

Education and Communications Branch
DO NOT REMOVE

File No:

**OFFICE OF
FAIR TRADING
& BUSINESS
AFFAIRS**

**ANNUAL REPORT
1996 - 1997**



Office of
Fair Trading &
Business Affairs
Department of Justice

VICTORIA



REPORT TO
THE MINISTER
FOR FAIR TRADING

FOR THE YEAR
ENDED 30 JUNE 1997

VICTORIAN GOVERNMENT PRINTER 1997

ORDERED BY THE LEGISLATIVE ASSEMBLY TO BE PRINTED

No. 72 Session 1996-97

The Hon Jan Wade MP
Minister for Fair Trading
55 St Andrews Place
Melbourne 3002

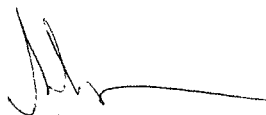
Madam,

ANNUAL REPORT 1996-97

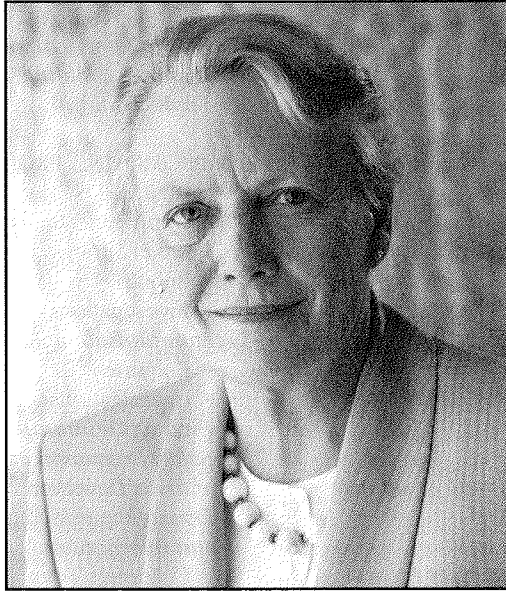
I present to you my report on the activities and operations of the Department of Justice in relation to fair trading for the year ended 30 June 1997.

The document has been prepared in satisfaction of section 8A of the **Ministry of Consumer Affairs Act 1973**, section 16 of the **Credit (Administration) Act 1984**, and section 13 of the **Residential Tenancies Act 1980** for you to lay before the Houses of Parliament.

Yours faithfully,



ALAN THOMPSON
Secretary



*Hon Jan Wade MP
Minister for Fair Trading*

CONTENTS

OVERVIEW	1	3. GETTING DISPUTES RESOLVED	16
PART ONE: ABOUT FAIR TRADING AND BUSINESS AFFAIRS	3	Conciliation	16
Objectives of the Office	3	Local Assistance in Dispute Resolution	16
Fair Trading Acts of Parliament	3	The Tribunals System	16
INFORMATION AND PUBLIC USE		<i>Residential Tenancies Tribunal</i>	16
PRODUCTS AVAILABLE	4	Residential Tenancies Act Cases	16
General	4	Caravan Park Cases	17
'Get the Facts' Series	4	Rooming House Cases	17
Residential Tenancies	4	Fair Rents Board Cases	17
Business Affairs	4	<i>Small Claims Tribunals</i>	17
How to Register a Business Name	5	<i>Domestic Building Tribunal</i>	17
How to Handle a Customer Complaint	5	<i>Credit Tribunal</i>	17
How to Pursue a Consumer or Tenancy Complaint	6	4. PROMOTING PRODUCT SAFETY AND STANDARDS	18
PART TWO: THE 1996-97 YEAR	7	Monitoring and Injury Prevention	18
Activities of the Office	7	<i>Product Safety</i>	18
1. LETTING PEOPLE KNOW THEIR RIGHTS AND RESPONSIBILITIES	8	Enquiries	18
Direct Assistance	8	Investigations	18
<i>Industry Liaison and Dispute Avoidance Enquiries</i>	8	<i>Standards Compliance</i>	18
Funded Community Support	8	Enquiries	18
<i>Consumer and Tenant Support Programs</i>	8	Investigations	19
<i>Ethnic Tenancy Project</i>	9	<i>Products Withdrawn or Modified</i>	19
Public Information	10	<i>Safety Promotion at the Melbourne Show</i>	19
<i>Public Information Strategies</i>	10	Standards Development	19
<i>1996-97 Highlights</i>	10	<i>Developing and Revising Australian and International Standards</i>	19
2. RUNNING CLIENT ORIENTED BUSINESS LICENSING AND REGISTRATION SERVICES	13	Children's Toys	19
Licensing/Registration of Categories of Trader	13	Cigarette Lighters	19
Registration of Business Names	13	Textile Products	20
Registration of Entities Where Personal Liability is Limited	13	Fire Extinguishers	20
<i>Co-operatives</i>	13	Flotation and Swimming Aids	20
<i>Limited Partnerships</i>	14	Safety Requirements for Children's Furniture - Folding Portable Cots	20
<i>Incorporated Associations</i>	14	<i>Consumer Products Advisory Council</i>	20
Authorisations, Declarations and Exemptions	15	Information Gathering and Exchange	20
<i>Estate Agents - Sales Involving</i>	15	<i>Internet</i>	20
<i>Beneficial Interest</i>	15	<i>Injury Reports</i>	21
<i>Fundraising Appeals</i>	15	<i>Register of Allegedly Hazardous Products</i>	21
<i>Retirement Villages</i>	15	<i>Committees and Working Parties</i>	21
<i>Trustee Companies</i>	15	Victorian Injury Prevention Committee	21
		<i>Forums and Conferences and Trade Fairs</i>	21
		Victorian Injury Control Forum	21
		Gas Safety Deregulation Workshop	21
		Target Children's Nightclothes Forum	21
		Trade Fairs	22

5. FOSTERING AN EFFICIENT, COMPETITIVE AND FAIR MARKETPLACE	23	Other Investigations/Prosecutions	38
Self-regulation, Codes and Industry Standards	23	<i>Residential Tenancies</i>	38
<i>Self-regulation Generally</i>	23	<i>Fair Trading</i>	38
<i>Fitness Industry</i>	23	Injunctions	39
<i>Weight Management</i>	23	<i>Get-Rich-Quick Schemes</i>	39
<i>Retirement Villages</i>	23	<i>Pyramid Selling</i>	39
<i>Changes to the Law</i>	23	<i>Weight Loss Products</i>	40
<i>Friendly Societies</i>	23	<i>Computers: Sales and Service</i>	40
<i>Co-operatives</i>	24	<i>Electronic Commerce</i>	40
<i>Second-Hand Dealers and Pawnbrokers</i>	25	<i>False Billing (Telefraud)</i>	40
<i>Motor Car Traders</i>	25	<i>Pre-paid Funerals</i>	41
<i>Prostitution Control</i>	26	<i>Business Names</i>	41
<i>Hire Purchase</i>	26	CONSULTATIVE BODIES	42
<i>Credit</i>	26	Victorian Consumer Affairs Committee	42
Proposed Changes to the Law	27	Industry Liaison Group	42
<i>Introduction Agents</i>	27	Advisory Committee - Prostitution Control Act 1994	42
<i>Incorporated Associations</i>	27	APPENDICES	
<i>Residential Tenancies</i>	27	APPENDIX 1	
<i>Fair Trading</i>	28	Regulations Made or Revoked in 1996-97	44
<i>Other Proposed Amendments</i>	28	APPENDIX 2	
Other Developments	28	Community Funding Programs	45
<i>Direct Marketing</i>	28	<i>A. Consumer Support Program</i>	45
<i>National Competition Policy</i>	28	<i>B. Tenant Support Program</i>	48
<i>Petrol Pricing</i>	28	<i>C. Ethnic Tenancy Program</i>	51
<i>Register of Encumbered Vehicles (REVS)</i>	29	APPENDIX 3	
Surveys	29	<i>Complaint Statistics</i>	52
Client Satisfaction	29	<i>Consumer Complaints by Product Type</i>	52
Business Names	30	<i>Consumer Complaints by Practice Type</i>	52
Estate Agents Fee Commission		APPENDIX 4	
Deregulation Monitoring Surveys	30	Residential Tenancies: Inspections & Other Services	53
Real Estate Industry	30	APPENDIX 5	
<i>Education for Estate Agents</i>	30	Tribunal Data	54
<i>Other Real Estate Industry Initiatives</i>	30	<i>A. Residential Tenancies Tribunal</i>	54
<i>Employment Patterns in the Real Estate Industry</i>	31	<i>B. Small Claims Tribunals</i>	55
		<i>C. Regional Tribunal Hearings</i>	56
		<i>D. Credit Tribunal</i>	56
6. ENFORCING FAIR TRADING STANDARDS	32	APPENDIX 6	
Maintaining Standards in Licensed/Registered Occupations	32	Prosecutions 1996-97	57
<i>Estate Agents</i>	32	APPENDIX 7	
<i>Motor Car Traders</i>	33	1996 Fair Trading Award Winners	66
Unlicensed Trading	34		
Odometer Tampering	34		
Security Interest	35		
Warranty Obligations	35		
Objections to the Holding of a Motor Car Traders' Licence	35		
Motor Car Traders Guarantee Fund			
Claims Committee	35		
<i>Travel Agents</i>	35		
<i>Builders</i>	36		
<i>Credit Providers</i>	37		
<i>Consumer Credit Code</i>	37		

OVERVIEW



From Left: Vicky Bates,
Assistant Director
Economics and
Information;
Pauline Pereira, Assistant
Director Investigations
and Compliance;
Bernadette Steele,
Director; and
Frank Lovass, Assistant
Director Client Services.

The 1996-97 year was one of continued achievement by the Office in working towards its overall objective of promoting a fair marketplace in Victoria.

A busy legislative program saw the passage of two significant new pieces of legislation during the year (**Friendly Societies (Victoria) Act 1996** and **Co-operatives Act 1996**), under which friendly societies will be subject to nationally uniform regulation and co-operatives will be subject to a nationally consistent regulatory regime. New legislation aimed at regulating introduction agencies was introduced into Parliament for passage in Spring 1997. The **Introduction Agents Bill** will facilitate the removal of unethical and fraudulent operators from the industry and ensure that consumers can make informed service choices.

Changes to the **Second-Hand Dealers and Pawnbrokers Act 1989** will encourage greater efficiencies in the industry, restrict dealing in stolen goods, and ensure that pawnbrokers charge fees determined by the market and which consumers can adequately assess before entering into transactions. Amendments to the warranty system and the introduction of a roadworthy certificate requirement under the

Motor Car Traders Act 1986 provide a more equitable balance between the rights of dealers and consumers.

The Office places great emphasis on educating and informing consumers and traders about their rights and responsibilities and several successful information campaigns were run during the year. The *Get A Life* lifestyle magazine for school-leavers was again a huge success. Demand for the publication was high and feedback from recipients was very positive.

Information campaigns were also run informing the public about the new *Consumer Credit Code* and changes to the **Motor Car Traders Act 1986**. As well, the *Building and Renovating* magazine which explains the new **Domestic Building Contracts and Tribunal Act 1995** was very popular.

During the year there was a large increase (26%) in the number of matters investigated by the Office. The majority of these matters were resolved without the need to resort to prosecution. Arising from matters not resolved, the Office conducted 110 successful prosecutions for breaches of various Acts.

An important part of the Office's role is the provision of advice in response to enquiries from consumers and traders and we are continuing our efforts to improve this aspect of our service delivery. This year the focus has been on staff training needs and enhancement of the on-line Help Directory of the computer system. The computer 'Help' screens assist enquiries operators in providing fast, accurate and consistent responses to the enquiries received. In 1996-97, the Office responded to 346,514 telephone and counter enquiries on a wide range of subjects - a 12% increase on the previous year. In addition, 14,812 written complaints were investigated (up 11%).

An independent review by consultants, Ernst and Young, of telephone call activities in Government found that the Office's call centre was the best in the Victorian Government, and described the centre as one of two 'success stories' in Government (the other being the Brisbane City Council).

2
The Office's call centre was also awarded a Certificate of Merit by the Australian Telemarketing and Call Centre Association Inc for call centres with less than 50 staff. This was the first time that such a recognition has been given to a call centre in the Victorian Government.

Consumers often express concerns about product safety and the Office continued its efforts in this area. The 1996-97 year saw an increase in the number of safety related complaints with a total of 246 such complaints being investigated (up 15%). Enquiries relating to the safety of consumer products increased by 88%. The internet has proved to be a valuable resource in relation to the identification of hazardous products and the reciprocal sharing of information with other fair trading and consumer affairs agencies both throughout Australia and overseas.

The annual Fair Trading Awards were a great success, drawing almost 500 nominations from across the State, a 400% increase over 1995. It is clear that this program of recognising and rewarding initiatives in customer service is being

well supported by the business sector which is becoming increasingly aware of the benefits which can accrue through the provision of excellent customer service.

Finally, this report would not be complete without noting the contribution to the Office made by the former Director, Malcolm Walter, who was appointed a Magistrate during the year. His good work and that of Denis Hall who was Acting Director for several months, and Frank Lovass who also acted in the position, are gratefully acknowledged.



BERNADETTE STEELE

Director

Office of Fair Trading and Business Affairs

PART ONE: ABOUT FAIR TRADING AND BUSINESS AFFAIRS

Objectives of the Office

*The Office of Fair Trading and Business Affairs is a division of the Department of Justice.
It aims to promote public confidence in Victoria's trading environment, providing support for fair dealing in an efficient, competitive and informed marketplace.*

Specifically, it is the responsibility of the Office to:

- foster an informed, competitive marketplace and avoid disputation through advisory services and public information programs which increase awareness and understanding of rights and obligations
- promote a safe market for consumer goods through developing product standards
- assist industry in the development of codes of practice
- inform government decision making and responses to marketplace issues
- develop and give effect to the Fair Trading legislation program
- promote compliance with Fair Trading legislation and with other legal and ethical requirements, and
- provide high quality and cost-effective business licensing and registration systems and facilitate public access to registered information.

To meet these ends it is necessary to:

- deliver sound and focussed research, policy analysis, advice (including economic/financial) and program review
- conduct litigation and provide legal advice relating to Fair Trading at a high professional standard, and
- maintain a commitment to quality and continuous improvement of service to clients.

Fair Trading Acts of Parliament

The following pieces of legislation are assigned to the Minister for Fair Trading.

Associations Incorporation Act 1981

Auction Sales Act 1958
Building Societies Act 1986
Business Investigations Act 1958
Business Names Act 1962
Caravan Parks and Movable Dwellings Act 1988 (Parts 1-5)
Carriers & Innkeepers Act 1958
Chattel Securities Act 1987 (Parts 1 and 2)
Collusive Practices Act 1965
Companies (Administration) Act 1981
Consumer Affairs Act 1972
Consumer Credit (Victoria) Act 1995
Co-operation Act 1981
Co-operatives Act 1996 (on proclamation, this Act will repeal above Act)
Co-operative Housing Societies Act 1958
Corporations (Victoria) Act 1990
Credit Act 1984
Credit (Administration) Act 1984
Credit Reporting Act 1978
Defence Reserves Re-employment Act 1995
Discharged Servicemen's Preference Act 1943
Disposal of Uncollected Goods Act 1961
Domestic Building Contracts and Tribunal Act 1995 (Except Part 5 - Attorney-General)
Estate Agents Act 1980
Fair Trading Act 1985
Finance Brokers Act 1969
Financial Institutions (Victoria) Act 1992
Friendly Societies Act 1986
Friendly Societies (Victoria) Act 1996 (on proclamation this Act will repeal above Act)
Frustrated Contracts Act 1959
Fuel Prices Regulation Act 1981
Fundraising Appeals Act 1984
Funerals (Pre-Paid Money) Act 1993
Goods Act 1958

Hire-Purchase Act 1959
House Contracts Guarantee Act 1987
Industrial and Provident Societies Act 1958
Landlord and Tenant Act 1958
Market Court Act 1978
Marketable Securities Act 1970
Ministry of Consumer Affairs Act 1973
Motor Car Traders Act 1986
Partnership Act 1958
Patriotic Funds Act 1958
Petroleum Retail Selling Sites Act 1981
Prostitution Control Act 1994
Residential Tenancies Act 1980 (ss.7, 11-13, 49-54, 64, 71, 77(4)-(7), 96, 100-101, 105-106, 108, 111-113, 127-135, 136(4)-(6), and Part VI)
Retirement Villages Act 1986
Rooming Houses Act 1990 (ss.11, 12(1) and (3)-(4), 13(2), 15(6)-(9), 19(g), 21(4)-(5), 24, 35-38, 41, and 46-47, part of s.48(1), and ss.48(2) and 49-54)
Sale of Goods (Vienna Convention) Act 1987
Sale of Land Act 1962
Second-Hand Dealers and Pawnbrokers Act 1989
Travel Agents Act 1986
Trustee Act 1958
Trustee Companies Act 1984

The Financial Institutions (Victoria) Act 1992
 establishes the Victorian Financial Institutions Commission, which administers the Building Societies, Co-operative Housing Societies, Friendly Societies, and Industrial and Provident Societies Acts. The remaining pieces of legislation are the direct administrative responsibility of the Office of Fair Trading and Business Affairs.

Information and Public Use Products Available General

Get A Life
 Victorian Good Business Guide - Issue 3
 Building and Renovating
 Kidsafe Furniture Guide
 Car Deals
 Small Claims Tribunal Guide
 Consumer Credit Code - Consumer Guide
 Consumer Credit Code - Business Guide
 Consumer Credit Code - Business Checklist
 Senior Power

'Get the Facts' Series

Consumers
 LPG
 Car Insurance
 Motor Vehicle Repairs
 Mail Order
 Refunds and Credit Notes
 Lay-By
 Bag Searches
 Travellers
 Swimming Pools and Spas
 Introduction Agencies
 The Fair Trading Act
 The Fundraising Appeals Act

Residential Tenancies

Renting - Your Rights and Responsibilities (in English, Arabic, Cambodian, Chinese, Greek, Italian, Spanish, Turkish, Vietnamese)
 Tenant's Handbook for Renting Problems
 Landlord's Handbook for Renting Problems
 Landlords - Check It Out
 Tenants - Check It Out
 Forms - tenancy application, tenancy agreement, condition report, tenant's application to RTT, landlord's application to RTT, notice to tenant from landlord, notice to landlord from tenant
 Landlord's Kit
 Tenant's Kit

Rooming House Statement of Rights and Duties
 Forms - rooming house application, notice to the Registrar, notice to retain bond/notice of objection, urgent repairs notice, notice of intention to sell, breach of duty notice, termination notice, condition report

Caravan Parks - Statement of Rights and Duties
 Check It Out - Living in a Caravan Park

Business Affairs

Business Name Information/Application Form
 Associations: Information Booklet
 Model Rules for an Incorporated Association
 Guide to Co-operatives in Victoria
 Draft Co-operative Rules (various types)
 Co-operative Formation Statement
 Co-operatives: Post-registration Guide
 Co-operatives: List of Duties of Directors

How to Register a Business Name

Any name used for trading which includes more than individuals' or companies' own names must be registered. The registration details are then open to public inspection for a fee (see page 13).

The application form is a straightforward double-sided A4 sheet, available from:

Office of Fair Trading and Business Affairs
Business Affairs Branch
GPO Box 4567
MELBOURNE 3001

Telephone: (03) 9627 6200
Fax: (03) 9627 6210

Business Affairs Branch is open for business between 9.00 am and 4.00 pm from Monday to Friday at Level 2, 452 Flinders Street, Melbourne.

There is currently a registration fee of \$70.

Up to four choices of name are requested on the application form. It is not always possible to grant registration of your first choice because of potential confusion with names already in use. When an application is received (and only then), the Office checks that there are no closely similar names already registered for businesses or associations and no identical company names registered with the Australian Securities Commission.

Once a suitable name has been found, a registration number and certificate will be issued, valid for three years. The whole process can be done on the spot at our counter.

You are required to commence trading under the registered name within two months of registration and to continue using it - names cannot be reserved. The registered name must be displayed conspicuously outside the registered address and any other business addresses and be used in full on all stationery, etc.

Registration is not designed to protect proprietary rights in a business name. This is a separate legal issue, on which the Office cannot offer advice.

How to Handle a Customer Complaint

Customers are business and your word-of-mouth reputation can make all the difference to your bottom line. These five common sense tips will help you keep good customer relations when a complaint arises.

1. Listen

Let the customer explain the complaint. Some customers get upset and can be hard to follow. Empathise and acknowledge their feelings. Ask whatever questions are needed to clarify the problem in a calm, courteous manner.

2. Record the details

Write down the essential details to confirm your understanding of the complaint and provide you with a record. (The Office's *Good Business Guide* contains a sample form for record keeping on customer complaints.)

3. Discuss the options and agree on a course of action

If possible, agree to a solution on the spot. Otherwise, explain the available courses of action. Set a timetable for taking the steps agreed, and advise the customer when you will make contact to advise of progress.

You may need to seek technical information or other advice. If so, make that the first step in your timetable, to be followed by further discussions with the customer. (The Office can give you general advice about your rights and responsibilities as a trader, and most industry, trade and professional organisations provide advisory services to members.)

4. Act promptly

Try to better your agreed timetable. Keep the customer informed at every stage. Respond promptly to letters or telephone messages from the customer.

