



REAL PEOPLE. REAL PROBLEMS. FAIR OUTCOMES



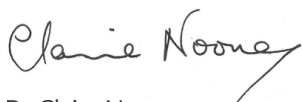
CONSUMER AFFAIRS VICTORIA
ANNUAL REPORT 2008-09

DIRECTOR'S FOREWORD

Dear Minister

In accordance with the *Fair Trading Act 1999*, the *Credit (Administration) Act 1984* and the *Veterans Act 2005*, I have pleasure in submitting the Consumer Affairs Victoria Annual Report for the year ended 30 June 2009, for you to present to the Houses of Parliament.

Yours sincerely



Dr Claire Noone
Director
Consumer Affairs Victoria



Tony Robinson MP
Minister for Consumer Affairs



Penny Armytage
Secretary
Department of Justice

This report's theme of real people, real problems, fair outcomes highlights how we have made a difference this year for the Victorian community.

We worked hard to provide people with practical help to navigate ever-changing markets with confidence, while improving our own organisational capability to intervene in these markets where necessary.

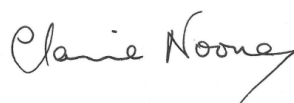
We continued to be national leaders in consumer policy reform, and were actively involved in developing the landmark Australian Consumer Law. We were thrilled when the decision was made in August to include unfair contract terms provisions in the new law, as we had campaigned heavily for their inclusion. Other national reforms we were involved in will have far-reaching benefits for consumers, and I am proud of our lead role in shaping them.

We put more resources into educating consumers and traders, and focused on improving our working relationships with our regulatory partners. We worked with local councils to expand our joint rooming house inspection program and launched new initiatives to fast-track the conciliation of building disputes.

We have fostered confident and caring communities by working with community agencies and tailoring advice and services for young and senior consumers, Indigenous consumers, migrants and consumers with a disability. We have helped people find local solutions to local problems by concentrating resources and services in regional areas.

Our compliance and enforcement program brought 80 traders before the courts. We renewed efforts to detect non-compliant traders by completing more audits, inspections and investigations in areas of concern, including a blitz on real estate agencies to detect misleading price advertising of properties.

I would like to thank the staff at Consumer Affairs Victoria who have worked so hard this year to effect changes that set the groundwork for an ambitious reform agenda in 2009–10. I feel extremely lucky to be working with such a dedicated, clever and committed team. It is with pleasure that I report on what we have achieved this year.



Dr Claire Noone



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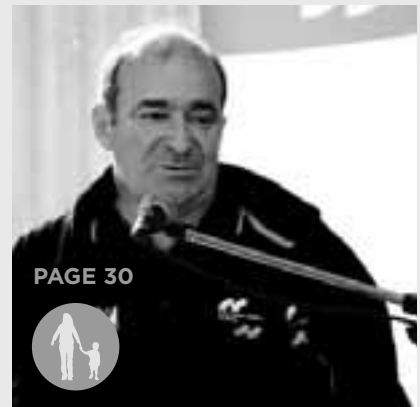
CHAPTER 1: CREATING A FAIRER MARKET

National law reform, legislation modernisation, improving trader behaviour, toy safety



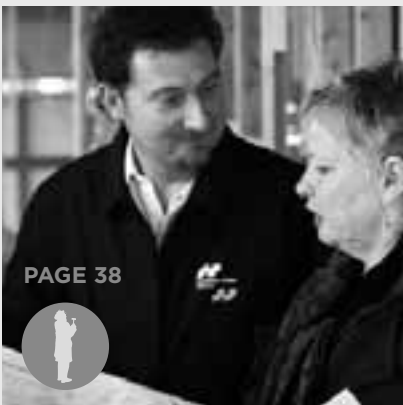
CHAPTER 2: ADDRESSING MARKETPLACE ISSUES

Residential accommodation, real estate, domestic building, prostitution, itinerant traders, warranties and refunds, car parks, economic downturn, conveyancing, research



CHAPTER 3: CREATING CARING AND CONFIDENT COMMUNITIES

Advice and help for consumers, scams, bushfire crisis, online environment, service delivery



CHAPTER 4: SHOWING LEADERSHIP IN DISPUTE RESOLUTION

General disputes, Building Advice & Conciliation Victoria, Estate Agents Resolution Service, residential tenancy disputes, Residential Tenancies Bond Authority



CHAPTER 5: OPTIMISING OUR CAPABILITY

Improving access to information, developing our people



APPENDICES

2008-09 YEAR IN REVIEW HIGHLIGHTS



CREATING A FAIRER MARKET

- > Australian Consumer Law agreed, including provisions for unfair contract terms
- > New national system agreed for occupational licences
- > Unfair contract terms provisions in the *Fair Trading Act 1999* extended to consumer credit contracts
- > New laws and regulations improved protections for residential tenants and new car buyers
- > Five discussion papers released proposing options for modernising outdated legislation
- > Succeeded in bringing 80 traders before the courts
- > Put traders on notice that contraventions could now earn them an infringement notice and financial penalty
- > Finalised 40 criminal prosecutions and 31 civil actions



ADDRESSING MARKETPLACE ISSUES

- > Worked with local councils to expand joint rooming house inspection program
- > Launched new initiatives to reduce consumer detriment in domestic building
- > Strengthened our itinerant trader strategy to increase cooperation with other enforcement agencies, local networks, suppliers and caravan parks
- > Worked with other agencies to inspect a record number of brothels
- > Held 10 workshops to educate landlords, including tailored sessions for landlords of international students. Two sessions were presented in Chinese.
- > Conducted a blitz on real estate price advertising practices
- > Developed a new \$2.864 million program to help workers experiencing financial trouble as a result of the economic downturn



CREATING CARING AND CONFIDENT COMMUNITIES

- > Provided advocacy help to 3,581 vulnerable consumers
- > Provided face-to-face advice to more than 50,000 consumers at our city and regional offices
- > Answered almost 600,000 calls for information and advice
- > Recorded more than 1,241,400 unique visitors to our website
- > Provided a timely and comprehensive response to the Victorian bushfire crisis, providing help and advice to affected consumers
- > Introduced online interactive SmartForms to improve the process of applying for individual or company licences
- > Justice Service Centres established in regional areas, improving dispute resolution and other services for regional consumers



SHOWING LEADERSHIP IN DISPUTE RESOLUTION

- > Finalised 11,736 disputes and recovered more than \$5.17 million for consumers
- > Completed a record number of inspections to help resolve tenancy disputes
- > Introduced a new way of conciliating some domestic building disputes, achieving a 94 per cent success rate
- > Resolved 81 per cent of general disputes conciliated



OPTIMISING OUR CAPABILITY

- > Established new knowledge management tool to ensure callers receive the most up-to-date and relevant information
- > Commissioned delivery of a new qualification course for investigators
- > Provided extra training for regional staff, including tailored sessions for new regional teams

2008-09 YEAR IN REVIEW ACTIVITIES

CALLS ANSWERED FOR INFORMATION AND ADVICE	
General Consumer	135,195
Renting	105,700
Building	31,046
Credit	13,353
Registration	91,008
Residential Tenancies Bond Authority	109,866
Estate Agents Resolution Service	10,540
Licensing	90,768
Regional offices	4,740
Pre-recorded/faxback requests	6,896
Total calls answered	599,112
WWW.CONSUMER.VIC.GOV.AU	
Visitor sessions	1,971,005
Unique visitors	1,241,401
Publications/forms downloads	1,676,095
VICTORIAN CONSUMER & BUSINESS CENTRE COUNTER ENQUIRIES	
Consumer	3,616
Residential tenancy	1,898
Occupational licences/registration	2,570
Business name	21,077
Building	947
Bonds	1,936
Liquor licence/permission	3,641
Concierge/fast service	3,454
Other	3,387
Total counter enquiries	42,526
COMMUNITY ENGAGEMENT ACTIVITIES	
Tenant workshops	49
Landlord workshops	10
Owners corporation workshops	4
Indigenous activities	370
Multicultural activities	550
Seniors presentations	230
Regional community education	902
RESIDENTIAL TENANCY INSPECTIONS	
Rooming house inspections	42
Repair report inspections	1,201
Abandoned goods inspections	3,252
Rental assessment inspections	3,850
Total tenancy inspections	8,345
RESIDENTIAL TENANCIES BOND AUTHORITY	
Bonds lodged	175,000
Bond repayments	153,000
Bonds transferred	38,000
Bonds held	426,020
Value held	\$494.1 million
ADVOCACY/FINANCIAL COUNSELLING	
Consumers helped by advocacy	3,581
Callers referred to financial counselling	3,979
DISPUTES FINALISED	
General disputes	5,758
Residential tenancies	514
Building (including 1,797 Building Advice & Conciliation Victoria disputes)	2,222
Estate Agents Resolution Service	641
Regional offices	2,601
Total disputes finalised	11,736
Amount recovered	>\$5.17 million

REGISTRATIONS - TOTAL ON REGISTER	
Business names	380,598
Estate agents	8,429
Credit providers	802
Motor car traders	2,211
Incorporated associations	35,290
Cooperatives	708
Travel agents	925
Fundraisers	1,156
Second-hand dealers and pawnbrokers	5,626
Introduction agents	57
Patriotic funds	621
Limited partnerships	155
Conveyancers	599
Owners corporation managers	464
Retirement villages	389
Funeral service providers	370
Prostitution service providers (licensees)	144
Prostitution service providers (brothel managers)	682
ENFORCEMENT OUTCOMES	
Prosecutions finalised	40
Civil actions finalised	31
Compensation for consumers	>\$3.9 million
Fines and consent orders	\$337,516
Court fund/VCAT penalties	\$9,000
Costs orders obtained	\$227,443
Parties signed to enforceable undertakings	41
Warning letters issued	332
ESTATE AGENTS ACTIVITY	
Audits/inspections	432
Fines and consent orders	\$177,500
Costs orders obtained	\$6,682
Compensation for consumers	\$7,896
BUILDING ACTIVITY	
Audits/inspections	528
Prosecutions finalised	16
Fines and consent orders	\$40,800
Costs orders obtained	\$15,106*
Compensation for consumers	approx. \$600,000
*excludes costs in some matters still being assessed	
MOTOR CAR TRADERS ACTIVITY	
Prosecutions finalised	10
Fines issued in court	\$43,900
Costs orders obtained	\$23,790
Compensation for consumers	\$1,403
PRODUCT SAFETY ACTIVITY	
Products seized	22,163
Products investigated	180
Premises inspected	464
Companies/directors prosecuted	9
Civil actions	1
Parties signed to enforceable undertakings	3
TRADE MEASUREMENT ACTIVITY	
Instruments tested/inspected	20,726
Pre-packed articles inspected	44,609
Inspections conducted	5,134
Instruments rejected	1,418
Complaints investigated	492
PROSTITUTION ACTIVITY	
Inspections of brothels run by licensed operators	66
Alleged illegal brothels inspected	9

ORGANISATIONAL STRUCTURE

**The Hon.
Tony Robinson MP**
Minister for
Consumer Affairs



Penny Armytage
Secretary
Department of Justice

Claire Noone
Executive Director
and Director of
Consumer Affairs Victoria

Geoff Browne
Deputy Director
Consumer Affairs Victoria



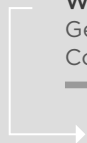
Paul Myers
General Manager
Strategy

Andrew Levens
General Manager
Compliance
& Enforcement

Elizabeth Lanyon
General Manager
Consumer Policy
& Programs

Warwick Knight
General Manager
Corporate Resources

Rachael Barker
General Manager
Marketing & Education



Paula Healey
General Manager
Community Engagement

Steven Scodella
General Manager
Licensing

Russell Barclay
Acting General Manager
Enquiries

Adam Creed
Acting General Manager
Market Monitoring

Tony McMahon
General Manager
Dispute Resolution

David Betts
General Manager
Registration



ABOUT US

We are Victoria's leading consumer protection agency. We are committed to protecting and promoting the interests of Victorian consumers, especially the vulnerable and disadvantaged. By engaging with consumers and traders, we help markets work better and contribute to a thriving economy.

Our vision

Informed and responsible consumers and traders

Our goals

- > Empower consumers
- > Create a competitive, fair and safe trading environment
- > Protect vulnerable and disadvantaged consumers
- > Optimise our organisational capability

Our values

- > Serve the community
- > Work together
- > Act with integrity
- > Respect other people
- > Make it happen

Our functions

- > Provide information and advice to consumers, traders, tenants and landlords on consumer and tenancy issues
- > Educate consumers and traders on their rights and responsibilities and changes to the law
- > Seek to reduce disputes between consumers and traders and between tenants and landlords, including providing a dispute resolution service
- > Develop policies and laws that protect consumers
- > Ensure compliance with consumer laws
- > Promote product safety
- > Regulate the consumer environment through licensing and registration
- > Promote accurate trade measurement

We support the Ministerial advisory roles in the Consumer Affairs portfolio, including the Consumer Credit Fund Advisory Committee, Estate Agents Council, Patriotic Funds Council, Prostitution Control Act Ministerial Advisory Committee and the Funeral Industry Ministerial Advisory Council.

We provide administrative support to several statutory offices and bodies including the Business Licensing Authority, Motor Car Traders Claims Committee and the Residential Tenancies Bond Authority.

Consumer Affairs Victoria administers 45 Acts of Parliament. We are required to report to the Victorian Government on our activities under the *Fair Trading Act 1999*, the *Credit (Administration) Act 1984* and the *Veterans Act 2005*.



Victoria is a national leader in consumer policy reform.

In December, new regulations introduced a cooling-off period for new car sales, protecting consumers who may have been pressured into the sale or acted on impulse (see p. 12).



01 | CREATING A FAIRER MARKET

HIGHLIGHTS

- > Australian Consumer Law agreed, including provisions for unfair contract terms
 - > New national system agreed for occupational licences
 - > Unfair contract terms provisions in the *Fair Trading Act 1999* extended to consumer credit contracts
 - > Succeeded in bringing 80 traders before the courts
-

Victoria is a national leader in consumer policy reform. Through Consumer Affairs Victoria, the government is working to improve the efficiency and effectiveness of consumer laws and regulations, providing the framework for a thriving economy and a fairer market. Our work supports the government's *Growing Victoria Together* commitment and helps position Victoria to weather the challenges of the current economic downturn.

As well as helping reform national and state consumer laws, Consumer Affairs Victoria works to improve trader behaviour with our integrated compliance and enforcement program. This year, we developed and increased our work with other agencies, creating synergies and achieving a more coordinated approach to making markets work better.

National law reform

This is an exciting time in the history of consumer policy. Consumer Affairs Victoria is helping implement a major reform agenda – the most significant overhaul of consumer protection laws since the 1980s. The changes will improve consumer protection, reduce business costs and contribute to a seamless national economy. They include harmonising various state and territory laws and in some cases, transferring powers to the Commonwealth.

The Ministerial Council on Consumer Affairs (MCCA) is overseeing the work in accordance with the national reform objectives and timelines agreed by the Council of Australian Governments (COAG).

AN AUSTRALIAN CONSUMER LAW

Consumer Affairs Victoria has a leading role in developing the landmark Australian Consumer Law. This new law will apply to all of Australia and will replace the individual Fair Trading Acts that currently exist within each jurisdiction. The Productivity Commission estimates the change will benefit consumers by \$1.5–4.5 billion annually.

The Australian Consumer Law will give Australian consumers greater confidence in the goods and services they buy, will give regulators new and improved powers to enforce consumer laws in a nationally-consistent way, and will make complying with the law easier and less confusing for traders. It will also further the government's aim of a seamless national economy. All jurisdictions will share responsibility for enforcing the law.

Consumer Affairs Victoria is chairing the Best Practice Reforms Working Group, identifying best practice provisions in state and territory laws to incorporate into the Australian Consumer Law. We have devoted significant resources to the enormous task of reviewing legislation, and

engaging with our state, territory and Commonwealth partners to develop the best possible new law.

In August 2008, MCCA agreed to incorporate unfair contract terms provisions into the new law. Victoria is the only state with these provisions in its legislation and we campaigned heavily for their inclusion in the Australian Consumer Law. Consumer Affairs Victoria, drawing on its long experience in using unfair contract terms law, is working with other jurisdictions to develop appropriate guidance on the new law for regulators and the community.

In February 2009, a discussion paper was released on the Australian Consumer Law, prompting more than 100 submissions.

The new law will include:

- provisions banning the use of unfair terms in contracts
- bans on business conduct that is misleading and/or deceptive
- door-to-door selling and telemarketing provisions that address selling in situations where consumers are particularly vulnerable
- a suite of powers that enhance the ability of regulators to enforce the above provisions (for example, injunction powers).

In October 2008, COAG confirmed that the Commonwealth will assume responsibility for consumer credit, a role currently filled by states and territories.

IMPROVING CREDIT REGULATION

In October 2008, COAG confirmed that the Commonwealth will assume responsibility for consumer credit, a role currently filled by states and territories. The Commonwealth will retain the Consumer Credit Code in the new national consumer credit protection law, extend its provisions to consumer mortgages over residential investment properties, and will include amendments that target fringe lending. Victoria has a major role in implementing these reforms, which will introduce new and improved protections for consumers.

Consumer Affairs Victoria has been working with the Uniform Consumer Credit Code Management Committee (UCCCMC) to finalise projects addressing best-practice disclosure and reverse mortgage protections. UCCCMC has also made a major contribution to the Commonwealth's development of a single national licensing scheme for credit providers and advisors. This scheme will also eventually include a new upfront requirement for responsible lending. The Commonwealth Bills were introduced to Parliament in June 2009. The Australian Securities and Investments Commission (ASIC) will administer and enforce the new package. We have been working closely with ASIC to ensure a smooth transition.

In February 2008, Minister for Consumer Affairs Tony Robinson MP asked Member for Preston Robin Scott MP to undertake an inquiry into small amount lending. In April 2009, we made the Report of the Small Amount Lending Inquiry available to our interstate and Commonwealth

colleagues and posted it on our website. The report made recommendations to strengthen consumer protection and improve industry practices.

In May 2009, at Victoria's instigation, MCCA agreed to review debt collection and debt collector regulation, to minimise any regulatory overlap that may occur when the national consumer credit regime begins.

PRODUCT SAFETY REFORM

Victoria is leading the way in a major overhaul of Australia's consumer product safety laws. Victoria's excellent evidence-based laws are being considered as part of a best-practice national product safety model. The reformed model, which is expected to be completed by the end of 2010, will include harmonised product safety laws as part of the Australian Consumer Law. The Commonwealth will be responsible for issuing permanent bans and mandatory standards. The Commonwealth, states and territories will share responsibility for issuing interim bans and will work together on nationally-consistent programs for compliance and enforcement, and consumer and trader education.

