

Consumer & Business Affairs Victoria



ANNUAL REPORT 2001-2002



Report to the Minister for Consumer Affairs
For the Year Ended 30 June 2002



Department of Justice

Director
Consumer & Business Affairs Victoria

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The Hon. John Lenders MLC
Minister for Consumer Affairs
555 Collins Street
Melbourne 3000

Dear Minister

Annual Report 2001–2002

I present to you my report on the activities and operations of Consumer and Business Affairs Victoria for the year ended 30 June 2002.

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

Yours sincerely

DR DAVID COUSINS
DIRECTOR

Change of Name

This report covers the activities and operation of Consumer and Business Affairs Victoria from 1 July 2001 to 30 June 2002. As from 18 July 2002, Consumer and Business Affairs Victoria was changed to Consumer Affairs Victoria. The name aims to focus attention on the core functions of the office. In this annual report the office will be referred to as Consumer Affairs Victoria or CAV.

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Director's Foreword

This Report covers the year 2001–2002. For the great majority of this period Ms Bernadette Steele was the Director of Consumer and Business Affairs. My appointment commenced on 24 June 2002 and the title of the position was changed shortly after that to Director of Consumer Affairs. This report has been prepared under my supervision. I would like to acknowledge on behalf of the staff the contribution made by Ms Steele during her term as Director.

I would also like to acknowledge the commitment of the two Ministers who have had responsibility for Consumer Affairs over the year. The Hon. Marsha Thomson MP was the Minister for Consumer Affairs from 20 October 1999 to 11 February 2002. The Hon. Christine Campbell MP took over this responsibility on 12 February 2002.

Victoria has had a designated consumer protection agency since 1965 when the Consumer Protection Council was established, the first body of its kind in Australia. A Ministry of Consumer Affairs was established in 1975. This became the Office of Fair Trading and Business Affairs in 1992, a separate business unit in the Department of Justice. The Office became known as Consumer and Business Affairs Victoria in 2000 and Consumer Affairs Victoria (CAV) in 2002. CAV has continued to operate as a business unit of the Department of Justice, and I would like also to express appreciation for the support given to CAV by the Secretary of the Department, Mr Peter Harmsworth.

The essential role of Consumer Affairs Victoria is to protect and promote the interests of consumers. It does this by advocating legislative and administrative measures to promote basic consumer rights recognised by the international consumer movement and by the United Nations. It also does this by facilitating the efficient operation of markets by dealing with market failures, especially those associated with information asymmetry and excessively easy

market entry and exit. Finally, by focussing its attention primarily on the problems faced by vulnerable and disadvantaged consumers, CAV can maximise its impact on community welfare.

Many businesses also benefit from efforts to protect and promote the interests of consumers. In particular, businesses adhering to legal and ethical standards benefit from actions taken to curb the conduct of businesses trading illegally or unethically. Industry as a whole benefits from the enhanced confidence consumers have in the operation of markets as a result of consumer protection.

I am pleased to note that Consumer Affairs Victoria has moved to reflect more clearly its core consumer protection role and, furthermore, that it has adopted a much clearer focus on assisting vulnerable consumers. In particular, attention has been given to ensuring better communication with vulnerable consumers and providing them with easier access to CAV services.

CAV is moving to enhance its liaison and contacts with Culturally and Linguistically Diverse groups and Indigenous communities. It has focussed attention on issues of discrimination in the market place, for example women paying more for motor vehicles from second-hand dealers and for service from hairdressers.

As a state-based consumer protection agency, CAV must work closely with other State, Territory and Commonwealth agencies operating in the same field. As far as possible, consumer laws and their administration across Australia need to be harmonised and duplication avoided. Otherwise costs for business will be raised, to the ultimate detriment of consumers. In many cases it will be in Victoria's interest to take the lead in promoting national approaches to consumer problems. It has done this in a number of areas over the past year, including in relation to e-commerce and petrol temperature correction.

CAV also needs to work in partnership with business and community organisations willing to assist in meeting its consumer protection objectives. This is particularly important in relation to education, information and awareness programs. During the year an independent review of CAV's contracted agency program was conducted. This confirmed the importance of the program, and the need to continue to develop productive partnership links with local community organisations.

Effective consumer protection requires a willingness and ability to take enforcement action to ensure compliance with consumer laws. CAV is moving to enhance the effectiveness of its enforcement activities. An important step in this direction during the past year has been the review of the *Fair Trading Act 1999*. This Act should be the key legislative focus of CAV. It is desirable that it be rejuvenated and utilised more fully. If this general law is not effective, there will be continuing pressures for new legislation to deal with specific problems and specific problem industries.

CAV receives many enquiries and complaints. Not all complaints are justified, but most reflect a breakdown of complaint handling by businesses. CAV generally will only become involved after the consumer has contacted the business concerned to try to resolve the problem. CAV conciliates complaints on behalf of consumers. It is also necessary that it deals with systemic problems raised by complaints and actively seeks to reduce the number of complaints coming to it by encouraging better business practices. It is disappointing that some well known franchise businesses named in this report have failed to implement effective complaint handling processes in line with the Australian standard.

CAV has a closer regulatory role in a number of industries that are subject to licensing or registration requirements and also to specific conduct requirements. General laws and self- or co-regulatory schemes have not been deemed

adequate to deal with the problems encountered in these industries. A significant number of unsuitable applicants have been prevented from entering these industries over the past year by the licensing and registration requirements. Conduct requirements have been actively enforced through compliance audits and other forms of active market monitoring. Benefits to the community from this regulation are substantial.

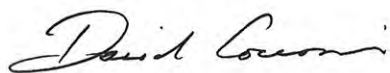
CAV acknowledges the important contribution of the independent Business Licensing Authority (BLA) and the appeal body, the Victorian Civil and Administrative Tribunal (VCAT), in these regulated industries.

During the year, payday lenders were made subject to registration, a separate registration requirement was introduced for pawnbrokers, and changes to the *Fundraising Appeals Act 1998* shifted the focus from appeals being conducted to the people running the appeals.

The Register of Fundraisers is accessible via the internet. It is one of a number of facilities coming online as CAV makes a major investment in web-based business transactions that will save time for businesses and consumers. At present, people can search the Victorian Business Names Register and renew their business names online. Next year, it is intended that several more transactions relating to licensed industries will be brought online.

CAV operates in a constantly changing environment. Markets have been influenced in recent years by major trends including globalisation, liberalisation and new technology. Community attitudes in relation to government, business, and individual responsibilities have also changed over time. CAV must position itself appropriately in this changing environment, but it should also be recognised that many of its traditional activities remain just as important today as they were a quarter of a century and more ago.

It is still important, for example, that children are protected from unsafe products. It is also important that consumers can have confidence that the claims made about products are accurate and not misleading. And it is also desirable for consumers to have low-cost dispute resolution mechanisms available to assist them in dealing with the minority of businesses not interested in maintaining their integrity.



DR DAVID COUSINS
DIRECTOR



Dr David Cousins
Director



Bernadette Steele
Director
until 8 March 2002



Denis Fitzgerald
Acting Director
11 March–24 June 2002
Assistant Director
Policy and Information



Sue Maclellan
Assistant Director
Consumer Services &
Compliance



Frank Lovass
Assistant Director
Business Services



About Consumer Affairs Victoria

The role of Consumer Affairs Victoria is to protect and promote the interests of consumers.

What does Consumer Affairs Victoria do?

Consumer Affairs Victoria (CAV) is committed to protecting consumers and promoting responsible trading.

It provides consumer protection and business licensing and registration services to consumers, business and government.

CAV aims to ensure that:

- consumers and traders know their rights and responsibilities
- dispute resolution is accessible
- traders comply with the law.

Through its central office and contracted community agencies, CAV provides advice to consumers on a wide range of issues, from renting or building a home to buying a car and door-to-door sales.

CAV staff can be contacted by telephone, in person over the counter, or by letter, fax, email or via the CAV website. Information on many subjects is provided in brochures, some of which are produced in multiple languages. A telephone interpreter service is also available to assist in the resolution of complaints.

Complaints

Consumer Affairs Victoria liaises with consumers and traders to resolve individual complaints. Last year the office handled more than 11,000 written complaints. Complaints may also be made via the website at www.consumer.vic.gov.au. When consumers and businesses are unable to resolve serious problems, parties can be referred to the Victorian Civil and Administrative Tribunal (VCAT).

Traders may be prosecuted where there is evidence of a breach of consumer protection laws.

Through a number of other avenues, CAV works to ensure a safe and fair marketplace. The office warns people about unsafe products and sets product safety standards, registers business names and fundraisers, and licenses traders. It constantly reviews legislation and industry codes to ensure they offer the best protection for consumers.

Business Names Registration

A business operating in Victoria is required to register its business name with Consumer Affairs Victoria, except where the business is carried on under a person's own name only or under a company name registered by the Australian Securities and Investment Commission (ASIC). The CAV website provides access to the Business Names register to renew the registration of a business name, obtain some details about registered business names, or conduct a search to find out which names are already registered. The same facilities are also available over the counter.

Business Licensing Authority (BLA)

The BLA is an independent statutory body which administers licensing and registration for credit providers, estate agents, finance brokers, introduction agents, motor car traders, prostitution service providers, travel agents, second-hand dealers and pawnbrokers.

Application forms for licences and registrations can be downloaded from the BLA website at www.bla.vic.gov.au or obtained from Consumer Affairs Victoria at the address below.

Contact Us

Consumer Affairs Victoria
452 Flinders Street, Melbourne 3000
☎ 1300 558 181
email: consumer@justice.vic.gov.au
website: www.consumer.vic.gov.au

See Appendices for more information on making a complaint.

How is Consumer Affairs Victoria structured?

In 2001–2002, CAV employed 262 staff across three divisions. This included 227 full-time, 33 part-time and two casual employees. See Organisation Chart on opposite page.

What are Consumer Affairs Victoria's objectives?

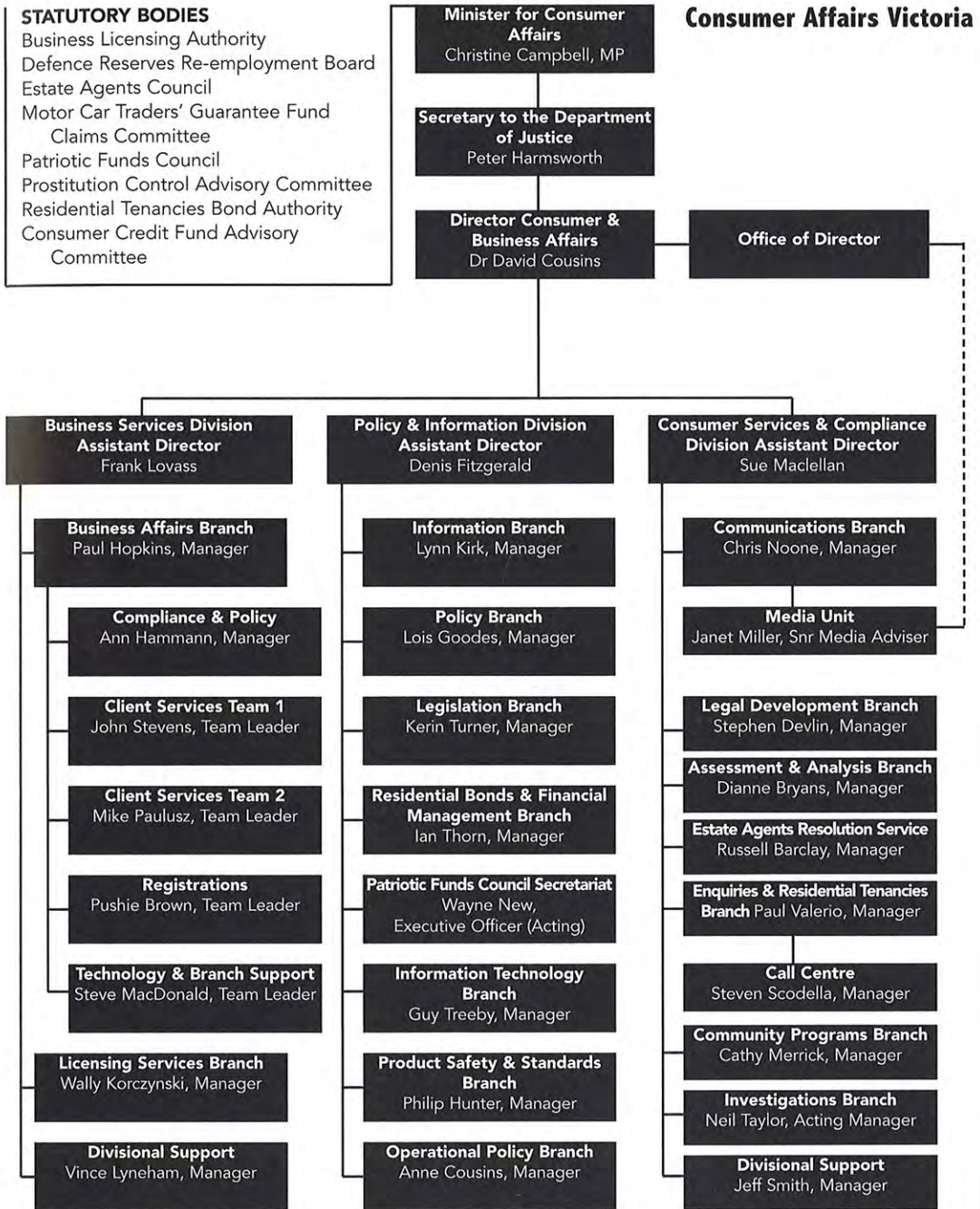
Consumer Affairs Victoria's mission, on behalf of the Victorian Government, is to protect consumers. The focus is on improving access to consumer protection services, particularly for vulnerable groups.

CAV's aims in 2001–2002 were to:

- raise consumers' awareness
- conciliate disputes and foster appropriate industry-based dispute resolution
- promote compliance and enforce the law
- advise on policy and maintain the consumer protection framework
- improve trader behaviour
- extend and maintain organisational accountability, capability and efficiency.



Figure 1. Organisation Chart



What were the highlights for 2001–2002?

Table 1. CAV's major achievements.

Aims	Key Initiatives 2001–2002
Raise consumers' awareness	<ul style="list-style-type: none"> • Developed and implemented a Communications Strategy to lift the profile of Consumer Affairs Victoria and the services it provides. • Developed and implemented online database of fundraisers. • Maintained currency and accuracy of consumer information across nine major websites and internet locations. • Launched product safety and media campaign highlighting safe use of basketball hoops.
Conciliate disputes and foster appropriate industry-based dispute resolution	<ul style="list-style-type: none"> • Established Estate Agents Resolution Service to centralise estate agents' dispute resolution. • Recovered \$1.37 million for consumers through the resolution of disputes with traders by CAV.
Promote compliance and enforce the law	<ul style="list-style-type: none"> • Carried out 84 successful prosecutions. • Arranged 106 undertakings by traders to comply with the law. • Obtained 10 injunctions.
Advise on policy & improve consumer protection framework	<ul style="list-style-type: none"> • Established Consumer Utilities Advocacy Centre to represent consumer viewpoints. • Introduced new pawnbrokers regulatory framework. • Introduced new fundraising registration system. • Reviewed the <i>Fair Trading Act 1999</i>. • Extended unconscionable conduct provisions of the <i>Fair Trading Act 1999</i>. • Reviewed the <i>Estate Agents Act 1980</i> and <i>Residential Tenancies Act 1997</i>. • Brought payday lending within the Consumer Credit Code.
Improve traders' behaviour	<ul style="list-style-type: none"> • Reviewed real estate auction behaviour. • Carried out inspection programs of estate agents, motor car traders and travel agents. • Implemented online access to Business Names register. • Carried out a blitz on unlicensed motor car traders.
Extend and maintain organisational accountability, capability & efficiency	<ul style="list-style-type: none"> • Introduced the first suite of business names transactions online. • Introduced Residential Tenancy Bond Authority claims by fax. • Established CAV intranet, bulletin boards and team rooms. • Conducted surveys of customers' satisfaction with CAV services.

Snapshot of Consumer Affairs Victoria advice and services

Table 2. Customer Contact Statistics

Customer Contact	Number
Consumers	
1300 Consumer helpline	338,389
Other general enquiries:	
Counter enquiries	7,003
Written enquiries and advice provided	2,428
Email enquiries and advice provided	1,300
Advice provided to assist in dispute resolution	20,642
Written and online complaints received	11,243
Residential Tenancies inspections advice	5,710
Product safety and standards enquiries	1,174
People advised by contracted agencies	61,476
Publications and forms distributed	1,800,000
Media items	1,490
Seminars and talks	470
Enforcement	
Complaints investigated	1,063
Enforceable undertakings	106
Injunctions	10
Successful prosecutions	84
Infringement notices against motor car traders	378
Trust Account inspections of estate agents	1033
Inspections of newly licensed estate agents	95
Business Services	
Telephone enquiries to Business Services	156,695
Counter enquiries	62,638
Business Names registered	57,782
Business Names renewed or details changed	77,011
Business Names searched	109,323
Telephone calls to Licensing Branch	70,000
Licences and registrations issued	1,640
Licences and registrations annual statements and renewals processed	16,480
Associations incorporated	1,404
Associations registrations updated	39,441
Incorporated Associations Annual Returns processed (includes cooperatives)	25,427
Cooperatives registered	29
Cooperatives update documents processed	748
Fundraising notifications processed	790
Residential Tenancies Bond Authority	
RTBA telephone enquiries	103,701
Number of RT bonds lodged	151,922
Number of RT Bonds reimbursed	136,584
Number of RT Bonds transferred	21,920
Total advice and services provided	3,252,318

How does Consumer Affairs Victoria cooperate with other Governments?

The Minister for Consumer Affairs attended the meeting of the Ministerial Council of Consumer Affairs (MCCA) in Canberra on 13 July 2001. The Council comprises all State, Territory, Commonwealth and New Zealand Ministers responsible for consumer affairs and trade measurement matters. The Council meets at least once during the year and also handles matters out of session.

The Council is advised and assisted by the Standing Committee of Officials of Consumer Affairs agencies (SCOCA). The Committee meets several times a year. It is supported by three advisory committees covering fair trading operations, consumer products and trade measurement, as well as ad hoc jurisdictional working parties established on specific issues. A wide range of issues have been covered by the Council and committees during the year including:

- fuel temperature correction
- National Consumer Rights Day
- credit card over-commitment
- fringe credit providers
- banking issues
- comparative interest rates
- property marketers
- safety and standards issues
- Ansett/Traveland collapse – Travel Compensation Fund
- consumer issues and electronic commerce
- domestic builders' warranty insurance
- mobile phone contracts
- car hire contracts
- scam mail
- infomercials.

Raising Consumers' Awareness of Their Rights

Consumer Affairs Victoria provides information and advice on consumer and residential tenancy issues.

Advising Consumers and Tenants

Consumer Affairs Victoria received almost 350,000 requests for information or advice on consumer and residential tenancy issues in 2001–2002. In addition, about 104,000 queries were answered about residential tenancy bonds and further information was distributed via the CAV website. CAV also distributed more than 1.8 million publications and forms, and alerted people to consumer issues through the media, communications campaigns, and its work with contracted community agencies.

The customer contact centre deals with consumer and residential tenancy issues, and provides information and advice to consumers, traders, tenants, landlords and estate agents.

In 2001–2002, the centre took 338,389 telephone calls. Of the total calls, almost 210,000 were addressed by staff and about 130,000 callers were satisfied by the self-service Interactive Voice Response (IVR) system. The IVR provides callers with the option of selecting the topic that is most relevant to their enquiry or, alternatively, requesting that a particular form or publication be sent to them. In 2001–2002, nearly 6,000 people chose the latter.

Call abandonment fell by 8% in 2001–2002. Significant inroads were made during May and June, when call abandonment was reduced to 4% and 6% respectively, and more callers (89% in May and 80% in June) were answered within the service target of four minutes.

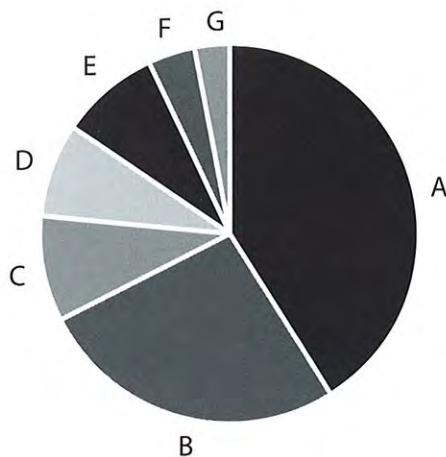
The call-back service continues to be popular. It allows callers to leave their contact details and have their calls returned via a virtual queue without having to wait for an enquiry officer.

While the majority of contact to CAV is made by phone, 7,000 people visited the counter for advice – an increase of 32.2%. CAV also handled more than 2,400 written enquiries and almost 1,300 website enquiries.

The results of a customer satisfaction survey in March 2002 revealed that the majority of callers (95.5%) were satisfied with the performance of the enquiry officers and the standard of service. Almost all respondents (98.5%) said they would use Consumer Affairs Victoria's telephone enquiry service in the future.

Figure 2. Subject of consumer and tenancy enquiries 2001–2002

A. Real Estate and Tenancy	41%
B. Household goods	26.5%
C. Not within jurisdiction	9%
D. Building & Construction	8%
E. Motor vehicle & other transport equipment	8.5%
F. Commercial equipment/other	4%
G. Insurance, finance & investment	3%



Publications

Consumer Affairs Victoria distributed more than 788,583 pamphlets, brochures and magazines throughout Victoria via contracted community agencies, selected outlets such as real estate agents, hardware stores and automobile associations, and the CAV distribution centre. Publications are also available online at www.consumer.vic.gov.au.

The following publications were available in 2001–2002.

- A Consumer Affair newsletter (summer and autumn)
- Better Car Deals (in English, Arabic, Chinese and Vietnamese)
- Going Mobile (a mobile phone guide)
- Homebuyers/Builders & Renovators Magazine
- Victorian Renters Magazine
- Older & Wiser
- Customer Service Guidelines
- Keeping Baby Safe
- Stuff Magazine (information for school leavers)
- Stay in Tune With Your Customers (a customer service guide for motor car traders)
- Top Ten Tips – Contact and Non Contact Sales
- Top Ten Tips – Domestic Building Contracts
- Top Ten Tips – Owner Builders
- Settling in: Renting a Home in Victoria (a teaching resource for adult English as a Second Language students)

Consumer factsheets (in English, Arabic, Bosnian, Chinese, Croatian, Farsi, Russian, Serbian, Somali, Turkish, Vietnamese):

- Your basic consumer rights
- Borrowing money
- Buying a car
- Contracts
- Home building and renovating
- Lay-bys
- Insurance
- Renting
- Dispute resolution
- Shopping tips
- Other places for advice

Renting Statement of Rights and Duties booklet (in English, Arabic, Chinese, Greek, Italian, Russian, Spanish, Turkish, Vietnamese)
 Statement of Rights and Duties booklet for Caravan Parks
 Statement of Rights and Duties booklet for Rooming Houses
 26 factsheets (single issue reference guides)

Nine tenancy factsheets:

- Ending the tenancy
- Eviction
- How to resolve disputes
- New possession procedures – rental arrears and fixed-term tenancies
- Privacy
- Rent – know your rights
- Repairs
- The rental bond
- When rent is overdue

Crisis calls – the Ansett collapse

Ansett's collapse in September 2001 presented the greatest challenge yet for Consumer Affairs Victoria's customer contact centre.

Telephone enquiries rocketed to 3,700 calls in one day – more than three times the daily average.

Sound planning and a quick response ensured that CAV was able to handle the big increase in the volume of enquiries.

The telephone voice menu was reprogrammed to offer callers the option of being diverted to the Travel Compensation Fund, Ansett administrators, banks or travel agents. A factsheet was prepared, and staff and managers from other branches of Consumer Affairs Victoria were swung in to assist on the phones.

Calls were received from all over Australia from people wanting to know about tickets, refunds, frequent flyer points and even how they could get on another flight.

Several times a year, a consumer event sparks a rush of calls to Consumer Affairs Victoria. In some circumstances, CAV is able to predict the event – for instance when a bank notifies CAV that it is about to inform customers of a major change to its fees. In other circumstances, such as the collapse of Ansett, the event is less predictable.

In 2000–2001 the collapse of Avonwood Homes and HIH Insurance sparked a rush of calls, but the increase was measured in hundreds rather than thousands. The Ansett collapse was by far the greatest challenge yet faced by the customer contact centre. CAV was aware that Ansett was in difficulty and the announcement that the company had been placed in the hands of administrators came as no surprise. However, it had not predicted the magnitude of the calls and the volume of enquiries from outside Victoria.

Many callers were very distressed, with accounts of being stranded away from home, having holiday plans cancelled, or having frequent flyer points lost.

Feedback has been very positive, with Victorian and interstate callers thanking CAV staff for delivering helpful and user-friendly information in an effective manner.

A New Look at Communications

Consumer Affairs Victoria developed a comprehensive communications strategy for the next three years, with the goal of creating an empowered Victorian public: informed consumers who know their rights and responsibilities and how to exercise them.

Key aspects of the strategy, launched by the Minister for Consumer Affairs on 21 May 2002, are to:

- inform consumers, particularly the vulnerable, of their rights and responsibilities and how to exercise them
- raise awareness of Consumer Affairs Victoria

- inform businesses of their responsibilities under consumer law
- educate consumers and business on consumer issues.

In developing issues-based campaigns aimed at changing behaviour, CAV will concentrate on the vulnerable as a priority group; use innovative communication tools; and draw on knowledge from across CAV, stakeholders, and contracted community agencies.

To assist people to identify the Victorian Government consumer protection agency, Consumer and Business Affairs Victoria has been renamed Consumer Affairs Victoria.

Communicating in the Community

A major focus for CAV during 2001–2002 was to enhance the dissemination of information on consumer and trader rights and responsibilities by creating a visible presence in the community. Shopping centre visits by the Minister for Consumer Affairs, surveys and community events also provided the opportunity for CAV staff to hear first-hand the issues that were affecting consumers.

Ministerial Visits

Between 7 March and 30 June 2002, the Minister for Consumer Affairs visited ten metropolitan and four regional shopping centres, to become familiar with consumer issues and hear the concerns of consumers and retailers. Wide media coverage has promoted the services of CAV.

Bookmarks displaying the CAV Helpline were distributed to shoppers and retailers. Discussions with Centre Managers focussed on the need to raise retailers' awareness of their rights and responsibilities. For instance, it was noted that incorrect refund policy signs were displayed in many stores. These retailers were given a copy of the Consumer Affairs Victoria *Refund Policy Sign* and an explanation of the refund legislation.



The Hon. Christine Campbell MP, Minister for Consumer Affairs, spoke with consumers and retailers at 14 metropolitan and regional shopping centres.