5. Follow up

Make sure that the problems that led to the complaint have been resolved and the customer is satisfied. Treat the complaint as an opportunity to obtain feedback and improve quality control.

How to Pursue a Consumer or Tenancy Complaint

There is a whole range of problems that can lead to a complaint, but the general approach is the same.

1. Talk to the other party

You should always try to resolve matters amicably yourself before taking any other action. Otherwise, you might be needlessly escalating a problem into a dispute.

2. Get the details straight

If you've talked to the trader, the landlord or tenant but haven't been able to solve the problem, you're entitled to ask for help from the Office of Fair Trading and Business Affairs.

To be able to tell your story properly, you'll need to:

- note down for yourself all that has happened between you and the other party
- gather all the relevant documents together and make copies of any you want to send in.

You can then be brief and to the point but ready to answer any questions you might be asked, whether you're making contact by phone, in writing or in person.

3. Decide what you want - general advice, conciliation or a tribunal hearing

It's fine just to ask for some advice. If you want to know how you stand or aren't sure what taking matters further would involve, this is the sensible thing to do. In many cases, advice is all you'll need.

If you want to request Office staff to conciliate between you and the other party, please note that conciliators only deal with written complaints.

You may also apply direct to the Small Claims, Domestic Building, Credit or Residential Tenancies Tribunals, administered by the Courts, Tribunals and Registries Division of the Department of Justice. (See page 16 for descriptions of what these Tribunals do and their addresses.) To apply you'll need to obtain and lodge the appropriate application form and pay a small fee.

Write or Visit

Office of Fair Trading and Business Affairs
GPO Box 123A
Melbourne 3001

The Office is open for enquiries between 9.00 am and 4.00 pm, Monday to Friday at Level 2, 452 Flinders Street, Melbourne.

In addition, a number of community organisations are funded to provide a service to the public on consumer and residential tenancies issues. These are listed at *Appendix 2*.

Telephone

Residential tenancies enquiries:
9627 6222 or 1800 136 716

Motor vehicle enquiries:
9627 6001 or 1800 678 328

Household goods/services enquiries:
9627 6111 or 1800 634 389

Building enquiries:
9627 6100 or 1800 067 320

TTY/TDD number (for hearing impaired):
(03) 9627 6020

Operators are in attendance between 9.00 am and 4.00 pm, Monday to Friday.

Fax

Residential tenancies matters:
(03) 9627 6223

Consumer matters:
(03) 9627 6006

PART TWO: THE 1996-97 YEAR

Activities of the Office

The Office of Fair Trading and Business Affairs administers a range of programs and provides advice to the Government on a variety of fair trading matters. Its direct services to the public include provision of advice, information, referral and dispute resolution in consumer and residential tenancy matters and the operation of registration and licensing systems covering business names, co-operatives, associations, and certain categories of traders.

A brief description of the six major functions undertaken by the Office is provided below. The report on the activities of the Office during the 1996-97 year is presented in sections categorised by these functions. The report also includes a description of the activities of the ongoing consultative bodies associated with the Fair Trading portfolio.

1. Letting People Know Their Rights and Responsibilities

Information is essential for consumers and traders, tenants and landlords, and those involved with co-operatives, associations or limited partnerships to make reasonable decisions, understand their rights and obligations, solve problems and gain access to further assistance when they need it.

The Office seeks to ensure that relevant advice and information is available to all Victorians, whether it is provided through direct contact with organisations and businesses, over the counter, by telephone or through publications in a range of media. Funded community groups provide regional contact points across the State for information on consumer and tenancy issues.

2. Running Client Oriented Business Licensing and Registration Services

The Office administers a variety of legislation requiring the licensing or registration of trading entities in the public interest. It aims to provide a helpful and efficient service both to those subject to the licensing or registration provisions and to members of the public seeking registered information.

3. Getting Disputes Resolved

Fair trading and residential tenancies inspectors provide advice and assistance (including, in certain tenancy matters, statutory reports) to people seeking to resolve consumer- and tenancy-related complaints. Funded community groups also advise on and assist in settling disputes.

The Residential Tenancies, Small Claims, Domestic Building and Credit Tribunals are readily accessible, at minimal cost, where disputes cannot otherwise be resolved. (Administrative support to these independent, specialist tribunals and their users is the responsibility of the Courts, Tribunals and Registries Division of the Department of Justice.)

4. Promoting Product Safety and Standards

The Office seeks to ensure acceptable standards of quality, performance and labelling of consumer goods, and to minimise risks to the public arising from the trading of hazardous products. To these ends, it provides information to business and consumers, investigates complaints, monitors the marketplace for standards compliance and the emergence of new hazards, shares information with other relevant agencies, and develops policy options, including proposals for new product standards where appropriate.

5. Fostering an Efficient, Competitive and Fair Marketplace

The consumer marketplace is always changing. Continual monitoring is necessary to ensure that current regulation and industry standards are suited to encouraging fair and honest trading activity.

Legislative review, the development of industry codes and government investigations of specific issues are major elements in the ongoing revision of fair trading standards.

6. Enforcing Fair Trading Standards

Established fair trading standards are safeguarded by the Office's compliance programs.

These standards exist to facilitate fair trading in an efficient and competitive marketplace. Traders who fail to observe them are not only acting against consumers' interests, but are taking unfair advantage of honest and efficient competitors for those customers' business.

1. Letting People Know Their Rights and Responsibilities

Direct Assistance

Industry Liaison and Dispute Avoidance

While continuing to work with business and industry to encourage dispute avoidance and further the Government's policy of increased industry self-regulation, many of the functions of industry liaison were transferred to the industry-based teams within the Office.

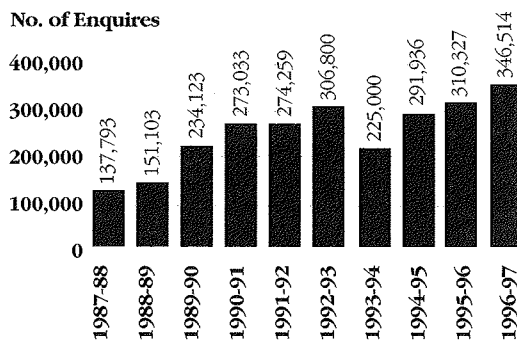
Increased attention has been given to the training needs of staff and the continuing development and enhancement of the on-line Help Directory of the computer system in order to ensure that the advice given to the public is accurate and consistent and that the best possible complaint resolution service is delivered.

Attention has also been given to the development of a 'fax-back' information service and the Office's contribution to the Department of Justice's Home Page on the internet.

Enquiries

The Office responds to a wide range of telephone, personal and written enquiries on subjects including residential tenancies, estate agents' activities, rooming house and caravan park residencies, buildings and building extensions, motor vehicles, credit arrangements, household purchases, utilities (water and gas) and consumer matters in general.

TELEPHONE AND COUNTER ENQUIRIES



The majority of telephone enquiries involve provision of verbal information. Where necessary, information brochures, booklets on a range of issues, and required forms (such as tribunal applications) are speedily supplied. Operators work from computer 'help' screens, to assist them in providing fast, accurate and consistent responses to enquiries received.

In addition to the 346,514 telephone and counter enquiries shown in the chart, there were 8,554 telephone enquiries relating to the Estate Agents Licensing Authority during 1996-97 compared with 4711 telephone enquiries in 1995-96.

The telephone system Interactive Voice Response Unit handled 76,662 (22.4%) calls, indicating an acceptance of telephone messaging facilities by the public to satisfy the callers' needs.

Hotlines were again established in connection with the 'Get A Life' program for school leavers and a campaign to inform consumers about the new national *Consumer Credit Code* was also introduced.

Funded Community Support

Consumer and Tenant Support Programs

Funding under the Tenant Support Program (TSP) and Consumer Support Program (CSP) provides a network of community-based services across the suburban area and rural Victoria.

In 1996-97, over \$1.8m was provided to 18 regional and three specialist statewide services under the TSP. Grants to 15 regional and four statewide specialist services under the CSP totalled over \$1m.

Funds were again allocated with reference to the Office's needs-based funding model and the principle that services should complement rather than duplicate those of the Office.

Each agency prepares regular financial reports (quarterly or half-yearly depending on the amount of funding received) and provides six-monthly program reports against agreed performance indicators. These program reports include data recorded on the nature of the complaints and enquiries received and the geographic location of the clients serviced. Data are also collected by each funded agency twice a year over a given two week period on the socio-economic characteristics of clients. The Office prepares analyses of the data to assist groups in planning and in refining their performance indicators. Monitoring visits are made to all agencies at least once a year.

At least 60% of funded resources is required to be devoted to direct client service. Total client numbers in 1996-97 were 10,958 under the CSP and 41,798 for the TSP. These figures indicate a 1.5% decrease under CSP and an 18.8% increase under TSP. The latter reflects the current problems in rental shortages. It should be noted that funded agencies, like the Office itself, are placing greater emphasis on dispute avoidance. CSP cases referred to the Small Claims Tribunals decreased by 23% and those referred to the Residential Tenancies Tribunal decreased by 51%, with a similar increase in conciliations under TSP reflecting a closer working relationship with the estate agency sector.

Agency performance audits were continued throughout the year with seven agencies (two CSP and five TSP) selected and 175 clients interviewed regarding their satisfaction with the service received. The overall rate of satisfaction was 95.5%. Over half the clients surveyed (61.8%) either did not know how they would have resolved their problems or felt they would have been unable to resolve them if the agency had not been available. Not surprisingly, clients rated the quality of the services as the most important feature (47.3%), followed by their location within the local community (42.5%).

The component of funding not applied to

direct client service is used for educational initiatives such as talks, information displays, newsletters and media articles. This work aims to inform people about their rights and obligations so that disputes are either avoided or more able to be resolved by the parties themselves. As in the previous year, a number of agencies participated in seminars for businesses, consumers, tenants and landlords in their local areas.

Many agencies worked with the Office in conducting the 1996 Fair Trading Awards and Good Business Seminars, with one funded agency, the Bendigo Community Health Services Inc playing a leading role in co-ordinating the Regional Victorian Awards. The personal contacts developed by agency workers with the traders and landlords in their respective regions helped to ensure the success of the Good Business Seminars.

An initiative which commenced the previous year to strengthen the partnership between the Office and workers in funded agencies was the conduct of bi-annual Regional Forums and these continued in 1996-97. These forums facilitate both training of workers and information exchange between them and the Office. As 1996-97 saw the development of major legislative changes in the areas of motor car traders, building and credit, the forums provided an opportunity for discussion of the proposals and for providing training to community workers on the provisions of new legislation.

Ethnic Tenancy Project

A forum in March 1996, under the banner of 'New Country, New Home', brought together community and government agencies to discuss the best way to provide services to linguistically and culturally diverse (LCD) tenants. This provided the input for a final report by the Ethnic Tenancy Steering Committee and, as a result, a new service model was developed and implemented. Whereas six specific language groups had previously been funded on a statewide basis, funding was provided in 1996-97 to tenancy services in six regions with high populations of LCD tenants. These regional services have each developed service delivery models

which specifically promote access and equity for their particular communities. A statewide service was also funded to resource and support services to LCD tenants.

An interim evaluation showed an increase in breadth and numbers of LCD tenants accessing the agencies but a full evaluation will be undertaken at the end of 1997-98.

Public Information

Public Information Strategies

To help achieve the Office's aim of promoting public confidence in Victoria's trading environment, the Office is taking a proactive role in creating and raising awareness of fair trading issues and effective customer service practice among consumers and traders.

In doing this, the Office continues to pursue its strategy of education through a highly successful program of niche marketing: identifying groups and producing information that reaches its target audiences. Its key objective is to provide the public with clear and up-to-date information about rights and responsibilities as consumers and traders, tenants and landlords in order to achieve its long-term goal of a more educated marketplace capable of resolving disputes.

In order to achieve its goal of a fair trading environment for all, the Office has recognised that an effective way to enhance marketplace behaviour is to educate small to medium enterprises (SMEs) in providing excellence in customer service. Its long-term strategy is encompassed in the Good Business Program which is being developed with a range of initiatives including the increasingly successful Fair Trading Awards and the *Victorian Good Business Guide*. It also includes statewide workshops/seminars for SMEs which will emphasise the quantifiable value of excellent customer service to the business sector.

The Office has increased its consumer and trader access to information on the internet and sees this as a key growth area.

It also maintains its traditional information outlets including printed material (close to one million information products were distributed this financial year), audio, video and CD-ROM. The Office is very active in maintaining contact with metropolitan and country publications and

the electronic media - publicising prosecutions, issuing warnings about business practices and safety issues and promoting information product launches. It also responds to hundreds of requests for media comment on tenancy and trading issues and supplies funded groups with information to disseminate through their local media outlets.

1996-97 Highlights

Get A Life, a lifestyle magazine for school leavers, was direct-mailed to 60,000 VCE students in January. A 'know how' guide to tackling issues that they will face in the adult world, it has been evaluated as being 'relevant, appealing and useful'. An independent survey also revealed the magazine has achieved an 80% retention rate and that 50% of school leavers discussed the magazine with someone else (parents, friends and other family members). Over 5,000 survey cards were returned to the Office, which showed that 93% of students rated the magazine between good and excellent. This year the demand for the publication was so high that the magazine was out of print after two months.

Created in conjunction with other State/Commonwealth consumer agencies, *Consumer Power 2 (CP2)* was launched at the national multimedia expo, Interact 96. An interactive CD-ROM for years 5 to 6 school children, it is a mix of animation and real life. More than just a game, it is a rich educational resource which will develop life skills, problem solving, decision-making and the interpretation and communication skills necessary to make informed decisions in the marketplace. The CD-ROM was produced in conjunction with Show Ads Omega. *CP2* received an Australian Teachers of Media award for the best general education category and a copy was sent to all Victorian primary schools.

A six week campaign was undertaken to raise public awareness of the new national *Consumer Credit Code* and the availability of explanatory brochures from the Office. Requests for the publications were high with over six hundred hotline calls, nearly 500 letters and over 300 faxes during the campaign period. Over 30,000 brochures were distributed to businesses and relevant industry bodies.



The Minister, Mrs Jan Wade MP at the launch of Get A Life is joined by Stick from FOX FM; Vasso Apostolopoulos, the 1996 Young Achiever of the Year; Gary Royal, General Manager HBA; and Troy Ellis from FOX FM.

Following amendments to the **Motor Car Traders Act 1986**, the Office undertook a three month education campaign to inform the public. The campaign and the accompanying publication, *Car Deals* was extremely successful. Close to 500 survey cards were returned to the Office showing an overwhelmingly positive reaction, with an overall rating of either good or excellent. The RACV and VACC contributed financially, and supported the development and implementation of the Car Deals campaign. Both had invaluable input into the content of the publication and campaign. The RACV and VACC have expressed a desire to continue to be involved with the Office in programs within this area. Nearly 45,000 copies have also been distributed to the VACC, RACV, VicRoads and community groups.

In addition, over 900 licensed motor car traders attended 11 country and four metropolitan information seminars which were organised to educate the industry about the changes. Regional community groups funded by this Office contacted motor car traders and arranged the venues. VACC representatives attended all the metropolitan seminars and were a great support. The joint presentation between the Office, VACC and VicRoads has strengthened

our network and will facilitate closer working relationships in the future.

The *Building and Renovating* magazine explains the new **Domestic Building Contracts and Tribunal Act 1995**. Up to 110,000 copies were distributed through hardware store chains, local councils and relevant industry bodies. All Victorian registered builders and building surveyors received a copy via direct mail. A new lifestyle magazine incorporating home buying, building and renovating will be featured late next year.

The *Vietnamese Story Board*, developed in conjunction with the Springvale Community Aid and Advice Bureau was launched in March 1997. The storyboard was produced to assist non-English speaking Vietnamese residents to understand their rights and responsibilities as tenants in the rental market. Ten thousand copies were distributed to ethno specific services.

The Fair Trading Awards for 1996 were expanded to include a separate category and award for regional Victoria. Almost 500 nominations were received across the State, a 400% increase over 1995. It is clear this program of recognising and rewarding initiatives in customer service excellence is an important component of the Good Business Plan as it contin-

ues to draw business into the desired partnership with consumers to improve the trading environment.

The *Victorian Good Business Guide* is in its third edition and featured the 1996 Fair Trading Award winners. The fourth edition of the magazine will shift focus from being largely a digest of consumers' and traders' rights and responsibilities, to also providing a compendium for business on how to achieve and increase business success through good business practice and by providing excellence in customer service. It will be distributed to 80% of the Victorian business sector through Business Affairs.

Internet services are continually being upgraded and information products currently available include *Get A Life*, *Car Deals*, *1995/96 Annual Report*, 1997 Fair Trading Awards and *Senior Power*, a new resource guide to consumer rights and responsibilities for citizens over fifty-five.

2. Running Client Oriented Business Licensing and Registration Services

Licensing/Registration of Categories of Trader

Estate agents, auctioneers, motor car traders, travel agents, finance brokers and prostitution service providers are all required to obtain licences, while credit providers must be registered. To protect the public and to enhance fair trading standards in industries where public confidence is important, traders must observe certain minimum standards to retain legal recognition. The Office processes licensing and registration documentation, conducts relevant eligibility enquiries and provides administrative support to various statutory licensing and disciplinary bodies.

Recent amendments to the **Second-Hand Dealers and Pawnbrokers Act 1989** have the effect of transferring licensing arrangements currently administered by local government to a registration scheme to be administered by the Office. This change will improve the process of accreditation, facilitate the recovery of stolen goods and deregulate charges which may be made by pawnbrokers on pawn transactions while establishing certain statutory safeguards. Preparations are being made to facilitate the registration of an estimated 12,000 second-hand dealers and pawnbrokers.

Registration of Business Names

The **Business Names Act 1962** requires the registration of any name under which business is carried on in Victoria, except where trading takes place under proprietors' names only. This assists anyone who may need to identify the proprietors. Business names must be conspicu-

ously displayed on signs outside the registered and business addresses and used on all business stationery. There is currently a registration fee of \$70. A laminated certificate can be provided for an additional three dollars.

In 1996-97, 54,550 new business names were registered, a decrease of 3.4% on 1995-96.

It is now possible to lodge an application for a business name by facsimile, as an alternative to doing so in person or by post. However, the registration fee must be paid before registration can be effected.

The Office is also developing infrastructure and systems to support the Government's electronic service delivery initiative. This will enable documentation to be lodged, and information to be accessed, from remote locations by electronic means.

For a prescribed fee of \$5, any member of the public may obtain extracts of information on any registered business name. The Office facilitated 128,754 business name searches in 1996-97, including those undertaken through private information brokers. These brokers have direct computer access to the data under contract and are able to relay search results to individual clients electronically.

Contact details for the Office's Business Affairs Branch are provided on page 5.

Registration of Entities Where Personal Liability is Limited

The Office performs advisory, supervisory and monitoring roles in relation to co-operatives, associations and limited partnerships.

Co-operatives

A co-operative is a type of incorporated entity whose shareholders derive benefits primarily through membership and use of the organisation rather than distribution of profits.

LICENSING/REGISTRATION STATISTICS FOR 1996-97

	Estate Agents	Motor Car Traders	Travel Agents	Finance Brokers	Credit Providers	Prostitution Service Providers
Licences/registrations current at 30-6-97	5,016	2,061	1,001	365	643	310
Applications received	493	240	77	133	296	332
Applications granted	490	262	74	79	296	310*

*includes registered exempt prostitution service providers

As with companies and incorporated associations, all members of legally incorporated co-operatives have limited liability. Under the **Co-operation Act 1981**, a co-operative's board of directors is responsible to the membership in much the same way as the board of a company. The size of the board is limited to seven. A co-operative's name must contain the words 'Co-operative' and 'Limited' (or 'Ltd').

An organisation will only qualify for incorporation as a co-operative if it adheres to the general principles of co-operation, which are recognised internationally. In brief, these require:

- open membership
- democratic control, with each member having one vote regardless of the number of shares held
- limited interest on share capital
- equitable distribution of any surplus
- co-operative education
- co-operation with other co-operatives.

There are at least 750 million co-operative members in over 100 countries throughout the world. Australia has approximately 2,300 co-operatives, with assets in excess of \$3.7 billion.

The Office maintains a register of all Victorian co-operatives, receives and checks the completeness of annual returns, and monitors co-operatives' operations.

Twenty-seven new co-operatives were registered by the Office during the year. At 30 June 1997, there were 1,004 co-operatives on the register.

**CO-OPERATIVES REGISTERED
AT 30 JUNE 1997**

Community Advancement	790
Trading	117
Producer	56
Community Settlement	15
Rental Housing	18
Associations of Co-operatives	5
Federations	1
Foreign Societies	2

Currently, registration costs are either \$150 or \$416, depending on the type of co-operative. The register is open to inspection without charge.

Late in 1997 the **Co-operatives Act 1996** will come into operation and there will be three main categories under which co-operatives can be registered:

- (i) Trading co-operatives
- (ii) Non-Trading co-operatives with share capital, and
- (iii) Non-Trading co-operatives without capital.

A trading co-operative is one that can give a distribution of a surplus or a return of share capital.

Fees to register are either \$200 or \$400.

The Act will also create an environment which promotes co-operatives' development and flexible operation, particularly with respect to interstate trade.