In 2008–09, we continued to lead the national harmonisation of bans and standards project, a large and complex undertaking, which this year:

- reviewed 177 existing bans and standards across Australia
- mirrored existing Commonwealth standards and adopted new ones as they were developed

- revoked older ban orders that existed in only one or two jurisdictions, where the associated banned products had not appeared in the market for at least 10 years
- revoked ban orders where the associated banned products were covered by a new mandatory standard

We are now working on the final phase of the process, applying a decision-making template to the 27 remaining bans and standards in order to determine which should be harmonised and apply nationally and which should be repealed. We are working closely with the Australian Competition and Consumer Commission on this process.



This year, we continued to lead a project to nationally harmonise banned and regulated products.



NATIONAL LICENSING OF OCCUPATIONS

Occupational licences for estate agents, which we currently administer, are in the first wave of occupations to be included in a new national licensing system. The system will create a single licensing process across Australia, allowing the free movement of licensed occupations. Electrical, air-conditioning, refrigeration, plumbing and gas-fitting occupations are also in the first wave of occupations. The second wave includes conveyancers, building and building-related occupations, valuers, and land transport and maritime occupations.

An agency will be established to set national policy and standards. It will have an independent Board and operate under the auspices of a ministerial council. State and territory agencies will share responsibility for operations, including licence issue and compliance, and will retain responsibility for conduct requirements. COAG signed an intergovernmental agreement in April and a Draft Bill for consultation will be released in late 2009. The new licensing agency is expected to be operational by January 2011. The national system will commence for the first wave of occupations by 1 July 2012 and for the second wave as soon as possible after 1 July 2013.

In May 2009, at Victoria's instigation, MCCA agreed to review the conduct provisions of occupations included in the national licensing system and to report on the feasibility of national harmonisation.

NATIONAL REGULATION OF TRUSTEE COMPANIES

In May 2009, MCCA agreed to the Commonwealth assuming responsibility for regulating trustee companies. COAG agreed that future Commonwealth legislation would create a national market, removing the need for multiple state and territory licences, streamlining trustee company obligations and increasing the effectiveness of their supervision.

ONE REGISTER FOR PERSONAL PROPERTY SECURITIES

As reported last year, a single national system for the registration and regulation of security interests in personal property is being established. The new system will enable encumbrances on personal property to be checked online, and will replace more than 40 registers currently kept across different jurisdictions to record security interests. In November 2008, an exposure draft of the Commonwealth Personal Property Securities Bill was referred to a Senate Committee to allow for broad consultation. A revised Bill, which will be complemented by a referral of powers from states and territories, was introduced into the Australian Parliament in June 2009. The register established by the Bill is expected to become operational by 2011.

REVIEW OF TRAVEL-RELATED CONSUMER PROTECTION

In May 2009, MCCA directed the Standing Committee of Officials of Consumer Affairs to commission a review of consumer protection measures in the travel and travel-related services market, including the role of the Travel Compensation Fund. The request follows emerging concerns about whether the current scheme adequately protects consumers.

NATIONAL ONLINE REGISTRATION

Consumer Affairs Victoria is helping create a national online registration scheme for Business Names, replacing existing state and territory-based schemes. The change will significantly reduce the regulatory burden on business. From early 2011, traders will be able to register their business once, nationally, instead of registering in each individual jurisdiction. This year, Victoria and other jurisdictions worked on an intergovernmental agreement outlining how the transfer to the Commonwealth would occur.

TRADE MEASUREMENT GOES NATIONAL

From 1 July 2010, the Commonwealth will administer trade measurement laws through the National Measurement Institute. Victoria, along with other states and territories, is working with the Commonwealth to ensure a smooth transition. Consumer Affairs Victoria will continue to administer Victorian trade measurement laws until the handover.

Consumer Affairs Victoria is helping create a national online registration scheme for Business Names, replacing existing state and territory-based schemes.



From 1 July 2010, the Commonwealth will administer trade measurement laws through the National Measurement Institute.

Modernising legislation

Consumer Affairs Victoria is constantly reviewing, updating and modernising consumer laws, ensuring the law adequately protects consumers in a changing environment. By streamlining laws and reducing the regulatory burden on business, we help create a thriving market where trading is easier, fairer and more cost-efficient for consumers and traders.

Consumer Affairs Victoria is constantly reviewing, updating and modernising consumer laws, ensuring the law adequately protects consumers in a changing environment.



MODERNISING VICTORIA'S LEGISLATION

Consumer Affairs Victoria is continuing its major project to reform Victoria's consumer affairs statute book. The Consumer Affairs Legislation Modernisation project aims to reduce the number of laws in the statute book, removing any laws that are outdated, redundant, duplicated, have requirements that impose an unnecessary burden on business or make it difficult for consumers and traders to understand their obligations.

A streamlined and consolidated statute book will make it easier for us to enforce the law, give consumers greater confidence that markets are operating effectively and efficiently, and will reduce business costs.

In October, Minister for Consumer Affairs Tony Robinson MP released five discussion papers that proposed options for reform of the *Carriers and Innkeepers Act 1958*, *Private Agents Act 1966*, *Landlord and Tenant Act 1958*, *Travel Agents Act 1986* and *Introduction Agents Act 1997*. We received 25 submissions in response. We then engaged in stakeholder discussions before preparing our final position on legislation and commencing regulatory burden estimates. We expect the first detailed proposals for reform to be released in late 2009.

BETTER WAYS TO REGULATE BUSINESS

As reported last year, Consumer Affairs Victoria has been leading the Department of Justice Better Business Regulation project to improve the effectiveness of regulation and reduce its burden on business. The framework helps regulators review their procedures and accurately identify their strengths and opportunities for improvement. This year, we introduced the framework to five other business regulators within the department.

IMPROVEMENTS IN CONSUMER PROTECTIONS

Significant legislation was passed this year to amend the *Fair Trading Act 1999*, the *Residential Tenancies Act 1997* and the *Consumer Credit (Victoria) Act 1995*. The most significant of the amendments made by the *Fair Trading and Other Acts Amendment Act 2009* (the Act) was the application of unfair contract terms provisions in the *Fair Trading Act 1999* to consumer credit contracts, effective from mid-June 2009.

The amendments also strengthened the operation of section 21 of the *Residential Tenancies Act 1997*, which enables an educational institution to formally affiliate a residential premises (and thereby exempt the premises from the operation of the Act). New offences were introduced, which took effect on 11 June 2009, prohibiting owners or operators of residential premises from misleading the public about whether they were formally affiliated with educational institutions. Residential premises that are formally affiliated with an educational institution will be required to prominently display a notice to that effect. This requirement will commence when regulations are made prescribing the format of the notice. Regulations will include a specific criteria that educational institutions must consider before formally affiliating a residential premise under section 21.



NEW REGULATIONS FOR SECOND-HAND DEALERS

In December, new regulations for second-hand dealers and pawnbrokers came into effect. They located all exemptions under one set of regulations and clarified that financiers do not need to be registered. Also, as part of the government's commitment to reducing the administrative burden on business, second-hand dealers and pawnbrokers who keep an electronic register of their transactions are no longer required to print and keep a daily hard copy.

CHANGE OF LAW FOR INCORPORATED ASSOCIATIONS

Changes to the *Associations Incorporation Act 1981*, which came into force in April 2009, enhanced members' rights and control over their associations, strengthened the supervisory role of the Registrar of Incorporated Associations and revised provisions governing the distribution of surplus assets on the winding up of an association. Other amendments to the Act will come into force in 2011.

Changes to the *Associations Incorporation Act 1981* enhanced members' rights and control over their associations.

NEW FUNDRAISING LAWS IMPROVE CONSUMER PROTECTION

The *Fundraising Appeals and Consumer Acts Amendment Act 2008* came into effect on 11 February 2009, implementing changes recommended in the 2004–2006 Review of Fundraising. The Act changed the name of the *Fundraising Appeals Act 1998* to the *Fundraising Act 1998*, removed the exemption for the solicitation of bequests, clarified that commercial fundraisers must always register with us and clarified the definition of a fundraising appeal. It introduced a requirement that commercial for-profit businesses, which represented that a percentage of the price of their product or service would go to charity, disclose in writing the exact dollar amount or percentage they would donate. This new requirement came into effect in May 2009. The Act made other amendments that increased disclosure, reduced the regulatory burden on fundraisers and improved the administrative powers of the Director of Consumer Affairs Victoria.

NEW REGULATIONS HELP LOCAL INDUSTRIES

In November, Victorian wine labelling regulations were changed to allow Australian wine producers to use the same labels on wines bound for local and export markets. The reform, which ratified an international trade agreement, has significantly reduced costs for Australian wine exporters.

In June, new regulations were introduced that required the price of prepacked frozen seafood to be based on the weight of the seafood only. It was previously possible for the weight to be inflated by ice and water packed with the goods. The change ensures consumers get what they pay for and protects the Victorian seafood industry from the threat of cheaper underweight imports.



Changes to the *Motor Car Traders Act 1986* introduced a cooling-off period for new car sales.

NEW MOTOR CAR REGULATIONS

The Motor Car Traders Regulations 2008 came into force on 1 December 2008, activating changes already made to the *Motor Car Traders Act 1986* in March 2008. They include:

- introduction of a three-working-day cooling-off period for new car sales
- dummy bidding at public auctions prohibited
- licensed traders must check that potential customer service personnel are eligible (not prohibited)
- licensed traders must get a police check for new customer service personnel
- car/vehicle window display notices (Forms 5, 6 or 7) to include information that previous owner details on used vehicles are available on request
- if the last owner of a used car was a trader or special trader, their name and business address must be included in display forms (Forms 5, 6 or 7)
- any advertising on display forms must be clearly identified.

2008 PULLEN REPORT

At the request of Minister for Consumer Affairs Tony Robinson MP, former MP Mr Noel Pullen conducted an inquiry into motor vehicle sales issues in 2008, with a particular focus on online auctions, 'park and sell' and written-off vehicles. Mr Pullen submitted his report to the Minister in late 2008, which recommended a number of changes aimed at improving consumer protection in these areas without imposing unnecessary costs on the industry. The Minister supported, or supported in principle, all recommendations made in the report, including:

- 'park and sell' businesses, including existing traders, be required to have a licence endorsement similar to the one that exists for the conduct of public auctions
- community groups, not-for-profit organisations, fundraisers, swap meets and car rallies be exempt from requiring a licence endorsement
- the definition and references to public auction in the *Motor Car Traders Act 1986* to be modernised and reviewed to take account of online auctions and e-commerce
- exemptions on roadworthy certificates at public auctions be retained and not subject to further assessment
- motor car traders be required to provide information under regulation regarding the status of a vehicle and whether it is on the Written-off Vehicle Register and the security register
- disclosure of vendor bidding be implemented, except for salvaged/damaged vehicles, at auctions.

COOLING-OFF PERIODS FOR NEW CAR SALES

- Cooling-off periods now apply to new cars purchased from licensed motor car traders, similar to protections that exist for used car sales. They also apply to motorcycles, but not to commercial vehicles and vehicles bought by corporations
 - Traders must give consumers a Form 4, *Cooling-off Rights and Waiving Your Cooling-off Rights*, before they sign a sale agreement. This form sets out consumers' rights and explains a waiver
 - The cooling-off period ends three clear days after a consumer signs the agreement, or sooner if the consumer signs a waiver during the cooling-off period
 - If a consumer terminates the sale agreement for a new car or motorcycle, the trader may keep \$400 or two per cent of the purchase price, whichever is greater
 - For an off-trade premises sale, the trader may keep \$100 or one per cent of the agreed purchase price, whichever is greater
 - A trader is not obliged to order a new car or motorcycle from the manufacturer before the cooling-off period expires
-



Improving Trader Behaviour

A thriving and fair market demands traders comply with the law. Higher levels of compliance mean lower levels of consumer detriment, fewer disputes between traders and consumers, lower transaction costs and fewer matters before the courts.

Consumer Affairs Victoria's integrated compliance model encourages traders to comply with the law via information, education and targeted communication to raise traders' awareness of their obligations and the penalties for breaches. At the same time, our expanded inspection program increases the risk of traders being detected and penalised if they do the wrong thing.

TRADER EDUCATION HELPS IMPROVE COMPLIANCE

Trader education is a key tool in achieving compliance. As well as educating traders through brochures, industry newsletters and guidelines, website content and email alerts, we educate traders through our conciliation service and inspection program.

When we resolve individual disputes, we educate traders about their obligations and better ways of doing business. When we receive multiple complaints about the same trader, we may initiate meetings to discuss our concerns. This year, for example, we developed industry guidelines for health and fitness centres and credit providers, to educate traders about how to avoid unfair terms in their consumer contracts.

Our trader education program includes targeted activities for different industries. We educated builders this year by distributing information packs during inspections and presenting at the HIA Building and Business Show in April. We presented to builders on topics such as quality control and builders' obligations under the various Acts. Many builders also attended our exhibit to ask questions.

New regulations introduced in December increased the penalty for some motor car trading offences, including increased penalties for failing to keep dealings books up-to-date. Dealings books are an important protection for consumers as they establish an audit trail of vehicle ownership and place of origin. We educated traders about the changes in a mailout and in our industry newsletter, distributed to all licensed Victorian motor car traders.

To educate estate agents, we delivered 15 large-scale workshops that engaged more than 500 agents and their representatives throughout Victoria. The workshops educated agents on issues such as agency documentation and correct property

management procedures, and warned agents about misrepresenting properties for sale or lease. We also produced an industry newsletter that kept agents up-to-date with industry changes and best practice.

We developed a sample complaint handling and dispute resolution process, downloadable from our website, to help estate agents comply with the Estate Agents (Professional Conduct) Regulations 2008. The new regulations came into force this year and require agencies to have their own complaint and dispute handling procedures. Agencies must now inform clients of their complaint handling procedures before the client signs an agency authority, or as soon as possible afterwards, as well as when someone makes a complaint.

We also have special programs to educate traders in priority areas such as rooming houses (see p. 21) and prostitution (see p. 25).



Dr Claire Noone attended a trader walk in Wangaratta in September. During trader walks, we talk to traders about their responsibilities under the *Fair Trading Act 1999* and check they are compliant (photo courtesy of *The Border Mail*).

TRADER GROUP	NUMBER OF EDUCATIONAL LETTERS/TRADER PACKS DISTRIBUTED	NUMBER OF INDUSTRY PRESENTATIONS PROVIDED
Travel agents	1,189	
Pawnbrokers	115	
Prostitution	841	
Fair trading	517	
Residential tenancy	3,241	
Motor car traders	2,222	
Fundraising	1,029	
Product safety	384	
Domestic building	50	1
Estate agents		15
Owners corporations		4
Landlords		10

TAKING ENFORCEMENT ACTION

Consumer protection legislation provides for a range of enforcement options, including warnings, infringement notices, enforceable undertakings, and in the most serious cases, civil action and prosecution.

Our focus this year was on complex cases of strategic importance or major impact to consumers. We finalised 40 criminal prosecutions, including two re-hearings, and 31 civil actions, including three re-hearings. We also finalised two appeals. As a result, this year we secured more than \$3.9 million in compensation for consumers.

We also signed 41 parties to enforceable undertakings and expanded our range of infringement notices.

Consumer Affairs Victoria uses the following criteria to determine whether a matter is appropriate for investigation, with a view to enforcement action. We consider:

- whether the conduct falls within Consumer Affairs Victoria's jurisdiction
- the extent of consumer detriment that could potentially occur as a result of the conduct
- the seriousness of the conduct
- culpability and history of the alleged offender
- likelihood of success of enforcement action
- whether the conduct falls within the strategic enforcement priorities identified by Consumer Affairs Victoria
- special circumstances.

Once an investigation has occurred and a breach has been identified, we have a hierarchy of enforcement options that include administrative, civil and criminal remedies.

WARNING LETTERS

These are formal written warnings raising concerns that a trader has breached the law, where the contravention does not require further or more serious action. We use this option for relatively minor matters or matters of a technical or administrative nature, where there is little or no consumer detriment. In 2008–09, we issued 332 warning letters.

INFRINGEMENT NOTICES

Infringement notices are administrative notices that enable minor law breaking to be dealt with by the payment of a fine rather than court proceedings. Once paid, the issue is no longer in dispute. The notice does not amount to an admission of guilt or constitute a conviction. We typically use this option where there is evidence a contravention has occurred and there are no mitigating or aggravating factors, or where the trader has not received previous infringement notices for the conduct. In 2008–09, we issued 77 infringement notices.

This year, we developed guidelines and procedures for the uniform and transparent issuing of infringement notices under the Acts administered by Consumer Affairs Victoria. We put traders on notice, with an extensive mailout, that contraventions could now earn them an infringement notice and financial penalty, in some cases an on-the-spot fine of up to \$5,000.

The following industry sectors were affected by this change in policy and received an educational letter: trade measurement, motor car traders, residential accommodation, fair trading, domestic building, estate agents, prostitution, travel agents, second-hand dealers, pawnbrokers, cooperatives, incorporated associations and fundraising.

Our focus this year was on complex cases of strategic importance or major impact to consumers.

ENFORCEMENT OUTCOMES	
Prosecutions finalised	40
Civil actions finalised	31
Compensation for consumers	>\$3.9 million
Fines and consent orders	\$337,516
Court fund/VCAT penalties	\$9,000
Costs orders obtained	\$227,443
Parties signed to enforceable undertakings	41
Infringement notices issued	77
Warning letters issued	332



In 2008–09, we increased our efforts to detect non-compliant traders by conducting more audits, inspections and investigations in areas of concern.

AUDITS, INSPECTIONS AND INVESTIGATIONS

In 2008–09, we increased our efforts to detect non-compliant traders by conducting more audits, inspections and investigations in areas of concern. These programs help identify breaches of consumer protection laws, help identify areas where traders need more education and help deter traders from doing the wrong thing. During an investigation, we gather evidence, decide the extent of potential consumer detriment and determine what enforcement action is most appropriate.

In 2008–09, we completed audits and inspections of 432 estate agents, 528 building premises and 66 brothel premises operated by licensees. We also investigated nine premises suspected of being illegal brothels. We conducted 508 audits, inspections and investigations relating to possible breaches of the *Fair Trading Act 1999*.

To identify unlicensed motor car traders, we electronically monitored newspaper and magazine advertisements to detect when people were trading more cars than the law allows them to without a licence. This year, we also installed an enhanced computer program to search data from car trading websites, for the same purpose.

In September, as a result of an investigation, the Director of Consumer Affairs Victoria served a notice suspending the licence of Spencwill Nominees Pty Ltd, trading as Trentarc Motors, in West Footscray. We had received information that on a number of occasions the trader had sold motor cars to consumers without first paying out existing loans. This meant consumers were not provided with clear title and were at risk of their vehicles being repossessed by finance companies. These actions breached the *Fair Trading Act 1999* and the *Motor Car Traders Act 1986*.

We completed two major trade measurement compliance exercises at Melbourne markets, to check consumers were getting what they paid for. In April, we inspected fresh food traders at Queen Victoria Market. Of the 48 traders checked, 15 were non-compliant with their obligations. A number of scales had not been certified as required, were in poor condition, not in clear view of consumers or not level. One delicatessen trader was not making sufficient allowance for the weight of tubs. As a result of the inspection, we conducted 15 follow-up inspections, issued three warning letters, issued four contravention notices (stating that the instrument was non-compliant and directing the owner to remedy it within a specified timeframe) and recertified 20 scales. We conducted a compliance exercise at Preston Market in August, resulting in two infringement notices and two warning letters.

