction between retirement village residents throughout Victoria.

In April 2005, CAV contracted the Council on the Ageing (COTA) to facilitate the establishment of the association with funding from the VPF, and the association was incorporated on 14 December 2005 as the Residents of Retirement Villages Victoria Inc (RRVV). Membership had exceeded 1,200 by financial year end, and continues to grow.

CAV will continue to support RRVV with the aim of maximising the RRVV's independence, and enabling members to maintain collective control over its future direction.

Further applications under the expanded grant purposes were under consideration at the end of the reporting period, and similar excellent outcomes for Victorian communities as a result of such grants are expected in coming years.

For details of all grants made from the VPF in 2005–06 see Appendix 12.

Chapter Three

Regulation

Effective regulation
boosts confidence in markets,
creating mutual benefits for
consumers and business.

Chapter Highlights

- Continued strong uptake of online licensing and registration services offered to business
- Set up the Retirement Villages Register
- Prepared to assume responsibility for regulating patriotic funds
- Conducted extensive community and licensee engagement activities in relation to liquor licensing
- Convened the Alternative Dispute Resolution and Regulation meeting of the Victorian Regulators' Forum
- Contributed to the Victorian Business Master Key project

Business registration and licensing Registration

CAV registers business names, limited partnerships, patriotic funds and retirement villages, and incorporates associations and co-operatives. It maintains public registers of these organisations, and monitors their compliance with legislative requirements.

Business names

Businesses operating in Victoria are required to register their business names with CAV unless business is carried on under a person's own name only, or under a company name registered by the Australian Securities and Investments Commission. Registered names must be renewed every three years, which ensures that the accuracy of the public register is maintained.

The practical objective of the *Business Names Act 1962* is to protect the public and ensure that those dealing with or otherwise affected by the operation of a business are able to identify and locate the proprietors.

The business name registration scheme provides a stable and transparent business framework in Victoria and contributes to both business confidence and consumer protection. The identification mechanism established by the legislation is a public register matching business names to proprietors (the legal entities) and their contact details. This promotes proper market functioning by ensuring people can correctly identify those with whom they are dealing in contractual matters (including financing, sale of businesses, consumer purchasing and supplier arrangements).

CAV registered 64,136 new business names in 2005–06 bringing to 365,469 the number of business names on the register at 30 June 2006.

CAV has achieved significant success in making registration transactions available online.

In a world first, the Similar Business Names Test was automated in 2003, and the system is now a core part of the online delivery of Business Names Registrations, launched in May 2004.

Client interest in online registration is extremely strong, with over 55 per cent of all business name registrations (or up to 700 per week) now performed online. There were 35,356 online registrations in 2005–06.

The renewal of business names function (where no changes are required) was made available online from early 2001. About 32 per cent of renewals received in 2005–06 were lodged online.

There were 94,220 name renewals with changes during this financial year, an increase of 5.6 per cent on 2004–05. Business names searches exceeded 130,000 (down 0.5 per cent on 2004–05), including those undertaken by private information brokers who are provided with business names data under contract with CAV. Information brokers normally relay the search results to individual clients electronically.

Incorporated associations

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

Many clubs and special interest groups become incorporated associations to benefit their members, and the majority are small groups of people or clubs that wish to gain legal status (to purchase property in the name of the club, apply for government grants, etc). These incorporated associations support community needs and activities including education, health, the arts and sport. They are important to the community in terms of contributing substantially to the economy and to the social capital.

CAV supports the incorporation and operation of associations with advice on legislative requirements and the development of rules under the Act for the orderly conduct of association activities. When internal disputes occur, CAV can assist with advice on an association's rules, but cannot become a party to the dispute. The rules (which in effect constitute a contract between members) form the basis for resolution of the dispute by the membership, or where necessary through the civil legal system.

During 2005–06, 1,507 associations were incorporated – an increase of 4.7 per cent on the previous year. At 30 June 2006 the total number of incorporated associations was 32,552, an increase of 936. Of these, 3,092 were prescribed (organisations with revenues of at least \$200,000 and/or assets of \$500,000) and 29,460 were non prescribed.

Associations are required to lodge an annual return including certain financial details. During the 2005–06 financial year, 27,378 were processed.

Overall, business name and incorporated association clients received faster service, with 98 per cent of their applications completed within three weeks in 2005–06.

Incorporated co-operatives

As with companies and incorporated associations, incorporated co-operatives have legal status (can purchase property, sue and be sued, etc) and limited liability. Under the *Co-operatives Act 1996*, a co-operative's board of directors is responsible to the membership in much the same way as the board of a company is responsible to its shareholders.

They are formed and controlled by members for a specific purpose, such as running a kindergarten or a wine club. They are often formed for the conduct of a business activity, although the main purpose is not profit for members, but to advance the co-operative's activities.

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

As well as keeping a register of all Victorian co-operatives, CAV 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 registration of 10 new co-operatives in 2005–06, there were 748 entities on the register at 30 June 2006.



First business name registration at the Victorian Consumer & Business Centre

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.

The scheme is available for use by any co-operative registered under the Act, however it is ideally suited for co-operatives sponsored by organisations having no security to offer a lender. As a result, the majority (99 per cent) of users of the scheme are non trading co-operatives sponsored by school councils.

Since the scheme's inception in 1953, 2,342 guarantees have been issued and as at year end 162 active guarantees existed. Six new guarantees totalling \$763,800 were executed in 2005–06. The total value of guarantees outstanding at 30 June 2006 exceeded \$15.5 million.

Retirement villages

Under amendments to the *Retirement Villages Act 1986* (see Chapter 5, page 80) CAV has set up and is maintaining a retirement village register. Prescribed forms have been developed to capture the information required. As at 30 June 2006, 316 notification forms had been lodged, enabling CAV to maintain a central online information resource for consumers, and to keep operators up-to-date with legislative requirements. CAV has also developed an online facility that provides browser access to a table view of the list of registered retirement villages, sorted by name or by postcode.

Legislation requires that charges are registered over retirement village land as security for in-going contributions made by people entering retirement villages, and that the title for retirement village land contains a notice stipulating that the land is retirement village land. In certain circumstances these charges and notices may be extinguished on application. In 2005–06 CAV received 59 such applications and finalised 29 of these. The balance are in various stages of being processed.

Limited partnerships

The *Partnership Act 1958* provides for the registration of limited partnerships and incorporated limited partnerships.

There are 94 limited partnerships on the register, up from 82 a year ago.

Four new incorporated limited partnerships (venture capital funds established as limited partnerships to gain advantages under the *Commonwealth Venture Capital Act 2002*) were registered in 2005–06, bringing the number registered at 30 June 2006 to eight.

Summary of registration activities 2003–04 to 2005–06

	2003–04	2004–05	2005–06
New business names registered	60,036	65,951	64,136
Business names on register at 30 June	336,356	354,992	365,469
New associations incorporated	1,568	1,439	1,507
Associations on register at 30 June	29,982	31,616	32,552
New co-operatives incorporated	20	22	10
Co-operatives on register at 30 June	759	755	748
New limited partnerships registered	N/A	17	21
Limited partnerships on register at 30 June	64	82	94
New retirement villages registered	N/A	N/A	323

Patriotic funds

The Director of CAV is to assume responsibility for regulating patriotic funds see Chapter 5, page 81 for details. In preparation, during 2005–06 business rules and processes that will assist in this regulatory function were written with assistance from representatives of the Patriotic Funds Council.

Licensed occupations

Consumer Affairs Victoria provides administrative services to the Business Licensing Authority (BLA). This independent statutory body is governed by the *Business Licensing Authority Act 1998* and licenses and registers:

- credit providers and finance brokers
- estate agents and agents' representatives
- introduction agents
- motor car traders
- prostitution service providers
- second-hand dealers and pawnbrokers
- travel agents.

Licensing protects consumers by allowing only eligible businesses and individuals to enter and remain in certain regulated industries, which in turn boosts consumer confidence to do business in these industries.

Also, legislation requires licensees to comply with certain industry-specific provisions, designed to address specific risks to consumers or communities in the particular industries. The occupations licensed by BLA are those which historically have shown a high risk of consumer detriment.

Consumer Affairs Victoria administers the licence application process and investigates applications on BLA's behalf. BLA then determines applications. BLA may grant or refuse an application. In granting applications BLA may impose licence conditions where it considers it appropriate to ensure regulatory objectives are satisfied. Examples of the conditions BLA can impose include specifying who licensees may employ, where they may trade, how they may deal with trust monies, and types of transactions they may undertake, or requiring reporting to BLA regarding trading activities or court judgments. During the year, BLA imposed conditions in 7.4 per cent of applications granted, where it had the power to do so.

In 2005–06, BLA received 2,053 applications, including 1,627 licence applications, 330 applications under the *Prostitution Control Act 1994* for brothel manager approval or for exemption from holding a licence, and 96 permission applications – applications for the grant or renewal of licences by applicants who would otherwise be disqualified from entering the real estate, motor car, second-hand dealer, or finance industries.

During the period, BLA finalised 2,008 applications (some of which were received during the 2004–05 financial year). Of these, 1,441 licence applications (some subject to conditions) and 315 brothel manager or exemption applications were granted. BLA approved 69 permission applications (some subject to conditions or restrictions) and 26 were either refused, or withdrawn by the applicants after BLA's serious public interest concerns were drawn to their attention. Nine licence applications and 11 brothel manager approval applications were refused. 137 applications were withdrawn by the applicant, frequently as a result of issues of concern being raised with them.

Applicants whose applications have been refused by BLA generally have a right of appeal to the Victorian Civil & Administrative Tribunal (VCAT). In 2005–06 there were eight appeals. Five of these were withdrawn or struck out and in the other three cases, BLA's decision was affirmed.

Consumer Affairs Victoria continually strives to enhance licensing service delivery standards. In June 2006, the licensing counter service was transferred along with other face-to-face services offered by CAV, to the new Victorian Consumer & Business Centre at 113 Exhibition Street, Melbourne.

Staff are also available to speak to potential applicants by appointment and by phone via a dedicated enquiry service.

Consumer Affairs Victoria has continued to build online service delivery capacity for regulated occupations and industries. Online public registers enable consumers to check the licence details of traders, including who is the licence holder and whether there are any special conditions included in the licence.

Other facilities enable licensees to update details for their businesses.

Online services for consumers and traders:

- online public registers
 - find a licensed estate agent
 - find a licensed motor car trader
 - public register of pawnbrokers
- update details or information
 - cease/commence as an agent's representative
 - specific details estate agents are required to update by law
 - apply for an estate agent user identification and pass code
 - submit an estate agent's annual statement
- application forms
 - for all licensing schemes
 - for making claims against the Motor Car Traders Guarantee Fund
 - information sheets
 - download *Guide to Real Estate Trust Accounting*
 - download *Better Car Deals*.

Email bla@justice.vic.gov.au

Visit www.consumer.vic.gov.au or
www.bla.vic.gov.au

Credit providers and finance brokers

The *Consumer Credit (Victoria) Act 1995* regulates credit providers and finance brokers. Reflecting the increased activity within the credit market, the number of credit providers registered in Victoria has steadily grown over the past five years, from 641 to 931.

Finance brokers are regulated through a negative licensing scheme. This scheme renders it an offence for disqualified persons (for example, persons found guilty of serious offences within the previous 10 years) to engage in finance broking. Permission applications, however, may be made to BLA. Finance broking includes mortgage broking, a field which has grown in recent years due to the property investment boom.

Estate agents

The number of estate agent licences continued to grow in 2005–06, with an increase of 2.9 per cent on the previous year and a 22.7 per cent increase over the last five years.

Uptake of online transactions for estate agents continued to increase during the year to a total of 5,476, a 106 per cent increase in the usage rate on the previous year. Efforts will be made in the coming year to encourage further growth.

Introduction agents

The *Introduction Agents Act 1997* places restrictions on those who can operate as introduction agents to prevent undesirable people from acting as agents, and imposes standards to ensure that both agents and clients have clear, enforceable rights and obligations. As at year end, 50 such agencies had notified that they are currently operating in Victoria, a decline from 62 the previous year.

Motor car traders

The number of licensed motor car traders (LMCTs) in Victoria has remained static for the past five years. As at June 2006, there was a slight drop in number to 2,198.

During 2005–06, CAV staff inspected proposed car yards of applicants for licences, and also the premises of existing LMCTs proposing to share premises with other existing businesses or LMCTs.

These inspections are aimed at protecting the public by ensuring that premises are appropriately delineated, to avoid the possibility of misleading consumers as to which trader they are actually dealing with. Inspections also enable CAV to investigate possible risks of licence lending (a practice whereby a trader attempts to avoid licensing requirements by trading under a licence issued to someone else).

Prostitution service providers

BLA and Consumer Affairs Victoria continued to assist Victoria Police, Federal Police, and Customs and Immigration officials, in providing requested background information relating to brothel licensees and associated brothel premises.

BLA and staff assisted with several police investigations involving sex slavery allegations in Victorian brothels. Numerous referrals of breaches of laws were also made to enforcement agencies.

Second-hand dealers and pawnbrokers

During 2005–06, Consumer Affairs Victoria continued to assist Victoria Police by providing names of registered second-hand dealers and pawnbrokers in various areas of Victoria, on request, in support of police compliance activities against unregistered dealers, and prosecutions involving stolen goods.

Travel agents

The Victorian *Travel Agents Act 1986* regulates people and corporations providing or offering travel services for profit. To trade as a travel agent in Victoria you must hold a travel agent's licence, unless you are exempt under the Act. Many businesses are regarded as

travel agents, including retail and corporate agents, tour wholesalers, consolidators, inbound tour operators, general sales agents, some bus or coach operators and some airlines. Travel agent licence numbers have remained fairly static over the last five years.

Every licensed travel agent in Victoria must be an ongoing member of the Travel Compensation Fund (TCF). This national compensation fund has been established to compensate people who have suffered financial loss as a result of a travel agent's failure to account for money or other considerations entrusted to them. TCF is made up of subscriptions from licensed travel agents, money forfeited by unlicensed travel agents and income from the investment of Fund money.

Summary of licenses/registrations 2003–04 to 2005–06

Type	2003–04	2004–05	2005–06
Credit providers	777	887	931
Estate agents	6,888	7,266	7,480
Introduction agents	60	62	50
Motor car traders	2,205	2,230	2,198
Prostitution service providers	180	171	151
Second-hand dealers and pawnbrokers	6,797	6,531	6,270
Travel agents	948	938	925
TOTAL	17,855	18,085	18,005

Licence applications/registration notifications received and granted/noted 2005–06

Type	Received	Granted/Noted
Credit providers	176	165
Estate agents	608	573
Introduction agents	11	11
Motor car traders	159	129
Prostitution service providers	24	10
Second-hand dealers and pawnbrokers	594	506
Travel agents	55	47
TOTAL	1,627	1,441

Liquor licensing

Applications for liquor licences are administered by CAV under delegation from the Director of Liquor Licensing, a statutory appointee.

Liquor licensing seeks to ensure that only people and entities described as 'suitable' in the *Liquor Control Reform Act 1998* are granted liquor licences or BYO permits under the Act. Consumer Affairs Victoria supports achievement of this objective by administering and investigating liquor licence applications. Conditions on liquor licences are applied by the Director of Liquor Licensing where deemed appropriate. Conditions are applied to minimise the potential negative impact of granting of licences or permits on communities and are therefore drafted to be pragmatic and enforceable.

In 2005–06, the Director of Liquor Licensing received 18,195 liquor licensing applications (an 11 per cent increase on the previous year), including 12,192 temporary limited licence applications, 62 per cent of which were lodged online.

During the financial year, 16,396 applications were granted, including 11,315 temporary limited licence applications. Thirty-six applications were refused and a further 1,772 applications were withdrawn or otherwise did not proceed (some of these applications were received during the 2004–05 financial year).

In 2005–06 there were outcomes on 22 applications to the Victorian Civil & Administrative Tribunal for review of decisions of the Director of Liquor Licensing.

Outcomes included:

- two decisions affirmed
- two decisions set aside
- two decisions varied by VCAT
- two decisions remitted to the Director for reconsideration
- 14 applications withdrawn by applicant or struck out.

The number of active licences increased to 16,761. The number of BYO permits dropped slightly to 1,425. The combined total of 18,186 licensed premises as at financial year end represents an increase of 4.7 per cent on the number of premises licensed at the end of the previous financial year.

Through exercise of its licensing function, Consumer Affairs Victoria supports the Director of Liquor Licensing to ensure that licensees receive adequate training on their statutory responsibilities, since this is a requirement in the liquor licence application process.

CAV also works with licensees to assist them in achieving compliance with statutory responsibilities, and also provides support to Victoria Police, who is responsible for enforcing the Act.

Education and training of those involved in the provision of alcohol (for example, licensees and bar staff) promotes knowledge of, and compliance with, the liquor laws, and a culture of responsible service throughout the liquor and hospitality industries. Communication between licensees, Consumer Affairs Victoria, Victoria Police and local councils promotes responsible operation under licences and permits.

Outcomes achieved during 2005–06 included:

- 3,019 licence applicants received new entrant training
- 46,116 hospitality students and bar staff received Responsible Serving of Alcohol training, bringing to 289,890 the number of people trained throughout Victoria since inception of the program in 1992
- 8,006 undertook the online Responsible Serving of Alcohol refresher training (576 were people with interstate certification who used the facility to become certified in Victoria), with 20,118 having used this facility since its introduction in 2001
- 13 quality assurance seminars with Responsible Serving of Alcohol trainers were conducted to ensure that the trainers were current with their training material
- development of regulations relating to Alcohol Without Liquid machines
- development, in consultation with industry bodies, of the Code of Conduct for packaged liquor
- five regional liquor licensee seminars were held by the Director of Liquor Licensing, with CAV staff providing local licensees with updated information on liquor licensing issues
- 75 Liquor Licensee Forums are in place across Victoria; licensees, Victoria Police, Consumer Affairs Victoria, and in some cases local councils meet to work through local issues relating to licensed premises – CAV staff attended over 170 of these meetings in 2005–06
- Street Talk (where Consumer Affairs Victoria staff visit different areas and meet licensees at their premises to provide information and answer questions) was conducted at 34 locations throughout the State and involved 553 licensed premises
- 2,042 new subscribers received the electronic newsletter *Grapevine*, bringing the total number of subscribers to 4,420
- 28 new or updated publications on licensing information were developed
- 4,134 Proof of Age cards were issued (primarily to young people) to assist licensees to comply with responsibilities concerning underage persons on licensed premises.

The Liquor Control Reform Act 1998 creates over 60 offences addressing issues of concern such as underage drinking, drunkenness, anti-social behaviour in and around licensed premises, and disturbance of the neighbourhood amenity. Consumer Affairs Victoria has a strong partnership with Victoria Police, aimed at supporting enforcement activities, and frequently reviews and updates the legislative framework to ensure that it is optimally suited for enforcement needs dictated by current realities.

Victoria Police liquor licensing enforcement outcomes in 2005–06 included:

- 2,622 on-the-spot infringement notices issued
- nine licensee disciplinary proceedings under the Act lodged at VCAT.

During 2005–06 the Director of Liquor Licensing and CAV were involved in several Whole of Victorian Government alcohol-related initiatives, including:

- participating on the Inner City Entertainment Precinct Taskforce – the Taskforce presented its final report to the Minister of Police and Emergency Services this year
- implementing recommendations from the Royal Commission into Aboriginal Deaths in Custody Report
- membership of the implementation group of the Live Music Taskforce
- licensing of venues for the 2006 Commonwealth Games (see Chapter 6, page 102)

- contributing content to the Victorian Business Master Key project (see page 52)
- membership of the steering committee developing WorkSafe crowd control guidelines.

CAV also participated in national alcohol-related activities, including:

- the Schoolies Taskforce chaired by the Premier’s Drug Prevention Council membership of an Australian Drug Foundation project to develop a guide for venue operators when dealing with emergencies such as overdose and drink spiking.

Summary of liquor licensing activity 2003–04 to 2005–06

	2003–04	2004–05	2005–06
	Applications received		
	16,136	16,919	18,195
	Applications determined		
	16,624	16,782	18,204
Type	Licences held		
General	1,956	1,967	1,967
On-premises	4,997	5,306	5,589
Packaged liquor	1,591	1,698	1,765
Full club	802	798	793
Restricted club	1,452	1,386	1,323
Pre-retail	522	567	584
Vignerons	506	528	543
Limited	3,171	3,662	4,197
BYO	1,514	1,457	1,425
TOTAL	16,511	17,369	18,186

Nearly 20,000 liquor licence files, holding 46,000 application records (over 700,000 sheets of paper) that occupied around 400 linear metres of compactus shelving have now been archived off-site.

The project was undertaken in anticipation of the move to 121 Exhibition Street and in line with the objective to significantly reduce file holdings in the new building.

Authorised staff now access electronic images of the files on-screen.

Reforming regulatory practice

Victorian Regulators' Forum

During 2005–06, Consumer Affairs Victoria continued to organise the Victorian Regulators' Forum which is intended to contribute to improving regulatory practice in Victoria. The Forum facilitates discussion of common operational and governance issues among regulatory agencies. One Forum was organised by CAV in 2005–06, Alternative Dispute Resolution and Regulation, in December 2005.

The Forum focused on the objectives of dispute resolution in a regulatory environment, whether it might add value to the regulatory process and whether dispute resolution and regulation/enforcement are alternative or complementary mechanisms. Forum contributors noted that regulators may be directly or indirectly involved in the dispute resolution process. An ADR function may exist within the regulatory agency, or be performed by a separate body, with regulatory agency monitoring and responding, or some ADR functions may be 'in-house' with others separate.

Some of the issues raised at the Forum included:

- How do regulators know their models are working?
- What performance indicators do regulators use to measure the success of ADR?
- How do regulators best address the need for outcome- rather than activity-based performance indicators?

Since the inception of the Forum, meetings have been well attended and positively received by participants. The Forum has also been positively received by the Victorian Competition and Efficiency Commission (VCEC), the State's foremost advisory body on business regulation reform and opportunities for improving Victoria's competitive position. The VCEC has commented that the Forum has the potential to significantly improve co-ordination and consistency among regulators and recommended that Ministers encourage the regulators for which they are responsible to participate actively.

Further Forum sessions are planned for 2006–07.

Victorian Business Master Key project

The Victorian Business Master Key (VBMK) project was announced as a key initiative of the Victorian Government's April 2004 economic statement *Victoria: Leading the Way*. The VBMK intends to make it easier for small business to manage their compliance obligations and interactions with all levels of government. The initiative is managed by the Department of Industry, Innovation and Regional Development (DIIRD). The Director of CAV is a member of the project board.

The VBMK project will enable ‘joined-up’ government service delivery to small business, and capabilities for improved ‘customer-centric’ service delivery (including online learning, inquiry management, and identity and transaction services). While underpinned by online technologies, the VBMK project’s success will depend on inter-agency business processes, real-person service and the effective involvement of value-added service providers.

Phase one of the VBMK will allow businesses to:

- access and manage comprehensive government information through personalised, needs-based and learning-oriented tools
- obtain high quality managed customer service across government
- conduct transactions through an integrated account system.

In phase one the VBMK service framework will integrate services from the Australian Tax Office, State Revenue Office, Office of the Small Business Commissioner, Victorian WorkCover Authority and CAV.

To date, CAV has collaborated with DIIRD in preparing and providing business targeted content for distribution through the Business Victoria website, content and protocols for the operation of the VBMK call centre and partial integration with the VBMK account management facility of the online transaction for registration of business names.

Further integration of CAV services is expected in 2006–07.

Performance measurement in CAV

Consumer Affairs Victoria established a Performance Measurement Project during 2005–06 to develop and implement a more outcomes-focused performance measurement framework across all of its regulatory functions. Existing reporting on CAV’s many regulatory functions provides extensive information on measures of activity and output, but collectively these reports do not satisfactorily indicate the extent to which CAV is achieving good outcomes for Victorian consumers.

CAV administers nearly 50 pieces of legislation, including 20 separate schemes of regulation (though some of these have common elements). Establishing a common performance measurement framework across general consumer protection regulation and multiple industry-specific consumer protection regulation is a challenge of substantial complexity.

The release of the VCEC’s Report *Housing Regulation in Victoria: Building Better Outcomes* during 2005–06 provided additional impetus for CAV to progress the development of a more robust performance reporting scheme. Although the VCEC’s Report was principally concerned with matters relating to the Building Commission, some areas of the Report and its recommendations were explicitly or implicitly relevant to CAV’s role in domestic building contract regulation including its participation in Building Advice and Conciliation Victoria.

In responding to the VCEC's recommendations, CAV has taken the opportunity to comprehensively review from first principles its performance reporting arrangements across the entire range of its regulatory responsibilities.

The development of a performance indicator framework is intended to result in a set of indicators that:

- reflect the extent to which CAV's activities are achieving their objectives and how these are translating into outcomes
- are sourced from stable databases that can be relied upon to provide consistent data in forthcoming years, thereby enabling both comparisons and trend analysis
- have the capacity to accommodate changes to the delivery of services and organisational change.

Ultimately, when completed and operating fully, CAV's new performance reporting framework will serve a number of important functions, including:

- informing the Government through consistent reporting over time about the extent to which CAV is meeting its objectives in the medium and longer term and the impact its services and initiatives are having in the community
- providing CAV with a tool for developing strategies and programs to deliver optimal outcomes by knowing what is working well and what is not working
- enabling CAV to report on outcomes for specific groups within the community, such as disadvantaged and vulnerable consumers and consumers in particular regions.

Workshop on Republic of South Africa draft Consumer Protection Bill

The Director of Consumer Affairs Victoria was a guest of the South African Government at a workshop on a new Consumer Protection Bill for the Republic.

The workshop, attended by experts from several countries, was held in Johannesburg on 20–21 January 2006. The discussion around many aspects of the Bill was of interest to Victoria.

Given the strong desire to achieve high and sustainable rates of economic growth and greater social justice in South Africa, it is significant that the country is moving to enhance its consumer policy framework.

Chapter Four

Compliance and Enforcement

CAV assists traders to comply with the law, and uses a range of enforcement options to address trader behaviour that causes loss to consumers.

Chapter Highlights

- Significantly increased the amount of compensation obtained for consumers through court action and co-operation with other agencies
- Increased civil proceedings by over 18 per cent
- Conducted extensive monitoring activities in various sectors, in both regional and metropolitan Victoria
- Implemented strategy to address problems caused by unscrupulous itinerant traders

While licensing and registration frameworks are designed to promote good practice and adherence to minimum industry standards, some industries regulated under legislation administered by CAV are not subject to licensing or registration schemes. Further, some potentially detrimental trader behaviour cannot be addressed through licensing or registration schemes. Conduct ranging from non compliance with statutory requirements through ignorance, to deliberate flouting of the law and consumer exploitation need to be dealt with by other means.

To help address ignorance of the law, CAV now informs diverse categories of traders of their obligations under the *Fair Trading Act 1999* by distributing *A Fair Trading Guide for Business*, a new publication developed this financial year, to all licensed businesses and business name registrants. This Guide directs traders to more detailed publications and information on fair trading located at a new section of the CAV website about running a fair and lawful business.

CAV's new web section for business is located at www.consumer.vic.gov.au/fairbusiness.

To address conduct where traders deliberately flout the law, CAV uses the suite of compliance and enforcement tools contained in the *Fair Trading Act 1999*, many of which can also be used to enforce the other Consumer Acts administered by CAV.

Legislative changes in recent years have provided Consumer Affairs Victoria with the ability to apply sophisticated measures to address the market abuse and non compliance issues that impact on consumers and result in consumer detriment.

As a result of amendments made in the last few years, the Fair Trading Act now provides for a range of civil and administrative measures to address non compliance, rather than leaving CAV to rely heavily on criminal prosecutions and fines, which can be costly and time-consuming to pursue, and do not necessarily benefit the affected consumers or the community as a whole.

The new civil and administrative remedies have allowed CAV to take a more flexible, targeted and proportionate approach to addressing non compliance, by choosing to pursue appropriate remedies depending on the nature of a trader's conduct. In addition, criminal prosecutions continue to be available to CAV in cases of serious non compliance.

These measures led to an increase of over 18 per cent in the number of civil actions conducted by CAV. The ability to apply promptly a range of civil and administrative remedies allows a more selective approach toward the use of criminal prosecutions.

The application of these remedies has resulted in a more proportionate, consistent and targeted response, and further enhanced CAV's ability to act quickly to stop unlawful conduct, thus preventing further consumer detriment.

In addition, the application of civil and administrative resolutions has provided Consumer Affairs Victoria with the tools to seek redress for consumers affected by non compliant trader behaviour.

Case Study: VIP Executive Car Rentals Pty Ltd and Andreas Triantafyllos

CAV received 17 complaints from consumers located in Australia and overseas (including South Korea, India, UK and Singapore) about VIP Executive Car Rentals Pty Ltd and its director Andreas Triantafyllos ('VIP').