Limited Partnerships

The **Partnership Act 1958**, as amended by the **Partnership (Limited Partnerships) Act 1992**, provides for the registration of limited partnerships. These are partnerships between at least one 'limited' partner, whose liability is limited to an agreed amount, and up to 20 'general' partners having unlimited liability.

Currently there are 26 limited partnerships on the register.

Incorporated Associations

The **Associations Incorporation Act 1981** allows for the voluntary incorporation and registration of any association operating in Victoria. Incorporation costs \$70. While not compulsory, incorporation benefits association members in limiting their personal liability and establishes a legally recognised entity for such purposes as entering into contracts and holding property. A minimum of five members is necessary to obtain and retain registration.

The Office maintains the registry of incorporated associations and monitors compliance with the requirements of the Act, for example, holding of annual meetings, lodgement of annual returns, and notification of changes of certain particulars.

There are currently 32,331 incorporated associations on the register. Of these, 1,651 were incorporated and registered in 1996-97, a 9.7% decrease on 1995-96.

The register of associations is open to public inspection at a prescribed fee of five dollars. Information is available on microfilm for search and copying of extracts at 20 cents per page. Hard copies of documents will be provided at \$5 for the first page and \$2 for each additional page. In 1996-97, 2,045 searches were facilitated.

Authorisations, Declarations and Exemptions

A number of the Acts administered by the Office provide for case by case decisions as to whether certain general entitlements or restrictions shall apply or recognising certain entities for a particular statutory purpose.

Estate Agents - Sales Involving Beneficial Interest

To prevent unethical conduct due to conflicts of interest, the **Estate Agents Act 1980** prohibits estate agents and their employees from purchasing any property or business which the estate agency is commissioned to sell and from selling any such property to direct family members or business entities to which they or direct family members belong.

The **Estate Agents Act 1980** allows the prohibition to be waived, subject to any necessary conditions, if it can be shown that the vendor's interests would not be compromised. During the financial year 158 waiver applications were made and 154 granted.

Fundraising Appeals

A person proposing to undertake a fundraising appeal must be authorised under the **Fundraising Appeals Act 1984**. Generally, this requires lodgement of a notice of intention for consideration by the Minister's delegate within the Office. To protect the public from fraud and malpractice, strict checks are carried out on all applicants. Where appropriate, permission is refused or granted only on certain conditions. Failure to comply with the legislation or conditions attached to fundraising permits attracts a penalty upon conviction of up to \$5,000 or two years imprisonment. During 1996-97, 49 notices were received and permission was given for 49 appeals.

Retirement Villages

The Office responds to enquiries and, if appropriate, investigates complaints relating to the **Retirement Villages Act 1986**. It also considers applications for exemptions and makes recommendations to the Minister, for submission to the Governor-in-Council. The Office also considers applications to extinguish charges on the retirement village land created under the Act, and to cancel the statutory retirement village notice. In the financial year 1996-1997, seven exemptions were granted, two retirement village notices were cancelled and two charges were extinguished.

Trustee Companies

Companies authorised by the Minister under the **Trustee Companies Act 1984** can act as executors of wills and trustees of trust estates and unit trusts. Authorised trustee companies are required to maintain a prescribed level of reserve funds and to lodge their scales of fees with the Office for public record. The executive officer, chief financial officer and two directors must lodge a quarterly statutory declaration setting out the financial position of the company, and provide a copy to any person on request. At 30 June 1997, there were 13 trustee companies authorised under the **Trustee Companies Act 1984**.

3. Getting Disputes Resolved Conciliation

If parties to a marketplace dispute cannot resolve their differences themselves, a written complaint may be made to the Office. An inspector will assess the matter and, where appropriate, will intervene in an effort to arrive at a settlement which is acceptable to both parties.

Serious departures from fair trading standards detected in the conciliation of complaints are referred as appropriate for investigation or for the attention of the relevant statutory authority.

In 1996-97, the Office received 14,812 written complaints, up 10.8%. Notwithstanding this increase in absolute numbers, the ratio of complaints to enquiries remained at the 1994-95 figure of 1:23.

Tenancy and other accommodation-related matters accounted for 42.9% of complaints. Most of these were requests for inspections relating to abandoned goods, repairs and rental increases. The next largest categories of written complaint were household goods (21.2%) and motor vehicles and other transport equipment (14.3%). See *Appendix 3* for further figures.

Local Assistance in Dispute Resolution

Agencies funded under the Consumer Support and Tenant Support Programs assist in the resolution of complaints at the local level - primarily by facilitating self-help, but also through intervention where necessary. The agencies' roles involve ensuring that clients are aware of their rights and entitlements and thus equipped to resolve matters themselves, and actively assisting in achieving appropriate settlements. Where issues are unable to be resolved, consumers are referred to the Office for appropriate action or are assisted in preparing for hearings in the Small Claims Tribunals, the Domestic Building Tribunal or the Residential Tenancies Tribunal.

The Tribunals System

The **Residential Tenancies Act 1980**, **Small Claims Tribunals Act 1973**, **Domestic Building Contracts and Tribunal Act 1995** and **Credit (Administration) Act 1984** all establish specialist Tribunals to deal with disputes.

Administrative support is supplied by the Courts, Tribunals and Registries Division of the Department of Justice. Members/Referees are independent of the Department. Appointments are made by the Governor-in-Council and, except for particular positions on the Credit Tribunal panel, require legal qualifications.

Tribunal decisions are legally binding.

There is no appeal against Residential Tenancies' or Small Claims Tribunals' decisions, although there is provision to apply for a Supreme Court order that a decision be reviewed under the **Administrative Law Act 1978**, on the grounds of denial of natural justice or lack of jurisdiction.

A party may apply to the Domestic Building Tribunal to review a decision on the grounds that new evidence of a material nature has become available, but only within 60 days of the decision. Appeal is available to the Court of Appeal from the Domestic Building Tribunal on a point of law and from the Credit Tribunal as if the Tribunal were the County Court.

To minimise inconvenience and travelling time for the parties involved, Residential Tenancies Tribunal hearings are held as near as possible to the rented premises. Small claims are heard as close as possible to the place the contract was entered into. Venues in 29 locations across Victoria were used by these Tribunals in 1996-97 (see *Appendix 5C* for details).

Mediations and hearings of Domestic Building Tribunal matters are also held at convenient locations for parties from rural areas. Teleconferencing facilities are available for case management conferences.

Residential Tenancies Tribunal

Residential Tenancies Act Cases

The number of applications lodged with the Residential Tenancies Tribunal increased by 11.2% in 1996-97 to 43,826. Applications were predominantly by landlords (95.5%), the majority of these (79.1%) being for possession of the rented premises. Detailed statistics are presented in *Appendix 5A*.

Caravan Park Cases

The Residential Tenancies Tribunal determines disputes between caravan park owners or caravan owners, on the one hand, and caravan park residents renting their sites or vans, on the other. There was a marked increase (59.5%) in applications lodged with the Tribunal in relation to the **Caravan Parks and Movable Dwellings Act 1988**, from 89 in 1995-96 to 142 in 1996-97. Comparative statistics including earlier years are provided in *Appendix 5A*.

Rooming House Cases

The **Rooming Houses Act 1990** assigns rights and responsibilities to rooming house owners (and mortgagees) and residents.

In 1996-97 there were 907 applications to the Residential Tenancies Tribunal under the Act, an increase of 13.5% on the 1995-96 figure of 799. Comparative statistics including earlier years are provided in *Appendix 5A*.

Fair Rents Board Cases

The Residential Tenancies Tribunal sits as the Fair Rents Board to determine applications regarding prescribed premises under Part V of the **Landlord and Tenant Act 1958**. Essentially, this legislation protects tenants still subject to tenancy agreements made prior to 1 January 1956, where the rented premises were constructed before 1 February 1954.

Four fair rents hearings were conducted in 1994-95. Yearly comparative statistics are provided in *Appendix 5A*. It is expected that the number of hearings will remain small as the number of prescribed premises continues to decrease.

Small Claims Tribunals

The Small Claims Tribunals resolve disputes between consumers and traders, with a limit of \$5,000 on claims.

There were 3,646 claims in 1996-97, a 4.4% increase over 1995-96. Further statistics are provided in *Appendix 5B*.

Domestic Building Tribunal

Under the **Domestic Building Contracts and Tribunal Act 1995**, the Domestic Building Tribunal has unlimited jurisdiction to determine

domestic building disputes and disputes over insurance claims regarding domestic building work. The Tribunal also hears appeals against decisions of the Housing Guarantee Fund Ltd in respect of guarantees issued under the **House Contracts Guarantee Act 1987**.

The Tribunal commenced operation on 1 April 1996. A total of 974 applications were brought to the Tribunal in the 1996-97 year. A total of 883 cases were completed during that period.

Overall, 54% of the applications were filed by builders and 39% by owners.

Cases are subject to intensive case management, which has contributed significantly to the high resolution rate prior to final hearings. A mediation was held in most cases leading to a settlement rate of 65% at mediation.

Credit Tribunal

The Credit Tribunal hears matters arising under the **Credit Act 1984** and the *Consumer Credit (Victoria) Code*. These include applications by consumers, seeking:

- relief from unjust or unconscionable contracts
 - variation of contracts because of hardship
 - compensation for failure to give a notice before repossession or failure to sell repossessed goods in the required matter
- and applications by credit providers, seeking:
- reinstatement of credit charges they have forfeited under the Credit Act by their conduct (civil penalties)
 - repossession of secured items.

There were 230 applications lodged with the Credit Tribunal in 1996-97. Comparative statistics are provided in *Appendix 5D*.

4. Promoting Product Safety and Standards

Monitoring and Injury Prevention

Product Safety

Enquiries

During 1996-97 there was an 88% increase over the previous year in enquiries relating to the safety of consumer products. The total of 780 enquiries compares with 413 for 1995-96 as shown in the graph.

Twenty-nine product categories have been used for classifying data relating to product safety. The categories responsible for the majority of enquiries during 1996-97 were: **toys** (16.7% of enquiries) **nursery products** (13.2%) **personal use products** (10.8%) **building and construction** (8.2%) and **consumer durables and miscellaneous** (7.1% respectively). Together, these categories accounted for over 60% of all enquiries made.

Investigations

1996-97 saw an increase in the number of safety related complaints made to the Office similar to that experienced in 1995-96, with a total of 246 complaints being investigated. This was an increase of 15.5% over 1995-96 and represents a 35% increase since 1994-95 (see graph). Five product categories accounted for the majority of the investigations. These were: **toys** (15.9% of total), **building and construction** (15.0%), **nursery products** (11.8%) **consumer durables** (10.6%), and **personal use products** (9.8%).

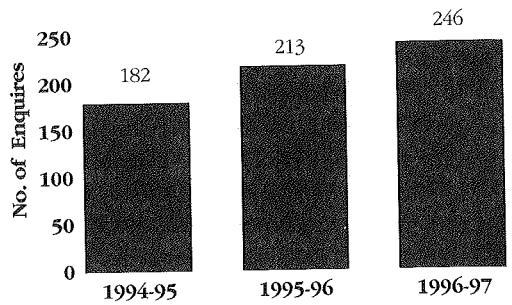
Standards Compliance

Enquiries

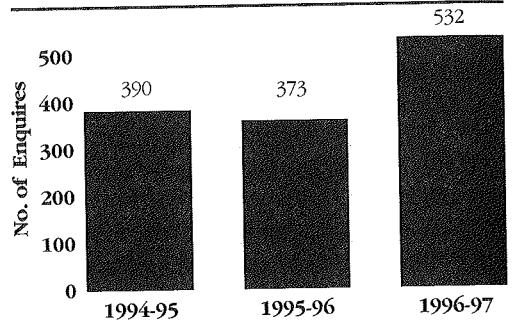
During 1996-97 enquiries received regarding consumer product standards totalled 532. This represents a 40% increase over the previous year (see graph).

Again, twenty-nine categories are used for classifying data relating to product standards. Those accounting for the most enquiries during 1996-97 were: **textile product labelling** (14.3%) **automotive design, parts & accessories** (13.7%) **miscellaneous** (12.4%) **toys** (8.6%) and **building and construction** (7.3%).

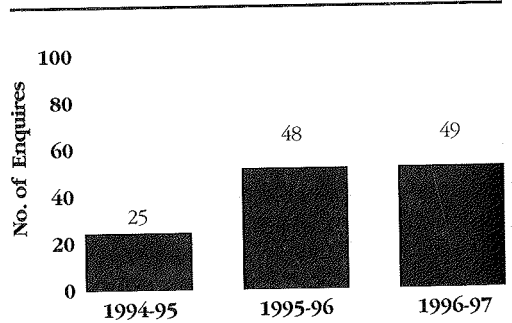
PRODUCT SAFETY INVESTIGATIONS
3 YEAR COMPARISON



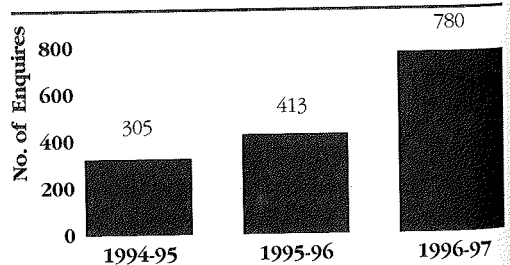
STANDARDS ENQUIRIES
3 YEAR COMPARISON



STANDARDS INVESTIGATIONS
3 YEAR COMPARISON



PRODUCT SAFETY ENQUIRIES
3 YEAR COMPARISON



These five categories accounted for just over half of all enquiries made, while the rest were evenly distributed throughout the remaining categories.

Investigations

A total of 49 investigations into standards were undertaken during 1996-97, this was an increase of one on the previous year (see graph). Seven product categories accounted for the majority of the investigations. These were: **automotive design, parts and accessories** (16.3% of investigations), **toys and textile product** (12.2% respectively), **clothing, footwear and manchester** (8.2%) and **nursery products, packaging & containers** and **building & construction** (6.1% each).

Products Withdrawn or Modified

During 1996-97 the Office consulted with a range of industries relating to the need for undertaking either product recalls or modifications. In some instances industry contacted the Office seeking assistance with recalls, while in other cases the Office has used consumer or internet information to advise Australian companies of product faults. The following products are examples of the latter:

- Manco Go-Kart - repair program aimed at covering exposed axle to remove entrapment hazard
- Nestle Smarties - modification made to packaging to remove ingestion hazard
- Sta-rite Industries pool fitting - recall due to incorrect fitting of outlet covers which caused an entrapment hazard. Recall restricted to a small number of commercial size swimming pools
- Light and Motion Underwater Battery - recall of battery due to a leaking battery seal which could be a fire hazard
- Hitachi Koki USA cordless Drill Battery Pack - recalled due to overheating problems
- Husqvarna Chainsaw - recall due to melting of chain guard - amputation/laceration injuries
- Stylesetter International Wooden Toys - recall due to ingestion/inhalation hazard

Safety Promotion at the Melbourne Show

On 22 August 1996 the Office conducted its annual pre-Show inspection at the Royal Melbourne Showgrounds. In all, the contents of 218 showbags were examined with no major problems detected. While the Office received a number of general enquiries about products on sale at the Show, no safety complaints were made thus maintaining the Show's good safety record, and justifying the Office's annual inspection program.

Standards Development

Developing and Revising Australian and International Standards

Standards Australia is an independent, non-profit organisation whose benchmarks, although not mandatory unless specifically adopted in legislation, are nationally recognised. Standards are created at the request of any authoritative source, governmental or otherwise.

The Office is represented on a number of committees developing or reviewing Australian or joint Australian and New Zealand standards for particular groups of products. As a member of these committees the Office 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.

Products dealt with by Standards Australia committees in which the Office was involved in 1996-97 included the following:

Children's Toys

The Committee for Australian Standard AS 1647 met twice during the year to discuss the draft ISO standard on construction and physical properties of children's toys. As a member of this Committee, the Office provided comments on all facets of the ISO draft standard and supported proposals and recommendations that some of the testing requirements of AS 1647.2 be included in the ISO standard.

Cigarette Lighters

This Office is represented on the Standards Australia Committee for Cigarette Lighters. This

Committee was established to develop a safety standard for cigarette lighters and to consider including requirements for child resistant features for cheap refillable cigarette lighters.

Textile Products

There are several Australian standards covering textile products, including furnishings, apparel and floor coverings. There are separate committees responsible for reviewing each standard.

In regard to textiles, the following standards have been considered by this Office:

- Burning behaviour of textile products - floor coverings and children's nightclothes
- ISO standard for flame spread test for textile floor coverings for adoption as standard
- Specifications for textile furnishings.

Fire Extinguishers

There are several standards and parts of standards relating to fire extinguishers, detailing requirements for classification, components, performance testing, labelling, location and use. Meetings are held regularly to review product innovations and proposals for new or amended standards.

This year saw the publication of the joint Australian/New Zealand standard for fire extinguishers AS/NZS 1841-1997. This standard has eight parts covering general requirements for fire extinguishers and specific requirements for the following extinguisher types: water, wet chemical, foam, powder (dry chemical), carbon dioxide, vaporising liquid, non-rechargeable.

Flotation and Swimming Aids

The standard AS 1900 underwent a general review to make it more practical. Included in this review was a revision of labelling requirements, classifications and specifications. The Office had provided comments on the document.

Safety Requirements for Children's Furniture - Folding Portable Cots

This Standards Committee reviews a range of children's furniture. This year the Committee commenced the review of the portable folding cot standard AS 2195. This review has been the subject of much interest following a number of

incidents involving portable folding cots both in Australia and overseas. Comments have been provided on the draft document.

Consumer Products Advisory Council

The Office was Chair of the Consumer Products Advisory Committee (CPAC) and hosted two meetings in Melbourne on 10 October 1996 and 16 April 1997. The Standing Committee of Officials of Consumer Affairs (SCOCA) established CPAC to provide advice on consumer safety matters and to develop and implement a national approach to consumer product safety issues.

Membership of CPAC consists of officers responsible for product safety, investigation and recall from all Commonwealth, State and Territories of Australia and New Zealand consumer affairs agencies.

The following issues on the CPAC Workplan have been dealt with by the Committee:

Develop Strategies for a National Approach for the Prevention of Injury in relation to cots, nursery furniture generally, bunk beds, children's pacifiers, disposable child resistant cigarette lighters.

Review of Safety Standards in Light of COAG Principles. CPAC members have been reviewing their mandatory standards and their records are being updated.

Review of Information Standards. CPAC members have been reviewing Information Standards on Care Labelling and Fibre Content Labelling

Victoria prepared a report on the activities of CPAC over the past 12 months and current and future activities for SCOCA and the Ministerial Council on Consumer Affairs (MCCA).

Information Gathering and Exchange Internet

During 1996-97 the internet again proved to be a valuable resource in relation to the identification of hazardous products and sharing of information.

The availability of the US Consumer Product Safety Commission (CPSC) recall notices and warnings have continued to be an important resource. The availability of these notices has allowed the Office to follow up product avail-

ability in Australia and advise local industry of the problems. In some cases these notifications have been the catalyst for product recalls.

The internet has been used by the Office not only to alert other fair trading and consumer affair agencies within Australia and New Zealand of hazardous products, but to also advise other countries of products that have been identified as hazardous in Australia. Over the Christmas/New Year period, the Office provided advice to the CPSC in relation to the Starfish Swimming Vest. The Vest had been subject to investigation by the Australian Competition and Consumer Commission for failing to meet the mandatory Commonwealth standard. Given the seasonal differences the CPSC was able to investigate the swimming vest before the American summer and have it successfully removed from the marketplace.

Injury Reports

When a product safety complaint is made to the Office, information regarding the hazard and the nature of any injury is also recorded. This data is monitored to pick up any emerging trends or problems within particular product groups. During 1996-97 there were 28 reports of injury. Cuts and laceration and burn injuries accounted for 50% of the all injuries reported with seven injuries each. Personal use products accounted for seven of the injuries, while products classified within the building and construction category recorded five injuries.

Register of Allegedly Hazardous Products

Reports of allegedly hazardous products are passed on to representatives of the fair trading and consumer affairs agencies of the Commonwealth, all States and Territories and New Zealand, as members of CPAC. The growth of internet access of these agencies has resulted in a streamlining of the reporting process meaning that reports are sent directly to agencies when a product is identified as a potential hazard.

During 1996-97 the Office generated five of these reports in relation to allegedly hazardous products.

Committees and Working Parties

Victorian Injury Prevention Committee

The Office is represented on the Victoria Injury Prevention Committee along with other government agencies with an active interest in injury prevention. The Committee has been established to co-ordinate and advise on the overall progress of the Victorian injury prevention strategies outlined in the publication *Taking Injury Prevention Forward*. As part of this strategy the Office provided funding towards a jointly collaborative project with Department of Human Services for establishing a computer database of product safety expertise which will enable designers of domestic products to obtain expert advice on safe design. The project is being undertaken by the Monash University Accident Research Centre which is developing the database.

Forums and Conferences and Trade Fairs

The Office was represented at the following forums, conferences and trade fairs:

Victorian Injury Control Forum

This group meets a number of times a year and is attended by representatives working in the area of injury prevention. The forum is designed as an informal network for injury prevention professionals to discuss and consider developments and trends in relation to injury.