AUDITS/INSPECTIONS/INVESTIGATIONS	
Relating to <i>Fair Trading Act 1999</i>	508
Estate agents	432
Building premises	528
Brothel premises operated by licensees	66
Alleged illegal brothels	9
Trade measurement inspections of premises	5,134
Trade measurement investigation of complaints	492
Trade measurement instruments tested/inspected	20,726
Trade measurement instruments rejected	1,418
Pre-packed articles inspected	44,609
Products investigated under product safety laws	180
Premises inspected for unsafe/banned products	464
Products seized	22,163



2008-09 PARTIES SIGNED TO ENFORCEABLE UNDERTAKINGS

Ramo Balic, t/a Inner Living Renovations

Shine Home Improvement Centre Pty Ltd

Shu Xing

Zhi Qin Xing

Steven James O'Connell, t/a Outback Pergolas and Decks

Joseph Kabalan

Lesley Therese Savedra, t/a Falconcrest Homes

Leigh Pridham

Frank Dowling Pty Ltd

Andrew Lonzi

LMG Commercial Property Services Pty Ltd

Leo Mark Grogan

Skyraider1 Pty Ltd

Christine Parsons

Abercrombys Real Estate Pty Ltd

Peter Timothy Derhan

Robert Peter Vickers Willis

John Douse Langley

The Original Show Pony Pty Ltd, t/a The Painted Pony

Theogam Pty Ltd, t/a Motor Trade Disposals

Andrew Theodoropoulos

Anthony Dow Investments Pty Ltd

Anthony Damian Dow

Big Punt Pty Ltd, t/a Flat Out Car & Truck Sales

Rick Pichut

Radwan Zeno

Melbourne's Cheapest Cars Pty Ltd

Edvins Vilis Abelnica

Jeff Wignall Ford Pty Ltd

Andrew Kevin Cross

Meiwa Trading Pty Ltd

Kam Wa Lau

Mei Fong Chan

Kevin Trevor Boscacci, t/a California Club

Ly Teng, t/a Regarding House

Jogendra Sinha

Spotless Services Australia Limited

Le Rose Nominees Pty Ltd

Leo Blake

Rose Blake

Closed Loop Environmental Solutions Pty Ltd

(see Appendix 3 for full details)

ENFORCEABLE UNDERTAKINGS

An enforceable undertaking is a written undertaking given by a person who admits they have contravened a law and that they will cease the conduct and not repeat it. In 2008-09, we signed 41 parties to enforceable undertakings.

CIVIL ACTION

A civil action can be taken where there is a need to urgently restrain a trader from ongoing unlawful conduct. It can also be taken when a matter requires a court ruling to prove a contravention of a consumer Act and seek compensation for consumers. We finalised 31 civil actions in 2008-09, including three re-hearings. These actions included six cases relating to estate agencies and six cases relating to motor car trading.

Civil actions can result in a number of outcomes for traders, including:

- a negative injunction, which requires the trader to cease doing certain things that contravene legislation
- a positive injunction, which orders the trader to do certain things to remedy its conduct
- a cease trading injunction, requiring the trader to cease trading entirely or to trade only under special conditions imposed by the court
- an adverse publicity order, requiring the trader to publish advertisements detailing their contraventions as directed by the court
- a compensation order, where a consumer has suffered a loss as a result of the impugned conduct.

In May, a civil action initiated by Consumer Affairs Victoria in 2007 concluded, finding against removalist Backloads.com Pty Ltd. We had asked VCAT to void contract terms that limited consumers' right to terminate a contract, pushed unfair obligations onto the consumer, and let the company unilaterally alter conditions and charges. We obtained orders and injunctions preventing future use of the terms.

In November, we concluded a case involving a major breach of the *Fair Trading Act 1999*. The Supreme Court of Victoria found Landmark Homes (Aust) Pty Ltd had misled more than 120 consumers, many of them first homebuyers, by advertising it would give consumers a 'grant' of up to \$30,000 if they bought a house and land package from the company. Consumers were not given the grant, but were instead placed on a loan contract rendering them personally liable to a credit provider for a loan of \$30,180 – money that was paid to Landmark Homes, not to the consumers. The court ordered Landmark Homes, related companies and their director, John Grezos, take responsibility for \$2.9 million in debt owed to credit providers by its customers. After Consumer Affairs Victoria intervened, caveats placed by the financier on several consumers' homes were removed. The financier has informed us it will pursue the defendants for the loan debts rather than the consumers.

A civil action can be taken where there is a need to urgently restrain a trader from ongoing unlawful conduct.



In October, VCAT found that terms in Trainstation Health Clubs' membership contracts were unfair. Consumer Affairs Victoria started proceedings against the gym in 2007 regarding terms that: included no refund clauses, limited members' right to terminate the contract, limited the company's liability and limited or excluded the statutory warranties as part of the *Fair Trading Act 1999*. We obtained declarations and injunctions preventing future use of the terms.

We undertook civil action this year to stop unlicensed trading by real estate agency Biggin & Scott Carnegie Pty Ltd and Dragan Mrkela. The defendants consented to orders requiring them to pay Consumer Affairs Victoria's costs and publish adverse publicity notices in *The Age* and *Herald Sun*, on the agency's website and at their Carnegie office. Melbourne Magistrates' Court granted interim injunctions in August restraining the agency from carrying on business until licensed.

An unlicensed real estate agency and its directors forfeited \$150,000 in commissions to the Victorian Property Fund after the company was found to have been trading while unlicensed. On 26 June in Melbourne Magistrates' Court, Real Estate Logics Pty Ltd (trading as Biggin & Scott Maribyrnong Pty Ltd) and its directors, agreed to the forfeiture and orders preventing the company from trading without a licence. The company was trading without a licence from November 2006 to August 2008. Consumer Affairs Victoria discovered the breach during a routine compliance monitoring inspection.

Unlicensed car dealer Loretta Pavlovic faced arrest following contempt proceedings issued by Consumer Affairs Victoria. Consumer Affairs Victoria alleged that Ms Pavlovic ignored orders imposed by Melbourne Magistrates' Court in April to stop advertising and trading in motor cars. A warrant was issued for her arrest. Ms Pavlovic allegedly breached the *Motor Car Traders Act 1986* by offering 26 cars for sale from June 2006 to April 2008 and by advertising that she was in the business of buying and selling cars on behalf of consumers. She was also trading under an unregistered business name, promoting her services via a website. The court ordered Ms Pavlovic to shut down her website and pay a compensation order of \$33,400 to compensate a consumer who suffered loss as a result of the alleged contempt. The contempt proceedings are continuing, however the court has granted final injunctions to restrain Ms Pavlovic from any motor car trading activity.

2008-09 FINALISED CIVIL ACTION

Lumley General Insurance Ltd

Landmark Homes (Aust) Pty Ltd, Landmark Realty (Vic) Pty Ltd, Assetbuild Finance Pty Ltd, John Grezos

George Missailidis

Australian Finance Direct

Biggin & Scott Carnegie Pty Ltd, Dragan Mrkela, and Biggin & Scott Malvern Pty Ltd

Real Estate Logics Pty Ltd t/a Biggin & Scott Maribyrnong and its directors, Renzo Tomasino, Luciano Tomasino and Leo Mark Basilone

Paul Graham Cutler and LBC Nominees Pty Ltd

Kim Shannon

Van Veenedaal Investments Pty Ltd, Malorhita Pty Ltd and Kerri Van Veenedaal

Care Park Pty Ltd

Backloads.com Pty Ltd

Klaus Kreilaus and K & B Kreilaus Pty Ltd

Matrix Pilates & Yoga Pty Ltd

Merringtons Pty Ltd

Trainstation Health Clubs Pty Ltd

David Margolin t/a Melbourne Motor Bike Brokers

Towarra Investments Pty Ltd

Melboro International Pty Ltd and Muhammad Majeed

Loretta Pavlovic t/a Your Vehicle Broker

G&D Performance Tuning Pty Ltd

Lee Zukanovic and Sam Guthrie

Midas Trading (Aust) Pty Ltd

Xiao Xing Zhang

Wesley Rickard t/a Dandy Bells

Sydney Wells t/a The Red Light Relaxation Centre

Siaw Chong

Phillip Island Seaquarium Pty Ltd

Julie Kang Pty Ltd and Julie Kang

(see Appendix 3 for full details)

CIVIL ACTION OUTCOMES	
Compensation secured for consumers	>\$3.5 million
Value of consent orders	\$43,316.20
Value of fund orders	\$150,000.00
VCAT penalties imposed	\$4,000.00
Value of costs orders obtained	\$183,161.00

A Consumer Affairs Victoria investigation led to a Moorabbin car dealer being convicted of 27 offences in relation to fraudulent car dealing.

PROSECUTION

Criminal prosecution, as with civil action, requires considerable time, resources and evidence that wrongdoing has occurred. We do not hesitate to prosecute where: breaches are serious; there is sufficient evidence to confirm a breach; there is a reasonable prospect of conviction; and it is in the public interest to do so because of the potential consumer detriment. Prosecution acts to punish serious unlawful behaviour.

This year, we completed 40 criminal prosecutions, including two re-hearings, resulting in fines of \$144,200; costs orders of \$44,282 and compensation to consumers of \$103,534. We completed 10 prosecutions related to motor car trading, two real estate matters and 16 domestic building matters. We also completed six prosecutions related to breaches of product safety laws. Nineteen cases involved breaches of the *Fair Trading Act 1999*.

A Consumer Affairs Victoria investigation led to a Moorabbin car dealer being convicted of 27 offences in relation to fraudulent car dealing. In March, Melbourne Magistrates' Court convicted licensed car dealer Anthony Edward Taranto of breaching the *Motor Car Traders Act 1986* by substituting odometers and falsifying dealings book entries. By using an unregistered name (Tony Taranto Motors), he also contravened the *Business Names Act 1962*. Between January 2006 and August 2007, Mr Taranto lowered the odometer readings of 13 second-hand cars, nine of which he sold to unsuspecting consumers who later lodged claims with the Motor Car Traders Guarantee Fund. The court also found Mr Taranto guilty of four counts of obtaining money by deception. He received a four-month suspended sentence and a 12-month community-based order.

2008-09 FINALISED PROSECUTIONS

Andrew Jackson t/a Jackson's Building Services

Bernard Kennedy t/a Ridgey Didge Sheds

Matthew Reid t/a Expo Joinery Australia

Craig Peters

Damian Allsop

Chun J Dong t/a Jiamei

Michelle Ciavaralla

Kurtis Thiele, also known as Kurtis Thielle

Raymond Pasco

Local Home Improvement Services Pty Ltd

Peter Weis t/a Home Wide Relocators

Jason Douglas Heard t/a Upright Pergolas & Carports

Gerard Harrington

George Theos

Oguz Togay

Karin Wemmering

Property Development & Investment Corporation Pty Ltd t/a Fletchers Northcote

T Som Properties Pty Ltd

Klaus Kreilaus

K&B Kreilaus Pty Ltd

Vahid Osmanovic

Zildzija Osmanovic

Aida Mulahusic

Michael Psaila

Rushdon Pty Ltd

Emrah Sen

Senler Pty Ltd

Rafad Merhi

Anthony Edward Taranto

Boris Ognev

T&C Wholesale Pty Ltd

Chen Yu Hua, director of T&C Wholesale Pty Ltd

Zong Jian Tang, director of Tangs Australia Trading Pty Ltd

Zhigang Hu and Aiqing Zhou, directors of Australia Xingping Pty Ltd

Australia Xingping Pty Ltd

HQ Pacific Pty Ltd and Jia Hao Huang

Jinna Shao

Frank Cassar

(see Appendix 3 for full details)

PROSECUTION OUTCOMES

Compensation secured for consumers	\$103,533.88
Value of fines	\$144,200.00
Value of costs orders obtained	\$44,281.60



We conducted targeted inspections for unsafe toys at 74 premises, which included talking to traders about compliance issues. Where we identified unsafe toys, we seized and destroyed them.

Protecting children from unsafe toys

Unsafe toys can cause severe injuries to some of our most vulnerable consumers – children. Consumer Affairs Victoria aims to protect children by educating consumers and traders about toy safety standards, seizing dangerous toys in regular compliance inspections and taking enforcement action when necessary.

Our dedicated Toy and Nursery Safety Line answered 164 calls this year about toy safety, and the safety of other infant products. Our dedicated home page offered up-to-date advice, including individual guides on dangerous items, and our media campaigns alerted parents to newly-banned toys, recalls or other child product safety issues.

We updated and expanded our key guide *Keeping Baby Safe: A guide to nursery products*, in collaboration with the Australian Competition and Consumer Commission and distributed 12,111 guides via maternal and child health centres, local councils, the Royal Children's Hospital, Kidsafe, our regional offices and at numerous events.

To educate traders about banned and unsafe toys we distributed 2,602 *Product Hazard Alert* books to traders, including a Chinese version, when inspecting retailers' and wholesalers' premises. The book contained product photographs to help traders identify unsafe toys, and outlined penalties for non-compliance. Traders could also opt to receive automatic updates on new bans or regulations.

We conducted targeted inspections for unsafe toys at 74 premises, which included talking to traders about compliance issues. Where we identified unsafe toys, we seized and destroyed them. We destroyed more than 20,000 unsafe toys in 2008–09. We prosecuted nine toy suppliers, took civil action against one supplier and signed three parties to enforceable undertakings.

In July, a routine inspection by Consumer Affairs Victoria led to the seizure of 4,476 projectile toy guns, banned because of the serious risk of blindness and other injury. We prosecuted Moorabbin trader HQ Pacific Pty Ltd and its director Jia Hao Huang in Melbourne Magistrates' Court in June. Each admitted to four charges of contravening the *Fair Trading Act 1999*. The court ordered the guns be destroyed and ordered both HQ Pacific Pty Ltd and Mr Huang to comply with a 12-month good behaviour bond, engage an independent organisation to provide compliance training to staff, and publish a public notice in a major daily and Chinese newspaper. Since the toy guns were banned in 2002, Consumer Affairs Victoria has seized more than 18,500 of these toys from warehouses and retailers across Victoria.

We seized more than 900 hazardous toys from a Tatura property in October, following an investigation. We uncovered 16 shipping containers of low-cost toys and discount variety products, some of which breached mandatory safety standards and ban orders. The company responsible, Meiwa Trading Pty Ltd, and its directors, subsequently entered into an enforceable undertaking



We seized more than 900 hazardous toys from a Tatura property in October, following an investigation.

that banned them from supplying or offering such goods for sale. It required them to place a warning notice in local newspapers and consent to disposing of the non-compliant goods, including paying destruction costs.

In civil action initiated by Consumer Affairs Victoria, the Supreme Court of Victoria found Midas Trading (Australia) Pty Ltd, trading as Importers Salvage Centre, contravened product safety provisions in the *Fair Trading Act 1999* by supplying banned or unsafe toys. In December 2008, we seized more than 600 dangerous toys from the trader's premises in Ardeer, Dandenong, Epping and Hoppers Crossing, including projectile gun sets and plastic toys for preschoolers. In March 2009, the court ordered Midas to cease trading in certain types of goods that breached safety standards or ban orders, publish prominent warning notices in major newspapers, pay for the destruction of goods and our legal costs, and submit to an annual compliance review for the next three years.

We conducted a record number of tenancy and rooming house inspections.



Consumer Affairs Victoria compliance officer Les Lachy and Maribyrnong Council environmental health officer Rodney Roberts conduct a joint inspection of a Footscray rooming house. We inspected 42 rooming houses this year as part of an expanded program to improve compliance.



02 | ADDRESSING MARKETPLACE ISSUES

HIGHLIGHTS

- > Worked with local councils to expand joint rooming house inspection program
- > Launched new initiatives to reduce consumer detriment in domestic building
- > Strengthened our itinerant trader strategy to increase cooperation with other enforcement agencies, local networks, suppliers and caravan parks
- > Developed a new \$2.864 million program to help workers experiencing financial trouble as a result of the economic downturn

New initiatives in residential accommodation

We increased our focus on residential accommodation issues this year, putting more resources into our education campaigns and engaging more with the community and stakeholders. We also conducted a record number of tenancy and rooming house inspections.

Consumer Affairs Victoria is leading a whole-of-government integrated program to address issues of concern in relation to rooming houses, caravan parks, residential parks and student accommodation. Various government departments and local councils regulate these types of accommodation, which house some of the state's most vulnerable residents.

This year, we did more to educate residents and operators. We updated our prescribed guide, *Rooming houses: a guide for residents, owners and managers*, and distributed a keyring, with torch attached, which highlighted our contact details.

In February, we released a user-friendly amenities guide for rooming house residents, entitled *Renting in Victoria: what to look for when renting a room*, and distributed about 50,000 copies. The guide emphasised health and safety



To help international students when they first arrived in Australia, we sponsored the International Students Welcome Booth, piloted by the City of Melbourne's Office of Knowledge Capital, at Melbourne Airport in February. The booth provided newly-arrived students with help and advice, including how and when to contact us on consumer and tenancy issues.

issues, including smoke detector requirements and communal living standards.

To educate international students about their rights and responsibilities as tenants, we held 49 tenant workshops, attended by almost 4,500 students, and launched a DVD in July called *Renting in Victoria: a guide for students*.

We answered 105,700 calls on tenancy matters and finalised 514 disputes this year. The conciliations helped tenants with issues such as getting their bond back. We did a record number of tenancy inspections

in 2008–09, which helped assess potentially unfair rent increases and helped tenants get landlords to complete repairs.

To educate landlords and operators of residential accommodation, we held 10 landlord workshops, including special presentations for landlords of international students. Two presentations were in Chinese. We also distributed educational material to rooming house operators.

We increased our engagement with the community and stakeholders, holding a roundtable discussion with stakeholders in November and hosting a rooming house conference in May, which Minister for Consumer Affairs Tony Robinson MP attended.

More than 100 key stakeholders met at the conference to discuss rooming house issues, share information and identify opportunities for collaboration. Presenters included representatives from the Tenants Union of Victoria, Council to Homeless Persons, Office of Housing, local councils, rooming house operators and Consumer Affairs Victoria.

We established stronger working and information-sharing partnerships with health and building officers at local councils within Melbourne. By sharing information and intelligence, we can more effectively address the problem of rogue operators.

Also this year, to check registered rooming house operators were doing the right thing, we expanded our compliance monitoring program to include the Cities of Knox and Maribyrnong.

We inspected 42 rooming houses, in conjunction with the local council health and building departments, checking for any breaches under the Health (Prescribed Accommodation) Regulations 2001 and Building Regulations 2006.

On 11 December, new regulations were introduced to cover rooming houses of four or more people in the Health (Prescribed Accommodation) Regulations 2001, administered by local government as part of the *Health Act 1958*. This change aligned the definition of a rooming house with the *Residential Tenancies Act 1997*, which we administer. The change meant that about 300 extra rooming houses were obliged to comply with the regulations, including registering with their local council.