VIP took security deposits via consumer credit cards when they hired prestige motor cars in Melbourne, and termed those deposits as 'pre-authorisations' or 'security deposits' against the possibility of damage to the cars. Representations were made that these security deposits would not be

debited to consumers' credit cards unless the cars were damaged. However VIP debited these amounts immediately and failed to refund them upon the return of the cars in an undamaged state, or when asked by consumers to do so. The amounts were usually \$3,000, \$4,000 or \$5,000.

Consumer Affairs Victoria made a successful application in the Magistrate's Court for declarations that VIP had engaged in conduct that was misleading or deceptive, or was likely to mislead or deceive. Injunctions were also granted, imposing a compliance regime on how VIP may operate its credit card facility to take security deposits.

Through the combined efforts of Consumer Affairs Victoria and Victoria Police, consumers also obtained refunds totalling \$279,900.

Compliance and enforcement outcomes 2005–06 against 2004–05*

Matter	2004–05	2005–06
Value of fines issued in court	\$371,550	\$287,550
Value of Court Fund and VCAT penalties imposed	\$5,150	\$10,500
Value of costs orders obtained	\$33,434	\$43,840
Compensation for consumers obtained through court action	\$35,742	\$143,589
Number of criminal proceedings completed	47	47
Number of civil actions completed (includes all VCAT proceedings, hearings and reviews)	72	88
Number of parties signing enforceable undertakings	60	43
Number of infringement notices served	347	386
Number of information notices served	156	267
Number of substantiation notices served	9	6
Number of warrants executed	14	21

* Variances in these figures are partially due to the use of new measures available to CAV, as discussed above.

Monitoring

CAV regularly monitors specific areas and industries to keep up to date with traders' activities in the marketplace. The compliance exercises are aimed at educating traders on their fair trading obligations. During the exercises, CAV officers distribute education packs and provide information and support to aid voluntary compliance. Inspectors conduct audits and assess business practices in the supply of goods and services, as well as assessing licensed traders. As a result of information gathered during these exercises, CAV may opt to investigate particular traders' conduct further, and where appropriate will consider taking action to enforce legal requirements. Examples of monitoring and related activities conducted in 2005–06 are reported below.

National database of alerts and complaints

During 2005–06, CAV concluded arrangements for Victoria's participation in AUZSHARE, a facility for consumer protection agencies across Australia to share information about scams of national significance, and consumer complaints. AUZSHARE is a project of the Ministerial Council on Consumer Affairs (MCCA).

Through AUZSHARE, consumer protection agencies can monitor consumer issues emerging in other jurisdictions, and investigate potential impact in their own jurisdictions.

Posted alerts on AUZSHARE are intended to enable fast, widespread action against scammers and rogue traders. This will help to address the limitations that state and territory

consumer protection offices sometimes face in dealing with consumer rosters operating nationally, or traders who evade local consumer protection machinery by moving their operations interstate, in new guises.

Generic consumer policy research and national trend tracking are among the intended benefits of sharing complaint information.

Investigating seconds stores and factory outlets

Consumer Affairs Victoria regularly undertakes compliance and enforcement exercises at metropolitan shopping centres, including factory outlets and seconds stores.

In May 2006, Consumer Affairs Victoria fair trading inspectors visited 98 stores at the Direct Factory Outlets (DFO) in Essendon and identified issues with 67 traders.

Inspectors found problems in a number of areas including refunds, lay-bys and business names.

Of the 67 identified traders, 13 had previously received written warnings from Consumer Affairs Victoria for similar issues. Traders found to be trading with unregistered business names numbered 24.

A significant number of warning letters was issued. Many stores that received warning letters as a result of the compliance monitoring exercise conducted at DFO have since registered their business names, and revised their refund and/or lay-by policies.

A number of the matters will result in more serious enforcement action, particularly where traders have been warned by Consumer Affairs Victoria about non compliant refund and/or lay-by policies in the past, and have not acted on those warnings.

Regional activities

To ensure the needs and demands of consumers outside Melbourne and metropolitan areas are addressed, and to raise community awareness of Consumer Affairs Victoria, CAV also conducts compliance and enforcement exercises in regional areas.

In 2005–06, Consumer Affairs Victoria conducted regional compliance and enforcement exercises in and around Echuca, Wangaratta, Warrnambool and Swan Hill.

Of the 986 premises visited, 298 traders (or 30 per cent of traders) were found to be in breach of legislation administered by CAV, to varying degrees.

The types of enforcement remedies applied ranged from verbal warnings, warning letters and infringement notices for minor offences, to enforceable undertakings and criminal, civil and tribunal proceedings for major offences.

Nationwide retail price scanning audit

In February 2006, Consumer Affairs Victoria joined with other state and territory consumer protection agencies in a national price scanning audit. The purpose of the audit was to check that the prices of retail goods matched shelf prices, when scanned at checkout points. The nationwide audit tested nearly 4,000 everyday items purchased from more than 150 stores throughout Australia.

In Victoria, only 35 per cent of the audited stores delivered perfect matches. In 48 per cent of the Victorian stores tested, CAV found products that scanned higher than their shelf prices. However, this was a comparatively good result in relation to the results from other states and territories.

If scanned prices do not match shelf prices, traders may be in breach of the *Fair Trading Act 1999*. Consumer Affairs Victoria is following up with non compliant traders to ensure that they comply in future, and will use the audit data collected to target future trader compliance and enforcement programs.

Enforcement actions resulting from regional compliance exercises

	Swan Hill	Warrnambool	Wangaratta	Echuca	Total
Proceedings (criminal, civil, VCAT)	0	5	1	2	8
Enforceable undertakings	0	0	1	2	3
Infringement notices (number of traders involved)	12 (2)	43 (3)	20 (7)	37 (10)	112 (22)
Warning letters	2	92	100	60	254
Verbal warnings	0	2	3	5	10

If a scam comes calling – delete it, destroy it, hang up!

In February and March 2006, Consumer Affairs Victoria took part in a month-long scams education campaign aimed at combating consumer fraud, and built around the message 'If a scam comes calling – delete it, destroy it, hang up!'

The initiative was part of a national month of scam awareness activities organised by the Australasian Consumer Fraud Taskforce, a group of 18 regulatory agencies and departments in Australia and New Zealand, including CAV.

During the campaign, CAV concentrated on raising public awareness about the following particular scams:

- Lottery scams. Scammers typically claim that the recipient has won a sweepstake or lottery, but that upfront 'processing fees' must be paid before winnings can be obtained.
- Phishing emails. These messages contain links to carefully replicated but fraudulent websites in a bid to con consumers into divulging confidential credit card and banking information.
- Unauthorised advertising ('blowers'). Scammers typically pose as publishers of magazines, directories or internet sites in order to convince consumers to buy advertising space or directory listings.
- Advance fee fraud ('Nigerian-style con'). Scammers target businesses by letter asking them to disclose their banking details in return for their share of millions held in a Nigerian bank account.

The scams campaign gained coverage in the local, regional and national media, generating many calls to the CAV contact centre and visits to CAV's website, which featured a revamped and updated scams section.

Here, consumers could access:

- the Dob-In-a-Scam service
- a downloadable fact sheet
- scanned samples of scams
- a scams email alert newsletter service.

The scams section became one of the most visited parts of the CAV website during the initiative, with visits to the section increasing by nine per cent and downloads of the scams fact sheet by 40 per cent. Visits to the scams section averaged about six minutes in length, which suggested that consumers were taking their time to read the information on offer.

As part of the initiative, kits containing electronic scams fact sheets, Australasian Consumer Fraud Taskforce backgrounders, and related flyers and brochures were distributed by CAV community educators in the regional and metropolitan areas.

A series of media releases on scams was sent to news organisations.

CAV joins nationwide jewellery advertising check

During the year CAV participated in a nationwide project to check that jewellery advertising claims complied with consumer protection legislation, including the *Fair Trading Act 1999*.

In the lead-up to Mothers' Day 2006, state, territory and federal consumer protection agencies checked catalogue advertising to identify claims that consumers would save money by paying less than the normal price for jewellery over this period. A typical example of jewellery catalogue advertising would be: 'was \$200/now \$150' and '~~\$200~~ \$150'. If the savings advertised were not real – for instance, if the item was never on sale at the 'was' price – such claims are likely to breach fair trading laws.

Consumer Affairs Victoria and other consumer protection agencies have written to a number of Victorian jewellery retailers and requested they substantiate claims made in their advertising about discounted prices.

The monitoring exercise follows active education of jewellery industry members about their obligations under fair trading legislation.

Responses will be carefully considered to see if any further action is required.

Itinerant traders

Last year CAV reported on the development of a strategy to counter the problems caused by itinerant traders. Some itinerant traders pose as legitimate tradespeople and tout for work as asphalters, painters or roofers.

They blow in from overseas or interstate generally in spring and operate through to March. They particularly target the elderly and are highly organised. As soon as they are detected in one town they vanish, only to resurface with the same scam in another state. Often the details they have supplied – names, licences, telephone numbers, receipts and invoices – are fake.

Because of the way they operate, itinerant traders have been notoriously difficult to catch.

In 2006, CAV piloted its new itinerant trader strategy. The strategy aims to increase consumer awareness of itinerant traders (particularly among the elderly), help communities work together to detect itinerant traders, and deter itinerant traders from operating in Victoria.

Education and information

In early 2006 CAV ran a campaign, focused mainly on regional Victoria. New brochures and three new posters were developed to help communities recognise itinerants in their midst and report to CAV. These materials were either sent to community stakeholders – councils, libraries, building suppliers and caravan parks – or given to CAV regional officers to distribute on their rounds. CAV staff have spoken about itinerant traders to Probus and Senior Citizens clubs.

Sharing information and resources

Links have been developed with trader associations and fair trading and enforcement bodies in other states, and these have served as a good conduit for information exchange regarding the movement and conduct of itinerants.

Working with other agencies can also assist in addressing the issue. For example, because of their operating methods, rogue itinerant traders often move from caravan park to caravan park.

In early December 2005, as part of CAV's regional compliance monitoring program, officers attended various caravan parks in north east Victoria to meet caravan park owners and/or managers and request their assistance in detecting the movements of itinerant traders.

Consumer Affairs Victoria subsequently became aware that a large number of itinerant traders were staying at the Borderland Caravan Park ('the Wodonga Caravan Park').

On 28 December 2005, Consumer Affairs Victoria and police officers from the Wodonga and Albury police stations visited the Wodonga Caravan Park. With the assistance of police and the caravan park owners, CAV was able to obtain the names, dates of birth and vehicle registration numbers of approximately 30 itinerant traders.

The presence of Consumer Affairs Victoria at the Wodonga Caravan Park resulted in most of these itinerant traders fleeing Victoria and has also led to drastic reduction in the number of complaints received by CAV in regard to these individuals.

Enforcement action

During 2005–06, CAV developed a new enforcement process to enable officers to quickly pull together information and mobilise against traders as soon as they are reported. This enforcement process has been tested a number of times this year with good results.

An example of the results that can be obtained using the new process is provided by the matter of Joseph Yelding.

In June 2005, Consumer Affairs Victoria received a complaint about this trader, a known rogue itinerant, who had taken money for roofing and plumbing work that was both incomplete and defective. When CAV tried to contact Mr Yelding, he disappeared.

In May 2006, CAV again received a complaint about Mr Yelding, operating as 'Diamond Coat Roofing'. This time CAV was able to locate the scammer and bring him to justice. On 28 June 2006, the Melbourne Magistrate's Court declared that Mr Yelding had engaged in misleading and deceptive conduct, accepted payment without being able to supply, and made false representations – all of which contravened the *Fair Trading Act 1999*.

Injunctions were granted banning Mr Yelding from engaging in similar deceptive behaviour. Mr Yelding was also ordered to pay over \$3,300 in compensation to the consumer.

To protect other consumers from being similarly scammed the Director of Consumer Affairs Victoria took the step of issuing a warning to consumers, publicly naming Joseph Yelding and alerting consumers to his activities.

This was an excellent result on an issue that has previously proved difficult to pursue.

Focus on real estate

Education and information

CAV now sends a regular newsletter directly to about 2,800 licensed estate agents including officers in effective control, branch managers and sole traders, complementing the regular bulletins produced and circulated by the Estate Agents Council to provide information to estate agents on current issues and business practices. Two newsletters were delivered this financial year.

These provided information to enhance compliance in commission sharing, short-term leasing, display of auction conditions, licensing requirements and obligations when advertising property. The second edition provided estate agency businesses with insights into the processes and benefits of setting up an internal complaints-handling system. Several letters have been received from agents, engaging them in a healthy debate within the newsletter about the unhealthy practices of under-quoting and over-quoting. This has given CAV the opportunity to reiterate requirements for agents to comply with the law when advertising properties.

The newsletter has also enabled CAV to successfully promote the online services of the Business Licensing Authority and Residential Tenancies Bonds Authority, and invite agents to show their clients they are 'fair dinkum' by ordering copies of CAV's real estate guide (see Chapter 1, page 12) to distribute.

Inspection program

In 2005–06, Consumer Affairs Victoria conducted 573 audit compliance inspections of estate agents. The purpose of the inspections was to identify potential areas of risk to consumers (particularly regarding the responsibilities relating to trust monies) and to make sure that trust accounts are operated in accord with Department of Justice agreements with approved financial institutions. Inspectors were particularly interested in estate agents who had not returned an audit, had problems outlined in returned audits, or had debt issues and appeared on the Dun & Bradstreet Register.

Audit program

Consumer Affairs Victoria identified and wrote to licensed estate agents who had not submitted an annual audit in 2005 and/or 2004, which resulted in immediate compliance by over 50 per cent of this number. This program foreshadows an enforcement program to be implemented in 2006 against estate agents who fail to submit an annual audit on time.

Investigation program

In 2005–06, CAV concluded 70 investigations regarding issues of non compliance with the *Estate Agents Act 1980*, including unlicensed trading, under-quoting, dummy bidding, audit irregularities and issues to do with agents' representatives.

Approximately 103 investigations were begun during the financial year and at the end of the reporting period some were continuing. Matters are referred to Consumer Affairs Victoria from the Estate Agents Resolution Service, First Line Enforcement, directly from the public and from the results of the audit compliance inspection program.

Industry codes of practice

Another method for promoting compliance is the implementation of industry codes of practice to safeguard and promote the interests of consumers. The Director of Consumer Affairs Victoria is empowered to encourage the preparation and use of codes of practice under the *Fair Trading Act 1999*.

Industry code for short-term accommodation booking agents

During 2005–06, CAV worked with Tourism Victoria and Tourism Alliance (an industry association representing tourism operators) to develop a code of practice for short-term accommodation booking agents and to establish a working group that includes industry representatives.

The development of the code of practice came about following the Victorian Government's move to exempt short-term accommodation booking agents from the real estate licensing requirements of the *Estate Agents Act 1980*. The exemption applies to businesses that advertise, book and lease accommodation for holiday or other purposes for no longer than 90 days.

Types of businesses that take short-term accommodation bookings are typically accommodation providers, tourism operators, visitor information centres and private businesses that provide travel and/or accommodation booking services, possibly operating online rather than with a local presence.

The code of practice is intended to be a self regulatory mechanism to maintain industry standards and provide consumer protection in the following key areas:

- advertising and special offers
- provision of pre-sale information to consumers
- holding and receiving payments (including advance payments), deposits and bonds
- fees and charges (particularly cancellation fees)
- complaint-handling procedures.

The working group will provide important industry input into the development of the code.

CAV will work with the industry to determine whether the development of a voluntary code would be supported and how such a measure might be implemented.

Court action

CAV's *Compliance and Enforcement Policy Guidelines* set out the organisation's approach to compliance and enforcement action. When appropriate, in terms of these Guidelines, CAV pursues legal enforcement action against traders in the areas of building, credit, fair trading, fundraising, licensed occupations, real estate and rogue traders. (For reporting on credit see Chapter 6, page 99.)

The following are examples of court action undertaken during 2005–06 in respect of each area.

Building

Following the success of the 2004–05 project which targeted unregistered domestic builders, CAV prosecuted 32 unregistered builders in 2005–06 for significant breaches of the *Domestic Building Contracts Act 1995* and for misleading and deceptive conduct under the *Fair Trading Act 1999*. Action taken by Consumer Affairs Victoria in the last financial year has resulted in unregistered building practitioners being fined a total of \$243,050 (including Court Fund penalties) and consumers receiving a total of \$71,250 in compensation.

CAV's building project is aimed at protecting consumers from unscrupulous builders who breach the law. It particularly targets builders who accept large deposits and do not return to commence or complete domestic building work. The following cases illustrate the conduct targeted by Consumer Affairs Victoria and the extent of the success of the project.

Thomas Michael Kelly

Consumer Affairs Victoria successfully took action against Thomas Michael Kelly, an unregistered building practitioner, in the Magistrate's Court in late 2005. He was convicted of breaching the *Domestic Building Contracts Act 1995* and *Fair Trading Act 1999* and fined a total of \$75,000 for his infringing conduct. Mr Kelly had entered into a major domestic building contract to carry out building works totalling \$34,000. In addition to being unregistered and engaging in misleading and deceptive conduct, Mr Kelly demanded an excessive deposit from his clients, failed to use the correct building contract, failed to complete the contracted works and provided a building service that was materially different from that which he had been engaged to perform.

*David Colangelo,
All Tite Spots Pty Ltd*

All Tite Spots Pty Ltd and its director, David Colangelo, were prosecuted by Consumer Affairs Victoria for offences under the *Domestic Building Contracts Act 1995* and *Fair Trading Act 1999* relating to landscaping services and other building work. While unregistered, Mr Colangelo's company constructed retaining walls, garages, pergolas and decking for consumers and, in one case, contracted to carry out building works in excess of \$132,000.

CAV prosecuted Mr Colangelo and All Tite Spots Pty Ltd for carrying out major domestic building work whilst unregistered, receiving excessive deposits, using incorrect contracts and engaging in misleading and deceptive conduct. Mr Colangelo was convicted of 27 charges and was fined a total of \$20,000 for his contraventions of the *Domestic Building Contracts Act 1995* and *Fair Trading Act 1999*. The company was convicted on the same charges and fined a further \$1,000.

*Mark Tony Randle, Panel Homes
Australia Pty Ltd*

In another action against an unregistered builder, Consumer Affairs Victoria secured an order directing Mark Tony Randle of Panel Homes Australia Pty Ltd to pay \$17,700 in compensation to a consumer. Mr Randle demanded an excessive deposit from his sick and elderly client and then failed to return to commence the building works. Mr Randle was convicted of offences under the *Domestic Building Contracts Act 1995* and *Fair Trading Act 1999* by the Melbourne Magistrate's Court and was fined a total of \$10,000.

*Mario Sanchez
(aka Oswaldo Rodriguez)*

The Magistrate's Court convicted Mario Sanchez for breaches of the *Domestic Building Contracts Act 1995* and *Fair Trading Act 1999* and fined him a total of \$27,000, with a further \$12,850 to be paid to the consumer in compensation. Consumer Affairs Victoria took action against Mr Sanchez for being an unregistered builder, for engaging in misleading and deceptive conduct, failing to complete building works for which he had accepted payment and for providing a service that was materially different from the service for which he was contracted.

Fair trading

*Bevan Crowley, Ann Crowley,
Hannah Crowley, Australasian
Corporate Events (2004) Pty Ltd
and Enews Publications Pty Ltd*

In late December 2005, the Director of Consumer Affairs Victoria issued a Public Warning Statement to warn consumers about the activities of the above parties, referred to collectively as 'the Crowleys'. The Crowleys were unlicensed travel agents who arranged, promoted and accepted monies for overseas study tours and conferences, and marketed them as 'half scholarships'. They also operated businesses under unregistered business names. Consumers had complained that the Crowleys did not honour promises regarding the content and type of travel, and that they undertook unfair business practices. In some cases the Crowleys did not supply refunds when the consumers were entitled to receive them.

In May 2006, the Magistrate's Court made interlocutory orders to restrain the Crowleys until the final hearing from carrying on business as travel agents and from arranging, booking, selling or re-selling travel tickets and accommodation while unlicensed as travel agents. The Court also ordered the Crowleys be restrained from representing an association with Travelscene American Express through the use of business logos or by any other means.

In June 2006, the Court confirmed the previous orders and made further interlocutory orders to restrain Enews Publications Pty Ltd, Australasian Corporate Events (2004) Pty Ltd and Hannah Crowley from carrying on business under several unregistered business names including 'OHS Daily News' and 'International OHS Study Half Scholarship', or derivatives of the names unless registered under the *Business Names Act 1962*. The Court also made an interlocutory order that Bevan, Hannah and Ann Crowley be restrained from aiding and abetting, counselling or procuring; or carrying on any business using unregistered business names.

The final hearing will take place during the 2006–07 financial year.

Fundraising

Children's Cancer Institute Australia for Medical Research

In March 2006, Consumer Affairs Victoria obtained an enforceable undertaking from Children's Cancer Institute Australia for Medical Research (CCIA), in which CCIA acknowledged that it had breached a condition imposed on its fundraising registration, and had contravened the *Fundraising Appeals Act 1998*.

CAV had become concerned about a fundraising dinner held by CCIA in February 2005, at which Ms Cherie Blair, wife of the British Prime Minister, was a guest speaker.

Investigations conducted by Consumer Affairs Victoria indicated that only 8.2 per cent (\$15,800) of the gross appeal proceeds raised on the night were provided to CCIA's beneficiary, cancer research. CAV was particularly concerned that this conduct was a breach of a condition imposed by Consumer Affairs Victoria on CCIA's fundraising registration requiring that the total fees, charges and expenses levied by the fundraiser against the total funds raised in each fundraising appeal conducted in Victoria must not exceed 40 per cent of the total funds raised in that appeal.

In providing the enforceable undertaking, CCIA also undertook to comply with all conditions placed on its registration as a fundraiser under the Act, including:

- informing Consumer Affairs Victoria prior to the commencement of any fundraising appeal within Victoria and providing relevant information in relation to the proposed fundraising appeal
- providing Consumer Affairs Victoria with audited accounts for all fundraising appeals conducted in Victoria for the next five years
- prominently displaying in all solicitations, either written or oral, the percentage of gross appeal proceeds distributed, or available to be distributed to the identified beneficiary
- taking steps to ensure that complete financial records, which can be independently verified, will be maintained
- prominently displaying a public apology on their website for 12 months.

Woolworths Limited

In December 2005, Consumer Affairs Victoria obtained an order from the Magistrate's Court restraining Woolworths Limited, the operator of Safeway supermarkets, from conducting fundraising appeals unless registered to do so by the Director of Consumer Affairs Victoria.

In November 2005, the Melbourne Safeway store in the Queen Victoria building was conducting fundraising activities while unregistered as a fundraiser by Consumer Affairs Victoria, and was therefore in breach of the *Fundraising Appeals Act 1998*.

In addition, this conduct was in breach of an enforceable undertaking that Woolworths Limited had given to Consumer Affairs Victoria in July 2002 after it was initially identified as an unregistered fundraiser.

Woolworths Limited became registered on 9 December 2005, and entered into a new enforceable undertaking on 3 February 2006, agreeing to:

- make an application for registration to Consumer Affairs Victoria 28 days prior to any proposed fundraising appeal commencing save for urgent applications made under section 18B of the Act
- notify the Director of Consumer Affairs Victoria of the addition of any beneficiaries, 28 days prior to commencing an appeal
- abide by any and all conditions the Director of Consumer Affairs Victoria places on Woolworths' registration as a fundraiser
- undertake fundraising activities in the State of Victoria only if registered by the Director of Consumer Affairs Victoria as a fundraiser and in accordance with any conditions imposed by the Director

- refrain from making any direct or indirect representations that would lead a member of the public to believe they were donating to a charity unless the provisions of the *Fundraising Appeals Act 1998* has been complied with.

Victorian Emergency Relief Fund Inc

In February 2006, CAV obtained final injunctions restraining the Victorian Emergency Relief Fund Inc (VERF) from using any fundraising asset except with the Director of Consumer Affairs Victoria's prior written approval.

Consumer Affairs Victoria had received numerous complaints about the fundraising activities of VERF, including allegations that appeal proceeds were not being distributed to beneficiaries and that VERF could not be contacted. There was also a risk of the public being confused about VERF's role as its name was so similar to other bodies associated with emergency relief.

The Director of Consumer Affairs Victoria refused to renew VERF's registration beyond 5 January 2006 and effectively banned VERF from conducting fundraising appeals in Victoria.

At year end Consumer Affairs Victoria was continuing to investigate VERF's previous fundraising activities.

Licensed occupations – focus on motor car traders

Parker Bros Auto Co

In July 2005, the Shepparton Magistrate's Court fined Parker Bros Auto Co \$10,000 and ordered them to pay \$750 in costs to Consumer Affairs Victoria.

During a compliance and enforcement exercise in Shepparton, Consumer Affairs Victoria found that there were deficiencies with the dealings books of K & G Parker Pty Ltd, a licensed motor car trader with the registered business name Parker Bros Auto Co.

CAV inspectors conducted an analysis of the contents of the dealings book and identified that it had not been maintained in accordance with the requirements of section 35(2) of the *Motor Car Traders Act 1986*.

A total of 169 charges were issued alleging that details such as dates of acquisition and delivery, odometer readings on acquisition and disposal, dates of disposal and provisions of roadworthy certificates were not entered into the dealings book. These omissions have the potential to adversely affect purchasers' statutory warranties.

Peter Alimpic t/a Auto Alley

In March 2006, Peter Alimpic, a licensed motor car trader, trading as Auto Alley in Morwell, pleaded guilty to six charges under the *Crimes Act 1958* of obtaining property by deception, and seven charges under the *Motor Car Traders Act 1986* of odometer tampering. The Magistrate ordered that Mr Alimpic pay a \$3,000 fine and \$1,240 in prosecution costs, but no conviction was recorded.

Consumer Affairs Victoria considers odometer tampering a serious offence as it is blatantly deceptive, causes obvious consumer detriment and has the effect of undermining consumer confidence.

CAV had investigated Mr Alimpic after receiving a complaint. The investigation revealed Mr Alimpic had wound back the odometers on seven cars sold or offered for sale between February and November 2004. The aggregate odometer understatement was 571,773km.

At the instigation of CAV, the Director of Public Prosecutions appealed the March decision. In June 2006, the County Court upheld the appeal and convicted Mr Alimpic of the offences alleged. The fine imposed on Mr Alimpic was increased to \$12,000.

Adrian Thomas Bradshaw t/a Find My Car

Consumer Affairs Victoria received complaints against Adrian Bradshaw in relation to motor car trading. On investigation it appeared that Mr Bradshaw was not licensed as a motor car trader, as required by law, and that he had advertised in Melbourne's *Trading Post* offering to buy and sell motor cars. Consumer Affairs Victoria inspectors formed the opinion that Mr Bradshaw had engaged in conduct that was misleading and deceptive when selling motor cars to consumers.



Consumer Affairs Victoria successfully applied to the Magistrate's Court for injunctions restraining Mr Bradshaw from trading in motor cars while unlicensed, and from engaging in misleading and deceptive conduct. CAV also succeeded in obtaining an order directing Mr Bradshaw to pay compensation to six consumers totalling \$7,550, plus costs exceeding \$3,000. The Court also ordered Mr Bradshaw to advertise details of the orders in the *Trading Post*.

Consumer Affairs Victoria monitors advertisements for the sale of motor cars that are published in Victoria. The following cases result from such surveillance activity.

Wesley Bond

A large number of motor vehicles (totalling more than \$1.9 million in advertised sale price) were advertised for sale by the same trader in the *Benalla Ensign*. The licensed motor car dealer number given belonged to a trader in New South Wales. On investigation it transpired that Wesley Bond was using this number to trade in Victoria, without authorisation.

Consumer Affairs Victoria took action against Mr Bond under the *Fair Trading Act 1999* and in May 2006 the Magistrate's Court granted an injunction restraining Mr Bond from trading as a motor car trader while unlicensed. The Court also ordered that Mr Bond publish a notice to the effect that in Court proceedings taken by Consumer Affairs Victoria, the Court had found that he had acted in contravention of the Act and that he is not permitted to carry on the business of a motor car trader while not licensed to do so under the *Motor Car Traders Act 1986*.

This matter was on appeal to the Supreme Court at the end of the financial year.

Kenneth Parks

Consumer Affairs Victoria became aware of a series of eight advertisements which were published in the *Ballarat Courier*, offering eight motor cars for sale to the public, between 17 January 2004 and 10 September 2005.

A CAV investigation identified that Kenneth Parks had placed the advertisements and revealed that he had advertised 38 cars for sale to the public. Mr Parks had also advertised in the *Trading Post*.