National Consumer Day and World Consumer Rights Day

CAV participated in National Consumer Rights Day on 25 October by distributing 5,000 bookmarks to train commuters, highlighting the *Scamwatch* website and the revised *Little Black Book of Scams*. On World Consumer Rights Day on 15 March, CAV organised an information stand in the Bourke Street Mall and an interview on ABC radio.

Christmas Credit Campaign

A Christmas card featuring 'Rudolph the in-the-red reindeer', with a message about credit card debt, was distributed in eight shopping centres throughout the state in November and December.

More than 100,000 cards were distributed with the assistance of CAV contracted community agencies, to increase awareness that credit is debt, and that overspending on credit cards at Christmas could lead to a 'Summer of Debt'.



Pulse Surveys

CAV began conducting *Pulse Surveys* in June 2002 to raise awareness of consumer issues and CAV. The first topic was residential tenancies issues, which was publicised at the end of the *Renters Have Rights Too!* campaign. The survey was conducted in Shepparton and in the Bourke Street Mall, with 200 responses providing a snapshot of Victorian consumers' rental experience. The results appeared in metropolitan, suburban and regional newspapers, TV and radio. Further surveys are planned.

Campaigns

Youth

In September 2001, *Stuff* was direct-mailed to the homes of 54,350 Victorian year 12 students. The 2001 edition of *Stuff* was designed to attract the target audience with vivid imagery, and to improve access to the information through text pull-outs and tips. As well as consumer issues, the magazine addressed subjects relevant to young people.

Homebuyers/Builders and Renovators

There is an ongoing need among consumers for a reliable and comprehensive Victorian-based guide to buying, building, renovating and maintaining a home. Every year CAV receives around 16,000 enquiries and about 1,000 complaints regarding real estate and building related matters.

CAV continues to produce the *Victorian Homebuyers Magazine* which provides invaluable information to consumers and traders that can assist them in making the right choices and avoiding costly mistakes.

The magazine is available from real estate agents, hardware stores, and metropolitan and country homeshow and exhibitions. A seven-week TV, print and radio campaign coincided with the *Melbourne Home and Garden Expo*. A CAV display stand at the Expo won first prize for Best General Exhibit.

Renters

The rental campaign began in late June 2002, highlighting the *Renters Magazine* and Consumer Affairs Victoria. It was developed in response to the large number of calls CAV receives regarding rental issues, particularly repairs. The campaign was targeted at 18–29 year-olds.

Radio and press advertisements in regional areas and Melbourne focussed on rental repair situations and highlighted the *Renters Magazine* as the source for information on renter and landlord rights and responsibilities. About 25,066 magazines were

distributed as a result of the campaign which also generated considerable media coverage.

Culturally and Linguistically Diverse Audiences

Mind Your Money

Consumer Affairs Victoria's contracted agencies frequently report that newly arrived migrants and refugees get caught out by consumer scams or rip-offs. The most vulnerable are from non-English speaking backgrounds. In response, CAV, in conjunction with Adult Multicultural Education Services (AMES), is producing *Mind Your Money*, an innovative educational resource covering issues from buying a car and signing contracts to dealing with tradespeople. It will include worksheets, audio and online materials.

New Country – New Home: Renting, Rights and Responsibilities

Community consultations reveal that for many of the 16,000 migrants arriving in Victoria each year, finding a home to rent is their major challenge. To tackle this issue, Consumer Affairs Victoria joined forces with the Equal Opportunity Commission Victoria to lead the *New Country – New Home* project.

The project, to be launched in October 2002, will alert landlords and estate agents, through booklets, seminars and a media campaign, to problems facing newly arrived migrants trying to access the private rental market. The second component of the campaign is practical information for migrants about preparing applications forms, signing tenancy agreements and equal opportunity law in Victoria.

Multilingual Publications

CAV has updated a range of translated factsheets covering everything from signing contracts to buying a car and renting a house. They are available in hard copy or via the website in Arabic, Bosnian, Chinese, Croatian, Farsi, Russian, Serbian, Somali, Turkish and Vietnamese.

Business

Business Awards

Consumer Affairs Victoria sponsored three customer service awards in 2002:

- ARAV/Herald Sun Victorian Retailer of the Year
- Real Estate Institute of Victoria Awards
- Leader Newspapers Small Business Awards.

The sponsorships were designed to recognise businesses and their staff who are committed to customer service excellence. The cooperative working relationship CAV has with these organisations reinforces a joint commitment by the State Government to promoting consumer protection and responsible trading.

The CAV Website

The Consumer Affairs Victoria website at www.consumer.vic.gov.au is an important resource for improving Victorians' knowledge of their rights and responsibilities as consumers and traders. The site covers a broad range of consumer issues divided into four sections:

- Credit and Debt
- Homes and Renting
- Cars
- Shopping and Services.

The website provides accurate and up-to-date information on the latest warnings, and advice on consumer issues from scams to legislative changes.

The site also includes business licensing and registration information relating to business names, fundraising, incorporated associations, cooperatives and limited partnerships.

CAV Intranet, Bulletin Board and Team Rooms

In 2001–2002, CAV improved its internal communication by developing and integrating a range of online mechanisms to assist in conveying integral information to CAV staff.

The Intranet contains information relating to CAV's business strategies, procedures, values and activities. The Bulletin Board is designed to reduce the proliferation of emails on the CAV system by providing a centralised repository for information. Team Rooms have been developed for individual projects to allow storage of files and communication between team members.

Media Relations

The media unit assists in gaining media coverage for CAV services, compliance activities and information sources. It issues media releases, responds to media enquiries, develops communication strategies, organises media launches and events, monitors media responses, and briefs the Minister and Director prior to media interviews.

Monthly Consumer Column

In keeping with CAV policy to improve access for disadvantaged consumers, the media unit has produced a monthly consumer column for regional and rural newspapers.

The column contains details of new services provided by CAV, and provides warnings to Victorian consumers about potential traps for the unwary. Although still in its infancy, the column has a loyal following among some regional papers. Twenty-two papers published one or more of the columns.

Media Coverage

Almost 1,500 items featured in print, radio and television in 2001–2002, compared with approximately 700 items the previous year. Of those, 482 (32%) were directed at metropolitan audiences.

Table 3. Subjects of the Monthly Consumer Column

MONTH	TOPIC
December	Christmas Credit Campaign
January	Summer hazards – itinerant traders, sales, credit, refunds
March	Fundraising changes, Incorporated Associations
April	Renters Have Rights campaign
May	EARS and property schemes
June	Child modelling and casting agencies

Table 4. Distribution of Metropolitan Print Articles

The Herald Sun	67
The Age	56
Sunday Herald Sun	14
Australian Financial Review	10
Sunday Age	7
MX	6
The Australian	3
Total	163

Table 5. Distribution of Metropolitan Radio Items

ABC	
3RN, 774	86
3AW	
Magic 693	75
FM	59
3AK, 3MP	56
Other AM	2
Total	278

Table 6. Distribution of Metropolitan TV Items

GTV9	16
HSV7	10
ATV10	10
ABC2	5
Total	41

Community Agencies

A review of the \$3.4 million Community Program, has substantiated the benefit of a community-based program that complements the services provided by Consumer Affairs Victoria. The review of the Program which contracts more than 20 community

organisations to provide services on CAV's behalf, found that the agencies are an effective means of providing information and advice to consumers and tenants.

Working at the ground level in their local communities, the agencies are able to interact with people in a way that Government departments such as CAV cannot always achieve.

In accordance with their contractual agreements, the community organisations work with CAV to provide consumers, traders, tenants and landlords with information, advice and dispute resolution services. This may involve telephoning or writing to a trader or landlord, or assisting a consumer or tenant to prepare or conduct a case at the Victorian Civil and Administrative Tribunal (VCAT).

Outsourced services are targeted at disadvantaged members of the community and they operate via drop-in and telephone services in metropolitan and regional Victoria, with outreach services to outlying towns. Agencies undertake community education to inform tenants, landlords, consumers and traders about their rights and responsibilities. They are encouraged to empower people to resolve disputes. Agencies also identify and assist in addressing issues which work against the operation of a fair and equitable marketplace.

Tenancy specialist support services are delivered to:

- aged tenants, by the Housing for the Aged Action Group
- rooming house tenants, by the Tenants Union of Victoria
- tenants and landlords in the inner-urban and inner-east regions by the Tenants Union and the Family Access Network.

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

The review of the Consumer Affairs Community Program by an external consultant found that CAV and its contracted agencies should further build on their positive relationship to ensure consumers are confident and protected.

In response to the review, the contracted agencies are working towards adopting a common service title and logo to enhance recognition that these agencies provide consumer and tenancy services. CAV will create a calendar of events to encourage agencies' involvement in the development and delivery of community education and consumer campaigns. CAV will also work with the agencies to develop service standards and guidelines.

During 2001–2002, 61,476 Victorians used the services of the contracted community agencies; 13,035 requested assistance in relation to consumer issues and 48,441 in regard to tenancy matters.

The contracted agencies participated in a significant number of educational activities, including 461 talks, 305 displays, and 591 newspaper, radio and television items.

Training for workers employed by contracted agencies was conducted by CAV through regional forums, which also provide an opportunity for agency workers and CAV staff to interact.

Topics included:

- dealing with estate agent complaints
- Estate Agents' Guarantee Fund
- *Information Privacy Act 2000*
- Motor Car Traders' Guarantee Fund.

Quarterly Community Sector Forums

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

At recent forums, community workers have

provided input into the reviews of the *Residential Tenancies Act 1997* and the *Fair Trading Act 1999*. They have also discussed issues including insurance in the building industry, rental cards, implications of the *Information Privacy Act 2000* on tenancy databases, full retail contestability of utilities, and mobile phone repairs.

Improving Access for Disadvantaged Consumers

As a result of a Consumer Awareness Survey conducted in 2001, a project team was formed in 2001–2002 to develop proposals to improve access to CAV services by disadvantaged consumers.

The telephone survey of 1,200 Victorian consumers aimed to enhance understanding of CAV's existing and target audiences. It covered a wide range of matters relating to consumer awareness and needs.

The survey found that there was lower awareness of CAV amongst the more vulnerable or disadvantaged members of the community. For example, there was a lower level of awareness among consumers in blue collar occupations, consumers with household income under \$30,000, and consumers not tertiary- or trade-educated. Given this, the survey report concluded that CAV services at that time were more likely to be accessed by higher socio-economic status groups.

Responding to the survey findings, CAV developed a definition of disadvantaged consumers and formed a project team to identify barriers faced and to develop proposals encouraging greater access to CAV by disadvantaged consumers.

CAV's definition of disadvantaged consumers is based on the Australian Bureau of Statistics (ABS) Index of Socio-economic Disadvantage, and is augmented by a set of factors particularly relevant to consumer disadvantage.

Examples of the factors used in the definition are:

- persons aged 15 and over who did not go to school
- families with income less than \$15,600
- persons lacking fluency in English
- Aboriginals and Torres Strait Islanders
- being a resident of a caravan park or rooming house
- lacking access to infrastructure such as community services, transport and shops
- being of advanced age or a minor
- having high levels of personal debt without corresponding assets or income
- having a personal disability such as an intellectual disability, a hearing or a vision impairment, or a psychiatric disability.

In 2001–2002, the project team focussed on four key consumer services, identifying a range of opportunities to improve access to CAV by disadvantaged consumers, by improving service delivery methods, protocols and information about services. Work has begun on implementing the 40 recommendations.

In the customer contact centre, procedures have been changed to allow complaints to be lodged over the phone, with protocols developed for handling disadvantaged consumers and those with urgent or serious complaints. An extension of telephone enquiry hours is being trialed, and the customer contact centre is using National Relay Services to provide assistance for hearing- and speech-impaired Victorians.

Changes are also planned for the Business Names register. From late 2002, fees will be waived for vulnerable or disadvantaged consumers requiring searches of the Business Names register. Extracts from the register of Business Names are required by consumers applying to VCAT's Civil Claims List.

Several changes have been identified for the residential tenancy service and residential tenancies bonds, most of which will be implemented after amendments are made to the *Residential Tenancies Act 1997*.

This Project Team was one of several initiatives set up to address the needs and concerns of disadvantaged consumers. All sectors of the organisation consider the more vulnerable members of the community when planning their activities. These activities can range from the review of the *Retirement Villages Act 1986*, which addresses the needs of seniors, to the creation of a consumer curriculum for migrants.

The Consumer Affairs Victoria Strategic Plan, which is in the process of being developed, will further entrench the needs of vulnerable consumers as a priority in the planning process.

Reviews of CAV Services

Consumer Affairs Victoria continues to examine its services and information products and to research consumer protection issues in the community.

For 2001–2002, the program of reviews included client surveys seeking feedback on the:

- dispute resolution service
- Residential Tenancies Inspection Service
- Business Names register
- motor car traders' licensing process
- customer contact centre.

About 200 people contributed to each of the surveys, the details of which are summarised below. Recommendations arising from the surveys have been implemented.

Table 7. Summary of Client Surveys 2001–2002

Service Surveyed	Overall Client Satisfaction	Comments
Dispute resolution service	81%	Respondents were asked to comment on whether they tried to resolve their complaint themselves before contacting CAV, the performance of CAV staff, whether the complaint had been resolved to their satisfaction, whether it had been handled in an unbiased manner, and whether the outcome was 'fair' given the circumstances. Despite attempts to survey both parties to the dispute, only the views of the complainants could be obtained. Reasons for this will be examined in the hope of improving the survey methodology for the next review.
Residential Tenancies Inspection Service	93%	Respondents were asked about their satisfaction with the inspector who handled their case, how the inspection was conducted, and how easy it was to request an inspection.
Business Names register	93%	Respondents were asked to comment on the ticketing system at the counter, clarity of forms, timeliness of the service, performance of the counter officer, and performance of the online service.
Motor car traders' licensing process	97%	Respondents were asked to rate their satisfaction with the way in which their interview and examination were conducted, performance of CAV staff and clarity of forms.
Customer Contact Centre	96%	Respondents were asked to comment on the performance of enquiry officers, timeliness of the service, whether or not they had used the service before, and whether they would act on the advice provided.

Product Safety and Standards

One of the objectives of Consumer Affairs Victoria is to ensure that consumer products are safe, thereby minimising the risk of injuries from the use of these products.

CAV investigates reports of unsafe products, examines products at events such as the Royal Melbourne Show, and promotes product standards. Under the *Fair Trading Act 1999*, the Minister for Consumer Affairs has the power to ban the supply of unsafe products. In 2001–2002 the Minister signed three banning orders, applying to cots, jelly cup confectionery and candles. CAV also conducted a state-wide safety campaign regarding the use of basketball rings.

Promoting Product Safety and Standards

Enquiries

This year 1,174 calls were received from consumers and industry seeking advice on the safe use and design of consumer products. This is a 13.6% decrease from last year, and 12% lower than the 1999–2000 period.

The largest number of enquiries related to nursery products.

Figure 3. The Number of Safety and Standards Enquiries 1999–2002

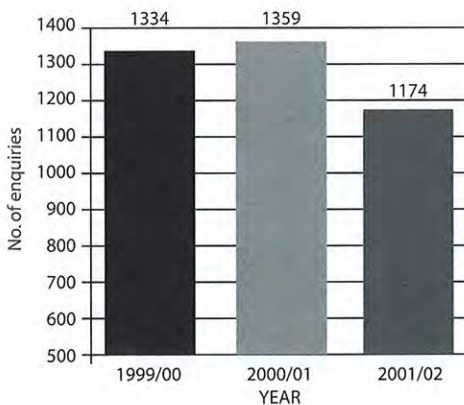
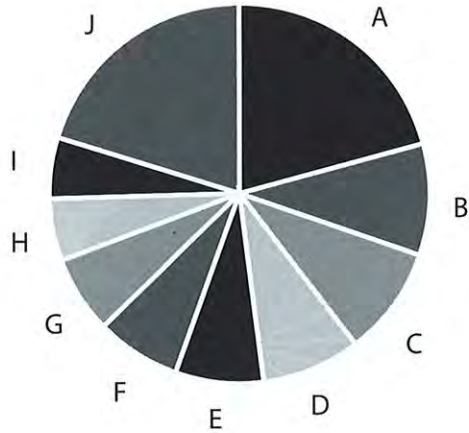


Figure 4. Categories of Product Safety Enquiries 2001–2002

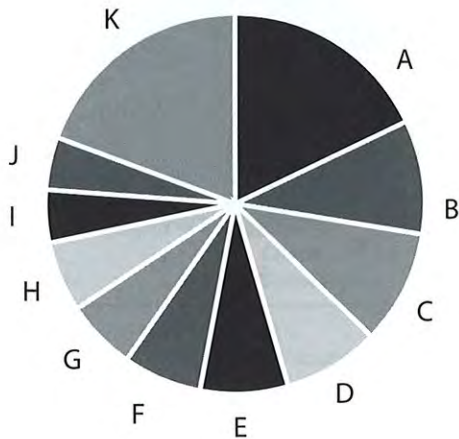


A. Nursery Products	20.8%
B. Play Items	9.5%
C. Transport Items	9.3%
D. Miscellaneous Items	8.4%
E. Electrical Products	7.5%
F. Sport & Recreational	7.2%
G. Food & Drink	6.6%
H. Personal Use	5.3%
I. Furniture	5.2%
J. Other	20.2%

Investigations

CAV conducted 145 investigations into the safety of consumer products, with 10 product categories accounting for more than 80%.

Figure 5. Product Categories Investigated 2001–2002



A. Play Items	17.9%
B. Hardware	9.7%
C. Electrical Items	9.7%
D. Transport	8.2%
E. Food & Drink	7.5%
F. Nursery Products	6.7%
G. Personal Use	6.0%
H. Miscellaneous	6.0%
I. Consumer Durables	4.5%
J. Therapeutic Goods	4.5%
K. Other	19.3%

Consumer Affairs Victoria investigated a large array of products, some of which are described below.

At the request of Australian Customs Service a shipment of cigarette lighters was investigated on 23 July 2001 for compliance with the Consumer Affairs (Product Safety) (Lighters) Regulations 1998. The lighters were found to comply with the mandatory requirements.

The 'Mosquito Terminator Bat', a small tennis racket-styled battery-operated bat designed to kill mosquitoes and flies by electrocution, was investigated for safety in

July 2001. There were concerns that, if misused, the bat could induce a heart attack in a person with a heart condition or pacemaker. Laboratory tests showed that the mosquito bat complied with the electrical safety standards and was unlikely to cause injury.

On 14 August 2001, 317 showbags were examined at the annual pre-Show inspection at the Royal Melbourne Showgrounds. Only two items were found to be unfit for sale: the 'Bleeding Ghost Face Mask' was withdrawn from the 'Whopper Extreme' showbag as it failed to provide adequate ventilation, presenting an asphyxiation hazard particularly for children who suffered from asthma. A novelty sunshade was withdrawn from the 'Cleopatra' showbag, as the pointed ends of the umbrella spines could cause lacerations and possible eye damage. At a follow-up inspection during the Royal Melbourne Show, no dangerous items were found to be on sale, maintaining the Show's good safety record as a result of the CAV annual inspection program.

As a result of the ban on jelly cup confectionery products that contain 'konjac', surveys of food outlets were carried out in January in Ararat, Melbourne, Brunswick, Sunshine and Springvale. None were found on sale.

A national food chain company supplied Looney Tunes figurines, including Bugs Bunny, Tweety Pie and Sylvester as a promotional offer with a meal. The figurines presented a choking hazard to young



The Hon. Christine Campbell MP, Minister for Consumer Affairs, with Mr. Lindsay Gaze, prominent basketball identity, at the launch of a basketball safety initiative.

Basketball tragedy sparks safety campaign

The tragic death in April 2001 of a nine-year-old boy playing basketball in his backyard sparked a consumer campaign about the safety of backyard basketball rings.

The boy died when brickwork supporting the basketball ring collapsed as he practised 'slam dunks'.

The Premier promised that the Government would improve the safety surrounding playing basketball, and Consumer Affairs Victoria responded with a two-pronged approach.

In the first instance, four graphic stickers were produced that reminded people that 'swinging on the ring' and 'hanging off the hoop' were dangerous practices.

More than 200,000 stickers were distributed to 2,355 organisations, venues and outlets connected to basketball. The stickers and the safety message also received wide coverage in the media when they were launched by the Hon. Christine Campbell, Minister for Consumer Affairs, at the Coburg Basketball stadium.

The second strategy involved the development of Regulations under the Fair Trading Act 1999, requiring suppliers of basketball backboards and rings to stick a warning label on the packaging of the products and on the backboard itself. The label warned consumers of the dangers of inappropriate use or installation. A mail-out to about 300 known suppliers of basketball equipment alerted them to the regulations that were made on 4 June 2002.

children. During investigation and negotiation with the company, the products were voluntarily recalled throughout Australia.

In-house testing of two types of candle holders, which retailed for around \$2, found that both candle holders ignited via the flame of the candles. A ban was imposed on the supply of these types of products.

An inspection at the Toy Hobby and Nursery Fair at the Melbourne Exhibition Centre in March did not reveal any problems. Over 150 exhibitors displayed a range of new and previously unseen products for the toy, hobby and nursery furniture markets.

In April 2002, in conjunction with the Australian Competition and Consumer Commission, a joint

survey of children's cots was conducted. Tests were carried out on four brands of cots, all of which passed.

Information Gathering and Exchange

The Commonwealth Product Safety Recalls website has been a useful source of information about voluntary, safety-related product recalls, and has allowed information to be shared between regulators. On this site, the register of Alleged Hazardous Products, including recalls, has been used by CAV to provide information and advice to consumers and traders. CAV also maintains its own database of product safety investigations and safety and standards enquiries, and uses the database to monitor trends in product-related problems.

CAV communicates on product safety issues with other government agencies, specific interest groups and industry. For example, CAV liaised with the Metropolitan Fire and Emergency Services Board on the dangers of flammable candle holders; with Food Safety Victoria on choking hazards associated with eating jelly cup confectionery products; and with the Building Commission, Basketball Victoria and the Australian Retailers Association on the dangers of basketball rings and backboards.

Standards Development

Developing and Revising Australian and International Standards

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

CAV was represented on Standards Australia committees and reviewed or commented on certain consumer product standards, including solid fuel-burning appliances, children's toys and children's furniture.

Consumer Products Advisory Committee

The Standing Committee of Officials of Consumer Affairs (SCOCA) established the Consumer Products Advisory Committee (CPAC) to provide advice on consumer safety matters and to develop and implement a national approach to consumer product safety issues. CPAC consists of representatives of consumer affairs agencies in the Commonwealth, State and Territories of Australia and New Zealand, and it met twice during the year.

The major issues discussed were:

- mandatory safety standards for baby walkers and bunk beds
- Trans-Tasman Mutual Recognition Agreement towards aligning consumer product regulations

- a uniform approach to achieving consumer safety
- a review of safety and information standards
- a uniform approach to the sale of second-hand goods
- the Product Safety Recalls Australia website.

Banning Orders

The Minister for Consumer Affairs made orders, under Part 3, Division 1 of the *Fair Trading Act* 1999, permanently prohibiting the supply in Victoria of:

- Objects intended to hold or decorate a candle which ignites and continues to flame for a period of five seconds or more after ignition.
- Jelly cup confectionery products containing the ingredient 'konjac' (also known as konjac, konnyaku, konjonac, taro powder, yam flour or glucommanan), supplied in a container having a height or width of less than 45mm.
- Children's cots for household use which do not comply with certain essential safety requirements of the Australian/New Zealand Standard AS/NZS 2172 1995 'Cots for household use – safety requirements'. The ban also applies to antique and collectable cots unless they are supplied with a certificate stating that it is not safe to place a child in the cot; and two metal plaques permanently attached to the upper half of the side or end (one external, one internal) with the warning statement: "*WARNING: this cot does not meet the mandatory standard. For display purposes only. It is dangerous to place a child in this cot.*"

The banning orders were printed in the Victorian Government Gazette.





Licensing and registration of businesses protects consumers and builds their confidence in the marketplace.

Business Registration and Licensing Services

A business operating in Victoria is required to register its business name with Consumer Affairs Victoria unless the business is carried on under a person's own name only, or under a company name registered by the Australian Securities and Investments Commission (ASIC). Also, certain regulated occupations and industries require a licence from the Business Licensing Authority (BLA).

The Business Services Division of CAV registers business names and limited partnerships, and incorporates associations and cooperatives. It maintains public registers of these organisations and monitors their compliance, and it supports the BLA in its occupational licensing functions.

The gradual introduction of online services continues to drive changes to the practices and structure of the Business Services Division. Some changes have already occurred to meet expectations and requirements, and more changes are envisaged as online developments and related business process improvements are put in place.

Business Names

CAV registered 57,782 new business names – 2.6% less than in 2000–2001 – bringing to 339,678 the number of business names on the register.

There were 77,011 renewals and changes to the Business Names register. Business Affairs handled 156,695 telephone enquiries over the year, a reduction of 6.1% on the previous year attributed to use of the website service, processing efficiency and economic factors.

Business name searches numbered 109,323, including those undertaken by private information brokers who are provided with business names data under contract with CAV. Information brokers normally relay the search results to individual clients electronically.

Associations, Cooperatives and Limited Partnerships

Incorporated Associations

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

During 2001–2002, 1,403 associations were incorporated. At 30 June 2002, the total number of incorporated associations on the database was 30,162; of these 1,774 were prescribed and 28,388 were non-prescribed. Prescribed associations are large organisations with revenues of at least \$200,000 and/or assets of \$500,000.

CAV continued to pursue the lodgement of overdue annual returns. As a result, the proportion of *prescribed associations* lodging annual returns increased from 74% in June 2001 to 84% in June 2002. The provision of annual returns by *non-prescribed associations* rose from 53% to 71%.

A cancellation program that involved identifying incorporated associations that had ceased operating but had failed to notify the Registrar was completed during the financial year. Since December 2000, extensive attempts have been made to contact associations that have not had contact with CAV for some years, to establish whether they are still operating. By the end of June 2002, the registration of more than 6,500 non-compliant or non-operating associations had been cancelled. A further cancellation exercise is planned for 2002–2003 as part of a program to improve compliance by associations with the requirement to lodge annual returns.

Cooperatives

A cooperative is an entity whose shareholders derive benefits primarily through membership and use of the organisation rather than distribution of profits.

As with companies and incorporated associations, all members of legally incorporated cooperatives have

limited liability. Under the *Co-operatives Act 1996*, a cooperative's board of directors is responsible to the membership (shareholders) in much the same way as the board of a company.

As well as keeping a register of all Victorian cooperatives, Consumer Affairs Victoria is responsible for receiving and checking annual returns, processing changes that cooperatives wish to make (such as a change of director, registered office or rules), and generally monitoring their operations.

With the registering of 29 new cooperatives in 2001–2002, there are now 809 entities on the register.