Minister for Consumer Affairs Tony Robinson MP and Tenants Union of Victoria CEO Mark O'Brien at the rooming house conference.

Accommodation affiliated with an educational institution can claim a special exemption from the *Residential Tenancies Act 1997*, exempting them from requirements such as the need to use prescribed tenancy agreements, comply with notice provisions when terminating a tenant and comply with bond provisions. Some student housing providers, with only a tenuous link to educational institutions, have been claiming an affiliation so they can exempt themselves from these requirements. This year, the Act was amended to make it an offence for commercial providers of student accommodation to falsely claim affiliation or make misleading claims about affiliation.

Consumer Affairs Victoria conducted significant policy and research analysis this year on the adequacy of the current legislative framework governing residential parks. We released an Options Paper for public consultation in June, seeking submissions on a range of options to improve the regulation of residential parks and improve protection for residents.

ROOMING HOUSE REQUIREMENTS

A ROOMING HOUSE MUST HAVE:

- at least one toilet for every 10 people
- at least one fixed bath or shower and one washbasin for every 10 people
- continuous and adequate supply of hot and cold water to all bathing, laundry and kitchen facilities
- working smoke alarms fitted throughout the premises
- rooms and communal areas in a clean condition and good working order.

EACH ROOM MUST HAVE:

- either a minimum of 7.5m² floor space or a minimum of 12m² floor space where the room will be occupied by two people for a period of more than 31 days (an additional 4m² is required for every additional person)
- a minimum of 12m² floor space where the room will be occupied by four people for a period of less than 31 days.

These standards are required by the Health (Prescribed Accommodation) Regulations 2001 and Building Regulations 2006.



In April, we conducted a blitz on real estate price advertising practices, targeting 14 estate agencies from two large franchise groups.

Advertising the price of real estate

In April, we conducted a blitz on real estate price advertising practices, targeting 14 estate agencies from two large franchise groups. The agencies were in Armadale, South Yarra, Albert Park, St Kilda, Brunswick, Carlton, Balwyn, Kew, Bentleigh, Brighton, Elsternwick and Glen Iris. We seized more than 160 sales files and analysed them to check whether misleading price advertising had occurred on any properties offered for sale in March. Enforcement actions are pending the completion of several investigations.

In August, following a Consumer Affairs Victoria investigation, the Melbourne Magistrates' Court convicted Property Development & Investment Corporation Pty Ltd, trading as Fletchers Northcote, of five counts of underquoting real estate. The company had advertised five properties for sale at a price that was lower than the lowest estimated selling price quoted on the sale authority. The court fined the company a total of \$7,500 and ordered it to pay costs and disbursements of \$641.

In October, T Som Properties Pty Ltd was charged in the Melbourne Magistrates' Court with exceeding the statutory 10 per cent range in their selling price estimate, and underquoting prices in advertisements for 13 properties. The advertised price was as much as \$80,000 below what the defendant had estimated on the vendor's sale authority. T Som Properties was fined a total of \$20,000 without conviction and ordered to pay costs and disbursements totalling \$1,241.

WHAT IS MISLEADING PRICE ADVERTISING (UNDERQUOTING)?

There are laws in Victoria preventing agents from making false or misleading statements about property prices. Misleading price advertising occurs when an agent:

- advertises or advises a prospective buyer that a property is available for sale at an amount that is less than the vendor's asking price or auction reserve price
- advertises or advises a prospective buyer of a price that is less than the agent's current estimate of the likely selling price
- advertises or continues to advertise a price that is less than a genuine offer or expression of interest by a prospective buyer and previously refused by the vendor
- gives an inaccurate appraisal of the current market price of a property.

Comparing the initial advertised price with the sale price is not evidence of misleading price advertising.



We seized more than 160 sales files and analysed them to check whether misleading price advertising had occurred.

New family violence laws

New family violence laws that came into effect in December affected the *Residential Tenancies Act 1997*. The new *Family Violence Protection Act 2008* enables victims of family violence to change the locks on their property when a family violence safety notice or intervention order is issued, if the respondent is excluded from their home. Both the protected person and the respondent can also apply to VCAT to change the lease when a family violence intervention order is finalised in court. Landlords are obliged to abide by orders made by VCAT relating to the tenancy agreement.

To educate tenants, landlords and agents about the changes, we developed and distributed 35,000 fact sheets to landlords and estate agents and about 3,000 fact sheets to crisis support organisations, welfare agencies, Victoria Police, our regional offices, VCAT, Melbourne Magistrates' Court and other organisations working in this sector. We developed and distributed 6,000 flyers on the new law to domestic violence services, welfare agencies, Victoria Police and other groups.

To address issues in domestic building, we increased our compliance and enforcement activity this year, completing a record 528 audits and inspections.

Addressing issues in domestic building

Each year, more than 80,000 Victorians use contractors to complete a home building or renovating project.

The potential for consumer detriment is high, as these projects involve large amounts of money and consumers are often disadvantaged by being unfamiliar with the processes. Research we published this year revealed the home building, renovating and maintenance sector cost Victorians \$1.6 billion annually, including the cost of rectifying problems. Sixteen per cent of consumers who had been involved in a domestic building project reported detriment, the highest incidence across the 24 consumer market sectors surveyed.

To address issues in domestic building, we increased our compliance and enforcement activity this year, completing a record 528 audits and inspections. We secured a record \$600,000 in compensation for consumers, completed 16 prosecutions, a significant civil action and a Supreme Court criminal appeal in 2008–09, resulting in fines and consent orders totalling \$40,800 and costs obtained of \$15,106. We targeted builders who accepted large deposits from consumers and then did not return to commence or complete the work. We also put builders on notice that contraventions could now earn them an infringement notice and financial penalty.

We started work on model domestic building contracts that aim to reduce the likelihood of complaints and misunderstandings. These will clearly specify the obligations of builders and consumers, be fair to both, and comply with the *Domestic*

Building Contracts Act 1995 and the *Fair Trading Act 1999*. Many disputes are generated by problems with contracts, such as omissions or unclear agreement on who is doing what. We are developing the model contracts in consultation with relevant government agencies and industry bodies, starting with a model contract for building a new house.

We have also introduced onsite conciliation to help resolve some domestic building disputes (see p. 40).

UNREGISTERED BUILDERS PROSECUTED

In August, Consumer Affairs Victoria prosecuted Bernard Kennedy, trading as Ridgey Didge Sheds. Mr Kennedy was an unregistered builder who received an excessive deposit and used an incorrect contract to carry out building work in the Ballarat area. The Melbourne Magistrates' Court sentenced Mr Kennedy to a 12-month good behaviour bond without conviction and ordered him to pay compensation totalling \$20,454.39 to five consumers.

In January, we prosecuted Peter Weis, trading as Home Wide Relocators, an unregistered builder who carried on a business as a re-stumper and joiner of relocatable housing. Mr Weis entered into contracts with consumers and failed to supply goods and services they had paid for. The Melbourne Magistrates' Court convicted Mr Weis and sentenced him to a 12-month good behaviour bond. The court ordered Mr Weis to pay a total \$17,500 in compensation to five consumers and Consumer Affairs Victoria's costs of \$2,500.

See Appendix 3 for details of all building prosecutions.

DOMESTIC BUILDING ACTIVITY	
Prosecutions finalised	16
Fines and consent orders	\$40,800
Costs orders obtained	\$15,106
Compensation for consumers	approx. \$600,000



Prostitution

Better education, regulation and enforcement of prostitution laws was a priority for us this year. We increased brothel inspections, agency engagement and education of licensees. We took court action against traders who broke the law and oversaw amendments to the Act that will make it easier to prosecute illegal brothels.

We assumed the role of lead agency coordinating enforcement action against alleged illegal brothels, and initiated a new era of agencies working together to address prostitution issues. We signed Memoranda of Understanding with Victoria Police and the Municipal Association of Victoria this year, outlining how we would share information and work together on joint inspections of alleged illegal brothels. We also collaborated with the Department of Human Services and Department of Immigration and Citizenship.

Better education, regulation and enforcement of prostitution laws was a priority for us this year. We increased brothel inspections, agency engagement and education of licensees.

Consumer Affairs Victoria administers the *Prostitution Control Act 1994*, which aims to protect the health and safety of sex workers and prevent children and criminals from being involved in the industry.

During the year, we inspected 66 brothels run by licensed operators and inspected nine alleged illegal brothels. During the licensed brothel inspections, we found more than half were non-compliant with the Act or regulations. Contraventions included failure to display safe sex signage, alcohol found on the premises, and faulty or inaccessible alarms or communication devices in working rooms. Most non-compliant brothels had more than one contravention. Seven licensees received follow-up educational letters, 21 received warning letters, five licensees were further investigated, two had disciplinary hearings and one entered into an enforceable undertaking. One matter required no further action after the licensee immediately corrected a minor breach.

In December 2008, amendments to the *Prostitution Control Act 1994* made it easier to prosecute illegal brothel operators and close illegal brothels. They also strengthened the

administration and enforcement of licensing. To educate licensees and brothel managers about the changes, and to help them comply with the law, we developed draft guidelines for industry, including an explanation of the effective control requirements for licensees. We distributed the draft guidelines to industry and other stakeholders for consultation. We also commissioned a six-month research project on sex work in Victoria to inform our future strategies.

Consumer Affairs Victoria provides secretariat support to the Prostitution Control Act Ministerial Advisory Committee (PCAMAC), which advises the Minister for Consumer Affairs on prostitution issues. A report released by PCAMAC in October 2007, *Improving the regulation of the sex industry and supporting sex workers who want to move on*, recommended the government fund a case management-based program

to help sex workers who want to leave the industry, which the Minister supported. The government published its response to the report this year, supporting in principle most recommendations.

We took court action against traders who breached the *Prostitution Control Act 1994*, including the cases below. See Appendix 3 for a full listing.

BROTHEL OPERATOR CONVICTED

Unlicensed Dandenong brothel operator Jinna Shao was fined \$2,500 in Melbourne Magistrates' Court following a Consumer Affairs Victoria investigation. The operator admitted breaching the *Prostitution Control Act 1994* by operating the Red Lantern brothel without a licence, and by advertising for staff. By failing to have the required alarms in an accessible position and failing to display safe sex signage, the operator also breached the Prostitution Control Regulations 2006. Consumer Affairs Victoria discovered the premises were being operated contrary to provisions under the Act that allow small owner-operators to offer prostitution services without being licensed, in prescribed circumstances.

UNDERAGE BROTHEL WORKER IDENTIFIED

Consumer Affairs Victoria took civil action against brothel manager Siaw Chong after an inspection we conducted identified an underage person working at Pleasure Planet in Thomastown. Mr Chong was reprimanded and his approval as a manager of a prostitution service was suspended for 12 months.

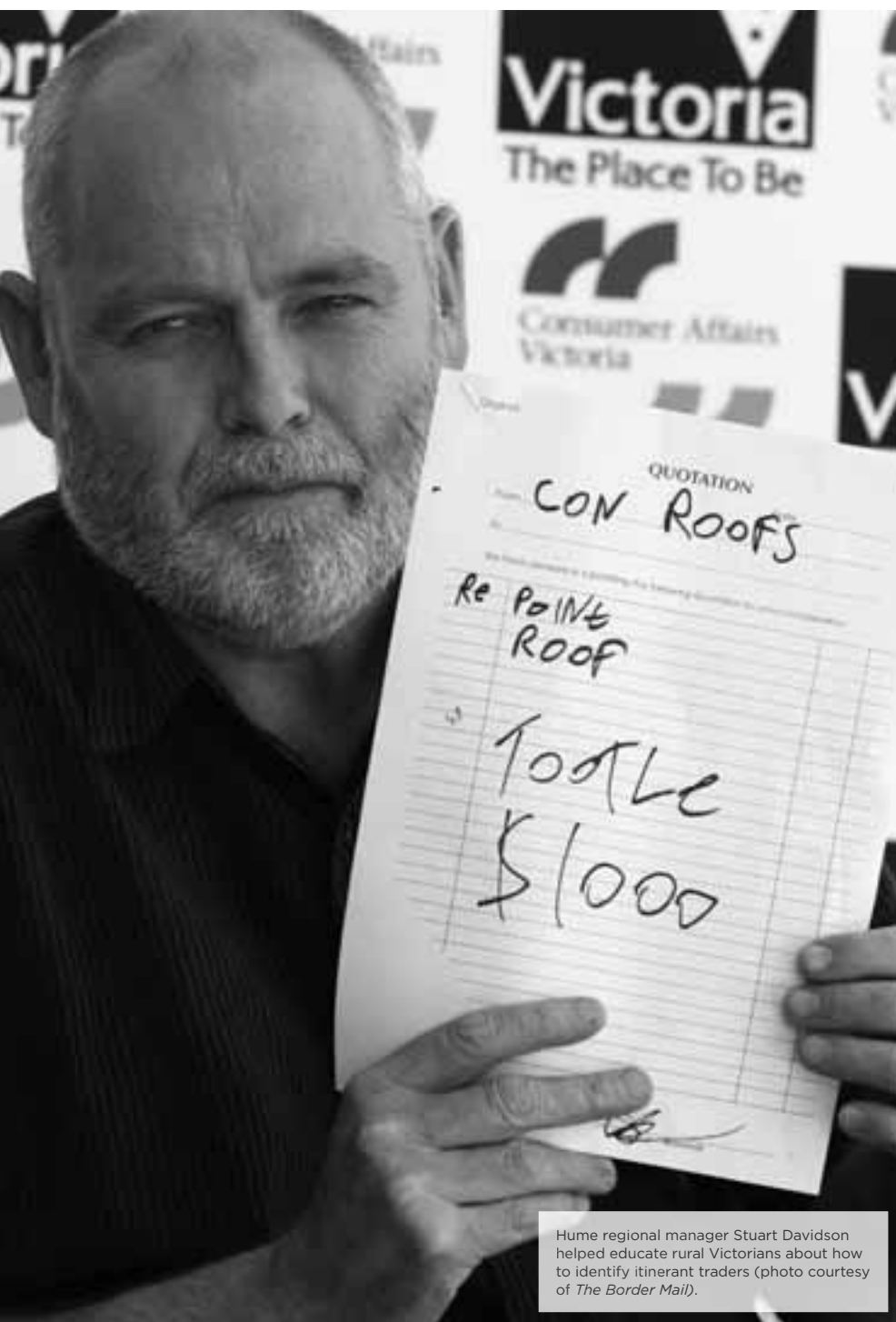
In 2008–09, we strengthened our itinerant trader strategy to increase cooperation with other enforcement agencies, local networks, suppliers and caravan parks.

Itinerant traders

Itinerant traders are disreputable tradespeople who go from door-to-door offering home repair services such as house painting, roof repairs or asphaltting. After pressuring people into having work done immediately for cash, itinerant traders usually disappear, leaving the job unfinished or in a poor state that needs fixing. Itinerant traders target vulnerable and disadvantaged consumers, typically older people or those with poor English. Because they move around, itinerant traders can be difficult to catch, so our strategy focuses on educating consumers, providing media alerts and making local announcements as soon as we identify their presence in an area.

In 2008–09, we strengthened our itinerant trader strategy to increase cooperation with other enforcement agencies, local networks, suppliers and caravan parks. We delivered presentations to more than 1,000 consumers, many in regional areas, and distributed more than 15,000 brochures, fact sheets and posters on itinerant traders. We constantly updated our website to ensure consumers had access to the latest information.

Our increased focus on sharing, and use of the media, significantly disrupted trader activities this year and caused several itinerant traders to flee across the border.



Hume regional manager Stuart Davidson helped educate rural Victorians about how to identify itinerant traders (photo courtesy of *The Border Mail*).



Clarifying warranties and refunds

Warranties and refunds continue to be a confusing issue for consumers and traders. We answered more than 37,000 enquiries about warranties and refunds this year, finalised more than 9,000 complaints and published research that confirmed warranties and refunds were a major cause of consumer detriment.

We are educating consumers and traders about warranties and refunds by answering enquiries, giving presentations to traders and community groups, and providing up-to-date information on our website.

We are leading national research into statutory warranties and refunds, on behalf of the National Education and Information Advisory Taskforce, which will inform the development of the Australian Consumer Law.

This work builds on our previous research, including our *Warranties and refunds in the electronic goods, white goods and mobile telephone industries* research paper, published in May 2009. Our Consumer Confidence and Market Experience Study, published in July 2008, estimated more than half of total consumer detriment (around \$3.3 billion for the 12 months to July 2008) related to warranty and refund problems.

We took court action against traders who seriously breached laws regarding warranties and refunds, including eyewear retailer and optometry chain Merringtons Pty Ltd. In September 2008, the Supreme Court of Victoria found Merringtons breached the *Fair Trading Act 1999* by making false representations about the availability of refunds. The company supplied unsuitable or faulty spectacles and refused refunds to consumers who lawfully cancelled orders. The court

ordered injunctions to restrain similar conduct, ordered Merringtons implement a compliance program, pay damages to consumers and pay Consumer Affairs Victoria's costs on an indemnity basis. The court granted an adverse publicity order, the first contested adverse publicity order granted under the Act.

IMPLIED WARRANTIES

Products sold come with an implied warranty, which includes that the product or service:

- corresponds with its description
- is of merchantable quality
- is suitable for the usual or specified purpose for which it is sold
- will match the sample, if buying from a sample.

REFUND RIGHTS

Consumers have a right to a refund if the product:

- is faulty (even when the fault only becomes obvious after use)
 - is otherwise unfit for purpose
 - does not match the description or sample shown
 - comes with an extra promise about refunds.
-



Car park 'fines'

This year, we continued to work to reduce confusion in the marketplace regarding car park 'fines'. We negotiated changes to trader practice, took court action to challenge traders' conduct and improved the way we responded to consumer enquiries about the issue.

By law, private car park companies do not have the power to issue fines or impose penalties.

ADVICE FOR CONSUMERS

- On entering a car park: look for signs, make sure you get a ticket and read the terms and conditions
 - If you receive a payment notice from a car park company, and you believe you are not responsible for payment, you should first approach the company about your concerns
 - If you believe you are not legally liable to the company and the company tries to enforce its claim, contact Consumer Affairs Victoria or seek independent legal advice
-

Confusion has arisen because a number of car parks operated by private companies offer free-of-charge car parks for a certain period (for example, two hours) if consumers display a ticket on the car. Some companies have been issuing demands for payment to consumers who fail to display a ticket on their car. There is some confusion as these notices or 'fines' sometimes resemble a government or council infringement notice.

By law, private car park companies do not have the power to issue fines or impose penalties. They can only seek liquidated damages for an alleged breach of the contract between the person who parks the car (rather than the car's owner) and the car park.

For the past two years, we have been working with private car park companies to ensure signage and payment notices are not misleading and do not contain unfair terms and conditions. Consumer Affairs Victoria is continuing to monitor conduct in this area.