Consumer Affairs Victoria took action under the *Fair Trading Act 1999* to stop Mr Parks from trading in motor cars while unlicensed.

In May 2006, the Magistrate's Court issued a declaration that Mr Parks had contravened section 7 of the *Motor Car Traders Act 1986* by trading as a motor car trader while unlicensed. The Court granted CAV an injunction restraining Mr Parks from doing so in future, and also ordered Mr Parks to publish a notice to the effect that in Court proceedings taken by Consumer Affairs Victoria, the Court had found that he had acted in contravention of the Act and that he is not permitted to carry on the business of a motor car trader until he is licensed under the *Motor Car Traders Act 1986*.

Severino Autos Pty Ltd

Consumer Affairs Victoria detected advertising by Severino Autos Pty Ltd ('Severino', a licensed motor car trader operating in Ballarat) which breached a condition on its licence limiting it to trading only with other licensed motor car traders. In addition Severino was using the numbers of other licensed motor car traders in the advertisements in an attempt to entice consumers into believing that it was fully licensed and that consumers would have access to the statutory warranty regime under the *Motor Car Traders Act 1986*.

In May 2006, the Magistrate's Court made a declaration that Severino had contravened section 14 of the Act and ordered that it must not offer to sell or otherwise dispose of a motor vehicle except to a person who is the holder of a motor car trader's licence under the Act until the condition on its licence is varied or removed. Severino was also ordered to publish a notice regarding the outcome of the proceedings.

Real estate

Simon Lukauskas

Consumer Affairs Victoria initiated disciplinary action against Simon Lukauskas in VCAT for breaches of the Estate Agents (Professional Conduct) Regulations. The charges arose from a transaction where Mr Lukauskas, an estate agent's representative, sold a property to his flatmate for \$35,000 under market value. Mr Lukauskas did not inform the vendor or his employer of the transaction. CAV was of the opinion that Mr Lukauskas had breached his fiduciary duties, which do not allow an agent to sell property to a spouse, domestic partner or direct family member without permission from Consumer Affairs Victoria.

After a two-day contested hearing in July 2005, VCAT found that Mr Lukauskas had dishonestly misdescribed the identity of the purchaser to the vendor, and that his conduct was a breach of his fiduciary duty to his vendor principal. He was disqualified from holding an estate agent's licence or acting as an estate agent's representative for two years, and was ordered to pay a penalty of \$2,000 to the Victorian Property Fund.

Mr Lukauskas was granted leave to appeal this decision in the Victorian Supreme Court and the two-day hearing was heard in March 2006. At financial year end a decision was pending.

Rogue traders *Gino Carmignani*

In 2004, Consumer Affairs Victoria received a number of complaints regarding Gino Carmignani and/or Gino Memorials (an unregistered business name) operated by Mr Carmignani.

Mr Carmignani generated business by touting for work at the Williamstown, Keilor, Fawkner and Footscray cemeteries, generally targeting recently bereaved aged pensioners from non English-speaking backgrounds.

Typically, Mr Carmignani entered into an agreement to supply a memorial stone to the consumer, stating that the memorial would be in place within eight weeks. Mr Carmignani then accepted full or part payment for the memorial stone. He would then fail to supply the memorial stone.

In August 2005, the Magistrate's Court granted orders sought by CAV restraining Mr Carmignani from engaging in misleading and deceptive conduct, making false representations, using the unregistered business name Gino Memorials, and accepting payment from consumers before he had delivered or installed the goods. The Court also ordered Mr Carmignani to make compensation payments totalling \$61,480 to 11 consumers.

In late 2005, Consumer Affairs Victoria received further complaints about Mr Carmignani and took further court action. In May 2006, the Court accepted a personal undertaking by Mr Carmignani that he would not enter any Victorian cemetery, for any reason. Should Mr Carmignani breach his undertaking he may be charged with contempt of court and face serious penalties including fines and/or imprisonment.

Consumer Affairs Victoria issued a Public Warning Statement notifying consumers of Mr Carmignani's activities, and requested all Victorian cemeteries to be on the lookout for any breach of the undertaking by Mr Carmignani.

Chapter Five

Legislative Reviews

Streamlined, efficient legislation is a cornerstone of regulation that imposes the minimum burden on business, and ensures that markets work well.

Chapter Highlights

- Implemented recommendations of Body Corporate Review
- Report of the Fundraising Review released by Minister for Consumer Affairs
- Government response to final report of review of the funeral industry released
- Continued consultations on regulation of incorporated associations
- Government response to report on consultations in relation to regulation of motor car traders released

Today's consumers face markets undergoing rapid changes and becoming more diverse, sophisticated and complex. The economy is growing and, most of the time, consumers and businesses trade with each other without problems.

CAV has a key role in helping to set the frameworks within which traders operate and in assisting consumers with problems which cannot be resolved without assistance.

CAV also advises the Minister for Consumer Affairs and the Government on the adequacy of existing consumer protection laws and the need for new laws or self-regulation schemes. A prominent component of this work is the program of legislative reviews.

During 2005–06, CAV progressed several legislative reviews (for reporting on the Credit Review see Chapter 6, page 97), and several new pieces of legislation (mainly amending legislation) came into effect during the year.

Bodies corporate

CAV is implementing the recommendations of the Body Corporate Review which were released in December 2005. This was a two-year review of existing body corporate legislation led by Ms Helen Buckingham MP. The proposals focus in particular on establishing a clearly defined dispute resolution process, clarifying the rights and responsibilities of owners and specifying the roles and responsibilities of committees and managers.

The Government released an exposure draft of new legislation governing bodies corporate in December 2005, incorporating and reviewing elements of the Subdivision (Body Corporate) Regulations 2001 and the relevant body corporate sections of the *Subdivision Act 1988*.

Approximately 100 submissions were received in response to the exposure draft, including submissions from the Law Institute Victoria, The Real Estate Institute of Victoria, the Institute of Body Corporate Managers (Victoria), The City of Melbourne, Tenants Union of Victoria, the Office of the Victorian Privacy Commission, the Property Council of Australia, the Australian Institute of Conveyancers and Macquarie Bank Limited.

Conveyancing

A review of Victoria's \$220 million a year conveyancing industry examined issues including consumer protection and the administration of client and third party funds, regulation of the industry and the impact of the advent of electronic conveyancing.

The Government's detailed response to the 2005 final report proposed significant reforms to the industry that are designed to harmonise closely with neighbouring states. These reforms include allowing conveyancers to complete legal work to improve competition within the industry, a new licensing scheme and strengthened consumer protections through provisions to regulate the handling of client monies and require conflict of interest disclosure.

Other consumer protections proposed include requirements that all non lawyer conveyancers have completed certain education requirements, gained at least 12 months relevant work experience and hold professional indemnity insurance.

Domestic building contracts

As reported in 2004–05, a review of the legislative framework governing domestic building work commenced in 2004, led by Ms Jenny Mikakos MP. The purpose of the review was to enhance clarity and certainty for everyone involved in domestic building activity in Victoria, and to consider opportunities to remove duplication in the legislation.

The principal areas of concern identified by the review were addressed by the 2004 amendments to the *Domestic Building Contracts Act 1995* and the Domestic Building Contracts and Tribunal (General) Regulations 1996 (as reported in 2004–05), as well as amendments to the *Building and Construction Industry Security of Payment Act 2002*.

These latter amendments are intended to ensure that ordinary home owners who commission ordinary domestic building work under the Domestic Building Contracts Act are not exposed to claims brought by subcontractors under the Building and Construction Industry Security of Payment Act.

As reported in 2004–05, work on the review paused while the Victorian Competition and Efficiency Commission completed its *Housing Inquiry Final Report on Housing Regulation in Victoria: Building Better Outcomes*. The Report was released in 2005–06, and the Whole of Government response (also released this financial year) supports several of the recommendations made.

It is expected that Government will move forward with implementation of these recommendations in 2006–07.

Once this is completed, the Government will assess whether further legislative change is required to address some minor and technical recommendations that arose from the review.

Fundraising

The Review of the *Fundraising Appeals Act 1998* (led by Mr Luke Donnellan MP) continued to progress during 2005–06.

The broad aims of the Review were to evaluate the regulatory framework for fundraising so that it can better:

- promote transparency and public confidence in the fundraising industry and not-for-profit organisations that conduct fundraising
- protect consumers who contribute money or benefits for non commercial purposes in response to fundraising
- protect the public interest in fundraising.

In November 2005 the Minister for Consumer Affairs, Marsha Thomson MP, released *Proposals for Reform*, a report of the Fundraising Review developed in response to extensive stakeholder feedback on the July 2004 discussion paper *Review of the Fundraising Appeals Act 1998*.

The report invited submissions from interested stakeholders, with more than 30 submissions received by the deadline of 28 February 2006.

The information obtained from the two-stage review process has been used to inform the Government's deliberations on the best way to reform the regulatory framework in accordance with the aims of the Review. In addition, in August 2005 the Government, through the Department of Victorian Communities, engaged the Allen Consulting Group (ACG) to conduct research and develop options to improve the not-for-profit regulatory environment.

The options proposed in the ACG's paper address broader issues than solely fundraising, but are relevant to this Review and are also being considered in finalising the Government's response to the Review. The Government response will be released in the next reporting period.

Funeral industry

The Family and Community Development Committee of Parliament commenced a review of the regulation of the funeral industry in January 2004. The Inquiry addressed issues including health and safety, consumer protection and industrial relations, including the safety of workers in the funeral industry.

The Committee released its final report in November 2005, which recommended a variety of reforms to improve the regulation of the funeral industry, and protection for consumers. The Government supported many of the Committee's recommendations in its May 2006 response. These reforms included price disclosure requirements for funeral providers and the establishment of a register for pre-paid funeral contracts.

The Government also committed to introducing a registration process for all funeral directors operating in Victoria, enhanced inspection powers for monitoring and enforcing compliance with funeral industry legislation and a requirement for funeral providers to establish and maintain complaints-handling procedures.

Incorporated associations

The review and consultation process concerning the operation of the *Associations Incorporation Act 1981* (announced in November 2003 and led by Ms Dianne Hadden MP) continued during 2005–06.

The opportunity to provide feedback on the interim report – released in April 2005 after consultation with a cross section of associations – closed in June 2005.

During 2005–06 CAV engaged in further consultation with stakeholders on possible legislative amendments aimed at relieving the administrative burden on incorporated associations and maintaining a modern and flexible regulatory scheme that fosters volunteering while protecting members of associations and the community, and continued to investigate the issues raised during this process. In addition, as discussed above in relation to the Review of the Fundraising Appeals Act, the Allen Consulting Group's options paper regarding the not-for-profit regulatory environment was released during the 2005–06 year and is being considered in finalising the Government's response to the Review of the Associations Incorporation Act. The Government response to this Review will be released in the next reporting period.

Motor car traders

In 2004, a consultation process was initiated with stakeholders regarding the operation of the *Motor Car Traders Act 1986*. Mr Noel Pullen MP, with the assistance of CAV, met with a large number of industry and consumer stakeholders across Victoria. Mr Pullen presented a report on the consultations to the Minister for Consumer Affairs in December 2004, making 38 recommendations concerning administrative and legislative change and suggestions for further research and inquiry.

In May 2006, the Victorian Government released its response to Mr Pullen's report. The major outcomes in the response include:

- development of guidelines under the *Fair Trading Act 1999* in relation to 'lemon' purchases after consultation with industry and consumers
- improved information to licensed motor car traders regarding their legislative obligations and relevant activities of government, through an industry newsletter, information package for new licensees and publication of compliance guidelines
- amendment to the *Motor Car Traders Act 1986* to ensure that access to the Motor Car Traders Guarantee Fund is limited to consumers only, the group the Fund is intended to protect.

The Government response also provides in principle support for legislative changes to:

- improve the information provided by traders to consumers regarding their rights and obligations under the *Motor Car Traders Act*, particularly in relation to statutory warranties and cooling-off rights

- reduce the disclosure of personal information when consumers trade in vehicles
- simplify the record-keeping requirements placed on licensed motor car traders
- provide purchasers of new cars with cooling-off rights
- extend the existing statutory warranty and cooling-off provisions to purchasers of light goods vehicles.

Consumer Affairs Victoria also developed a new approach to communicating with the industry, including the publication of an ongoing industry newsletter for motor car traders. Once published, this newsletter will keep industry up to date with progress in implementing the Government response, as well as other emerging issues and changes relevant to the industry.

Papers and reports produced or commissioned 2005–06

Date	Topic
October 2005	<i>Credit & Financial Services – Solicitor Lending, Instalment Contracts and the Consumer Credit Code – Consultation Package</i>
November 2005	<i>Review of the Fundraising Appeals Act 1998 – Proposals for reform</i>
December 2005	<i>Final Report of the Body Corporate Review</i>
	<i>Retirement Villages – Internal Dispute Resolution Guidelines for Retirement Village Owners and Managers</i>
February 2006	<i>The Report of the Consumer Credit Review</i>
	<i>Summary of the Report of the Consumer Credit Review</i>
	<i>The Report of the Consumer Credit Review: Supplementary Information</i>
March 2006	<i>Consumer Advocacy in Victoria</i>
	<i>Information Provision and Education Strategies</i>
	<i>Social Marketing and Consumer Policy</i>
	<i>Regulating the Cost of Credit</i>
May 2006	<i>Victorian Government Response – Inquiry into the Regulation of the Funeral Industry</i>
	<i>The Victorian Government's Response to Mr Pullen MP's Report on the Motor Car Traders Act Consultations</i>

Acts assented to 2005–06

The *House Contracts Guarantee (Amendment) Act 2005* transfers responsibility for the administration of both the Housing Contracts Guarantee Fund and the Domestic Building Indemnity Fund from the Housing Guarantee Fund Limited (HGFL) to the Victorian Managed Insurance Authority.

Administration of the *House Contracts Guarantee Act 1987* was transferred from the Minister for Consumer Affairs to the Minister for Finance, effective from March 2006.

The HGFL is in the process of being deregistered.

During 2005–06, the *Residential Tenancies (Further Amendment) Act 2005* introduced amendments to the *Residential Tenancies Act 1997*. Prior to the amendments, residents of shared rooms in rooming houses were not covered by the Act and did not have the benefit of its rights or safeguards. Similarly, landlords could not take legal action under the Act against residents living in these rooms.

The amendments also allow rooming house residents in shared rooms to negotiate reduced rent in return for an increased number of people in a room.

For people living in caravan parks, the amendments mean that they are defined as residents under the Act after 60 days of living in the park rather than the previous term of 90 days. This means that permanent caravan park dwellers have legal protection as residents after only 60 days.

The *Motor Car Traders and Fair Trading Acts (Amendment) Act 2005* introduced amendments to the *Motor Car Traders Act 1986* enabling the use of an electronic dealings book by traders, and simplifying record-keeping requirements. Regulations will be made in 2006–07 to bring the amendments into effect.

The *Private Agents Act 1966* establishes a licensing regime for commercial agents (debt collectors collecting debts on behalf of someone else). Portfolio responsibility for administration of the Act was transferred to the Minister for Consumer Affairs (from the Minister for Police and Emergency Services) on 19 January 2006, as the regulation of debt collection is essentially an issue between purchasers and suppliers of goods and services in the marketplace. The transfer occurred following amendments to separate provisions relating to the private security industry. In addition, there is already a degree of regulatory overlap between the conduct provisions under the *Fair Trading Act 1999* and the *Private Agents Act 1966*. For example, there are provisions in the *Fair Trading Act 1999* which prohibit undue harassment and coercion in connection with payment for goods or services. Similar provisions are present in the *Private Agents Act 1966*. It is proposed that the latter Act be reviewed in due course with a view to updating its regulatory model.

CAV has also been involved in the implementation of changes to the regulation of retirement villages introduced in the *Retirement Villages (Amendment) Act 2005*, which received royal assent in April 2005.

The second stage of the *Retirement Villages (Amendment) Act 2005* came into operation on 30 January 2006. The changes:

- prohibit retirement village operators from holding residents' voting proxies or powers of attorney
- require all retirement villages to have internal dispute resolution systems

- require all retirement villages subject to the Act to be listed on a public register
- ensure that charges for personal services (such as laundry and meals) under new contracts cease 28 days after a resident leaves the village
- ensure that charges under new contracts for general village services (such as maintenance) to residents who do not own their units will cease six months after the resident leaves the village, and sooner if a new tenant buys in (previously, these charges continued until a new tenant was secured, no matter how long this might be).
- defining intoxication for the purposes of the Act and providing that the Director of Liquor Licensing must issue guidelines for determining indications of intoxication
- providing that prescribed premises (which would otherwise be prohibited from obtaining a licence) will require the Minister's approval, before the Director of Liquor Licensing can grant a licence.

The *Veterans Act 2005* was passed by Parliament in November 2005. The Act establishes the Victorian Veterans Council to promote issues of concern to veterans and to advise the Government in relation to such issues. It also creates a Victorian Veterans Fund to provide a source of funds to support educational and commemorative activities related to Australia's war and service history.

Part 4 of the Act strengthens and modernises the provisions relating to the regulation of patriotic funds and shifts responsibility for the regulation of patriotic funds from the Patriotic Funds Council of Victoria to the Director of Consumer Affairs Victoria, effective from August 2006.

A basic principle of the change is that the assets in the patriotic funds remain fully protected and their uses remain under the control of the trustees of each fund for the benefit of the veteran community.

The Director of Consumer Affairs Victoria will assume the day-to-day responsibility for the regulatory function which will involve:

On 9 June 2006, a regulatory impact statement was published on amendments relating to time limits for payment of refunds after residents leave a village and regarding rights to have an external estate agent appointed to manage the sale of a retirement village unit. These amendments will come into operation on 1 August 2006. Consultations were conducted regarding these regulations, as well as on regulations to implement the third and final stage of reforms, which will address the form and content of contracts.

The *Liquor Control Reform (Amendment) Act 2006* was passed in April 2006. The key elements of the legislative reforms will further promote the capacity of the liquor licensing framework to enhance amenity and community safety, consistent with the objectives of the *Liquor Control Reform Act 1998* by:

- explicitly empowering the Director of Liquor Licensing to make, vary or revoke late hour entry declarations (commonly known as 'lock-outs') for a particular locality or area
- enabling the establishment of minimum recording standards for security cameras in high risk licensed venues, by providing for a regulation-making power
- the establishment of funds
- approving fundraising for patriotic funds
- transfers of money or assets out of patriotic funds.

Chapter Six

Major Programs

CAV conducts programs to address major issues of concern, both emerging and ongoing.

Chapter Highlights

- Commenced national review of trade measurement administration, managed by CAV
- Contributed to National Product Safety Review
- Negotiated changes to potentially unfair terms in standard form contracts, in 13 industries of concern
- Report of Consumer Credit Review released
- Implemented Commonwealth Games Consumer Protection Strategy
- Held Third National Consumer Congress

Trade measurement

Consumer Affairs Victoria administers the *Trade Measurement Act 1995* and the associated Trade Measurement Regulations 1995.

The legislation requires that all instruments used for trade purposes be registered and certified to ensure the accuracy of the instruments. In Victoria there are in excess of 120,000 instruments in use for trade including:

- liquor measures
- small scales used in retail outlets and packaging plants
- dimensional measuring instruments
- flow meters for petrol, diesel and liquid petroleum gas
- fuel tankers
- large heavy duty scales
- weighbridges
- belt weighers
- hopper scales.

The registration and certification functions are performed by licensees appointed by Consumer Affairs Victoria. Contracted inspectors perform regular inspections and audits of certified instruments to ensure both the accuracy of the instruments and that the certification is undertaken in accordance with uniform test procedures.

In addition to monitoring instruments the trade measurement inspection program:

- checks and tests pre-packed articles
- investigates complaints from consumers and business regarding compliance with the legislation
- monitors the sale of non pre-packed goods (such as meat, fruit, vegetables, firewood, garden landscape material)
- conducts targeted testing and checking of specific products and instruments
- liaises with industry through presentations and ongoing education and awareness.

Outputs 2005–06

- Received in excess of 640 complaints (up from 270 in the previous financial year). All complaints are investigated and complainants are notified of outcomes. The overwhelming majority of complaints were in regard to petrol and liquid petroleum gas at service stations, in direct response to the significant increase in the price of fuel.
- Issued 110 warning letters for minor breaches of trade measurement legislation. The majority of breaches related to minor short measures in pre-packed articles, and incorrect labelling.
- Delivered presentations to industry associations, overseas delegations and producers of pre-packed articles on their legislative responsibilities.
- Visited over 5,000 premises to inspect/test instruments and pre-packed articles.
- Finalised appointment of the Director, Trade Measurement, a position also held by the Director of Consumer Affairs Victoria, as the verifying authority under the National Trade Measurement Regulations 1999.
- Re-negotiated the trade measurement laboratory contract with ADI Ltd for a further five years effective from 1 January 2006.
- Tested/inspected 20,275 instruments and rejected 7.3 per cent for a variety of metrological and non metrological reasons.
- Took part in the broader compliance and enforcement investigation of complaints for breaches of shop trading legislation on Christmas Day, Anzac Day and Easter Friday and Sunday.

- Issued 96 infringement notices for breaches of trade measurement legislation. The breaches covered short measures in pre-packed articles, short measure delivery of petroleum products, incorrect use of instruments and failure by licensees to comply with instrument notification and certification payment responsibilities.
- Inspected in excess of 49,000 pre-packed articles.
- Undertook targeted inspections of instruments at post offices, independently owned supermarkets and selected petrol stations.
- Participated in metropolitan and regional compliance and enforcement exercises.

Case Study: Baiada Poultry

During a routine audit and inspection of pre-packed articles on sale at supermarkets, inspectors found pre-packed food articles prepared by Baiada Poultry to be short measure, and a warning letter was issued.

Despite this, breaches of the same sort were discovered in the products when additional tests were conducted a short while later.

CAV inspectors visited the processing and production site and met with representatives from Baiada. CAV determined that the appropriate course of action would be to accept an enforceable undertaking from Baiada, stipulating that the company would implement a quality assurance program to improve its production and compliance monitoring, audit the processes for production testing, and report findings to senior management of the company as well as Consumer Affairs Victoria. The enforceable undertaking was due to be signed early in the 2006–07 financial year.

Database of Instruments to Measure Grain Quality in Victoria project

Where the quality of goods significantly influences the monetary value placed on those goods, it is important that quality grades can be defined and measured.

In relation to grain, the National Measurement Institute has developed specifications and issued approvals for instruments that measure the protein content in wheat and barley and the density of grain.

CAV's trade measurement program will be responsible for ensuring that any such instruments used in Victoria comply with these specifications. CAV therefore spent time identifying how many such instruments were in use for trade in Victoria, and documenting details of location, condition and ownership, as well as information regarding compliance with legislation, in respect of each instrument.

The next steps will be to develop standards and processes for certification of these instruments, and then to assess the equipment accordingly.

National review of trade measurement administration

The Commonwealth has the constitutional power to legislate for matters regarding 'weights and measures', pursuant to section 51(xv) of the Commonwealth Constitution. The Commonwealth has enacted the *National Measurement Act 1960* (and its predecessor), but has never introduced laws that apply to day-to-day transactions made by reference to measurement (for example, where price is based on weight or volume) and has allowed this to continue to be a responsibility of the states and territories. As a consequence, trade measurement in Australia is controlled by complementary Commonwealth and state and territory legislation.

Against this background, Victoria was tasked to manage a national review of trade measurement administration on behalf of the Ministerial Council of Consumer Affairs (MCCA). During 2005–06, Victoria took the final steps necessary to commence the review.

Since 1990 the states and territories (with the exclusion of Western Australia) have been signatories to an inter-government agreement with respect to enacting and maintaining model uniform trade measurement legislation. In addition, there are state and territory administration Acts that provide for fees and charges, infringement notice offences, and associated other administration matters. The administration Acts are not uniform.

While the uniform trade measurement legislation addresses some of the issues in relation to national markets, gaps, inconsistencies and overlaps do exist in the existing legislative framework.

At the MCCA meeting of 27 August 2004, Ministers agreed that Victoria would lead an independent review of trade measurement administration in Australia and Victoria has developed a process for undertaking this review.

In February 2006, the Council of Australian Governments (COAG) asked MCCA to advance the review and deliver a recommendation for more streamlined and cost effective arrangements for the Australian trade measurement system, by the end of 2006. The review commenced in May 2006 under independent consultants to report to MCCA in September 2006 and then to COAG in November 2006.

Product safety

An important consumer protection objective is to save lives by reducing the risk of injuries and deaths caused by consumer products and services that are defective, unsafe or fail to meet prescribed standards.

In Victoria, consumer product safety policy is led by CAV's broad product safety strategy, underpinned by the *Fair Trading Act 1999*.

The *Fair Trading Act 1999* provides the power to:

- ban the supply of unsafe goods
- recall consumer goods which pose a safety risk to the community where a voluntary recall has not been made or is considered inadequate
- impose safety requirements by regulation.

Product safety activity in Victoria incorporates compliance and enforcement activity, education, information provision and the development of product safety and information standards. CAV's strategy aims at ensuring product safety activities are contemporary, appropriately targeted and efficient, and aligned with the needs of consumers and business.

Through its product safety function, CAV:

- investigates alleged unsafe products and services and prohibits or restricts the supply of unsafe products and dangerous services
- promotes compliance with – and enforces – laws on consumer product safety
- participates in the development of Australian/New Zealand consumer product standards
- develops mandatory safety and information standards and bans for consumer products
- provides advice to consumers, industry and government on safety and standards relating to consumer products

- manages projects on safety, to maintain and develop the consumer protection framework
- responds to new and emerging issues on consumer product safety
- drafts parliamentary briefings and briefings for the Consumer Products Advisory Committee, SCOCA and MCCA, on product safety and standards issues.

Ban orders

CAV is responsible for ensuring compliance with the 53 orders in existence in Victoria at 30 June 2006, banning the supply of certain dangerous goods and services.

During the year, four new ban orders were made and two orders were revoked.

Non compliant hot water bottles

The order published in the Victorian Government Gazette No S 230 on 24 November 2005 banned the supply of hot water bottles that do not comply with the British Standard BS 1970:2001 *Hot water bottles manufactured from rubber and PVC* – Specification.

Monkey bikes

The supply of motorcycles:

- powered by an internal combustion engine
- not intended for certification under the Road Vehicle Certification System operated by the Commonwealth Department of Transport and Regional Service (also known as mini, pocket or monkey bikes)
- exhibiting one or more of the following defects:
 - throttle (accelerator) that seizes up and prevents deceleration
 - brakes that provide insufficient stopping force caused by a brake system that does not incorporate a floating/sliding type brake calliper to compensate for brake pad wear

- foot pegs that inadvertently fold down resulting in loss of balance
- steering head stems that exhibit free play and steering that does not move freely under its own weight from right lock to left lock with the front wheel off the ground, and/or
- lack of a thumb operated device on the handlebar capable of stopping the engine was banned under the order published in the Victorian Government Gazette No S 242 on 30 November 2005.

The previous order dated 16 May 2005 and published in the Victorian Government Gazette No S 100 of 23 May 2005 has been revoked.

Dangerous soccer goals

Moveable soccer goals that:

- fall over when subjected to a horizontal pull force of 2,000 newtons
- do not carry the required warning label
- do not have rounded corners and edges, and/or
- have a gap greater than 5mm at the join between the ground frame and the upright post

were banned under the order published in the Victorian Government Gazette No S 246 on 2 December 2005.

Dangerous infant nursery products

The order published in the Victorian Government Gazette No S 51 on 17 February 2006 banned the supply of the following infant nursery products.

- Children's cots for household use which do not comply with clauses 3, 5, 6.1(a), 6.1(b), 6.1(c), 6.1(d), 6.1(e), new 6.1(g), 6.2, 6.3(a),(b),(c) and (d), amended 6.3(e), 6.4, 6.5, 6.6, amended 6.7, 6.8, 9 (except 9.2(c)), 11 and 12 of Australian/New Zealand Standards AS/NZS 2172-2003.

- Antique and collectable cots which do not comply with the mandatory standard sold without certificates warning that it is not safe to place children in them, and where the cots are not fitted with two permanently fixed metal plaques with the words 'WARNING: this cot does not meet the mandatory standard. For display purposes only. It is dangerous to place a child in this cot'.
- Second-hand cots which do not comply with clauses 3, 5, 6.1(a), 6.1(b), 6.1(c), 6.1(d), and 6.1(e), 6.2, 6.3(a),(b),(c) and (d), amended 6.3(e), 6.4, 6.5, 6.6, amended 6.7, 6.8(a), 6.8(b), and 9.2(a) of Australian/New Zealand Standards AS/NZS 2172-2003.

The previous order dated 21 June 2001 and published in the Victoria Government Gazette No G 29 of 19 July 2001 was revoked.

Destruction orders

Two orders for destruction of seized goods were issued by Victorian magistrates during 2005–06.