Gas Safety Deregulation Workshop

This workshop concentrated on the restructuring of the gas industry within Victoria and the development of the Office of Gas Safety. The workshop was attended by a cross section of stakeholders from both Government and industry and dealt with a range of issues including safety relating to the installation of consumer products and service provision.

Target Children's Nightclothes Forum

This forum was organised by the retailer Target in conjunction with the Australian Competition and Consumer Commission. The workshop was attended by representatives from the clothing industry including manufacturers, importers, laboratory representatives and relevant govern-

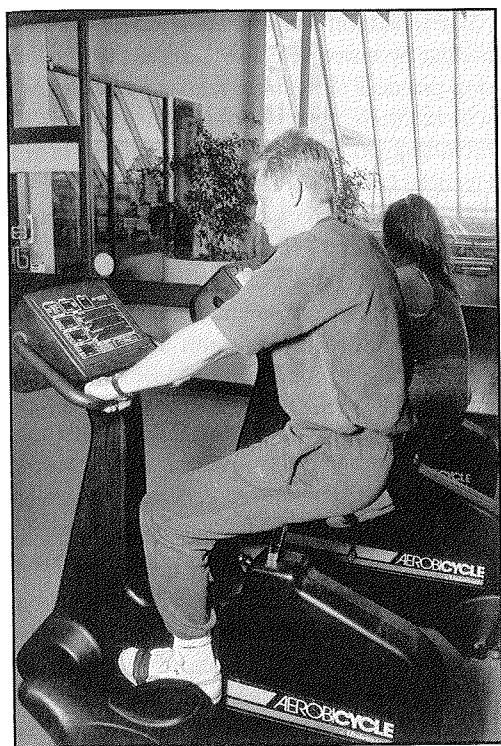
ment agencies. The forum concentrated on aspects of children's nightclothes and also dealt with current legislation and Australian standards for these products.

Trade Fairs

This year the Office has taken a new approach to compliance monitoring through the attendance at relevant Trade Fairs. Attendance at these Fairs allows not only compliance monitoring to be undertaken but provides traders and other industry representatives with the opportunity to establish contact with the Office. This contact has to date proved beneficial and is in line with Government policy to encourage good business and fair trading practices within Victoria.

Trade Fairs attended during 1996-97 included:

- Toy Hobby and Leisure Fair
- Melbourne Home Show
- Pool Spa and Outdoor Living Expo
- Acme Parents Babies and Children's Expo.



5. Fostering an Efficient, Competitive and Fair Marketplace

Self-regulation, Codes and Industry Standards

Self-regulation Generally

The Office continues to respond to requests for assistance regarding the development of codes. However, as reported last year, often the work required to establish an effective scheme is beyond the capacity of the industry association and work proceeds either very slowly or not at all.

During the year, the Office continued to advise the National Council of Massage and Allied Health Practitioners and the Hairdressing and Beauty Industries Association. It also provided advice to the Australian Timeshare and Holiday Ownership Council, Master Plumbers' and Mechanical Services Association of Australia, the Australian Tourism Council and the National Seed Legislation Working Group, among others.

Fitness Industry

Together with Sport and Recreation Victoria, the Victorian Fitness Industry Association and VicFit, the Office is working to revise the Code of Ethics and Business Practice for the Fitness Industry and develop an accreditation scheme, which among other things would provide insurance protection against insolvency. Work is currently focused on whether an accreditation scheme would be feasible and viable.

Weight Management

The Weight Management Code Administration Council of Australia was incorporated as a company limited by guarantee on 3 June 1997, and is responsible for the administration of the Weight Management Code of Practice.

Council comprises:

- an independent chair
- industry representatives - at the time of writing, Jenny Craig Weight Loss Centres Pty Ltd and Fortunity Pty Ltd trading as Weight Watchers and Gutbusters
- a representative from the Australian Nutrition Foundation
- a representative from the Consumers' Federation of Australia, and
- government observers - currently the Office.

Retirement Villages

In September 1996, the Retirement Villages Association Australia Inc launched an accreditation scheme for members of the State Associations throughout Australia. The aim of the scheme is to raise standards in relation to village facilities, management practices and resident participation so that residents entering an accredited village can be certain that its standards reflect the industry's best.

In each State, an Accreditation Committee with an independent chair has been set up to oversee the implementation of the scheme. In Victoria, an OFTBA official chairs the Committee.

Changes to the Law

Friendly Societies

Friendly Societies are organisations established for the benefit of their members, providing health insurance, pharmaceuticals, investment advice and other services for their members

such as the operation of retirement villages.

The Victorian Parliament passed template legislation, to be adopted by all States and Territories, to implement the decision of the Ministerial Council for Financial Institutions that Friendly Societies be subject to national uniform supervision and be integrated into the existing Financial Institutions Scheme which currently regulates Building Societies and Credit Unions. The Australian Financial Institutions Commission (AFIC) will be the sole national coordinating and standard setting body and supervision will be undertaken by the State Supervisory Authorities (in Victoria, the Victorian Financial Institutions Commission). The **Friendly Societies (Victoria) Act 1996**, will commence in the new financial year, probably on 1 September 1997.

An Implementation Task Force (ITF), accountable to the Ministerial Council and chaired by Victoria, developed discrete legislation for the uniform national scheme of supervision. The ITF consists of representatives of each State and Territory. The national standards setting body, the AFIC is also represented on the ITF, because of the close inter-relationship between the legislation and the prudential standards.

As the *Friendly Societies Code* is a uniform national scheme, the ITF ensured that consultation with all States and Territories and with the friendly society industry occurred on a national basis. In addition, liaison and consultation with the Commonwealth Government was necessary to develop proposals in relation to the interface between the proposed Code and existing Commonwealth legislation, in particular the Corporations Law, Superannuation legislation, Life Insurance Act and the National Health Act, which all impact upon the activities and operations of friendly societies.

An important change to be implemented by the legislation is to allow friendly societies to demutualise and issue permanent share capital. This is a major change in the structure of friendly societies which have traditionally been based on the concept of mutuality, ie a structure without shares to signify ownership and a society not seeking to generate profit for owners. The proposal to allow friendly societies to demutualise has strong support from industry as a means of raising capital.

The legislation will also allow easier interstate trading by ensuring consistency in the supervision practices of the State regulatory bodies and will facilitate mergers between societies by including procedures similar to those in the Financial Institutions Legislation.

At over 500 pages the **Friendly Societies (Victoria) Act 1996** is one of the largest and most complex pieces of legislation ever passed by the Victorian Parliament. Minor amendments were passed in the Autumn Sitting 1997 to reflect changes proposed by Queensland to the Financial Institutions Scheme under which friendly societies will now operate.

Co-operatives

Co-operatives are member-based organisations operated for the benefit of their members. The factors which distinguish co-operatives from other forms of organisation are their mutuality, their democratic structure and character (each member is entitled to one vote only, regardless of the size of their shareholding), and the fact that capital in a co-operative services the activity rather than providing individual benefit.

Two examples of organisations which have recently been privatised and which are now incorporated as co-operatives are the Egg Industry Co-operative Ltd (formerly the Egg Marketing Board) and the Tobacco Co-operative of Victoria Ltd (formerly the Tobacco Leaf Marketing Board). It is also expected that the Wheat Board (one of Australia's largest export earners) will become a co-operative in the next two to three years when it is privatised.

The **Co-operatives Act 1996**, developed in consultation with all jurisdictions on the basis of 'core consistent' legislation to be adopted by all participating jurisdictions sought to remedy the defects which came to light in relation to the **Co-operation Act 1981**. Improvements include:

- revised disclosure requirements to members on incorporation or when securities are issued (eg: the issuing of Corporations Law-style prospectuses where debentures and subordinated debt are issued to persons who include non-members)
- rationalised supervision by the Registrar (some aspects have been tightened up, others simplified)

- more appropriate specification of directors' duties
- a rationalised enforcement regime
- removal of the *ultra vires* doctrine, and
- more precise differentiation between co-operatives and companies.

It is proposed that the legislation will commence (for all those jurisdictions which have passed their core consistent legislation) on 1 October 1997.

Second-Hand Dealers and Pawnbrokers

The **Second-Hand Dealers and Pawnbrokers Act 1989** was amended in order to:

- replace the licensing of second-hand dealers and pawnbrokers by Councils with a simpler system of registration by the Office
- introduce stricter identification requirements for persons attempting to sell and/or pawn goods in order to discourage (and trace) the disposal of stolen goods
- facilitate the retrieval of stolen goods by the owners of those goods
- introduce flexibility into the record-keeping requirements (eg: by record computerisation) to take into account the wide variety of business enterprises that are covered by the Act
- create efficiencies by allowing dealers to purchase and store goods at places other than their business premises (they are currently required to conduct all transactions at their place of business), and
- abolition of the maximum interest rate which may be charged by pawnbrokers. (Interest rates were determined to be misleading in relation to short-term loans for small amounts of money, where consumers are better able to assess the impact of a publicised fee as opposed to a notional annual interest rate.) Pawnbrokers will, however, be required to display prominently the rates of interest they charge at their business premises.

The overall rationales for the amendments are to further restrict the dealing in stolen goods through second-hand dealers and pawnbrokers to encourage greater efficiencies in the industry and to ensure that pawnbrokers charge fees determined by the market which consumers can adequately assess before entering into pawn transactions.

Motor Car Traders

The amendments to the **Motor Car Traders Act 1986** are the product of two needs; first the need to ensure fair dealing to establish an equitable balance between the rights of dealers and consumers and secondly, the need to tighten the State's ability to deal with illegal or inappropriate operators who adversely affect consumers and traders alike.

Revised Warranty System

The key change made by the amending Act is in relation to the existing mandatory statutory warranty. The existing mandatory two tier statutory warranty has been replaced by a new statutory warranty which considers the age of the vehicle, and the distance it has travelled, before determining if the warranty applies. It is considered that it is the age and kilometres travelled by a vehicle which are better indicators of a vehicle's condition than merely its cost. Used cars sold by motor car traders which are under 10 years old AND which have travelled up to 160,000 kilometres are now covered by a warranty which lasts for three months, or until the car has been driven 5,000 kilometres, whichever occurs first.

Roadworthy Certificates

The Act also introduced a requirement that all registered vehicles sold by motor car traders must be sold with a certificate of roadworthiness. The existing suspension system has meant that substandard vehicles were often driven on Victorian roads for considerable periods of time. The amendment will greatly reduce the presence of these vehicles on our roads.

The Act introduced a number of changes to the licensing system for motor car traders which will ensure that only suitable persons are licensed by creating new grounds of ineligibility. Such grounds will include being insolvent under administration, where the applicant would not maintain effective control of the business, or where the person is a represented person under the **Guardianship and Administration Board Act 1986**. A prospective licensee's associates will become a relevant consideration in determining the applicant's suitability to be granted a licence. The Act also

prevents inappropriate persons from being eligible to be employed by motor car traders. These persons will include those who have already been disqualified from holding a licence, persons whose applications for a licence have been refused, and persons who have had claims against them paid from the Guarantee Fund.

The operation of unlicensed operators has been a considerable cause of concern to industry and consumers alike. The Act deals with this problem in a number of ways, for example by introducing new deeming provisions to assist in the prosecution of unlicensed traders. These provisions include that it is *prima facie* proof of an offer by a person to sell a motor car for the purposes of 'trading in motor cars' if a name, business name, address, telephone number or post office box number used by the person appears in an advertisement for the sale of that motor car.

Prostitution Control

Two sets of amendments were made to the **Prostitution Control Act 1994**, to increase its effectiveness and efficiency. It is essential that the licensing system under the Act has the public's full confidence and that this industry is, and is seen to be, strictly regulated.

The amendments further the Government's commitment to control prostitution in Victoria by keeping criminals out of the industry and disciplining licensees and managers who contravene their obligations under the Act. Provision is made for:

- the obligatory cancellation of a licence or manager's approval where the licensee or manager is convicted of certain offences scheduled to the Act that are concerned with bringing people into Australia for the purposes of prostitution
- the power to suspend a licence or manager's approval where the licensee or manager is charged with certain serious offences (including the offences described above), and
- an extension of the choices in disciplinary penalties that the Board may impose on

licensees and managers to include fines, reprimands, disqualification, orders to pay costs of proceedings, etc.

The Prostitution Control Board will be able to conduct its proceedings more quickly and efficiently as a result of amendments which provide for:

- a three member quorum
- the appointment of a deputy chairperson who has the powers of the chairperson and can thus run simultaneous proceedings, and
- simpler Board procedure provisions.

Other amendments will enable a Court, under section 80 of the Act (the section that regulates proscribed brothel hearings) to receive and take into account any evidence it considers credible or trustworthy in the circumstances, which includes hearsay evidence. This will enable the admission of statements made to the Police at a 'raid', rather than having to search for and locate the prostitute or client who made the statement to give *viva voce* evidence to the Court. The Court will, of course, determine the weight to be given to such evidence.

A number of other minor amendments improve the efficiency and effectiveness of the licensing system.

Hire Purchase

Minor amendments were made to the **Hire Purchase Act 1959** to enable the passing on of retail business duty to those entering into hire purchase agreements. As a result of recommendations made by the Redundant Legislation Subcommittee of the Scrutiny of Acts and Regulations Committee, the Act is being examined to determine whether it can be repealed wholly, or in part, to better reflect current commercial practice. Protection of the farming community will be a key consideration as repeal or partial repeal is considered.

Credit

The **Consumer Credit (Victoria) Act 1995** which includes the application in Victoria of the national *Consumer Credit Code* commenced operation on 1 November 1996. The delay in commencement from earlier in the year was in

response to industry submissions that more time be allowed to permit the required changes to their computer systems, documentation, training of staff and so on.

The Act is part of a national regime which applies consistent legislation to all forms of consumer credit provision, including credit for the purchase of domestic housing. Credit providers must make full disclosure of proposed costs which will enable potential borrowers to compare different credit products. Credit providers will benefit from being able to operate in different jurisdictions with the same key legislative requirements in effect.

Brochures detailing the changes were published and made available to both borrowers and credit providers.

In response to industry requests, successful representations were made to the Treasurer so that no fee is applied to those seeking to be registered as credit providers operating within Victoria.

The Ministerial Council on Consumer Affairs Ministers (MCCA) agreed that a series of necessary technical amendments will be made to the Code to ensure its effective operation. These amendments, resulting from industry and consumer group consultation, are scheduled for operation from mid 1998.

Proposed Changes to the Law

Introduction Agents

Following extensive but unsuccessful efforts to eradicate problems within the introduction agency industry by non-legislative means, the Government introduced the **Introduction Agents Bill** in the Autumn 1997 session of Parliament for passage in the Spring session. The regulatory regime contained in the Bill is the least restrictive means of overcoming market failure within the industry and ensuring that consumers can make considered and informed service choices.

The Bill requires introduction agents to give notice of their intention to commence or continue to provide introduction services. Particular care has been taken to limit the definition of an introduction agent to that sector of the industry which research has shown to generate significant consumer problems.

The Bill will disqualify certain people and corporations from trading as an introduction agent, for example, if the person has been convicted of a serious offence within the previous five years. It also imposes some restrictions on the operation of introduction agents to ensure they do not engage in unfair conduct, for example, staff pretending to be clients available for introduction.

The Bill requires adequate information disclosure before a consumer enters a contract. It requires contracts to be in writing and contain sufficient information to describe the service, the price and the length of the agreement. The Bill provides for a cap on pre-payments and provides for a three day cooling-off period on all contracts.

Incorporated Associations

The **Associations Incorporation (Amendment) Bill** was introduced in the Autumn 1997 session of Parliament for passage in the Spring session. The Bill is aimed at improving the operation of the Act and ensuring that incorporated associations are subject to an appropriate regulatory framework. The proposed amendments will:

- increase financial reporting requirements to improve accountability and transparency
- enable the Registrar to reject applications for incorporation, direct transfers to other forms of incorporation and issue certificates to wind up incorporated associations on specified grounds
- provide for the voluntary transfer of incorporated associations to other appropriate forms of incorporation
- set out the duties of Committees of Management, and
- make other changes to improve the administration of the Act.

Residential Tenancies

Legislation is being developed to reform the Residential Tenancies, Rooming Houses, and Caravan Parks and Movable Dwellings Acts. The proposed legislation will seek to improve administrative processes in a way which is fair to both property owners and the people who rent accommodation from them.

Fair Trading

Proposals have been developed by the Office for consolidating the Fair Trading, Consumer Affairs and Ministry of Consumer Affairs Acts into an up-dated Fair Trading Act. The **Fair Trading Bill** being drafted will modernise the legislation and remove obsolete provisions.

Other Proposed Amendments

Legislative reviews proposed for the 1997-98 financial year will consider amendments to the **Financial Institutions (Victoria) Act 1992**, **Credit Act 1984**, **Credit (Administration) Act 1984** and the **Sale of Land Act 1962**.

Other Developments

Direct Marketing

An industry-consumer-government working party chaired by the Australian Competition and Consumer Commission drafted a code of practice for direct marketing. This includes mail order, telemarketing and internet sales. MCCA agreed the draft should be released for public comment. The document was revised in light of submissions received and the final draft is to be considered by MCCA in August 1997. It covers fair trading practices, with extra provisions for telemarketers, such as restrictions on calling hours.

National Competition Policy

The Office is responsible for co-ordinating a process of implementation of National Competition Policy within the Department of Justice. One part of the policy relates to competition law, which is now relevant to the Department of Justice's business activities following the extension from 21 July 1996 of Commonwealth trade practices legislation to apply to all State Government entities carrying on a business. During the year, the Office, assisted by a consultant, co-ordinated a Competition Law Compliance Training Program which included the compilation of a training manual and the conduct of intensive training for nominated compliance officers from agencies across the Department of Justice, as well as workshops and lectures.

Competition Policy also requires the review of legislation within the portfolios administered by the Department which appears to restrict com-

petition. Reviews by the Office of *prima facie* anti-competitive provisions in the Estate Agents, Motor Car Traders and Finance Brokers Acts are proceeding.

The annual report of the Department of Justice contains a detailed report on progress in implementing National Competition Policy.

Petrol Pricing

The issue of regional disparities in petrol prices continued to be the subject of many letters of complaint received by the Office. The most complaints were from country residents who believe that the relatively high country prices are unfair to country motorists. The Office has emphasised the need for a national approach to the country petrol price problem because of the national characteristics of the oil industry and the Commonwealth Government's jurisdiction over the relevant legislation.

Consistent with need to take a national approach, the Victorian Government and Federal Coalition (then Opposition) in April 1996 announced proposals to develop a national oil industry reform plan, the key objective of which would be to implement a transparent pricing system whereby oil companies are required to post wholesale prices at the refinery gate and supply any distributor or retailer at the posted price. In December 1996, the Federal Government announced it would introduce measures to deregulate the industry in 1997, once the Treasurer is satisfied of pro-competitive developments in the market.

During the year, a significant development was the entry into the country retail petrol market of Woolworths/Safeway. In Victoria, Woolworths has opened sites in Bendigo, Shepparton and Lakes Entrance and within two to three years the company intends to establish more than 70 sites in Victoria. Already the establishment by Woolworths of fuel selling facilities at their supermarkets in Australia has resulted in a substantial change in the level of competition in areas surrounding the new outlets. Generally the price structure in each town seems to be falling by at least three cents per litre. It is anticipated that by mid 1998 there will be some 32 Woolworths retail petrol outlets operating in Victoria.



At the May meeting of the Standing Committee of Officials of Consumer Affairs (Advisory Committee to MCCA). From left: Brian Given (NSW); David O'Connor (NSW); Margaret Cross (SA); Roy Ormerod (Tas); Mark Bodycoat (WA); Vicky Bates (Vic); Hamish Gilmore (SA); Neil Lawson (Qld); Bernadette Steele, Chair (Vic); Len Sorbello (ACT); Anita Scandia (MCCA Secretariat); Donald Hudson (NT); Keith Manch (NZ); Philip Noonan (Comm); and Carl Buik (ACCC).

In a separate measure, the Victorian Government announced in the Budget on 29 April 1996 a reduction in State franchise fees on all petroleum products to apply from 1 June, which resulted in a reduction in the maximum wholesale prices of 1.61 cents per litre for petrol and 4.04 cents per litre for diesel. The Australian Competition and Consumer Commission and the Office have been monitoring fuel prices in Victorian country centres to identify any cases where the retail price does not fall to the extent of the fall in the franchise fee.

Register of Encumbered Vehicles (REVS)

There is presently no uniformity or consistency in national laws governing the registration of motor vehicle securities. A national REVS Working Party, consisting of representatives from agencies responsible for REVS operations, has been working towards two outcomes - linkage of State/Territory based REVS systems and nationally consistent laws to support the linked systems. The Working Party commissioned the preparation of a report on options for legislative reform. The report's recommendations

were considered by a meeting of the National REVS Working Party in November 1996 (attended by representatives of VicRoads and the Office) and consensus was reached. A commitment to proceed with legislative reform is being sought from Ministers through the Ministerial Council on Consumer Affairs, which is scheduled to meet in August 1997. Implementation of the recommendations will require amendments to the **Chattel Securities Act 1987**.