Responding to the economic downturn

The impact on consumers of the economic downturn was evident across all areas of our work this year. For example, we answered twice as many calls regarding debt collection, including harassment by debt collectors, and took 37 per cent more calls regarding home or mortgage finance. We received more complaints about traders going into liquidation and did more tenancy inspections as a result of tenants being evicted for rent arrears.

In response, the Minister for Consumer Affairs created a new \$2.864 million program called MoneyHelp, to support workers who had lost their jobs or were experiencing financial problems due to reduced working hours. The Consumer Credit Fund supplied \$1.6 million and the Victorian Property Fund contributed \$500,000 towards funding the program. MoneyHelp is a 12-month project that will include a website, booklet, phone financial counselling service and referral to face-to-face services. The website (www.moneyhelp.org.au) and booklet will be self-help tools that provide consumers with options for addressing their financial problems. MoneyHelp will also employ an industry liaison officer to promote and enhance the service in partnership with agencies such as Centrelink, the Department of Innovation, Industry and Regional Development and unions.

In addition, we updated our website to include information on insolvency and advice for consumers who may be having trouble repaying loans, may need to access financial hardship programs or are being harassed over a debt. We also instigated a MCCA review of debt collection and debt collector regulation.





Good research makes good policy

Good research helps make good policy. By understanding and quantifying what is going on in the market and why, we can better target our strategies and resources, focusing on areas of greatest need.

QUANTIFYING THE CONSUMER EXPERIENCE

In July 2008, we published the Consumer Confidence and Market Experience Study. The study surveyed 1,200 Victorians about their experiences as a consumer across 24 consumer market sectors.

More than 90 per cent of consumers had a high level of confidence they would be treated fairly when buying goods or services predominantly because of the laws in place to protect them (87 per cent agreement) or because traders doing the wrong thing would be detected and forced to comply (68 per cent agreement). It found that in 18 of the 24 market sectors examined, more than 90 per cent of consumers did not experience a problem.

The study found the total cost of consumer detriment as perceived by Victorian consumers, including the cost of time spent rectifying problems, was \$3.3 billion annually. Experiences of consumer detriment were highest in the building (16 per cent), telecommunications (15 per cent) and motor vehicles (13 per cent) sectors. Most consumers had tried to solve their own problem, with two-thirds complaining to the trader and one in four asking for a refund.

We will continue to conduct regular surveys of Victorian consumers to identify trends and to provide an evidence base for our work.

RESEARCH PAPERS PUBLISHED

We published two papers as part of our ongoing Research Paper series, which aims to stimulate debate at a time of major consumer law reform. In January, we published *Cooling-off periods: their use, nature, cost and implications*, reported on last year, the most comprehensive research report ever produced on cooling-off periods in Victoria. In May, we published *Warranties and refunds in the electronic goods, white goods and mobile telephone industries*, which highlighted consumers' and traders' limited awareness of their rights and obligations, and ambiguities in the law. It showed that warranty and refund problems were widespread across these sectors and were not limited to particular traders or types of traders.

RESEARCH INTO CREDIT ADVERTISING

This year, we completed our research into the impact of unsolicited credit card limit increase offers (UCCLIOs). The research, funded by the Consumer Credit Fund, surveyed 1,128 Victorian consumers about their credit practices and how UCCLIOs affected them financially. It found 81 per cent of consumers had one or two credit cards, while one in five had three or more cards. Just over half paid off their balance in full each month.

Acceptance of UCCLIOs was common. Fifty-six per cent of consumers had accepted the credit limit increase offers, however, consumers with three credit cards (68 per cent) and those with four or more (84 per cent) were more likely to accept the offers than those who had one (47 per cent) or two cards (56 per cent). Younger consumers, students, consumers on a healthcare card and the unemployed were much more likely to say they were worse off and struggling for having accepted the offers than consumers on a higher income or consumers aged 45–64.

This research will help the Commonwealth's consideration of unsolicited credit card limit increase offers as part of implementing Phase 2 of the national consumer credit law package.

The above research reports are available on our website.

Other emerging issues

Consumer Affairs Victoria monitors enquiries and complaints data to identify emerging issues of concern. This year, we had more complaints about airline services refunds, voucher scheme refunds, defective electrical appliances including whitegoods and defective furniture and homewares. We also received more complaints about LPG gas conversions for cars, and we conciliated more complaints regarding hairdressers, migration agents, fencing and concreting contractors, specialist course providers and computer and other technology manufacturers or suppliers. Consumer Affairs Victoria is putting these traders and industries on notice that next year they will be the focus of increased monitoring and compliance activity.

Managing changes to conveyancing

As part of our commitment to regulating licensing practices in Victoria, we provide administrative support to the Business Licensing Authority, which this year oversaw the introduction of the *Conveyancers Act 2006*. The Act commenced 1 July 2008, establishing a new system for regulating and licensing non-lawyer conveyancers in Victoria. The changes meant that only people with a conveyancer's licence, or who were an Australian legal practitioner, were allowed to operate a conveyancing business in Victoria. Conveyancers who were already practising had until 1 October to apply for a licence. As part of our support role, we helped process more than 600 licence applications in the three months to 1 October, a significant achievement given licensing requirements were time-consuming and complex to administer.

Each year, Consumer Affairs Victoria responds to more than half a million calls.

Consumer Affairs
Victoria



In May, Consumer Affairs Victoria exhibited at the Whittlesea Bushfire Rebuilding Expo, providing advice and educational materials for consumers rebuilding after the Black Saturday bushfires. Consumer Affairs Victoria's Warren Jensen presented a half-hour seminar that included tips on how to avoid problems when rebuilding (see p. 35).

City of
Whittlesea



03 | CREATING CARING AND CONFIDENT COMMUNITIES

HIGHLIGHTS

- > Provided advocacy help to 3,581 vulnerable consumers
- > Provided face-to-face advice to more than 50,000 consumers at our city and regional offices
- > Answered almost 600,000 calls
- > Recorded more than 1,241,400 unique visitors to our website

Advice for consumers

Each year, Consumer Affairs Victoria responds to more than half a million calls. Our free telephone enquiry service is the first point of contact for most consumers and is one of the key ways we educate consumers about their rights and responsibilities.

This year, we answered 135,195 calls on general consumer issues; 105,700 calls on renting; 31,046 calls on building and 13,353 calls on credit. We directed about a third of our credit callers to financial counsellors (3,979).

We answered 91,008 calls on registration matters and 109,866 calls regarding the Residential Tenancies Bond Authority. Our Estate Agents Resolution Service answered 10,540 calls and we answered 90,768 calls about licensing matters.

Answered calls totalled 599,112, including 4,740 calls to our regional offices and 6,896 calls to our after hours service that provides pre-recorded information. We also took complaints over the phone for vulnerable and disadvantaged consumers, to improve access to our services and to make the process easier. This year we took about 380 complaints over the phone.

Support for vulnerable consumers

In 2008–09, our advocacy program enabled 3,581 vulnerable and disadvantaged consumers to receive face-to-face intensive support, including information and advice, dispute resolution services and representation at VCAT hearings.

Advocacy services were delivered by the Tenants Union of Victoria, Peninsula Community Legal Centre (metropolitan Melbourne), the Grampians Housing Network (Grampians region), Quantum Community Care (Gippsland), Delatite Community Health Care (Hume) and the Advocacy & Rights Centre (Loddon Mallee). Diversitat and Community Connections Victoria delivered advocacy services in the Barwon South West region. All agencies worked together to obtain the best outcome and service for the consumer. Consumer Affairs Victoria provided almost all referrals to these services.

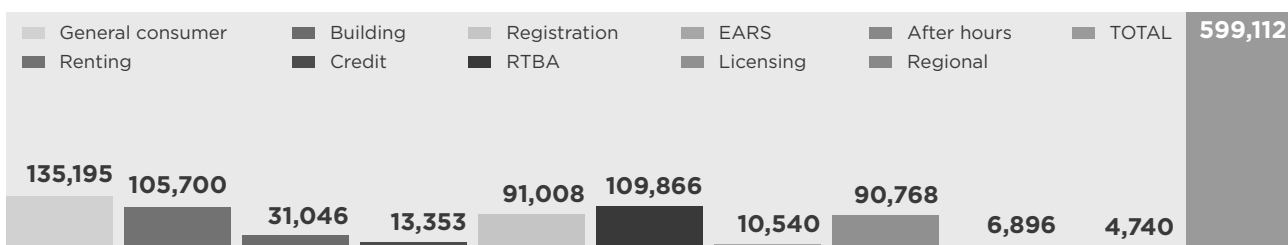
The Tenants Union of Victoria and the Peninsula Community Legal Centre were also funded to provide outreach services across the metropolitan area to residents of caravan and

residential parks, rooming houses and commercial student accommodation. To help vulnerable older residents and tenants having difficulty with housing options, we funded the Housing for the Aged Action Group. To support vulnerable and disadvantaged Victorians with general consumer issues we funded the Consumer Action Law Centre.

We provided almost \$2 million to fund these advocacy and outreach services.

In February, we started regularly providing a mobile information stand at major shopping centres in Morwell, Traralgon and Sale to improve access to our services for isolated and vulnerable Gippsland consumers. Our staff provided written and face-to-face advice, and received complaint forms, for about 30 consumers per day.

We also helped vulnerable consumers prepare for VCAT hearings by staging 10 mock hearings in Bendigo and Mildura in May. About 640 people attended.



Educating young consumers

Young people are increasingly making their own decisions as consumers. According to 2007 Youth Scan data, 98 per cent of Australians aged 16–17 have a mobile phone, and the average income of those aged 10–17 has more than doubled in the past 15 years. Levels of debt have also risen. It is essential that we start early to educate consumers about their rights, what to avoid, and how to manage credit and debt. Research has shown the best time to do this is during school years.

Our highly-successful Consumer Education in Schools program continues to improve the way we teach young people about consumer issues. This year, we added a responsible gambling component to our five secondary school resources. Our *Maths* resource, for example, now has a section that examines chance, randomness and the probability of winning. To help teachers get the most from these resources, we held five teacher development sessions across the state and about 100 teachers attended.

Our highly-successful Consumer Education in Schools program continues to improve the way we teach young people about consumer issues.



Minister for Consumer Affairs Tony Robinson MP attended a teacher development session in March.

The Consumer Stuff Challenge is a Consumer Affairs Victoria competition that encourages students to think and learn about consumer issues, then create an information product on a consumer issue. This year, the competition was again a success, with about 650 students involved and 280 entries submitted. Year 9 student Kristy Farrow from Shepparton High School won the VELS (Years 7–10) award for her board game Dollars and Sense. Eight students from the Fresh Program, run by Spirit West Services, won the VCAL award with their DVD on refund rights for young people.

At Consumer Affairs Victoria, we are conscious of the need to educate all young Victorians about consumer issues. This year, we launched a program in Ballarat that delivered age-appropriate education sessions to students in Years 5–8. The program included real-life simulations of buying products and resolving disputes. It engaged students in discussions on lay-bys, refunds, scams and product safety. We have delivered the program to 82 students in the Grampians region since March.

In the Loddon Mallee area, we developed the Best Foot Forward board game to engage senior students and vulnerable youth group members in discussion on tenancy issues. Many of those targeted were long-term unemployed or disengaged youth. We developed the game after surveys revealed this group would respond best to interactive presentations. It involves a high degree of theatre and role-playing, a game board measuring 5.5 x 3.5 metres, oversized dice and game pieces, and Consumer Affairs Victoria facilitators. After the game we asked students to complete question sheets and almost all were answered correctly, indicating the game's impact. Since its launch in March, we have used the game six times in schools and youth groups, engaging with 130 young consumers.

Helping Indigenous consumers

Disadvantage is disproportionately high amongst Indigenous consumers, as indicated by socioeconomic factors such as education, employment, income levels and rates of incarceration. Consumer Affairs Victoria works to reduce the impact these disadvantages have on the lives of Indigenous consumers, often working with other agencies to increase the reach and scope of our work.

We collaborated with Ilbjerri Aboriginal and Torres Strait Islander Theatre Cooperative and Victorian Aboriginal Legal Service on a project to engage and educate Indigenous secondary students about consumer issues. As a result, in April, 145 students at Northland Secondary College in Preston were entertained by professional actors performing three role-plays on shopping rights, buying a car and public transport fare evasion. Numerous stakeholders also attended the performances.

In the Sunraysia district, we initiated a project to help Koories who were renting or seeking to rent privately. In January, as part of the two-year project, an Indigenous tenancy liaison officer was appointed to help Koori tenants understand their rights and obligations, to respond to enquiries and complaints, and to build better relationships between Koori tenants and landlords, estate agents and caravan park owners in the area.

We also completed our resource kit on credit issues for Indigenous students, as reported last year, and distributed it to schools with many Koori students.



Helping newly-arrived migrants

Consumer Affairs Victoria educates newly-arrived migrants about their rights and responsibilities as Victorian consumers. We work to protect them from unscrupulous traders, reduce the risk of detriment, help them avoid unnecessary disputes and reduce exploitation by traders. In 2008–09, we delivered more than 250 presentations to migrant groups on topics such as buying a car, renting a house and managing credit and debt.

In November, we launched Smart Shopping and Money Matters, a program to help Sudanese migrants become informed and confident consumers. As part of the program, we distributed 620 copies of an educational DVD, which is available in three Sudanese languages and English.



Helping consumers with a disability

Consumer Affairs Victoria strives to make it easier for consumers with a disability to access our services. This year, we gave 26 presentations to disability groups and expanded our range of guides in accessible formats. In August, we launched *Renting a home: a guide for tenants and landlords* on CD, cassette, Braille and in large print to help Victorians with vision or reading difficulties. We developed the guide with Vision Australia.

We developed 10 Easy English fact sheets on key consumer topics, working with disability service provider Scope, and produced several audio fact sheets. We launched three audio guides on our website based on our popular publications *10 Things you should know about credit*, *Retirement Villages: guide for retirement village living* and *Renting a home: a guide for tenants and landlords*.

We built stronger partnerships with disability groups this year, presenting our Easy English fact sheets at the Victorian Advocacy League for Individuals with Disability conference and presenting on consumer issues at VicDeaf with the help of an Auslan interpreter.

Helping senior consumers

Consumer Affairs Victoria delivers programs and works with other agencies to engage and help senior consumers, who are frequently isolated, vulnerable and disadvantaged. In 2008–09, we delivered more than 230 presentations to seniors, carer groups and retirement village residents throughout Victoria, educating seniors about relevant issues such as retirement village living, owners corporations, home equity loans, refund rights, scams, telemarketing, funerals and itinerant traders. This year, we forged a new relationship with the University of the Third Age, planning a series of 16 presentations for next year.

We logged 639 calls about retirement villages in 2008–09 and finalised 77 disputes, resolving 84 per cent. Retirement villages are legally required to have their own dispute resolution process, so most retirement village disputes are resolved without our help.

As part of an ongoing relationship with Manningham Council, we took part in a Seniors Expo where we answered questions from seniors and distributed information about retirement villages, owners corporations and general consumer issues. In July, we staged a three-day travelling roadshow, in partnership with other agencies, visiting Morwell, Corinella and Inverloch. The roadshow informed communities, especially

older Victorians, on a range of topics including scams, refund rights, itinerant traders and housing options.

We funded the peak retirement village residents' body, Residents of Retirement Villages Victoria (RRVV), to provide workshops for residents on the rights and responsibilities of retirement villages. We also funded the Housing for the Aged Action Group to provide tenancy and housing support and advice to vulnerable and disadvantaged seniors and to help them access our services. RRVV, the Council of the Ageing and Seniors Information Victoria regularly provided us with important feedback that helped inform our strategies.

In late 2008, we worked in partnership with other agencies to achieve a positive outcome on the Duties Amendment Bill 2008. Proposed amendments would have required retirement village residents on lease agreements to pay stamp duty. We worked with RRVV, the Retirement Villages Association and the Department of Treasury and Finance to secure changes to the Bill so that no stamp duty would be payable by these residents.



We received 3,953 calls and email enquiries on scams this year and 270 complaints.

Educating consumers about scams

Scams are schemes operated by unscrupulous people whose main aim is to get money from others in dishonest or deceitful ways. Australian Bureau of Statistics research, which we helped fund, revealed last year that 222,400 Victorians had been scammed at least once in the previous year, with victims across all demographic groups. Scammers are notoriously difficult to catch as they often operate via the internet and are based overseas. Our strategies therefore focus on educating consumers about how to avoid scams.

We received 3,953 calls and email enquiries on scams this year and 270 complaints. More people were falling for scams that promised jobs or easy credit, reflecting the tougher economic climate. Increasingly common was an online rental scam, where scammers posed as agents of legitimate rental properties. We were one of the first agencies in Australia to identify the scam, detected via the Dob-in-a-Scam feature on our website. We then worked with rental websites to warn people.

We continued to work with other agencies on scams prevention, sharing information with police, the Australian Competition and Consumer Commission and our interstate counterparts. In March, we took part in a national week of scams awareness-raising activities organised by the Australasian Consumer Fraud Taskforce, of which we are a member. We issued scam alerts through the media and our website, and presented to schools, seniors and multicultural groups. In addition, thousands of people visited our scams-themed exhibit at the Royal Melbourne Show.

Working together on consumer issues

This year, we reformatted our Working Together Forum, which we established in 2003 to engage with the broader community, share information, identify emerging issues and develop opportunities for collaboration. The forum meets quarterly, bringing together representatives from 13 key consumer and community groups. A recent review of Australian regulators, by consumer organisation Choice, identified areas where the forum could improve. In response, we increased the focus on consultation rather than knowledge transfer and adopted a workshop format to improve discussion and debate.

We improved the quality of forum discussions by tackling a key consumer topic at each meeting and inviting relevant guest speakers and stakeholders to attend. Our December meeting focused on advocacy. In March, we targeted utility issues affecting low-income earners, and discussed a wide range of problems relating to energy, particularly market conduct. In June, we targeted telecommunications, discussing emerging and systemic issues affecting telecommunications consumers with representatives from the Telecommunications Industry Ombudsman, Australian Competition and Consumer Commission and Australian Communication and Media Authority. Guests from Blind Citizens Australia, Vision Australia, VicDeaf and Better Hearing Australia also attended.



Dr Claire Noone tries out the scams puzzle at our Royal Melbourne Show exhibit.



Responding to the bushfire crisis

Consumer Affairs Victoria moved quickly to help consumers and traders in areas affected by the Black Saturday bushfires, working closely with a range of agencies on relief and recovery.

PROVIDING TIMELY INFORMATION

In the week following the fires, we answered 72 bushfire-related calls, mainly concerning fundraising, fair trading and tenancy issues. We developed a prominent question and answer section for the homepage of our website, focusing on helping tenants and landlords affected by destroyed or damaged properties. Our website also warned of scam fundraisers and other fundraising issues, and included content on buying and selling property, building, credit and debt. We constantly updated this information, and in the four weeks following Black Saturday, 2,362 people visited our bushfire-related pages.