Limited Partnerships

The *Partnership (Limited Partnerships) Act 1992* provides for the registration of limited partnerships. These are partnerships between at least one limited partner and one general partner. There is no restriction on the number of limited partners, but there can be a maximum of 20 general partners. The financial liability of a limited partner is limited to the amount shown on the register, but there is no limitation on the financial liability of a general partner. There are 37 limited partnerships on the register.

Licensing of Regulated Businesses and Occupations

Licensing, as well as registration, protects consumers and gives them the confidence to do business with regulated occupations and industries. The Business Licensing Authority (BLA) ensures that only eligible businesses and individuals enter these industries; maintains industry standards; and provides access to accurate public registers and information.

Consumer Affairs Victoria has long-established expertise in administering and enforcing occupational and business registration and licensing schemes to ensure the protection of the public. CAV aims to provide high quality and cost-effective business licensing and registration systems.

The BLA has the power to grant or refuse the licensing and registration of businesses and occupations regulated by the following Acts:

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

Consumer Affairs Victoria supports the BLA by:

- carrying out administrative activities associated with processing licensing and registration documents for over 20,000 licensees and registrants
- conducting often extensive probity and eligibility inquiries in relation to over 2,400 new applications each year
- maintaining databases and electronic registers across all schemes
- providing information to the public and businesses about eligibility criteria for the businesses and occupations regulated under the legislation
- responding to around 70,000 telephone calls about licensing matters from Victorian businesses and members of the public.

BLA Licence Investigations

If a licence is required to carry on a regulated occupation, an application must be made to the

BLA for the appropriate licence. The law governing licensed occupations requires that all new applications for licences be referred by the BLA to both the Director of Consumer Affairs Victoria and to the Chief Commissioner of Police. This ensures that any prior adverse history an applicant may have is brought to the attention of the BLA when it is considering the granting of a licence.

In addition, in 2001–2002 CAV assisted the BLA in its consideration of over 100 applications from individuals or companies wanting permission to be licensed or to continue to be licensed in spite of a criminal record, insolvency or a claim for compensation by a consumer having been admitted against them. About 20% of permission applications were refused in 2001–2002. The most common reason was the applicant's failure to persuade decision-makers that it would not be against the public interest if they were granted permission.

Of all decisions to refuse a licence or registration application, 15% (12) resulted in an appeal to the Victorian Civil and Administrative Tribunal (VCAT).

In one of these cases, an applicant was refused due to recent prior convictions involving handling stolen goods, drug trafficking and burglaries. The applicant appealed to VCAT but the matter was struck out by consent of the parties.

Table 8. Number of Occupational Licences and Registrations 2001–2002

	Estate Agents	Motor Car Traders	Travel Agents	Credit Providers	Prostitution Service Providers	Introduction Agents	Second-hand Dealers & Pawnbrokers
Number at:							
30 June 00	5,623	2,198	1,025	437	152	61	6,811
30 June 01	5,799	2,195	998	642	169	73	6,901
30 June 02	6,096	2,199	970	649	170	62	6,886
Apps Received	580	185	76	106	27	23	950
Apps Granted	546	155	59	102	14	18	746
Apps Refused/Withdrawn	34	25	10	n/a	8	3	24

In addition to refusals, applicants often withdraw once serious concerns about whether or not they are fit and proper or eligible to trade are drawn to their attention.

Registered Second-hand Dealers and Pawnbrokers

Significant changes have been made to the *Second-Hand Dealers and Pawnbrokers Act 1989*.

One of the changes provides for separate endorsement of pawnbrokers, enabling closer scrutiny of their activities to ensure consumer protection measures are complied with. Over a three-month transitional period, 6,886 current registrants were required to apply for endorsement to trade as pawnbrokers beyond 8 July 2002. By 30 June 2002 more than 100 second-hand dealers had applied for endorsement to trade as a pawnbroker. (See Chapter 5.)

Licensing Online

Consumer Affairs Victoria also helps maintain the BLA website, which can be found at www.bla.vic.gov.au. It contains extensive information for occupations and businesses covered by the BLA, including eligibility requirements, fees, legislation and forms.

This site is particularly helpful to people in regional and more remote areas. It includes links to other government websites that have licensing information, such as the Business Licensing Information Service (BLIS) and the Business Channel. Licensing staff are available to speak to potential applicants over the telephone or in person.

New Developments in Online Registration

Consumer Affairs Victoria is making a major investment to provide business registration and licensing transactions, and registers online via the internet.

Online delivery will provide significantly improved services to business, allowing transactions to be done

online seven days a week, 24 hours a day from anywhere in Victoria. Most transactions will be paid for online, by credit card, and completed immediately. Appropriate security measures are being introduced to ensure the integrity of the online transactions.

Efficiency will also be improved by automating the *similar business names test*. This will allow a large proportion of business names to be evaluated automatically and registered immediately, including online. Where there is some doubt about the similarity of a business name, it will still be referred to expert staff for assessment.

Consumer protection will be enhanced by making the business register and certain licensing registers available online, so that consumers can check whether they are dealing with businesses or individuals who are licensed and using registered business names.

Legislative amendments are necessary to facilitate online delivery. The Business Licensing Legislation (Amendment) Bill 2002 had its second reading in Parliament on 16 May 2002. It will amend five Acts to prepare for online delivery. The Acts proposed to be amended relate to business names, incorporated associations, estate agents, motor car traders and travel agents. Legislative changes also deal with privacy issues in relation to public registers by defining the data items that comprise the register; establishing the purpose of the public registers; providing powers to restrict public access to personal information on the registers; and providing a right of appeal against decisions on restriction.

To date, two transactions are available online at online.justice.vic.gov.au:

- The renewal of business names has been available since early 2001. During 2001–2002, online take-up averaged 10%, but increased over the year to 14%.
- The search of the Victorian Business Names register became available in mid-2002. It allows

Mildura motor car trader ordered to repay money

The Motor Car Traders' Guarantee Fund Claims Committee will take action against a motor car trader and, if the trader is a company, its directors, to recover payments from the Fund. To assist the Claims Committee in pursuing recovery against directors, as part of the licensing process all directors are required to sign a Deed of Indemnity, jointly and severally indemnifying the Claims Committee for any payment made from the Fund against the trader. The trader may also be required to lodge a bank guarantee where there are concerns about its, or its directors', ability to refund the money.

This year, the Claims Committee recovered \$53,643 from traders or company directors.

A former Mildura motor car trader, John Baumgurtel, was ordered in March 2002 to repay \$8,764.96 to the Motor Car Traders' Guarantee Fund.

The order by the Melbourne Magistrates' Court related to six claims by consumers that Jim Mock Pty Ltd, which traded motor cars in Mildura from 1992–1998, had failed to pay transfer fees or to fulfil a warranty. In 1998, the Fund's Claims Committee paid out on the claims. That same year, the company went into receivership.

Recovery action taken against the company and its directors, James Mock and John Baumgurtel, resulted in an order that Mr Baumgurtel personally repay the amount paid out of the Fund, plus interest and costs. Further orders were made against the company, requiring it to indemnify Mr Baumgurtel and for a contribution to be paid by Mr Mock.

Mr Baumgurtel was previously prosecuted by Consumer Affairs Victoria in 1999 in relation to a scheme that took advantage of local Aboriginal people. He was convicted of seven charges under section 12 of the Fair Trading Act 1985 of falsifying information in applications for a motor car loan. He claimed that deposits had been paid and/or fictitious trade-ins had been provided, in relation to various cars purchased under finance to Ford Credit.

new businesses to check a proposed name against the register before making application for registration, and also allows consumers to check that the business they are dealing with is registered.

Action is also underway to make available online, key business names, incorporated associations and estate agent licensing transactions, and the estate agents and motor car traders registers.

Guarantee Fund Claims

Motor Car Traders' Guarantee Fund

The Motor Car Traders' Guarantee Fund Claims Committee is responsible for determining claims for compensation made by persons who have incurred a

loss from the failure of a motor car trader to comply with certain obligations.

This year 65 claims were finalised, with 31 admitted in-full or in-part, and 14 refused. Twenty were withdrawn, largely due to motor car traders resolving claims before the Claims Committee determined them. (See Appendix 6.)

While the number of claims received and finalised has steadily decreased over the past two years, the amount paid out on admitted claims, \$399,657, has remained almost the same. This is due to the maximum amount payable on a claim increasing from \$20,000 to \$40,000.

The highest payments have resulted from motor car traders failing to:

- transfer good title
- pay money to a person from whom the trader purchased a motor car, or to a finance company on that person's behalf
- cancel a security interest registered against a motor car.



Estate Agents' Guarantee Fund

If a licensed estate agent, agent's representative or employee of a licensed estate agent misappropriates trust money, any person who has suffered a loss

because of the misappropriation may make a claim on the Estate Agents' Guarantee Fund (EAGF).

Twenty-eight claims, totalling \$426,213.04, were allowed from the EAGF in 2001–2002. A further claim was withdrawn. An additional amount of \$177,293.02 was paid in settlement of interest and costs for a claim allowed during the previous year. Of this year's claims, 17 were in respect of security deposits, two related to rental monies and nine involved sales deposits.

The claims are summarised in the table below. As there is no time limit for making a claim, not all payments relate to events detected during 2001–2002.

Housing Guarantee Fund – HIH Rescue Package

Following the collapse of HIH Insurance, the Government provided the HIH rescue package to those homeowners affected. The rescue package is administered through the Housing Guarantee Fund Limited, which also administers the run-off relating to the government-based guarantee scheme, which operated until 1995.

Table 9. Claims allowed against the Estate Agents' Guarantee Fund 2001–2002

Agent's Name	Location	No. of Claims Paid	Value of Claims Paid
Unknown person(s) at Beech Lynch & Co Pty Ltd	Moorabbin	10	\$7,965.32
Lifestyle Property Investments Pty Ltd*	Kew	7	\$147,359.16
Angelo Metaxotos*	Doncaster	2	\$3,196.65
Philip James Bedford*	Rowville	2	\$9,126.60
Jacqueline Tabatha Leigh Blyth**	East Melbourne	2	\$4,983.00
John Joseph Randolph Cleary**	Eltham	1	\$888.00
John Joseph Farrugia*	Sunshine	1	\$774.58
Peter Wolseley Garrison*	Toorak	1	\$250,393.53
Finn & Kempe Pty Ltd*	Belgrave	1	\$650.00
Sandra Mary Bryant**	Mount Waverley	1	\$876.20
Redmond Real Estate Pty Ltd*	Wonthaggi	0	†\$177,293.02
* Estate Agent **Agent's Representative			†Interest/costs only on 2000-2001 claim

The legislation for the rescue package came into operation on 8 June 2001 and by 30 June 2002 the Fund had paid out \$8.4 million, consisting of 281 claims payments. Over eight years, \$35 million is being provided, funded jointly from general Government revenue and a small increase in the levy on building permits.

Residential Tenancies Bond Authority

The Residential Tenancies Bond Authority (RTBA) is a statutory authority established by the *Residential Tenancies Act 1997*, to hold all Victorian residential tenancy bonds, including those applying to long-term caravan and rooming house residents. The RTBA is constituted by the Director of Consumer Affairs Victoria. The RTBA has no other members and employs no staff. The RTBA is reliant on the staff and resources of CAV, and external service providers.

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

During 2001–2002, Computershare Investor Services Pty Ltd (a controlled entity of Computershare Limited, a publicly listed registry company) undertook the core processing activities of registering bonds and making repayments on behalf of the RTBA.

As at 30 June 2002, the RTBA held 293,275 bonds, valued at \$239 million. This represents an increase of 4.1% in the number of bonds since 30 June 2001, and an increase of 9.6% in value.

The major development in RTBA services during 2001–2002 was the introduction of a facility to allow licensed real estate agents who are registered with the RTBA to lodge bond claims by facsimile. The fax claim facility speeds bond repayments by eliminating the time involved in exchanging documents by mail. Receipt of claims by fax

introduces new risks and, accordingly, access to this facility is restricted to licensed real estate agents who are registered with the RTBA and are prepared to commit to various security measures. This protects the agents, their clients (landlords and tenants), and the RTBA from possible abuse of the system.

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

Fundraiser Registrations

The *Fundraising Appeals Act 1998* regulates the fundraising industry by requiring the keeping of records of monies raised, and the use of badges identifying the organisation on whose behalf people are soliciting funds.

On 1 January 2002, amendments to the legislation replaced the notification of appeals scheme with a registration scheme for fundraisers; imposed eligibility restrictions on people who may have managerial or financial responsibility for appeals; and exempted small volunteer-based fundraisers from registering.

Intending fundraisers must apply for registration at least 28 days before commencing fundraising activity, and renew their registration every 12 months. During the first six months of operation of the register, 304 fundraisers were registered.

A public register of fundraisers is available on the internet at www.consumer.vic.gov.au.

Compulsory Education for Estate Agents

CAV plays an important role in maximising the effectiveness of compulsory training programs for intending estate agents and agents' representatives.

The courses are being reviewed to bring them into line with the national Property Development and Management Training Package, and a regulation is being drafted to prescribe the new courses. In December 2001, CAV and the Estate Agents Council agreed to allow private training providers to deliver prescribed real estate courses. An amendment to the *Estate Agents Act* 1980 is being drafted to come into effect in 2003.

Code of Conduct for Marketing Retail Electricity in Victoria

The *Code of Conduct for Marketing Retail Electricity in Victoria* sets important consumer protection standards for the way in which electricity retailers can market electricity in Victoria. The Code incorporates provisions contained in the *Fair Trading Act* 1999 and additional standards, for example disclosure requirements and allowable marketing hours. Compliance with the Code is a licence condition for electricity retailers in Victoria.

During the year, CAV has worked with the Essential Services Commission, the Energy and Water Ombudsman (Victoria), and the Australian Competition and Consumer Commission (ACCC), to ensure there are effective referral processes to identify and remedy any consumer problems that emerge.

While a range of complaints has been handled, no serious market conduct issues arose in 2001–2002.

Consumer Utilities Advocacy Centre

In 2001, the Government announced a new, independent centre to undertake policy advocacy on behalf of Victorian utility consumers, and to fund, conduct and disseminate research into consumer utility issues. With CAV's assistance, the Consumer Utilities Advocacy Centre (CUAC) was established as a registered company. Premises were leased and fitted out, board meetings commenced, and an executive officer was recruited. Under the company's constitution, a reference group of consumer advocates representing the widest possible range of consumer classes will meet regularly to discuss issues, share information, and advise the Centre regarding its work program. The inaugural chair of the company is Professor Bill Russell. The company will be fully operational in 2002–2003.

Ticket Scalping

CAV was represented on a steering committee that oversaw an independent assessment of ticket scalping by a consultant employed by Sport and Recreation Victoria. The consultant was engaged to assess regulatory options and develop a proposal to address profiteering from tickets to one-off, sell-out sporting events.

The Sports Event Ticketing (Fair Access) Bill was introduced into Parliament by the Minister for Sport and Recreation in Autumn 2002. The main thrust of the Bill is to minimise opportunities for leakage of ticket stocks to organisations and individuals intending to sell them at a premium. This will be achieved by providing for the Minister to approve distribution arrangements for declared events. Under the proposal, guidelines would be issued to assist the operators of declared events in documenting ticket distribution arrangements for the Minister's approval.



Consumer Protection Resolving Disputes and Enforcing the Law

Resolving Disputes

The Consumer Affairs Victoria dispute resolution service assists consumers to resolve disputes with traders in a cooperative way. It minimises the need for consumers to take complaints to the Victorian Civil and Administrative Tribunal (VCAT) or the Magistrates' Court. The outcomes CAV can achieve for consumers range from the return of goods or full or partial refunds, to rectification work on a consumer's goods or services.

Through this service, CAV aims to provide accessible, cost-effective, practical and fair dispute resolution for Victorian consumers, particularly vulnerable consumers. The service has a high success rate, and is an attractive, no-cost option for consumers.

Modifications introduced to complaint handling processes in 2001 have assisted disadvantaged consumers to access CAV services. These changes have established a formalised process for complaint handling that identifies consumers who, by nature of their particular circumstances or the remoteness of their locality, will be disadvantaged if required to put a complaint in writing. In these circumstances, the enquiries officer will refer them to a funded agency or complete the complaint form on their behalf.

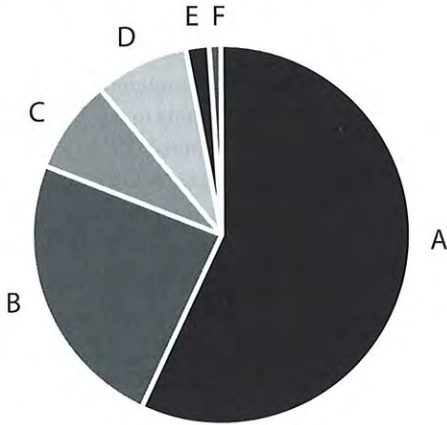
As part of CAV's assessment of a complaint, CAV also considers whether the complaint may involve a breach of legislation that should be investigated to determine whether enforcement action is necessary.

Analysis and Outcomes

CAV handled 11,243 written and online complaints during 2001–2002, an increase of 1,018 from the previous year. Residential tenancy, real estate and accommodation comprised 57% of complaints. Household goods accounted for 24% of complaints; motor vehicle and other transport 8%; building and construction 8%; and credit and finance 2%. Complaint trends remained consistent with those shown in previous years.

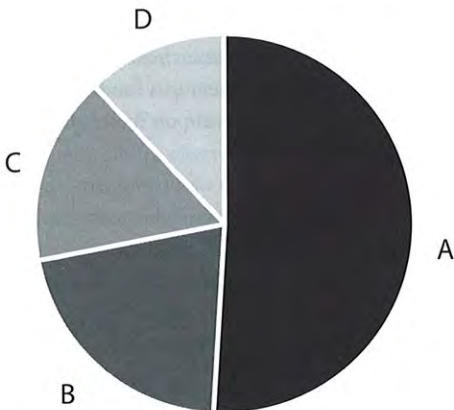
Consumer Affairs Victoria promotes business compliance and assists consumers to resolve their disputes.

Chart 6. Type of Written Complaints 2001–2002



A. Real estate & accommodation	57%
B. Household goods	24%
C. Building & construction	8%
D. Motor vehicle & other transport equipment	8%
E. Insurance, finance & investment	2%
F. Commercial equipment/other	1%

Chart 7. Nature of Written Complaints 2001–2002



A. Tenancy issues, eg rent increases, repairs, abandoned premises and goods	51%
B. Quality issues, eg defective goods, unsatisfactory performance of products or services	21%
C. Contract issues, eg changes, cancellation, non-adherence to terms or non-supply of goods & services	16%
D. Other	12%

The amount of money recovered for consumers by CAV as part of the dispute resolution activity was estimated to be \$1.37 million. This included refunds, rectification services and replacement products.

Analysis of complaints enhances CAV's understanding of marketplace activities. It enables the early identification of emerging trends or systemic issues that may adversely affect Victorian consumers. Consumers are alerted to these issues via media releases, publications and CAV's telephone enquiry service. CAV endeavours to inform consumers of their rights and obligations before they enter into any transactions.

One example of an emerging concern identified in 2001–2002 was online auction purchases. A number of consumers reported that goods auctioned online were not being sent to the purchaser despite payment having been made. CAV is examining ways to deal with this problem.

Residential Tenancies

Under the *Residential Tenancies Act 1997*, CAV provides a Residential Tenancies Inspection Service that reports on three issues:

- goods that have been left behind by vacating tenants
- repairs that tenants have been unable to get the landlord or managing estate agent to carry out
- rent increases.

In practice, CAV inspectors are often successful in resolving disputes over repairs or rent increases without tenants or landlords having to take the matter to VCAT.

In 2001–2002, the residential tenancies team received 5,807 requests for inspections comprising 3,599 for goods left behind, 1,481 for non-urgent repairs, and 727 for rental assessments.

General Problems with Traders 2001–2002

Introduction

Consumer Affairs Victoria proactively attempts to reduce consumer dissatisfaction by inviting companies/businesses to address any noted trend in complaints received by CAV from the public. In this fashion it is hoped that any perceived customer service issues can be addressed by the business to the customer's satisfaction without further involvement by CAV. In reporting on this activity, CAV appreciates that these traders have voluntarily worked with CAV in an attempt to address consumer complaints.

Real Estate

CAV received more than 400 complaints regarding the conduct of estate agents during the year. Those complaints ranged from minor issues such as time delays in undertaking maintenance and failing to return phone calls to excessive delays in carrying out urgent repairs to plumbing, heating or other essential appliances. Other complaints involved the non-lodgement of tenant bonds, agents purchasing property when prohibited to do so, and serious breaches of conduct regulations and impropriety on the part of agents. CAV has taken significant action against estate agents during the year, including prosecution, disciplinary action and enforceable undertakings.

Four major franchise groups were identified as the basis of a large volume of consumer complaints. No individual agent within those franchise groups was the subject of consistent complaint. However, CAV was concerned by the large number of matters arising from within the franchise groups.

CAV approached the franchise corporations of Stockdale & Leggo, Ray White, L J Hooker and Barry Plant Doherty to address its concerns regarding the volume of complaints. As a result of this approach, the groups have arranged for their staff training programs to include greater emphasis on property management and complaint handling procedures. CAV staff attended sessions organised by Stockdale & Leggo to reinforce the agents' understanding of the issues and the role of CAV in the regulation of the industry.

Furniture Galore

Over a number of years, CAV has received a large number of complaints of faulty furniture, delivery delays and poor customer service provided by

Furniture Galore. Following a meeting with management of this company in 1999, complaints fell. However, an expansion of Furniture Galore coincided with an increase in complaints in 2001. At another meeting in 2002, CAV advised managers of Furniture Galore that the company needed to improve its customer service and complaints procedures. Furniture Galore agreed that staff needed training in dealing with complaints, and clients should be kept informed of the status of their orders. CAV is monitoring the situation.

Lazaway Pools and Spas Pty Ltd

Over a period of time, various consumer complaints have been received alleging a pattern of poor customer service and conduct against Lazaway Pools and Spas Pty Ltd. Following a meeting with the director of Lazaway Pools and Spas Pty Ltd, there have been ongoing discussions regarding the conduct of the company in handling disputes, with the aim of reducing ongoing consumer complaints.

Harvey Norman

Each year CAV receives numerous complaints and enquiries regarding the Harvey Norman chain of stores. Most complaints allege failure to fix or replace goods in a timely manner, and a lack of responsiveness to customer concerns which was in part attributed to the franchise nature of the business. CAV invited representatives of Harvey Norman in to discuss these problems. Put simply, CAV did not want to play the role of Harvey Norman's complaint handling system. As a result, a complaint handling system, based in Sydney, has been instituted. This new system will be monitored to determine if it reduces the number of complaints to CAV and improves Harvey Norman's responsiveness to customer concerns.

Nokia Mobile Phones

CAV met with the then regional manager of Nokia to discuss a wide range of concerns related to after-sales service and warranty issues with Nokia mobile phones. Advertising issues were also raised. Nokia now encourages consumers to deal directly with its repair facilities rather than seeking redress through its network of dealers.

Case Study

The etiquette of hosting

Complaints about websites, auction houses and internet service providers are a small but growing proportion of complaints that Consumer Affairs Victoria receives. Due to the nature of the web, they often have an interstate or international dimension.

When a country music fan from the US found that his website had fallen off the world wide web, he tried contacting the Melbourne-based webhosting company but couldn't resolve the problem.

Matters were quickly addressed after CAV became involved.

The country music fan was one of eight US-based web enthusiasts who, along with a couple of Victorians, complained about the service they had received from the webhosting company. They said they had paid between \$60 and \$100 for their websites to be hosted for 12 months. Although the price was cheap...they hadn't expected their sites to disappear.

Several people complained that their websites were active for a couple of days and then disappeared; others found that their email service was not functioning and they could not get through to the online help desk to get their problems fixed.

A CAV officer spoke to the director of the company, who agreed that some of the customers' concerns were legitimate and that the company should establish a fast-track procedure to handle complaints.

Under the new procedure, complainants can lodge a formal complaint by email. If they are still unhappy, they can contact a specific person in the company who will follow up the matter and, in cases where the complaint is justified, provide a refund or fix the problem.

No further complaints were received about the company.

Scams

In 2001–2002, Consumer Affairs Victoria followed up several hundred complaints of scams that tried to lure people with false promises of lottery wins, tempting offers of instant wealth, or other too-good-to-be-true proposals. CAV used the media and brochures to alert people to frequently used scams like those below.

A cheeky scam that invited victims to perpetuate the scam themselves was detected by CAV, and led to warning letters being sent to several local people.

The 'envelope stuffing' scheme, which appeared to originate overseas, was one of a number of 'work at home' schemes brought to the attention of CAV. It preyed on the unemployed and other vulnerable people looking for ways of making money from home.

Advertisements in local papers offered people money to stuff envelopes. Victims sent cash (around \$30) to a post office address supposedly to pay for the materials, but all they got in return was a letter outlining, step-by-step, how they could reproduce the scam themselves.

After warning letters from CAV and reports in the media, incidence of the scam decreased.

In May, Consumer Affairs Victoria exposed a fraudulent off-shore mail-promotion ring operating out of a private Carlton mailbox.

Self-proclaimed clairvoyant Marie-France sent individually styled letters around Australia offering to perform a 'Grand Celestial Operation' which would enable the recipient to win up to \$100,000 in an unspecified lottery – for \$79.95.

CAV was made aware of the scam letter by other consumer agencies and acted quickly. It obtained a court injunction to stop the mailing house passing on any further letters to Health Tips Ltd, which operated the mailbox. It also seized letters in the mailbox.

Some of the letters contained payment, or individual consumer credit card details, for the so-called clairvoyant's services. They were returned to the senders with stickers advising them to contact Consumer Affairs Victoria.

A survey of client satisfaction with the Residential Tenancies Inspection Service revealed that the overall opinion of clients (tenants, landlords and estate agents) was very positive with less than 6% expressing dissatisfaction with the service.

In January 2002, a review of selected CAV processes entitled *Making Services More Accessible to Disadvantaged Consumers* recommended a number of changes to residential tenancy procedures and communication tools. In response to one of the recommendations, the target time for carrying out repairs or rental assessments has been reduced from 10 weeks to 5 weeks. Work has begun on the other recommendations to simplify forms, revise factsheets, and establish liaison mechanisms with other groups that deal with disadvantaged members of the community.

A strong emphasis on protecting disadvantaged tenants has led the Residential Tenancies Branch to develop and maintain close links with representatives of tenants and the real estate industry. Close working relationships with key stakeholders enhances CAV's potential to prevent, diminish and resolve disputation within the marketplace.

The development of education and information material for tenants, landlords and estate agents, will also increase understanding and compliance of their rights and responsibilities under the *Residential Tenancies Act 1997*.