Surveys

Client Satisfaction

The Office conducted a client satisfaction survey in 1996 to ascertain the level of satisfaction with the services provided to assist clients with the registration of business names, or the incorporation of associations or co-operatives. The survey has provided valuable feedback on clients' perceptions of the services provided by the Business Affairs Branch and will assist in the further development of facilities. The results indicated that the vast majority of clients were satisfied or very satisfied with the overall service provided. The results did however indicate

that some clients were not happy with the automated telephone answering service. The most common complaints were that questions were not fully answered by the recorded information and that it was too time consuming to go through the steps of the automated service when the client wanted direct access to an enquiries officer. The Office is undertaking improvements to the telephone system to make it more 'user friendly'.

Business Names

A survey of business proprietors was conducted in July 1996 to ascertain their views on the type of test ('identical names' or 'similar names') which should be applied by the Registrar in determining whether or not a proposed business name is accepted for registration in Victoria. The Office currently uses a 'similar names' test for the registration of business names which means that names which are so similar to a registered name that they may cause confusion or mistaken identity are rejected.

The Australian Securities Commission uses the administratively simpler 'identical names' test for the registration of company names which means that only names which are *identical* to a registered name are rejected. The business proprietors surveyed were asked whether or not they had experienced any problems as a result of a company bearing a name similar to that of their registered business name.

The results of the survey indicated that the majority of respondents (81%) had not experienced problems arising from companies having names similar to that of their registered business name. However, over two-thirds of respondents (68%) favoured the retention by the Office of the 'similar names' test for the registration of business names.

Estate Agents Fee Commission Deregulation Monitoring Surveys

The Office is undertaking follow-up surveys in the calendar year 1997 for the Estate Agents Council to assist it to monitor and advise on the impact of deregulation of agent's fees. It is expected that the surveys will be completed by the end of 1997.

Real Estate Industry

Education for Estate Agents

The Office plays an important role in maximising the effectiveness of the training system for intending estate agents and agents' representatives, and continues to co-ordinate delivery and monitor funding of the prescribed course for agents' representatives.

A grant was provided to Open Training Services (OTS) under s.76(3)(c) of the **Estate Agents Act 1980** to develop supporting course materials in multimedia formats for the estate agents licensing course, *Certificate IV in Business (Estate Agency Practice)*, to supplement the print based learning materials previously developed by OTS.

The multimedia learning materials to be produced consist of three CD-ROM applications, two interactive computer packages and two videos. The materials are intended to alleviate the difficulty which off-campus students face when undertaking competency-based training using only print-based materials. The materials will also provide an additional resource for on-campus students and teachers. Copies of the CD-ROMs developed with the grant will be available to students for between \$10-\$12 each.

In conjunction with a consortium of TAFE institutions and the Real Estate Institute of Victoria (REIV), the Office participated on a working party preparing a *Recognition of Prior Learning* manual for the prescribed licensing course for estate agents. As this course includes a number of occupational skill-based modules, learners may have obtained relevant knowledge and skill through other learning, work and life experiences. The manual will assist TAFE institutions across Victoria to uniformly and consistently recognise applicants' prior learning, thereby promoting a flexible approach to course delivery and ensuring the integrity of the licensing credential.

A *Practice Note* was published to assist estate agents to comply with new legislation concerning the employment of agents' representatives and branch managers and, the purchase of particular properties by real estate agency staff and their close relatives. Practice notes provide a means of keeping real estate practitioners informed of procedures and other matters of interest relating to legislation.

Other Real Estate Industry Initiatives

With the assistance of grants from the Estate Agents' Guarantee Fund the Property Group at RMIT published a training handbook entitled *Identification of Housing Styles & Faults* and the REIV completed development of a quality management system for estate agents.

The RMIT handbook was developed to meet the learning outcomes of the building module of the licensing credential for estate agents and is a recommended reference for real estate agents and property students.

The REIV quality management system which includes office manuals and a second party auditing procedure articulates into the ISO9002 system and is endorsed by the Victorian Government Purchasing Board. It is the first specialised quality management system tailored by an industry group for its own use and will enhance office management and service delivery in real estate.

Employment Patterns in the Real Estate Industry

The Office participated on a steering committee convened by the National Centre for Women, Employment and Training to monitor research into gendered employment patterns and experiences in the real estate industry. Research was conducted over a six month period and culminated in the publication of a report entitled *Holding the Keys* which considered the views of women working in real estate across Australia. The report is a useful tool for small business employers, trainers and equity workers.

6. Enforcing Fair Trading Standards

Over the course of the 1996-97 financial year the Office sought to promote a marketplace in which participants were well informed of their rights and obligations, and in which they could expect to encounter fair and ethical practices. The promotion of public awareness generally, combined with strategies designed to promote compliance with the legislation administered by the Office, produced a range of quality outcomes over the year.

The Acts administered by the Office affect a broad range of industries and professions, and in some cases, such as the **Fair Trading Act 1985**, apply to virtually all commercial activities conducted in the State of Victoria. Most of these Acts contain enforcement provisions which make contraventions of those Acts the subject of either disciplinary or criminal proceedings. In most cases the Office will not resort to such measures, preferring to give those persons or businesses inadvertently contravening the law an opportunity to comply. This might involve having to become licensed to carry on a particular activity, such as motor car traders or estate agents. Alternatively, it may require that a business take steps to legitimise its operations, for example, by keeping proper records available for inspection.

In some cases a trader might provide an undertaking not to engage in conduct previously carried on which contravened the legislation, or the trader might be issued with a formal warning, indicating that any repetition of that conduct would result in prosecution.

In cases where there is seen to be a serious breach of the law, or where a practice posing a significant threat to the public appears to be continuing unabated, the Office will investigate

with a view to either prosecuting the errant trader, or obtaining an injunction to ensure that the conduct does not continue.

In 1996-97 there were 2,673 matters referred for investigation. This figure represents an increase of 26% over the previous year. In the majority of those matters the outcomes which were achieved were of a non-prosecutorial nature. Matters may have culminated with a warning given, an undertaking being accepted, compliance generally achieved or no non-compliance being detected. Arising from the matters not resolved in this fashion, the Office conducted 110 successful prosecutions (includes injunctions) for breaches of a range of Acts. Details of the individual matters are set out in the appendices to this report.

In addition to its investigative function, the Office carries on licensing functions in relation to the following categories of trader:

- estate agents
- motor car traders
- travel agents
- prostitution service providers
- finance brokers.

The Office conducts a number of monitoring programs in relation to licensed industry groups, such as estate agents and motor car traders, in addition to registered credit providers. These programs seek to ensure continuing compliance with the relevant legislation in the best interests of the Victorian public.

The Office is responsible for objecting to the granting or holding of licences to persons or corporations who, by virtue of legislative requirements, are ineligible to participate in a particular industry or breach the standards required for that industry. In this capacity the Office is responsible for bringing proceedings before the following statutory bodies:

- the Estate Agents Disciplinary and Licensing Appeals Tribunal
- the Prostitution Control Board
- the Motor Car Traders Authority
- the Travel Agents Licensing Authority
- the Credit Licensing Authority.

Maintaining Standards in Licensed/Registered Occupations

Estate Agents

A total of 83 investigations were completed in 1996-97 into alleged breaches of the **Estate Agents Act 1980** and its associated regulations. Five licensees were subject to disciplinary action before the Estate Agents Disciplinary and Licensing Appeals Tribunal and the Estate Agents Licensing Authority assisted in the prosecution of a further eight individuals in conjunction with the Victoria Police. As at the end of the financial year there were four matters involving criminal prosecution pending and a further four matters were awaiting hearing before the Tribunal.

The Tribunal found that Peter McDougall & Associates (Templestowe) Pty Ltd had breached the trust accounting provisions of the Act in relation to the holding of trust moneys, and had failed to supply the Authority with certain information as required by the Act. The Tribunal fined the company \$2,000 and imposed upon it financial reporting requirements.

Ansis Dizgalvis, Officer in Effective Control of Peter McDougall & Associates (Templestowe) Pty Ltd, was found to have failed to comply with certain trust accounting requirements under the Act and regulations, and to have failed to provide the Authority with information as required under the Act. The Tribunal accepted an undertaking from Mr Dizgalvis to execute an indemnity in favour of the Authority and placed certain conditions on his licence.

An inquiry arising from a complaint against Blackburn & Lockwood Frankston Pty Ltd found that the company had failed to advise a client that the commission to be charged was negotiable, and had failed to take reasonable steps to ensure that its employees had complied with the provisions of the Act. The company was fined \$1,000 and ordered to pay the costs of the transcript.

Robin Maxwell Wearne, Officer in Effective Control of Blackburn & Lockwood Frankston Pty Ltd, was found to have contravened the provisions of the Act requiring the disclosure to a client that commission is negotiable, and the provisions requiring that an estate agent

properly supervise the operation of a real estate agency business. Mr Wearne was fined \$1,000 and required to report on a monthly basis as to certain aspects of the operations of the business for a period of six months.

In the matter involving Michael Gerald Cowell, Officer in Effective Control of Kasdeb Pty Ltd, the Tribunal found that Mr Cowell had failed to comply with various trust accounting requirements made by the Act and regulations. Mr Cowell was reprimanded and fined \$2,500.

The Authority conducts inspections throughout the year to determine the level of compliance with the requirements of the Act, particularly in relation to the proper maintenance of trust accounting records and procedures. These inspections also promote a useful dialogue between the Authority and industry members, enabling the identification and rectification of potential problem areas, and providing indicators as to emerging trends which may require attention. Inspections may take place as a result of information received by the Authority which indicates that it would be prudent to inspect an agency. Alternatively, they may form part of the Authority's ongoing proactive inspection program which seeks to monitor trust accounting systems and to correct breaches which have the potential to develop into major problems. The Authority conducted 519 inspections in the 1996-97 financial year.

In the 1996-97 financial year the Authority processed 615 claims totalling \$657,912.34 on the Estate Agents Guarantee Fund. The majority of those claims (552) involving \$480,217.11 were allowed against Waverley Real Estate Pty Ltd. As at 20 June 1997 there were a further 33 claims pending at a total value of \$60,998.96.

Motor Car Traders

Amendments to the **Motor Car Traders Act 1986** were proclaimed on 1 March 1997 and are designed to reflect changing trends in the used motor car industry. They give greater protection to the industry by imposing more stringent controls over the licence application process. This is designed to exclude persons, considered not fit and proper, from any

involvement in the used motor car industry. The amended Act also makes provision for the Director to apply to the Magistrates' Court for an order requiring a person to stop trading in motor cars. Furthermore, the amendments create the offence of aiding and abetting an unlicensed trader.

Unlicensed Trading

The program of investigation into unlicensed motor car trading introduced last year continues to have significant results. Illegal trading remains a high priority in the Office's enforcement program.

The Office actively encourages compliance through:

- issuing formal warnings to smaller scale unlicensed traders
- obtaining undertakings from unlicensed traders to not re-offend
- encouraging and assisting unlicensed traders to obtain licences
- liaison with the industry to identify alternative strategies for combating unlicensed traders
- liaison with auction houses to discourage unlicensed traders from using them as a source of motor cars.

Making trading conditional on keeping a licence is intended to ensure that consumers are dealt with fairly and receive the benefit of particular statutory protection. Licensees must pay licensing fees and contribute to the Motor Car Traders Guarantee Fund, against which consumers may claim if they suffer financial loss in certain dealings with licensed traders.

Under the **Motor Car Traders Act 1986**, a fine of up to \$10,000 may be imposed for each vehicle bought or sold by an unlicensed trader, as well as a penalty of 15% of the sale price of any vehicle bought, sold or exchanged.

The following companies and individuals were prosecuted for unlicensed motor car trading in 1996-97:

Allbar Magna Bits Pty Ltd
John Apostolopoulos of Warranwood
Bonneville Automotive Pty Ltd
Chipperfield Nominees Pty Ltd
Rohan Richard Chipperfield of Brighton
Kelvin Davies of Glen Iris

John Henry Franklin of South Oakleigh
Michael Guastalegname of Altona North
Peter Daryl Jacobson of Middle Park
Alexander Kent of Springvale
Pickard's of Melbourne Pty Ltd
Shimon Maymon of Carnegie
Michael Alexander McLeod of Minyip
Melbourne Motors Pty Ltd
Carlos Nardella of Bairnsdale
Suleyman Ozluses of Coolaroo
Michael Portelli of East Brunswick
Joseph Sammut of Dandenong
Attila San of Mildura
Milan Stankovic of Keilor East
Calvin Stewart of Camberwell
Antonio Taranto of Caulfield
Russell John Trainor of Riddells Creek
VW Auto Salvage Pty Ltd
Volksplace Pty Ltd
Walter Pechotsch of Middle Park

Odometer Tampering

Odometer tampering continues to be a problem. The financial benefit can be significant to an offender who believes the offence may not be detected, but is unaware of the penalties. It is a serious offence to tamper with vehicles' odometer readings, deceiving customers and competing unfairly with honest businesses.

Cases

Anthony Catania, Manager of Majestic Autos in Fawkner, was convicted of making false representations regarding the previous history of 39 motor vehicles, having tampered with or substituted odometers. The magistrate fined Mr Catania \$15,000 and ordered him to pay \$490 in costs.

Mr Catania had ventured to Parramatta in Sydney and purchased the vehicles from two auction houses over a period of 18 months. Mr Catania then brought the vehicles back to Victoria where he wound back the odometers by an average of 80,000 kilometres per vehicle. The largest discrepancy was 140,000 kilometres.

The proprietor of Majestic Autos Fawkner, Simon Matthew Pty Ltd, was charged with 45 counts of falsely representing the history of motor vehicles. The charges were found proven

and the company received a two year good behaviour bond and ordered to pay \$15,000 to the court fund. This matter included an element of licence lending and the Office has taken steps to object to the holding of a motor car traders licence on the part of Simon Matthew Pty Ltd.

Security Interest

Sandersons Motors Pty Ltd was convicted on one count of selling a vehicle without first procuring the cancellation of a registered security interest. The company was fined \$2,000 and ordered to pay \$292 in costs. Gregory Jupp, a director of the company, was also charged with the same offence. The magistrate placed Mr Jupp on a 12 month good behaviour bond.

Warranty Obligations

Gary Kenneth Motors Pty Ltd was fined \$6,000 and ordered to pay \$713 in costs for entering into contracts which contained a special condition purporting to limit its warranty obligations. Gary Parater, a director of Gary Kenneth Motors Pty Ltd, was convicted and fined \$1,000.

Objections to the holding of a motor car traders' licence

Following an objection to the holding of a licence, on 26 June 1997 the Motor Car Traders Licensing Authority cancelled the licence of Alfred Clive Carter and Pauline Doriel Carter, both of Ferntree Gully. During the hearing, the Authority heard that Alfred Carter, who had been convicted of unlawful assault in 1992, failed to inform the Licensing Authority of charges pending under the **Crimes Act 1958**. The licensee in March 1995 pleaded guilty to charges of consignment selling, failing to enter prescribed matters in the dealings book and failing to display the required particulars on used motor vehicles for sale. The Authority found that the licensee had ceased to be a fit and proper person to be a motor car trader. This decision has been appealed at the Administrative Appeals Tribunal.

On 14 October 1996, Mark Brient, a director of Don & Mark Brient Euro Motors Pty Ltd

was required to resign as a director of the licensee, not to be reappointed for a period of 12 months. This was the outcome of an objection to the Motor Car Traders Licensing Authority after Mr Brient had been found guilty on one count of obtaining property by deception in breach of section 81 of the **Crimes Act 1958**.

Motor Car Traders Guarantee Fund Claims Committee

The Motor Car Traders Guarantee Fund Claims Committee is a statutory body which operates independently of Government. It consists of three members: one with industry experience, one with relevant non-industry experience and an independent chairman. The Committee's jurisdiction, which is set out in section 76 of the **Motor Car Traders Act 1986**, is limited to direct losses arising out of a transaction with a licensed motor car trader and has an upper limit of \$20,000 per claim. There were 88 claims totalling \$65,683 made against the Fund this year.

Amendments to the **Motor Car Traders Act 1986** provide for two new grounds for making claims on the Fund.

The first allows claims arising from loss occurring from a failure of licensed motor car traders (in the course of trading in motor cars) to satisfy orders made by a Court, Small Claims Tribunals or the Motor Car Traders Licensing Authority.

The second ground covers consumers against loss when licensed motor car traders fail to remit money paid to them as a premium or purchase price for an insurance policy or warranty to the person who was to provide the insurance or extended warranty.

Heath Heights Pty Ltd trading as Southbank Motors LMCT no. 8586 has attracted 26 claims on the Guarantee Fund this financial year resulting from the closure of this dealership. Claims are continuing to be made on the Fund, with the current total being in excess of \$53,000.00.

Travel Agents

Any person who wishes to carry on business as a travel agent in Victoria must apply for a



licence to do so. Licences will only be granted to persons who are admitted or are eligible to be admitted as members of the national Travel Compensation Fund.

The contributions paid by persons admitted as members of the Travel Compensation Fund are used to provide reimbursement to consumers who suffer a loss when a travel agent defaults. Over the years a number of travel agents businesses have failed and without the establishment of the Travel Compensation Fund consumers would have little recourse to compensation. The Travel Compensation Fund has met total consumer claims in excess of \$18 million in its first 10 years of operation.

It is therefore important that consumers check that the travel agent they are dealing with is a licensed travel agent.

The Office is responsible for investigating allegations that a person is carrying on business as a travel agent without being licensed.

The travel agent's licence held by Travelink Tourism Pty Ltd of Dandenong was suspended as a result of the company's participation in the Travel Compensation Fund being terminated. The company continued to trade whilst its licence was suspended. In the Dandenong Magistrates' Court the company pleaded guilty of trading whilst its licence was suspended and, on conviction, was fined \$5,000 with \$400 costs. The managing director of the company, Steve Vissenjoux, was placed on a 12 month good behaviour bond without conviction for

the same offence.

Builders

At present the Office administers two pieces of legislation that apply to domestic building works. They are the **House Contracts Guarantee Act 1987** and the **Domestic Building Contracts and Tribunal Act 1995**.

Domestic building contracts entered into prior to 1 May 1996 must comply with the **House Contracts Guarantee Act 1987** whilst those entered into after that date must comply with the **Domestic Building Contracts and Tribunal Act 1995**.

Consumers are advised that builders are still required to be registered and they should check with the Building Practitioners Board that a builder is registered before entering into any contract for domestic building work. Builders are now required to enter into a policy of insurance and consumers are advised that they should ask for details of the certificate of insurance where the value of domestic building work to be done exceeds \$5,000.

There were 20 defendants prosecuted for matters relating to domestic building works in 1996-97 pursuant to the **House Contracts Guarantee Act 1987**.

Case

Kitchen & Bathroom Design Brokers Pty Ltd of South Melbourne and its director, Dean Burton, were both convicted on charges relating to

kitchen and bathroom renovations.

The company entered into contracts to perform domestic building works whilst it was not an approved builder. The contracts did not state the date work was to commence or any method by which this could be determined. The company received deposits in excess of the amount permitted and there were no guarantees provided for the work which was to be undertaken.

These offences were committed by the company with the consent or connivance of, or were attributable to, the wilful neglect on the part of Dean Burton.

Both defendants were fined \$15,000 and ordered to pay costs of \$674 each.

Case

Builder, Peter Heenan, trading under the name of Spirit Homes, was fined \$5,000, without conviction, and ordered to pay costs totalling \$386, after pleading guilty to 12 charges under the **House Contracts Guarantee Act 1987**.

Peter Heenan had, on four separate occasions, committed three offences by entering into domestic building contracts without being registered as an approved builder, by failing to provide a statutory guarantee to each of the four building owners and by making a false representation of being an approved builder with the Housing Guarantee Fund Ltd.

Case

Joe Frendo, of Blackburn, entered into a contract with a building owner to supply and install a kitchen at a cost of \$14,600. The building owner was required to pay \$4,380 as deposit, an amount in excess of that allowed by legislation.

Joe Frendo was fined \$3,000, with conviction, and ordered to pay \$682 costs, for performing domestic building work whilst not being an approved builder, for failing to give a guarantee to the building owner, for demanding and receiving an excessive deposit and for inadequate disclosure in the building contract.

Credit Providers

Under current credit legislation, a credit provider automatically forfeits credit charges on

any contract which is made while the credit provider:

- is not registered (and not exempt from registration) or
- does not disclose the legally required information or
- is assigned to another credit provider who is not registered (and not exempt).

The amount financed is itself forfeited where the credit provider is unregistered.

Credit providers may apply to the Credit Tribunal to set aside or reduce these 'civil penalties', which are then 'stayed' pending the Tribunal's final determination. Consumers who may be liable to pay any credit charges reinstated by the Tribunal (or eligible for a refund of charges already paid) are entitled to become involved in the proceedings.

The Secretary to the Department of Justice may also choose to become involved in certain cases to make general submissions in the public interest, particularly where a case involves similar errors in numerous standard form contracts. Whether or not the Secretary intervenes depends on a variety of factors including the nature of the problems arising in the contracts and whether important issues of law or fact are likely to arise, as well as the number of consumers affected. The Secretary does not intervene to represent individual consumers.

Involvement continued in 1996-97 in respect of applications filed by the Australian & New Zealand Banking Group Limited, Australian Guarantee Corporation Limited and Custom Credit Corporation (in liquidation) Limited.