In June, we sent an enquiries officer to the Marysville area to help bushfire-affected locals with consumer enquiries. The main aim was to provide advice to consumers entering into building contracts and those already rebuilding.

SUPPORTING LEGITIMATE FUNDRAISING

We ensured a balance between speed and accountability in supporting legitimate fundraising, providing a 24-hour turnaround for registration applications rather than the usual 28 days' notice. We worked with Victoria Police to conduct prompt probity checks, and we registered a total of 71 fundraisers. When they were registered, fundraisers were notified that after six months, Consumer Affairs Victoria would require details of amounts raised, evidence of funds or benefit being distributed, who received the money or benefit, details of any reserves and banking details.

We identified 19 unregistered bushfire fundraisers by monitoring appeals on websites and other media. In most cases, these were legitimate fundraisers unaware that they were required to register with Consumer Affairs Victoria. We followed these up to secure registration. Consumer Affairs Victoria is investigating two cases of unregistered fundraising for the bushfire victims as a result of consumer complaints. Four websites purporting to represent the Red Cross or other beneficiaries were shut down. We liaised with Victoria Police and the Red Cross to promptly remove these websites, several of which were traced to sites overseas.

EXTRA HELP FOR TENANTS

The Residential Tenancies Bond Authority (RTBA) created special certification and procedures that enabled 34 tenants to claim their bonds in cases where estate agencies were no longer operating. We provided information from the RTBA register to help Victoria Police locate residents. In several cases, we facilitated contact between vulnerable tenants and agents, who liaised with the landlord to enable urgent repairs to be done.

HELPING COMMUNITIES REBUILD

In May, Consumer Affairs Victoria exhibited at the Whittlesea Bushfire Rebuilding Expo, providing advice and educational materials on rebuilding. We presented a half-hour seminar at the expo entitled 'Tips on how to avoid problems when building your home'. We also visited recovery centres in bushfire-affected areas to distribute consumer information and provide advice. In May, we addressed a regular meeting of bushfire-affected residents at Kinglake, where residents requested further information on building and credit. As a result, we delivered presentations on these subjects to residents in Kinglake and Marysville.

In May, Consumer Affairs Victoria exhibited at the Whittlesea Bushfire Rebuilding Expo, providing advice and educational materials on rebuilding.



Consumer Affairs Victoria online

Consumer Affairs Victoria's website is the most visited and used website in the Department of Justice. It provides an extensive range of consumer and trader information, which we constantly update to reflect changed conditions in the marketplace and the changing needs of consumers.

Achievements of 2008–09:

- Recorded 1,241,401 unique visitors to our website
- Delivered online publications in 25 languages
- Launched three audio guides on the website based on popular publications *10 Things you should know about credit*, *Retirement Villages: guide for retirement village living* and *Renting a home: a guide for tenants and landlords*. We also produced several audio fact sheets

- Quickly responded to the Victorian bushfire crisis. In the four weeks following Black Saturday, we had 2,362 visitors to our bushfire-related pages, which focused on helping tenants and landlords affected by destroyed or damaged properties. We also warned of scam fundraisers posing as legitimate bushfire charities
- Redesigned our scams pages to include key facts and statistics on the number of Victorians affected by scams each year, and how consumers could avoid scams
- Published summaries of the most common fair trading enquiries and complaints to Consumer Affairs Victoria, including relevant advice.

In 2009–10, we will develop an exciting new website, which will include:

- User-friendly navigation and content

Consumer Affairs Victoria's website is the most visited and used website in the Department of Justice

- Secure facilities to enable online collaboration and targeted content
- Enhanced interactive web content
- Feedback mechanisms that can enhance the website's design, delivery and content
- Forms, surveys and the ability to comment on issues
- Improved interaction with Consumer Affairs Victoria information systems.

Online forms improve access for traders

In April, Consumer Affairs Victoria and the Business Licensing Authority introduced online interactive SmartForms. People applying for an individual or company licence to trade as an estate agent, motor car trader, second-hand dealer, pawnbroker, travel agent or credit provider can now apply, pay and attach required documentation via one easy-to-use online process.

The new online forms are interactive PDFs that generate relevant questions based on the applicant's previous answers. Along with other reforms to business processes, this technology cuts the time taken to complete an application by about a third, saving traders time and significantly reducing their administrative burden. Applicants can still complete forms manually if they prefer. Since we launched the system in April, we have had 45 online licensing applications. We surveyed industries with slow take-up of the service to determine any barriers and to refine improvements.

Next year, we will make the technology available for prostitution service providers, conveyancers and owners corporation managers. We will also introduce a customisable Occupational Licensing Information System and will extend SmartForms technology to recurring licensing processes, such as renewals. The changes help fulfil the government's commitment to reduce the regulatory burden on business.

WEBSITE USAGE (WWW.CONSUMER.VIC.GOV.AU)			
	2006-07	2007-08	2008-09
Number of visitor sessions	1,370,129	1,824,138	1,971,005
Number of unique visitors	825,552	1,062,219	1,241,401
Consumer Affairs Victoria publications/forms downloaded	1,439,322	1,851,278	1,676,095



Regionalising service delivery

The Department of Justice is improving access to its services by creating a Justice Service Centre in the eight State Government regions. These one-stop shops will provide the first point of contact for consumers who need to interact with the department.

Justice Service Centres in Berwick, Ballarat and Box Hill opened in July 2009 and planning is well underway for the other centres in Broadmeadows, Wangaratta and Bendigo. There are existing Justice Service Centres in Carlton, Morwell and Geelong.

The centre services include prisons, Community Correctional Services, Consumer Affairs Victoria, Sheriff's Operations, Appropriate Dispute Resolution, the Justice for Refugees Program, Responsible Alcohol Victoria, Compliance, and Regional Aboriginal Justice Advisory Committee Networks and Local Aboriginal Justice Action Committees.

Each centre will include Consumer Affairs Victoria staff to deliver our services, including newly-created roles for residential tenancy and compliance inspectors, and conciliation officers. These extra resources will enable us to expand our compliance and inspection program at a local level, and will improve access to dispute resolution services. A regional officer and community education officer will also be part of the new Justice Service Centres, ensuring a complete range of services is available to all regional Victorians.

Regionalising service delivery makes it easier for people to access the Department of Justice's services and helps the department work better with other government and non-government services in the regions.


Services in the CBD

Our Victorian Consumer & Business Centre in Exhibition Street is our main shopfront for consumer and business enquiries. In 2008–09, we served an average of 818 consumers per week.

VISITORS TO THE VICTORIAN CONSUMER & BUSINESS CENTRE	
	2008-09
Business name counter transactions	21,077
Consumer enquiries	3,616
Residential tenancies enquiries	1,898
Occupational licences and registrations	2,570
Liquor licence/permission	3,641
Building	947
Bonds	1,936
Other (including concierge/fast service)	6,841
Total VCBC counter enquiries received	42,526



The Berwick Justice Service Centre opened in July 2009.



In 2008–09, we finalised 11,736 disputes and recovered more than \$5.17 million for consumers.

This year, we introduced onsite conciliation to help fast-track the resolution of some domestic building disputes. The process involves the consumer and builder meeting on site, along with a Consumer Affairs Victoria conciliator and Building Commission inspector, to discuss the issue in dispute. The new process resolves complaints more quickly, as all parties come together to agree on a solution.



04 | SHOWING LEADERSHIP IN DISPUTE RESOLUTION

HIGHLIGHTS

- > Finalised 11,736 disputes and recovered more than \$5.17 million for consumers
- > Completed a record number of inspections to help resolve tenancy disputes
- > Introduced a new way of conciliating some domestic building disputes, achieving a 94 per cent success rate
- > Resolved 81 per cent of general disputes conciliated

Consumer Affairs Victoria aims to empower consumers, and when answering enquiries we encourage and advise thousands of consumers who are involved in a dispute. If consumers are unable to resolve a dispute on their own, we offer a variety of dispute resolution services, including specialist services for disputes regarding tenancy, domestic building or estate agents. These provide a cheaper, more efficient and less stressful alternative to court action.

In 2008–09, we finalised 11,736 disputes and recovered more than \$5.17 million for consumers.

Resolving general disputes

We finalised 5,758 general disputes in 2008–09, resolving 81 per cent of those we conciliated, and recovering \$1,671,647 for consumers. The most common complaints we received related to household goods and services, electronics and computers, personal goods and services, and motor cars.

Complaints about computers and technology were an ongoing issue. These complaints were often about goods ordered online and not delivered on time, faulty goods, unreasonable repair or replacement delays or traders who could not be contacted.

REPAIRABLE WRITE-OFF

In December, a consumer bought a 2007-model car with 8,159 km on the clock for \$19,990. Sales staff allegedly said the car had two years left on the original manufacturer's warranty and that it had not been in any accidents. A VicRoads check revealed the car was listed as a repairable write-off, therefore the warranty was not valid. After complaining unsuccessfully to the seller, the consumer contacted us. The matter was resolved, with the consumer keeping the car, receiving a \$3,000 refund and the balance of the new car warranty. *Consumers should obtain an independent mechanical report and check the Security Register at VicRoads to confirm clear title and check if the car has been a repairable write-off.*

REFUND FOR CONSUMER

In May, a consumer entered into a rent-to-buy scheme for a fridge and washing machine that cost \$2,325, to be delivered within 10 days. Shortly afterwards, the consumer's friend went through the consumer's finances and advised him he could not afford the scheme. The consumer has an intellectual disability and his friend sometimes helps with paperwork. The consumer rang us after the trader refused to cancel the contract. We urgently conciliated the matter so it could be resolved before the goods were delivered. The outcome was successful, with the trader agreeing to cancel the contract. *Consumers who may not understand rent-to-buy schemes and who are unsure if they can maintain the payments should seek advice before contracting.*

DISPUTES FINALISED	
General	5,758
Residential tenancies	514
Building (including 1,797 Building Advice & Conciliation Victoria disputes)	2,222
Estate Agents Resolution Service	641
Regional offices	2,601
Total disputes finalised	11,736
AMOUNT RECOVERED	> \$5.17 million

This year, BACV answered a record 31,046 calls. There were more calls on variations to contracts, including delays and extensions.

Dispute resolution in domestic building

Building Advice & Conciliation Victoria (BACV) is a combined service that Consumer Affairs Victoria operates in partnership with the Building Commission. It provides advice to consumers and traders, to help prevent a concern from escalating into a dispute. When a dispute is unavoidable, BACV provides a free dispute resolution service. For disputes that involve a building defect, BACV can request an inspection report from the Building Commission to help resolve the complaint.

This year, BACV answered a record 31,046 calls. There were more calls on variations to contracts, including delays and extensions. Implied warranties were again our most common call type.

BACV exhibited and presented at four major Melbourne home shows in 2008–09, providing face-to-face advice to thousands of consumers who were building or planning to build, and presenting on topics such as avoiding problems when building. BACV also exhibited and presented at the Whittlesea Bushfire Rebuilding Expo in May, (see p. 35). We finalised 2,222 building disputes in 2008–09, resolving 80 per cent of disputes conciliated and recovering \$2,458,190 in compensation for consumers.

To help fast-track some domestic building disputes, BACV introduced an onsite conciliation process this year. Applications considered eligible were referred for immediate conciliation. The consumer and builder then met on site with the Building Commission inspector, who examined the building work, and a Consumer Affairs Victoria conciliator who conciliated a resolution based on the inspector's findings. The process removed the barriers between parties and meant disputes could be resolved faster. Holding the meeting on site meant disputed issues could be viewed and an on-the-spot agreement reached to address the problems. The program began in October and since then, 68 disputes have been conciliated in this way, with a 94 per cent success rate.

GARDENBED SOLUTION

A consumer complained to BACV that the floor slab on his new house was too high and not at the level specified in architectural drawings. An onsite conciliation determined that the issue for the consumer was that the higher floor slab revealed an unattractive layer of concrete. This was resolved when the builder offered to build garden beds, paving and other landscaping features to conceal the concrete, a solution that satisfied both the consumer and builder. *Builders are required to build to plans and specifications. If this has not occurred, effective communication between the parties, aided by a neutral third party such as Consumer Affairs Victoria, can resolve the dispute without court or tribunal action.*

VULNERABLE CONSUMER HELPED

A vulnerable consumer contacted BACV in November after discovering the house he was living in, built in 1999, had not been issued with an occupancy permit. Without the permit, the consumer could not sell his house. The consumer tried unsuccessfully to obtain one from the builder and building surveyor. BACV achieved a successful outcome, organising the building surveyor to do a final inspection and issue an occupancy permit within three weeks of the consumer's initial contact. *Consumers should ensure they receive all relevant documents, including occupancy permits, at the conclusion of the building works. Consumers buying a home should seek a copy of the occupancy permit prior to agreeing to take possession.*



Help with problems involving estate agents

Consumers who need help and advice regarding the conduct of Victorian estate agents or agents representatives can access our Estate Agents Resolution Service (EARS), which includes a dedicated enquiry line and dispute resolution service.

This year, EARS answered 10,540 calls. More vendors called this year to query their rights and obligations regarding advertising costs when a property did not sell, and there were more calls from first homebuyers seeking advice about their circumstances. EARS frequently received calls from consumers who alleged their agent had made false or misleading representations about a property or the agent's services. Landlords commonly rang to query their agent's management of an investment property.

In 2008–09, EARS finalised 641 disputes, which resulted in settlements totalling \$337,121.

TENANT SHORT-CHANGED

We conciliated a case for a tenant who lost his bond money when the managing estate agent failed to promptly advertise the rental property after the tenant vacated. The tenant claimed he gave the agent 28 days' notice to terminate his lease early, however, the agent did not advertise the property for three months. The bond was subsequently signed over to the landlord to cover the cost of finding a new tenant. After we intervened, the agent acknowledged his error and compensated the former tenant the full amount. *Agents should follow correct property management procedures to prevent unfair consequences for tenants.*

ADVERTISING COSTS WITHDRAWN

We conciliated a case for a vendor, who an agent was pursuing for payment of advertising costs. Recorded on the agent's appointment (authority) was a "no sale, no charge, only payable if sold or withdrawn" clause. The vendor withdrew his property from the agent after it failed to receive an offer within a 60-day exclusive period, or a further 60-day continuing period. The agent believed the advertising costs were still payable, however, it was our view that the agent had been given ample opportunity to sell the property, therefore the clause did not apply. The matter was settled and the agent agreed not to pursue the advertising costs. *Agents should ensure details of charges agreed to by the vendor are clearly and unambiguously recorded in the written appointment.*

This year, EARS answered 10,540 calls. More vendors called this year to query their rights and obligations regarding advertising costs when a property did not sell, and there were more calls from first homebuyers seeking advice about their circumstances.



In February, Minister for Consumer Affairs Tony Robinson MP listened in on calls to our dedicated enquiry line.

Help and advice for residents and tenants

Consumer Affairs Victoria completed a record number of inspections this year in attempting to resolve disputes involving tenancy matters.

We answered 105,700 calls about tenancy matters, advice that helped prevent many problems from escalating into a dispute. We finalised 514 conciliations, including matters relating to tenancy, retirement villages and owners corporations, recovering \$699,968 for consumers. Conciliations between tenants and landlords were generally for urgent matters, such as landlords threatening to evict tenants and change the locks. Many of these evictions, and attempted evictions, were illegal.

Part of our role under the *Residential Tenancies Act 1997* is to conduct inspections, requested by a tenant, landlord or agent, to determine issues such as whether a rent increase is excessive or not, whether goods a tenant leaves behind on vacating should be sold or destroyed, and whether non-urgent repairs are necessary. We received more requests for assessments of rent increases and urgent repairs, possibly because the tighter rental market made it harder for tenants to move. The overwhelming majority of goods left behind inspections were a result of evictions due to rent arrears.

RESIDENTS GIVEN VOICE ON FOOD

During the year, we received 10 complaints from residents of the same retirement village that their dinner service had been reduced from five days a week to two. We contacted the operator to discuss the residents' concerns and as a result, the operator convened a meeting to hear residents' opinions. The forum was a success, as residents felt the operator was finally taking their complaints seriously. It resulted in the operator surveying all residents and later restoring dining services to their previous levels. The complainants were pleased that the operator responded to our intervention, as the dispute had been ongoing for nine months. *Operators of retirement villages have a great responsibility. We advise them to fully consider contractual arrangements and consult frequently with residents to help prevent disputes and complaints.*

DISADVANTAGED TENANT EVICTED

A disadvantaged tenant rang to complain that he was being evicted from his property because the bank was repossessing the home from the landlord. After much negotiation with the bank, the tenant was given 10 weeks to find another rental property, an improvement on the 10 days he was initially given. *Communication between a landlord and tenant is vital. Landlords in financial difficulty should seek advice early to reduce the impact on tenants.*

LUCKY CATS FIND WAY HOME

In March, we completed a 'goods left behind' inspection on a property where we found, amongst numerous knick-knacks and collectibles, more than 50 lucky money cat ornaments. As usual, we attempted to contact the owner of the goods, eventually tracking her down through a carer organisation. The organisation helped the former tenant collect her goods, which also included a full house of furniture and numerous articles of memorabilia. The former tenant, who had fallen on hard times and had mental health problems, was grateful for our efforts to reunite her with her goods. *We encourage evicted tenants to remove their goods where possible, and can refer them to agencies that can help if necessary.*



INSPECTIONS PROVIDED			
	2006-07	2007-08	2008-09
Repair reports	904	1,138	1,201
Abandoned goods	3,571	3,429	3,252
Rental assessment	1,519	3,343	3,850
TOTAL	5,994	7,910	8,303

Part of our role under the *Residential Tenancies Act 1997* is to conduct inspections, requested by a tenant, landlord or agent, to determine issues such as whether a rent increase is excessive or not, whether goods a tenant leaves behind on vacating should be sold or destroyed, and whether non-urgent repairs are necessary.



RESIDENTIAL TENANCIES BOND AUTHORITY

The Residential Tenancies Bond Authority (RTBA) is a Victorian Government statutory authority that relies on the staff and resources of the Department of Justice, Consumer Affairs Victoria and external service providers. The Authority helps reduce disputes by holding all residential tenancy bonds in a neutral capacity for landlords and tenants, including for long-term caravan park and rooming house residents. This requirement, part of the *Residential Tenancies Act 1997*, protects tenants from having their bond misused by unscrupulous landlords or agents.

The RTBA performs numerous transactions, including bond lodgements, bond repayments and transfers. In 2008–09, the Authority registered about 175,000 bond lodgements, and held 426,020 bonds valued at \$494.1 million.

The RTBA can only repay bonds where there is agreement between the landlord/agents and tenant, or where the RTBA is directed by the Victorian Civil and Administrative Tribunal or a court. The RTBA repaid approximately 153,000 bonds in 2008–09. Payees received their repayments within 24 hours of the tenant and managing agent agreeing to the bond's distribution. About 85 per cent of repayments were made by direct credit, and were therefore available in the payee's bank account on the following business day.