On 11 April 2006 the Magistrate's Court of Victoria issued orders against Midas Trading (Australia) Pty Ltd under section 129A of the *Fair Trading Act 1999*, directing that a range of dangerous goods seized by CAV be destroyed (see case study) at Midas' cost, and that Midas pay CAV's legal costs.

On 9 May 2006 the Magistrate's Court issued an order against Ben Hutchison, under section 129A of the *Fair Trading Act 1999*, for the destruction of four banned monkey bikes that had been seized by Consumer Affairs Victoria inspectors at the 2005 Bendigo Agricultural Show.

Case study: Midas Trading (Australia) Pty Ltd

During 2005, CAV conducted a series of raids on three direct-to-the-public warehouses operated by Midas Trading (Australia) Pty Ltd ('Midas'). A total of 9,171 dangerous goods were seized by inspectors, including banned children's toys and baby accessories, toxic candles and goods that failed to meet prescribed safety standards.

CAV took action against Midas, and in November 2005 Midas and a company director were found by the Supreme Court to have breached the Fair Trading Act by supplying dangerous goods to the public.

The Court granted an injunction directing Midas to stop supplying a large range of toys until it had a compliance program in place, and ordered Midas to carry out a letter box drop and to publish a full-page colour advertisement in the *Herald Sun* newspaper, notifying consumers of the hazards posed by the dangerous goods and advising consumers to return or destroy those items.

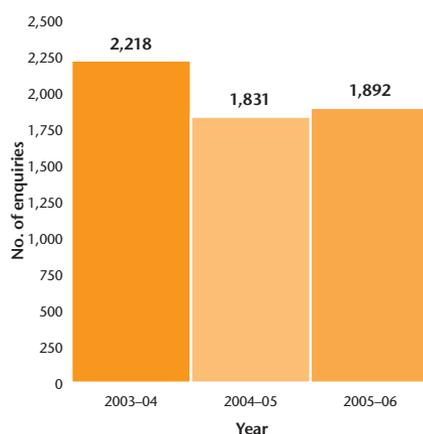
Midas was also ordered to pay CAV's legal costs.

Following on from these orders, the Melbourne Magistrate's Court ordered the destruction of the goods seized from Midas and ordered Midas to pay the costs of that destruction. In April 2006, the dangerous goods were destroyed by CAV.

Additional outputs 2005–06

- Received 1,892 enquiries from consumers and industry, seeking advice on matters relating mainly to the safe use and design of consumer products (up 3.3 per cent from last year).
- Conducted 141 investigations into the safety of consumer products, with 10 product categories accounting for 93.8 per cent of these.
- Seized 10,387 consumer products that contravened ban orders and regulations (highest number of seizures nationally).
- Issued warning letters to 17 retailers who were found selling banned products during store inspections carried out as part of a marketplace monitoring program.
- Obtained enforceable undertakings from 34 parties in relation to the supply of banned consumer products (see Appendix 3 for details).

Product safety enquiries 2003–04 to 2005–06



Product safety enquiries 2003–04 to 2005–06, by subject matter

Play items	312
Nursery products	223
Transport items	214
Sport and recreational	197
Consumer durables	120
Personal	117
Electrical	101
Hardware	94
Food and drink	83
Miscellaneous	83
Other (furniture, textiles, therapeutic goods, weapons, gas appliances, chemicals, stationary, footwear and general)	348
Total	1,892

Products investigated 2005–06, by subject matter

Play items	31
Transport	17
Nursery products	16
Consumer durables	14
Personal use	13
Sport and recreational	12
Electrical	11
Food and drink	7
Hardware	6
Textiles	5
Other (furniture, therapeutic goods, miscellaneous, chemicals)	9
Total	141

Products seized 2005–06, by subject matter

Toys for children under three years of age	5,065
Yo-yo balls	2,625
Lead wick candles and flammable candle holders	1,120
Monkey bikes	894
Toy guns	481
Baby walkers	62
Grow toys	55
Hot water bottles	39
Baby bath seats	35
Children's cots and bunk beds	6
Ice pipes	5
Total	10,387

- Conducted the annual Royal Melbourne Show show bags inspection: 308 show bags were inspected for potentially dangerous products and one item (Flying Tiger Sub Machine Gun) was removed from sale, while one supplier of three types of show bags was instructed to place air holes in the bags in order to prevent asphyxiation.
 - Inspected 372 suppliers' premises, including:
 - a pre-Christmas survey of 118 toy suppliers' premises throughout metropolitan and country Victoria in which 2,204 toys and 12 baby bath seats that contravened ban orders were seized
 - visits to 166 premises where 20 hot water bottles, two bunk beds, 12 projectile toys and 42 wooden toys were seized, as part of the regional compliance and enforcement exercises conducted during 2005–06 (see Chapter 4, page 61)
 - visits to 88 premises in the CBD and metropolitan areas, as part of the metropolitan compliance and enforcement exercises conducted during 2005–06.
- Of the 372 premises inspected, 30 were emergency entries conducted under section 121 of the *Fair Trading Act 1999* and 15 were done in execution of search warrants.
- Conducted rural show inspections at Geelong, Sale and Bendigo as part of Community Safety Month: five monkey bikes were seized at Bendigo.
 - Published two new product safety fact sheets relating to hot water bottles and soccer goals on the CAV website (these are in addition to existing fact sheets on baby walkers, basketball rings, bunk beds,

household cots, laser pointers, toughened glass, prams and strollers, and toy regulations, and a toy safety checklist).

- Updated the *Product Safety – Product hazard alert* booklet, which contains information and photographs of products the supply of which is restricted in Victoria. The booklet has been most popular with businesses as they now have the opportunity to easily recognise products that are banned and/or regulated in Victoria.
- Provided training/induction sessions to new enquiries, regional office and trade measurement staff.

Information gathering and exchange

The Commonwealth Product Safety Recalls website provides information about voluntary safety-related product recalls and allows information to be shared between regulators. CAV uses the register of Alleged Hazardous Products (including recalls) published on this site to provide information and advice to consumers and traders. CAV also maintains its own database of product safety investigations and enquiries on safety and standards matters, which is used for monitoring trends in product-related problems.

Consumer Affairs Victoria has communicated on product safety issues with other government agencies, specific interest groups and industry.

Some examples include:

- Victoria Police – sale of ice pipes
- Royal Agricultural Society – inspection of show bags
- Country Fire Authority Metropolitan Fire Brigade – unsafe candles

- Australian Competition and Consumer Commission – monkey bikes, vehicle jacks, children’s toys and infants’ soothers
- Australian Customs Service – identification of dangerous products
- Department of Human Services – food safety and novelty contact lenses
- other state and territory consumer affairs and fair trading agencies – various products
- Federal Chamber of Automotive Industries – monkey bikes
- Infant Nursery Products Association – infant nursery furniture
- Safe Communities Network – developing networks for community safety
- Monash University Accident Research Centre – statistics for injuries associated with the use of consumer products.

Developing and revising Australian and international standards

CAV is represented on a number of committees developing or reviewing Australian or joint Australian and New Zealand Standards for particular groups of products and, as a result, is required to comment on draft standards from the International Organisation for Standardisation (ISO) and vote on the adoption of existing internationally-recognised ISO standards. This work is becoming increasingly important given the trend to align domestic and international standards.

CAV was represented in Standards Australia Committees and reviewed and/or commented on consumer product standards for products including car jacks and trolley jacks, children’s toys, pedal bicycles and nursery furniture.

Consumer Products Advisory Committee

The Consumer Products Advisory Committee (CPAC) consists of representatives responsible for product safety and standards from consumer affairs and fair trading agencies in the Commonwealth, states and territories and New Zealand. CPAC, which provides advice on consumer safety matters and develops and implements a national approach to consumer product safety and standards issues, met twice during the year.

The issues discussed included nursery furniture (cots, baby walkers and bunk beds), domestic furniture, internal window coverings, baby bath seats, mini motorcycles, hot water bottles, portable soccer goals, new safety information for children’s products, uniform product safety legislation, review of safety and information standards and review of Australia’s product safety framework.

National Product Safety Review

The Ministerial Council for Consumer Affairs (MCCA) is reviewing Australia’s consumer product safety framework. The review commenced in August 2004 with the release of a MCCA public discussion paper. Following the receipt of submissions and further consultations, the Productivity Commission was engaged to conduct a research study into the impacts of the reform options set out in the discussion paper and to assess the operation of Australia’s current consumer product safety system. The Productivity Commission was engaged in March 2005 and delivered its final report in January 2006.

The Productivity Commission made various recommendations to improve the proactive nature of the system including incorporating ‘reasonably foreseeable use’ in the definition of safety, requiring suppliers to report products associated with serious injury or death, and introducing a broadly-based hazard identification system.

Additionally, the Productivity Commission found various gaps in terms of product safety information and research. To remedy these problems, among other reform measures, the Productivity Commission proposed a one-off baseline study of product safety and an internet-based one-stop-shop to provide certain information to businesses and consumers.

CAV, together with the other states and territories, agreed in principle to many of the Productivity Commission’s recommendations, in particular those aimed at improving the proactive nature of the system.

The most significant recommendation put forward by the Productivity Commission was that a case exists for national uniformity in the regulation of consumer product safety and that a single law and regulator model be adopted on a national basis. MCCA members agreed that more detail was required about how a single law and regulator would be implemented. They also requested the consideration of other models that could deliver similar benefits.

CAV, together with the Australian Competition and Consumer Commission, the Treasury and South Australia, is working on a response and will report back to MCCA during early 2006-07.

Unfair contract terms

Markets work most effectively where consumers are able to exercise genuine choice. The emergence of standard form contracts in our modern economy limits consumers’ ability to exercise choice. It is not uncommon to find entire industries that have highly similar consumer contracts. This limits consumers’ options in choosing a supplier with a ‘fairer’ contract – consumers often have to accept contract terms on offer, or not purchase the particular good or service.

In recent years, many consumer contracts have become biased towards the supplier. This, combined with the prevalence of standard form contracts, means that consumers often find themselves in contracts where they have few rights but many obligations. The unfair contract terms provisions introduced into the *Fair Trading Act 1999* aim to redress this imbalance. The provisions seek to ensure that contractual rights and obligations are fairly distributed between parties to a contract.

During 2005–06, CAV began activities in the new priority areas discussed below, and consolidated on work previously undertaken in other areas. CAV also continued and extended its efforts in providing information and advice on the unfair contract terms legislation, including to other advice providers such as lawyers.

CAV continues to employ a compliance strategy based in the first instance on industry education and consultation, whereby contract terms in individual companies’ consumer contracts are reviewed, and individual companies’ co-operation in modifying or removing terms considered unfair, is sought.

In most cases such negotiations result in amended contracts being implemented by the companies.

CAV initiated proceedings against AAPT Pty Ltd in the Victorian Civil & Administrative Tribunal (VCAT) in 2004. The matter was heard in September 2005. The judgment was still pending at year's end.

New areas of work

Domestic building contracts

CAV commenced a major project on standard domestic building contracts supplied by Housing Industry Australia (HIA) and the Master Builders Association of Victoria (MBAV). In each case current contracts were sought (each has several, dealing with new homes, renovations, kitchens, kit homes, etc) and comprehensively analysed. Reports were then sent to HIA and MBAV. Meetings were held with senior executives of each organisation, who undertook to consider CAV's concerns and make changes to the contracts.

Accommodation

Contract terms in a range of accommodation contracts were considered. For example, the changes to the standard residential contract terms have been discussed with The Real Estate Institute of Victoria. CAV has also commissioned the Tenants Union of Victoria to undertake a research project collecting and analysing supplementary terms typically included in residential tenancy agreements.

Travel

CAV has dealt with some contracts relating to accommodation bookings, obtaining partial refunds for consumers who paid the full cost in advance and then had to cancel. Work on a short-term booking agents' code of practice has also begun (see Chapter 4, page 65).

The International Air Transport Association model terms have been reviewed at the request of the Australian Competition and Consumer Commission. CAV has also reviewed and sought amendments to the QANTAS Frequent Flyer program.

FOXTEL

CAV approached FOXTEL with its concerns about FOXTEL's digital pay TV subscription contract, and sought amendment or removal of some terms. FOXTEL implemented one set of revised terms on 1 January 2006. Following further discussion with CAV, a further revision is expected to come into effect in early 2006–07.

2006 Formula 1 Foster's Australian Grand Prix

CAV worked with the Australian Grand Prix Corporation (AGPC), to ensure conditions of sale and conditions of entry in relation to the Melbourne 2006 Grand Prix were fair. The most important changes to previous years' contracts included:

- clearer expression of circumstances under which consumers may obtain refunds, in conditions of sale
- narrowing of the previously broad exclusions of liability sought by AGPC and its associated entities
- appropriate application of the recreational services waiver
- removal of terms which allowed AGPC to unilaterally vary significant aspects of the Grand Prix
- improved clarity of expression throughout the conditions.

The AGPC worked with CAV in a timely, positive and highly responsive manner at all times.

Commonwealth Games

CAV did work to ensure that ticketing conditions, conditions of attendance and liability provisions in relation to the Games complied with the Fair Trading Act.

See page 101.

Car sales

CAV is working closely with the Victorian Automobile Chamber of Commerce on a rewrite of its model contracts for the sale of new and used cars. The contracts will be revised as a result of amendments to the *Motor Car Traders Act 1986*, providing an opportunity to also address CAV concerns about unfair and unclear terms.

Internet service providers

CAV has engaged the Communications Law Centre Ltd to undertake research into the prevalence of unfair terms in internet service provider consumer contracts. The Communications Law Centre is an independent, non profit organisation with particular expertise in media, communications and online law and policy.

Online auctions

As part of a general investigation of online auctions arising from complaints about non receipt of goods or defective goods and the role that site operators play in this regard, CAV requested eBay, GraysOnline, AuctionTrader and *The Age Bid2Buy* to provide their standard user agreements in February 2006 for assessment under Parts 2A (implied warranties) and 2B (unfair terms) of the *Fair Trading Act 1999*. Responses were received from all operators.

The main issues arising from the examination were:

- powers to debit credit cards without notice
- wide powers to change terms and conditions without notice to users
- arbitrary powers to exclude people from sites
- attempts to contract out of statutory obligations to provide services with due care and skill
- the need for statutory warranties that apply to vendors' items to be signposted for consumers
- the need for consumers to be provided with contact details of vendors to enable them to make any breach claims.

At year end, CAV was awaiting a report from the Communications Law Centre on its online auctions research project. After considering the report CAV will communicate concerns to operators and continue to work with the suppliers with the aim of finalising new terms and conditions that are fairer to consumers, by the end of 2006.

Curtain and carpet suppliers

In response to an increasing number of complaints generated by contracts in relation to curtains and carpets, CAV asked Carpet Call, Kresta, Vista, Spotlight, Carpet Choice and Dollar Curtains & Blinds to provide copies of their current terms and conditions in November 2005. Responses were received from Spotlight and Carpet Call only. CAV analysed these contracts, and file copies of contracts for the other suppliers, in the context of Parts 2A (implied warranties) and 2B (unfair terms) of the Fair Trading Act.

CAV was particularly concerned about terms in relation to cancellation fees, and provisions that contradicted (or did not allow for) consumers' statutory rights in relation to implied warranties, limited the performance obligations of the supplier and required payment before completion. These concerns were communicated to suppliers in March 2006, with responses required by 15 May 2006.

CAV will continue to work with the suppliers with the aim of finalising new terms and conditions that are fairer to consumers by the end of 2006.

Consolidation of existing compliance action

Mobile phones

CAV commissioned further research from the Communications Law Centre on unilateral change clauses in mobile phone contracts. It will use this research to undertake further consideration of major phone contracts, following the VCAT decision in the proceedings brought against AAPT Pty Ltd.

Vehicle hire

Following successful outcomes of discussions with the major vehicle hire companies Avis, Budget, Hertz, Europcar and Britz, Maui and Backpacker, Consumer Affairs Victoria developed guidelines on the application of unfair contract terms legislation to vehicle hire companies. The guidelines were launched at a seminar hosted by the VACC and mailed to all operators on the CAV database. CAV is also working with the VACC on a model vehicle hire contract.

Health and fitness centres

CAV continued its work in relation to contract terms in the health and fitness centre industry. Five health and fitness centres, including two national chains, were requested to submit copies of their membership agreements to CAV. Agreements were analysed for unfair contract terms and clarity, after which CAV provided feedback to the centres.

As a result, one health and fitness centre has made some modifications to its membership agreement, one has decided to re-draft its agreement, and CAV is in negotiations with the remaining three centres. Direct debit agreements that accompany many health and fitness centre membership agreements are also being examined.

As part of this work, Consumer Affairs Victoria intends to publish a guide explaining how it will apply the unfair contract terms legislation to health and fitness centre membership agreements. It is intended that the guide will assist consumers, centre operators and legal practitioners to understand the requirements of the *Fair Trading Act 1999* regarding unfair terms in health and fitness centre membership agreements.

Compliance education and information

Throughout the year, CAV staff and the Director of Consumer Affairs Victoria have addressed the topic of unfair contract terms at a number of conferences for trade practices compliance professionals and lawyers.

Alternative dispute resolution

The CAV dispute resolution function has drawn on the unfair contract terms legislation in assisting parties to resolve disputes.

Standard form contracts are assessed in light of the legislation, and businesses are advised when these provisions appear to be contravened. The legislation renders certain clauses in contracts unenforceable, where such clauses are unfair in terms of the respective parties' rights and obligations.

A register that identifies potential unfair terms in contracts received as part of the conciliation process has been established and maintained. The register allows dispute resolution officers to monitor whether any action needs to be taken with particular traders regarding changing their contract terms.

Case Study: Witchmount Estates

Witchmount Estates is a winery offering function and convention centre hire, a cellar door service and a restaurant. Witchmount's documentation in relation to hiring of the function centre stated that if gifts of wine were going to be given at a function, these could only be wines purchased from the Estate.

At first sight this seemed an unfair term in contravention of the *Fair Trading Act 1999*, and CAV contacted Witchmount Estates in this regard.

After discussion it became apparent that the trader had included the statement in an attempt to ensure that its liquor licensing obligations, which did not include a BYO permit, were met.

CAV therefore recommended amendment of the documentation to clearly state that the trader's liquor licence prohibited patrons from bringing any form of alcohol onto the premises, thus ensuring adherence to the liquor licence and making the clause both clear and fair. The trader gave assurances that the clause would be reviewed and amended.

Case Study: Hilton Premium Club

Hilton Premium Club offers a variety of benefits to members who use Hilton's accommodation guide, restaurant guide or a combination of both. However CAV received complaints that Hilton had changed its terms and was unwilling to provide the choice of a refund to consumers who were already signed up as members when the terms were altered. CAV contacted Hilton and informed it of its obligations pursuant to the Unfair Terms in Consumer Contracts provisions of the *Fair Trading Act 1999*. Subsequently Hilton has confirmed to CAV that it will provide reasonable notice of all changes and would offer consumers a pro rata refund if it did not consent to the changes.

National approach

The Ministerial Council on Consumer Affairs decided in November 2005 to progress a national regulatory response to unfair contract terms as a matter of urgency. During 2005–06, CAV made considerable input into a regulatory impact statement which has been drafted and is under review by the Commonwealth Office of Regulation Review.

Credit

During 2005–06, significant resources from both inside and outside CAV were devoted to the progress of the Consumer Credit Review, announced by the Minister for Consumer Affairs in May 2005.

During 2005–06, CAV's consumer services received and addressed credit-related enquiries and complaints, and significant action in relation to credit was also undertaken through CAV's enforcement program. Education and information products relating to credit were also developed during the year.

The credit market has undergone profound changes in the last decade. While access to consumer credit for most of the community has never been greater, disadvantaged consumers are often confronted with high credit costs, and there are relatively few credit providers willing to offer fixed term small amount loans. Some consumers from disadvantaged households need short term small amount loans to smooth cash flow difficulties and cover things like medical expenses, motor car repairs and utility bills. They are not using credit cards, bank overdrafts or mortgage redraw facilities because they are either excluded from that form of credit or have already exhausted these sorts of options. Too many consumers who access credit in this market end up caught in a debt spiral. A number of banks have chosen to express their corporate social responsibility by partnering with community agencies to deliver localised no-interest loan schemes and some also offer low-cost affordable loans to vulnerable and disadvantaged consumers.

Levels of consumer credit usage (and hence of indebtedness) continue to rise, as does the extent of over-indebtedness. The Reserve Bank of Australia continues to voice concerns about the proportion of household income needed to service credit commitments and the apparent softening by lenders of the criteria they use to assess creditworthiness and capacity to repay.

Consumer Credit Review

On 10 May 2005, the Minister for Consumer Affairs announced a wide-ranging review of consumer credit, to be led by Mr James Merlino MP assisted by CAV, focusing in particular on improving access to affordable credit by vulnerable

and disadvantaged consumers and on tackling exploitative and predatory lending. The Review was foreshadowed in the Government's *A Fairer Victoria* social policy statement released in April 2005. CAV has worked closely with the Chair of the Review throughout the process.

When the three-stage Review was announced the Minister released the terms of reference, with the three broad themes of how to:

- enhance the efficiency and fairness of credit markets
- enhance the effectiveness, efficiency and fairness of credit market regulation
- ensure that vulnerable and disadvantaged consumers receive targeted assistance.

Following the release of an issues paper in June 2005, the Review conducted a series of consultation forums in Melbourne and eight regional centres. In addition, the Chair of the Review met with the Business Licensing Authority and the Financial and Consumer Rights Council, and visited some small amount short term lending outlets in outer Melbourne. Written submissions were also invited, and 50 submissions were received from a wide variety of stakeholders.

The Report of the Consumer Credit Review, presented to the Government and publicly released on 2 March 2006, considered the views of stakeholders, the experience of Consumer Affairs Victoria and other regulators, and Australian and international research. It identified services and areas of regulation or government intervention where reform should be considered.

Many options are put forward in the report, including:

- outlaw pre-approved credit card limit increases

- improve training and standards for financial counsellors
- encourage more industry funding of no-interest loan schemes
- ‘health warnings’ on credit card statements
- lenders should actively consider consumers’ capacity to repay
- lenders should be required to offer internal and external dispute resolution services to consumers
- allow unfair credit contract terms to be challenged
- enhance the registration scheme that applies to credit providers
- develop a major credit education campaign focusing on the new breed of equity release credit products, such as reverse mortgages.

Feedback on the content of the Report and the 38 options proposed was sought from mainstream credit providers and their peak bodies; the community sector and consumer advocates; commercial small amount credit providers; the Business Licensing Authority; and the Financial and Consumer Rights Council. Twenty-one submissions were received in response to the Report.

The Government plans to respond to the Report after studying feedback from the consultation process and research commissioned specifically to augment the Review, including research into the size and nature of the small amount cash lending market in Victoria. At the close of the reporting period the preparation of the response was well advanced.

Trends in enquiries relating to credit

During 2005–06, there was a continuation of the prominence in 2004–05 of finance broking and mortgage broking enquiries. CAV is still receiving calls about the unlawful acceptance of upfront broking fees and failure to provide

a document of appointment, or one that is compliant with the law.

The distinction between mortgage brokers and mortgage managers is causing problems, since it can be hard to determine but it affects the level of protection available to the consumer.

High cost short term small amount cash loans also represent a major issue in credit because of the seriousness of the complaints and vulnerability of the consumers involved. A high proportion of calls to the credit enquiry team are about repossession, usually of motor vehicles or homes, and these calls frequently reflected that consumers were unaware of their right to apply for hardship variations to avoid the detrimental consequences of enforcement action.

Other significant issues raised in calls to the credit enquiries team in 2005–06 were:

- the need for greater clarity in notification of impending repossession of motor cars
- the apparent failure of some large credit providers to adequately resolve disputes.

Case Study

A consumer telephoned CAV about a ‘rent-to-buy’ contract that he had signed with a car rental company. The consumer, despite several requests, had not received any paperwork in relation to the contract (despite the requirements of the Consumer Credit Code), and was not aware of the terms and conditions of the contract. The consumer also realised that he would have difficulty making repayments due to his financial situation and his ongoing fragile health. The consumer wanted to cancel the contract but had not been successful in doing so.

The enquiries officer asked the consumer to fax in a complaint and referred the matter for urgent conciliation. The consumer was kept informed at all stages of the process,

and the matter was ultimately resolved to the consumer's satisfaction, with cancellation of the contract. No fees or charges were incurred by the consumer in exercising his right to cancel the agreement.

Credit dispute resolution

During 2005–06, CAV continued to receive and respond to complaints relating to credit and debt issues. Credit complaints made up 3 per cent of the total number of complaints referred to the Dispute Resolution Branch during the period.

The Report of the Consumer Credit Review proposes that all lenders should offer in-house dispute resolution as a cheap, convenient and expedient method of resolving consumer complaints. The report also proposes that membership of an external dispute resolution scheme that consumers can access free of charge should be compulsory for all lenders, for use when internal dispute resolution measures fail. Consumer Affairs Victoria will continue to offer a dispute resolution service while there is a substantial unmet need.

Case Study: Great Australian Water t/a Great Water/Lombard Finance

After receiving several complaints in relation to Great Australian Water (who supply filtered water) and Lombard Finance (their financier) CAV met with the companies to discuss apparent contraventions of the Consumer Credit Code in representations made in their door-to-door water sales.

At issue was the companies' conduct in relation to two provisions of the Code. These related to credit advertising and non disclosure on the six-month interest-free contracts offered by the companies, respectively.

CAV gave appropriate advice, and Great Australian Water agreed to revisit their documentation to ensure future compliance.

Credit-related complaints received by Dispute Resolution 2005–06

Banking and financial services (personal and home loans)	139
Finance and mortgage brokers (agreements, debt consolidation)	67
Investment and financial services (investment loans, financial advice, leasing, renting and buying)	60
Credit cards (store cards, fees and charges)	39
Fringe lenders	8
Insurance (credit and finance)	6
Vendor terms contracts (car and home finance)	5
General debts or bankruptcy	1
Total	325

Enforcement action

The Report of the Consumer Credit Review discusses ways in which the Director of Consumer Affairs Victoria could be given more targeted and flexible remedies to assist with effective enforcement. The Report also discusses the high cost of credit in the small amount credit market and the high cost of some fees and charges associated with mainstream credit. Examples of enforcement action taken in 2005–06 illustrate what is presently possible and what remains beyond the reach of current regulation.

Geeveekay Pty Ltd

Consumer Affairs Victoria instituted civil proceedings against Geeveekay Pty Ltd and Geoffrey and Veronica Keogh (trading as Great Australian Dream Providers) in late 2004 in relation to 46 vendor terms contracts seeking, among other things, declarations that key disclosure requirements under the Consumer Credit Code had been breached, and the imposition of civil penalties.

In February 2006, the Victorian Civil & Administrative Tribunal (VCAT) determined the preliminary issue of what documents actually comprise the credit contracts.

In Consumer Affairs Victoria's opinion the nature of the documentation used was such that the constitution of the contracts was itself an issue requiring determination. VCAT's determination on this particular issue was consistent with Consumer Affairs Victoria's submissions.

A further hearing took place at VCAT in April 2006 to determine the issue of whether the contracts were regulated credit contracts within the meaning of the Code. VCAT had dismissed the credit providers' earlier 'strike out' application on jurisdictional grounds in March 2005, as reported last year, but the credit providers sought to pursue a formal finding about this matter subsequent to the contract constitution issue being resolved.

On 26 April 2006, VCAT determined that the respondents did provide credit within the meaning of the Code in respect of all 46 contracts and the fact that the transactions were terms contracts within the meaning of the *Sale of Land Act 1962* did not rule out the possibility of Code regulation.

An application for leave to appeal this decision was heard in the Supreme Court in June 2006.

CAV opposed the application for leave to appeal on the basis that the appellants had not sufficiently identified any question of law upon which an appeal might be brought (appeals from VCAT decisions may only be brought on questions of law pursuant to section 148 of the *Victorian Civil and Administrative Tribunal Act 1998*).

In the result however, the appellants were granted leave to appeal to a single judge of the Supreme Court and the matter will now be placed in the appeals list.

City Finance

Since 2000, CAV has been receiving numerous complaints from consumers and financial counsellors about consumer credit contracts issued by City Finance franchisees in Victoria. Those contracts have provided for loans from \$300 to \$2,000, secured over household possessions or cars. The interest rate stipulated in the contracts is 30 per cent but when other fees listed elsewhere in the contracts were added the effective interest rates were much higher, ranging from about 80 per cent to over 200 per cent. The complaints also alleged that the franchisees did not comply with the law in recovering debts and that they engaged in unconscionable conduct.

On 7 April 2004, the Director of Consumer Affairs Victoria commenced two separate proceedings, the first being a claim for civil penalties ('the civil penalty case') and the second being a claim for remedies concerning the licences of the respondent companies ('the licensing case'). In early 2005, the respondents to both proceedings filed strike out applications to both of these cases in VCAT. These applications were heard on 14 April 2005.