In addition to becoming a party to particular proceedings, the Secretary (through the Office) regularly plays a monitoring role in civil penalties cases. This involves appearing before the Tribunal to assist with and make submissions on the interlocutory stages of proceedings, liaising with credit providers and their representatives concerning the progress of applications, and providing general information and advice to consumers affected. Reliance Credit Union and Australian Retail Financial Network are examples of matters in which the Office has taken a monitoring role.

Such activity was undertaken in a number of local and interstate applications filed from

across the financial sector in 1996-97 and is expected to continue in 1997-98.

Consumer Credit Code

The *Consumer Credit Code* is a uniform scheme of laws enacted by all States and Territories that regulates consumer lending throughout Australia. The Code affects individual consumers of credit (or residential strata corporations) who borrow money after 1 November 1996 for personal or domestic purposes. The Code also affects companies or individuals who provide credit (or sell insurance or goods under finance) to consumers in the course of or incidentally to any business. Many continuing credit contracts (such as credit cards) in existence before 1 November 1996 will be caught and home loans are now affected.

The Code requires that information be given by credit providers to consumers to help consumers make up their mind about whether or not to take out a loan. The Code also provides protection to consumers from unfair lending practices such as overselling and from suppliers or credit providers who make misleading statements about credit contracts. The Code provides both civil and criminal sanctions for failure to comply with its requirements.

The Office, in conjunction with interstate counterparts, is adopting a proactive compliance policy which will seek to educate industry participants of their rights and obligations under the *Consumer Credit Code*. In conjunction with the education program the Office is also liaising with interstate counterparts regarding a national compliance and prosecution policy.

Other Investigations/Prosecutions

Residential Tenancies

The obligations and duties of both landlords and tenants are specified in the **Residential Tenancies Act 1980** and the **Rooming Houses Act 1990**.

Whilst the Office continued its program of prosecuting breaches of the **Residential Tenancies Act 1980** and the **Rooming Houses Act 1990** which resulted in 27 successful prosecutions during the year, it also participated in training sessions for funded tenancy workers. The first such training sessions were held in Morwell

and in Bendigo and were very successful.

The main areas of complaint continue to be the failure of parties to comply with orders of the Residential Tenancies Tribunal, failing to place a security deposit in an approved trust account, failing to return a security deposit within 14 days and wrongfully compelling vacation of premises.

Fair Trading

The Office has particularly targeted action in the area of fair trading. Prosecutions have been launched when complaint levels have been high and action is likely to be successful and effective in promoting fair competitive trading.

Case

Four companies, High Title (Eltham) Pty Ltd, High Title (Ashburton) Pty Ltd, High Title (Ivanhoe) Pty Ltd and High Title (Mentone) Pty Ltd, were fined a total of \$16,000 for making false representations in breach of the **Fair Trading Act 1985**. Consumers complained that High Title Jason Footwarmers were labelled 'manufactured in Australia' on the packaging, but when they opened the packet the footwarmers were labelled 'made in China'. The High Title group of companies claimed in advertising, printed in *Woman's Day*, *Better Homes and Gardens* and *Outrage*, that its footwarmers were made from 100% wool. However, analysis showed that the wool content ranged between 66 and 83%. High Title also used the official wool symbol without the approval of the Australian Wool Research and Promotions Organisation and continued to use the symbol in television advertisements for 12 months after it had been advised to cease the practise.

Case

Electrical Liquidators Pty Ltd of Northcote, and its director, Constantine Tripodis, were both convicted and fined a total sum of \$12,250 after pleading guilty to charges laid under the **Fair Trading Act 1985**. Constantine Tripodis was also ordered to pay \$576 in costs. The court heard that Electrical Liquidators Pty Ltd had on a number of occasions placed advertisements in newspapers and on television offering to sell Kelvinator refrigerators, washing machines and

fridge-freezers when they were not Kelvinator and the company was not licensed to sell the Kelvinator brand. The products for sale were labelled Candy and were said by Electrical Liquidators Pty Ltd to be an overseas brand of Kelvinator.

Injunctions

The Office was granted eight injunctions in the County Court of Victoria on 6 February 1997 against the companies and individuals listed below pursuant to the **Fair Trading Act 1985**. The orders restrain the companies and their officers from misrepresenting to clients the services they provide or engaging in misleading or deceptive conduct. Any evidence demonstrating a breach of the injunctions may result in contempt proceedings being prepared.

Klute Pty Ltd trading as

- 'Ryders Dating Contacts'
- 'Affairs Galore'
- 'Eye to Eye Introductions'.

Woodstock Bay Pty Ltd trading as

- 'Get it On Introductions'
- 'Complete Contacts'
- 'Proper Partners'
- 'Australia In Touch'.

Jasper Pty Ltd trading as

- 'Dirty Affairs'.

Lymal Pty Ltd trading as

- 'Knickers Casual Contacts'.

Shandora Pty Ltd trading as

- 'Kinkies Casual Contacts'
- 'Kinkies Casual Relationships'.

Polamar Pty Ltd trading as

- 'Melbourne In Touch'.

Peter Louis Van Haasen of Watsonia.

Jennifer Gayle Van Haasen of Watsonia.

Methods adopted by these operations

included high pressure selling techniques, 'upgrading' memberships by offering fictitious services for large sums of money, false representations regarding service, availability of dates and special features, false advertising, failure to provide a service or provide refunds, and failing to honour the terms stated in contracts. In addition, it was alleged that consultants of these agencies were telephoning clients and representing themselves as individuals available to be met by the client for a higher fee. One man paid \$16,000 over a five day period after an initial joining fee of \$260.

Get-Rich-Quick Schemes

Numerous enquiries/complaints have been received from the Victorian business community about a 'get-rich-quick' scheme operating out of Nigeria. Dubbed the 'Nigerian Advance Fee Fraud Scheme' by the Australian Federal Police, the scam claims to be from a Nigerian official in charge of tenders attempting to divert funds offshore. In exchange for bank account numbers, business letterheads or advanced funds, the promoter of the scheme promises victims shares of large amounts of money siphoned from Nigerian public works and oil revenues.

The 'Nigerian Fraud Scheme' has been known to operate in varying forms for several years. The perpetrator had previously claimed to be a prince, head of a corporation or chieftain. Ultimately, the scheme is designed to steal money from the victim who is told the promoter needs advance funds to bribe other 'officials'.

The Office is aware that local businesses are receiving such letters via the post or facsimile and has issued warnings about the scheme with the advice to discard the letters immediately.

Pyramid Selling

Pyramid selling is illegal under section 24 of the **Fair Trading Act 1985**. A pyramid selling scheme is an operation where people are induced to pay money to join. To recoup their joining fee they must introduce others to the scheme who also pay money to participate. As there is not an infinite number of people to join, the pyramid ultimately collapses with most

people not receiving the money they were promised. The Office has received hundreds of enquiries in relation to various pyramid selling schemes over the past 12 months.

The Office has taken a proactive approach to the problem by warning known participants and promoters by letter, extensive media releases and investigating several of the larger schemes.

A pyramid selling scheme called the 'Paul Collins Scheme', which is similar to a scheme known as the 'Edward L. Green' scheme, is the subject of a prosecution to be heard in the Melbourne Magistrates' Court on 7 July 1997.

A current scheme that has resurfaced involves players paying an amount, usually \$2,000, to become a passenger on an imaginary plane. The participant finds at least one passenger to assist in filling eight empty seats. Above the passengers are four flight attendants, two co-pilots and the pilot. Once all the passenger seats are full the pilot receives \$16,000 from the passengers and flies off with the cash. The game then splits in two. Theoretically each participant will eventually move up the hierarchy to become a pilot and receive a pay-out.

As the game keeps splitting and more and more people are required the chances of most participants receiving a pay-out are negligible. The promoters who start the games and place themselves at the top of the pyramids stand to profit and there is no investor protection. The Office is investigating this scheme.

Weight Loss Products

The Office has received numerous complaints against a company regarding a money back guarantee promoted for its weight loss products. The products are promoted by mail order and if they are returned within the stated time, a refund is available.

Unfortunately many consumers have not received the promised refund. The company is currently being investigated by the Office and the Australian Competition and Consumer Commission.

Consumers are advised to be careful when dealing with mail order services generally, as they are often located interstate or difficult to trace when goods are either not delivered, or not suitable for their intended purpose.

Computers: Sales and Service

Approximately 250 complaints were received by the Office regarding computer sales and service. Consumers have complained of misleading advertising, goods not being as represented and the difficulty of obtaining satisfactory repairs.

A number of retailers have closed leaving consumers without warranty as the computer was built by the retailer and not of a known brand name.

Electronic Commerce

The on-line marketplace, while still in its infancy, is likely to develop rapidly. Within a few years it is expected to be a major channel for the sale and distribution of goods and services. There is potential for the internet to become a global shopping, mail and information source with ease of access for both traders and shoppers.

The Office is monitoring the development of the internet to ensure that fair trading is maintained in this emerging area of commerce.

False Billing (Telefraud)

This continues to be an area of concern for the Office. Over 70 complaints have been received during the year.

The majority of complaints involve traders being approached on the telephone by 'publishers' requesting confirmation of the placement of an advertisement on their behalf in a publication. The caller refers to a previous conversation and convinces the trader that they have authorised the advertisement. A few days later an invoice is received.

Traders should guard against telefraud by asking the caller to provide written proof of their *bona fides* and request to see any proof copy of an advertisement before they agree to placing it. They should also ask questions regarding the number of copies of the publication and its distribution. There would be little value for example of a takeaway shop in suburban Melbourne advertising in a journal being distributed interstate. Also confirm that it will be printed and demand evidence of distribution before making payment.

More recently traders have been invoiced by organisations purporting to be government agencies and indeed furnishing invoices and registration forms which look a lot like official government stationary. Closer scrutiny of the forms usually reveals details of a private company. Traders should also be wary of organisations claiming to represent community services groups such as Ambulance and Police and returned servicemen's organisations.

To further safeguard against these practises traders should have only one person in the business who is authorised to place magazine advertising and the payment of these accounts. If any invoices or accounts are received for advertising which was not authorised, the Office should be notified.

The Office has issued public warnings about this type of activity and is pursuing telefraud operators through the courts. Liaison will continue with other government agencies to combat this practise.

Pre-paid Funerals

The Office administers the **Funerals (Pre-Paid Money) Act 1993**. The purpose of this Act is to regulate the taking and management of moneys in respect of pre-paid funeral contracts.

An inspection program is maintained to ensure that funeral operators invest moneys in accordance with the Act and maintain records as required by the Act.

During the reporting year, Service Industries of Australia Pty Ltd were found guilty of failing to invest funds in accordance with the Act which led to a 12 month good behaviour bond being imposed on the company.

Business Names

For the protection of both businesses and consumers, it is important that business names and associated details be registered. Those who deliberately trade without registration typically do so in order to avoid being located after failing to honour contracts or business debts.

The **Business Names Act 1962** requires registration of any name under which business is carried on, except where proprietors' names only are used. Persons convicted of certain offences involving dishonesty or fraud must

also obtain leave from the County Court before trading under a business name within five years following conviction.

In 1996-97, four proprietors were prosecuted for conducting businesses under unregistered business names.

Consultative Bodies

Victorian Consumer Affairs Committee

The Victorian Consumer Affairs Committee is a source of policy advice to the Minister for Fair Trading and comprises representatives from consumer, industry and community groups. Its monthly meetings are chaired by Mrs Suzanne Russell, Associate Professor of Consumer Science at the Royal Melbourne Institute of Technology.

In November 1996 the Committee organised a seminar 'So Far, How Good' to review the first six months of operation of the **Domestic Building Contracts and Tribunal Act 1995**. The seminar was attended by over 80 builders, legal practitioners, consumer workers, government officers, and domestic building consumers. A range of speakers presented perspectives from the building associations, the Domestic Building Tribunal, the Office, and consumers. There was general agreement that the new Tribunal had made an excellent start to moving more quickly through the dispute resolution process, although there were a number of concerns expressed about the actions of some builders when margins are reduced in a crowded market. The point was emphasised that there is still no place where consumers can gain full and independent advice on aspects of domestic building. The participants requested a follow-up seminar over the ensuing year.

As part of its role in reviewing legislative proposals, the Committee provided advice on the **Fair Trading Bill**, the *Credit Code*, **Fund Raising Appeals Bill**, **Second-Hand Dealers and Pawn Brokers Bill**, **Motor Car Traders' Bill**, **Auction Sales Bill** and the **Introduction Agents Bill**. A formal submission was pre-

sented, providing a consumer perspective, to the review of the Cemeteries Act. Members have represented the Committee in the judging of the Fair Trading Awards, on the Telstra Consumer Council and on the Domestic Building Tribunal Users Group.

The Committee liaises on a regular basis with the Director of OFTBA and managers in Client Services and Education and Marketing. The Committee regards discussions with these officers as an important aspect of its role in looking at the customer service provided by the Office.

Industry Liaison Group

The Industry Liaison Group (ILG) is a consultative forum between the Office, various industry and commerce groups, and relevant government agencies. Those represented include the Victorian Employers Chamber of Commerce and Industry, the Master Builders Association of Victoria, the Real Estate Institute of Victoria, the Victorian Automobile Chamber of Commerce, the Retail Traders' Association of Victoria, Coles-Myer Limited, the Australian Chamber of Manufactures, Small Business Victoria, the Australian Competition and Consumer Commission, and the Trustee Corporations Association of Australia.

The ILG meets on a bi-monthly basis, to share information, to provide feedback to the Office on the development of awareness programs for traders and consumers and to identify areas where research would be desirable in the context of advancing the Government's fair trading policies.

The success of the Office's *Get A Life* campaign (see page 10) owes a great deal to the assistance of the ILG.

Advisory Committee - Prostitution Control Act 1994

An Advisory Committee was established under the **Prostitution Control Act 1994** to advise the Minister for Fair Trading on issues related to the regulation and control of the prostitution industry in Victoria. The Committee, which meets monthly, consists of 12 members representing government agencies and a range of

community and industry interests. It is chaired by Ms Judith Dixon, Director of the Victims Referral and Assistance Service. The Office provides secretarial and research support to the Advisory Committee.

During 1996-97, the Advisory Committee investigated several references referred to it by the Minister for Fair Trading. These references included questions around the issues of:

- table top dancing and whether or not there are any links to prostitution
- the regulation of Introduction Agencies
- street prostitution, and
- exemptions for small owner operated brothels.

A further reference relating to the size of brothels was referred to the Committee by the Minister for Planning.

The Advisory Committee will submit its report on these matters to the Minister for Fair Trading in July 1997.

APPENDIX 1

REGULATIONS MADE OR REVOKED IN 1996-97

REGULATIONS MADE	DATE MADE
Business Names (Amendment) Regulations 1996	29 October 1996
Credit (Administration) (Committee) Regulations 1996	29 October 1996
Domestic Building Contracts and Tribunal (General) Regulations 1996	30 April 1996
Domestic Building Contracts and Tribunal (General) (Amendment) Regulations 1996	29 October 1996
Consumer Credit (Victoria) (Administration) Regulations 1996	29 October 1996
Travel Agents Regulations 1997	21 January 1997
Second-Hand Dealers and Pawnbrokers (Exemption) Regulations 1997	28 January 1997
Second-Hand Dealers and Pawnbrokers (Exemption) (No. 2) Regulations 1997	2 April 1997
Estate Agents (Exemption) Regulations 1997	11 February 1997
Estate Agents (General, Accounts and Audit) Regulations 1997	20 May 1997
Estate Agents (Professional Conduct) Regulations 1997	17 June 1997

REGULATIONS REVOKED

No regulations were revoked in 1996-97.

APPENDIX 2

COMMUNITY FUNDING PROGRAMS

A. Consumer Support Program from 1 July 1996 to 30 June 1997

The Consumer Support Program provides funding to regional community-based agencies to provide information and education to consumers and traders, and to provide dispute resolution and advocacy services to consumers throughout Victoria, especially disadvantaged members of the community. Funding is also provided to a number of specialist and statewide services for various consumer-related activities.

REGIONAL SERVICES

Ballarat Children's Homes and Family Services Inc
115 Lydiard Street North
BALLARAT 3350
\$57,694

Provides services in the Central Highlands Region.

Broadmeadows Craigieburn Community Health Services Inc
Cnr Coleraine St & Pearcedale Parade
BROADMEADOWS 3048
\$45,513

Provides services in the North West Region.

Consumer and Tenancy Advice Service Inc
110 Hume Street
WODONGA 3690
and
45A Ovens Street
WANGARATTA 3677
\$48,287

Provides services in the Upper Murray Region.

Financial Counselling and Consumer Information Service Inc
18 Aberdeen Street
GEEELONG 3218
\$51,055

Provides services in the Barwon Region.

Goulburn Valley Community Care Centre Inc
162 Maude Street
SHEPPARTON 3620
\$60,528

Provides services in the Goulburn Region.

Bendigo Community Health Services Inc
478 Napier Street
BENDIGO 3550
\$62,410

Provides services in the Loddon Campaspe Region.

Consumer and Tenant Resource Centre Outer East Inc
Suite 11, 6-7 Chandler Road
BORONIA 3155
\$64,137

Provides services in the Outer East Region.

Deer Park Community Information Centre Inc
73 Dumfries Street
DEER PARK 3023
\$59,690

Provides services, particularly to people of non-English speaking background, in the northern part of the Western Region.

Anglicare (formally Gippsland Family Services The Mission of St James and St John)
65 Church Street
MORWELL 3840
\$54,931

Provides services in the Central Gippsland Region.

Kilmany Family Care
113 Cunningham Street
SALE 3850
and 49 McCulloch Street
BAIRNSDALE 3875
\$47,379

Provides services in the East Gippsland Region.

REGIONAL SERVICES Cont.

Mallee Tenancy Advice Service Inc
1/152 Pine Avenue
MILDURA 3500
and
300 Campbell Street
SWAN HILL 3585
\$49,617

Provides services in the Mallee Region.

Peninsula Community Legal Centre Inc
Pines Forest Community Centre
Mahogany Avenue
FRANKSTON NORTH 3200
\$31,632

Provides services in the southern part of the Westernport Region.

Springvale Community Aid and Advice
Bureau Inc
5 Osborne Avenue
SPRINGVALE 3171
\$53,159

Provides services, particularly to people of non-English speaking background in the northern part of the Westernport Region.

North East Consumer Support Service
C/- Sutherland Community Resource Centre
258 Nell Street West
WATSONIA 3087
\$57,580

Provides services in the North Eastern Region.

South Western Community Care Inc
26 Fairy Street
WARRNAMBOOL 3280
and
63 Percy Street
PORTLAND 3305
and
1st Floor, State Public Offices
McNicol Street
CAMPERDOWN 3260
and
46 Brown Street
HAMILTON 3300
\$47,233

Provides services in the Glenelg Region.

Wimmera Community Care
185 Baillie Street
HORSHAM 3400
\$49,328

Provides services in the Wimmera Region.

SPECIALIST SERVICES

Organisation

Purpose of Grant

Financial and Consumer Rights Council
(previously Consumer Advocacy and
Financial Counselling Association of Victoria)
2nd Floor
347 Flinders Lane
MELBOURNE 3000
\$62,604

To resource and support consumer support workers, represent members' views to Government and the community and co-ordinate statewide campaigns on key consumer issues.

Consumer Credit Legal Service Inc
1st Floor, Bank House
11-19 Bank Place
MELBOURNE 3000
\$128,217

To promote and safeguard industry standards that achieve a fair financial services market, including objections to registration, class actions and selected individual legal actions and to seek redress for individuals who have been unfairly treated, particularly those who are disadvantaged and have limited access to redress.

Good Shepherd Youth and Family Services
Inc - Buying Advice Service
117 Johnston Street
COLLINGWOOD 3066
\$59,138

To operate a buying advisory service for low income people which gives access to basic household products at a reasonable price, and assists low income people in making informed choices when purchasing household products.

B. Tenant Support Program from 1 July 1996 to 30 June 1997

The Tenant Support Program provides funding to regional community-based agencies to provide information and education to landlords and tenants, and to provide dispute resolution and advocacy services to tenants throughout Victoria, especially disadvantaged members of the community. Funding is also provided to a number of specialist and statewide services for various tenancy-related activities.

REGIONAL SERVICES

Ballarat Children's Homes and Family Services Inc
115 Lydiard Street North
BALLARAT 3350
\$65,325

Provides services to the Central Highlands Region.

Barwon Region Housing Council Inc
1 Little Ryrie Street
GEELONG 3220
\$125,176

Provides services in the Barwon Region.

Bayside Tenants Information Service Inc
13 Wells Street
FRANKSTON 3199
\$86,968

Provides services in the Westernport Region.

Bendigo Community Health Service Inc
478 Napier Street
BENDIGO 3550
\$106,168

Provides services in the Loddon Campaspe Region.

Broadmeadows Tenants Information Service Inc
100 Longford Crescent
COOLAROO 3048
\$58,231

Provides services in the North West Region.

Consumer and Tenancy Advice Service Inc
110 Hume Street
WODONGA 3690
and
45A Ovens Street
WANGARATTA 3677
\$95,526

Provides services in the Upper Murray Region.