On 30 June 2008, the Authority moved to a new purpose-built processing system, which led to a number of delays and processing issues. However, during the year the service regained target performance levels, processing 99 per cent of all transactions on the same day as the form initiating the transaction and achieving error rates of less than one per cent.

The RTBA is continually improving its services, and in 2008–09:

- enhanced its RTBA Online web service, enabling registered users to download agent bond lists as an Excel spreadsheet or PDF (Portable Document Format)
- simplified the rejection notices provided when a transaction could not be processed
- introduced "Retained Repayments" to better handle bond repayments when the RTBA was unable to issue a direct credit or a cheque
- introduced "Incomplete Lodgements" to ensure all bonds paid to the RTBA were held by the RTBA, even when lodgement details were incomplete.

The RTBA undertakes a number of initiatives to educate agents, landlords and tenants about their rights and obligations, and about the RTBA and its procedures. In 2008–09, this included seminar presentations and bulletins to agents.

RESIDENTIAL TENANCIES BOND AUTHORITY ACTIVITY 2008–09

Bonds lodged	175,000
Bond repayments	153,000
Bonds transferred	38,000
Bonds held	426,020
Value held	\$494.1 million



John Lolas was awarded a Public Service Medal this year for his outstanding work in developing consumer rights protection in Victoria and establishing a standard of excellence in conciliation services. As one of the original staff members of the Consumer Rights Council in the early 1970s, John was a pioneer in consumer affairs services in Victoria. John continues to conciliate consumer complaints and mentor new staff.



05 | OPTIMISING OUR CAPABILITY

HIGHLIGHTS

- > Established new knowledge management tool to ensure callers receive the most up-to-date and relevant information
- > Commissioned delivery of a new qualification course for investigators
- > Provided extra training for regional staff, including tailored sessions for new regional teams

Improving access to information

In 2008–09, we updated our knowledge management tool and made it available to all staff, to improve our service to callers and to make sure they always receive the most relevant and up-to-date information. The system allows staff to contribute to a central forum that other staff can instantly view. When we receive a call, we can instantly view the latest information on the topic being discussed.

Subject matter experts from across Consumer Affairs Victoria can now add and edit content, providing a more content-rich source of information. The wider availability of the tool has inspired the addition of new content areas, including information on business planning and project management, training courses, regional office procedures and our fortnightly internal newsletter.

Developing our people

To help our staff achieve high performance we provide regular and targeted training. This year, we increased the scope of our staff training, including tailoring some programs for individuals.

We did more training of our regional staff. This included individual assessments of the training needs of 17 staff assuming roles in the regional restructure and organising tailored training sessions for them. To prepare

for the restructure we conducted induction activities, team-building sessions, fast-track workshops on key legislation and training on stakeholder management and presentation skills.

With our greater focus on inspections this year, we recognised the need to provide extra training for investigators. We contracted a company to deliver the nationally-recognised Certificate IV in Government (Investigations) inhouse, a six-month course combining classroom learning with on-the-job practical exercises. Initial workshops will be held in August and all investigators will eventually have the chance to complete the certificate.

A legislation trainer visited all regional offices at least once during the year, delivering training on topics such as owners corporations, new regulations for motor car traders, and the implications of the new Victorian family violence prevention law.

We formally assess all feedback received from consumers to determine whether we need to make improvements. In 2008–09, in response to feedback, we improved communication between parties

regarding tenancy disputes and improved the way we train staff to handle queries and accept complaints over the counter.

We continued to implement changes in response to the 2008 Employee Attitude Survey, which gauged staff engagement and job satisfaction, and sought ideas for improvement. Action plans for this year focused on business planning, new work processes, improved recruitment timelines and internal communication strategies.

This year, 28 senior staff took part in a 360-degree feedback process, part of the Department of Justice leadership development program. The feedback to managers included that our managers deliver on commitments, encourage knowledge sharing, build on relationships with a broad range of people, share credit and acknowledge the contribution of others. Staff said managers could improve on their response to staff feedback. Work is progressing in this area.

LEARNING PROGRAM ATTENDANCES AND DAYS 2008–09

Program Area	Attendances	Days
Legislation and Policy	365	378
Consumer Affairs Victoria Systems, Skills and Knowledge	317	254
Communication and Customer Service	190	268
Leadership and Management	28	61
Occupational Health and Safety	11	11
Total	911	972

ABBREVIATIONS

Acts and Regulations abbreviated in this report	
BA	<i>Building Act 1993</i>
BNA	<i>Business Names Act 1962</i>
CA	<i>Crimes Act 1958</i>
CCA	<i>Consumer Credit (Victoria) Act 1995</i>
CCC	Consumer Credit Code
CCR	Consumer Credit Regulations 2006
DBCA	<i>Domestic Building Contracts Act 1995</i>
EAA	<i>Estate Agents Act 1980</i>
EAR	Estate Agents (General, Accounts & Audit) Regulations 2008
FAA	<i>Fundraising Appeals Act 1998</i>
FTA	<i>Fair Trading Act 1999</i>
MCTA	<i>Motor Car Traders Act 1986</i>
MCTR	Motor Car Traders Regulations 2008
PCA	<i>Prostitution Control Act 1994</i>
PCR	Prostitution Control Regulations 2006
RTA	<i>Residential Tenancies Act 1997</i>
SA	<i>Sentencing Act 1991</i>
TMA	<i>Trade Measurement Act 1995</i>

Other abbreviations	
AFD	Australian Finance Direct
ASIC	Australian Securities & Investments Committee
BACV	Building Advice & Conciliation Victoria
BLA	Business Licensing Authority
CAV	Consumer Affairs Victoria
COAG	Council of Australian Governments
EARS	Estate Agents Resolution Service
HAAG	Housing for the Aged Action Group
HIA	Housing Industry Association
LPG	Liquefied Petroleum Gas
MCCA	Ministerial Council for Consumer Affairs
MCTGF	Motor Car Traders Guarantee Fund
MOU	Memoranda of Understanding
PCAMAC	Prostitution Control Act Ministerial Advisory Committee
PDF	Portable Document Format
RRVV	Residents of Retirement Villages Victoria
RTBA	Residential Tenancies Bond Authority
UCCCMC	Uniform Consumer Credit Code Management Committee
UCCLIO	Unsolicited credit card limit increase offers
VCAL	Victorian Curriculum of Applied Learning
VCAT	Victorian Civil & Administrative Tribunal
VCBC	Victorian Consumer & Business Centre
VELS	Victorian Education Leaving Standard



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Appendix 1

LEGISLATION ADMINISTERED BY THE MINISTER FOR CONSUMER AFFAIRS AS AT 30 JUNE 2009

1	<i>Associations Incorporation Act 1981</i>	26	<i>Owners Corporations Act 2006</i>
2	<i>Business Licensing Authority Act 1998</i>	27	<i>Partnership Act 1958</i>
3	<i>Business Names Act 1962</i>	28	<i>Petroleum Products (Terminal Gate Pricing) Act 2000</i>
4	<i>Carriers and Innkeepers Act 1958</i>	29	<i>Petroleum Retail Selling Sites Act 1981</i>
5	<i>Chattel Securities Act 1987</i> excluding Part 3 (this part administered by the Minister for Roads and Ports)	30	<i>Private Agents Act 1966</i>
6	<i>Collusive Practices Act 1965</i>	31	<i>Prostitution Control Act 1994</i>
7	<i>Companies (Administration) Act 1981</i>	32	<i>Residential Tenancies Act 1997</i> (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).
8	<i>Consumer Credit (Victoria) Act 1995</i>	33	<i>Retirement Villages Act 1986</i>
9	<i>Conveyancers Act 2006</i>	34	<i>Sale of Goods (Vienna Convention) Act 1987</i>
10	<i>Co-operatives Act 1996</i>	35	<i>Sale of Land Act 1962</i>
11	<i>Credit Act 1984</i>	36	<i>Sea-Carriage Documents Act 1998</i>
12	<i>Credit (Administration) Act 1984</i>	37	<i>Second-Hand Dealers and Pawnbrokers Act 1989</i>
13	<i>Disposal of Uncollected Goods Act 1961</i>	38	<i>Subdivision Act 1998</i> (Part 5 and section 43 in so far as it relates to Part 5)
14	<i>Domestic Building Contracts Act 1995</i> (except Part 5 which is administered by the Attorney-General)	39	<i>Trade Measurement Act 1995</i>
15	<i>Estate Agents Act 1980</i>	40	<i>Trade Measurement (Administration) Act 1995</i>
16	<i>Fair Trading Act 1999</i>	41	<i>Travel Agents Act 1986</i>
17	<i>Fuel Prices Regulation Act 1981</i>	42	<i>Trustee Act 1958</i>
18	<i>Fundraising Act 1998</i>	43	<i>Trustee Companies Act 1984</i> , jointly with the Treasurer
19	<i>Funerals Act 2006</i>	44	<i>Utility Meters (Metrological Controls) Act 2002</i>
20	<i>Goods Act 1958</i>	45	<i>Veterans Act 2005</i> (Part 4 only; the rest of the Act is administered by the Minister for Veterans' Affairs)
21	<i>Introduction Agents Act 1997</i>		
22	<i>Landlord and Tenant Act 1958</i>		
23	<i>Liquor Control Reform Act 1998</i>		
24	<i>Marketable Securities Act 1970</i>		
25	<i>Motor Car Traders Act 1986</i>		

Appendix 2

LEGISLATION PASSED/COMMENCED/REVOKED 2008-09

Acts passed

NAME	DATE OF ROYAL ASSENT
<i>Prostitution Control and Other Matters Amendment Act 2008</i>	11 December 2008
<i>Fundraising Appeals and Consumer Acts Amendment Act 2009</i>	10 February 2009
<i>Associations Incorporation Amendment Act 2009</i>	7 April 2009
<i>Fair Trading and Consumer Acts Amendment Act 2009</i>	10 June 2009

Regulations commenced

NAME	DATE COMMENCED
Fair Trading (Safety Standard) (Prams and Strollers) Regulations 2008	1 July 2008
Subordinate Legislation (Associations Incorporation Regulations 1998-Extension of Operation) Regulations 2008	23 July 2008



Appendix 2 Cont...

LEGISLATION PASSED/COMMENCED/REVOKED 2008-09

Regulations commenced Cont...

NAME	DATE COMMENCED
Fair Trading (Amendment) Regulations 2008	1 August 2008
Chattel Securities (Purchase Price) Regulations 2008	16 September 2008
Estate Agents (Contracts) Regulations 2008	28 September 2008
Liquor Control Reform Amendment Regulations 2008	6 October 2008
Co-operatives Regulations 2008	11 November 2008
Trade Measurement Amendment (Standard Wine Package Marking) Regulations 2008	25 November 2008
Motor Car Traders Regulations 2008	1 December 2008
Second-Hand Dealers and Pawnbrokers Regulations 2008	21 December 2008
Second-Hand Dealers and Pawnbrokers (Exemption) Regulations 2008	21 December 2008
Estate Agents (Education) Regulations 2008	1 January 2009
Fair Trading (Safety Standard) (Children's Portable Folding Cots) Regulations 2008	1 March 2009
Second-Hand Dealers and Pawnbrokers Amendment Regulations 2009	3 March 2009
Retirement Villages (Contractual Arrangements) Amendment (Formula) Regulations 2009	19 May 2009
Trade Measurement Amendment Regulations 2009	23 June 2009
Fundraising Regulations 2009	28 June 2009

Regulations revoked

NAME	DATE COMMENCED
Estate Agents (Contracts) Regulations 1997	28 September 2008
Estate Agents (Contracts)(Amendment) Regulations 2003	28 September 2008
Co-operatives (Fees) Regulations 2003	11 November 2008
Co-operatives (Infringement Penalties Amendment) Regulations 2007	11 November 2008
Motor Car Traders Regulations 1998	1 December 2008
Second-Hand Dealers and Pawnbrokers Regulations 1997	21 December 2008
Second-Hand Dealers and Pawnbrokers (Amendment) Regulations 2002	21 December 2008
Second-Hand Dealers and Pawnbrokers (Exemption) Regulations 2002	21 December 2008
Second-Hand Dealers and Pawnbrokers (Forms) Regulations 2004	21 December 2008
Second-Hand Dealers and Pawnbrokers (Exemption) Regulations 2006	21 December 2008
Second-Hand Dealers and Pawnbrokers (Exemption) (Amendment) Regulations 2007	21 December 2008
Estate Agents (Education) Regulations 2004	1 January 2009
Fundraising Appeals Regulations 1999	28 June 2009
Fundraising Appeals (Amendment) Regulations 2001	28 June 2009
Fundraising Appeals (Amendment) Regulations 2002	28 June 2009
Fundraising Appeals (Renewals) Regulations 2002	28 June 2009
Fundraising Appeals (Infringement Penalties Amendment) Regulations 2007	28 June 2009

Appendix 3

ENFORCEABLE UNDERTAKINGS AND COURT ACTION CONCLUDED 2008-09

Enforceable Undertakings accepted 2008-09

BUILDING

11.07.08	Ramo Balic, trading as Inner Living Renovations, carried out renovations that constituted a major domestic building contract as defined by the BA and the DBCA while unregistered. The company gave an undertaking to cease the conduct and take all necessary steps to comply with the law.
24.07.08	Shine Home Improvement Centre Pty Ltd and its directors, Shu Xing and Zhi Qin Xing, carried out renovations that constituted a major domestic building contract as defined by the BA and the DBCA while unregistered. The company also demanded and received a deposit under a domestic building contract of more than 10 per cent of the contract price before starting work under the contract. The company and its directors gave an undertaking to cease the conduct and take all necessary steps to comply with the law.
18.09.08	Steven James O'Connell, trading as Outback Pergolas and Decks, carried out renovations that constituted a major domestic building contract as defined by the BA and the DBCA. Mr O'Connell was limited to do only "carpenter and structural landscaping" works, and could not enter into a major domestic building contract. Mr O'Connell gave an undertaking to cease the conduct and take all necessary steps to comply with the law.
26.06.09	Joseph Kaban was an unregistered builder who carried out building work that constituted a major domestic building contract as defined by the BA and the DBCA, and did not complete the work as required by the FTA. The undertaking required that the conduct cease and that all necessary steps be taken to ensure future compliance with the law.

ESTATE AGENTS

11.07.08	Lesley Therese Savedra, trading as Falconcrest Homes, at all relevant times was not a licensed estate agent in accordance with the EAA. Ms Savedra breached the EAA by bundling her builders' houses with developers' land for sale to clients, receiving a commission from the developers after the sale of the land, helping developers sell land by advertising house and land packages for sale on her website, and sourcing land for buyers from developers. Ms Savedra gave an undertaking to cease the conduct and take all necessary steps to comply with the law.
06.11.08	Leigh Pridham was at all relevant times an agents representative. Mr Pridham failed to advise CAV, or the vendor of the purchaser's relationship with The Agency commissioned to sell the property, breaching the EAA and EAR. Mr Pridham gave an undertaking to cease the conduct and take all necessary steps to comply with the law.
22.12.08	Frank Dowling Pty Ltd and its director, Andrew Lonzi, breached various sections of the EAA and EAR related to trust accounting requirements. The company and Mr Lonzi gave an undertaking to cease the conduct and take all necessary steps to comply with the law.
14.01.09	LMG Commercial Property Services Pty Ltd and Leo Mark Grogan, the company's director and officer in effective control, breached sections of the EAA related to trust accounting requirements. The company and Mr Grogan gave an undertaking to cease the conduct and take all necessary steps to comply with the law.
26.01.09	Skyraider1 Pty Ltd and Christine Parsons, the company's director and officer in effective control, breached sections of the EAA and EAR related to trust accounting requirements. The company and Ms Parsons gave an undertaking to cease the conduct and take all necessary steps to comply with the law.

FUNDRAISING

27.01.09	Abercrombys Real Estate Pty Ltd held a corporate golf day at the Royal Melbourne Golf Club (fundraising event). Abercrombys advertised it would donate proceeds from the event to the Murdoch Cancer Research Institute. Abercrombys and its directors (Peter Timothy Derhan, Robert Peter Vickers Willis and John Douse Langley) were not registered to conduct a fundraising appeal under the FAA. The company and its directors gave an undertaking that they would apply for fundraising registration and take all necessary steps to comply with the law.
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FAIR TRADING

11.11.08	The Original Show Pony Pty Ltd, trading as The Painted Pony, breached the FTA when a consumer attended the company's premises to undergo facial treatment involving electrolysis. The consumer reported a burning sensation and suffered first-degree burns as a result of the company's services. The undertaking required the company to pay compensation to the consumer, cease providing electrolysis to consumers unless it could show that staff were adequately trained, and provide warnings to consumers prior to accepting electrolysis services.
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Appendix 3 Cont...

ENFORCEABLE UNDERTAKINGS AND COURT ACTION CONCLUDED 2008-09

Enforceable Undertakings accepted 2008-09 Cont...

MOTOR CARS

16.10.08	Theogam Pty Ltd, trading as Motor Trade Disposals, and its director, Andrew Theodoropoulos, breached sections of the MCTA by having a prohibited person working as a car salesperson. The company and its director gave an undertaking to cease the conduct and take all necessary steps to comply with the law.
22.12.08	Anthony Dow Investments Pty Ltd and Anthony Damian Dow, the company officer, breached several sections of the MCTA and the MCTR for consignment selling. The company and its director gave an undertaking to cease the conduct and take all necessary steps to comply with the law.
06.02.09	Big Punt Pty Ltd, trading as Flat Out Car & Truck Sales, and its director, Rick Pichut, breached the MCTA by failing to sign the dealings book as prescribed by the regulations and tampering with the odometer of one motor vehicle. The company and its director gave an undertaking to cease the conduct and take all necessary steps to comply with the law.
01.04.09	Mr Radwan Zeno breached the MCTA by substituting odometers in two motor vehicles. Mr Zeno gave an undertaking to cease the conduct and take all necessary steps to comply with the law.
26.06.09	Melbourne's Cheapest Cars Pty Ltd and company director Edvins Vilis Abelnica offered credit without providing all information required under the Consumer Credit Code and its regulations. The undertaking required that the company and its director cease the conduct and that all necessary steps be taken to ensure future compliance with the law.
26.06.09	Jeff Wignall Ford Pty Ltd and Andrew Kevin Cross were advertising cars for sale. The advertisements, which showed loan payments, did not comply with the Consumer Credit Code. The undertaking required that the conduct cease and that all necessary steps be taken to ensure future compliance with the law.

PRODUCT SAFETY

29.01.09	Meiwa Trading Pty Ltd and its directors, Kam Wa Lau and Mei Fong Chan, breached the FTA by offering to supply goods that were in contravention of a permanent ban order or a fixed term ban order or did not meet prescribed safety standards. The company and its directors gave an undertaking to cease the conduct and take all necessary steps to comply with the law.
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PROSTITUTION

3.07.08	Kevin Trevor Boscacci, a licensed prostitution service provider trading under the registered business name California Club, breached the PCA and PCR by having non-compliant advertising material and communication devices. Mr Boscacci gave an undertaking to cease the conduct and take all necessary steps to comply with the law.
16.10.08	Ly Teng, a licensed prostitution service provider trading under the registered business name Regarding House breached the PCA and PCR by having non-compliant communication devices and record keeping. Ly Teng gave an undertaking to cease the conduct and take all necessary steps to comply with the law.