Estate Agents Resolution Service

Following a review into complaint handling and dispute resolution procedures in relation to real estate in Victoria, the government established the Estate Agents Resolution Service (EARS) within Consumer Affairs Victoria. Previously, consumers who met with difficulties in dealing with estate agents had no clear way of resolving disputes, often leading to confusion and variable outcomes.

EARS began operating on 26 April 2002, and offers a free and dedicated service for complaints, advice, information, mediation and dispute resolution on all residential real estate matters. The service aims to resolve disputes in a mutually acceptable and satisfactory manner by helping parties work through their differences in an informal, non-legalistic manner. Either party still has recourse to legal action at any time in the process if they wish.

EARS may refer matters that appear to involve breaches of legislation for possible investigation and prosecution.

Compliance Monitoring

Licensed and Regulated Occupations

Certain occupations are regulated by legislation, and require a trader to hold a licence or to conduct business in a certain way. Businesses that require a licence to operate are known as licensed occupations. Other occupations which are subject to a specific Act but which do not require a licence to operate are known as regulated occupations. Under the legislation governing licensed occupations, CAV inspectors are authorised to enter a trader's premises without consent and examine documents or things for the purposes of ensuring compliance with the relevant Act. These Acts are the:

- *Estate Agents Act 1980*
- *Motor Car Traders Act 1986*
- *Travel Agents Act 1986*
- *Prostitution Control Act 1993*.

Introduction agents fall into the category of a regulated occupation, with their conduct regulated by the *Introduction Agents Act 1997*. CAV inspectors are entitled to enter an introduction agent's premises with the occupier's consent, or alternatively under a search warrant.

During 2001–2002, CAV inspectors carried out the following proactive compliance monitoring

Case Study

A real estate dispute

After speaking to a number of local real estate agents, a homeowner signed an exclusive auction authority to sell his property, and authorised the agent to spend up to \$5,000 on marketing through newspaper advertisements, signage, pamphlets, and the internet etc. The owner and agent agreed on a price that the property should obtain.

However, in the lead-up to the auction, the homeowner advised the agent that he was unhappy with aspects of the marketing campaign. When the property was passed in, the vendor again raised his concerns, claiming that the agent had failed to adequately market the home's features and had misled him on the appraisal of the property: the advertised cost of the home was more than one-third below the reserve price.

The homeowner refused to pay the account for the marketing expenses and lodged a complaint with the Estate Agents Resolution Service (EARS).

EARS contacted the agent and discussed the complaint. The parties agreed to a mediation conference where they had the opportunity to discuss all of the issues-in-dispute in an informal, confidential manner with an EARS mediator as the impartial third party. The agent offered to reduce her account by 25%, in recognition that there had been problems with the level of service and the unrealistic appraisal. The vendor accepted the offer and agreed to pay the balance of the reduced account.

The agent was reminded of her obligations under the legislation regarding false and misleading advertising, and advised that further complaints of this nature could result in investigation leading to possible prosecution.

Because the parties chose to use EARS to resolve the dispute, neither needed to pursue a costly legal remedy.

programs, utilising powers in Acts regulating licensed occupations.

Inspections

Estate Agents Inspection Program

CAV conducted 95 inspections of newly licensed estate agents as part of its proactive inspection program. An inspection involves examining the agent's trust account books and records to ensure that clients' funds are being handled in accordance with the stringent requirements of the *Estate Agents Act* and its associated regulations. An aim of this program was to ensure that new entrants into the market were made aware of their obligations from the outset.

Where an inspection reveals a serious instance of non-compliance, the matter is referred either to the Investigations Branch of CAV or to Victoria Police.

Motor Car Traders' Inspection Program

Under the *Motor Car Traders Act*, licensed motor car traders are required to keep an up-to-date dealings book documenting their acquisitions and disposals. They are also required to display certain information on vehicles being offered for sale. CAV's motor car traders inspection program checks that these fundamental consumer protection requirements are being met. Infringement notices, or 'on-the-spot' fines are issued for failures. During the course of the year, CAV issued 378 infringement notices against 76 motor car traders.

Travel Agents Inspection Program

The *Travel Agents Act* requires that a travel agent be licensed and be a member of the Travel Compensation Fund, that a qualified person be in control of the agency, and that certain accounting records be kept properly. The purpose of the program is to ensure that these basic consumer safeguards are in place. The program resulted in injunctions being obtained against two unlicensed travel agents.

Industry Blitzes

In addition to its ongoing enforcement activities, CAV conducted industry-based blitzes targeting problem areas.

Motor Car Traders

From December 2001, CAV began inspecting all licensed motor car traders whose licences are endorsed to undertake auctions. The purpose of the monitoring program is to ensure that traders are conducting their business in accordance with the *Motor Car Traders Act* and Regulations. The emphasis is on retail and consignments selling, and the representations made to consumers at the time they purchase vehicles.

E-commerce – E-tailer

CAV undertook a proactive inspection and compliance program to examine the websites of traders in relation to retail transactions. Over 500 websites were inspected to determine if they complied with the *Fair Trading Act* 1999 and the best practice model 'Building Consumer Sovereignty in Electronic Commerce'. A small number of traders were found to be not complying. CAV was successful in having these identified traders modify their websites. One trader was required to enter into an enforceable undertaking to ensure compliance with the Act.

Payday Lenders

Following amendments to the Uniform Consumer Credit Code relating to payday lending, CAV undertook a proactive monitoring program to

ensure that payday lenders were registered as credit providers, and were conducting business in accordance with the Consumer Credit Code. Payday loans are short-term, high-interest loans, generally taken out by people to cope with everyday living expenses. Inspections of payday lenders revealed that they were complying with the Code.

Estate Agents

In October 2001, accounting firms acting at the direction of CAV, began a program of trust account inspections of estate agencies in designated geographical areas. Up until 30 June 2002, inspections of 1,033 agencies were conducted. A number of potential breaches of the *Estate Agents Act* and Regulations were identified and referred for investigation.

A review of the advertising practices of estate agents indicated that the practice of underquoting was occurring in numbers that were a cause for concern. A number of property transactions identified in the review were referred for investigation.

Property Sales of Beneficial Interest to Estate Agents

To prevent unethical conduct arising from conflicts of interest, section 55 of the *Estate Agents Act* 1980 prohibits estate agents and their employees from purchasing any property or business that the estate agency is commissioned to sell. It also prevents them from selling any such property to their direct family members, or to business entities to which they or their direct family members belong.

The *Estate Agents Act* allows this prohibition to be waived, subject to conditions, if it can be shown that the vendor's interest would not be compromised. This year, 383 waiver applications made to CAV were granted. This compares with 198 waiver applications approved last year.

CAV entered into 19 enforceable undertakings with estate agents who have breached section 55.

Underquoting House Prices

Purchasing a house is the largest financial transaction that most Australians will undertake. Consumers can suffer detriment when they are misled about prices and by deceptive behaviour, especially at auctions.

The practices of under- and overquoting house prices cause concern to both buyers and vendors. Dummy bidding has also been the subject of some controversy.

Following a number of complaints about houses being sold well above their advertised price, Consumer Affairs Victoria conducted a study into under- and overquoting. It found that, while not endemic, the practice of underquoting in advertising was occurring in sufficient numbers to cause concern.

The review examined advertising and results for more than 900 properties involving 31 real estate agents throughout Melbourne.

It identified three common advertising styles:

- Price Range, eg \$180,000+
53.5% of advertisements
- Specified Range, eg. \$150,000–\$190,000
37.4% of advertisements
- Non-specified Range, eg mid-\$200,000
9.1% of advertisements

The agents have agreed not to contract with vendors in future, without the Director's prior consent. CAV also prosecuted two real estate agents for breaches of the section.

Enforcement Activities

Enforcement Options

There are a number of enforcement options available to CAV to promote compliance with the legislation it administers. In order from the least severe to the most severe outcomes, these options include:

- written warnings to traders
- voluntary undertakings from traders

A variation of 10 to 15% between the quoted estimated price and the actual price is generally considered acceptable. The difference between the advertising methods was startling.

The most common practice, Price Range (\$+), was a very *unreliable* indicator of the potential sale price of a property. Houses advertised using the Price Range (\$+) method were normally sold for more than 20% above the advertised price.

In contrast, most houses sold using the Specified Range method were well within these figures: the average variation between sold or passed-in price and advertised price was 0.9%. The average variation for houses that used the Non-specified Range was 9.6%.

As a result of the review, Consumer Affairs Victoria will be paying closer attention to underquoting. As well as following up individual complaints of misrepresentation, it will be on the lookout for real estate agents who consistently underquote in advertisements.

- enforceable undertakings pursuant to section 146 of the *Fair Trading Act*
- injunctions to restrain or eliminate conduct
- disciplinary action against licensed traders
- prosecution.

Investigation and Prosecution

An investigation is commenced if it appears that prosecution of an alleged breach is warranted and necessary. CAV determines which of the thousands of complaints it receives are appropriate for investigation and prosecution in accordance with its Enforcement Policy. The Policy is designed to ensure that limited resources are committed only to the areas of most benefit to the community.

In deciding which matters are to be investigated, CAV looks at a range of factors, including the:

- seriousness of the alleged offence
- culpability and history of the alleged offender
- special circumstances surrounding the complaint (eg vulnerable consumers)
- sufficiency and quality of the available evidence
- availability of a more appropriate enforcement mechanism.

Once a matter has been determined as being appropriate for investigation, the progress of inquiries is monitored to ensure that the matter is one that is appropriate for prosecution. The factors taken into account are:

- sufficiency and quality of the evidence
- whether there is a reasonable prospect of conviction
- whether the public interest requires a prosecution (eg is the conduct prevalent; is the victim particularly vulnerable?).

Since the application of the Enforcement Policy, CAV has taken on more substantial enforcement activities with significance to the community. Enforcement activities may be taken against traders in licensed and/or regulated occupations under the specific legislation governing that occupation, or against traders in general under the *Fair Trading Act*. A review of the enforcement policy will be undertaken in 2002.

Enforcement Outcomes for 2001–2002

CAV investigated 1,063 complaints involving alleged breaches of legislation during 2001–2002. Of these matters, 87 culminated in court proceedings, with 84 successfully prosecuted.

Injunctions were obtained under section 33A of the *Motor Car Traders Act*, restraining five unlicensed persons from trading in motor cars. Injunctions were also obtained restraining persons from trading as travel agents and acting as fundraisers. (See Appendix 2.)

Extensive use of enforceable undertakings under section 146 of the *Fair Trading Act* was made during 2001–2002, with 106 undertakings being entered into. Enforceable undertakings are an intermediate enforcement measure. They are used when there has been a demonstrated breach of the Act, but it is considered that prosecution may be too harsh an option or too resource-intensive to pursue. The person or company acknowledges that they have breached the law, and undertakes not to breach in the future and to comply with conditions required by the Director of Consumer Affairs Victoria. (See Appendix 3.)

Infringement notices also allow CAV to achieve positive enforcement outcomes without having to resort to resource-intensive prosecution.

Infringement notices were used to address strict liability offences under the *Motor Car Traders Act*, such as failing to enter particulars into the dealings book or failing to display a Form 7 disclosure notice on a used car. More positive enforcement outcomes were achieved using this method than by prosecution alone. This year 378 infringement notices were issued. The following table sets out the enforcement outcomes achieved by the Investigations Branch during the year.

Prosecution of Traders in Licensed Occupations

In addition to its compliance-monitoring role, CAV also exercises its powers under the various Acts governing licensed occupations to prosecute serious cases of non-compliance.

Seven motor car traders were prosecuted in 2001–2002 for unlicensed trading and providing false odometer readings under the *Motor Car Traders Act*. Two of the more significant cases were:

Osman Sabir, formerly Tom Neden, formerly Tarkan Arpaci, was fined \$15,000 plus \$1,407 costs for selling 34 motor vehicles in one year whilst not licensed to trade in motor cars.

Table 10. Enforcement Outcomes 2001–2002

Type of Enforcement Outcomes	No. of Actions Taken	No. Successful
Enforceable Undertaking	106	106
Injunction	10	10
Disciplinary action against licensed trader	2	2
Prosecution	87	84

George Sim, an unlicensed trader, sold or offered for sale 19 cars between January 1998 and June 2000. He was convicted and fined \$5,000.

Most of the charges against 17 people or companies prosecuted under the *Estate Agents Act*, related to failure to conduct police checks on agents' representatives, unlicensed trading, and agents purchasing prohibited property.

In one case, Ms Erin Hewitt, who had been declared insolvent, was fined \$10,000 in the Melbourne Magistrates' Court for acting as an estate agent's representative while ineligible. The fine was the largest to date for this offence.

Ms Hewitt was also the first person to be charged with making a false statement under section 93 of the *Estate Agents Act*. Ms Hewitt swore in a statutory declaration to the Business Licensing Authority that she would not act as an estate agent until her licence was restored. However, she continued to act as an agent's representative for Abercromby & Beatty. She was fined an additional \$2,500 for making a false statement and \$500 for falsely holding herself to be a licensed agent.

There was one prosecution for unlicensed trading under the *Travel Agents Act*. There were two prosecutions for failing to keep adequate accounting and other records, and for failing to comply with a request by an inspector to produce specified information. In the following case, consumers lost thousands of dollars to an unlicensed travel agent.

Graham Kinghorn of Brighton was fined \$20,000 for carrying on a business as a travel agent whilst not licensed. Mr Kinghorn was an officer of the travel agency Tourworld, whose licence had been cancelled as a result of being placed under external administration. Despite this, the agency continued to trade for 20 months. Consumers lost close to \$180,000. After claims to the Travel Compensation Fund were finalised, consumers were still \$108,000 out of pocket.

Seven prosecutions concerned the finance broking provisions of the *Consumer Credit (Vic) Act 1995*, particularly the taking of up-front fees, and disqualified persons acting as finance brokers.

Under the *Credit Administration Act 1984*, there were two prosecutions for failure to produce documents or answer questions.

Prosecution of Traders in Regulated Occupations

Domestic building activities are regulated by the *Domestic Building Contracts Act 1995* and the *Building Act 1993*. The *Building Act* is administered by the Building Commission and requires that builders be registered. The *Domestic Building Contracts Act* is administered by CAV and prescribes the contents of a domestic building contract.

Domestic building projects totalling over \$5,000 are regulated by the *Domestic Building Contracts Act*. Any departures from the provisions of that Act by a builder are potentially detrimental to the financial interests of the consumer. For example, a domestic builder must not carry out domestic building work

No holiday with travel club

Crownstar International was a travel club that attracted a large number of customers by offering world-wide accommodation and travel at discounted rates to club members.

People were convinced to pay membership fees of around \$3,000 on the promise that they would obtain accommodation discounts of up to 70% and wholesale travel rates.

A glossy and professional accommodation directory was shown to prospective members, which listed a large number of available hotels and other accommodation venues throughout the world. However, club members complained that they were not provided with a copy of this directory and that the discounted travel and accommodation were not honoured.

CAV executed search warrants on Crownstar's business premises and CAV assisted the Australian Securities and Investment Commission who applied to the Federal Court to have Crownstar placed into liquidation. CAV intends to prosecute this company.

Family finance leads to court

A family business that engaged in bogus finance deals has been shut down, after a brother and sister were fined \$91,000 in the Melbourne Magistrates' Court.

The fines came three months after their father, George Stein, pleaded guilty to acting as a finance broker while prohibited, and taking up-front fees.

Seventeen-year-old Marina Petrou and 20-year-old James Petrou placed an advertisement in the Herald Sun offering to obtain loans in return for a fee. Unsuspecting callers paid \$250-\$350 upfront for loans that never materialised.

Marina Petrou was convicted and fined \$36,000 under section 37 of the Consumer Credit (Vic) Act 1995 which makes it an offence for a finance broker to accept fees unless the appropriate documentation has been completed and the finance secured. Ms Petrou was also convicted of acting as a finance broker while prohibited from doing so, as she was under the age of 18.

James Dimitrios Petrou was convicted of aiding and abetting his sister, and was fined \$30,000, and the family company, JSMD Financial Consultants, was fined \$25,000.

In August 2001, James and Marina's father, George Stein, was convicted in the Melbourne Magistrates' Court of acting as a finance broker while prohibited due to a previous offence. He had been jailed in 1994 for numerous offences involving dishonesty and obtaining property by deception.

On this latest occasion, Stein pleaded guilty to the offences and was ordered to do 180 hours of community work, after he repaid \$1,950 in fees to his victims.

unless covered by the required insurance. If a builder is not covered by insurance and the work turns out to be defective, then the consumer may have to pay for their own rectification work.

In 2001–2002, there were 21 prosecutions under the *Domestic Building Contracts Act* related to unregistered builders, excessive deposits, uninsured jobs and non-performance of contracts.

There were two prosecutions under the *Introduction Agents Act* for unauthorised trading and one related to advertising under the *Prostitution Control Act*.

An introduction agent, David Burgess, was fined \$50,000 plus costs for breaching the deposit and refund sections of the *Introduction Agents Act*. Mr Burgess did not provide refunds within seven days of receiving cancellation letters from consumers, and he demanded and received more than 30% of the contract price prior to any service being provided.

Mr Burgess also made false representation to two consumers regarding the service.

A person who intends to conduct a fundraising appeal must apply for registration as a fundraiser at least 28 days before the date she or he intends to start conducting the appeal. The Director of CAV may grant or refuse registration and can impose conditions. The Director may deregister a fundraiser if, amongst other things, he is satisfied that it is not in the public interest for the person to conduct a fundraising appeal.

There were two prosecutions under the *Fundraising Appeals Act* 1998.

Prosecution of Non-regulated Traders

Virtually all transactions taking place between traders and consumers in the State of Victoria are subject to the *Fair Trading Act*. This Act, among other things, prohibits false representations in trade or commerce.

Of the 12 cases prosecuted under the *Fair Trading Act* in 2001–2002, three related to misrepresentations and five to publishers demanding payments for unauthorised advertisements.

Hilton Publishing, the publisher of four publications, was fined \$64,000 for trying to extract payments from 12 people or companies for false advertisements. The company did not have written instructions or authorisation to place the advertisements from the person whose business was advertised.

Magic pill leads to court

The *Fair Trading Act 1999* is a major tool in protecting vulnerable and disadvantaged consumers from unscrupulous traders. The following is one of 12 cases prosecuted under the Act in 2001–2002.

A Toorak businessman who asked a quadriplegic woman to pay him \$36,000 for a 'magic mushroom pill' that would make her walk again was fined \$8,000 plus costs in the Melbourne Magistrates' Court.

Consumer Affairs Victoria argued that Andrew Savva of Narre Warren North, the former operator of Kiastor Clinic in Toorak, had shamelessly played upon the hopes of his victim.

The quadriplegic woman, who had been injured in a car accident, sold assets to raise \$16,000 towards the purchase of the pill.

The court was told Mr Savva had misrepresented the properties of the pill that had no hope of reversing the damage to the woman's spinal cord.

He was convicted of misrepresentation under the Fair Trading Act.

Funeral director prosecuted

The *Funerals (Pre-Paid Money) Act 1993* aims to protect people who plan and pay for their own funeral. In 1999–2000, two funeral directors were prosecuted; last year there were no prosecutions and this year one.

A funeral director who failed to invest money he received for pre-paid funerals was fined \$20,000 after being prosecuted by Consumer Affairs Victoria.

Five elderly customers paid Mark Robert Bull of the Rye and Sorrento Funeral Service \$10,000 to be set aside for their funerals, but he did not invest the money as required by the Funerals (Pre-Paid Money) Act.

Mr Bull was convicted in the Frankston Magistrates' Court of 29 breaches of the Act relating to the failure to invest money, and failure to provide customers with proper documentation and receipts.

The purpose of the Act is to protect people, many of them elderly and vulnerable, in the event of the collapse of a funeral business.

Funeral directors must put the monies that they receive from customers for pre-paid funerals into Government-approved funeral benefit funds. This ensures that if something happens to the funeral business, the customers do not lose their money.

Pre-paid funerals allow people to arrange and pay for their funeral in advance. This ensures their wishes are carried out and their families are spared decisions at a stressful time. However, CAV advises people entering a pre-paid funeral contract to make sure they receive a copy of the contract detailing the funeral service, a certificate or advice from the investment body that their money has been invested in their name, and a receipt from the funeral organiser.



Maintaining an Effective Consumer Protection Framework

Victorian consumers are protected by a policy and legislative program which is constantly monitored and reviewed by CAV.

Policy and Legislation

Consumer Affairs Victoria has an active policy and legislative program. Key areas of policy development in 2001–2002 were the review of the *Fair Trading Act 1999*, commencement of a review into retirement villages, response to the collapse of HIH Insurance Ltd, and advances in a number of initiatives regarding fuel.

CAV has taken a leading role in tackling issues arising from internet-based transactions (e-commerce) as well as mobile phone-based transactions (m-commerce).

The major features of the legislative program were the introduction of two new business registration schemes, the enhancement of relief for small businesses from unconscionable treatment by other traders, and the introduction of regulation of payday lenders.

From January, fundraisers were required to register with the Director of Consumer Affairs Victoria unless they were exempt from doing so. From April, second-hand dealers who wished to specifically carry on the business of a pawnbroker were required to seek the endorsement of the Business Licensing Authority (BLA).

Other achievements included the repeal of redundant provisions in the *Trustee Act 1958*, and the repeal of the *Business Investigations Act 1958*, which has been superseded by the *Fair Trading Act 1999* and the *Corporations Act 2001* (Cwlth).

Fundraising Appeals

The *Fundraising Appeals (Amendment) Act 2001* amended the *Fundraising Appeals Act 1998* to focus attention on major fundraisers and to improve protection afforded the donating public.

Previously the focus was on the appeals that were being conducted, rather than on the persons

running the appeals. The *Fundraising Appeals (Amendment) Act* established a registration scheme that identifies who is fundraising, who is handling the monies raised, and how the money is distributed. It also provides additional enforcement powers. For example, the Director of Consumer Affairs Victoria can refuse registration, and can deregister a fundraiser in certain circumstances (including in the public interest). The register is available for perusal by the public at www.consumer.vic.gov.au.

The fundraiser registration scheme also enables organisations to be exempted from registering by Ministerial Order. Volunteer fundraisers that raise less than \$10,000 per annum and use only volunteers to conduct their fundraising activities are not required to register. These exemptions are in addition to those already given by section 16 of the *Fundraising Appeals Act* (eg to schools, universities, government-funded health services, registered political parties and religious organisations).

Pawnbrokers

In late 2000, a review of the *Second-Hand Dealers and Pawnbrokers Act* 1989, and in particular the regulation of pawnbrokers, was initiated by CAV as part of the Government's commitment to consumer justice. The review involved extensive consultation with industry and consumer representatives. It built on the work undertaken by the Good Shepherd Youth and Family Service, which conducted a study of the impact of deregulation of the pawnbroking industry.

As a result of the review, the Act was amended by the *Second-Hand Dealers and Pawnbrokers (Amendment) Act* 2000, which introduced the separate registration of pawnbrokers to enable closer scrutiny of their activities. It also:

- enhanced enforcement powers through the introduction of inspectors' powers and the power to issue infringement notices
- increased penalties for non-compliance with the Act and the Regulations
- revitalised the entitlement to residual equity for persons pawning goods if the goods are not redeemed and are subsequently sold by the pawnbroker.

The provisions of the Act that introduced endorsement of second-hand dealers wishing to conduct the business of a pawnbroker, new penalties, and signage requirements, commenced on 8 April 2002. The remaining provisions, which deal with residual equity, inspectors' powers and infringement notices, will commence later in 2002.

Unconscionable Conduct

The *Fair Trading (Unconscionable Conduct) Act* 2001 amended the *Fair Trading Act* 1999 to prohibit unconscionable conduct in business transactions of three million dollars or less. It complements the provisions of the *Fair Trading Act* that prohibit unconscionable conduct in consumer transactions. The amendment reflects provisions in the *Trade Practices Act* 1974. The practical effect of the changes is to bring unincorporated traders into the net and to allow all traders access to VCAT for the resolution of unconscionable conduct disputes.

Payday Lending Changes

The Uniform Consumer Credit Code was amended to bring the practice of payday lending within its ambit from 10 December 2001. The Code is part of a national law developed by all States and Territories. Payday lending was not covered by the Code because it fell within a general exemption for credit provided for not more than 62 days. Typically, payday loans are for no longer than a month. They are for relatively small amounts, usually for repayment on the consumer's next payday and they attract high charges.

The Code has been amended so that where the credit fees and charges exceed 5% of the amount of credit provided, or the annual interest rate applied to the loan exceeds 24%, the credit provider will be

Payday Loans

'I had school books and school uniforms to go and get again. High school, it's not cheap. So I was still trying to pay off school fees and everything like that and I thought well, you know, try and get some of the fees down the road, cause I've got a grand's worth of fees to pay! Where am I supposed to get the money for that.' – Samantha*

Payday Lending in Victoria – a research report

Scores of people each day ask themselves a similar question. And the answer they come up with is payday lenders: providers of high-cost, short-term loans.

Payday lending businesses are fairly new to Victoria. One of the first businesses, ChequExchange, opened its doors in Northcote in May 2000, and a report by the Consumer Law Centre Victoria estimated there were 16 establishments in Victoria in 2001–2002.

People who use payday lenders are some of the most vulnerable consumers in our society – low-income earners or people with poor credit ratings.

Until recently they were open to exploitation as the Uniform Consumer Credit Code did not apply to short-term loans. In practice, this meant that borrowers like Samantha would be given very little information about the loans which charged fees equivalent to interest rates of on average 500–700%. There were few formal constraints on the way that payday lenders administered the loan or pursued defaulted payments.

The report by the Consumer Law Centre Victoria, titled *Payday Lending in Victoria - A research report*, has painted a picture of the typical payday loan customer as a low-income earner struggling to meet everyday bills or unexpected payments.

Based on a survey, the author Dean Wilson, said borrowers were most likely to be in their late twenties or early thirties, earning around \$24,000 a year and borrowing about \$250 for two to four weeks. Most of the men were employed while the women were on Centrelink benefits, probably a sole parenting payment. Many were living below the poverty line.

Once they had taken out one loan...other loans followed. The average number of repeat loans taken out by consumers was six over a period of 12 months, and quite a few people were using the loans continuously.

The expansion of the Uniform Consumer Credit Code to cover payday lenders aims to give consumers more information so they know exactly how much they are paying for the loan and the conditions under which they obtain it.

Payday lenders must give consumers a copy of the credit contract before they sign and a statement outlining consumer rights under the Code. They must supply details of the exact amount borrowed, fees and charges, interest rate (which cannot exceed 48%), repayment date and default charges.

If a consumer has difficulty repaying because of sickness, job loss or other hardship, he or she is entitled to ask the payday lender to consider coming to a suitable arrangement, and the payday lender must take this into account in determining what to do.

The consumer can ask for confirmation of the loan amount and payout amount at any time, and payday lenders cannot seek to enforce a loan without first giving proper notice.