On 30 September 2006, VCAT struck out the civil penalty application, but made no decision about the disciplinary proceeding, directing the parties to confer regarding the appropriate orders that should be made by VCAT about the future disposal of the licensing case. Given the decision of the Tribunal, it was decided that it was appropriate that the dismissal of the proceedings be ordered.

Credit education and information

Consumer advocates and regulators alike agree that the mandatory disclosure of information before and after a credit contract is signed, or a credit card is first used, is only a component part of the protection consumers need. Credit has become more complex, and the manner in which it is sold more sophisticated. Levels of indebtedness and over-indebtedness continue to rise.

Against this background, there is a real need for consumers to have access to independent, accurate information and advice. CAV has produced a range of fact sheets on credit and debt issues, including reverse mortgages, pay-day lenders and the Consumer Credit Code.

Commonwealth Games consumer protection strategy

From 15 to 26 March 2006, Melbourne was the sporting focus of all Commonwealth countries with the staging of the Commonwealth Games. During this time, CAV's objective was to ensure that visitors to the Games took home positive consumer experiences. As noted in the 2004–05 annual report, to prepare for this major sporting and cultural event, CAV developed a consumer protection strategy based around raising awareness, providing efficient complaint resolution mechanisms and preventing the emergence of unfair practices associated with the Games.

CAV undertook significant consultations with government, community and business stakeholders. As a result of these consultations and together with significant research and intelligence gathering, CAV offered businesses and consumers timely education and information to promote good

business practices and protect the interests of a diverse range of consumers. CAV also worked with Melbourne 2006 and the Office of Commonwealth Games Co-ordination (OCCG) to ensure that ticketing conditions and conditions of attendance to the Games complied with the *Fair Trading Act 1999*, particularly refund policies and liability provisions relating to the Games.

Following are other initiatives under the Commonwealth Games Consumer Protection Strategy.

Consumer awareness

Significant effort was put into ensuring that consumers were aware of their rights and obligations in the marketplace and would know where to turn if they had concerns.

CAV placed articles and advertising informing consumers of its role in:

- the *Melbourne 2006 Commonwealth Games Official Visitors' Guide*
- the autumn 2006 edition of *Discover Melbourne*
- the *Official Games Map*
- Skybus
- metropolitan trains.

CAV developed several brochures for visitors to the Games providing advice on consumer protection laws. *Shopping Tips for Visitors to Victoria* brochures were distributed to all Victorian Tourism Information Centres and the Visitor Centre at Federation Square, Melbourne. Six thousand brochures about Victoria's liquor licensing laws were distributed to athletes and officials staying at the Commonwealth Games athletes village. A fact sheet outlining residential tenancy issues relating to caravan parks and rooming houses was developed and distributed throughout Victoria.

Compliance and trader engagement

Visits were made to 1,600 businesses in key tourist precincts (including the CBD, Queen Victoria Market, Chapel Street and Southbank) and in the regional areas affected by Games events. An aim of the visits was to educate traders about their consumer law obligations and one of the tools developed to assist in this process was a *Business Charter*. The Charter is based on the requirements of the *Fair Trading Act 1999* and contains practical information relating to areas like advertising and promotion, bait advertising and refunds and warranties. It is hoped that this Charter will have use beyond the Commonwealth Games.

CAV conducted trade measurement inspections in over 260 bars, hotels, restaurants and clubs in tourist precincts. A number of breaches were detected regarding approved liquor measures and batch tested beer glasses.

Liquor licensing arrangements were a priority during the Games. Beginning in late 2004, CAV and the Director of Liquor Licensing were involved in discussions and planning with Victoria Police, Melbourne 2006, OCGC and the three major licensed caterers at the sporting and cultural venues involved. In considering and issuing liquor licences, the objective was to ensure that licence conditions would strike a balance between spectators' expectations for enjoyment of the Games, and the need to minimise risks associated with large-scale gathering and movement of people. CAV staff also worked with liquor licensees and visited licensed premises to ensure that all licensees complied with liquor licensing laws, and signage requirements.

Consumer Affairs Victoria was engaged by the OCGC to monitor Melbourne 2006 and other authorised agents' compliance with the Approved Ticket Scheme (ATS) for the Games, on a fee for service basis. The aim of the project was to monitor and verify that tickets for the Games were distributed and sold in accordance with the ATS, including reporting incidences of non compliance to the Minister for Sport and Recreation via the OCGC.

Together with the Victorian Chamber of Commerce and Industry and the OCGC, CAV delivered a series of business briefings to improve compliance with consumer protection law in the lead up to and during the Games. These presentations took place in the metropolitan area and in the regional centres of Traralgon, Ballarat, Bendigo and Geelong. The focus of the presentations was for traders to be 'business ready' and to be aware of their rights as well as their responsibilities in order to promote Victoria and their respective regions as great places to visit.

Business Charter

Our commitment to our customers

Advertising and Promotion

We will ensure that all advertisements, promotions and product descriptions are accurate in regard to quality, characteristics, manufacturing process and suitability for their purpose of any goods.

Bait Advertising

We will ensure that we will have adequate stock to meet anticipated demand for advertised goods or we will state the actual number of items we have for sale.

Country of Origin

We will ensure that we do not mislead you about the country or place of origin of our goods. We follow Australian Competition and Consumer Commission guidelines relating to 'Product of Australia' and 'Made in Australia' claims.

Prices

We will ensure that all prices are fully disclosed and GST inclusive. All price comparisons will be accurate. We will ensure that any advertised discount is not misleading.

Refunds and Warranties

We will always provide a refund if goods are faulty, are unfit for their purpose or do not match the description or sample we gave. We will tell you what our refund policy is regarding change of mind purchases. These rules apply equally to sale, discount or clearance items.

Receipts

We will always give you proof of your transaction by providing you with an accurate receipt.

Lay Bys

We will ensure that our lay by sales, documentation and procedures are in strict accordance with legal requirements set out in Part 5 of the *Fair Trading Act 1999*.

Store Credit

We will ensure that the provision of store credit complies with the requirements of the Consumer Credit Code. For purchases that are made on 'interest free terms', we will ensure that our customers understand the amount and number of repayments that are required to finalise the loan within the 'interest free' period.

Uncollected Goods

We will ensure that if you leave something with us for repair and forget to collect the item, we will keep the goods for six months. We will place a newspaper advertisement before disposing of the goods.

Contract Terms

We will ensure that our contract with you does not contain unfair contract terms.

Complaints

We welcome consumer complaints and have a system in place to handle your complaints effectively. All our staff are trained to handle complaints.

Support services

To provide a speedy service to consumers during the Games, CAV undertook a number of internal enhancements to its service delivery processes. It introduced a streamlined complaints process for the Games period to ensure a rapid response to any consumer query or complaint. CAV set up a dedicated Commonwealth Games telephone line and extended its call centre hours during the Games to include weekends and weekday evenings. All staff dealing with Commonwealth Games issues were given special training with a dedicated operations manual developed to cover most scenarios likely to emerge. CAV's regional offices also enabled visitors to regional Victoria to access priority Games consumer complaint services. CAV was pleased to receive a comparatively low number of verbal and written complaints about the Games experiences of consumers. Approximately 40 written complaints were received relating to accommodation issues, ticketing and seating, memorabilia (including replicas of the Queen's Baton) and promotional advertising.

A formal evaluation of the Commonwealth Games Consumer Protection Strategy will be conducted and reported on in 2006-07.

Third National Consumer Congress

Sustainable consumption, international reforms in consumer protection and the National Product Safety Review were among the subjects discussed at the Third National Consumer Congress, hosted by CAV on 15–17 March 2006.

The theme of the two-day event, attended by more than 200 local, interstate and international delegates, was 'In Pursuit of World Class Consumer Policy'.

Louise Sylvan, Deputy Chair of the Australian Competition and Consumer Commission, presented the 2006 Consumer Affairs Victoria Lecture: *The interface between consumer policy and competition policy*. The Lecture preceded the Congress and was given in honour of Dr Maureen Brunt AO.

Coinciding with World Consumer Rights Day, the Congress brought together a range of consumer protection experts from business, academia and government. Other speakers included:

- Marsha Thomson, Minister of Consumer Affairs
- Allan Asher, Chief Executive Officer of EnergyWatch UK
- Chris Pearce, Parliamentary Secretary to the Federal Treasurer
- Garry Banks, Chair of the Productivity Commission
- Magnata Mphahlele, Project Manager, Consumer Law Reform, Department of Trade and Industry, South Africa
- Catherine Wolthuizen, Executive Director of the Consumer Law Centre Victoria
- Graeme Samuel, Chairman of the Australian Competition and Consumer Commission
- Jeffrey Lucy, Chair of the Australian Securities and Investment Commission.

Major national and international consumer policy issues addressed by speakers included developments affecting financial and credit markets, new government enforcement initiatives and consumer education. Delegates also had the chance to raise topics of their choice during sessions set aside for this purpose.

Interesting debate was provoked and the Congress greatly assisted in progress towards the long-term goal of raising the profile of – and stimulating debate around – consumer policy in Australia.

Dr Maureen Brunt AO

Dr Maureen Brunt AO – a distinguished Australian economist, and Emeritus Professor of Monash University – has made a major contribution to the protection of consumers through the development of competition law and consumer policy.

Dr Brunt obtained her PhD from Harvard University where she taught for several years before moving to Monash University and becoming the first woman appointed to a Chair in Economics in Australia. She published major works on the structure of Australian industry, restrictive trade practices and competition, which had a profound impact on the direction of competition law in Australia.

She was an inaugural member of the Trade Practices Tribunal and played a leading part in its early decisions, which provided precedents still relevant today. She has also been a lay member of the New Zealand High Court.

In her teaching, she provided a framework for a generation of future leaders to apply in the areas of competition and regulation.

Dr Brunt was a member of the Consumer Affairs Council in Victoria (an advisory body to the Minister for Consumer Affairs), between 1974 and 1983, serving as Chair from 1981 to 1983. She was Chair of the Council from 2004 to 2006. In this time, she was a driving force behind a number of significant projects, including the Inquiry into Deceptive Trade Practices Law. This Inquiry led to the enactment of the *Fair Trading Act 1985* with Victoria being the first State to mirror Part V of the Commonwealth Trade Practices Act.

Dr Brunt's work has highlighted the importance of competition in promoting efficiency, innovation and equality of opportunity and of regulation in protecting vulnerable and disadvantaged consumers.



Louise Sylvan (Deputy Chair of the Australian Competition and Consumer Commission), Professor Maureen Brunt AO and Dr David Cousins (Director of Consumer Affairs Victoria) at the inaugural CAV Lecture

Chapter Seven

Statutory Authorities

CAV provides support and services to several bodies that form part of the consumer protection and trade regulation framework in Victoria.

Chapter Highlight

- Provided support services to three statutory bodies, one statutory appointee and four advisory bodies.

Consumer Affairs Victoria provides administrative support to, and works closely with, several statutory bodies and a statutory appointee.

Business Licensing Authority



Fiona Smith –
**Chair, Business
Licensing Authority**

The *Business Licensing Authority Act 1998* empowers the Business Licensing Authority (BLA) to grant or refuse applications for the licensing and registration of businesses and occupations under the following Acts:

- *Consumer Credit (Victoria) Act 1995*, for credit providers and finance brokers
- *Estate Agents Act 1986*, for estate agents and agents' representatives
- *Introduction Agents Act 1997*
- *Motor Car Traders Act 1986*
- *Prostitution Control Act 1994*, for prostitution service providers and approved managers of brothels
- *Second-Hand Dealers and Pawnbrokers Act 1989*
- *Travel Agents Act 1986*.

BLA is chaired by Fiona Smith. Stuart Ward is a full-time member and deputy chair, Julianne Parsons is a sessional member and Sue Maclellan is a member in her capacity as Director of Liquor Licensing.

BLA is a specialist licensing agency focused on creating and maintaining effective and efficient licensing and registration regimes, for the protection of Victorian consumers. The activities of BLA and Consumer Affairs Victoria are complementary, in that the BLA licensing activities, and the monitoring, investigation, enforcement and policy review activities of Consumer Affairs Victoria operate together to regulate the relevant sectors.

Consumer Credit Fund Advisory Committee



Deborah Beale –
**Chair, Consumer
Credit Fund Advisory
Committee**

The Consumer Credit Fund is a statutory trust fund, established to permit civil penalty monies awarded under the Consumer Credit Code to go towards credit-related research, advice and assistance programs and materials, and educational services. The Consumer Credit Fund Advisory Committee assesses grant applications and makes recommendations to the Minister for Consumer Affairs.

As at 30 June 2006, membership of the Consumer Credit Fund Advisory Committee comprised Deborah Beale (Chair), Julie Smith, Peter Ford, Ian Gilbert, Denis Nelthorpe and Peter Gavin. The Committee members represent the interests of the credit industry, consumer agencies and two persons interested in the provision of education, advice or assistance to consumers.

Applications for funding can be made by not-for-profit agencies, and the Director of Consumer Affairs Victoria. The Advisory Committee considers all applications and the Minister for Consumer Affairs may only approve such applications as the Committee decides to recommend. (See Chapter 2, page 38 for an overview of application of funding in 2005-06 and Appendix 11 for details of grants made from the Fund.)

Consumer Utilities Advocacy Centre



Chris Field –
**Chair, CUAC Board
of Directors**

The Consumer Utilities Advocacy Centre Ltd (CUAC) was established by the Government in 2002 to ensure that the interests of Victorian electricity, gas and water consumers – particularly low-income, disadvantaged, rural, regional and Indigenous consumers – are effectively represented in policy and regulatory decisions. CUAC receives funding from the Government, through Consumer Affairs Victoria, of \$500,000 per annum.

The Minister for Consumer Affairs is the sole member of CUAC. The Directors of the Board are Chris Field (Chair), John Mumford and Robert Bladier (members with expertise in areas related to the functions of the company) and Joan Sturton-Gill and Peter Hansen (representatives of key consumer interests).

In line with its constitutional objectives, CUAC's principal activities are to:

- operate as an independent advocate for Victorian electricity, gas and water consumers, particularly low-income, disadvantaged and rural consumers
- increase the capacity of consumers and consumer advocates to participate in policy and regulatory decisions on electricity, gas and water through its own resources and its management of the CUAC Grants Program

- undertake research and commission research into consumer utility issues, with a particular focus on low-income, disadvantaged and rural consumers, and to disseminate that knowledge as widely as possible
- monitor consumer utility issues, particularly those affecting low-income, disadvantaged and rural consumers.

During 2005–06, CUAC represented Victorian consumers in a large range of national and State policy and regulatory decisions, and contributed to positive results for consumers in financial hardship.

This included:

- providing submissions to the Committee of Inquiry into the Financial Hardship of Energy Consumers
- cross-sectoral collaboration on developing best practice energy and water companies' hardship policies
- co-ordinating a joint response from similarly placed organisations to help ensure that energy product disclosure allows consumers to more easily compare energy prices
- helping to build capacity among consumer organisations to ensure that the interests of residential and low-income consumers are represented in the move to a national regulatory regime for energy retail and distribution.

During 2005–06, CUAC approved grants totalling \$219,414 (excluding GST) to consumer and community groups for research and capacity-building projects on consumer utilities issues. Grants were awarded for a diverse range of projects, from investigations into how small business consumers were faring in the marketplace, to identifying the costs and benefits of water reform for Victorian consumers, to assessing the impact of the Energy Retail Code on low-income consumers. CUAC provides an annual report to the Minister, which is tabled in Parliament.

Director of Liquor Licensing



Sue Maclellan –
Director of Liquor
Licensing

The Director of Liquor Licensing is responsible for the administration of the *Liquor Control Reform Act 1998*. The Director's functions and powers include:

- granting or refusing applications for the grant, variation, transfer or relocation of a liquor licence or BYO permit, and a range of ancillary applications and approvals
- approving training programs
- advising the Minister for Consumer Affairs on the operation of the Act, and conducting investigations relevant to the operation of the Act.

The Director of Liquor Licensing is involved, together with Consumer Affairs Victoria staff, in participating on initiatives on the Whole of Victorian Government priority of safe communities. In addition, the Director participated in national alcohol-related activities, including:

- attending the 35th Australasian Liquor Licensing Authorities Conference 2005, held in Darwin
- hosting the 2006 National Indigenous Issues Working Group seminar for members of the Australasian Liquor Licensing Authorities Conference in Victoria.

For more detailed reporting, see Chapter 3, page 45.

Estate Agents Council



Michael Brett Young –
Chair, Estate Agents
Council

Consumer Affairs Victoria provides assistance and support to the Estate Agents Council, a statutory body established under the *Estate Agents Act 1980*.

The Council's primary function is to advise the Minister for Consumer Affairs on matters referred to the Council by the Minister, and in respect of any matter relating to the operation of the Act. To this end the Council monitors the operation of the Act and assesses the efficiency and effectiveness of its application to the real estate industry, on an ongoing basis.

In addition the Council makes policy recommendations to the Minister for Consumer Affairs in relation to the operation of the Act and relevant regulations, the real estate industry generally, and applications for grants from the Victorian Property Fund. Full details of grants made from the Fund during 2005–06 appear in Appendix 12.

The Council reports directly to the Minister for Consumer Affairs.

In 2005–06 the Estate Agents Council was chaired by Michael Brett Young. Membership included David Marks (Deputy Chair), Karen Gornalle, Neil Laws, Denise Maresh, Julie Paxton, Robert Sherwell and Pippy Watson.

Motor Car Traders Guarantee Fund Claims Committee



Stuart Ward –
Chair, Motor Car
Traders Guarantee
Fund Claims
Committee

The Motor Car Traders Guarantee Fund Claims Committee is established by the *Motor Car Traders Act 1986* and is comprised of members representing the interests of consumers, members with motor car trading industry knowledge, and a lawyer, who acts as chairperson. Membership for 2005–06 includes Stuart Ward (Chair), Catriona Lowe, Craig Tucker, Vivien Gunn, Lori Williams and Michael Case (consumer representatives) and Noel Gould, Percival Makin, Peter Savige and Lea O'Halloran (industry representatives).

The Committee decides claims against the Motor Car Traders Guarantee Fund, which essentially indemnifies consumers against certain categories of loss incurred in dealings with motor car traders, stipulated in the legislation. A statutory maximum of \$40,000 applies. The principal source of the money held in the Fund is the licence fees paid by motor car traders.

Protecting the Fund from unsubstantiated claims and claims outside its jurisdiction, and providing access to a simple and quick process for claimants with genuine claims, particularly those who are disadvantaged or vulnerable, are the main principles that guide the Committee in deciding claims.

During 2005–06, 627 claims against the Fund were received (as compared to 300 received in 2004–05). The number of claims finalised was 648, up from 339 in 2004–05. Of these, 95 were admitted in full or in part, 10 were refused, and 543 were withdrawn. The high proportion of claims withdrawn (84 per cent) reflects the effectiveness with which the Committee performs its dispute resolution function, and also the deterrent impact of linking claims made to the Fund against traders with their entitlement to continue to hold licences.

The total value of the claims finalised during 2005–06 was \$1,637,902.62. Of this amount, 21 per cent (\$339,149.37) was paid out (the balance related to claims refused in full or in part, or withdrawn). Of the amount paid out, \$8,428 related to a Victorian Civil & Administrative Tribunal decision in relation to a claim finalised in 2004–05. The balance related to claims admitted in full or in part.

See Appendix 10 for full details of claims admitted during 2005–06.

Case Study: Committee works with CAV to change VicRoads practices to protect consumers

In recent years, a high proportion of claims against the Fund have related to losses incurred by consumers as a result of failure by motor car traders to pass on duty and transfer fees to VicRoads, to enable registration of the car to be transferred.

Although the average amount paid out on these claims is relatively small, many claimants have already stretched themselves financially to purchase a car, and report that being asked to pay duty and transfer fees a second time or face non registration of their vehicles, creates high levels of stress.

The Committee approached CAV to jointly draw VicRoads' attention to relevant parts of the *Duties Act 2000* which relieve purchasers of motor cars of any further liability for the duty payable on the transfer of registration in circumstances where they have paid that duty to the trader as part of the purchase price. In response, VicRoads has agreed to process the transfer of registration on being satisfied that the purchaser paid the applicable duty and transfer fee to the trader, and that there is a current roadworthy certificate.

The Committee regards this as an important outcome for consumers caught in situations where, for example, a motor car trader closes its doors suddenly, without paying the duty and transfer fees that it has collected, to VicRoads. Consumers will be relieved of the inconvenience and stresses they have faced previously. At the same time, it will relieve significant pressure from the Fund.

Patriotic Funds Council

The Patriotic Funds Council is to be superseded by the Victorian Veterans Council, effective from August 2006. For more detailed reporting, see Chapter 5, page 81.

Prostitution Control Act Ministerial Advisory Committee



Glenyys Romanes MP –
Chair, Prostitution
Control Act Ministerial
Advisory Committee

Established under the *Prostitution Control Act 1994*, the Prostitution Control Act Ministerial Advisory Committee advises the Minister for Consumer Affairs on the outcomes of its work plan, and any other issue requested by the Minister. The Minister approves the Committee's Terms of Reference and considers its advice.

Section 67 of the *Prostitution Control Act 1994* states that the functions of the Committee are to provide advice on:

- issues related to the regulation and control of the prostitution industry in Victoria
- the general operation of the prostitution control industry in Victoria
- liaison with the police force so as to assist the police force in carrying out its functions in relation to prostitution
- the reference of relevant matters for investigation to the WorkCover Authority, the Australian Taxation Office or the Commonwealth Department of Immigration and Ethnic Affairs or any other body

- assistance for organisations involved in helping prostitutes to leave the industry
- the development of educational programs about the prostitution industry for magistrates, police and community workers
- the dissemination of information about the dangers (including dangers to health) inherent in prostitution, especially street prostitution.

Ms Glenyys Romanes MP chairs the Committee. The combined skills and expertise of the Committee ensures the diverse perspectives of the community, sex workers and the industry are considered.

During 2005–06, the Committee worked on Terms of Reference to investigate options for a career transition program for sex workers.

Residential Tenancies Bond Authority

RTBA telephone enquiry service
1300 13 71 64
Web www.rtba.vic.gov.au

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

The RTBA is constituted by the Director of Consumer Affairs Victoria. The RTBA has no other members and employs no staff. The RTBA is reliant on the staff and resources of Consumer Affairs Victoria, and external service providers.

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

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

As at 30 June 2006, the RTBA held 372,014 bonds, valued at \$353.1 million. This represents an increase of 4.3 per cent in the number of bonds since 30 June 2005, and an increase of 9.2 per cent in value.

During the year, more than 176,100 residential tenancy bonds were lodged, more than 148,900 bond claims were paid and more than 27,000 bonds were transferred.

The RTBA telephone enquiry service is available from anywhere in Australia for the cost of a local call. In the year ending 30 June 2006, the RTBA call centre received 99,842 telephone calls from tenants, landlords, and estate agents.

Online bond claims

RTBA Online was enhanced in December 2005 with the facility to create completed bond claim forms using the online service.

Some of the key features of the new online claim service are listed below.

- The claim form can be generated online worldwide, 24 hours a day seven days a week.
- Key fields are automatically completed.
- Data validation takes place to prevent claiming more than the total bond amount.
- There are 'smart' capabilities which prevent bonds being paid to tenants who have Department of Housing loans.
- The completed form can be printed by the user, signed by all relevant parties and then submitted to the RTBA.

The RTBA Online service operates in two modes:

- Registered users. Property managers with a portfolio of bonds and are registered with the RTBA have access to all of their bonds via a password protected login. Information can be retrieved by a variety of search techniques including bond number, form number, tenant name, and the address of premises.
- Tenants and landlords. Access to the details and claim for a single bond through a simplified login process based upon a combination of the bond number and tenant's name.

Further details concerning the RTBA may be obtained from the RTBA's annual report to Parliament which is available by telephoning the RTBA telephone enquiries service. Additional information is also available at www.rtba.vic.gov.au.

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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 – this part 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. *Disposal of Uncollected Goods Act 1961*
14. *Domestic Building Contracts Act 1995* (excluding Part 5 – this part administered by the Attorney-General)
15. *Estate Agents Act 1980*
16. *Fair Trading Act 1999*
17. *Frustrated Contracts Act 1959*
18. *Fuel Prices Regulation Act 1981*
19. *Fundraising Appeals Act 1998*
20. *Funerals (Pre-Paid Money) Act 1993*
21. *Goods Act 1958*
22. *Hire-Purchase Act 1959* (repealed 1 April 1998, in respect of future hire-purchase agreements, except for sections 24 and 25, applicable to hire-purchase agreements for farm machinery until 30 June 2003)
23. *Introduction Agents Act 1997*
24. *Landlord and Tenant Act 1958*
25. *Liquor Control Reform Act 1998*
26. *Marketable Securities Act 1970*
27. *Motor Car Traders Act 1986*
28. *Partnership Act 1958*
29. *Petroleum Products (Terminal Gate Pricing) Act 2000*
30. *Petroleum Retail Selling Sites Act 1981*
31. *Private Agents Act 1966*
32. *Prostitution Control Act 1994*
33. *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; balance of Act administered by the Attorney-General, the Minister for Housing and the Minister for Planning)
34. *Retirement Villages Act 1986*
35. *Sale of Goods (Vienna Convention) Act 1987*
36. *Sale of Land Act 1962*
37. *Sea-Carriage Documents Act 1998*
38. *Second-Hand Dealers and Pawnbrokers Act 1989*
39. *Subdivision Act 1998* (Part 5; section 38; section 43 insofar as it relates to Part 5 and section 38) (Act otherwise administered by the Minister for Planning)
40. *Trade Measurement Act 1995*
41. *Trade Measurement (Administration) Act 1995*
42. *Travel Agents Act 1986*
43. *Trustee Act 1958*
44. *Trustee Companies Act 1984* (jointly with the Treasurer)
45. *Utility Meters (Metrological Controls) Act 2002*
46. *Veterans Act 2005* (Part 4 only; balance of Act administered by the Premier)

Regulations commenced

Name	Date commenced
Fair Trading (Safety Standard) (Children’s Toys) (Amendment) Regulations 2005	27 July 2005
Petroleum Products (Terminal Gate Pricing) (Amendment) Regulations 2005	1 August 2005
Residential Tenancies (Amendment) Regulations 2005	20 September 2005
Estate Agents (General, Accounts and Audit) (Amendment) Regulations 2005	20 September 2005
Subordinate Legislation (Trade Measurement Regulations 1996 – Extension of Operation) Regulations 2005	29 November 2005
Subordinate Legislation (Estate Agents (Fees) Regulations 1996 – Extension of Operation) Regulations 2005	7 December 2005
Estate Agents (Exemption) Regulations 2005	31 December 2005
Liquor Control Reform (Prescribed Substance) Regulations 2005	31 December 2005
Liquor Control Reform (Prohibited Supply) Regulations 2005	1 January 2006
Retirement Villages (Records and Notices) Regulations 2005	30 January 2006
Residential Tenancies (Infringement Penalties) Regulations 2006	1 February 2006
Liquor Control Reform (Amendment) Regulations 2006	1 March 2006
Credit (Administration) (Committee) Regulations 2006	28 March 2006
Subordinate Legislation (Domestic Building Contracts and Tribunal (General) Regulations 1996 – Extension of Operation) Regulations 2006	28 March 2006
Trustee Companies Regulations 2006	3 April 2006
Prostitution Control Regulations 2006	13 June 2006

Regulations revoked

Name	Effective date
Estate Agents (Exemption) Regulations 1997	31 December 2005
Liquor Control Reform (Prohibited Class of Liquor) Regulations 2003	1 January 2006
Credit (Administration) (Committee) Regulations 1996	28 March 2006
Credit (Administration) (Committee) (Amendment) Regulations 2001	28 March 2006
Trustee Companies Regulations 1995	28 March 2006
Prostitution Control Regulations 1995	13 June 2006

Acts assented to

Name	Date of royal assent
House Contracts Guarantee (Amendment) Act	13 September 2005
Residential Tenancies (Further Amendment) Act – sections 4(c) and 22	20 September 2005
Motor Car Traders and Fair Trading Acts (Amendment) Act	29 November 2005
Veterans Act – Part 4	7 December 2005
Liquor Control Reform (Amendment) Act	4 April 2006

Appendix 3
Enforceable undertakings accepted
2005–06

Where appropriate in terms of the CAV *Compliance and Enforcement Policy Guidelines*, the Director of CAV accepts enforceable undertakings from traders regarding their conduct. Enforceable undertakings signed in 2005–06 are listed here. They concern matters regulated by the following legislation:

EAA: *Estate Agents Act 1980*

FAA: *Fundraising Appeals Act 1998*

FTA: *Fair Trading Act 1999*

MCTA: *Motor Car Traders Act 1986*

Date	Party	Act	Section
1/7/05	TA Ingpen (Trading) Pty Ltd Concetta Ann-Maree Rossi Domenic Rossi	FTA	44
27/8/05	Mowaffac Ghanem	FTA	44
27/8/05	Norman Brent Leppard Barbara Joan Leppard	FTA	33
27/8/05	El-Asmar Pty Ltd Antonio El-Asmar Madelene El-Asmar	FTA	44

Breach summary and nature of the undertaking

TA Ingpen's core business is the supply of confectionary and snack foods. TA Ingpen were found to be supplying three products (Giant Dummies for Big Suckers, Dummy Pops and Dummy) that resemble babies' dummies and do not meet safety requirements specified in the Permanent Ban Order Prohibiting the Supply of Dangerous Goods published in the Victorian Government Gazette No S191, dated 1/9/04. Offering to supply goods that are subject to a permanent ban order is a breach of section 44 of the *Fair Trading Act 1999*. The company and its directors undertook to refrain from supplying or offering to supply at any time in the future, products which are subject to permanent ban orders or which do not comply with mandatory product safety standards.