Consumer and Tenant Resource Centre
Outer East Inc
Suite 11, 5-7 Chandler Road
BORONIA 3155
\$70,040

Provides services in the Outer East Region.

Brimbank Community Information Centre Inc
(formally Deer Park)
822 Ballarat Road
DEER PARK 3023
\$45,813

Provides services in the Western Region.

REGIONAL SERVICES Cont.

Anglicare
(formerly Gippsland Family Services
The Mission of St James and St John)
65 Church Street
MORWELL 3840
\$80,729

Provides services in the Central Gippsland Region.

Inner Eastern Housing Services Inc
12 Rutland Road
BOX HILL 3128
\$62,336

Provides services in the Inner East Region.
Access to a Cambodian-speaking worker
through the Ethnic Tenancy Project.

Mallee Tenancy Advice Service Inc
1/152 Pine Avenue
MILDURA 3500
and
300 Campbell Street
SWAN HILL 3585
\$130,325

Provides services in the Mallee Region.

Springvale Community Aid and Advice
Bureau Inc
5 Osborne Avenue
SPRINGVALE 3171
\$58,803

Provides services in the northern part of the
Westernport Region.

Goulburn Regional Housing Council Inc
87 Nixon Street
SHEPPARTON 3630
and
87 Nunn Street
BENALLA 3672
\$103,475

Provides services in the Goulburn Region.

Kilmany Family Care
113 Cunningham Street
SALE 3850
and
49 McCulloch Street
BAIRNSDALE 3875
\$63,339

Provides services in the East Gippsland Region.

South Western Community Care Inc
26 Fairy Street
WARRNAMBOOL 3280
and
1st Floor, State Public Offices
McNicol Street
CAMPERDOWN 3260
and
63 Percy Street
PORTLAND 3305
and
46 Brown Street
HAMILTON 3300
\$140,586

Provides services in the Glenelg Region.

Tenancy Advisory Service for Southern Inc
372 South Road
MOORABBIN 3189
\$67,895

Provides services in the Southern Region.

REGIONAL SERVICES Cont.

Tenants Union of Victoria Inc
55 Johnston Street
FITZROY 3065
and
161 Chapel Street
ST KILDA 3182
and
207 Barkly Street
FOOTSCRAY 3011
and
251 High Street
PRESTON 3072
\$2,131,403

Wimmera Community Care
185 Baillie Street
HORSHAM 3400
\$52,691

Provides services to the Wimmera Region.

Provides services to the Inner Urban and North East Regions and to the southern part of the Western Region.

SPECIALIST SERVICES

Organisation

Purpose of Grant

Housing for the Aged Action Group Inc
3rd Floor, Ross House
247-251 Flinders Lane
MELBOURNE 3000
\$53,227

Provision of a community education, information/advice and advocacy and support service on tenancy issues for the aged as a statewide project.

Rooming House Tenants Association Inc
98 Gertrude Street
FITZROY 3065
\$130,228

Provision of rooming house resident information/advice, complaint resolution and advocacy services. Contribution to policy development and legislative change on rooming house issues.

Tenants Union of Victoria Inc
55 Johnston Street
FITZROY 3065
\$85,000

Undertaking of statewide resourcing, and supporting of regional tenant advice services, research, policy and community education work.

Plus \$67,200 being part grant for training program for new Residential Tenancies Act.

C. Ethnic Tenancy Project

ETHNIC TENANCY PROGRAM FROM 1 JULY 1996 TO 30 JUNE 1997

The Ethnic Tenancy Program was integrated with the Tenant Support Program from 1 October 1996. Funding for the six bi-lingual workers ceased from 31 September with funds redistributed to seven mainstream services for the development of local education strategies and client service delivery based on new arrival population needs.

Bayside Tenants Information Service Inc
13 Wells Street
FRANKSTON 3199
\$2,500

Broadmeadows Tenants Information
Service Inc
100 Longford Crescent
COOLAROO 3048
\$45,823

Cambodian Association of Victoria
52 Queens Avenue
SPRINGVALE 3171
\$8,088

Deer Park Community Information Centre Inc
73 Dumfries Road
DEER PARK 3023
\$27,373

Bi-lingual program only until 30 September
1996

Inner Eastern Housing Services Inc
12 Rutland Road
BOX HILL 3128
\$13,944

Springvale Community Aid and Advice
Bureau Inc
5 Osborne Avenue
SPRINGVALE 3171
\$30,312

Tenancy Advisory Service for Southern Inc
372 South Road
MOORABBIN 3189
\$21,929

Tenants Union of Victoria Inc
55 Johnston Street
FITZROY 3065
\$103,304

APPENDIX 3

COMPLAINT STATISTICS

Consumer Complaints by Product Type

The complaints refer to written complaints received (and dealt with) by the Office which are categorised according to the National Consumer Complaints Statistics System.

	1994-95	1995-96	1996-97
Food, Beverages, Tobacco	33 (0.3%)	22 (0.2%)	31 (0.2%)
Clothing, Footwear, Drapery, Manchester	370 (2.9%)	342 (2.6%)	299 (2.2%)
Household Goods	1,485 (11.8%)	1,390 (10.7%)	1,282 (9.5%)
Motor Vehicles & Other Transport Equipment	1,686 (13.4%)	1,674 (12.9%)	1,504 (11.2%)
Building & Construction	1,044 (8.3%)	1,024 (7.9%)	1,129 (8.4%)
Commercial Equipment, Appliances & Supplies	41 (0.3%)	30 (0.2%)	29 (0.2%)
Personal Items, Entertainment & Novelties	418 (3.3%)	389 (3.0%)	306 (2.3%)
Transport, Post, Telephone, Energy	541 (4.3%)	611 (4.7%)	494 (3.7%)
Insurance, Finance & Investment	355 (2.8%)	249 (1.9%)	307 (2.3%)
Real Estate & Accommodation	4,869 (38.8%)	5,019 (38.5%)	5,943 (44.1%)
Miscellaneous Services	1,465 (11.6%)	1,196 (15.3%)	1,968 (14.6%)
Other/Unspecified	247 (1.9%)	280 (2.1%)	177 (1.3%)
Total	12,554	13,026	13,469

Consumer Complaints by Practice Type

The complaints refer to written complaints received (and dealt with) by the Office which are categorised according to the National Consumer Complaints Statistics System.

	1994-95	1995-96	1996-97
Advertising	67 (0.4%)	66 (0.5%)	50 (0.4%)
Representations	87 (0.6%)	166 (1.2%)	132 (1.0%)
Product Labelling	12 (<0.1%)	5 (<0.1%)	8 (0.1%)
Sales	85 (0.6%)	40 (0.3%)	32 (0.2%)
Price	616 (4.1%)	607 (4.0%)	535 (4.0%)
Quality	4,742 (31.6%)	4,259 (31.0%)	3,791 (28.1%)
Credit	152 (1.0%)	96 (0.7%)	154 (1.1%)
Contracts	3,243 (21.6%)	2,707 (19.7%)	2,605 (19.3%)
Warranties	535 (3.6%)	248 (1.8%)	313 (2.3%)
Miscellaneous Conduct	254 (1.7%)	176 (1.3%)	193 (1.4%)
Tenancy	5,197 (34.7%)	5,361 (39.0%)	5,701 (42.1%)
Total	14,985	13,731	13,514

Note: The totals in this table are higher than those in the preceding one because a complaint can only be about one product but may concern more than one practice.

APPENDIX 4

RESIDENTIAL TENANCIES: INSPECTIONS & OTHER SERVICES

MATTERS REFERRED	1994-95	1995-96	1996-97
Inspections directly requested			
abandoned goods	2,527	2,462	2,609
repairs	1,518	1,525	1,711
rent increase	180	222	304
Total written requests for assistance (including inspection requests and complaints regarding termination, bonds, quiet enjoyment etc)	4,765	4,945	5,257

APPENDIX 5

TRIBUNAL DATA

A. Residential Tenancies Tribunal

APPLICATIONS TO THE RESIDENTIAL TENANCIES TRIBUNAL UNDER THE RESIDENTIAL TENANCIES ACT

YEAR	Tenant	Landlord	Total
1991-92	1,952 (7.4%)	24,539 (92.6%)	26,491
1992-93	2,086 (6.8%)	28,718 (93.2%)	30,804
1993-94	2,000 (5.8%)	32,637 (94.2%)	34,637
1994-95	1,596 (4.2%)	35,919 (95.8%)	37,515
1995-96	1,639 (4.2%)	37,774 (95.8%)	39,413
1996-97	1,962 (4.5%)	41,864 (95.5%)	43,826

TENANT APPLICATIONS BY TYPE

APPLICATION	1994-95	1995-96	1996-97
General Applications s.23	366 (22.9%)	259 (15.8%)	336 (17.1%)
Compensation s.105	692 (43.4%)	878 (53.6%)	1,057 (53.9%)
Reduction in fixed term tenancy s.113	326 (20.4%)	281 (17.1%)	283 (14.4%)
Repairs - General s.100	94 (5.9%)	123 (7.5%)	158 (8.1%)
Repairs - Urgent s.99	7 (0.4%)	8 (0.5%)	5 (0.3%)
Entry s.96	54 (3.4%)	63 (3.8%)	82 (4.2%)
Other	57 (3.6%)	27 (1.6%)	41 (2.1%)
Total	1,596	1,639	1,962

LANDLORD APPLICATIONS BY TYPE

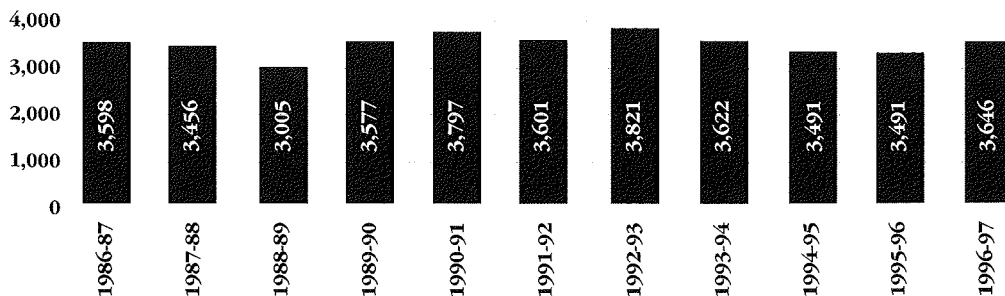
APPLICATION	1994-95		1995-96		1996-97	
Possession						
s.118	292	(0.8%)	251	(0.7%)	271	(0.6%)
s.119	23,420	(65.2%)	25,046	(66.3%)	26,429	(63.1%)
s.120	163	(0.5%)	139	(0.4%)	129	(0.3%)
s.121	15	(<0.1%)	16	(<0.1%)	24	(0.1%)
s.122	3,688	(10.3%)	4,378	(11.6%)	6,233	(14.9%)
s.123	25	(<0.1%)	33	(<0.1%)	39	(0.1%)
Sub Total	27,603	(76.8%)	29,863	(79.1%)	33,125	(79.1%)
Compensation s.105	3,049	(8.5%)	2,724	(7.2%)	3,723	(8.9%)
Abandonment						
s.111	341	(0.9%)	328	(0.9%)	328	(0.8%)
Reduction in fixed term tenancy s.113	64	(0.2%)	57	(0.2%)	39	(0.1%)
Security deposit s.77	4,283	(11.9%)	4,284	(11.3%)	4,384	(10.5%)
Other	579	(1.6%)	518	(1.4%)	265	(0.6%)
Total	35,919		37,774		41,864	

APPLICATIONS TO THE RESIDENTIAL TENANCIES TRIBUNAL UNDER OTHER LEGISLATION

YEAR	Caravan Parks and Movable Dwellings Act	Rooming Houses Act	Landlord and Tenant Act (sitting as Fair Rents Board)
1990-91	112	227	15
1991-92	138	521	10
1992-93	144	919	10
1993-94	117	711	7
1994-95	124	865	6
1995-96	89	799	5
1996-97	142	907	4

B. Small Claims Tribunals

APPLICATIONS TO THE SMALL CLAIMS TRIBUNALS



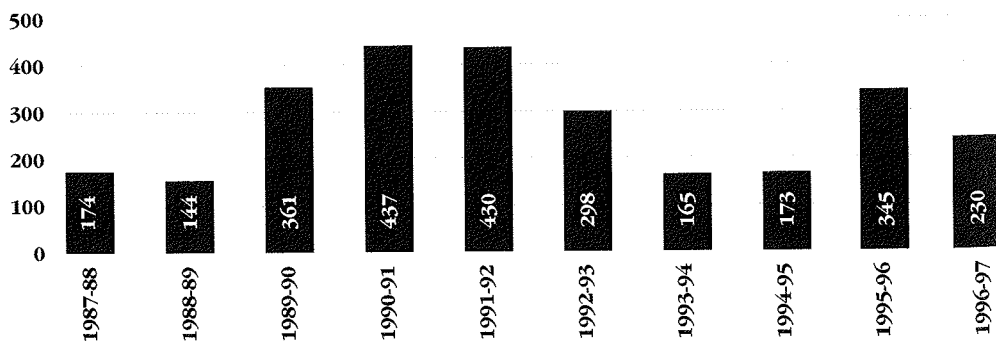
C. Regional Tribunal Hearings

REGIONAL TRIBUNAL SITTING DAYS

Location	1994-95	1995-96	1996-97
Ararat	-	-	1
Bairnsdale	15	18	21
Ballarat	65	58	65
Benalla	15	10	17
Bendigo	51	62	73
Broadmeadows	-	2	-
Cobram	13	2	-
Colac	11	12	15
Dandenong	363	213	237
Echuca	13	14	18
Footscray	112	-	-
Frankston	93	183	190
Geelong	110	113	109
Hamilton	13	11	14
Horsham	16	15	19
Kerang	3	11	16
Knox	327	343	-
Korumburra	13	16	22
Mansfield	11	11	15
Maryborough	9	11	14
Mildura	23	31	35
Moe	63	75	79
Myrtleford	9	11	13
Orbost	-	-	-
Portland	15	13	14
Ringwood	-	-	346
Sale	15	17	19
Seymour	18	16	17
Shepparton	32	35	43
Swan Hill	14	17	17
Wangaratta	18	18	19
Warrnambool	21	24	29
Werribee	25	84	96
Wodonga	21	20	31

D. Credit Tribunal

APPLICATIONS TO THE CREDIT TRIBUNAL



APPENDIX 6

PROSECUTIONS 1996-1997 (General)

DATE OF HEARING	DEFENDANT	ACT	SECT	SUMMARY	OFF-ENCES	FINES \$	COSTS \$	OTHER ORDERS DETAILS
2/7/96	Martin Frederick Hutt of Lilydale	HCGA	18 20	Performing domestic building work whilst not complying with the requirements for building contracts and also for demanding an excessive deposit.	1 1			No conviction. 12 month good behaviour bond.
2/7/96	S & M Sanmaar Pty Ltd trading as M & R Renovations	HCGA	5 23	Failure to provide the necessary guarantee to the building owner and performing domestic building work whilst not being approved.	1 1	500.00	180.00	No conviction.
10/7/96	Travelink Tourism Pty Ltd	TAA	6 (1)	Unlicensed trading as a travel agent.	1	5,000.00	400.00	Convicted.
10/7/96	Steve Vissenjoux of Hampton Park	TAA	6 (1)	A director of Travelink Tourism who engaged in unlicensed trading as a travel agent.	1			No conviction. 12 month good behaviour bond.
11/7/96	Rohan Richard Chipperfield of Brighton	MCTA	7 (1)	A director of Chipperfield Nominees Pty Ltd who engaged in unlicensed trading.	1	200.00		No conviction.
11/7/96	Chipperfield Nominees Pty Ltd	MCTA	7 (1)	Unlicensed motor car trading.	1	400.00	862.00	Convicted.
16/7/96	Mario Hill of North Geelong	BNA	5 (1)	Carrying on business using an unregistered business name.	1	100.00	285.00	Convicted.
19/7/96	Peter Niarchos trading as P & N Design & Building of East Burwood	HCGA	5 (1) 20 23(2)	Performing domestic building work whilst not being an approved builder, failed to provide the necessary guarantee to the building owner and demanded an excessive deposit.	1 1 1	1,500.00	441.00	No conviction.
30/7/96	Walter Pechoisch of Middle Park	MCTA	7	Unlicensed motor car trading.	1		288.00	No conviction. 12 month good behavior bond. \$2,000.00 in court fund.
30/7/96	Judy Toohey (nee Monkivitch) of Linton.	RTA	77 146	A landlord compelled or attempted to compel tenants to vacate otherwise than in accordance with the Residential Tenancies Act 1980. A landlord who did fail to return security deposit.	1 1		233.00	No conviction. 4 month good behaviour bond.

DATE OF HEARING	DEFENDANT	ACT	SECT	SUMMARY	OFFENCES	FINES \$	COSTS \$	OTHER ORDERS DETAILS
31/7/96	Edgar Motors Pty Ltd	MCTA	52(1)	Offering a vehicle for sale without displaying the required particulars.	5	1,250.00	450.00	Convicted.
			56(2)	Motor car trader limiting its obligations under the Act.	2			
1/8/96	Guiliano Fontaine also known as Julian Riches of Paradise Waters	FTA	12(1) 29	Unsolicited advertising and misrepresentations as to affiliation.	8 6	1,000.00	4,000.00	No conviction.
5/8/96	Kris Shkodrani of Sale	RTA	67(1)	Failure to pay security deposit into an appropriate trust account.	1	250.00	300.00	No conviction.
			73(1)	Failure to provide a condition report.	1			Costs to be paid into the court fund.
			76(2)	Failure to supply correct receipt for security deposit.	1			
			77(2)	Did fail to return security deposit.	1			
5/8/96	Maureen Shkodrani of Sale	RTA	67(1)	Failure to pay security deposit into an appropriate trust account.	1	250.00		No conviction.
			73(1)	Failure to provide a condition report.	1			
			76(2)	Failure to supply correct receipt for security deposit.	1			
			77(2)	Did fail to return security deposit.	1			
8/8/96	Russell Miller of Wahgunyah	RTA	61(2) 73(1) 76(2) 77(2) 87(1)	Breaches of various sections of the Residential Tenancies Act.	2 1 1 1 1		323.00	No conviction. 12 month good behaviour bond.
8/8/96	Veronica Miller of Wahgunyah	RTA	61(2) 73(1) 76(2) 77(2) 87(1)	Breaches of various sections of the Residential Tenancies Act.	2 1 1 1 1			No conviction. 12 month good behaviour bond.
26/8/96	John Mason of Wangaratta	RTA	67(1) 73(1) 77(2) 76(2) 87(1)	Breaches of various sections of the Residential Tenancies Act.	1 1 1 1 1		400.00	No conviction. 3 months good behaviour bond.
26/8/96	Enid Mason of Wangaratta	RTA	67(1) 73(1) 77(2) 76(2) 87(1)	Breaches of various sections of the Residential Tenancies Act.	1 1 1 1 1			No conviction. 3 months good behaviour bond.
5/9/96	Kitchen Facelifts Pty Ltd	HCGA	5(1) 18(2) 20(1) 23(3)	Breaches of various sections of the House Contracts Guarantee Act 1987.	1 1 1 1	2,000.00	847.00	No conviction.

DATE OF HEARING	DEFENDANT	ACT	SECT	SUMMARY	OFF-ENCES	FINES \$	COSTS \$	OTHER ORDERS DETAILS
10/9/96	Jason Rogers of Sydney	RTA	67(1) 73(1) 76	Failure to pay security deposit into trust account. Failure to give condition report. Failure to give receipt in presented form.	1 1 1			No conviction. 3 month good behaviour bond.
17/9/96	Brian Jostlear of Warragul	RTA	77 40	Failing to refund the security deposit within two weeks after the tenants had vacated the property and failing to comply with an order of the Tribunal.	1 1	149.00		No conviction. 12 month good behaviour bond. \$100 in court fund.
17/9/96	Beverley Jostlear of Warragul	RTA	77 40	Failing to refund the security deposit within two weeks after the tenants had vacated the property and failing to comply with an order of the Tribunal.	1 1			No conviction. 12 month good behaviour bond. \$100 in court fund.
27/9/96	Sandersons Motors Hawthorn Pty Ltd	MCTA	35(2) 48	Failing to cancel security interest and failing to enter prescribed details in dealings book.	1 2	2,000.00	291.00	Conviction.
30/9/96	Keith Wilkie of Mooloolaba	FTA	21	Making false representations in relation to the profitability of a business activity.	7	20,000.00	1,471.00	Convicted.
30/9/96	Carlos Nardella of Baimsdale	MCTA	7(1)	Unlicensed motor car trading.	1	5,000.00	794.00	Conviction.
2/10/96	Gregory Jupp of South Yarra	MCTA	35(2) 48	A director of Sandersons Motors, Hawthorn Pty Ltd who failed to cancel security interest and failing to enter prescribed details in dealings book.	1 2		458.00	No conviction. 12 months good behaviour bond.
8/10/96	Ken Morgan Motors Pty Ltd trading as Nunawading Toyota	CA	121(1)(C) 121(1)(a)	Failure to comply with legislation governing the advertising of credit.	5 3		1,058.00	No conviction. 12 months good behaviour bond. \$2,500 to court fund.
8/10/96	Michael Portelli of East Brunswick	MCTA	7(1)	Unlicensed motor car trading.	1	2,000.00	375.00	No conviction.
15/10/96	Mark Trevor Fuller trading as Rapid Steel Homes of Corio	CAA	13(2) 5(1)	Placing advertisements containing a PO Box number without also including a business or residential address.	16 1	800.00	646.00	Convicted.
31/10/96	Adrian Pervan of Hawthorn	HCGA	5(1) 18(2) 20(1) 23(3)	Breaches of various sections of the HCGA.	1 1 1 1	1,000.00	397.00	Convicted.
11/11/96	Peter Heenan trading as Spirit Homes of Boronia	HCGA	5(1) 23(3) 27(1)	Entering into a domestic building work contract when no finance fee in force. Unapproved builder performing domestic work. False or misleading statement.	4 4 4	5,000.00	386.00	No conviction.