The Code allows unjust or unconscionable terms or conditions to be challenged, including where the payday lender applies undue pressure on the consumer to sign, or where the lender knows that the consumer has no realistic hope of repaying the loan.

*Not her real name

covered by the Code – irrespective of the timeframe. For example, a payday lender who advances \$250 for a fortnight and charges a \$40 flat fee will need to comply with the Code because the charge exceeds 5% of the amount loaned.

This means that persons taking out payday loans will now have access to the range of protections provided by the Code. Consumers must be made aware in advance of the key features of the loan, with details of any security required and default charges. They will have the ability to re-open unjust contracts; and, by virtue of the new requirement for payday lenders to register with the BLA, the possibility of VCAT taking disciplinary action against traders.

Other Legislative Changes

Two other major legislative changes are under development. The Business Licensing Legislation (Amendment) Bill 2002 was introduced in the Autumn 2002 Parliamentary Sittings, to lie over for debate in the Spring 2002 Parliamentary Sittings. It proposes amendments to the *Business Names Act 1962*, the *Associations Incorporation Act 1981*, the *Estate Agents Act 1980*, the *Motor Car Traders Act 1986* and the *Travel Agents Act 1986* to enable online transactions with CAV and the BLA, and to clarify the content of, and rights of access to, registers established under those Acts.

Additionally, an Exposure Draft has been issued for a Bill to amend the *Sale of Land Act 1962* to prohibit auction misconduct such as dummy bidding, and to amend the *Estate Agents Act 1980* to regulate the receipt of rebates by estate agents for advertising and other services. A range of other amendments are intended to strengthen the Act's application. Problems associated with real estate auctions such as vendor and dummy bidding, and the conduct of buyers' advocates, have been examined by the Estate Agents Council, which made a number of recommendations feeding into the Bill.

Regulations Made or Revoked During 2001–2002

Made

- Associations Incorporation (Prescribed Particulars) Regulations 2001
- Discharged Servicemen's Preference Regulations 2001
- Credit (Administration)(Committee)(Amendment) Regulations 2001
- Fair Trading (Amendment) Regulations 2001
- Fundraising Appeals (Amendment) Regulations 2001
- Fuel Prices (Declaration of Secrecy) Regulations 2001
- Petroleum Products (Terminal Gate Pricing) Regulations 2001
- Patriotic Funds Regulations 2001
- Motor Car Traders (Fees) Regulations 2001
- Fair Trading (Safety Standard)(Basketball Rings and Backboards) Regulations 2002
- Business Names (Amendment) Regulations 2002
- Subordinate Legislation (Business Names (No.2) 1992) – Extension of Operation Regulations 2002

Revoked

- Consumer Affairs (Product Safety)(Airports) Regulations 1992
- Fuel Prices (Declaration of Secrecy) Regulations 1992
- Discharged Servicemen's Preference Regulations 1992
- Patriotic Funds Regulations 1992
- Patriotic Funds (Travelling Expenses) Regulations 1998

Building

Consumer Affairs Victoria worked on a number of key issues for consumers in the domestic building market. Consumers continued to feel repercussions from the collapse of HIH Insurance Ltd in March 2001, focussing attention on areas of concern within the regulatory framework. The collapse of HIH and other adverse influences on insurance markets,

including the events in New York of September 11, made it necessary to reduce the scope of builders' warranty insurance in order to retain insurers in the marketplace.

While evaluating the impact of the proposed insurance changes, CAV began developing principles and arrangements for an early dispute resolution mechanism (to be known as Building Advice and Conciliation Victoria) to ensure adequate consumer protection and facilitate a sustainable domestic building industry. These principles – a one-stop-shop, early intervention and speedy dispute resolution, with the assistance of technical advice where necessary – were to be enshrined in the new service.

CAV worked closely with the Building Commission, the other Government agency dealing with building matters, in the development of this service. Building Advice and Conciliation Victoria will begin operation in July 2002.

Marketplace Discrimination Against Women Consumers

In November 2001, the Family and Community Development Committee, a joint investigatory committee of the Victorian Parliament, finalised a report into marketplace discrimination against women consumers.

The Committee made 16 recommendations to reduce the levels of discrimination against women. These focussed on improving awareness of discrimination among traders and consumers; improving data capture to better identify the extent and areas of marketplace discrimination; and establishing stronger relationships between agencies, particularly between CAV and the Equal Opportunity Commission (EOC).

An interdepartmental working group comprising representatives of CAV and other divisions within the Department of Justice, the EOC, the Department of Premier and Cabinet and the

Department of Treasury and Finance, formulated the Government's response and reported back to Parliament on 28 May 2002.

Overall, the Victorian Government will focus on improving consumer understanding and industry compliance with anti-discrimination laws through awareness-raising activities, and by providing advice and support to industry bodies. The Government will:

- encourage a proactive industry approach to dealing with issues of discrimination, and to supporting industry groups in the development of voluntary codes of conduct that address issues of discrimination
- provide guidelines to assist Government and other groups to incorporate anti-discrimination messages into publications and other material
- continue to work with industry to foster and promote positive images of women in industry, and female representation in traditionally male industries
- improve the capacity of CAV to monitor the number of complaints concerning marketplace discrimination
- work with the Commonwealth to ensure the availability of consistent and best-practice information to assist industries in developing self-regulatory industry codes
- advocate to the Commonwealth the need to develop a nationally consistent and whole-of-government approach to reducing discrimination in the provision of goods and services.

A CAV working group has begun identifying key projects in this area.

Review of the Fair Trading Act 1999

The Minister for Consumer Affairs ordered a review of the *Fair Trading Act* 1999, to ensure that implementation of the Act had improved Victoria's consumer protection framework, particularly in regards to vulnerable consumers.

The Government was also concerned whether the Act had kept pace with emerging consumer protection issues, such as purchasing over the internet, and with new practices of unscrupulous traders in door-to-door sales and telemarketing. It wanted to examine whether the Act had kept up with interstate and overseas developments and had all the modern enforcement powers required to deal effectively with rogue traders.

A reference panel of consumer, industry, academic and legal representatives, chaired by Bob Stensholt MP, formulated an issues paper with the assistance of CAV that was posted on the CAV website and sent to interested groups.

In addition, the panel conducted an e-commerce workshop in September 2001 to discuss consumer issues associated with online trading. The panel reported to the Minister for Consumer Affairs in June 2002, and the Government will introduce a Bill to amend the Act in the Spring 2002 session of Parliament.

Other Reviews

Review of the Retirement Villages Act 1986

The Victorian *Retirement Villages Act* 1986 was introduced to clarify and protect the rights of persons who lived in, or who wished to live in, retirement villages. Since the mid-1980s, however, retirement village living has become increasingly popular and the broader aged-accommodation sector has changed significantly.

A Review of the Act began in 2001–2002. It is evaluating consumer protection mechanisms to ensure that Victoria has a regulatory regime that protects retirement village residents and provides a stable environment in which the retirement village industry can prosper.

Through consultation with key industry, consumer, community and resident stakeholder groups, a

number of major issues have been identified, including:

- what constitutes a 'retirement village'
- the range and complexity of contracts
- confusion about deferred management fees
- dispute resolution and complaints mechanisms
- monitoring compliance with the Act
- overlap between State and Commonwealth regulations.

After release of a discussion paper and analysis of submissions, the final report will be submitted in 2003.

Review of the Residential Tenancies Act 1997

Following the report of the Residential Tenancies Legislation Working Group, in which CAV participated, the Minister for Housing introduced a Residential Tenancies (Amendment) Bill into Parliament in Autumn 2002.

It includes a proposal to return to the system under which rent increases may occur on 60 days' notice, but only once every six months. It also proposes to increase the notice to vacate without a specified reason from 90 to 120 days, and to reinstate the offence under the *Residential Tenancies Act* of non-compliance with Tribunal orders.

Self-regulation, Codes and Industry Standards

During the year, CAV prepared a report for the Minister reviewing the policy framework for industry self-regulation, and establishing criteria for the circumstances in which mandatory codes of practice would be considered.

The policy framework for self-regulation was established in 1994. Since that time, CAV has assisted industry associations to develop and implement codes of practice. It was in light of this implementation experience, and with regard to the State Government's consumer affairs objectives, that the policy was reviewed.

Emerging Issues in Fair Trading

A number of emerging issues relating to the operation of the Fair Trading Act were canvassed in the Issues Paper released on 13 December 2001. The paper sought to draw out comment and debate on:

Vulnerable Consumers

Some consumers are particularly susceptible to various misleading and deceptive practices because of poverty, age, disability, sickness, emotional state, isolation (including geographic isolation faced by rural and regional Victorians) or ethnic or indigenous background. Others may be disadvantaged due to lack of education, relevant experience or English language skills. Many vulnerable consumers do not use CAV services. The paper asked whether vulnerable consumers found it more difficult to access dispute resolution processes, required special protective provisions in the Act, or required a different approach by CAV to enforcement of the Act.

Internet Shopping

The paper asked whether the Act adequately protected consumers engaging in e-commerce. Was the best approach to regulating e-commerce to encourage the adoption of voluntary codes of conduct, or to set out a mandatory legislative regime? Could legislative protective measures in Victoria that were not reciprocated by other States and countries, jeopardise the take-up of e-commerce in Victoria? Alternatively, should e-commerce regulation be carried out at a national level and, in the absence of satisfactory national regulation, was it appropriate for Victoria to take the lead and advocate for its preferred position to be adopted on a national basis?

Direct Selling

It has long been recognised that people approached in their homes by door-to-door salespeople may feel under pressure to buy a product just to get rid of the salesperson. Under the Act, the agreement must be in writing and there is a cooling-off period. The paper asked whether these protections should be extended to consumers who are transported to the trader's premises for a sales presentation, and to telemarketing. It asked whether sales concluded at a consumer's

house after the trader has provided a service (eg repairers who sell new appliances) should continue to be regarded as 'contact sales'; whether 'contact sales' approaches should be prohibited after business hours and on weekends and public holidays; and whether there should be a limit on the time that door-to-door sellers can stay in consumers' houses.

Unsolicited Products

The paper asked whether there was a loophole in the Act's definition of 'unsolicited', in the light of the activities of one trader who inveigled consumers into believing that they had ordered goods only on approval.

Other Issues

The paper also sought comments on whether the Act should include extra consumer protection measures, such as:

- A power to require traders to provide proof of product claims, where the claims seem too good to be true. It is often difficult and expensive for CAV to do clinical research on, for example, baldness to disprove a baldness-cure claim, whereas the promoters of such claims should be able to provide proof of their claims.
- A power to warn the public about disreputable traders. Sometimes there is strong evidence of wrongdoing on the part of a trader and more people could be hurt if CAV waits for a prosecution to be finalised before publicising the fact. The issue was whether the Minister or the Director should have an immunity from suit when issuing such warnings, including whether the potential for an abuse outweighed the consumer protection benefit.

Seventeen detailed submissions were received on the Issues Paper. They raised several new issues including using plain English and prohibiting unfair terms in consumer contracts; increasing penalties under the Act; prohibiting contact sellers from requiring or accepting payments during the cooling-off period; and preventing traders from charging for services if the agreement is cancelled under the cooling-off right.

The review found that the definition of self-regulation was too focussed on the development of voluntary codes, and that greater flexibility in self-regulatory mechanisms was desirable. The review noted that many state-based industry and trade associations were relatively small, and lacked adequate resources to develop and implement effective voluntary codes that would deliver tangible consumer benefits. It noted, however, that these associations might be better placed to implement effective complaints processes and compliance programs, or encourage individual company charters of service standards.

Previously, CAV had sought to assist any trade or industry association that sought help with codes. The review recommended that CAV assist associations by providing guidelines and other resource materials, but that it should only become actively involved in negotiating codes in areas of strategic importance or where there is an important public policy objective.

The review report also considered the circumstances in which it would be desirable to prescribe mandatory codes of practice. Circumstances include:

- where a range of self-regulatory or co-regulatory options have been found to be ineffective and it is determined essential that all industry participants adhere to particular minimum requirements
- where a self-regulatory system exhibits ongoing and serious enforcement deficiencies and it is judged in the net public interest to intervene
- where there is a widespread market failure but it is not judged to be of sufficient seriousness to warrant industry-specific legislation
- as a 'half-way' house in moving from an industry regulated by primary legislation to deregulation.

In November 2001, the Parliamentary Law Reform Committee was asked to consider whether mandatory codes were required to protect consumers in some industry sectors, particularly hairdressing, removals, carpet cleaning and whitegoods retailing. Work is likely to commence in October 2002. CAV has offered to provide data and support the work of the Committee.

Fuel

A number of initiatives have been undertaken to ensure the efficiency and competitiveness of fuel markets in Victoria.

Terminal Gate Pricing

Victoria was the first State to introduce mandatory Terminal Gate Pricing (TGP), which came into operation on 1 August 2001 under the *Petroleum Products (Terminal Gate Pricing) Act 2000*.

The aim of the Act is to increase the transparency of wholesale fuel pricing and to provide access to fuel at refineries and terminals at competitive prices.

The Act changes the way declared suppliers set prices for spot purchases and contracts from a 'top down' to a 'bottom up' pricing structure based on TGP. The Act obliges fuel suppliers to:

- calculate a terminal gate price (TGP), or wholesale price, for certain petrol and diesel fuels they sell, using a prescribed formula which is based on import parity pricing components
- advertise their TGPs on the internet, and not change a TGP more than once every 24 hours
- add any optional charges for transport, delivery, credit, brand and equipment and the TGP, and to deduct any discounts and rebates from a product TGP
- disclose all price information on invoices and as requested by customers
- provide access to fuel at terminals at the TGP to all customers. Access may only be denied in specified circumstances.

There were three assessments of the impact of the Act, with a final quarterly assessment due after July 2002. These assessments found that:

- all declared suppliers set and published a Terminal Gate Price for each class of declared product on their websites by the required date of 15 August 2001
- declared supplier TGPs for products were different but within a reasonable range of each other and did not change more than once every 24 hours

- transparency had been achieved and independents had better access to relatively more competitive and stable buying prices
- following implementation of the Act the evidence tentatively suggested that TGPs were less volatile than wholesale list prices, and that movements in TGPs were more closely aligned to international price movements than they had been previously.

A more comprehensive assessment of the first year of operation will be prepared later in 2002.

In the long term, fuel distributors and retailers should benefit through improved opportunities to expand and commence new businesses and to form buying groups, knowing that fuel can be purchased directly from terminals at competitive prices. These benefits are likely to be particularly relevant to independent rural resellers.

Consumers are not directly affected by the Act. However, greater transparency allows consumers to compare pump prices to the TGP to see the total add-on cost for fuel in particular locations. In the longer term, the potential benefits for fuel resellers may produce benefits for consumers.

Fuel Temperature Correction

On 13 July 2001, the Ministerial Council on Consumer Affairs (MCCA) agreed in-principle to introduce mandatory temperature compensation to 15 degrees Celsius for petrol and diesel fuel loaded at refineries and terminals across Australia.

When hot fuel is loaded at refineries and terminals and delivered direct to retailers, it shrinks as it cools in storage before resale. Hot fuel deliveries cause financial loss and jeopardise the viability of retailers, particularly small independent operators. The existence of independents is essential to competitive markets in Australia, and government intervention aims to achieve a more level playing field.

Temperature correction will achieve greater transparency in the measurement and pricing of

petrol and diesel loaded for sale at refineries and terminals.

Victoria was instrumental in developing a national approach to temperature compensation through regulation, under the model Uniform Trade Measurement Legislation. The Victorian proposal was acknowledged by Governments and industry as dealing with the majority of the problem at little cost and with potentially significant benefits for fuel retailers.

CAV is working in consultation with the Queensland Office of Fair Trading, which is responsible for amending the model trade measurement legislation, to introduce national temperature correction. The results of a regulation impact assessment and a proposed model regulation will be reported to State and Territory Ministers for Consumer Affairs later this year. It is intended that temperature correction be introduced by jurisdictions on 1 December 2002, or as soon as possible after that date.

LPG

Following concerns about the high cost of liquefied petroleum gas (LPG), CAV convened an industry stakeholder reference group in September 2001 to examine LPG markets, particularly transparency at the wholesale level, and to consider and advise on options to address problems.

While the reference group was mainly concerned with LPG autogas, the Essential Services Commission (ESC) commenced an inquiry into the possible abuse of market power in the domestic bottled LPG market. CAV advised on the drafting of the terms of reference for the inquiry, which commenced in December 2001.

As both the reference group and the ESC inquiry were concerned with producer pricing practices, finalisation of the reference group's findings was deferred until after the release of the ESC's final report later this year.

Electronic Commerce

E-commerce Consumer Protection Plan

E-commerce is a significant priority of the Government. One of the goals of its e-commerce strategy, *Victoria's E-commerce Advantage*, is to boost the uptake of e-commerce by consumers and business to enable Victoria to maintain and build its competitive advantage.

Consumers, however, will be reluctant to buy goods and services online until they can be sure that the transaction will be safe. Consumers need to understand what to look for and what to avoid when shopping online.

In recognition of the fact that e-commerce is now an important consumer issue, CAV developed and is implementing an E-commerce Consumer Protection Plan. The Plan is designed to support and feed into the Government's overall e-commerce strategy, and is aimed at both protecting and informing consumers, and ensuring that CAV as an organisation can meet the challenges of the future.

During the year, CAV has focussed on two main areas. Firstly, as part of the review of the *Fair Trading Act*, the adequacy of existing legislation to protect consumers buying goods and services online has been analysed. The second main focus has been on consumer awareness. CAV is developing an exciting new interactive product designed to guide and assist people buying goods and services online. This product, *ShopSafe™*, will be supported by an e-commerce website, and is expected to be launched in the next financial year. CAV has also developed a range of factsheets on various e-commerce issues, for example Domain Names, Spam, Internet Service Providers, Credit Card Security and Privacy.

Over the course of the next year, the focus of the E-commerce Consumer Protection Plan is likely to shift to policy and regulatory issues as Victoria leads a national working party on e-commerce

matters. The working party will canvass issues such as whether there is a need for minimum national statutory standards protecting consumers engaging in e-commerce, web seals of approval, and the challenges raised by m-commerce (see below).

Web Seals of Approval

CAV has urged a national approach to Web Seals of Approval, following the release of a discussion paper in January 2002.

Web Seals of Approval are generally a third party certification process that declares that a particular business has agreed to follow a set of rules or guidelines that address particular business practices, for example privacy, security and service issues. Some of the better known seals include Webtrust, eTick, BBBOnLine and TrustUK.

Web Seals have been increasingly used by business operators to promote consumer confidence in the online world. However, this has given rise to several consumer issues. A general lack of consumer awareness of seals, inconsistent standards, and a lack of transparency with regard to compliance have dogged industry codes of practice for many years.

The paper discusses four possible options: the preparation of a guide to seals; the development of criteria for effective codes; the evaluation of the efficacy of seals; and the establishment of a national seal accreditation.

To facilitate a national response, the Minister for Consumer Affairs will raise the issue at the Ministerial Council on Consumer Affairs (MCCA) in August 2002.

M-commerce

The ability to use mobile phones and other wireless devices to make payments and conduct purchases (m-commerce), is likely to be the next offering from mobile phone service providers in Australia.

Telecommunications companies are working with retailers and content providers to develop new services. Trials have begun that enable consumers to use their mobile phones to pay for parking meters, order and pay for pizzas, and for gambling.

In Europe, the market for m-commerce services is estimated to be worth €23 billion (\$A40 billion). In Australia, judging from the adoption of other forms of technology such as SMS, m-commerce services are likely to proliferate. Consumers will be able to use wireless devices to access banking accounts and pay bills, receive stock quotes and initiate transactions, or receive special promotions and generate orders from any place at any time.

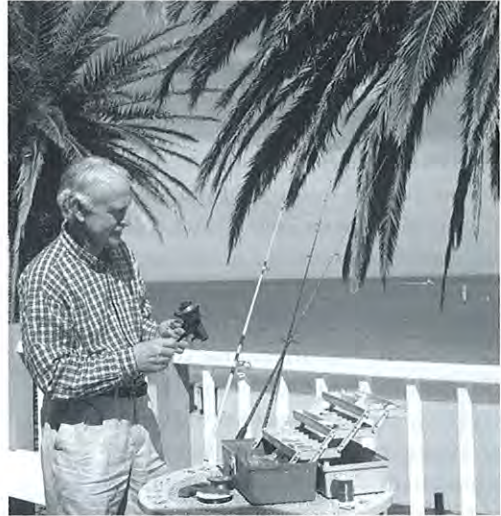
The introduction of these services raises questions regarding privacy and security in undertaking transactions, liability issues, disclosures, guarantees, advertising practices, the provision of credit, and evidentiary issues.

In May 2002, Victoria developed a draft discussion paper for consideration by consumer affairs agencies. While many of the potential causes for concern may be covered by existing consumer protection mechanisms, new issues will undoubtedly emerge in the uptake of m-commerce services where consumers are left vulnerable to unfair marketing and selling practices. The paper will be presented to the MCCA in August.

Comparison Interest Rates

Legislation has been passed paving the way for it to be mandatory for credit providers to supply comparison rates to consumers. Regulations to give effect to the new laws will be finalised in the next financial year.

A comparison rate is a nominal percentage rate per annum that takes into account not only the interest levied, but also the fees and charges connected with credit. That is, the total known cost to the consumer. It enables consumers to identify the true cost of fixed term credit, and hence be in a position



to compare the products of various credit providers. Comparison rates are particularly helpful where credit providers package their credit products in many different ways.

Until now, the provision of comparison rates has been at the discretion of the credit provider, and they have not been widely used.

In November 2000, the MCCA agreed to the preparation of an amendment to the national Uniform Consumer Credit Code, to make the provision of comparison rates mandatory.

The amendment, passed in April 2002, requires that whenever an annual percentage interest rate is mentioned in a credit advertisement, the relevant comparison rate must also be given. It also requires credit providers, finance brokers and linked suppliers to supply consumers with schedules of comparison rates for the various credit products they offer.

Regulations supplying the comparison rate formula and the advertisement and schedule details should be finalised before the end of 2002, with commencement of the scheme following some months after that, to allow time for credit providers to gear up and for public education programs to be rolled out.

Consultative Bodies

Prostitution Control Act Ministerial Advisory Committee

The Prostitution Control Act Ministerial Advisory Committee is established under the *Prostitution Control Act 1994* to advise the Minister for Consumer Affairs on issues related to the regulation and control of prostitution in Victoria.

The Committee comprises 12 members from Government, industry and the community. Members are appointed for their individual expertise, experience and knowledge of the prostitution industry, rather than as representatives of professional or industry associations. It meets monthly, and also arranges meetings and public hearings to discuss issues in relation to its terms of reference.

The Committee was chaired by Ms Judith Dixon until 13 June 2002. The Committee was reconstituted after this date with a revised membership and is now chaired by Ms Melanie Raymond.

CAV provides research and secretarial support to the Committee.

During 2001–2002, the Committee pursued a number of activities consistent with its terms of reference. These included:

- providing a formal submission to the Attorney-General's Street Prostitution Advisory Group
- advising the Minister regarding the ban on prostitution service providers being able to advertise for ancillary staff
- providing a formal submission to the Public Accounts and Estimates Committee Inquiry into Corporate Governance in the Victorian Public Sector
- concluding its inquiries into employment arrangements and the use of labour hire agencies in the prostitution industry. Based on the submissions received, the Committee's view was that the use of labour hire agencies by licensed prostitution service providers was limited.

Estate Agents Council

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

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

The Council's 2001–2002 work included:

- preparing a report to the Minister on the Review of the Current Auction System for Real Estate in Victoria
- drafting a Code of Conduct for Estate Agents and Agents' Representatives with a view to replacing the current Estate Agents (Professional Conduct) Regulations 1997
- preparing a proposal for combating the underquoting and overquoting abuses in respect to real estate sales
- examining whether there is a need for a licence to manage a body corporate.

Patriotic Funds Council Of Victoria

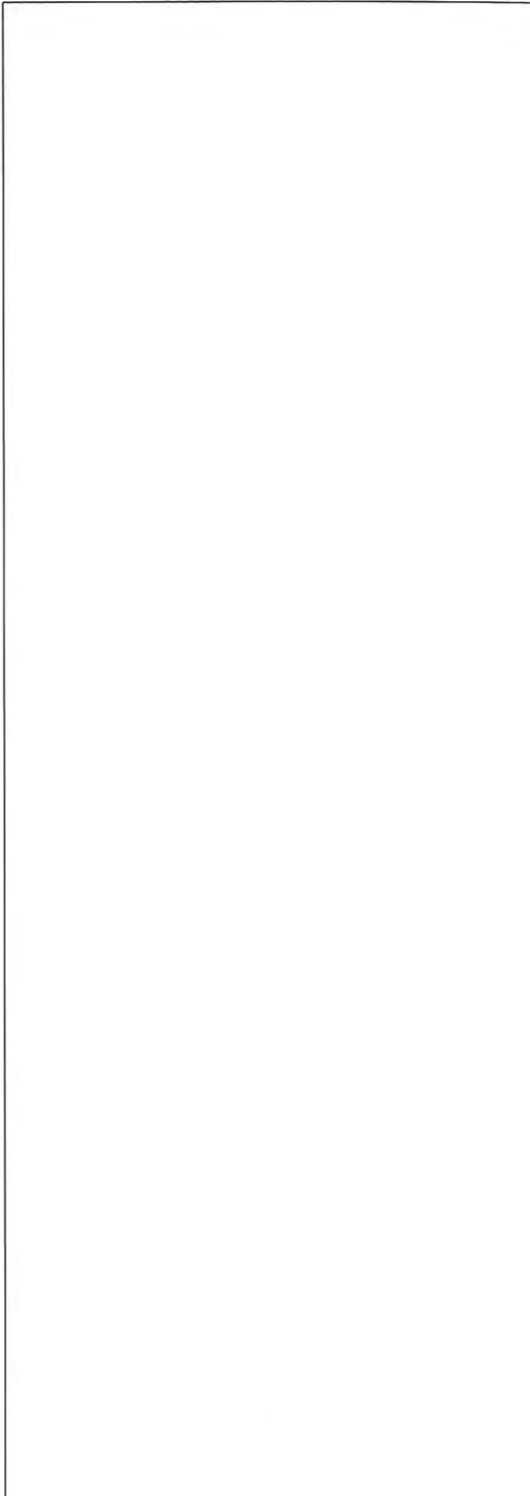
The Patriotic Funds Council of Victoria (PFC) is a statutory authority established under the *Patriotic Funds Act 1958*. This Act consolidates the law in relation to the regulation and control of the raising, collection and application of specified funds within Victoria.

Patriotic funds are trust funds, including property, raised in connection with military service for ex-service personnel and their dependents.

There were 625 registered Patriotic Funds, which controlled a total of \$276,081,095 for the year ending 31 December 2001. There was \$58,354,512 receipted into the Funds and \$57,810,813 of disbursements during the year.