Mowaffac Ghanem is the proprietor of a tobacconist retail store trading under the name Tobacco Station Lalor, in Lalor. The store was found to be supplying ice pipes, which can be used for smoking or inhaling methamphetamine crystals also known as 'ice' and 'crystal meth'. Supplying ice pipes contravenes a Permanent Ban Order Prohibiting the Supply of Dangerous Goods published in the Victorian Government Gazette No S11, dated 22/1/04. Mowaffac Ghanem has undertaken to refrain from supplying, or offering to supply at any time in the future, products which do not comply with mandatory product safety standards and product ban orders, and authorised CAV to destroy and dispose of the 2,066 ice pipes seized.

Norman Brent Leppard and Barbara Joan Leppard are the proprietors of the variety retail store Ports Golly Gosh in Echuca. The store was found to be supplying toys ('Learn the Alphabet' and 'Push Along Train') that do not meet the safety requirements specified in the Fair Trading (Safety Standard) (Children's Toys) Regulations 2004 SR No 111/2004, as they pose a choking hazard to young children. The parties have undertaken to refrain from supplying or offering to supply at any time in the future, products which do not comply with mandatory product safety standards and product ban orders.

Antonio El-Asmar and Madelene El-Asmar are directors of El-Asmar Pty Ltd, which trades as FX Racing Australia. FX Racing Australia was found to be supplying 'Predator' pocket bikes, which come within the definition of 'Monkey Bikes' banned under a Permanent Ban Order published in the Victorian Government Gazette No S100 on 23/5/05. The company and its directors have undertaken to cease supplying or offering to supply, at any time in the future, products which are subject to the above banning order and products which do not comply with mandatory product safety standards and other product ban orders.

Appendix 3
Enforceable undertakings accepted
2005–06

Date	Party	Act	Section
27/8/05	Yong Ming Tu Bo Ren Xiao Feng Su	FTA	44
19/12/05	Muther Company Pty Ltd Claudio James Muser Lorena Di Cecco Vesna Di Cecco	FTA	44
3/2/06	Paul Vernon Timmis	EAA	55(3) 55(8) 55(14)
3/2/06	Woolworths Limited	FAA	17A

Breach summary and nature of the undertaking

Yong Ming Tu, Bo Ren and Xiao Feng Su are the registered owners of Powercycle Australia in Bayswater, which imports and sells pocket bikes, mini choppers and motorised products via the internet. Powercycle Australia was found to be supplying bikes that came within the description of 'Monkey Bikes' banned under a Permanent Ban Order published in the Victorian Government Gazette No S100 on 23/5/05. Yong Ming Tu, Bo Ren and Xiao Feng Su have undertaken to cease supplying or offering to supply, at any time in the future, products which are subject to the above banning order and products which do not comply with mandatory product safety standards and product ban orders.

Claudio James Muser, Lorena Di Cecco and Vesna Di Cecco are the directors of Muther Company Pty Ltd, which trades on the premises of JNR Motor Company Australia located in Keilor East. The company imports and sells via the internet mini choppers and motorised products. Two of the products it was supplying ('Space Pocket Bike' and 'Chopper Style Mini Bike') were found to come under the description of 'Monkey Bikes' banned under a Permanent Ban Order Prohibiting the Supply of Dangerous Goods published in the Victorian Government Gazette No S100 on 23/5/05. An embargo notice was issued to Muther Company due to there being 26 of the prohibited bikes on the trading premises at one time. The company and its directors have undertaken to cease supplying or offering to supply, at any time in the future, products which are subject to the banning order and products which do not comply with mandatory product safety standards and product ban orders.

Whilst employed as an agent's representative at Elders Limited Real Estate in Mildura (trading as Elders Real Estate), Paul Vernon Timmis sold property that the estate agency was commissioned to sell, to his brother and sister-in-law. Under section 55 of the *Estate Agents Act 1980* Paul Timmis had a beneficial interest in the purchase of the property and failed to get permission from the Director of CAV to sell the property to his brother. Paul Vernon Timmis has undertaken to comply with the provisions of the Estate Agents Act and any other law relevant to the conduct of the business of an estate agent while he is employed as an agent's representative by any estate agent and to complete the course in Property (Agent's Representatives) prior to commencing employment as an agent's representative of any estate agent. He has further undertaken, in the event of his employment by an estate agency, to provide the Business Licensing Authority with written confirmation from the estate agent employing him that he has informed the estate agent of the nature and circumstances of the offence in respect of which he entered the enforceable undertaking.

Woolworths Limited breached section 17A of the *Fundraising Appeals Act 1998* by conducting fundraising appeals throughout Victoria without being registered as a fundraiser. Woolworths has undertaken not to conduct any fundraising activities in the State of Victoria unless registered by the Director of CAV as a fundraiser and in accordance with any conditions imposed by the Director.

Appendix 3
Enforceable undertakings accepted
2005–06

Date	Party	Act	Section
8/2/06	Everything Glows Pty Ltd Marilyn Julie Fink	FTA	44
24/2/06	Wendy Import & Export Pty Ltd Wendy Jia Tim Shen	FTA	33
24/2/06	DECT Nominees Pty Ltd David Ernest Bidstrup	FTA	44

Breach summary and nature of the undertaking

Everything Glows Pty Ltd and Marilyn Julie Fink (the director, secretary and shareholder of this company) breached section 44 of the *Fair Trading Act 1999* by failing to comply with a Permanent Ban Order Prohibiting the Supply of Dangerous Goods printed in the Victorian Government Gazette No S104 on 30/5/03, in that they supplied dangerous toys called 'Flashing Jellyfish YoYo'. The company and Ms Fink have undertaken to refrain from supplying or offering to supply, at any time in the future, products which are subject to permanent ban orders or do not comply with mandatory product safety standards, to place a warning notice of the ban with a colour photograph in the early general news section of the *Herald Sun* newspaper, and to write to their Victorian clients to whom the yoyo was supplied, advising them that the goods are deemed to be dangerous and should be immediately removed from sale and destroyed or disposed of.

Wendy Import & Export Pty Ltd and its directors Wendy Jia and Tim Shen failed to comply with permanent ban orders and mandatory product safety standards, breaching section 33 of the *Fair Trading Act 1999*. At the warehouse premises of Wendy Import & Export Pty Ltd located at Moorabbin, 117 units of a children's toy ('Wooden Train Green No E 41') were seized because they did not meet the safety requirements specified in the Fair Trading (Safety Standard) (Children's Toys) Regulations 2004 SR No 111/2004. Wendy Jia, Tim Shen and the company have undertaken to refrain from supplying or offering to supply, at any time in the future, products which are subject to the Fair Trading (Safety Standard) (Children's Toys) Regulations 2004 SR No 111/2004 and products which do not comply with mandatory product safety standards and product ban orders. They undertook to place a warning notice in the early general news section of the *Herald Sun* newspaper, and to write to their Victorian clients who had been supplied with the dangerous children's toys since 2004, advising them that the goods are deemed to be dangerous and should be immediately removed from sale and either destroyed and disposed of or returned. Wendy Jia and Tim Shen also undertook to identify and retain an appropriately qualified independent compliance professional to analyse the company's business and develop an appropriate compliance program, within 60 days, at the company's expense.

DECT Nominees Pty Ltd and its director, secretary and shareholder David Ernest Bidstrup own and operate a chain of retail discount variety goods stores (Bargain Buys) located in Echuca, Bendigo, Shepparton and Wodonga. The Bargain Buys stores at Echuca, Bendigo and Shepparton were found to be selling 'Glow Candles'; candles decorated with coffee bean-like objects that are flammable and do not meet the safety requirements of a permanent ban order under the *Fair Trading Act 1999*. By selling the candles, DECT Nominees and Mr Bidstrup breached section 44 of the *Fair Trading Act 1999*. The parties have undertaken to refrain from supplying or offering to supply, at any time in the future, products which are subject to a Permanent Ban Order Prohibiting the Supply of Dangerous Goods printed in the Victorian Government Gazette No G9 on 28/2/02 and products which do not comply with mandatory product safety standards and product ban orders; to display a warning notice in each of the shopfront windows of Bargain Buys at the Echuca, Bendigo and Shepparton stores; and to place the warning notice in the early general news section of the *Riverine Herald*, *Bendigo Advertiser* and *Shepparton News* local community newspapers.

Appendix 3
Enforceable undertakings accepted
2005–06

Date	Party	Act	Section
7/3/06	Children’s Cancer Institute Australia (CCIA)	FAA	24A 25 29 30(2)
22/3/06	The Magic Store Pty Ltd Kamal Bhushan	FTA	44
22/3/06	Advance Collections Pty Ltd Xiao Qin Yu	FTA	33

Breach summary and nature of the undertaking

The Children's Cancer Institute Australia (CCIA) breached sections 24A, 25, 29 and 30(2) of the *Fundraising Appeals Act 1998* by failing to notify CAV when a commercial fundraiser was retained; retaining more than 40 per cent of the gross appeal proceeds; and failing to keep sufficient records and financial records in relation to the commercial fundraiser. The company has undertaken to comply with the conditions imposed under section 23 of the *Fundraising Appeals Act 1998*. On the basis of this undertaking, the CCIA's registration as a fundraiser under the Act was renewed.

The Magic Store Pty Ltd and its director, shareholder and secretary Kamal Bhushan failed to comply with a permanent ban order and mandatory product safety standards, breaching section 44 of the *Fair Trading Act 1999*. CAV seized 37 units of 'Colored Growing' toys from The Magic Store retail premises situated in Southbank. Mr Bhushan and The Magic Store have undertaken to refrain from supplying or offering to supply, at any time in the future, products which are subject to the Order Prohibiting the Supply of Dangerous Goods printed in the Victorian Government Gazette No 14 on 27/2/85 and products which do not comply with mandatory product safety standards and product ban orders; display a warning notice in the shopfront window of The Magic Store retail premises; and place a warning letter in the early general news section of the *Herald Sun* newspaper within seven days of signing the undertaking.

Advance Collections Pty Ltd (trading as Advance Giftline) and its director, shareholder and secretary Xiao Qin Yu failed to comply with prescribed safety standards, breaching section 33 of the *Fair Trading Act 1999*. CAV seized 892 units of children's wooden toys from Advance Collections' warehouse premises situated in Mentone. Xiao Qin Yu and Advance Collections have undertaken to refrain from supplying or offering to supply, at any time in the future, products which are subject to the Fair Trading (Safety Standard) (Children's Toys) Regulations 2004 SR No 111/2004 and products which do not comply with mandatory product safety standards and product ban orders; to place a warning notice in the early general news section of the *Herald Sun* newspaper; to write to Victorian clients to whom the company has supplied the dangerous children's wooden toys since 2004 and advise them that the goods are deemed to be dangerous and should be immediately removed from sale and destroyed and disposed of or returned. In addition the parties undertook to provide those clients with copies of the warning notice and request that they display the notice in their business premises shopfront windows. Xiao Qin Yu undertook to identify and retain an appropriately qualified independent compliance professional to analyse Advance Collections' business and develop an appropriate compliance program, including a compliance policy and procedures.

Appendix 3
Enforceable undertakings accepted
 2005–06

Date	Party	Act	Section
22/3/06	Hometech Imports Pty Ltd Simon Anthony Tanti	FTA	44
13/4/06	Greensun Pty Ltd t/a Solahart Moorabbin	FTA	9 12(e) 12(n)
18/5/06	Wallington Real Estate Pty Ltd Linda Bernadette Mathews Edgar Corless	EAA	47A
18/5/06	Xinrong Zhang Wenqiao Zeng	FTA	33

Breach summary and nature of the undertaking

Hometech Imports Pty Ltd and its director, shareholder and secretary Simon Anthony Tanti failed to comply with a Permanent Ban Order Prohibiting the Supply of Dangerous Goods, breaching section 44 of the *Fair Trading Act 1999*. CAV seized 908 units of candles decorated with coffee beans from Hometech Imports' warehouse premises situated in Sunshine. Mr Tanti undertook to refrain from supplying or offering to supply, at any time in the future, products which are subject to the Permanent Ban Order Prohibiting the Supply of Dangerous Goods printed in the Victorian Government Gazette No G9 on 28/02/02 and products which do not comply with mandatory product safety standards and product ban orders. In addition he undertook to place a warning notice in the early general news section of the *Herald Sun* newspaper within seven days of signing the undertaking, and to provide their Victorian clients with copies of the warning notice and request that they display the notice in their business premises shopfront windows. Mr Tanti undertook to write to Victorian clients to whom Hometech Imports had supplied the dangerous candles, and advise them that the goods are deemed to be dangerous and should be immediately removed from sale and either destroyed and disposed of or returned.

Greensun Pty Ltd trades as Solahart Moorabbin, which is an authorised dealership of solar hot water systems for Solahart Industries. During 2004 and 2005, Solahart Moorabbin published various promotional materials containing representations regarding the possible benefits to homeowners of installing a particular solar hot water system. The material published was considered to be misleading and deceptive, to constitute a representation that the goods or services have performance characteristics or benefits which they do not have, and to contain representations that are materially false, misleading or deceptive. Greensun Pty Ltd, as the owner of Solahart Moorabbin, undertook to ensure that any and all promotional material or advertising it publishes is reviewed by Solahart Industries prior to publication to ensure that it does not contain any representations that may be false, misleading or deceptive, and that it otherwise complies with all relevant legislation.

Wallington Real Estate Pty Ltd and its directors Linda Mathews and Edgar Corless contravened section 47A of the *Estate Agents Act 1980* by having seven sales authority notices without the agents' estimated sales range or sale price. The company, Linda Mathews and Edgar Corless have undertaken to comply with the obligations imposed on estate agents by section 47A of the *Estate Agents Act 1980*. They are to execute a training program for staff in relation to these obligations and to provide CAV with copies of all listing authorities obtained by Wallington for a period of six months.

Xinrong Zhang and Wenqiao Zeng, who own Antarctic Import and Export Co, failed to comply with prescribed safety standards, breaching section 33 of the *Fair Trading Act 1999*. CAV seized 167 units of children's wooden toys from the Antarctic Import and Export Co premises situated in Moorabbin. Xinrong Zhang and Wenqiao Zeng have undertaken to cease supplying or offering to supply, at any time in the future, products which are subject to prescribed safety standards and products which do not comply with mandatory product safety standards and product ban orders. In addition the parties undertook to place a warning notice in the best possible position in the early general news section of the *Herald Sun* newspaper.

*Appendix 3
Enforceable undertakings accepted
2005–06*

Date	Party	Act	Section
18/5/06	Jun Xiong Chen	FTA	33
18/5/06	R&Z Company Pty Ltd Shi Dong Wang	FTA	33
1/6/06	Debra Jean Parks	MCTA	7
16/6/06	Raymond J Wilson	MCTA	7

Breach summary and nature of the undertaking

Jun Xiong Chen, who is the proprietor of the retail store called Bargain Land Benteleigh, failed to comply with the prescribed safety standards, breaching section 33 of the *Fair Trading Act 1999*. On 17/3/06, CAV officers seized in total 18 units of children's toys from Bargain Land Benteleigh's premises in Benteleigh.

Jun Xiong Chen undertook to refrain from supplying, or offering to supply, at any time in the future, products which are subject to the Fair Trading (Safety Standard) (Children's Toys) Regulations 2004 SR No 111/2004 and products which do not comply with mandatory product safety standards and product ban orders, and to place a warning notice in the early general news section of the *Moorabbin Leader* local community newspaper and display the warning notice in a prominent position at the Bargain Land Benteleigh retail premises.

Shi Dong Wang, who is the director, secretary and shareholder of R&Z Company Pty Ltd, which trades as Gift Collection, failed to comply with prescribed safety standards, breaching section 33 of the *Fair Trading Act 1999*. CAV officers seized 52 units of children's toys from the R&Z Company premises situated at Benteleigh. Shi Dong Wang has undertaken to refrain from supplying, or offering to supply, at any time in the future, products which are subject to the Fair Trading (Safety Standard) (Children's Toys) Regulations 2004 SR No 111/2004 and products which are subject to the Permanent Ban Order Prohibiting the Supply of Dangerous Goods published in the Victorian Government Gazette G48 on 28/11/02. In addition the parties undertook to place a warning notice in the best possible position in the early general news section of the *Moorabbin Leader* local community newspaper and display the warning notice at R&Z Company's retail premises.

Debra Jean Parks breached section 7 of the *Motor Car Traders Act 1998* by carrying on the business of trading in motor cars without having a licence to do so. Mrs Parks has undertaken to refrain from buying, selling or exchanging motors cars either personally, or as an agent, employee or servant of any other person or entity unless she obtains a licence to do so under the Act.

Raymond J Wilson breached section 7 of the *Motor Car Traders Act 1998* by carrying on the business of trading in motor cars without having a licence to do so. Mr Wilson has undertaken to refrain from buying, selling or exchanging motors cars either personally, or as an agent, employee or servant of any other person or entity unless he obtains a licence to do so under the Act.

Where appropriate in terms of the CAV *Compliance and Enforcement Policy Guidelines*, CAV participates in civil proceedings.

Civil proceedings in which final orders were handed down (whether or not an appeal is pending) or were withdrawn, in 2005–06 are listed here.

In 2005–06 civil proceedings were brought under the following legislation:

AIA: *Associations Incorporation Act 1981*

BNA: *Business Names Act 1962*

CC(Vic)A: *Consumer Credit (Victoria) Act 1995*

EAA: *Estate Agents Act 1980*

FAA: *Fundraising Appeals Act 1998*

FOIA: *Freedom of Information Act 1982*

FTA: *Fair Trading Act 1999*

LCRA: *Liquor Control Reform Act 1998*

MCTA: *Motor Car Traders Act 1986*

PCA: *Prostitution Control Act 1994*

RTA: *Residential Tenancies Act 1997*

The proceedings were conducted in the Victorian Supreme Court (VSC), Magistrate’s Court (MC) and Victorian Civil & Administrative Tribunal (VCAT).

Date	Matter	Court	Act	Section	Details
1/7/05	Denise Keating t/a Venus Bay Holiday Accommodation Booking Service	MC	FTA	149 150 158(1)	CAV successfully restrained Denise Keating from trading as an estate agent without a licence as part of her business Venus Bay Holiday Accommodation Booking Service. In consent orders filed with the Court, Ms Keating agreed to cease advertising, arranging, accepting bookings as well as collecting deposits or rents in relation to the letting or leasing of Victorian real estate until she was licensed to do so. In addition to complying with this requirement, Ms Keating has agreed to publish corrective advertising in the local newspaper and tourist information publications, and to remove her website.

Date	Matter	Court	Act	Section	Details
4/7/05	Ludwik and Teresa Pietrzak	VCAT	LCRA	22(1)(c) 3(1)	Ludwik and Teresa Pietrzak appealed the decision by the Director of Liquor Licensing refusing their application for an on-premises licence to operate premises for the dual purposes of a convenience store and café. At the time the application was lodged with the Director little had been done to separate the convenience store and café functions from each other. After lodging their application for review, the applicants looked to improving the physical separation of the two shop functions and to the legal or leasehold (and occupying entity) separation of the intended licensed café premises from the convenience store. The matter was subsequently withdrawn by the applicants in order to prepare a fresh licence application.
11/7/05	Shane Stapleton	VCAT	LCRA	44	Shane Stapleton sought review of the decision of the Director of Liquor Licensing refusing an application for a package liquor licence for premises that also traded as a video store on the basis that licensing such a business, which also provided basic family entertainment, would encourage the misuse of alcohol as it sent an incorrect message to younger people, linking alcohol with entertainment. VCAT granted a licence with conditions requiring the separation of liquor transactions from the sale and rental of videos.
28/7/05	Vietnamese Recreational & Cultural Club Inc	MC	LCRA	90	The Victoria Police made an application for an inquiry against the licensee of the Vietnamese Recreational & Social Club Inc. The club was disqualified from holding a licence for five years.

Appendix 4

Civil litigation concluded 2005–06

Date	Matter	Court	Act	Section	Details
1/8/05	22–23 Lonsdale Street Pty Ltd	VCAT	EAA	79	The applicant sought review of the decision of the Director of Consumer Affairs Victoria, as delegate of the Secretary, refusing a claim against the Victorian Property Fund for \$175,000. The <i>Estate Agents Act 1980</i> requires that applicants mitigate their loss, and mediation at the Victorian Supreme Court recovered \$100,000 for the applicant company. After further legal submissions, the Victorian Property Fund agreed to pay \$75,000 in final settlement of the claim and the VCAT application was withdrawn.
4/8/05	Rapid Car Sales Pty Ltd Melvin Elias	VCAT	MCTA	13	The applicants sought review of the decision of the Business Licensing Authority refusing Mr Elias a motor car trader's licence. The matter was set for contested hearing but the application was withdrawn.
8/8/05	Roger Franchette	MC	LCRA	44	CAV acted for the Director of Liquor Licensing in relation to a VCAT review of the decision of the Director to grant an off-premises licence to a bulk wine sale business in Caulfield. VCAT affirmed the original decision made by the Director.
30/8/05	Salamander Blue Pty Ltd	VCAT	LCRA	44	The applicant sought review of a decision by the Director of Liquor Licensing refusing an application for a limited licence for a take away (liquor) facility. VCAT affirmed the decision of the Director.
26/7/05 & 12/9/05	Gary Dunkerley	MC	MCTA	7	The applicant was an unlicensed motor car trader selling vehicles to the general public from public car parks in the Mornington area. In July 2005, CAV obtained an interim injunction to force the applicant to cease trading and to deliver details in writing of all transactions that month. In September 2005, the injunction was confirmed by the Court, restraining the applicant from trading in motor vehicles, ordering him to publish a notice in the local newspaper to inform consumers of his breach, and directing that he cannot sell, offer to buy, exchange or advertise for sale, motor vehicles.

Date	Matter	Court	Act	Section	Details
9/8/05 & 12/9/05	Mustafa Yokus	MC	MCTA	14	<p>The applicant, a licensed motor car trader (LMCT) with a condition on his licence limiting him to selling vehicles to other LMCTs, was found to be offering vehicles to the public in breach of this condition, and failing to provide roadworthy certificates.</p> <p>In August 2005 an interim injunction against him was ordered. In September 2005, final orders were granted directing the applicant to cease carrying on the business of trading in motor cars direct to the general public, and to publish corrective advertising.</p>
30/9/05	Victor D'Andrea	VCAT	LCRA	90	<p>The applicant sought to have set aside an order made by the (then) Liquor Control Commission on 4/6/97, disqualifying him from being involved with a licensed premises for a period of 15 years. The applicant agreed to conditions that limited his future involvement in the industry and the previous order was set aside.</p>
30/9/05	JLL Pty Ltd t/a City Finance Loans and Cash Solutions	VCAT	CC(Vic)A FTA	100 9 11	<p>The Director of CAV commenced civil penalties proceedings against the credit providers City Finance and Cash Solutions in Victoria for breaches in key requirements under the <i>Consumer Credit (Victoria) Act 1995</i>. The civil penalties proceedings were dismissed by VCAT.</p>

Appendix 4

Civil litigation concluded 2005–06

Date	Matter	Court	Act	Section	Details
12/9/05 & 7/10/05	Jian Gu	MC	PCA	22	Interim orders were made on 12/9/05, restraining Jian Gu from carrying on the business of a prostitution service provider, until she obtained a licence under the <i>Prostitution Control Act 1994</i> . Ms Gu was ordered to cease publishing or advertising the provision of sexual services and place a notice on prominent display at her premises in Cheltenham, advising the public that the premises cannot be used for the purpose of carrying on a prostitution service provider until licensed. On 7/10/05, CAV obtained a declaration, final injunctions, and publication and disclosure orders against Ms Gu for contraventions of the unlicensed trading provisions of the Act. The Court ordered that Ms Gu publish, weekly for the next four weeks, a notice advertising that she was in breach of the Act and that she may not offer prostitution services, and display conspicuously a notice to similar effect at the premises at Cheltenham.
17/10/05	John Campagna	VCAT	MCTA	75	This was a review of the decision of the Motor Car Traders Guarantee Fund Claims Committee to refuse a claim in part. VCAT set aside the decision and allowed the claim in full.
23/10/05	Midas Trading (Australia) Pty Ltd	VSC	FTA	33 44	CAV successfully obtained an injunction to force Midas Trading (Australia) Pty Ltd to cease supplying a large range of toy products until they had an approved compliance program in place. The Court ordered that Midas Trading publish a public safety warning notice with illustrations of the banned products, to be distributed in letterboxes in the areas in which the company advertises in the course of its normal business. The Court also made declarations that their products breached ban orders and prescribed safety standards.

Date	Matter	Court	Act	Section	Details
24/10/05	Spirit Fingers Pty Ltd	VCAT	LCRA	44	The applicant had applied for an on-premises liquor licence with a closing time of 5am. The Director of Liquor Licensing granted an on-premises licence until 3am. The applicant sought review of this decision. After a contested application VCAT varied the Director's decision, allowing a 5am closing time.
25/10/05	Simon Lukauskas	VCAT	EAA	28	CAV initiated disciplinary action against Simon Lukauskas for breaches of the Estate Agents (Professional Conduct) Regulations. He was disqualified from holding an estate agent's licence or acting as an estate agent's representative for two years, and was ordered to pay \$2,000 to the Victorian Property Fund. This matter is now on appeal to the Supreme Court.
2/11/05	Amici Bakery Café	VCAT	LCRA	44	This was an application to review a decision of the Director of Liquor Licensing to refuse to grant underage authority on licensed premises. The applicant accepted restaurant conditions on the licence and withdrew the application.
2/11/05	Strike on Chapel	VCAT	LCRA	44	The applicant sought review of a decision of the Director of Liquor Licensing to place high risk conditions on a licensed premises. The applicant accepted a revised set of high risk conditions and withdrew its application.
7/11/05	Web Star Internet Pty Ltd	VCAT	LCRA	44	The applicant sought review of a decision of the Director of Liquor Licensing, refusing to grant an on-premises licence. After the contested hearing had commenced, the applicant withdrew its application.
8/11/05	Majorca Body Corporate	VCAT	LCRA	44	This was an application to review a decision of the Director of Liquor Licensing to grant a variation of an existing licence in relation to increasing the size of the licensed area. The applicant withdrew its application.

Date	Matter	Court	Act	Section	Details
8/11/05	Robert Gill (McQuade Lodge)	VCAT	PCA	48	Following an inspection visit by CAV inspectors, an enquiry application was lodged with VCAT alleging a number of breaches of the <i>Prostitution Control Act 1994</i> , including incorrect signage and a non-functioning security alarm. VCAT reprimanded the licensee and ordered him to provide an inspection report confirming compliance with the regulations.
23/11/05	Rare Bear Pty Ltd	VCAT	LCRA	44	This was an application to review a decision of the Director of Liquor Licensing regarding the grant of a liquor licence to a children's play centre. The applicant withdrew its application.
5/12/05	Woolworths Limited	MC	FAA	17A	CAV obtained an order from the Magistrate's Court restraining Woolworths Limited from conducting fundraising appeals unless registered to do so under the <i>Fundraising Appeals Act 1998</i> .
12–13/12/05	Annick Houle and others	VCAT	LCRA	3A 29 38 87(1)	The Director of Liquor Licensing had granted an application for variations to a liquor licence, to enable Montague Hotel to increase seating for its kerbside outdoor area. VCAT affirmed the Director's decision.
16/12/05	Inspired Blends	VCAT	LCRA	44	Inspired Blends made an application to VCAT to review the decision by the Director of Liquor Licensing to grant them a licence for an outdoor area to trade until 11 pm. The licence was varied with conditions to allow Inspired Blends to trade until 3am.
20/12/05	Daniel McPherson	VCAT	MCTA	76	This was an application to review the decision by the Motor Car Traders Guarantee Fund Claims Committee to refuse claims on the Fund by an alleged purchaser who suffered loss associated with a purchase of a motor car. The first decision in relation to a \$22,000 claim was affirmed by VCAT and the second decision in relation to \$51,000 was set aside and referred back to the Committee for further consideration.
21/12/05	Rage Events Pty Ltd	VCAT	LCRA	87(1) 103	This was an application to review the decision of the Director of Liquor Licensing to refuse a transfer of license. The application was withdrawn.