DATE OF HEARING	DEFENDANT	ACT	SECT	SUMMARY	OFF-ENCES	FINES \$	COSTS \$	OTHER ORDERS DETAILS
3/11/96	Kitchen & Bathroom Design Brokers Pty Ltd	HCGA		Breaches of various sections of HCGA.	10 10 4 10	15,000.00		Conviction.
13/11/96	Dean Burton of South Melbourne	HCGA	5 18 20 23	Breaches of various sections of HCGA.	10 10 4 10	15,000.00		Conviction.
20/11/96	VW Auto Salvage Pty Ltd	MCTA	7(1)	Unlicensed motor car trading.	1		800.00	Conviction. 3 year good behaviour bond. \$2,000.00 into court fund.
21/11/96	Anthony Catania of Altona	FTA	12(a)	Several breaches of s.12(a) and s.32 of the Fair Trading Act 1985.	39	15,000.00	490.00	Convicted.
27/11/96	Kylie Campbell of Fairfield	RTA	40	Failure to comply with a Tribunal order.	1		176.00	No conviction. 12 months good behaviour bond. \$100 into court fund.
28/11/96	Ghassan EL-Belah, trading as Gus EL-Belaha Maintenance & Renovations of Pascoe Vale	HCGA	5 18(2) 20(6) 23(3)	Breaches of various sections of HCGA.		10,000.00	500.00	Conviction.
28/11/96	Roy Alkemeter trading as R & H Bricklaying Services of Kilsyth	HCGA	5 18 23	Breaches of various sections of HCGA.	1 1	800.00	490.00	No conviction.
4/12/96	Sasha Kirstein of Prahran	FTA	12(e)	Claiming to be a member of the Housing Industry Association when she was not.	2	200.00	500.00	No conviction.
9/12/96	Violet Barker of Thornbury	RTA	47	Failing to comply with an order of the Residential Tenancies Tribunal.	2	400.00	807.51	Conviction.
12/12/96	Zia Nuredinofski of Brooklyn	HCGA	5(1) 20(1) 23(3)	Breaches of various sections of the HCGA.	1 1 1	1,000.00	36.00	Conviction.
13/12/96	Volkospace (Glifton Hill) Pty Ltd	MCTA	7(1)	Unlicensed motor car trading.	1	2,500.00	437.75	Conviction.
13/12/96	Shimon Maymon of Carnegie	MCTA	7(1)	Unlicensed motor car trading.	1	1,500.00		No conviction.

DATE OF HEARING	DEFENDANT	ACT	SECT	SUMMARY	OFF-ENCES	FINES \$	COSTS \$	OTHER ORDERS DETAILS
11/12/96	Gary Kenneth Motors Pty Ltd	MCTA FTA	56(2) 32	Contracting out of warranty obligations and misrepresented its warranty obligations.	16 10	6,000.00	809.00	Conviction.
17/12/96	Gary Kenneth Parater of Caulfield	MCTA FTA	56(2) 32	A director of Gary Kenneth Motors Pty Ltd who contracted out of its warranty obligations and misrepresented his warranty obligations.	6 2	1,000.00		Conviction.
17/12/96	Exclusive Pools & Spas Pty Ltd	CAA	15(3)	Company failed to provide Schedule 1 Notice in cooling off period.	5	2,750.00	1,053.00	Conviction.
19/12/96	Maldonfield Pty Ltd	BNA MCTA	5(1) 20(1) 35(2) 48	False and misleading representation in date of completion of pool. Carrying on business under an unregistered business name. Failing to notify Registrar of change of directors. Failing to enter prescribed matter into dealings book. Failing to cancel a security interest upon the sale of a vehicle.	5 1 1 2 1	900.00	358.00	No conviction.
28/1/97	Bonneville Automotive Pty Ltd	MCTA	7(1)	Unlicensed motor car trading.	1		2,599.00	No conviction. 12 months good behaviour bond.
28/1/97	Michael Guastalegnone of North Altona	MCTA	7(1)	A director of Bonneville Automotive Pty Ltd who carried on unlicensed motor car trading.	1		2,599.00	No conviction. 12 months good behaviour bond.
7/2/97	Jennifer Christiansz of Sydney	RTA	122(3)	Reletting premises in respect of which a notice to vacate was given within six months of this notice.	1	150.00	500.00	No conviction.
10/2/97	Alexander Kent of Springvale	MCTA	7(1)	Unlicensed motor car trading.	1		313.00	No conviction. 2 years good behaviour bond. \$750 to court fund.
17/2/97	Aulia San of Mildura	MCTA	7(1)	Unlicensed motor car trading.	1		405.00	No conviction. \$400.00 to court fund.
18/2/97	Andrew Uncle of Keysborough	RTA	40	Failing to comply with an order of the Residential Tenancies Tribunal.	1		178.50	No conviction. 12 months good behaviour bond.
18/2/97	Sharon Kelly of Keysborough	RTA	40	Failing to comply with an order of the Residential Tenancies Tribunal.	1			No conviction. 12 months good behaviour bond.
19/2/97	Mervyn Morris of Orbost	RTA	61(2) 67(1)(a) 73(1) 76 87	Failing to pay security deposit into approved trust account, failing to provide condition report, failing to provide proper rental receipt.	1 1 1 1 1		200.00	No conviction. 4 months good behaviour bond.

DATE OF HEARING	DEFENDANT	ACT	SECT	SUMMARY	OFF-ENCES	FINES \$	COSTS \$	OTHER ORDERS DETAILS
19/2/97	Service Industries of Australia Pty Ltd	F(PM)A	24	Failure to comply with transitional provision.	1		432.00	No conviction. 12 months good behaviour bond.
26/2/97	Russell John Trainor of Riddells Creek	MCTA	7(1)	Unlicensed motor car trading.	1	1,000.00	397.00	No conviction.
26/2/97	Peter Daryl Jacobson of Middle Park	MCTA	7(1)	Unlicensed motor car trading.	1	1,000.00	458.00	No conviction.
26/2/97	Electrical Liquidators Pty Ltd	FTA	12(1)	Falsely advertising products as Kelvinator products.	9	10,500.00	586.00	Conviction.
26/2/97	Constantine Tripodis of Black Rock	FTA	12(1)	Director of Electrical Liquidators Pty Ltd who falsely advertised a product as a Kelvinator product.	1	1,750.00	576.00	Conviction.
26/2/97	Peter Day of Hampton	RTA	40	Failure to comply with Residential Tenancies Tribunal determination for the payment of rental due.	1	250.00		Conviction.
5/3/97	Ilias Moutidis of Richmond	HCGA	24 18 5	Failing to notify HGFL that he had entered into a domestic building contract, deficient details in the building contract and using an unregistered business name.	1 -2 1	1,000.00	675.00	No conviction.
5/3/97	Joe Frendo of Blackburn	HCGA	5(1) 18(1) 20(1) 23(3)	Various breaches of the HCGA.	1 1 1 1	3,000.00	682.00	Conviction.
7/3/97	Woodgrain Timber & Hardware Pty Ltd trading as Colonial Woodworks & Kitchen Design	HCGA	5(1) 18(2) 20(1) 23(3)	Various breaches of the HCGA.	1 1 1 1			No conviction. 12 month good behaviour bond. \$1,000.00 to court fund.
7/3/97	Kevin Maggs of Coldstream	FTA	12(e)	Claimed to be member of Housing Industry Association when he was not.	1	500.00	400.00	No conviction.
13/3/97	Oakrest Pty Ltd	MCTA	83(1) 41(2)	Failing to disclose to a purchaser that company is a motor car trader & failing to provide purchaser with a copy of sales agreement.	1 1	1,200.00	461.00	No conviction.
13/3/97	Allan Spencer of Templestowe	MCTA	83(1) 41(2)	Director of Oakrest Pty Ltd who failed to disclose to a purchaser that the company is a motor car trader & failing to provide purchaser with a copy of sales agreement.	1 1	1,200.00		No conviction.
24/3/97	Raymond Wallace of Shepparton	RTA	40	A tenant who failed to comply with an order of the Residential Tenancies Tribunal.	1	300.00	30.00	Conviction.

DATE OF HEARING	DEFENDANT	ACT	SECT	SUMMARY	OFF-ENCES	FINES \$	COSTS \$	OTHER ORDERS DETAILS
24/3/97	Cheryl Wallace of Shepparton	RTA	40	A tenant who failed to comply with an order of the Residential Tenancies Tribunal.	1	300.00	255.00	Conviction.
25/3/97	Milan Stankovic of East Keilor	MCTA	7(1)	Unlicensed motor car trading (11 vehicles).	1		889.00	No conviction.
3/4/97	Kelvin Davies of Glen Iris	MCTA	7(1)	Unlicensed motor car trading.	1		366.00	No conviction. \$1,000.00 to court fund.
7/4/97	Diane Matthews of Renmark	RTA	77(2)	Landlord failing to refund the security deposit to the tenant within the prescribed time.	1			Conviction. 12 months good behaviour bond.
			40	Failing to comply with an order of the RTT.	1			
			67(1)	Failing to pay the security deposit into an approved trust account.	1			
			76(2)	Failing to complete a correct bond receipt.	1			
7/4/97	Mark Matthews of Renmark	RTA	77	Landlord failing to refund the security deposit to the tenant within the prescribed time.	1	500.00	323.00	Conviction.
			40	Failing to comply with an order of the Residential Tenancies Tribunal.	1			
15/4/97	Simon Matthew Pty Ltd	FTA	12(a)	Company falsely representing distance vehicle sold had travelled.	45			No conviction. \$15,000.00 to court fund.
14/4/97	Pickard's of Melbourne Pty Ltd	MCTA	7(1)	Unlicensed motor car trading (12 vehicles) *Note company obtained motor car traders licence on 6.11.96	1		1,311.00	No conviction. 12 months good behaviour bond.
16/4/97	Wayne Morris Young of Pakenham	MCTA	35(2)	Trader failing to enter prescribed matters into the dealings book and failed to ensure that the dealings book entries were signed.	3	3,000.00	731.00	Conviction.
			52(1)	Failed to attach a Notice in the prescribed form to the vehicle.	4			
			52(6)	Failed to retain Notice for three years.	11			
22/4/97	Maxwell John Smith of Rowville	HCGA	5	Defendant performed domestic building work while not a registered builder and failing to provide statutory guarantee for HGFL.	1	4,000.00	514.00	No conviction.
			23		1			
30/4/97	Antonio Taranto of Caulfield	MCTA	7.1	Unlicensed motor car trading.	1	500.00	870.00	Conviction.
1/5/97	High Title (Eltham) Pty Ltd	FTA	12(a)	Misrepresentations as to quality, sponsorship as to association and country of origin.	1	4,000.00	1,275.00	No conviction. Conviction.
			12(c)		1			No conviction.
			12(Fb)		1			No conviction.

DATE OF HEARING	DEFENDANT	ACT	SECT	SUMMARY	OFF-ENCES	FINES \$	COSTS \$	OTHER ORDERS DETAILS
1/5/97	High Title (Ashburton) Pty Ltd	FTA	12(a) 12(e) 12(Fb)	Misrepresentations as to quality, sponsorship as to association and country of origin.	1 1 1	4,000.00	1,275.00	No conviction. Conviction. No conviction.
1/5/97	High Title (Ivanhoe) Pty Ltd	FTA	12(a) 12(e) 12(Fb)	Misrepresentations as to quality, sponsorship as to association and country of origin.	1 1 1	4,000.00	1,275.00	No conviction. Conviction. No conviction.
1/5/97	High Title (Mentone) Pty Ltd	FTA	12(a) 12(e) 12(Fb)	Misrepresentations as to quality, sponsorship as to association and country of origin.	1 1 1	4,000.00	1,275.00	No conviction. Conviction. No conviction.
1/5/97	John Henry Franklin of South Oakleigh	MCTA	7(1)	Unlicensed motor car trading between 10.2.96 & 21.12.96 (10 vehicles).	1	600.00	631.00	Conviction.
2/5/97	John Apostolopoulos of Warramwood	MCTA	7(10)	Unlicensed motor car trading.	1		269.00	Conviction. Community based order - 180 hours unpaid community work to be done within 12 months.
14/5/97	Faros Trangolas of Campbellfield	HCGA	5(1) 18(2) 23(3) 20(1) 5	Various breaches of the HCGA.	1 1 1 1 1	3,500.00	427.00	Conviction.
15/5/97	Michael Alexander McLeod of Minyip	MCTA	7(1)	Unlicensed motor car trading.	1	1,500.00		Conviction.
15/5/97	Allbar Magna Bits Pty Ltd	MCTA	7(1)	Unlicensed motor car trading.	1	2,000.00	324.00	Conviction.
21/5/97	Paul Methner of South Oakleigh	HCGA	5 23	Entered contract to perform domestic building work when no guarantee in place and perform domestic building work when not approved.	1 1	300.00	1,313.00	No conviction.
21/5/97	Melbourne Motors Pty Ltd	MCTA	7(1)	Unlicensed motor car trading.	1		350.00	No conviction. \$2,000.00 to Motor Car Traders Guarantee Fund.
21/5/97	Dawn Syme of Eltham	RTA	85(2) 87(1) 73(1) 67(1) 76(2) 77(2)	Tenancy agreement not in prescribed form, landlord failed to provide tenants with a statement of rights and duties, landlord failed to provide a condition report, landlord failed to pay bond into an approved trust account, bond receipt did not include relevant details, bond not refunded to tenants within prescribed time.	1 1 1 1 2 1		211.00	No conviction. 6 months good behaviour bond.

DATE OF HEARING	DEFENDANT	ACT	SECT	SUMMARY	OFF-ENCES	FINES \$	COSTS \$	OTHER ORDERS DETAILS
21/5/97	David Syme of Eltham Pty Ltd	RTA	85(2) 87(1) 73(1) 67(1) 76(2) 77(2)	Tenancy agreement not in prescribed form, landlord failed to provide tenants with a statement of rights and duties, landlord failed to provide a condition report, landlord failed to pay bond into an approved trust account, bond receipt did not include relevant details, bond not refunded to tenants within prescribed time.	1 1 1 2 1	500.00	211.00	No conviction.
4/6/97	Tasman Checkpoint (Brunswick) Pty Ltd	MCTA	35(2)	Defendant failed to enter prescribed matters into its dealings book and failed to ensure those entries were signed by person from whom the vehicle was received.	28	2,000.00	874.00	No conviction.
17/6/97	Calvin Stewart of Camberwell	MCTA	7.1	Unlicensed motor car trading.	1		500.00	No conviction. 5 months good behaviour bond.
17/6/97	Russell Johns of Ringwood	HCGA	5(1) 18(2)	Director of Russell Johns Pty Ltd who entered into contract when no guarantee in force and failing to have commencement and completion date on contract.	1 2		1,120.00	No conviction. 12 months good behaviour bond.
17/6/97	Russell Johns Pty Ltd	HCGA	5(1) 18(2)	Entered contract when no guarantee in force and failing to have commencement and completion date on contract.	1 2	1,500.00		Conviction.
17/6/97	Garry Rogers Motors (Aust) Pty Ltd	MCTA	56(2)	Contracting out of its warranty obligations in relation to one vehicle.	1	200.00	743.30	No conviction.
25/6/97	Suleyman Ozluses of Coolaroo	MCTA	7(1)	Unlicensed motor car trading.	1	1,500.00	1,140.00	Conviction.
24/6/97	Joseph Sammut of Dandenong	MCTA BNA	7(1) 5	Unlicensed motor car trading. Use of unregistered business name.	1 1	800.00	773.00	Conviction.

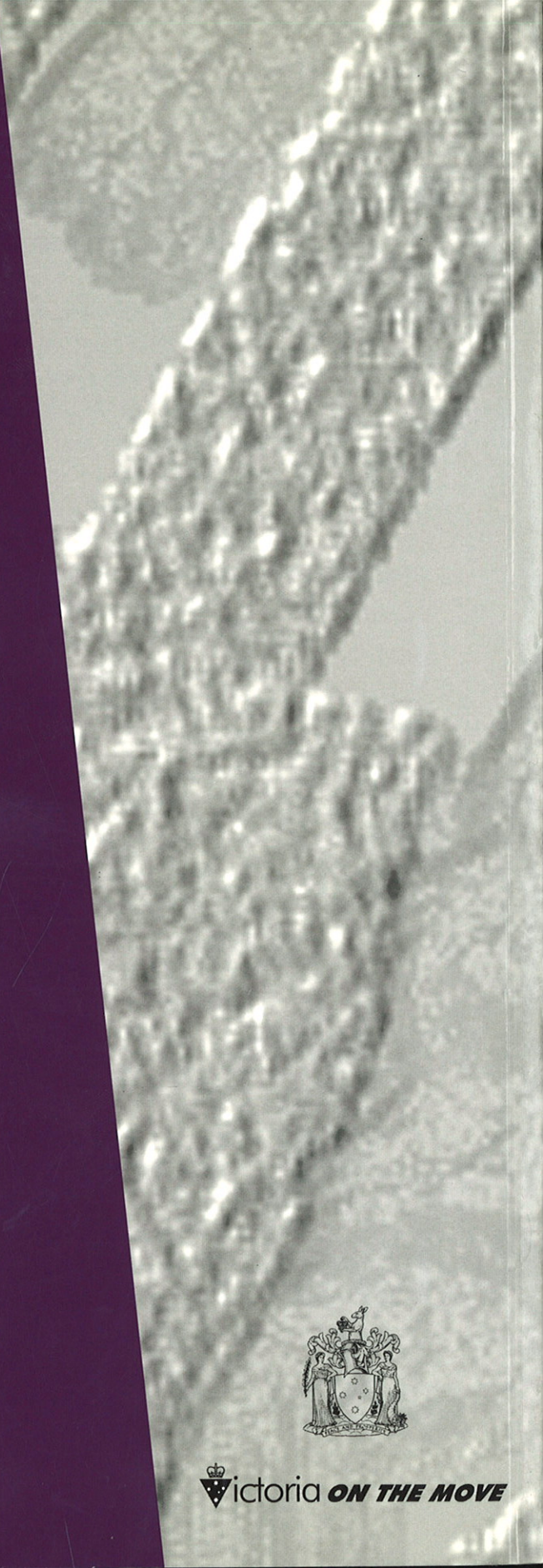
ABBREVIATIONS

BNA	Business Names Act 1962
FAA	Fundraising Appeals Act 1984
HCGA	House Contracts Guarantee Act 1987
RHA	Rooming Houses Act 1990
TAA	Travel Agents Act 1986
CA	Credit Act 1984
CAA	Consumer Affairs Act 1972
FTA	Fair Trading Act 1985
MCTA	Motor Car Traders Act 1986
RTA	Residential Tenancies Act 1980
F(PM)A	Funerals (Prepaid Money) Act 1993

APPENDIX 7

1996 FAIR TRADING AWARD WINNERS

Fair Trader of the Year	AAMI (Australian Associated Motor Insurers Ltd)
Retail Industry (less than 30 employees)	Yabbies Fish & Chippery Pty Ltd
Retail Industry (more than 30 employees)	Clive Peeters Pty Ltd
Service Industry (less than 30 employees)	Wendy Ford Hair and Beauty
Real Estate Industry (joint winners)	Garry Nash First National Real Estate Finning First National Real Estate
Building Industry	Australian Building Ceramics Pty Ltd
Motor Car Industry	Bib Stillwell BMW, South Yarra
Community Award	Springvale Community Aid & Advice Bureau Inc
Director's Award	Black Cabs Combined Ltd
Merit Awards:	Bill Price, Horse Dentist Classic Cameras and Craft The Graffiti Eaters Stewart's Security Specialists Pty Ltd Boronia Mall Chick-Inn Betsy Pyram Shoes Coles New World Supermarkets Association for the Blind Woodards Real Estate
Country Victoria Fair Trader of the Year	Champagne Sun-Set Tours
Rural - Service Industry (10 - 30 employees)	The AnsoniA Boutique Hotel
Rural - Service Industry (less than 10 employees)	Marong Caravan Park
Rural - Community Award	Radio KLFM
Rural - Retail Industry (less than 10 employees)	Shirall Aussie Wool Quilts
Merit Awards:	The Old Post Office, St Arnaud Deja Vu Bed and Breakfast, Lakes Entrance L'Ocean Fish and Chips, Lakes Entrance IGA Festival Tablerite, Bendigo Coles Supermarkets Victoria South Western Community Care, Warrnambool



 **Victoria** *ON THE MOVE*