The PFC is also responsible for recommending the distribution of Anzac Day Proceeds Funds, which are derived from the *Anzac Day Act* 1958. In 2001, the PFC recommended the distribution of \$363,219.81 to organisations that provide general welfare assistance to the ex-service community.

Appendices



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Appendix 1

Making a Consumer Complaint

Write to us at:

Consumer Affairs Victoria
 GPO Box 123A
 Melbourne 3001
 Fax: (03) 9627 6007
 Email: consumer@justice.vic.gov.au
 Website: www.consumer.vic.gov.au

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

CAV is open for enquiries Monday to Friday between the hours of 8.30am and 4.00pm at Level 2, 452 Flinders Street, Melbourne.

Telephone CAV between 9.00am and 4.00pm Monday to Friday:

General enquiries	1300 558 181
Household goods/services enquiries	
Motor vehicle enquiries	
Residential tenancies enquiries	

Building enquiries	1300 557 559
Business names enquiries	1300 361 673
Business licensing enquiries	1300 135 452
Residential tenancies bond enquiries	1300 137 164
Estate Agents Resolution Service (EARS)	1300 737 030

TTY/NRS number (for hearing impaired)	(03) 9620 1942
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Fax CAV on:

Consumer enquiries	(03) 9627 6007
Residential tenancies enquiries	(03) 9627 6223

Industry Complaint Handling Processes

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

Victorian Civil and Administrative Tribunal (VCAT)

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

VCAT Civil Claims List

Telephone	(03) 9628 9830
Freecall	1800 133 055
Fax	(03) 9628 9988

VCAT Residential Tenancies List

Telephone	(03) 9628 9800
Freecall	1800 133 055
Fax	(03) 9628 9822

Community Groups

There are many groups within the community that provide advice, information and advocacy services for consumer and tenancy issues. See Appendix 4 for contact details of agencies that receive funding from CAV.

Appendix 2

Enforcement Actions 2001–2002

Date of Hearing	Defendant	Act	Section	No. of Offences	Fines \$	Costs \$	Other Orders	Breach Summary
5 Jul 01	Twoville Pty Ltd of Lorne (ACN 068 638 899)	EAA	55(3)	2	3,000	553		An estate agent being directly concerned in the purchase of properties which the company had been commissioned to sell.
5 Jul 01	Grant Frederick Powell of Fairhaven	EAA	55(3)	2	2,000	482		A director and Officer in Effective Control of Twoville Pty Ltd charged with same offences as the company.
10 Jul 01	David Burgess of Doveton	IAA	24(1) 25(1) 27(1) 31(4)	9 2 6 16	50,000	1,138.70	Conviction.	An introduction agent who failed to provide refunds on cancelled contracts; received more than 30% of the contract price before any service was provided; failed to provide clear and legible descriptions of the service to be provided; and made false representations regarding the service to be provided.
12 Jul 01	Rickpet Pty Ltd of Fitzroy North (ACN 007 762 321)	DBCA BA	11 29 31(1)(q) 136(2)	1 1 1 1	1,500	350.50	Conviction.	An unregistered builder which entered into a major domestic building contract that did not contain all the prescribed information and that was not covered with the statutory insurance.
12 Jul 01	Anthony Tsoukalas of Keilor East	DBCA BA	11 29 31(1)(q) 136(2)	1 1 1 1	1,000	350.50	Conviction.	The sole director of Rickpet Pty Ltd charged with same offences as the company.

Date of Hearing	Defendant	Act	Section	No. of Offences	Fines \$	Costs \$	Other Orders	Breach Summary
18 Jul 01	Paul Frank Basso of Rye	EAA	16(4) 59(1)(b) 63(1)(a)(iv) 27(1) 35(1)(c) 36	4 9 1 1 1 1	700	574		Appointing persons to act as estate agent's representatives in the absence of eligibility checks and withdrawing purchasers' deposits from the trust account and taking early commission.
23 Jul 01	Hugh Laughlin McKenzie-Smith of Benwick	EAA	29B 35(6) 63(1)(a)(iv) 35	1 7 4 1		560	12 months good behaviour bond.	Failing to maintain trust account records and failing to notify the BLA within the specified period, when estate agent's representative appointed or ceased to be employed.
25 Jul 01	Harold Ross Hair of Middle Park	DBCA	11 29 31 136(2) 5(1)(b)	1 1 3 1 1	5,000	1,255	Conviction.	An unregistered builder who entered into a major domestic building contract without the required insurance; failed to include the prescribed details in the contract; received a deposit in excess of that entitled; and traded under an unregistered business name.
31 Jul 01	Travis Andrew Martin of Richmond	PCA	17(1)(b) 17(3)	2 1	3,000			Displaying photographs of women that were not restricted to head and shoulders in the advertising of a brothel. Advertising that contained a statement that was likely to induce a woman to seek employment as a prostitute.

Date of Hearing	Defendant	Act	Section	No. of Offences	Fines \$	Costs \$	Other Orders	Breach Summary
3 Aug 01	Dr Michael Wise of Caulfield	FAA	10 17			2,035	Injunction to stop the fundraising appeal and to remove labels and other references from clothing collection bins.	Conducting an unauthorised fundraising appeal.
6 Aug 01	Oga Constructions Pty Ltd of Melbourne (ACN 081 478 499)	BA	136(2)	1	15,000	980	Conviction.	A builder entering into a major domestic building contract without the required insurance.
21 Aug 01	Noah Melnikoff of Toorak	EAA	16(2)	1	500	248.70	Conviction.	Acting as an estate agent's representative without being eligible to be so employed.
27 Aug 01	Andrew van Duijne of Hoppers Crossing	EAA	12(1)	4	4,000	409	Ordered to pay \$2,000 restitution.	Offer to manage properties whilst not a licensed estate agent.
28 Aug 01	Osman Sukur Sabir of Campbellfield	MCTA	7(1)	1	15,000	1,407	Conviction.	Unlicensed motor car trading.
29 Aug 01	Sophia Stavropoulos of Hawthorn	CA	83A(1)	1			Ordered to pay \$300 into the Court Fund. 12 months good behaviour bond.	Making a false document for lodgement with the RTBA.
31 Aug 01	Jeremy Ian Fox of Toorak	EAA	16B	1		548	4 months good behaviour bond. Ordered to pay \$2,000 into the Court Fund.	Causing or permitting or aiding or abetting a person who is not eligible to be an estate agent's representative to work as such.

Date of Hearing	Defendant	Act	Section	No. of Offences	Fines \$	Costs \$	Other Orders	Breach Summary
31 Aug 01	George Stein of Boronia	CC(M/A)	37C(2)	4		1,000	Community based order for 12 months to perform unpaid community work of 180 hours.	Acting as a finance broker when prohibited, effectively managing or controlling a corporation when prohibited and taking upfront fees.
			37D	1				
			37L	3				
3 Sep 01	Craig Lawes of Keilor	DBCA	29	1	4,000	480	Re-hearing of a matter heard ex parte on 29/5/01.	An unregistered builder who entered into a domestic building contract; failed to state starting and finishing dates or how either were to be calculated; failed to provide notice of the cooling-off period; failed to set out implied warranties; and failed to take out required insurance.
			31(1)(g)	1				
			31(1)(i)	1				
			31(1)(n)	1				
			31(1)(q)	1				
BA	1							
3 Sep 01	Gary Lawes of Strathmore	DBCA	29	1	4,000	480	Re-hearing of a matter heard ex parte on 29/5/01.	An unregistered builder who entered into a domestic building contract; failed to state starting and finishing dates or how either were to be calculated; failed to provide notice of the cooling-off period; failed to set out implied warranties; and failed to take out required insurance.
			31(1)(g)	1				
			31(1)(i)	1				
			31(1)(n)	1				
			31(1)(q)	1				
BA	1							
6 Sep 01	William Henry Woolley of Hampton Park	MCTA	33A				Injunction not to trade in motor cars.	Unlicensed motor car trading.
14 Sep 01	Peter Burchall of Camberwell	DBCA	31(1)	1	2,500	564.35	Conviction.	Carrying out major domestic building work without the required insurance and failing to comply with contract formalities.
			136(2)	1				

Date of Hearing **Defendant** **Act** **Section** **No. of Offences** **Fines \$** **Costs \$** **Other Orders** **Breach Summary**

19 Sep 01	Nicolas Michalitsis of Richmond	DBCA	29	1	2,000	900		An unregistered builder who entered into a major domestic building contract, without providing a complete contract and who failed to ensure there was adequate insurance protecting the works.
			31	1				
			136(2)	1				
24 Sep 01	Andrew Hastas of Heathmont	EAA	12(1)(b)	1	2,500	1,051	Conviction.	Acting as an estate agent whilst not licensed.
4 Oct 01	Delbrin Pty Ltd of Bentleigh East (ACN 067 047 910)	FAA	9(2)(c)	3	600	200		Conducting an unauthorised fundraising appeal; identification badges for collectors not containing the required particulars; and the collection receptacles not being consecutively numbered.
			10(1)(a)	1				
			17	2				
5 Oct 01	Friedlaenders Real Estate Pty Ltd of Elwood (ACN 063 461 469)	EAA	16(4)	3	2,000	500		A licensed estate agent which employed persons to act as agent's representatives without first carrying out the statutory screening checks; failed to notify the BLA after appointing agent's representatives; failed to retain money in trust account until paid to persons entitled; failed to keep full and accurate accounting records; and failed to verify accuracy of trust account reconciliation statement.
			35(6)	3				
			46	1				
			59(1)(b)	1				
			63(1)	1				
			406	1				
			30	7				
			EA(GAA) Regs	3				
			39	1				
			47(1)(a)	1				

Date of Hearing	Defendant	Act	Section	No. of Offences	Fines \$	Costs \$	Other Orders	Breach Summary
5 Oct 01	Charles Harry Friedlaender of Elwood	EAA	16(4)	3	2,500	450		A director of Friedlaenders Real Estate Pty Ltd charged with the same offences as the company.
			35(6)	3				
			46	1				
			59(1)(b)	7				
			63(1)	1				
8 Oct 01	Matthew Batten of Cranbourne	CC(MA)	RTA	1	1,750	2,415	Conviction.	Ordered to pay \$600 compensation. Engaging in finance broking whilst prohibited from doing so, receiving a fee to which he was not entitled, and making a false representation.
			EA(GAA)	7				
			Regs	3				
			39	1				
			47(1)(a)	1				
22 Oct 01	Australian Industrial Cleaners Pty Ltd of Oakleigh (ACN 056 301 074)	DBCA	37C(2)	1	750	707	Conviction.	Entering into a major domestic building contract whilst an unregistered builder; receiving excessive deposit; failing to comply with contract requirements; and failing to obtain required insurance cover.
			37L	3				
			12(n)	3				
			11	1				
			29	1				
22 Oct 01	David Arthur Burns of Wheelers Hill	DBCA	31(1)(a)	1	12 months good behaviour bond.	Ordered to pay \$400 into the Court Fund.	A director of Australian Industrial Cleaners Pty Ltd charged with the same offences as the company.	
			136(2)	1				
			11	1				
24 Oct 01	Brian McNamara of Eltham North	EAA	59(1)(b)(i)	13	840		An estate agent who had a deficiency in his estate trust accounts; failed to have adequate accounting records and failed to lodge annual audits.	
			63(1)(c)	1				
			64(1)	2				

Date of Hearing	Defendant	Act	Section	No. of Offences	Fines \$	Costs \$	Other Orders	Breach Summary
24 Oct 01	Michael McNamara of Yarrowonga	EA(GAA) Regs	30	12		750	Ordered to pay \$750 into the Court Fund. 12 months good behaviour bond.	An estate agent who endorsed trust cheques as payable to cash.
29 Oct 01	Cedar Club International Pty Ltd of Thornbury (ACN 095 047 608)	FTA	14(1)	1	800	550		Publishing a false testimonial in a membership folder and on the internet.
1 Nov 01	Michael Kusar of Sunshine	DBCA BA	11(1)(b) 29 31(1)(a) 136(2)	1 1 1 1	1,000	857		Entering into a major domestic building contract whilst an unregistered builder; receiving excessive deposit; failing to comply with contract requirements; and failing to obtain required insurance cover.
5 Nov 01	Paul Fox of North Melbourne	DBCA BA	29 31(1)(b) 136	1 1 1		1,060	12 months good behaviour bond. Ordered to pay \$1,200 into the Court Fund.	Director of a company that entered into a major domestic building contract whilst an unregistered builder; failed to comply with contract requirements; and failed to obtain required insurance cover.
16 Nov 01	Anthony Paul Dai of Thomastown	EAA EA(GAA) Regs	49A(1)(a) 59(1)(a) 39(1)(a)	1 1 1		505	2 years good behaviour bond. Ordered to pay \$750 into the Court Fund.	An estate agent who obtained commission without holding written engagement signed by vendor; failed to pay deposit into trust account in his name with a financial institution; and retained money without written consent of his principal.

Date of Hearing	Defendant	Act	Section	No. of Offences	Fines \$	Costs \$	Other Orders	Breach Summary
20 Nov 01	News Direct Pty Ltd of Prahan (ACN 084 385 384)	FTA	24	2	2,000	750	Conviction.	Asserting a right to payment from another person for the supply of unsolicited goods or services without reasonable cause to believe that there is a right to payment.
20 Nov 01	Ann Crowley of Hawthorn	FTA	24	2	1,500	1,280		A director of News Direct Pty Ltd charged with the same offences as the company.
22 Nov 01	Lwyn Roberts of Reservoir	DBCA	11 29 31	1 1 1	1,500	300		Entering into a major domestic building contract whilst an unregistered builder; receiving excessive deposit; failing to comply with contract requirements; and failing to obtain required insurance cover.
26 Nov 01	Rangeville Manor Pty Ltd of Melbourne (ACN 080 449 414)	DBCA	31(1)(f) 31(1)(l) 31(1)(n) 31(1)(o) 31(1)(q) 31(1)(r)	2 2 2 2 2 2		298	12 months good behaviour bond. Ordered to pay \$1,000 into the Court Fund.	Failing to comply with contract requirements in relation to a major domestic building contract.
26 Nov 01	William Barrington of Lower Templestowe	DBCA	31(1)(f) 31(1)(l) 31(1)(n) 31(1)(o) 31(1)(q) 31(1)(r)	2 2 2 2 2 2		298	12 months good behaviour bond.	A director of Rangeville Manor Pty Ltd charged with the same offences as the company.
26 Nov 01	David Grummett of Warrnambool	FTA BNA	12(n) 5(1)	1 1	500	487.10	Conviction.	Making a false representation regarding the calibre of a firearm and carrying on business under an unregistered business name.

Date of Hearing	Defendant	Act	Section	No. of Offences	Fines \$	Costs \$	Other Orders	Breach Summary
5 Dec 01	Marina Petrou of Keysborough/Springvale	CC(WA) FTA	37C	2	36,000	1,200	Conviction. Costs are joint and severable with other defendants, James Petrou and JSMD Financial Consultants Pty Ltd.	Engaging in finance broking whilst prohibited from doing so; receiving a fee to which she was not entitled and making a false representation.
			37L	6				
			12(n)	1				
5 Dec 01	James Dimitrios Petrou of Forest Hill	CC(WA)	37C	2	30,000	1,200	Conviction. Costs are joint and severable with other defendants, Marina Petrou and JSMD Financial Consultants Pty Ltd.	Aiding and abetting Marina Petrou.
			37L	4				
5 Dec 01	JSMD Financial Consultants Pty Ltd of Burwood East (ACN 090 811 500)	CC(WA)	37C	1	25,000	1,200	Conviction. Costs are joint and severable with other defendants, James Petrou and Marina Petrou.	Aiding and abetting Marina Petrou.
			37L	3				
5 Dec 01	Laksiri De Silva of Glen Waverley	MCTA	7	1	3,500	450	Conviction. Re-hearing of a matter heard ex parte on 30/10/01.	Unlicensed motor car trading and falsely representing the odometer reading of a motor car.
			38(4)	1				

Date of Hearing	Defendant	Act	Section	No. of Offences	Fines \$	Costs \$	Other Orders	Breach Summary
14 Dec 01	Cemal Mani of Roxburgh Park	FTA FTA 1985 BNA	19(1)(a) 20(b) 5(1) 5A	2 3 1 1	33,500	1,217	Conviction. Ordered to pay \$14,480 in compensation.	Accepting payment without being able to supply as ordered, and carrying on business under an unregistered business name and whilst prohibited from doing so.
16 Jan 02	John Grubb of Chadstone	DBCA	11 29 30 31(1)(n) 31(1)(q) 16 136	1 1 1 1 1 1 1	7,500	400	Conviction. Appeal 24/7/02.	An unregistered builder who entered into a major domestic building contract which did not contain all the prescribed information and which was not covered by the statutory insurance. An excessive deposit was also taken, and the building works were carried out without a building permit and without information being obtained in relation to foundations.
21 Jan 02	David William Carroll of Brighton	MCTA	48(1)(a)	1	2,000	653	Conviction.	Selling a motor car without first procuring the cancellation of a security interest.
21 Jan 02	George Alexander Sim of North Essendon	MCTA	7	1	5,000	589	Conviction.	Unlicensed motor car trading.
5 Feb 02	Sunnyoaks Pty Ltd of Langwarrin (ACN 086 886 786)	MCTA	38(4)	1	2,000	250	Conviction.	False representation of odometer reading on vehicle traded in.
5 Feb 02	Warren Mark Trewin of Langwarrin	MCTA	38(4)	1		250	12 months good behaviour bond. Ordered to pay \$1,000 into the Court Fund.	False representation of odometer reading on vehicle traded in.

Date of Hearing	Defendant	Act	Section	No. of Offences	Fines \$	Costs \$	Other Orders	Breach Summary				
6 Feb 02	Andrew Stranaghan of Preston	FTA	12(n)	4	10,000	500	Conviction.	Making false representations; failing to include address on documents; failing to comply with contact sales provisions; carrying on business under an unregistered business name; and failing to display business name on premises.				
			29(1)(f)	7								
			62(1)	9								
			5(1)	1								
			20(B)	1								
11 Feb 02	Mark Robert Bull of Hastings	F(PM)A	5(1)(a)	2	20,000	850	Conviction.	A funeral organiser who in respect to pre-paid funeral contracts failed to comply with provisions regarding contract requirements; procedure for investments; receipts and the register of contracts.				
			5(1)(b)	7								
			5(5)	3								
			7(2)(a)	1								
			7(2)(b)	4								
			7(3)(a)	5								
			10(1)(a)	1								
			11	2								
			13 Feb 02	Laura Medici of Thornbury	IAA	15(1)	1		54,000	1,243.60	Conviction.	A manager of an introduction agency which failed to give notice to the BLA before acting as an introduction agent and made false representations to consumers.
						16(2)	10					
			13 Feb 02	Tomislav Dobrosavljevic of West Heidelberg	IAA	14(2)	1		54,000	1,243.60	Conviction.	A director of an introduction agency which traded whilst prohibited from doing so and made false representations to consumers. The director also made a false statement in an application submitted to the BLA.
16(2)	6											
37(1)	1											

Date of Hearing	Defendant	Act	Section	No. of Offences	Fines \$	Costs \$	Other Orders	Breach Summary
14 Feb 02	Seaford Travel Pty Ltd of Camberwell (ACN 089 610 266)	TAA	18 39 39T	1 1 1	500	743	Conviction.	A travel agent which failed to return its travel agent's licence after it was cancelled; failed to keep accounting and other documents that correctly recorded and explained the transactions and financial position of the business; and failed to comply with the request of an Inspector appointed under the <i>Fair Trading Act 1999</i> to produce specified accounting documents.
14 Feb 02	Thong Mee Holland of Langwarrin	TAA	18 39 39T	1 1 1	300	743	Conviction.	A director of Seaford Travel Pty Ltd charged with the same offences as the company.
21 Feb 02	Onitram Designs Pty Ltd of Brunswick West (ACN 083 573 031)	DBCA BA FTA 1985	31 136(2) 12	1 1 1	40,000	450	Conviction. Ordered to pay compensation of \$40,000.	Entering into a major domestic building contract without the required insurance cover and failing to comply with contract requirements.
21 Feb 02	Giuseppe Martino of Northcote	DBCA BA FTA 1985	31 136(2) 12	1 1 1	25,000	450	Conviction. Ordered to pay compensation of \$40,000 (of which Onitram Designs Pty Ltd is jointly and severally liable).	A director of Onitram Designs Pty Ltd charged with same offences as the company.

Date of Hearing	Defendant	Act	Section	No. of Offences	Fines \$	Costs \$	Other Orders	Breach Summary
28 Feb 02	Werner Piechatschek of Coronet Bay	DBCA	11(1)(a) 31(1) 32(1)	1 2 1	1,250	750		Enter into a major domestic building contract without including provisions as to cooling off period, warranties and details of time estimates in relation to delays in completing work, and demanding excessive deposit.
28 Feb 02	Microtemps Pty Ltd of Melbourne (ACN 087 259 318)	BNA FTA	12(3) 29(1)(f)	1 1	400	245.10		Failing to notify of the company ceasing to carry on business under a registered business name, and publishing a document, that was intended to promote the supply of services by it, which did not contain its full name and address.
14 Mar 02	Andrew Sawwa of Toorak	FTA	12(h)	2	8,000	3,078.43	Conviction.	Making misrepresentations to a person who was a quadriplegic that a course of pills would make her walk.
27 Mar 02	Adriatic Travel Pty Ltd of St Kilda (ACN 090 090 332)	FTA	149			360	Injunction not to carry on business as a travel agent unless licensed under the Travel Agents Act 1986 and ordered to pay restitution of \$19,348.	Carrying on business as a travel agent whilst unlicensed.

Date of Hearing	Defendant	Act	Section	No. of Offences	Fines \$	Costs \$	Other Orders	Breach Summary
27 Mar 02	Tatjana Cikic of Berwick	FTA	149			360	Injunction not to carry on business as a travel agent unless licensed under the <i>Travel Agents Act 1986</i> and ordered to pay restitution of \$19,348.	Carrying on business as a travel agent whilst unlicensed.
28 Mar 02	William England of Ringwood North	FTA	27(1)	1		891	12 months good behaviour bond. Ordered to pay \$4,000 into the Court Fund.	Asserting a right to payment for publishing an advertisement without first obtaining written and signed instruction or authorisation from the person whose business was advertised.
28 Mar 02	Bahattin Genc of Fawkner	MCTA	33A				Injunction not to trade in motor cars.	Unlicensed motor car trading.
2 Apr 02	Raymond Goldring of Elsterwick	CC(MA)	37C(2) 37L 37M(1)	1 1 1	5,055	1,400	Conviction.	Engaging in finance broking whilst prohibited from doing so; receiving a fee for negotiating consumer credit to which he was not entitled and accepting a credit application or valuation fee in cash.
5 Apr 02	Murray Darryl Bulte of Rowville	MCTA	33A				Injunction not to trade in motor cars.	Unlicensed motor car trading.

Date of Hearing	Defendant	Act	Section	No. of Offences	Fines \$	Costs \$	Other Orders	Breach Summary
8 Apr 02	Peter Weis of Kilsyth	DBCA	29	3	5,000	605		Entering into a major domestic building contract whilst an unregistered builder; failing to comply with contract requirements; and failing to obtain required insurance cover. Accepting payment for supply of building services and failing to provide that service within a reasonable time; making a representation that was false; and carrying on business under an unregistered business name.
			31(1)	7				
			136(2)	3				
			12(n)	1				
		FTA	19(1)(a)	2				
		BNA	5(1)	1				
10 Apr 02	Geoffrey Alfred Cayzer of South Melbourne	EAA	16(4)	8		408.73	12 months good behaviour bond.	Appointing persons to act as estate agent's representatives in the absence of eligibility checks and allowing agent's representatives to carry out functions of an estate agent without being authorised in writing.
			47(1)	2				
17 Apr 02	Peter Marjanovic of Caulfield North	FTA	12(g)	1	750	450		Make a false representation with respect to the price of a good or service and failure to comply with the contact sales provisions.
			62(1)	1				
17 Apr 02	Taradon Pty Ltd (ACN 068 794 221) & Lorraine Margaret Wilkinson of Kerang	FTA	149			350	Injunction not to carry on business as a travel agent unless licensed under the Travel Agents Act 1986.	Carrying on business as a travel agent whilst unlicensed.
23 Apr 02	Australian Taxation Reporter Pty Ltd of Springwood QLD (ACN 059 305 976)	FTA	24(1)	4	2,000	1,738		Asserting a right to payment for the supply of unsolicited goods or services without a reasonable cause to believe that there is a right to payment.

Date of Hearing	Defendant	Act	Section	No. of Offences	Fines \$	Costs \$	Other Orders	Breach Summary
15 May 02	Theo Kon Mitsou of Clayton South	MCTA BNA	35 38(4) 5	7 1 1	1,850	820	Conviction. Appeal decision 24/07/02.	Failing to enter appropriate disposal details in Dealings Book; falsely representing the accuracy of an odometer reading; and carrying on business under an unregistered business name.
16 May 02	Erin Hewitt of Richmond	EAA FTA 1985	16(2) 93 12(i)	1 1 1	13,000	2,027.12	Appeal decision 13/08/02.	Acting as an estate agent's representative without being eligible to be so employed; making a false statement to the BLA and making a false representation.
16 May 02	Kastoria Furniture Pty Ltd of Sunshine North (ACN 070 876 765)	DBCA BA	29 31 136	1 1 1	500			Entering into a major domestic building contract whilst an unregistered builder; failing to comply with contract requirements; and failing to obtain required insurance cover.
16 May 02	Antonios Pourgoutzidis of Sunshine North	DBCA BA	29 31 136	1 1 1	500			A director of Kastoria Furniture Pty Ltd charged with the same offences as the company.
22 May 02	Pikecroft Pty Ltd of Torrumbarry (ACN 079 149 072)	DBCA BA FTA	11(1)(a) 29 31(1) 136(2) 19(1)(a)	2 2 2 2 2	10,000		Conviction.	Entering into a major domestic building contract whilst an unregistered builder; receiving excessive deposit; failing to comply with contract requirements; failing to obtain required insurance cover; and accepting payment for providing building services and failing to provide those services.