Date	Matter	Court	Act	Section	Details
22/12/05	David Mond	VCAT	FOIA	30(1) 33(1) 34(1) 35(1)	The applicant sought review of the decision of the Department of Justice refusing to release a number of documents in relation to the Caulfield Hebrew Congregation on the grounds of an exemption under the <i>Freedom of Information Act 1982</i> . VCAT affirmed the majority of the decisions of the Department of Justice not to release documents, but ordered that some documents be released in part.
9/1/06	GA and KJ Perks	VCAT	LCRA	3A 9 16 38 87(1)	This application for review of the decision made by the Director of Liquor Licensing to vary a licence and allow Sunday trading was subsequently withdrawn.
9/1/06	Summerhill Residential Park Ellerton Lodge	VCAT	RTA	3	This was a series of applications concerning rental increases disputed by the residents of the Summerhill Residential Park. The Director of Consumer Affairs Victoria was joined to the application to assist VCAT in a legal question, namely whether Summerhill was a caravan park within the meaning of the <i>Residential Tenancies Act 1997</i> . The Director provided an independent engineering report and also made submissions to VCAT. VCAT determined that Summerhill Residential Park falls within the definition of caravan park as defined in section 3 of the Act.
2/2/06	Tasos Dimitriou	VCAT	LCRA	3A 14 16 38 87(1)	This was an application to review a decision of the Director of Liquor Licensing to renew a restricted liquor license. The Director's decision was affirmed.

Appendix 4

Civil litigation concluded 2005–06

Date	Matter	Court	Act	Section	Details
8/2/06 & 15/2/06	Victorian Emergency Relief Fund Inc (VERF)	MC	FTA	149 150 158	The registration of VERF was withdrawn by the Director of Consumer Affairs Victoria. On 8/2/06 CAV obtained an interim injunction under section 150 of the <i>Fair Trading Act 1999</i> restraining VERF from paying or distributing any fundraising appeal proceeds in its possession or under its control until they fulfil their obligations under the <i>Fundraising Appeals Act 1998</i> . On 15/2/06 the Court imposed an injunction on VERF and its officers and employees restraining them from dealing with any of its assets derived from fundraising appeals without the Director's prior written consent. In addition, the Court ordered that VERF account to the Director for all its remaining assets derived from fundraising activities in Victoria.
20/2/06	Perry Triantis	VCAT	MCTA	76	VCAT reviewed the decisions of the Motor Car Traders Guarantee Fund Claims Committee granting two claims by a consumer who thought he had been dealing with a licensed motor car trader. Both decisions of the Committee were affirmed.
24/2/06	Sundance Saloon Royal Mail Hotel Bendigo Pty Ltd	VCAT	LCRA	44	This was an appeal against the decision of the Director of Liquor Licensing to grant two transfers of licences. The applications were subsequently withdrawn.
2/3/06 & 12/4/06	Adrian Thomas Bradshaw t/a Find My Car	MC	MCTA FTA	7 9	An injunction was granted restraining Adrian Bradshaw (trading as Find My Car) from carrying on business as a motor car trader until he obtained a licence under the <i>Motor Car Traders Act 1986</i> . In addition, the Court made publication orders requiring Mr Bradshaw to publish a notice about the nature and effect of these restraining orders in the print and internet editions of the <i>Trading Post</i> , in which he had advertised. Mr Bradshaw was ordered to pay compensation to consumers totalling \$7,550.

Date	Matter	Court	Act	Section	Details
7/3/06	Australian Chornobyl Children's Foundation Inc	MC	AIA	14A(2)	Australian Chornobyl Children's Foundation Inc launched a court action seeking a declaration and damages against two office bearers of the association and the Director of Consumer Affairs Victoria in his capacity as Registrar of Incorporated Associations. Australian Chornobyl Children's Foundation Inc later agreed to discontinue their action against the Registrar and withdraw their application.
8/3/06	West Heidelberg RSL	VCAT	LCRA	54	This was an application to review the decision of the Director of Liquor Licensing to refuse a nominee application. VCAT set aside the decision of the Director and granted the application.
14/3/06	Ji Xua	VCAT	FOIA	30	An application to review the decision of the internal reviewing officer to refuse the release of documents under the <i>Freedom of Information Act 1982</i> was lodged out of time and dismissed by VCAT.
24/3/06	Victorian Emergency Relief Fund (VERF)	VCAT	FAA	19A(2)	The Director of Consumer Affairs Victoria cancelled the fundraising registration of VERF. VERF made an application to have this decision reviewed but withdrew its application.
29/3/06	Heinz Tilenius	VCAT	LCRA	44	This was an application to review a decision of the Director of Liquor Licensing to grant a temporary extension of trading hours. The application was withdrawn.
2/4/06	Wheelchair Sports Victoria Limited	VCAT	FAA	19A(2)	Wheelchair Sports Victoria Limited lodged an application to have the decision of the Director of Consumer Affairs Victoria to place conditions on its fundraising registration reviewed. The application was withdrawn.
20/4/06	Nadine Kellie Anderson Bendigo Bank	VCAT	MCTA	76	This was an application to review the decision of the Motor Car Traders Guarantee Fund Claims Committee refusing a claim arising from the non discharge of a security interest. The decision of the Committee was set aside and it was substituted with the decision to allow the claim.

Appendix 4
Civil litigation concluded 2005–06

Date	Matter	Court	Act	Section	Details
27/4/06	Encore Systems Pty Ltd Michael Shea	MC	FTA	19	CAV obtained an injunction order restraining both Encore Systems Pty Ltd and its former director Michael Shea from demanding or receiving payment for the supply of goods or services, in trade or commerce, until and unless the goods and services had been delivered or provided. The Court made declarations and adverse publicity orders and all consumers received refunds during the course of proceedings.
2/5/06	Paul Brkljacic	VCAT	LCRA	3 38 87(1)	This was an application to review the decision of the Director of Liquor Licensing to grant a packaged liquor licence. The application was withdrawn.
3/5/06	Kenneth Parks	MC	MCTA	7	CAV was granted a final injunction restraining Kenneth Parks from carrying on the business of trading in motor cars while unlicensed. Furthermore, the Court made publication orders requiring Mr Parks to advertise the nature and effect of the Court orders.
3/5/06	Simone Tomlinson	VCAT	EAA	31C(3)	This was an application against the decision of the Business Licensing Authority to refuse to grant permission to a person to act as an agent's representative. The application was withdrawn.
4/5/06	Peter Patrick	MC	LCRA	44	This was an application to review the decision of the Director of Liquor Licensing to increase patron numbers of a licensed premises. The decision was affirmed.
9/5/06	Ben Hutchison	MC	FTA	129A	The Bendigo Magistrates Court ordered monkey bikes that had been seized by CAV under a search warrant in October 2005 at the Bendigo Agricultural Show to be destroyed. The monkey bikes failed to comply with the technical specification of the permanent ban order made by the Minister of Consumer Affairs on 23/5/05.

Date	Matter	Court	Act	Section	Details
23/5/06	VIP Executive Car Rentals Pty Ltd Andreas Triantafyllos	MC	FTA	9 12(n)	CAV made an application for final injunctions, declarations and compensation for consumers, arising out of VIP Executive Car Rentals and its director Andreas Triantafyllos contravening sections 9 and 12(n) of the <i>Fair Trading Act 1999</i> .
25/5/06	Gino Carmignani	MC	FTA BNA	9 12 19 5	On 3/8/05 CAV obtained injunctions against Gino Carmignani and orders for compensation in favour of 11 consumers, totalling \$61,480. Mr Carmignani was found to have offered his services as a monument stone mason, received substantial deposits and occasionally the full price for the supply and installation of gravestones, and then failed to supply the gravestones or refund to the consumers their money. On or about 12/9/05 Mr Carmignani was found to have breached the injunction. On 25/5/06 CAV made an application for declarations and that Mr Carmignani be dealt with for his failure to comply with the earlier injunction and pay the compensation ordered. Mr Carmignani gave a personal undertaking to the Court that he would not go upon or attend any Victorian cemetery.
25/5/06	Severino Autos Pty Ltd	MC	MCTA FTA	14 12(n)	Severino Autos Pty Ltd is a licensed motor car trader (LMCT) with a condition that it may only trade with other LMCTs, and not the public. The Magistrates Court in Ballarat granted a final injunction restraining Severino Autos from offering to buy, sell or exchange motor cars from or to a member of the public. In addition, Severino Autos was ordered to publish a notice in the <i>Ballarat Courier</i> identifying the nature and extent of the Court orders.

Appendix 4
Civil litigation concluded 2005–06

Date	Matter	Court	Act	Section	Details
26/5/06	Wesley Bond	MC	MCTA	7	On 16/12/05 an injunction was granted against Wesley Bond preventing him (except for exempt transactions as defined in the <i>Motor Car Traders Act 1986</i>) from carrying on the business of trading in motor cars. On 6/4/06 the Shepparton Magistrates Court heard proceedings to restrain Mr Bond from carrying on the business of trading in motor cars. The Magistrate continued the injunction placed on Mr Bond, and reserved his decision until 26/5/06. On that date the Shepparton Magistrates Court ordered Mr Bond to cease carrying on the business of trading in motor cars, and to publish a notice outlining the nature and effect of the order in the <i>Benalla Ensign</i> local newspaper. At financial year end this matter was on appeal to the Supreme Court.
29/5/06	Bruno Hess	VCAT	LCRA	44	VCAT heard an application to review the decision of the Director of Liquor Licensing to refuse a restricted limited liquor licence. The decision of the Director was returned to the Director for further consideration after the applicant filed new plans and agreed to new conditions.
16/6/06	Seven Corporation Pty Ltd	VCAT	LCRA	44	VCAT reviewed an application against the decision of the Director of Liquor Licensing to refuse the transfer of a licence of Seven Corporation Pty Ltd. The applicant subsequently withdrew the application.

Date	Matter	Court	Act	Section	Details
28/6/06	Joseph Yelding	MC	FTA BNA	9 12(n) 19 5	<p>CAV applied for final injunctions, declarations and compensation, arising from contravention of the <i>Fair Trading Act 1999</i> and the <i>Business Names Act 1961</i> by Joseph Yelding.</p> <p>Mr Yelding, who was not a registered plumber or gas fitter and cannot issue a certificate of compliance with relevant standards, was trading under the unregistered business name of Diamond Coat Roofing. The Court granted an injunction restraining Mr Yelding from demanding or receiving payment or other benefits for the supply of goods or services until he had delivered or provided those goods or services, and from carrying on business under any unregistered business name. The Court ordered Mr Yelding to pay compensation totalling \$3,309.68.</p>

Where appropriate in terms of the CAV *Compliance and Enforcement Policy Guidelines*, CAV prosecutes offenders.

Prosecutions which were the subject of final orders in 2005–06 (whether or not an appeal is pending) are listed here.

They include prosecutions brought under the following Acts:

BA: *Building Act 1993*

CA: *Crimes Act 1958*

CC(Vic)A: *Consumer Credit (Victoria) Act 1995*

DBCA: *Domestic Building Contracts Act 1995*

FTA: *Fair Trading Act 1999*

MCTA: *Motor Car Traders Act 1986*

The courts issuing final orders in CAV prosecutions in 2005–06 were:

MC: *Magistrate's Court*

CC: *County Court*

Date	Matter	Court	Act	Section
12/7/05	K&G Parker t/a Parker Bros Auto Co	MC	MCTA	35(2)(a)
Licensed motor car trader found guilty of omissions in the dealings book relating to odometer readings, dates of acquisition and disposal of vehicles.				
12/7/05	TR & IK Watt Pty Ltd	MC	MCTA	35(2)(a)
Licensed motor car trader found guilty of making omissions in the dealings book, and failing to record any details of registered motorcycles acquired or disposed of during the 12 months to September 2004.				
12/7/05	Trevor Watt	MC	MCTA	35(2)(a)
Director of TR & IK Watt Pty Ltd.				
21/7/05	Michael Wright Motors Pty Ltd	MC	MCTA	35(2)
Deficiencies found in licensed motor car trader's dealing books.				
9/8/05	Roger James Bell t/a Bells Joinery	MC	DBCA	11(1)(b) 29 31(1)
Conducting building work without being a registered builder, demanding excessive deposits for work and using non-compliant contracts.				

Counts	Fines	Costs	Other orders
169	\$10,000	\$750	Without conviction
27	\$3,000	\$750	Without conviction
27	\$1,000		Without conviction
53	\$500	\$500	Without conviction
1	Court	\$650	Without conviction
1	Fund		12 month good behaviour bond on condition he apply to Building Practitioners Board to be registered as a building practitioner within 10 working days of order
1	\$5,000		

Date	Matter	Court	Act	Section
9/8/05	Julie Anne Bell t/a Bells Joinery	MC	DBCA	11(1)(b) 29 31(1)
Silent partner in Bells Joinery.				
15/8/05	Grants Reef Mining Co Pty Ltd	MC	CC(Vic)A	11(1) 11(2) 21
Offering credit while not a registered credit provider; coercion.				
15/8/05	Stone Holdings Pty Ltd	MC	CC(Vic)A	11(1) 11(2) 49(2)
Unlicensed trading; providing a loan contract which did not adequately describe the property of the borrower.				
15/8/05	Clifford Stone	MC	CC(Vic)A	11(1) 11(2) 21(2)
Director of Stone Holdings Pty Ltd and Grants Reef Mining Co Pty Ltd. False and misleading representations to consumers in the provision of credit.				
23/8/05	JJT Pty Ltd	MC	DBCA FTA	29 31(1) 11
Unregistered builder/cabinetmaker; receiving excessive deposit; carrying out major domestic building work using incorrect contracts; misleading conduct in relation to services.				
23/8/05	John Graham Taylor	MC	DBCA FTA	11 29 31(1) 11
Director of JJT Pty Ltd, an unregistered builder/cabinetmaker who received an excessive deposit and carried out major domestic building work using incorrect contracts.				
23/8/05	Josephine Taylor	MC	DBCA FTA	11 29 31(1) 11
Director of JJT Pty Ltd, an unregistered builder/cabinetmaker who received an excessive deposit and carried out major domestic building work using incorrect contracts.				

Counts	Fines	Costs	Other orders
1	Court Fund \$1,000	\$650	Without conviction
1			12 month good behaviour bond
1			
1	\$1,000	\$307.41	With conviction
1			
1			
1	\$1,000	\$307.41	With conviction
1			
1			
1	Court Fund \$500		Without conviction
1			Two year good behaviour bond
1			
1	\$2,000	\$58.30	With conviction
1			
1			
1	\$2,000	\$58.30	With conviction
1			
1			
1			
1	Court Fund \$500		Without conviction
1			12 month good behaviour bond
1			
1			

Appendix 5 Prosecutions completed 2005–06

Date	Matter	Court	Act	Section
23/8/06	Terry Lapatas	MC	DBCA FTA	29 31(1) 11
Carrying out major domestic building work without being registered; using an incorrect contract; misleading conduct in relation to services.				
13/9/05	Shami Candy t/a Statewide House Relocators	MC	DBCA FTA	11(1)(a) 29 31(1) 11
Unregistered builder; accepting excessive deposits; using incorrect contracts; misleading and deceptive conduct.				
4/10/05	Andrew Harwood	MC	DBCA BA	11(1)(b) 29 31(1) 136(2)
Unregistered builder; accepting excessive deposits; irregularities in contracts; failure to supply; making false representations.				
11/10/05	Trevor Heath	MC	DBCA	29 31(1)
Carrying out domestic building work when not registered as a builder; using an incorrect contract; engaging in conduct that was liable to mislead the consumer as to the suitability of the service for the stated purpose.				
20/10/05	Paul Caffrey	MC	DBCA	29 31(1)
Carrying out domestic building work when not registered as a builder; using an incorrect contract.				
25/10/05	Thomas Michael Kelly	MC	DBCA FTA	11(1)(a) 29 31(1) 11 19(1) 19(1)(b)
Carrying out building work when not registered as a builder; demanding and receiving excessive deposits; using an incorrect contract; misleading conduct; failing to complete building work within the specified time or reasonable time; providing goods that are materially different to those specified in agreement.				

Counts	Fines	Costs	Other orders
1	Court Fund \$500	\$650	With conviction
1			12 month good behaviour bond
1			
1	\$2,000	\$665	Without conviction
1			Compensation to consumers \$13,000
1			
1			
1		\$650	With conviction
1			24 month good behaviour bond
1			
1			
1		\$813	Without conviction
1			12 month good behaviour bond
1	\$1,500	\$500	With conviction
1			
1	\$75,000	\$1,246.42	With conviction
1			
1			
1			
1			
1			

Appendix 5
Prosecutions completed 2005–06

Date	Matter	Court	Act	Section
27/10/05	Craig Warren Abson	MC	DBCA	29 31(1)
Director of Ballarat Sheds and Garages Pty Limited who carried out building works that were not done properly and used an incorrect contract.				
27/10/05	Tracey Lee Abson	MC	DBCA	29 31(1)
Co-director of Ballarat Sheds and Garages Pty Limited.				
20/11/05	Dennis County	MC	DBCA	29 31(1)
Carrying out major domestic building works whilst being an unregistered builder; using incorrect contracts.				
30/11/05	Michael Thomas Melican	MC	DBCA FTA	29 31(1) 11
Carrying out major domestic building works whilst being unregistered as a builder; using incorrect contracts.				
1/12/05	ProFit Installations Pty Ltd	MC	DBCA	11(1)(b) 29 31(1)
Carrying out major domestic building works without a major domestic building contract.				
1/12/05	Robert Glen Crooke	MC	DBCA	11(1)(b) 29 31(1)
Director of Pro Fit Installation Pty Ltd, which carried out major domestic building works without a major domestic building contract.				
1/12/05	Michelle De-Winter	MC	DBCA	11(1)(b) 29 31(1)
Director of Pro Fit Installation Pty Ltd, which carried out major domestic building works without a major domestic building contract.				
5/12/05	Raymond Lees	MC	DBCA	29 31(1)
Carrying out major domestic building works whilst being unregistered as a builder and using incorrect contracts.				

Counts	Fines	Costs	Other orders
1 1	\$700	\$200	Without conviction
1 1	\$700	\$200	Without conviction
1 1	\$500	\$745	With conviction
1 1 1	\$4,000	\$1,000	Without conviction
1 1 1	\$750	\$250	Without conviction
1 1 1	\$750		Without conviction
1 1 1	\$750		Without conviction
1 1	\$1,000	\$1,262.70	With conviction

Appendix 5
Prosecutions completed 2005–06

Date	Matter	Court	Act	Section
13/12/05	Goulburn Motor Group (Vic) Pty Limited t/as Darryl Twitt Motors	MC	MCTA	35(2)(a) 41(1)(a) 52(2)(b)(ii) 83A(3) 83C
A range of offences in relation to dealing book entries, displaying of documents, supplying documents to consumers and keeping records.				
15/12/05	Mario Sanchez aka Oswaldo Rodriguez	MC	DBCA FTA	11(1)(A) 29 31(1) 11 19(1)(a) 19(1)(b) 29 31(1)
Unregistered builder; receiving an excessive deposit; using incorrect contracts to carry out major domestic building work.				
15/12/05	Warren Cottrel	MC	DBCA FTA	11(1)(a) 29 31(1) 19(1)(a)
Unregistered and uninsured builder; receiving excessive deposits; using incorrect contract to carry out building works.				
13/1/06	Mark Tony Randle Panel Homes Australia	MC	DBCA FTA	11(1)(a) 29 31(1) 11(1)(a) 19(1)(a)
Director of Panel Homes Australia Pty Ltd, an unregistered building practitioner who received an excessive deposit and used incorrect contracts to carry out major domestic building works.				
6–7/2/06	Max Aubrey Carter	MC	CC(Vic)A	11(2)
Offering credit under credit contracts when unregistered.				

Counts	Fines	Costs	Other orders
159 35 7 6 2	\$8,500		Without conviction
1 1 1 2 2 2 1 1	\$27,000	\$856	With conviction Compensation to consumers \$12,850
1 1 1 1	\$5,000	\$1,259.80	Without conviction
1 1 1 1 1	\$10,000	\$1,250	With conviction Compensation to consumer \$17,700
2	\$12,500	\$9,881.98	With conviction Appeal pending

Appendix 5
Prosecutions completed 2005–06

Date	Matter	Court	Act	Section
9–10/2/06	All Tite Spots Pty Ltd	MC	DBCA FTA	11(1)(a)(b) 29 31(1) 11
Providing landscaping services and carrying out building work while director was not registered as a builder; demanding and receiving excessive deposits; failing to use major domestic building contracts; engaging in misleading conduct.				
9–10/2/06	David Colangelo	MC	DBCA FTA	11(1)(a)(b) 29 31(1) 11
Providing landscaping services and carrying out building works without a being a registered builder; demanding and receiving excessive deposits; failing to use major domestic building contracts; engaging in misleading conduct.				
15/2/06	Gordon Rowles	MC	DBCA FTA	11 29 31 19
Unregistered builder doing building works with incorrect contract documents; receiving an excessive deposit; failing to provide the service he was contracted to.				
16/2/06	Shane Henderson	MC	DBCA FTA	11(1) 29 31(1) 19(1)(a)
Unregistered cabinet maker; carrying out major domestic building work using an incorrect contract; receiving an excessive deposit; failing to provide the service paid for.				
16/2/06	George Papadakis	MC	DBCA FTA	11(1)(a) 29 31 19(1)(a)
Unregistered cabinet maker; carrying out major domestic building work using an incorrect contract; receiving an excessive deposit; failing to provide the service paid for.				

Counts	Fines	Costs	Other orders
8 5 6 8	\$1,000		With conviction
8 5 6 8	\$20,000	\$1,200	With conviction
1 1 1 1	\$1,500	\$500	With conviction
1 1 1 1	\$5,000	\$1,241	Without conviction
3 1 1 3	\$3,000	\$1,611.10	With conviction

Date	Matter	Court	Act	Section
22/2/06	Kerry McDonald	MC	DBCA FTA	11(1)(a) 11(1)(b) 29 31(1) 19(1)(a)
Unregistered builder doing illegal building work; failing to use proper contract documents; taking excessive deposit; failing to provide what he was obligated to under his contract.				
28/2/06	Brian Leslie Knott	MC	DBCA FTA	11(1) 29 31(1) 11 19(1)(a) 19(1)(b)
Director of BN & PK Builders, which carried out major domestic building work without being a registered building practitioner; using improper contracts; receiving an excessive deposit; failing to provide a service paid for; engaging in misleading and deceptive conduct; providing a service materially different from the services stipulated in agreement to supply.				
28/2/06	Phillip Keenan	MC	DBCA FTA	11(1) 29 31(1) 11 19(1)(a) 19(1)(b)
Director of BN & PK Builders, which carried out major domestic building work without being a registered building practitioner; using improper contracts; receiving an excessive deposit; failing to provide a service paid for; engaging in misleading and deceptive conduct; providing a service materially different from the services stipulated in agreement to supply.				
2/3/06	Darryl Hanley	MC	DBCA FTA	29 31 11 19(1)(b)
Unregistered builder; using incorrect contract to carry out building work; receiving an excessive deposit; failing to provide services paid for.				

Counts	Fines	Costs	Other orders
1	\$7,500	\$600	With conviction
1			
3			
3			
2			
1	\$20,000	\$1,200	With conviction
1			Compensation to consumer \$27,700
1			
1			
1			
1			
1	\$20,000	\$1,200	With conviction
1			
1			
1			
1			
1	\$10,000	\$3,694.28	With conviction
1			
1			
1			

Date	Matter	Court	Act	Section
22/3/06	Jeffrey Van Der Sluys t/a Jav Constructions	MC	DBCA FTA	29 31 11 19(1)(b)
Unregistered builder; using incorrect contract to carry out building work.				
27/3/06	Peter Alimpic t/a Auto Alley	MC Appealed to CC	MCTA CA	38(1) 81
Obtaining property by deception; tampering with odometer readings of several cars.				
11/4/06	Midas Trading (Australia)	MC	FTA	129A
Banned goods seized by CAV in 2005.				
31/5/06	Gordon Rowles	MC	DBCA FTA	11 29 31 19
Unregistered builder doing building work; failing to use proper contract documents; taking excessive deposit; failing to provide what he was contracted to do.				
5–6/6/06	Slobodan Bogdanovic	CC	DBCA FTA	11(1) 29 31(1) 11
Appeal dismissed. Director who was not registered as a builder when his company entered into contracts to construct homes.				
29/6/06	Gregory Stuart	CC	MCTA	38(4)
Appeal dismissed. Conviction and fine for tampering with odometers in connection with the sale of motor cars confirmed.				
29/6/06	Ian Perry Duncan	CC	MCTA	38(4)
Appeal dismissed. Falsely representing the accuracy of an odometer in connection with the sale of a motor vehicle.				