Date of Hearing	Defendant	Act	Section	No. of Offences	Fines \$	Costs \$	Other Orders	Breach Summary
22 May 02	John Bayley of Torrumbarry	DBCA	11(1)(a) 29 31(1) 136(2) 19(1)(a)	2 2 2 2 2	7,500	1,443	Conviction.	A director of Pikecroft Pty Ltd charged with the same offences as the company.
23 May 02	Graham Kinghorn of Brighton	TAA	6(1)	2	20,000		Conviction.	Carrying on business and holding himself out as willing to carry on business as a travel agent whilst unlicensed to do so.
4 Jun 02	Frank Cappelleri of Keilor	RTA	35(1) 66(1) 405(1) 406	1 1 1 1	1,000	521	Conviction.	A landlord failing to provide a tenant with a condition report, statement of rights and duties, a completed and signed bond lodgement form, and failing to lodge a bond with the RTBA.
4 Jun 02	Salcap Pty Ltd of Surfers Paradise QLD (ACN 092 968 600)	FTA	27	1	2,500	746	Conviction.	Asserting a right to payment for the placing of an advertisement without obtaining written authorisation to place the advertisement.
12 Jun 02	Peter Bartholomeusz of Ashwood	EAA	59(6)	5	800	350		Estate agent's representative who retained purchasers' deposit for his own purposes.
14 Jun 02	Jefferson Ford Pty Ltd of Mentone (ACN 005 620 897)	MCTA FTA	41(1)(a) 41(2)(b) 12(n) 21(1)	1 1 3 1	16,000	5,000	Conviction.	Prescribed particulars not completed in agreement for sale of motor car; failing to provide purchaser with copy of agreement; falsely representing that loan approved and undue harassment.

Date of Hearing	Defendant	Act	Section	No. of Offences	Fines \$	Costs \$	Other Orders	Breach Summary
24 Jun 02	Hilton Publishing Pty Ltd of Brighton (ACN 082 137 791)	FTA	27(1)	256	62,600	2,419.03	Conviction.	Asserting a right to payment for placing advertisements in one or more of the company's publications without the written instruction or authorisation of the person whose business was advertised.
24 Jun 02	Alexander David McKenzie of Brighton	FTA	27(1)	256	31,300	2,419.03	Conviction.	The sole director of Hilton Publishing Pty Ltd charged with the same offences as the company.
25 Jun 02	Cliffland Pty Ltd of Hawthorn (ACN 064 818 548)	MCTA	33A				Injunction not to trade in motor cars.	Unlicensed motor car trading.
25 Jun 02	Mark James O'Connor of Elwood	MCTA	33A				Injunction not to trade in motor cars.	Unlicensed motor car trading.
28 Jun 02	Leslie Henry Cann of Bright	CC(M)A FTA C(A)A	37L 29 20	2 2 1	2,000	500	Conviction.	Receiving a fee for negotiating consumer credit to which he was not entitled; failing to include address in document; and failing to supply information required by an inspector appointed under the Fair Trading Act 1999.

Date of Hearing	Defendant	Act	Section	No. of Offences	Fines \$	Costs \$	Other Orders	Breach Summary
28 Jun 02	Noel Tanis of Apollo Bay	EAA	63(1)(a)	3		657.85	12 months good behaviour bond.	Licensed estate agent failing to keep full and accurate trust account records;
			64(1)	1			Ordered to pay \$1,500 to 'Kicking Goals Youth Program'.	and failing to have accounts audited; and
		EA(GAA) Regs	25	1				failing to keep trust account records open for inspection at the office.
			27	1				
			28	1				
			35	1				
			37	1				
			38	1				

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

Appendix 3

Enforceable Undertakings

Under Section 146 of the *Fair Trading Act 1999*

Date of Undertaking	Promisee	Act	Section	Breach Summary	Nature of Undertaking
2 Jul 01	Norma Robson of Bendigo	EAA BNA	12(1)(b) 5(1)(a)	Failure to hold an estate agent's licence whilst managing rental properties and failure to register a business name.	Cease acting as an estate agent unless licensed and using a business name unless registered.
18 Jul 01	Barry Plant Real Estate (Regional) Vic Pty Ltd (ACN 057 852 990)	EAA EA(GAA) Regs	49A(1) 39(1)	Failure to hold a written engagement of appointment to act as the managing agent for a landlord; accepting rent from a tenant without authority, and deducting commission and other arrears without authority.	Will not seek or obtain any payment unless the agent has a written appointment or take or use any money unless the agent has obtained authority to do so.
19 Jul 01	Brendan Joseph Nihill of South Morang	EAA	55	Failure of the Officer in Effective Control to obtain the permission of the Director for his wife to purchase a property the real estate agency had been commissioned to sell.	To comply with the requirements of the Act in future if an employee or prohibited person wishes to purchase a property.
21 Jul 01	George and Angela Topalidis of Kew	RTA	405 406	Failure to lodge a bond with the RTBA.	To comply with the requirements of the Act to lodge the bond and bond lodgement form with the RTBA within 5 business days of receiving the bond.
6 Aug 01	George Johns of Hampton Park	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act.
7 Aug 01	Robert Lindley Westwood of Werribee	EAA	55	Failure of the Officer in Effective Control to obtain the permission of the Director to purchase a property the real estate agency had been commissioned to sell.	Not to receive commission for the sale and to comply with the requirements of the Act in future if he or an employee or prohibited person wishes to purchase a property.

Date of Undertaking	Promisee	Act	Section	Breach Summary	Nature of Undertaking
7 Aug 01	Phil Dalton of Wandin North	RTA	264	Gave notice to vacate to a tenant on the grounds that the property was to be used as a primary place of residence and subsequently relet the premises within six months.	To comply with section 264 of the Act.
8 Aug 01	Ron Poyser Motors Pty Ltd of Bendigo (ACN 005 959 197)	MCTA Regs	22 23	Advertised cars for sale without including the actual amount of dealer charges.	To comply with regulations 22 and 23 of the Regulations.
9 Aug 01	Peter Stevens Motors Pty Ltd of Sebastopol (ACN 004 564 336)	MCTA Regs	22 23	Advertised cars for sale without including the cash price or the actual amount of dealer charges.	To comply with regulations 22 and 23 of the Regulations.
16 Aug 01	David Haskett trading as H & M Carpentry of Lilydale	DBCA BA BNA	29 31 16 136(2) 5	Undertook to construct a timber deck whilst not being registered as a builder; failed to enter into a domestic building contract; misrepresented the contract price when obtaining a building permit; and failed to obtain the necessary insurance for the works.	Undertook to comply with the requirements of the Acts by being registered as a builder if the works exceed \$5,000; entering into a domestic building contract for such works; obtaining the relevant insurance; complying with the relevant building permit and registering a business name.
17 Aug 01	Maincore Pty Ltd of Bendigo (ACN 061 512 516)	MCTA Regs	22	Advertised cars without sufficient identification.	Include the registration number in every advertisement for the sale of a used car.
21 Aug 01	Storm Victor of Wantirna	DBCA BA	31 29 11 136(2)	Undertook to supply and install a kitchen whilst not being registered as a builder; failed to enter into a domestic building contract; demanded a deposit in excess of 10% of the contract price; and failed to have the necessary insurance.	Undertook to comply with the provisions of sections 11, 29 and 31 of the DBCA and with section 136(2) of the BA.

Date of Undertaking	Promisee	Act	Section	Breach Summary	Nature of Undertaking
24 Aug 01	Vietnamese Professional Society – Victorian Chapter of Reservoir	FAA	17A	Conducting an unauthorised fundraising appeal known as the Central Vietnam Flood Relief Committee Appeal.	To comply with the Act by lodging a notice of intention to fundraise.
24 Aug 01	Glorija Lawrence of Frankston	RTA	405 406	Failed to provide tenants with a bond lodgement form and lodge the bond with the RTBA.	To comply with the requirements of the Act to lodge the bond and the bond lodgement form with the RTBA within 5 business days of receiving the bond.
27 Aug 01	Hoa Nien Youth Group of Footscray West	FAA	17A	Conducting an unauthorised fundraising appeal known as the Central Vietnam Flood Relief Committee Appeal.	To comply with the Act by lodging a notice of intention to fundraise.
30 Aug 01	Vietnamese Women's Association of Victoria Inc of Fawkner	FAA	17A	Conducting an unauthorised fundraising appeal known as the Central Vietnam Flood Relief Committee Appeal.	To comply with the Act by lodging a notice of intention to fundraise.
6 Sept 01	Domenic Luzza of Coburg	RTA	35 66 405 406	Failed to supply condition report and Statement of Rights and Duties and bond lodgement form to tenants; and failure to lodge bond with RTBA.	To comply with sections 35, 66, 405 and 406 of the Act.
6 Sept 01	Care Home Improvements (Vic) Pty Ltd (ACN 078 626 669) of Moonee Ponds	DBCA BNA	36 11(1) 5	Failed to supply a copy of the domestic building contract to the consumer; demanded a deposit of more than 5% of the contract price; and carried on business without registering a business name.	To comply with sections 11 and 36 of the DBCA and with the provisions of section 5 of the BNA.
10 Sept 01	Andrew Norman Gilmour of Cobram	EAA	55	Failure of the Officer in Effective Control to obtain permission of the Director for an agent's representative to purchase a property the real estate agency had been commissioned to sell.	To comply with the requirements of the Act in future if an employee or prohibited person wishes to purchase a property.

Date of Undertaking	Promisee	Act	Section	Breach Summary	Nature of Undertaking
14 Sept 01	Stockdale & Leggo Rye Pty Ltd (ACN 058 361 578) and Peter John Van Duren of Rye	EAA	29B 30AA(d) 30AA(e)	A misappropriation of funds was not detected for eight months and it indicated the failure by the Officer in Effective Control to establish and monitor adequate procedures.	The company and the Officer in Effective Control undertake to establish and monitor procedures to ensure business is conducted in accordance with the law and good estate agency practice. That the Officer in Effective Control commence an appropriate training course in maintaining computer accounting records.
17 Sept 01	Talbot Birner Morley Pty Ltd trading as TBM.com of Caulfield (ACN 058 138 720)	EAA	55	Failure of the Officer in Effective Control to obtain permission of the Director for an agent's representative to purchase a property the real estate agency had been commissioned to sell.	To comply with the requirements of the Act in future if an employee or prohibited person wishes to purchase a property.
17 Sept 01	Rofnoi Pty Ltd (ACN 005 947 142) and Caterina Luzza of Coburg	RTA	35 66 405 406	Failed to supply condition report and Statement of Rights and Duties and bond lodgement form to tenants and failure to lodge bond with RTBA.	To comply with sections 35, 66, 405 and 406 of the Act.
19 Sept 01	Vietnamese Students Association of Victoria Inc of Ivanhoe	FAA	17A	Conducting an unauthorised fundraising appeal known as the Central Vietnam Flood Relief Committee Appeal.	To comply with the Act by lodging a notice of intention to fundraise.
21 Sept 01	Stockdale & Leggo Epping Pty Ltd of Epping (ACN 052 422 527)	RTA	264	Relet premises within 6 months after tenants had been given notice to vacate on the basis that a person was to use the property as a primary residence.	To comply with section 264 of the Act.
21 Sept 01	Susan Elizabeth Perry of Caulfield	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on her own behalf or on behalf of any other person in breach of the Act.

Date of Undertaking	Promisee	Act	Section	Breach Summary	Nature of Undertaking
25 Sept 01	Chris Kelepouris of East Doncaster	EAA	55	Failure of the Officer in Effective Control to obtain the permission of the Director for the purchase of a property the real estate agency had been commissioned to sell.	To comply with the requirements of the Act in future if he or an employee or prohibited person wishes to purchase a property.
27 Sept 01	Wayne Leon Sweeney of Williamstown	EAA	59 63	Failure to pay deposit monies into a trust account and failure to issue a receipt.	To comply with the requirements of the Act in relation to the receipting of money and the banking of money into trust accounts.
1 Oct 01	Christine Tun of Kew	EAA	55	As an agent's representative purchased a property her employer, Talbot Birmer Morley Pty Ltd, was commissioned to sell, without obtaining the approval of the Director prior to the purchase.	To not repeat the conduct in the future.
1 Oct 01	Martez Cusmano of Warrandyte	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on her own behalf or on behalf of any other person in breach of the Act.
10 Oct 01	Anthony Kevin McManus of Lara	EAA	55	As Officer in Effective Control, he permitted a prohibited person to purchase a property the company McManus Real Estate Pty Ltd was commissioned to sell, without obtaining the approval of the Director prior to the purchase.	To not repeat the conduct in the future.
17 Oct 01	Salah Saraya of Glenroy	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act.

Date of Undertaking	Promisee	Act	Section	Breach Summary	Nature of Undertaking
17 Oct 01	Waedive Pty Ltd of Mona Vale (ACN 090 790 490)	FTA	27	The company has not obtained the written authorisation for placing an advertisement in the Small Business Bulletin prior to seeking payment for the advertisement.	The company undertook not to seek payment in the future without obtaining written authorisation from an advertiser.
18 Oct 01	Nabiga Saraya of Glenroy	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on her own behalf or on behalf of any other person in breach of the Act.
18 Oct 01	Panasales Clearance Centre Pty Ltd of St Kilda (ACN 071 407 004)	FTA	12(k)	The company's tax invoice/cash sale document stated, 'goods may be exchanged but no refund will be made'. It is contended that the words 'no refund will be made' is misleading to consumers.	The company will amend all documents, and will not state either directly or indirectly that no refunds will be given, unless entitled in law to do so. The company will ensure all new sales staff are given a document, at the time they receive an acknowledgment of employment, that outlines the correct advice to be given to consumers.
6 Nov 01 and 18 Nov 01	TFT Nominees Pty Ltd of Hawthorn (ACN 005 328 665) and William Bruce Maclean of Hawthorn	EAA EA(GAA) Regs	16(4) 35(6) 63(1) 25 35(1) 36 46(1)	The corporation and its Officer in Effective Control failed to sight a certificate from the Chief Commissioner of Police, or take reasonable steps to ensure that a person was eligible to be an agent's representative, or notify the BLA of the cessation of employment of the person. The corporation also failed to maintain full and accurate accounting records, and maintain the records of the salary, wage or commission paid to employees.	To comply with the requirements in relation to the appointment of an agent's representative and to accurately maintain all accounting and business records.

Date of Undertaking	Promisee	Act	Section	Breach Summary	Nature of Undertaking
12 Nov 01	Neil Kerr of Cobram	EAA	55	Failure of the Officer in Effective Control to obtain the permission of the Director for an employee to purchase a property the real estate agency had been commissioned to sell.	To comply with the requirements of the Act in future if an employee or prohibited person wishes to purchase a property.
14 Nov 01	A-Mark Publishing Australia Pty Ltd (ACN 086 914 347) trading as Academy Publishing and Academy School Books of Brisbane; and Peter David Collins of Christchurch, NZ and Christopher English of Randwick, NSW	FAA FTA	17A 12(h)	The company has conducted an unauthorised fundraising appeal and made representations that were false, misleading and deceptive.	To comply with the requirements of the Acts if the company conducts a future fundraising appeal.
20 Nov 01	Jarrod Mathew Kanizay of Brighton	EAA BNA	4 12(1)(a) 5	Purported to be an independent property advocate whilst not licensed to be an estate agent and distributing a business card which included two non-registered business names.	To undertake not to act as an estate agent unless licensed to do so and to cease using a business name unless it is registered.
22 Nov 01	Spiteri Autos Pty Ltd of Carrum Downs (ACN 084 339 391)	MCTA Regs	22	Advertised cars for sale without including the Licensed Motor Car Trader number in the advertisement.	To comply with the regulations.
22 Nov 01	Starlight Children's Foundation Australia of St Leonards, NSW (ACN 003 627 183)	FAA	17A	Failure to lodge a notice of intention to conduct a fundraising appeal and conducting an unauthorised appeal on 11 May 2001.	To comply with section 17A of the Act.
23 Nov 01	Broad Arrow Holdings Pty Ltd of Patterson Lakes (ACN 005 590 189)	EAA	59	Failure to deposit a cheque into the trust account within the prescribed time.	To comply with the Act.

Date of Undertaking	Promisee	Act	Section	Breach Summary	Nature of Undertaking
26 Nov 01	Luke Patrick Goggin of Bendigo	EAA	55	Failure of the Officer in Effective Control to obtain the permission of the Director for an employee to purchase a property the real estate agency had been commissioned to sell.	To comply with the Act.
28 Nov 01	Denise Retzlaff, Hans Retzlaff and Delre Group Pty Ltd of Cockatoo (ACN 089 032 459)	FTA BNA	29 5	Placing an advertisement, on three occasions, for floor sanding services, that did not contain an address for the provider of the service; and failure to register Delre Floor Services as a business name.	To comply with the Acts.
30 Nov 01	Peter James Edwards of Parkville	RTA	405 406	Failure to provide tenants with a completed and signed bond lodgement form, and failure to lodge a bond with the RTBA.	To comply with the Act.
4 Dec 01	Zlato Mar (Zac Mar) formerly of Mount Waverley	DBCA BA	11 29 31 136(2)	Undertook to construct a garage, enclosed living area and a driveway whilst not being registered as a builder; failing to supply a domestic building contract which met the requirements of the Act; and demanding an excessive deposit greater than 5% of the contract price.	Will not represent himself to be a builder whilst not registered, and to comply with the Acts.
12 Dec 01	LBC Real Estate Pty Ltd (ACN 005 405 836) and Simon Petzierides of Greensborough	EAA	59	Failure to deposit a cheque into the relevant trust account within the prescribed time.	To comply with the Act.

Date of Undertaking	Promisee	Act	Section	Breach Summary	Nature of Undertaking
14 Dec 01	Countrywide Media Pty Ltd of Melbourne (ACN 086 202 093)	FTA	27	Asserted a right for payment for an advertisement for which it had not obtained a written instruction or authorisation to publish.	To comply with the requirements of the Act.
18 Dec 01	Reiquin Pty Ltd trading as Christmas Trees on the Run of Melbourne (ACN 077 464 861)	FTA	29	Caused advertisements to be published on the internet and produced a flyer, both of which did not include the full address of the place of business or residence of the company.	Ceased publishing documents which did not comply.
31 Dec 01	Geoffrey Stewart Earney of Mooroolbark	EAA	55	Failure of the Officer in Effective Control to obtain permission of the Director for a prohibited person to purchase a property the real estate agency had been commissioned to sell.	To comply with the requirements of the Act in future if an employee or prohibited person wishes to purchase a property.
10 Jan 02	Concepts (Function Organisers) and Maryanne Davis of Clifton Springs and Carol Pook of Belmont	FAA	17	Conducting an unauthorised fundraising appeal.	Not to make any statements or representations to participants to believe that monies paying for organising a function are made on behalf or for the benefit of a charity.
11 Jan 02	Michael John Edgar of North Ballarat	EAA	55	Failure of the Officer in Effective Control to obtain permission of the Director for an employee to purchase a property the real estate agency Ray White Ballarat had been commissioned to sell.	To comply with the requirements of the Act in future if an employee or prohibited person wishes to purchase a property.

Date of Undertaking	Promisee	Act	Section	Breach Summary	Nature of Undertaking
16 Jan 02	Hancock & Son Pty Ltd (ACN 005 304 941) and Richard Milton Oldfield of Camberwell	EAA	16(4) 47(1)	The corporation and its Officer in Effective Control failed to sight a certificate from the Chief Commissioner of Police or receive a written notice from the BLA indicating that two employees were eligible to be agent's representatives.	To comply with the requirements of the Act in relation to the appointment of agent's representatives.
16 Jan 02	Ernest Trebilcocks Pty Ltd (ACN 005 688 111) and Ian David Wood of Toorak	EAA	16(4)	The corporation and its Officer in Effective Control failed to sight a certificate from the Chief Commissioner of Police or receive a written notice from the BLA indicating that four employees were eligible to be agent's representatives.	To comply with the requirements of the Act in relation to the appointment of agent's representatives.
22 Jan 02	Wayne Sweeney & Associates Pty Ltd of Williamstown (ACN 006 671 049)	RTA	405 406	Failed to lodge a bond with the RTBA.	To comply with the Act.
4 Feb 02	Gary Charles Wood of Echuca	EAA	29 55	Failure of the Officer in Effective Control to obtain permission of the Director for an employee and a prohibited person to purchase properties the real estate agency Charles L King & Co had been commissioned to sell.	To comply with the requirements of the Act in future if an employee or prohibited person wishes to purchase a property.
4 Feb 02	Christine Da Silva	EAA	59(1)(a)(i) 29B	Failed to deposit monies for pre-paid advertising into the relevant trust account, and failed to take reasonable steps to ensure an agent's representative complied with the provisions of the Act.	To comply with the Act.

Date of Undertaking	Promisee	Act	Section	Breach Summary	Nature of Undertaking
4 Feb 02	Troy John O'Brien of Echuca	EAA	55	Failure of an agent's representative to obtain permission of the Director for an employee to purchase a property the real estate agency had been commissioned to sell.	To comply with the requirements of the Act in future if an employee or prohibited person wishes to purchase a property.
5 Feb 02	Rick Simmons trading as Stik-Performance Cars of Ivanhoe	MCTA Regs	22	Advertised cars for sale without including Licensed Motor Car Trader number.	Include the LMCT number in every advertisement for the sale of a car.
6 Feb 02	Gippsland & Coast Homeland Estate Agency Pty Ltd of Cowes (ACN 006 006 668)	EAA	55	Failure of the Corporation to obtain permission of the Director for an employee to purchase a property the real estate agency had been commissioned to sell.	To comply with the requirements of the Act in future if an employee or prohibited person wishes to purchase a property.
6 Feb 02	Jocar Motors Pty Ltd of Braeside (ACN 051 399 109)	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on the company's behalf or on behalf of any other person in breach of the Act.
7 Feb 02	Health Tips Ltd (ARBN 093 936 406)	FTA	12 19	Accepting payment for orders of Maria Duval and Astroforce products without supplying goods within a reasonable time, nor supplying refunds within a reasonable time.	Will not accept payment for mail order goods or services without supplying those goods or services within 3 weeks; if goods not supplied in 3 weeks will provide a refund or, with the consent of the customer, will retain the monies for a further 3 weeks; will make a full refund within 3 weeks if requested by a customer; and will maintain a register of all payments.
7 Feb 02	Peter Terrence Powell of Inverloch	EAA	55	Failure of an agent's representative to obtain permission of the Director to purchase a property the real estate agency had been commissioned to sell.	To comply with the requirements of the Act in future if an employee or prohibited person wishes to purchase a property.

Date of Undertaking	Promisee	Act	Section	Breach Summary	Nature of Undertaking
8 Feb 02	Adcom Publishing Pty Ltd of Woolloomooloo, NSW (ABN 070 236 743)	FTA	27	The company had not obtained the written authorisation for placing an advertisement in the Crime & Emergency Safety News prior to seeking payment for the advertisement.	The company undertook not to seek payment in future without obtaining written authorisation from an advertiser.
8 Feb 02	Josephine Antonietta Cappellucci of Glen Iris	EAA	55	Failure of the Officer in Effective Control to obtain permission of the Director for a prohibited person to purchase a property the real estate agency had been commissioned to sell.	To comply with the requirements of the Act in future, if an employee or prohibited person wishes to purchase a property and comply with sections 29B and 30AA of the Act.
11 Feb 02	Henry Rizkallah of Endeavour Hills	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act.
12 Feb 02	Graham Roderick of Launching Place	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act.
12 Feb 02	Kevin Renton of Winchelsea	RTA	405 406	Failure to lodge a bond with the RTBA.	To comply with the requirements of the Act to lodge the bond and the bond lodgement form with the RTBA within 5 business days of receiving the bond.
14 Feb 02	Stephen Polyzogopoulos of Wheelers Hill	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act.
15 Feb 02	Ajromand Rahbar formerly of Lower Templestowe	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act.

Date of Undertaking	Promise	Act	Section	Breach Summary	Nature of Undertaking
15 Feb 02	Sohelia Alinejad of Doncaster	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act.
17 Feb 02	John Jackson of Dandenong	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act.
18 Feb 02	John Ould Wholesale Pty Ltd of Ormond (ACN 004 931 015)	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act.
18 Feb 02	Peninsula Prestige Cars Pty Ltd of Frankston (ACN 006 261 329)	MCTA Regs	22	Advertised cars for sale without including the letters LMCT and the licence number.	To comply with the Regulations.
18 Feb 02	Mark White of Frankston	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act.
20 Feb 02	John Pascoe Motors Pty Ltd of Richmond (ACN 004 943 104)	MCTA Regs	22	Advertised cars for sale without including the letters LMCT and the licence number.	To comply with the Regulations.
20 Feb 02	Paul Gibson of Maidstone	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act.
22 Feb 02	Allen Clarke Motors Pty Ltd of Coburg (ACN 005 537 539)	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act.

Date of Undertaking	Promisee	Act	Section	Breach Summary	Nature of Undertaking
25 Feb 02	Hocking Stuart (Oakleigh) Pty Ltd (ACN 095 705 963) and Rita Zoumboulis of Oakleigh	EAA	47 63	The corporation and its Officer in Effective Control failed to sight a certificate from the Chief Commissioner of Police or receive a written notice from the BLA that 7 people were eligible to be an agent's representative. The agent also failed to keep a trust reconciliation statement for 7 months of the Residential Tenancy Trust Account.	To comply with the requirements in relation to the appointment of an agent's representative and to balance the accounts at the end of each month.
26 Feb 02	Pradeep Walliwala of Airport West	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act.
27 Feb 02	Leonard Barker and Scott Barker of Ballarat	FTA	12 29	Made a false and misleading representation in relation to the need for goods, namely gas masks, in preparation for World War 3 and bio-terrorist attacks, and did not include the name and full address of the business or residence.	Cease conduct.
27 Feb 02	Corp Pty Ltd of North Balwyn (ACN 078 695 860)	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act.
4 Mar 02	Mary Christine Crook of Kilmore	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on her own behalf or on behalf of any other person in breach of the Act.
5 Mar 02	Barry Beacham of Frankston	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act.

Date of Undertaking **Promisee** **Act** **Section** **Breach Summary** **Nature of Undertaking**

5 Mar 02	Thomas Gordon Brown of Brunswick	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act.
7 Mar 02	Townsend Coady Pty Ltd (ACN 006 505 595) and Edward Townsend Coady of Armadale	EAA EAA(GAA) Regs	63(1) 70(1) 23 25 27 35 36	Failure to maintain full and accurate accounting records. Failure to reconcile each month the Residential Tenancy Trust Account; failure to use accurate trust receipts and failure to keep all of trust account and related records at principal office.	To comply with requirements.
7 Mar 02	Jason Zhou of Carnegie	RTA	96 97 125 405 406	As a rooming house owner, demanded and accepted a bond which exceeded the amount of rent payable; failed to give the resident condition reports; required rent to be paid more than 14 days in advance; failed to provide contact details; and failed to lodge a bond and bond lodgement form with the RTBA.	To comply with the Act.
12 Mar 02	Jovam Mudroh of Bulleen	RTA	405 406	Failed to lodge a bond with the RTBA.	To comply with the requirements of the Act to lodge the bond and the bond lodgement form with the RTBA within 5 business days of receiving the bond.
14 Mar 02	Eva Balogh of Heathmont	RTA	31 35 66 405 406	As a landlord, demanded and accepted a bond which exceeded the amount of rent payable; failed to give the tenant condition reports; failed to give the tenants a written statement of rights and duties; failed to lodge a bond and bond lodgement form with the RTBA.	To comply with the Act.