Counts	Fines	Costs	Other orders
1 1 1 1	\$7,500	\$1,014.40	With conviction
7 6	\$12,000	\$1,240	MC: fine \$3,000, without conviction On appeal to CC: With conviction Fine varied to \$12,000
1		\$823	Ordered to pay \$2,288 for the cost of destruction, transport and disposal of banned goods.
1 1 1 1	\$900	\$1,000	Without conviction
1 1 1 1	\$6,000	\$2,055	Conviction and fine confirmed on appeal
2	\$2,000	\$500	Conviction and fine confirmed on appeal
1	Court Fund \$1,000	\$500	Appeal dismissed 12 month good behaviour bond without conviction confirmed

Date	Title
5 July 2005	School holiday warning on dangerous bunks
7 July 2005	Dangerous monkey bikes seized from retailer
12 July 2005	Banksia students encouraged to know their rights
13 July 2005	New Consumer Affairs office opens in Ballarat
14 July 2005	Underweight firewood a burning winter issue
19 July 2005	Government acts for rooming house and caravan park residents
21 July 2005	Minister: Beware of unlimited broadband claims
21 July 2005	Understanding your loan contract not as easy as ABC
4 August 2005	Head stone scammer ordered to repay widows
9 August 2005	New chair of Estate Agents Council appointed
9 August 2005	Dangerous items removed from show bags
12 August 2005	Minister puts mortgage and finance brokers on notice
15 August 2005	Blitz on dodgy builders nets first guilty verdict
16 August 2005	Victoria continues charge for fairer contracts
17 August 2005	Minister warns: Seek advice before signing a reverse mortgage
19 August 2005	Williamstown High students taught consumer lessons
22 August 2005	Computer software prediction winnings a scam
22 August 2005	Braybrook students encouraged to know their rights
25 August 2005	Federal Government must act on telemarketing
26 August 2005	New Consumer Affairs office opens in Morwell
28 August 2005	Sports fans warned to be wary of Commonwealth Games rentals
30 August 2005	New Consumer Affairs office opens in Bendigo
31 August 2005	Parents and teachers urged to study toy haul of shame
1 September 2005	New Consumer Affairs office opens in Geelong
6 September 2005	States force Commonwealth to act on two part pricing
13 September 2005	Changes strike right balance for consumers and agents
14 September 2005	Petrol pumps tested in Echuca consumer blitz
14 September 2005	New laws better protect caravan park tenants
14 September 2005	Court orders injunction against Dallas car dealer
14 September 2005	Court orders injunction against Mornington car dealer
15 September 2005	Spreading the word on consumer issues
20 September 2005	Retirement village reforms are good news
21 September 2005	Dodgy builders prosecutions a success
25 September 2005	Online auctions under the hammer

Date	Title
26 September 2005	Money for living: Consumers urged to seek immediate advice
27 September 2005	Top 10 inquiries to Consumer Affairs Victoria
29 September 2005	Beware of scams targeting small business
30 September 2005	Dangerous toys seized in Consumer Affairs raid
4 October 2005	CAV celebrates International Tenants Day
8 October 2005	Aromatic coffee bean candles a fire risk
10 October 2005	Stuff that interests young people
12 October 2005	South west consumers benefit from expert advice
14 October 2005	New guide to sustainable consumption for schools
15 October 2005	Petrol bowsers put under the pump
18 October 2005	Coonan must deliver her telemarketing promise
20 October 2005	CAV recovers \$2.1 million for consumers
25 October 2005	Estate agent representative disqualified
25 October 2005	Children's Cancer Institute Australia for medical research
26 October 2005	Victoria and NSW poll support for Do Not Contact list
28 October 2005	Rogue builder convicted and fined \$75,000
4 November 2005	Renters, know your rights
9 November 2005	Retailers also in training for M2006
9 November 2005	Kilbreda college students win lots of stuff
11 November 2005	Charges laid against Geelong conveyancer
17 November 2005	Government cuts red tape for motor car traders
17 November 2005	Sporting groups to serve up responsible alcohol
22 November 2005	Consumer tips to buying a computer
23 November 2005	New laws a vision of security in licensed venues
24 November 2005	Commercial fundraisers to face tighter controls
25 November 2005	Today Not Tomorrow Institute Pty Ltd
1 December 2005	Don't spend the next 12 months paying for Christmas
1 December 2005	Thomson visits Strathmore to discuss consumer rights
4 December 2005	Thomson red cards dangerous soccer goals
5 December 2005	More than 20,000 petition Coonan on telemarketing
5 December 2005	Internet trader ordered: Payment on delivery only
7 December 2005	Woolworths restrained from fundraising in stores
9 December 2005	Don't be sold a turkey this Christmas
14 December 2005	Electric shock games spark consumer investigation

Date	Title
15 December 2005	More than 9,000 dangerous goods seized at warehouses
16 December 2005	Protecting consumers and traders in the north-east
20 December 2005	New reforms benefit 25,000 retirement village residents
21 December 2005	Sweeping changes to body corporate laws
22 December 2005	Christmas shoppers urged to know their refund rights
23 December 2005	Supreme Court finds company misled public
25 December 2005	Consumers warned about unregistered travel agent
26 December 2005	Boxing Day bargain hunters urged to avoid debt trap
30 December 2005	Thomson warns: serve alcohol responsibly
3 January 2006	New Year resolution: Read fine print on gym contracts
5 January 2006	Seniors warned to beware of sham tradies
6 January 2006	Unlimited broadband internet plans on way out
9 January 2006	Liquor training extended to East Gippsland
9 January 2006	Liquor training extended to south west
11 January 2006	Government drafts new code for packaged liquor
12 January 2006	Thomson: Don't make Friday 13th your unlucky day
13 January 2006	Thomson bans dangerous alcoholic vapour
16 January 2006	Registration refused for Victorian fundraiser
19 January 2006	Shake up for conveyancing in Victoria
27 January 2006	Traders warned: Do not buy or use dodgy scales
30 January 2006	Car buyers warned to check 'real' model year
1 February 2006	Optometry chain Merringtons faces court action
6 February 2006	Woolworths agrees to register or stop fundraising
7 February 2006	Thomson welcomes report on product safety
9 February 2006	Victorian fundraiser's funds frozen
9 February 2006	Dodgy lender ordered to stop loaning and pay up
13 February 2006	Scam warning: Delete it! Destroy it! Hang up!
14 February 2006	Don't end up broken hearted and broke this Valentine's Day
19 February 2006	Consumers warned: Beware of dodgy leather jackets
21 February 2006	Payment upfront will leave you financially behind
26 February 2006	Online auctions under hammer to clean up
28 February 2006	Watchdog casts net to catch phishing culprits
1 March 2006	3 Mobile ends door-to-door sales after complaints
2 March 2006	Options to haul in credit cards and debt

Date	Title
7 March 2006	Frankston car dealer ordered to stop selling vehicles
7 March 2006	Blowing away fake invoices
8 March 2006	Cancer charity agrees to comply with Victoria's fundraising laws
10 March 2006	Consumer Affairs Victoria in training for the Games
27 March 2006	More than 3,000 dangerous kids products seized
28 March 2006	Consumer protection team targets south west Victoria
31 March 2006	South west benefits from consumer protection sweep
3 April 2006	Tenants can now reclaim bonds online
4 April 2006	States get a win for consumers on Do Not Call register
5 April 2006	Hulls and Thomson welcome report into tenancy databases
10 April 2006	Reverse mortgages: Get the facts
14 April 2006	Inspectors on Easter hunt for underweight chocolates
4 May 2006	Foxtel revises digital pay TV contracts
4 May 2006	Motor car trading double trouble in Ballarat
12 May 2006	Mother's Day sparks check on jewellery ads
22 May 2006	Consumer protection sweep hits Swan Hill
24 May 2006	Mentone Girls Secondary College becomes consumer savvy
24 May 2006	More than 200 dangerous toys to be destroyed
26 May 2006	Unlicensed motor car trader caught out again
29 May 2006	Government releases response to Motor Car Traders Act
31 May 2006	Serial headstone scammer banned from cemeteries
1 June 2006	Retirement home ordered to hand over financial records
2 June 2006	Swan Hill traders praised after Consumer Affairs sweep
7 June 2006	Consumer advice for a trouble free holiday
7 June 2006	Avoid unlicensed travel agents
14 June 2006	More builders prosecuted in industry blitz
15 June 2006	Guilty motor car trader has penalty increased
20 June 2006	Federal Government must investigate fuel pricing
21 June 2006	Do not take the plunge with an unregistered pool builder
22 June 2006	Internet seller plays games with online consumers
27 June 2006	Do not let firewood burn a hole in your pocket
30 June 2006	Kicking goals for product safety

Australia and New Zealand School of Government: Executive Fellows Program

The Director of Consumer Affairs Victoria and the General Manager, Consumer Policy completed the Executive Fellows Program of the Australia and New Zealand School of Government. The three-week residential program is modelled on the best executive offerings in the United States and United Kingdom, but is specifically tailored to the Australian and New Zealand context.

Customer service training

One of the training priorities for CAV this year was customer service training. More than 200 staff participated in a one-day workshop to:

- make staff aware of the expectations of service delivery staff
- provide knowledge about CAV's service delivery; who CAV's customers are; customer service charter; customer complaints process; and what is meant by 'vulnerable and disadvantaged customers'
- provide skills in good practice client engagement, active listening, and dealing with difficult customers
- support staff to make personal plans about how they could contribute to improved customer service in their area.

Intensive customer service training was provided to CAV staff of the Victorian Consumer & Business Centre. This program included a four-day workshop followed by individual coaching.

Dispute resolution techniques

Dispute resolution staff completed ongoing professional development training to ensure continued quality dispute resolution services and constructive handling of often complex and sensitive issues. Training included formal training in the Harvard University Getting to Yes method of negotiation, courses in statutory interpretation, training in credit legislation, and computer training.

Indigenous awareness training

Ninety per cent of CAV staff have completed this training, which aims to enable participants to behave in a way that demonstrates sensitivity to Indigenous Australians.

Legislation training

As the consumer protection framework grows more complex, it is vital that CAV staff continually develop and update their knowledge of key Acts administered by the organisation. In 2005–06 legislation training was a priority for the learning and development area. In November 2005, a legislation training officer was appointed to develop and deliver beginner and intermediate level training for the large number of staff across operational and policy areas. Legislation training programs run in 2005–06 are listed.

Credit

The credit law program was run twice during 2005–06. A total of 33 staff attended this training, including four advocates employed by agencies funded by CAV. The course provides an intensive and detailed look at the Australian Consumer Credit Code and related law, and plays a significant role in the development of CAV skills and knowledge in dealing with credit disputes and policy development.

Residential tenancies

A three-day training course covering the *Residential Tenancies Act 1997* was developed and delivered for the first time in May 2006. This detailed program at intermediate level equips staff with a good level of understanding of the key sections of the Act. The inclusion of a written test at the conclusion of the training was a new development for CAV, and all staff attending achieved good results, showing the training had imparted both broad understanding of the Act as well as significant detail. This course will be offered several times in 2006–07, significantly increasing CAV's capability in this area.

Retirement villages

CAV has recently taken over responsibility for administration of retirement villages, and knowledge of the relevant legislation was limited in mid 2005. A one-day program was developed and this was delivered three times during the financial year.

Statutory interpretation

A one-day program was developed and delivered to 16 CAV staff in conjunction with the Leo Cussen Institute in early 2006. The program aims to provide staff dealing with legislation on a regular basis with the skills necessary for understanding and interpreting legislation, and will be offered again in 2006–07.

CAV provides funding to community-based agencies to deliver advocacy and specialist services, and to undertake special projects relating to consumer and tenancy issues. Approved funding for providing the Community Program in 2005–06 was \$1,306,556 (GST exclusive) comprising the following programs.

Advocacy services

CAV's Advocacy Program provides advocacy, support and tribunal services for vulnerable and disadvantaged consumers and tenants in the Melbourne metropolitan area and five regions across Victoria.

Under the current agreements, the service providers are paid annual minimum payments to ensure service availability. Additional payments are made when the actual value of services provided exceeds the minimum payment. The total minimum cost for 2005–06 was \$340,000 (GST exclusive) and the maximum total cost was \$505,000 (GST exclusive).

Funding approved for 2005–06

Service provider	Value* (maximum cost)	Service area
Advocacy & Rights Centre Ltd	\$45,000	North west
Community Connections (Vic) Ltd	\$15,000	South west
Delatite Community Health Service	\$45,000	North east
Grampians Housing network (t/a PACT Community Support)	\$45,000	Central west
Geelong Ethnic Communities Council Inc (Diversitat)†	\$30,000	South west
Quantum Support Services Inc	\$45,000	Gippsland
Tenants Union of Victoria Ltd	\$280,000	Metropolitan

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

† Jindara Community Programs Inc was initially contracted to deliver the advocacy service. Jindara subsequently wound up its operations and transferred its rights and responsibilities to Diversitat effective from 1 January 2006.

Statewide and special projects

Consumer Affairs Victoria provides funding to statewide specialist services for support, education and policy advice. Funding is also provided to undertake specific projects on policy issues, training initiatives, consumer education, and research on a range of consumer and tenancy matters.

Funding approved for 2005–06

Statewide	Value*	Project description
Tenants Union of Victoria Ltd	\$292,247	Specialist tenancy services
Consumer Credit Legal Service Inc	\$175,458	Specialist consumer services
The Housing for the Aged Action Group Inc	\$93,751	Specialist aged tenancy services
Special projects	Value*	Project description
Tenants Union of Victoria Ltd	\$89,000	Research into issues involved in regulating accommodation and appropriate dispute resolution processes
Tenants Union of Victoria Ltd	\$28,600	Research in relation to unfair contract terms in residential tenancy contracts
Peninsula Community Legal Centre Inc	\$35,000	Developing and conducting workshops for young renters
Peninsula Community Legal Centre Inc	\$70,000	Identifying casework trends and policy issues with regard to caravan parks
Peninsula Community Legal Centre Inc	\$17,500	Developing and conducting workshops to assist consumers representing themselves at VCAT

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

Payment of the above amounts will extend over more than one year. Expenditure shown in Appendix 14 reflects payments made in the 2005–06 financial year.

Administration of the Financial Counselling Program transferred from the Department of Human Services to Consumer Affairs Victoria as a result of a machinery of Government change effective from 1 July 2005. The Financial Counselling Program is delivered by 44 community-based organisations. The peak organisation for the financial counselling sector, the Financial and Consumer Rights Council Inc, is also provided with funding.

Funding to agencies for 2005–06

Agency	Value*
Anglicare Victoria (Eastern)	\$116,747.53
Anglicare Victoria (Gippsland)	\$228,759.86
Anglicare Victoria (North West)	\$306,563.67
Banyule Community Health Service Inc	\$59,391.53
Bass Coast Regional Health	\$58,367.11
Benalla Rural City Council	\$11,269.75
Berry Street Victoria Inc (Northern)	\$120,509.00
Broadmeadows Uniting Care	\$251,599.80
Camcare Inc	\$74,971.36
Carlton Fitzroy Financial Counselling Service Inc	\$58,693.71
Child & Family Services Ballarat Inc	\$174,327.90
City of Darebin	\$71,235.18
City of Knox	\$76,582.76
Coburg Brunswick Community Legal and Financial Counselling Centre Inc	\$83,051.51
Colac Area Health	\$121,767.95
Community Connections (Victoria) Limited	\$139,893.03
Dignity Financial Counselling Service Inc	\$114,151.37
Djerriwarrh Health Service	\$22,715.92
Eastern Access Community Health Inc	\$171,225.45
Financial and Consumer Rights Council Inc	\$155,825.92
Financial Counselling (Vic) Inc	\$164,195.28
Frankston City Council	\$70,881.60
Good Shepherd Youth and Family Service Inc	\$308,804.75
Goulburn Valley Community Health Service Inc	\$106,612.07
Inner South Community Health Service Inc	\$44,446.89
Isis Primary Care Inc	\$58,864.29
Jindara Community Programs Inc	\$191,080.50
Kildonan Child and Family Services	\$146,633.60

Agency	Value*
Mallee Family Care Inc	\$95,072.85
Mansfield Shire Council	\$20,585.62
Mitchell Community Health Services Inc	\$65,977.60
MonashLink Community Health Service Inc	\$67,488.24
Port Phillip Community Group Ltd	\$66,409.57
Reach Out for Kids Foundation (R.O.K.) Inc	\$59,052.31
Shepparton and Benalla Debt Counselling Service Inc	\$68,854.91
Southern Health	\$257,651.82
Springvale Community Aid and Advice Bureau Inc	\$74,776.49
St Luke's Anglicare	\$213,708.40
Sunbury Community Health Centre Inc	\$30,398.44
Uniting Church in Australia Kilmany Family Care	\$86,686.47
Uniting Care Connections	\$77,044.92
Upper Murray Family Care Inc	\$100,279.60
Wimmera Uniting Care	\$74,439.60
Wyndham City Council	\$27,907.59
Yarra City Council	\$86,112.40
Total	\$4,981,616.12

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

Appendix 10

Consumer compensation claims admitted 2005–06

Consumer Affairs Victoria is able to provide compensation to consumers who are financially disadvantaged from dealings with motor car traders or estate agents licensed to operate within Victoria.

Motor car traders

The *Motor Car Traders Act 1986* provides for compensation to be paid from the Motor Car Traders Guarantee Fund to any person who incurs a loss from dealing with a licensed motor car trader, or someone who appears to be a licensed trader.

Claims relating to licensed motor car traders are considered by the Motor Car Traders Guarantee Fund Claims Committee.

Claims can be made on transactions involving motor cars, motorbikes and commercial vehicles.

The Committee can only pay a claim if a motor car trader:

- does not comply with bans on consignment selling, odometer tampering, or selling a trade-in car before the cooling-off period is over
- does not comply with the warranty provisions of the Motor Car Traders Act (this applies to motor cars but not to motorbikes or commercial vehicles)
- does not transfer a good title to a motor car
- does not pay the purchase price for a motor car sold to the motor car trader
- does not pass on transfer, registration fees, or stamp duty to VicRoads
- does not provide a Certificate of Roadworthiness or other documents necessary for the motor car to be registered
- does not pass on money for an insurance policy or warranty, and/or
- does not satisfy an order made by a court or the Victorian Civil & Administrative Tribunal relating to trading in motor cars.

Claims on the Motor Car Traders Guarantee Fund are capped at a maximum of \$40,000 per claim.

Claims approved in 2005–06 are detailed in the following table.

Claims against Motor Car Traders Guarantee Fund admitted 2005–06

Trader	Number of claims	Amount paid
Alan Thompson Motors Pty Ltd	10	\$3,550.40
Auto Group Brooklyn Pty Ltd	14	\$43,964.26
Auto Group Dandenong Pty Ltd	16	\$63,210.70
Barry Jupp Motors Pty Ltd	1	\$558.10
Broome, Andrew	1	\$517.55
Carter, Reginald Patrick	1	\$4,130.68
Cash for Cars Australia Pty Ltd	1	\$868.40
Diskway Pty Ltd	4	\$11,842.10
DJ Car Sales Pty Ltd	7	\$8,144.08
Graham Ash Pty Ltd	8	\$5,481.68
Hatefka Pty Ltd	3	\$5,782.70
Javos Pty Ltd	1	\$40,000.00
Kingstrate Pty Ltd	1	\$567.00
RA McDermott & Co (Sales) Pty Ltd	3	\$52,727.80
Schaefer, Robert Jack	8	\$19,027.90
Splendour Enterprises Pty Ltd	2	\$1,013.98
Stojek Investments Pty Ltd	1	\$832.10
Supa Dupa Car Sales Pty Ltd	1	\$300.10
TRC Motors Pty Ltd	3	\$2,352.65
Triantis, Perry	2	\$48,000.00
Yokus, Mustafa	1	\$1,942.99
Youngman, John Francis & Sharronne Maree	2	\$989.10
Unlicensed traders	4	\$14,917.10
TOTALS	95	\$330,721.37

Payments for claims may extend over more than one year. Expenditure shown in Appendix 14 includes some payments on the claims above plus payments on claims approved in previous years.

Appendix 10
Consumer compensation claims
admitted 2005–06

Estate agents

The *Estate Agents Act 1980* provides that payment may be made from the Victorian Property Fund to compensate any person who suffers financial loss through the defalcation of a licensed estate agent or their employee.

There is no limit to the amount that may be claimed.

Claims against Victorian Property Fund admitted 2005–06

Agency	Number of claims	Amount paid
Champion Group Pty Ltd	1	\$41,323.80
Dorchester Real Estate Pty Ltd	1	\$910.00
John Nunan Real Estate Pty Ltd	1	\$446.00
Nicholson Real Estate Pty Ltd	10	\$11,821.48
TPA Property Pty Ltd	2	\$800.00
Tran, Be Van	1	\$1,082.80
Wright, David Edward	3	\$4,723.42
Totals	19	\$61,107.50

Payments for claims may extend over more than one year. Expenditure shown in Appendix 14 includes some payments on the claims above plus payments on claims approved in previous years.

Appendix 11 Consumer Credit Fund grants approved 2005–06

The *Credit (Administration) Act 1984* allows the Minister for Consumer Affairs to make grants from the Consumer Credit Fund. On the recommendation of the Consumer Credit Fund Advisory Committee the Minister makes grants for the purposes of providing:

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

Grants approved by the Minister in 2005–06

Grant recipient	Value*	Description of funded program
Brotherhood of St Laurence	\$9,000	Research and analysis of consumer credit options for low income earners
Consumer Affairs Victoria	\$44,601	Educating young Indigenous people and their families about credit and debt
Consumer Affairs Victoria	\$60,000	Consumer Credit Review research
Consumer Credit Legal Service Inc	\$11,850	Victorian Consumer Credit Review – submission by Consumer Credit Legal Service and Consumer Law Centre Victoria
Council on the Ageing Victoria Inc	\$35,000	Credit preferences and credit traps for older people
Financial and Consumer Rights Council Inc	\$18,900	Financial counselling: the current and changing landscape
Geelong Ethnic Communities Council Inc (Diversitat)	\$20,000	<i>Credit(Less)</i> : Working with 20 early school leavers to develop a radio program to educate the community on credit and debt issues
Migrant Resource Centre North West Region Inc	\$10,000	Bringing the law to the community
Prison Fellowship Australia – Victoria	\$4,500	Lives in transition <i>Managing Money Matters</i>
Public Interest Law Clearing House (Vic) Inc	\$25,200	Consumer credit and debt advocacy training for regional and rural Victoria
Redundancy Payment Central Fund Ltd t/a Inoclink	\$45,455	Consumer credit and debt crisis among building and construction industry apprentices
South Eastern Region Migrant Resource Centre Inc	\$2,300	<i>Grush</i> – increasing the Sudanese community's awareness about credit and managing money
The New Hope Foundation	\$9,745	<i>Managing personal credit and budgeting daily</i> : an educational program for newly arrived migrant communities in south-eastern Victoria
Vietnamese Youth Network of the West	\$5,000	Information on credit to young Vietnamese people and their parents
Waverley Emergency Adolescent Care Inc	\$5,000	Tandana Place youth specific (12–20) drug and alcohol residential rehabilitation program

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

Payments for these grants will extend over more than one year. Expenditure shown in Appendix 14 includes part payments on these grants plus payments on grants approved in previous years.

Appendix 12
Victorian Property Fund grants
approved 2005–06

The *Estate Agents Act 1980* allows the Minister for Consumer Affairs to make grants from the Victorian Property Fund for the purposes specified in section 76(3) of the Act as follows:

- (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;
- (h) projects regarding—
 - (i) the development of environmentally sustainable housing;
 - (ii) the protection of Victoria's natural and architectural heritage.

The Minister makes her decision on grants after consultation with the Estate Agents Council (EAC) and Consumer Affairs Victoria and with any industry associations, Government departments and other bodies she thinks appropriate before making a decision.

Grant recipient	Value approved*	Description of funded program
Migrant Information Centre (Eastern Melbourne) Inc	\$87,173	Migrant and Refugee Rental Housing Assistance
Consumer Utilities Advocacy Centre Ltd	\$125,650	Improving the energy efficiency of low-income Victorian households
Department of Human Services	\$1,264,456	Group self build 2005–08
Department of Human Services	\$2,678,654	Home renovation services 2005–08
Sports Federation of Victoria (VicSport)	\$72,092	Use of Council and Crown land by sport and recreational groups
Victorian Urban Development Authority (VicUrban)	\$5,920,000	Support the provision of affordable housing
The Real Estate Institute of Victoria Ltd	\$601,543	Professional development of estate agents and estate agents' representatives 2005–06
Supported Housing Ltd	\$19,000	Tenancy information, feedback and representation for tenants with disabilities
Total	\$10,768,568	

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

Payments for these grants will extend over more than one year. Expenditure shown in Appendix 14 includes part payments on these grants plus payments on grants approved in previous years.

Appendix 13 Trust funds managed by CAV

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

Fund	Act of Parliament	Income source	Expenditure purpose
Consumer Credit Fund	<i>Credit (Administration) Act 1984</i> ss 86AA–86AC	<ul style="list-style-type: none"> • Credit provider contributions • Interest on investments 	<ul style="list-style-type: none"> • Grants relating to consumer credit education and research as permitted by s 86AB of the Act • Secretarial support to the Consumer Credit Fund Advisory Committee
Domestic Builders Fund	<i>Domestic Building Contracts Act 1995</i> s 124	<ul style="list-style-type: none"> • Part share of the domestic builder registration fees and Domestic Building Dispute Levy collected by the Building Commission • Interest on investments • Fees collected by the Victorian Civil & Administrative Tribunal relating to the Domestic Building List • Fines 	<ul style="list-style-type: none"> • Administration of the Act • Costs relating to the Domestic Building List of the Victorian Civil & Administrative Tribunal
Motor Car Traders Guarantee Fund	<i>Motor Car Traders Act 1986</i> ss 74–75	<ul style="list-style-type: none"> • Interest on investments • Licensing fees • Fines • Recovery of claims paid 	<ul style="list-style-type: none"> • Administration of the Act • Guarantee claims
Prostitution Control Fund	<i>Prostitution Control Act 1994</i> s 66	<ul style="list-style-type: none"> • Licensing fees • Fines • Interest on investments 	<ul style="list-style-type: none"> • Administration of the Act
Residential Tenancies Fund	<i>Residential Tenancies Act 1997</i> ss 491–498A	<ul style="list-style-type: none"> • Transfers from Residential Bonds Investment Income Account • Interest on investments • Fees collected by the Victorian Civil & Administrative Tribunal relating to the Residential Tenancies List • Interest on bond trust accounts 	<ul style="list-style-type: none"> • Administration of the Act • Costs relating to the Residential Tenancies List of the Victorian Civil & Administrative Tribunal

Fund	Act of Parliament	Income source	Expenditure purpose
Victorian Property Fund	<i>Estate Agents Act 1980</i> ss 71–91	<ul style="list-style-type: none"> • Interest on estate agents' trust accounts • Income from investments • Licensing fees • Fines 	<ul style="list-style-type: none"> • Administration of the Act and other real estate-related legislation as permitted by s 75 of the Act • Grants relating to real estate as permitted by s 76(3) of the Act • Operation of the Estate Agents Council • Guarantee claims
Residential Bonds Account	<i>Residential Tenancies Act 1997</i> s 435	<ul style="list-style-type: none"> • Bonds lodged with the Residential Tenancies Bond Authority 	<ul style="list-style-type: none"> • Repayment of bonds
Residential Bonds Investment Income Account	<i>Residential Tenancies Act 1997</i> s 436	<ul style="list-style-type: none"> • Interest received from the investment of the Residential Bonds Account, and Residential Bonds Investment Income Account 	<ul style="list-style-type: none"> • 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 Residential Tenancies Fund

The information in this table has been drawn from the data supporting the Audited Financial Statements of the Department of Justice, but is not itself an audited financial statement. Reporting under the *Financial Management Act 1994* as it relates to Consumer Affairs Victoria appears in the Department of Justice Annual Report.

	Consumer Credit Fund	Domestic Builders Fund	Motor Car Traders Guarantee Fund
Consumer Affairs Victoria (CAV) Revenue			
Revenue recognition from Estate Agents trust accounts			
Revenue recognition from Residential Tenancy Bonds			
Appropriations and other			
Interest income	242,576	283,956	63,345
Recognised fair value increment in investments			
Transferred from Building Commission (Note1)		6,123,276	
Other revenue		2,509	978
Fees income			2,400,346
Recovery related to claims previously paid			10,615
Penalty income			55,832
Transfers			
Total CAV Revenue	242,576	6,409,741	2,531,116
Consumer Affairs Victoria Expenditure			
Audit services (Note 2)			
Claims on Guarantee Funds			383,175
Consumer Utilities Advocacy			
Contractors, consultants and professional services	1,022	533,518	185,139
Departmental governance and support costs (GECS)			
Employee related costs		2,154,917	1,750,079
Grants paid	338,171		
Information technology		78,835	61,803
Occupancy costs		341,618	187,432
Other operating costs		430,582	312,530
Outsourced contracted costs		6,931	13,863
Realised loss on disposal of assets			
Total CAV Expenditure	339,193	3,546,401	2,894,021
Victorian Civil & Administrative Tribunal (VCAT) <i>(VCAT financial activities are partly supported by the trust funds)</i>			
VCAT fees offset		(241,423)	
VCAT employee related costs		1,333,716	
VCAT other operating costs		578,772	
Net VCAT Expenditure		1,671,065	
Total CAV + Net VCAT Expenditure	339,193	5,217,466	2,894,021
Trust funds, opening equity 1 July 2005	4,420,348	4,231,749	649,119
Current year operating surplus / (deficit) CAV + VCAT	(96,617)	1,192,275	(362,905)
Prior period adjustments (including IFRS accounting standards)		820	506
Trust funds closing equity 30 June 2006	4,323,731	5,424,844	286,720

Note 1 Domestic Building Dispute Levy and registration fees.

Note 2 Audit cost relates to the Residential Tenancies Bond Authority, which is required to produce an independent annual report. All other audit costs are borne by the Department of Justice.

Prostitution Control Fund	Residential Tenancies Fund	Residential Bonds Investment Income Account	Victorian Property Fund	Trust Funds Total 2005-06	Consumer Affairs Victoria Appropriations & Other 2005-06	Consumer Affairs Victoria Total Output 2005-06
			35,291,451	35,291,451		35,291,451
		19,205,546		19,205,546		19,205,546
					35,017,958	35,017,958
11,130	1,533,058		10,112,346	12,246,411		12,246,411
			7,147,308	7,147,308		7,147,308
				6,123,276		6,123,276
			13,750	17,237		17,237
735,700			1,478,172	4,614,218		4,614,218
				10,615		10,615
13,040				68,872		68,872
	15,400,000	(15,400,000)				
759,870	16,933,058	3,805,546	54,043,027	84,724,934	35,017,958	119,742,892
		5,100		5,100		5,100
			87,993	471,168		471,168
					500,000	500,000
44,327	489,548	58,774	1,607,549	2,919,877	1,803,151	4,723,028
					3,754,116	3,754,116
637,522	3,479,243	699,120	4,734,928	13,455,809	14,101,432	27,557,241
	74,487		3,626,850	4,039,508	504,152	4,543,660
6,659	439,337	7,360	84,452	678,446	1,317,749	1,996,195
79,882	989,305	84,798	424,056	2,107,091	1,910,499	4,017,590
105,918	231,181	620,489	1,756,223	3,456,923	4,016,534	7,473,457
	649,668	2,190,972		2,861,434	6,505,666	9,367,100
874,308	6,352,769	3,666,613	12,322,051	29,995,356	34,413,299	64,408,655
						Note 3
	(1,883,785)			(2,125,208)		
	6,130,548			7,464,264		
	1,866,422			2,445,194		
	6,113,185			7,784,250		
874,308	12,465,954	3,666,613	12,322,051	37,779,606		
242,172	21,114,786	864,074	247,992,467	279,514,715		
(114,438)	4,467,104	138,933	41,720,976	46,945,328		
200	(10,675)	380	1,052	(7,717)		
127,934	25,571,215	1,003,387	289,714,495	326,452,326		

Note 3 The comparative figures for CAV Total Output are: the 2005-06 year equates to \$64,408,655 compared to \$53,976,702 for 2004-05.