Date of Undertaking	Promisee	Act	Section	Breach Summary	Nature of Undertaking
14 Mar 02	Driscoll, McIlree and Dickson Pty Ltd (ACN 064 827 041) and Gary Lee Driscoll of Nhill	EAA	16(4)	The corporation and its Officer in Effective Control failed to sight a certificate from the Chief Commissioner of Police or take reasonable steps to ensure that two people were eligible to be agent's representatives.	To comply with the requirements in relation to the appointment of agent's representatives.
25 Mar 02	National Motor Dealers Network Pty Ltd (ACN 008 279 181) of Malvern East	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act.
27 Mar 02	Richard's Real Estate Pty Ltd (ACN 007 190 409) and John Wayne Quick of Ballarat	EAA	16(4) 63(1)	The corporation and its Officer in Effective Control failed to sight a certificate from the Chief Commissioner of Police or take reasonable steps to ensure that a person was eligible to be an agent's representative. The corporation also failed to maintain full and accurate accounting records.	To comply with the requirements in relation to the appointment of an agent's representative and to accurately maintain all accounting and business records.
2 Apr 02	Nuran Gungor of Shepparton	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act.
3 Apr 02	HMH Pty Ltd trading as LJ Hooker Tullamarine (ACN 066 981 011) and Henry Michael Hajduk of Tullamarine	EAA	16(4)	The corporation and its Officer in Effective Control failed to sight a certificate from the Chief Commissioner of Police or take reasonable steps to ensure that three people were eligible to be agent's representatives.	To comply with the requirements in relation to the appointment of agent's representatives.
5 Apr 02	Fritz Warschauer of Toorak	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act.

Date of Undertaking **Promisee** **Act** **Section** **Breach Summary** **Nature of Undertaking**

7 Apr 02	Jill Elizabeth Ray of Cranbourne North	EAA	12(2)(A)	Failure to hold an estate agent's licence whilst carrying on the business of Austwide Business Brokers.	To cease acting as an estate agent unless the corporation is licensed.
8 Apr 02	Creek Park Pty Ltd trading as Stockdale and Leggo Real Estate Ballarat (ACN 076 712 620) and John Michael McMahon of Ballarat	EAA	16(4) 63(1)	The corporation and its Officer in Effective Control failed to sight a certificate from the Chief Commissioner of Police or take reasonable steps to ensure that a person was eligible to be an agent's representative. The Corporation also failed to maintain full and accurate accounting records, and incorrectly banked rent trust deposits.	To comply with the requirements in relation to the appointment of an agent's representative and to accurately maintain all accounting and business records.
8 Apr 02	Hugh J White of Fitzroy North	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act.
10 Apr 02	George Vale of Eltham North	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act.
10 Apr 02	Monitor Publishing Pty Ltd of Randwick, NSW (ACN 079 659 251)	FTA	27	The company had not obtained written authorisation for placing an advertisement in the Crime Prevention Review prior to seeking payment for the advertisement.	The company undertook not to seek payment in the future without obtaining written authorisation from an advertiser.
18 Apr 02	Chequered Flag Motors Pty Ltd of Doncaster (ACN 007 047 305)	MCTA Regs	22	Advertised cars for sale without including the letters LMCT followed by its licence number.	To comply with the Regulations.

Date of Undertaking	Promisee	Act	Section	Breach Summary	Nature of Undertaking
22 Apr 02	Shamoun (Simon) Khouri of Laverton	EAA	16(2)	Acted as an agent's representative whilst ineligible to act, as he had within the last 10 years proven offences against him involving violence and dishonesty which were punishable by imprisonment for 3 months or more.	Will not act as an agent's representative unless he is eligible to be employed as one.
22 Apr 02	John Kontek Real Estate Pty Ltd (ACN 050 989 878) and Natalie Kontek of Sunshine	EAA	16(4)	The corporation and its Officer in Effective Control failed to sight a certificate from the Chief Commissioner of Police or take reasonable steps to ensure that a person was eligible to be an agent's representative.	To comply with the requirements in relation to the appointment of an agent's representative.
23 Apr 02	Nick Lauria of Fawkner	RTA	405 406	Failure to lodge a bond with the RTBA.	To comply with the requirements of the Act to lodge the bond and bond lodgement form with the RTBA within 5 business days of receiving the bond.
24 Apr 02	Brett Stevens of Echuca	EAA	55	Failure of the Officer in Effective Control to obtain permission of the Director for a prohibited person to purchase a property the real estate agency had been commissioned to sell.	To comply with the requirements of the Act in future if an employee or prohibited person wishes to purchase a property.
25 Apr 02	Jason Moloney of Footscray	RTA	31 405 406	The landlord demanded and accepted a bond which exceeded the amount of rent payable and failed to lodge with the RTBA, that part of the bond which excluded the amount of rent paid.	To comply with the Act.

Date of Undertaking	Promisee	Act	Section	Breach Summary	Nature of Undertaking
2 May 02	Robert Keith Morrison of Mooroolbark	RTA	35 66 405 406	The landlord failed to provide copies of the condition report to the tenant; and provide a written statement of rights duties; complete a signed bond lodgement form; and lodge the bond with the RTBA.	To comply with sections 35, 66, 405 and 406 of the Act.
2 May 02	Clements & Romano Pty Ltd trading as Raine & Horne Glenroy (ACN 086 088 324) and Anthony Romano	EAA	59(1)(b) 42(2)	Failure to obtain written authority from the purchaser to release deposit monies from the trust account and obtain commission; failure to obtain authority to erect an auction board on a property; and falsely represented that they had a particular property for sale.	The conduct will not be repeated.
3 May 02	Hayden Real Estate (Geelong) Pty Ltd (ACN 090 021 033)	EAA	55	Failure of the Officer in Effective Control to obtain permission of the Director for a prohibited person to purchase a property the real estate agency had been commissioned to sell.	To comply with the requirements of the Act in future if an employee or prohibited person wishes to purchase a property.
10 May 02	Alastair Raven of Doncaster	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act.
13 May 02	Rodney George Simmons of Mill Park	EAA EAA(GAA) Regs	16(2) 13(2)(a) 13(3)	Continued to act as an agent's representative whilst insolvent under administration; and failed to notify his employer and the BLA of his insolvency.	Will not act as an agent's representative whilst ineligible to do so.

Date of Undertaking	Promisee	Act	Section	Breach Summary	Nature of Undertaking
15 May 02	Raymond Miller of Carrum Downs	FAA	62 29 27(2)(c) 25(1)(b)	Provision of false information to the Director in a notice to fundraise; failure to keep accurate records; failure to comply with the requirement for two signatories for the bank account; and commencing a fundraising appeal prior to notification.	The fundraising appeal has been stopped. He will not for a period of five years act in a position responsible for the financial or managerial functions or operate a bank account for a fundraising appeal.
18 May 02	Arthur Alfred Law of Brunswick East	EAA EAA(GAA) Regs	59(1) 63(1) 35(1) 36	The agent failed to compile and keep trust account reconciliations, and drew commission without entitlement prior to the settlement of properties.	The agent is no longer carrying on business as an estate agent.
24 May 02	Watts Eagle Services Pty Ltd of Frankston (ACN 063 587 968) and Roy Allen Watts and John Henry Walker of Eitham	FTA CCVC CCVA	11 11(a) 12 144(1) 37	The company acting as a finance broker prepared and submitted a housing loan application which contained material which was not factual or was misrepresented; the consumer was induced into entering into a contract to purchase a house without any deposit.	Comply with the requirements of the Acts and with section 144 of the Consumer Credit (Victoria) Code.
28 May 02	Trent Scott	FAA BNA	7 17A 5	Conducting an unauthorised fundraising appeal by offering to paint house numbers on the street curb for a fee, of which it was asserted part payment was being donated to the Melbourne Ambulance Service or emergency service. Trading under a business name that was not registered.	Cease trading as Scott's Numbering and not make representations in relation to donations to a charity unless registered as a fundraiser.
28 May 02	Brad Carter of Parkdale	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act.

Date of Undertaking	Promisee	Act	Section	Breach Summary	Nature of Undertaking
3 Jun 02	Branislava Cowie and Cowies Real Estate Pty Ltd of Frankston (ACN 074 699 433)	FTA EAA(PC) Regs	12(e) 6 7 11 20 21	Advertising that the company was a 'Jenman Endorsed Agent' when it was not; inducing vendors to sign an exclusive sale authority where one already existed; and encouraging the vendors to advise an agent that the property had been withdrawn from the market.	To comply with the Act and Regulations.
3 Jun 02	Christopher James Jackson of Alexandra	EAA EAA(PC) Regs	94(1) 8 11	The agent engaged in conduct that was contrary to good estate agent practice in relation to a sale of a property his employer Elders Limited was listed to sell.	The agent is no longer employed at the agency and he has undertaken to acquire a working knowledge of his duties and obligations.
5 Jun 02	Vincent Gerard McGrath of Mornington	FTA	12(k) 29(f)	Made representations in an advertising pamphlet that 'Possum Oil' as a product was able to get rid of possums and was suitable for both internal and external use; and failure to include the full address of the business.	To comply with the Act and provide a refund to one consumer and replace 10 Australian-made units with 10 American-made units at no expense to another consumer.
10 Jun 02	Raylene Sweet of Benalla	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on her own behalf or on behalf of any other person in breach of the Act.
11 Jun 02	Keith James Morris of Mildura	EAA	59 64	Failure to obtain written authority to withdraw commission from trust account prior to settlement; and failure to cause trust accounts to be audited within 3 months of the end of the financial year.	To comply with the Act.

Date of Undertaking	Promisee	Act	Section	Breach Summary	Nature of Undertaking
12 Jun 02	Katrina Doran of Strathmore	FTA	22	Participated in a pyramid selling scheme called 'Need to boost your income' by sending emails requesting people to send her money and list their own names as participants of the scheme.	Conduct will not be repeated in the future.
14 Jun 02	Lynette Acton of Caulfield (PCA 13613E)	PCA	17(1)(b)	Caused advertising in the form of business cards that did not contain the service provider's licence number.	Comply with the requirements of the Act.
19 Jun 02	Silverado Power Pty Ltd (ACN 074 670 778) trading as GM & GMC Engineering and the Chevrolet Truck Centre of Hamilton	MCTA	7	Unlicensed motor car trading.	Refrain from selling or offering motor cars on his own behalf or on behalf of any other person in breach of the Act.

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

Appendix 4

Consumer Affairs' Community Program

Consumer Affairs Victoria's Community Program contracts regional community-based agencies to provide information and education services to consumers, tenants, and landlords, and dispute resolution and advocacy services to consumers and tenants, especially to disadvantaged members of the community. Some specialist and state-wide service providers are also contracted.

Outsourced Regional Services, 2001–2002

Contracted Agency	Value of Contract	Purpose of Contract
Jindara Community Program Inc 202 Myer Street, GEELONG 3220	\$206,075	Barwon Region
Anglicare Gippsland 53-55 Buckley Street, MORWELL 3840	\$147,801	Central Gippsland
Child and Family Services Ballarat Inc 115 Lydiard Street North, BALLARAT 3350 AND 12 Grant Street, BACCHUS MARSH 3340	\$139,479	Central Highlands Region
Kilmany Family Care 113 Cunningham Street, SALE 3850 AND 49 McCulloch Street, BAIRNSDALE 3875	\$142,225	East Gippsland Region
Community Connections (Victoria) Ltd 26 Fairy Street, WARRNAMBOOL 3280 AND 33 Otway Street, PORTLAND 3305 AND Currawong Family Services 92 Thompson Street, HAMILTON 3300	\$176,528	Glenelg Region
Consumer and Tenancy Advice Service Inc 162 Maude Street, SHEPPARTON 3630	\$186,485	Goulburn Region
St Lukes Anglicare 175-187 Hargreaves Street, BENDIGO 3550	\$168,869	Loddon Campaspe Region
Mallee Tenancy Advice Service Inc 1/152 Pine Avenue, MILDURA 3500 AND 300 Campbell Street, SWAN HILL 3585	\$227,136	Mallee Region
Consumer and Tenant Advice Service Northern Tenants Union of Victoria Ltd 251 High Street, PRESTON 3072 AND 175 Glenroy Road, GLENROY 3046	\$265,283	Combined North East and North West Region

Contracted Agency	Value of Contract	Purpose of Contract
Consumer and Tenant Resource Centre Outer East Inc Suite 11, 5-7 Chandler Road, BORONIA 3155	\$139,479	Outer East Region
Consumer and Tenancy Advice Service Inc 110 Hume Street, WODONGA 3690 AND 32 Ford Street, WANGARATTA 3677	\$166,829	Upper Murray Region
Brimbank Community Centre Inc 822 Ballarat Road, DEER PARK 3023	\$227,482	Western Region
Springvale Community Aid & Advice Bureau Inc 5 Osborne Avenue, SPRINGVALE 3171	\$172,713	Westernport Region LGA of Greater Dandenong
Peninsula Community Legal Centre Inc Chatsworth House Suite 2-4, 431 Nepean Highway, FRANKSTON 3199	\$236,790	Westernport Region LGAs of Mornington Peninsula, Frankston, Kingston, Casey and Cardinia.
Wimmera Community Care 185 Baillie Street, HORSHAM 3400	\$114,524	Wimmera Region

Outsourced Specialist Consumer Services, 2001-2002

Contracted Agency	Value of Contract	Purpose of Contract
Consumer Credit Legal Service 1st Floor, Bank House 11-19 Bank Place MELBOURNE 3000	\$141,176	To promote and safeguard industry standards that achieve a fair financial services market, including objections to registration, class actions and selected individuals who have been unfairly treated, particularly those who are disadvantaged and have limited access to redress.
Financial and Consumer Rights Council Inc Level 13, 227 Collins Street MELBOURNE 3000	\$69,504	To resource and support consumer support workers, represent members views to Government and the community and coordinate state-wide campaigns on key consumer issues.

Outsourced Specialist Tenancy Services, 2001-2002

Contracted Agency	Value of Contract	Purpose of Contract
Family Access Network 1030 Whitehorse Road BOX HILL 3128	\$90,531	Inner East Regional Services.
Tenants Union of Victoria Ltd 55 Johnston Street FITZROY 3065	\$238,633	Inner Urban Regional Services.
Housing for the Aged Action Group Inc 2nd Floor, Ross House 247-251 Flinders Lane MELBOURNE 3000	\$75,433	Provision of community education, information, advice and advocacy and support service on tenancy issues for the aged as a state-wide project.
Tenants Union of Victoria Ltd 55 Johnston Street FITZROY 3065	\$97,970	Undertaking of state-wide resourcing, and supporting of regional tenancy advice services, research, policy and community education work.
Tenants Union of Victoria Ltd Rooming House Service 55 Johnston Street FITZROY 3065	\$137,175	Provision of rooming house resident information, advice, complaint resolution and advocacy services. Contribution to policy development and legislative change on rooming house issues.

Appendix 5

Grants from Estate Agents' Guarantee Fund

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

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

Grants considered by the Estate Agents Council and CAV, and approved by the Minister for Consumer Affairs during 2001–2002, are detailed below.

Applicant	Value of Grant Approved	Description of Funded Program
Australian Stock and Station Agents Association	\$61,740	Stock and Station Agents Professional Development Program
Central Gippsland Institute of TAFE	\$33,736	Gippsrealestate On-Line Project
Department of Human Services	\$229,090	Materials for Group Self-Build Program 2001–2002
Department of Human Services	\$333,000	Materials for Group Self-Build Program 2002–2003
Department of Industry, Innovation and Regional Development	\$770,318	'Buying a Business' Program
Equal Opportunity Commission	\$283,239	Education and information program on discrimination against migrant and refugee tenants
Habitat for Humanity Australia	\$4,500	Conference promoting home ownership for the poor
Credit Helpline	\$39,317	Contribution to funding of the operation of telephone advice service relating to credit and bankruptcy, for 12 months from February 2002
Real Estate Institute of Victoria	\$136,642	Conduct of an information service for the general public during 2002–2003
Total	\$1,891,582	

All amounts are GST exclusive to reflect the net cost to the fund.

Appendix 6

Claims Paid by Motor Car Traders' Guarantee Fund

Claims received	66
Claims finalised	65
Claims admitted	31
Amount paid out of fund	\$399,657.08
Total amount recovered	\$53,643
Total amount owed	\$332,036.08

**Total claims admitted against Motor Car Traders' Guarantee Fund in 2001–2002
(not subject to appeal against decision to admit).**

Name of Trader	Number of Claims	Amount Paid Out Against the Fund
Abel Auto Wreckers Pty Ltd	2	\$3,000.00
Kelvin Michael Ball	10	\$148,097.76
Billrich Special Services Pty Ltd	1	\$25,000.00
Conveyor Technologies Pty Ltd	1	\$580.00
Cullia & Staff Car Sales Pty Ltd	1	\$2,590.00
Donald Hulme & Garry Wise	2	\$9,985.60
Ethels Pty Ltd	1	\$944.00
John Ould Motors Pty Ltd	1	\$40,000.00
Maldonfield Pty Ltd	2	\$60,432.00
Kevin Barry Seamer	1	\$811.00
South Gippsland Autofarm Pty Ltd	2	\$34,058.13
Triple-Lee Nominees Pty Ltd	1	\$5,383.30
Ward Motors Pty Ltd	2	\$1,049.29
Yarramalong Court Pty Ltd	1	\$105.00

Appendix 7

Trust Funds Managed by Consumer Affairs Victoria

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

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

Fund	Act of Parliament	Source of Income	Expenditure Purposes
Consumer Credit Fund	<i>Credit (Administration) Act 1984</i>	Credit provider contributions. Interest on investments.	Grants permitted by s.86AB of the Act. Costs of Advisory Committee.
Domestic Builders Fund	<i>Domestic Building Contracts Act 1995</i>	Building registration fees collected by the Building Commission. Income on investments. Tribunal fees. Fines.	Administration of the Act. Tribunal costs. Grants permitted by s.124(3)(d) of the Act.
Estate Agents' Guarantee Fund	<i>Estate Agents Act 1980</i>	Interest on estate agents' trust accounts. Interest on investments. Licensing fees. Fines.	Administration of the Act. Grants permitted by s.76(3) of the Act. Operation of the Estate Agents Council. Tribunal costs. Guarantee claims.
Motor Car Traders' Guarantee Fund	<i>Motor Car Traders Act 1986</i>	Interest on investments. Licensing fees. Fines. Recovery of claims paid.	Administration of the Act. Guarantee claims.
Prostitution Control Fund	<i>Prostitution Control Act 1994</i>	Licensing fees. Fines.	Administration of the Act.
Residential Tenancies Fund	<i>Residential Tenancies Act 1997</i>	Transfers from Residential Bonds Investment Income Account. Interests on investments. Tribunal fees. Interest on individual bond trust accounts.	Administration of the Act. Tribunal costs. Payments for research and education permitted by s.495 of the Act.
Residential Bonds Investment Income Account	<i>Residential Tenancies Act 1997</i>	Interest received from the investment of the Residential Bonds Account, and Residential Bonds Investment Income Account.	Administration of the Residential Tenancies Bond Authority. Any amount declared as an additional amount to be added to the bond upon repayment (none yet declared). Transfers to the Residential Tenancies Fund.
Residential Bonds Account	<i>Residential Tenancies Act 1997</i>	Bonds lodged with the Residential Tenancies Bond Authority.	Repayment of bonds.

Refer to Key Financial Information table for additional information.

Appendix 8

Consumer Affairs Victoria

Key Financial Indicators 2001–2002

	Revenue to the Consolidated Fund	Appropriations & Special Appropriations	Motor Car Traders' Guarantee Fund	Estate Agents' Guarantee Fund
CAV Revenue				
Fees	8,242,375	-	2,162,487	1,198,685
Fines	44,771	-	40,880	5,859
Sales of goods and services	587,997	-	-	-
Appropriations from the Consolidated Fund	-	14,359,318	-	-
Investment income	-	-	81,916	7,274,707
Interest from external trust accounts	-	-	-	24,339,150
Recovery of claims paid	-	-	117,226	-
Other income	73,977	-	4,018	331,785
Transfer from RTBA	-	-	-	-
Consumer Utilities Advocacy Centre funding	-	270,000	-	-
Domestic Building funding	-	-	-	-
Travel Compensation Fund funding	-	1,250,000	-	-
Total CAV Revenue	8,949,120	15,879,318	2,406,527	33,150,186
VCAT fees	-	-	-	-
Total Revenue	8,949,120	15,879,318	2,406,527	33,150,186
CAV Expenditure				
Employee costs	-	8,261,673	1,055,347	2,145,225
Community Agency funding	-	926,676	143,635	-
Grants from Estate Agents' Guarantee Fund	-	-	-	5,571,843
Other grants	-	19,000	-	-
Claims on Guarantee Funds	-	-	407,692	327,675
Outsourcing of registry services	-	-	-	-
Other CAV operating costs	-	5,143,499	419,524	2,966,777
Consumer Utilities Advocacy Centre payment	-	270,000	-	-
Travel Compensation Fund contribution	-	1,258,470	-	-
Total CAV Expenditure	-	15,879,318	2,026,198	11,011,520
VCAT Employee Costs	-	-	-	-
Other VCAT Operating Costs	-	-	-	-
Total Expenditure	-	15,879,318	2,026,198	11,011,520
Transfer to Consolidated Fund	8,949,120	-	-	-
Surplus / (Deficit)	-	-	380,329	22,138,666
Trust Funds Closing Equity	na	na	1,751,317	147,926,967

Notes:

- The information in this table has been drawn from the data supporting the Audited Financial Statements of the Department of Justice, but is not itself an audited financial statement.
- Values shown for the Residential Tenancies Bond Authority relate solely to the Residential Bonds Income Investment Account. A further \$239.4 million is held in the Residential Bonds Account representing bonds held on trust for landlords and tenants.

Residential Tenancies Fund	Residential Tenancies Bond Authority	Consumer Credit Fund	Prostitution Control Fund	Domestic Builders Fund	TOTAL FROM TRUST FUNDS	GRAND TOTAL
-	-	-	255,483	-	3,616,655	11,859,030
1,000	-	200	13,153	1,300	62,392	107,163
-	-	-	-	-	-	587,997
-	-	-	-	-	-	14,359,318
775,786	10,538,923	67,577	18,583	32,187	18,789,679	18,789,679
543,830	-	-	-	-	24,882,980	24,882,980
-	-	-	-	-	117,226	117,226
-	-	-	32,000	-	367,803	441,780
7,800,000	(7,800,000)	-	-	-	-	-
-	-	-	-	-	-	270,000
-	-	-	-	2,128,941	2,128,941	2,128,941
-	-	-	-	-	-	1,250,000
9,120,616	2,738,923	67,777	319,219	2,162,428	49,965,676	74,794,114
1,664,906	-	-	-	284,450	1,949,356	1,949,356
10,785,522	2,738,923	67,777	319,219	2,446,878	51,915,032	76,743,470
2,224,988	528,067	-	394,257	387,762	6,735,646	14,997,319
2,431,248	-	-	-	75,545	2,650,428	3,577,104
-	-	-	-	-	5,571,843	5,571,843
-	-	163,903	-	-	163,903	182,903
-	-	-	-	-	735,367	735,367
-	1,920,143	-	-	-	1,920,143	1,920,143
1,167,751	490,607	-	106,272	200,257	5,351,188	10,494,687
-	-	-	-	-	-	270,000
-	-	-	-	-	-	1,258,470
5,823,987	2,938,817	163,903	500,529	663,564	23,128,518	39,007,836
4,892,956	-	-	-	960,124	5,853,080	5,853,080
1,643,581	-	-	-	536,654	2,180,235	2,180,235
12,360,524	2,938,817	163,903	500,529	2,160,342	31,161,833	47,041,151
-	-	-	-	-	-	8,949,120
(1,575,002)	(199,894)	(96,126)	(181,310)	286,536	20,753,199	20,753,199
17,648,246	774,040	1,480,643	222,599	1,128,941	170,932,753	170,932,753

Appendix 9

Legislation Administered by Consumer Affairs Victoria

Acts of Parliament assigned to the Minister for Consumer Affairs as at 30 June 2002

1. *Associations Incorporation Act 1981*
2. *Auction Sales Act 1958*
3. *Business Licensing Authority Act 1998*
4. *Business Names Act 1962*
5. *Carriers and Innkeepers Act 1958*
6. *Chattel Securities Act 1987* (Except Part 3 which is administered by the Minister for Transport)
7. *Collusive Practices Act 1965*
8. *Companies (Administration) Act 1981*
9. *Consumer Credit (Victoria) Act 1995*
10. *Co-operatives Act 1996*
11. *Credit Act 1984*
12. *Credit (Administration) Act 1984*
13. *Credit Reporting Act 1978*
14. *Defence Reserves Re-employment Act 1995*
15. *Discharged Servicemen's Preference Act 1943*
16. *Disposal of Uncollected Goods Act 1961*
17. *Domestic Building Contracts Act 1995* (Except Part 5 which is administered by the Attorney-General)
18. *Estate Agents Act 1980*
19. *Fair Trading Act 1999*
20. *Frustrated Contracts Act 1959*
21. *Fuel Prices Regulation Act 1981*
22. *Fundraising Appeals Act 1998*
23. *Funerals (Pre-Paid Money) Act 1993*
24. *Goods Act 1958*
25. *Hire-Purchase Act 1959* (repealed 1 April 1998, in respect of future hire-purchase agreements; except for sections 24 and 25, applicable to hire purchase agreements for farm machinery until 30 June 2003)
26. *House Contracts Guarantee Act 1987*
27. *Introduction Agents Act 1997*
28. *Landlord and Tenant Act 1958*
29. *Marketable Securities Act 1970*
30. *Motor Car Traders Act 1986*
31. *Partnership Act 1958*
32. *Patriotic Funds Act 1958*
33. *Petroleum Products (Terminal Gate Pricing) Act 2000*
34. *Petroleum Retail Selling Sites Act 1981*
35. *Prostitution Control Act 1994*
36. *Residential Tenancies Act 1997* (ss.24, 25, 27, 32, 33, 45-48, 74-77, 82, 90, 91, 102, 103, 104(1), 104(4), 104(5), 105(2), 105(3), 124, 128, 130-134, 141-212, 214, 215, 230, 232-234, 241, 277, 291-333, 335-341, 343-366, 373-376, 385, 388, 390, 395-398, 400-439, 486-504, 506-511; s.66 (1) jointly with the Minister for Housing; the Act is otherwise administered by the Attorney-General, the Minister for Housing and the Minister for Planning)
37. *Sale of Goods (Vienna Convention) Act 1987*
38. *Sale of Land Act 1962*
39. *Sea-Carriage Documents Act 1998*
40. *Second-Hand Dealers and Pawnbrokers Act 1989*
41. *Travel Agents Act 1986*
42. *Trustee Act 1958*
43. *Trustee Companies Act 1984*, jointly with the Treasurer

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