RESIDENTIAL TENANCY

02.01.09	Jogendra Sinha, owner and landlord of a Richmond property, unintentionally submitted incorrect information to the RTBA enabling him to decide on the distribution of a tenant's bond. The undertaking required that he comply with specific provisions of the RTA and FTA, not seek tenants' signatures on a bond claim form earlier than seven days prior to termination, or submit a bond claim form to the RTBA that was signed earlier than seven days before termination.
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TRADE MEASUREMENT

02.10.08	Spotless Services Australia Limited breached the FTA and TMA when cups it used to serve alcoholic beverages were tested and found to have a capacity of 419.2mL on average, instead of the 425mL consumers paid for. Spotless undertook to pay the sum of \$17,989.44 to a charity approved by CAV, the sum representing the potential consumer detriment. Spotless also undertook to ensure that they would not supply the same cups, and to audit their supply process to ensure future cups provided correct measure and quantity.
16.10.08	Le Rose Nominees Pty Ltd and its directors, Leo Blake and Rose Blake, operators of Maxi Foods Supermarkets in Blackburn North, Carrum Downs and Upper Ferntree Gully, breached the FTA and TMA by offering for sale a number of pre-packed items marked with incorrect net weights. The company and its directors undertook to engage a compliance professional to review its existing compliance program to ensure consistency with Australian Standard AS 3806-2006 Compliance Programs.
26.01.09	Closed Loop Environmental Solutions Pty Ltd breached the FTA and TMA, supplying cups for the sale of beer with a capacity of 419.2mL, purporting to have a 425mL capacity. Closed Loop supplied the cups without batch testing to determine the cups were correct measure. Closed Loop undertook to ensure it would not supply the same cups for the sale of beer in future, to provide CAV with a report of its processes and of the batch testing conducted by Closed Loop for each batch of alcoholic beverage measures it supplies during the next two years.

Appendix 3 Cont...

ENFORCEABLE UNDERTAKINGS AND COURT ACTION CONCLUDED 2008-09

Civil Action concluded 2008-09

BUILDING

18.09.08	CAV initiated VCAT proceedings under the DBCA on behalf of the Korfiatis family, in response to a decision by Lumley General Insurance. The family had lodged an insurance claim for defective and incomplete building works by their builder, Tremaine Developments Pty Ltd. Lumley's initial offer to satisfy the claim was rejected. In December 2007, the Director of CAV appealed Lumley's decision. Extensive negotiations led to a confidential settlement in September 2008.
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CREDIT

13.11.08	Landmark Homes (Aust) Pty Ltd, Landmark Realty (Vic) Pty Ltd, Assetbuild Finance Pty Ltd, John Grezos - CAV pursued legal action against the defendants for breaches of the FTA regarding a house and land package promotion. The promotion made representations in a "seven step plan" of a \$30,000 "grant" to buyers. This grant was in fact a loan that consumers were liable to pay. The Supreme Court of Victoria restrained Landmark Homes, Assetbuild Finance and Mr Grezos from promoting the plan, and also restrained Landmark Realty and Mr Grezos from acting as an estate agent without obtaining a licence. The court ordered each defendant to indemnify affected consumers for loans exceeding \$2.9 million. The defendants had to pay CAV's costs.
06.02.09	George Missailidis - Mr Missailidis applied to VCAT for review of a BLA decision to refuse his application to engage in finance/mortgage broking under the CCA. The BLA had refused on grounds that it would be contrary to the public interest to grant his application, based on suitability issues. Mr Missailidis withdrew the application to VCAT.
13.02.09	Australian Finance Direct (AFD) - The appeal process relating to this matter was reported in last year's annual report. The High Court of Australia last year found that AFD breached key disclosure requirements in the Consumer Credit Code by failing to disclose a "hold-back fee" retained by the company through arrangements with the National Investment Institute and other suppliers of investment seminars. These arrangements enabled AFD to 'hold back' between 10 and 40 per cent of seminar fees, in return for providing loans to high-risk borrowers. AFD did not disclose these amounts to borrowers, who thought the total loan proceeds transferred directly to the seminar organiser. CAV initiated legal proceedings seeking civil penalties, which achieved a national resolution of a \$100,000 penalty plus costs. Victoria had 1,011 affected contracts of the national total (2,334), so a proportional amount of \$43,316.20 from the \$100,000 awarded nationally was paid into the Consumer Credit Fund.

ESTATE AGENTS

12.08.08	Biggin & Scott Carnegie Pty Ltd, Dragan Mrkela, and Biggin & Scott Malvern Pty Ltd - Biggin & Scott Carnegie and Mr Mrkela carried on an estate agents business in Carnegie from April 2008 without being licensed under the EAA. The Melbourne Magistrates' Court granted interim orders restraining them from this activity on 12 August 2008. The court also issued an order against Biggin & Scott Malvern, preventing payments out of its trust accounts to Biggin & Scott Carnegie unless approved and supervised by the Director of CAV's nominee.
25.08.08	Real Estate Logics Pty Ltd trading as Biggin & Scott Maribyrnong - The Melbourne Magistrates' Court granted interim orders restraining Biggin & Scott Maribyrnong from carrying on business as estate agents until licensed under the EAA. The interim injunction restrained the directors Renzo Tomasino, Luciano Tomasino and Leo Mark Basilone from assisting or being in any way concerned with a real estate business involving the company until it was licensed. The court issued asset-freezing orders against Biggin & Scott Maribyrnong, preventing payment out of its sales trust account unless approved and supervised by the Director of CAV's nominee. The injunction was sought on the basis that Biggin & Scott Maribyrnong carried on an estate agents business in Maribyrnong, from May 2007, without being licensed by the BLA.
16.10.08	Biggin & Scott Carnegie Pty Ltd, Dragan Mrkela, and Kevin Biggin - The respondents consented to orders regarding adverse publicity notices. Biggin & Scott Carnegie and Dragan Mrkela gave undertakings to the Melbourne Magistrates' Court not to offer estate agency services unless licensed under the EAA.
24.11.08	Paul Graham Cutler, LBC Nominees Pty Ltd - The Melbourne Magistrates' Court granted injunctions under the EAA and FTA against Mr Paul Graham Cutler and LBC Nominees Pty Ltd, restraining them from engaging in conduct as unlicensed real estate agents. The court ordered the defendants to pay CAV costs of \$4,800.
25.03.09	Kim Shannon (agents representative) - Mr Shannon, while employed as an agents representative under the EAA, made alterations to a contract of sale, contrary to the instructions of the vendor. He lowered the deposit from 10 per cent to 5 per cent and extended final settlement from 90 days to 120 days. The VCAT member reprimanded Mr Shannon and ordered him to pay compensation of \$7,895.88 to the vendor.
26.06.09	Real Estate Logics Pty Ltd trading as Biggin & Scott Maribyrnong, Renzo Tomasino, Luciano Tomasino, Leo Mark Basilone - Real Estate Logics, trading as Biggin & Scott Maribyrnong, between November 2006 and August 2008 traded as a real estate agent without being licensed under the EAA. Although directors Renzo Tomasino and Luciano Tomasino held individual real estate licences, the company was unlicensed. Mr Basilone acted as an agents representative when the company traded as an unlicensed real estate agent. The respondents gave undertakings to the court not to allow Real Estate Logics Pty Ltd to trade unless licensed and entered into an agreement with CAV to pay \$150,000 in forfeited commissions to the Victorian Property Fund. Mr Basilone gave an undertaking to the court not to act as an agents representative unless employed by a licensed estate agent.



Appendix 3 Cont...

ENFORCEABLE UNDERTAKINGS AND COURT ACTION CONCLUDED 2008-09

Civil Action concluded 2008-09 Cont...

FAIR TRADING

08.08.08	Van Veenedaal Investments Pty Ltd, Malorhita Pty Ltd (under administration) and Kerri Van Veenedaal – The respondents were involved in an internet-based business offering to supply infant and toddler clothing, toys and manchester. CAV received complaints from consumers who had ordered and paid for a range of these goods but the respondents had failed to deliver within a reasonable time. The Melbourne Magistrates' Court granted interim injunctions against the respondents on 10 October 2007 that prevented them from taking payment prior to delivery of goods. On 8 August 2008, the court granted final injunctions under the FTA against all respondents. It ordered the respondents to pay costs totalling \$3,200 and compensation of \$380.77. Before the hearing, at CAV's urging, Ms Van Veenedaal refunded several complainants a total \$2,000. The orders against Van Veenedaal Investments and Kerri Van Veenedaal expired on 31 October 2008.
24.10.08	Care Park Pty Ltd – Care Park applied to Melbourne Magistrates' Court for an order compelling VicRoads to disclose the names and addresses of more than 4,000 car owners. Care Park alleged the owners' vehicles had been parked in its car parks contrary to the terms and conditions of use. Its application was made under the Rules of Court relating to preliminary discovery from a third party for the purposes of identifying the prospective defendant to proceedings. The Director of CAV sought to be heard 'amicus curiae' (friend of the court) on Care Park's right to apply for the owners' details. After two days of hearing, the Director's application was refused and the court ordered the discovery of the information sought by Care Park.
11.05.09	Backloads.com Pty Ltd – This was an application to VCAT seeking declarations alleging unfair contract terms under the FTA. The tribunal issued declarations that 12 terms of Backloads' standard form consumer contract were unfair and therefore void. It also declared that the company's standard form consumer contract was not clearly expressed nor in the required 10-point font. The tribunal issued injunctions restraining further use of such terms, and restraining Backloads from presenting such consumer documents other than in the required font size.
13.02.09	Klaus Kreilaus, K&B Kreilaus Pty Ltd – Mr Kreilaus took deposits for memorials and headstones for graves but failed to supply the goods, in contravention of the FTA. The Melbourne Magistrates' Court ordered Klaus Kreilaus and K&B Kreilaus Pty Ltd to pay total compensation of \$9,964 (including compensation of \$7,050 plus \$1,114 interest, and \$300 each in damages to six consumers). The court also ordered a public notice in the Lilydale and Yarra Valley Leader Newspaper, and that Mr Kreilaus and the company display a copy of the notice for six months at each place of business. The court granted an injunction restraining Mr Kreilaus and the company from demanding, accepting payment or other consideration for the manufacture of headstones and the installation of headstones prior to supply and installation. The court ordered Mr Kreilaus and the company to pay CAV's total costs of \$6,871.

HEALTH

14.07.08	Matrix Pilates & Yoga Pty Ltd – Matrix owned a fitness club in Melbourne's central business district. VCAT held that certain terms in the company's membership contract were unfair. The tribunal ordered Matrix to cease using these terms and any similar terms. It ordered the company to send to each affected consumer a letter outlining the tribunal's decision, including identifying the unfair terms. VCAT also declared a raft of phrases or words in the contract to be in breach of the FTA as they were not clearly expressed, and created confusion, uncertainty, or doubt in the minds of the consumers.
10.09.08	Merringtons Pty Ltd – During September 2008 the Supreme Court of Victoria awarded compensation following Justice Hansen's judgement on 19 December 2007 that Merringtons Pty Ltd and Australian Ophthalmic Supplies Pty Ltd (trading as Merringtons Optometrists) contravened the FTA. Justice Hansen found Merringtons Optometrists supplied their customers with prescription glasses that were unsuitable and different from those ordered, and then refused or failed to pay refunds to customers despite supplying faulty goods. He also found that Merringtons Optometrists failed to meet the time or offer a reasonable timeframe to supply the prescription glasses, and encouraged or required customers to try new prescription glasses without thoroughly checking their suitability. On 10 September 2008, Justice Hansen signed final orders awarding compensation totalling \$2,700 (\$300 to each of nine complainants). He also signed declarations that Merringtons Optometrists contravened provisions of Part 2 of the FTA and injunctions to restrain Merringtons Optometrists from engaging in this or similar conduct in the future. He ordered the company to publish full-page, colour public notices in <i>The Age</i> and <i>Herald Sun</i> newspapers, and to pay CAV's costs.
24.10.08	Trainstation Health Clubs Pty Ltd – Trainstation owned and operated a health club/gym in Brighton and used a standard form membership contract. These contracts were not negotiated individually with members. The Director of CAV started proceedings against the company in August 2007 alleging unfair terms in the company's contract, after Trainstation declined to amend its contract terms. On 24 October 2008, VCAT restrained the company from using those terms, or terms to similar effect, in subsequent consumer contracts. The tribunal ordered the company write to each of its members alerting them to the tribunal's finding.
09.06.09	Merringtons Pty Ltd – Merringtons sought leave in the Supreme Court of Victoria for Justice Hansen to vary the deadline to implement an internal compliance program, which was part of the final orders signed on 10 September 2008 (see entry above). Merringtons had already failed to implement the compliance program by at least nine months. Justice Hansen refused the full extension and granted only until 6 October 2009, and that Merringtons pay CAV's costs.

Appendix 3 Cont...

ENFORCEABLE UNDERTAKINGS AND COURT ACTION CONCLUDED 2008-09

Civil Action concluded 2008-09 Cont...

MOTOR CAR TRADERS

28.01.09	David Margolin trading as Melbourne Motor Bike Brokers – Mr Margolin was selling and offering to sell motor cars by consignment. CAV obtained injunctions under the MCTA in the Melbourne Magistrates' Court to restrain Mr Margolin from selling and offering to sell motor cars.
12.02.09	Towarra Investments Pty Ltd – CAV obtained injunctions under the MCTA in the Melbourne Magistrates' Court to stop Towarra from trading in motor cars (consignment selling). The court ordered Towarra to pay CAV's legal costs of \$1,250.
27.03.09	Melboro International Pty Ltd and Muhammad Majeed – Melboro and Mr Majeed were unlicensed operators trading motor cars via the internet. CAV obtained injunctions under the MCTA in the Melbourne Magistrates' Court to stop their activities. The court ordered Melboro and Mr Majeed to pay costs totalling \$1,500.
08.04.09	Loretta Pavlovic trading as Your Vehicle Broker – Ms Pavlovic maintained a website, www.yourvehiclebroker.com.au, where she offered to act as an agent for persons buying and selling cars. She offered to sell 26 cars over a 22-month period. The Melbourne Magistrates' Court issued injunctions on 8 April 2009 under the MCTA to restrain Ms Pavlovic from trading in motor cars and from trading under an unregistered name (BNA).
30.04.09	G&D Performance Tuning Pty Ltd – This was an application under the MCTA to enforce a compulsory notice served on G&D Performance Tuning to provide information and produce documents. The court ordered the company to comply with the requirements of the order and pay CAV's costs of \$1,500.
13.05.09	Lee Zukanovic and Sam Guthrie – Ballarat Magistrates' Court made final orders under the MCTA against Mr Zukanovic and Mr Guthrie to stop unlicensed motor car trading from a Ballarat car yard. The court also ordered total compensation for two injured consumers of \$1,403.20 and that the defendants jointly pay CAV's costs of \$2,040.

PRODUCT SAFETY

03.03.09	Midas Trading (Aust) Pty Ltd – Midas offered children's toys for sale to the public that were subject to permanent ban orders under the FTA, or toys that did not meet its prescribed safety standards. The Supreme Court of Victoria ordered that Midas pay to publish a public warning recalling dangerous products that it had offered for sale to the public. The notice was to appear in both the <i>Herald Sun</i> and <i>The Age</i> newspapers as a full page (A3 size) advertisement in full colour. The court also ordered Midas to pay full refunds to all customers responding to the notices.
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PROSTITUTION

24.02.09	Mr Xiao Xing Zhang – This was a VCAT disciplinary inquiry after an inspection identified alleged breaches of the PCA. Mr Zhang was the licensee of the brothel 'Pleasure Planet' in Thomastown. VCAT reprimanded Mr Zhang and imposed a penalty of \$3,500, payable to the Prostitution Control Fund. Mr Zhang has undertaken to implement and maintain a documented procedure at the licensed premises to ensure compliance with the PCA and PCR.
08.04.09	Wesley Rickard trading as Dandy Bells – Mr Rickard was licensed under the PCA to operate a brothel, which was advertised via a website. The website contained a section headed 'Why girls work'. This section contained statements likely to induce people to seek employment as prostitutes, in contravention of the Act. Mr Rickard denied liability but consented to final orders that restrained him from displaying the section on the website.
15.04.09	Sydney Wells trading as The Red Light Relaxation Centre – This was a VCAT disciplinary inquiry after an inspection identified alleged breaches of the PCA in relation to planning. Mr Wells was the licensee of a brothel in Clayton. VCAT reprimanded Mr Wells and imposed a \$500 penalty, payable to the Prostitution Control Fund. He gave an undertaking to comply with conditions of a planning permit and to ensure the brothel complies with conditions and requirements of the PCA and PCR.
08.05.09	Siaw Chong – This was a VCAT disciplinary inquiry after an inspection identified an underage person working at the brothel Pleasure Planet in Thomastown. Mr Chong was the approved manager on duty at the time of the inspection. VCAT reprimanded Mr Chong and suspended him for 12 months from managing a prostitution service-providing business.

TOURISM

17.07.08	Phillip Island Seaquarium Pty Ltd – This company was an internet and phone trader for event tickets and accommodation for the MotoGP at Phillip Island. The company accepted deposits for tickets and accommodation but did not make the bookings or provide the tickets. It went into liquidation. On 17 July 2008, CAV applied to the Korumburra Magistrates' Court for orders to stop the alleged conduct. The court granted an interim injunction against the company, restraining the conduct. The court ordered the company to publish on its website that it would not accept money for accommodation and/or entertainment events until those services were supplied.
27.03.09	Julie Kang Pty Ltd and Julie Kang – This travel agent was not providing airline tickets or refunds to consumers who had paid in full as required by the FTA. On 27 March 2009, the Melbourne Magistrates' Court granted an injunction to stop the conduct and ordered Ms Kang and the company to pay total costs of \$2,000.



Appendix 3 Cont...

ENFORCEABLE UNDERTAKINGS AND COURT ACTION CONCLUDED 2008-09

Prosecutions completed 2008-09

BUILDING

04.08.08	Andrew Jackson trading as Jackson's Building Services – This was a re-hearing of a matter heard on 01.07.08 – Mr Jackson entered into a major domestic building contract as an unregistered builder. He failed to provide the consumers with a compliant contract, demanded and received an excessive deposit, and used an incorrect contract to carry out building work in the Birregurra area (Great Ocean Road). The Melbourne Magistrates' Court sentenced Mr Jackson without conviction to a two-year good behaviour bond and ordered him to pay costs and disbursements totalling \$1588.20. (DBCA, BA, BNA)
05.08.08	Bernard Kennedy trading as Ridgely Didge Sheds – Mr Kennedy was an unregistered builder who received an excessive deposit and used an incorrect contract to carry out building work in the Ballarat area. The Melbourne Magistrates' Court sentenced Mr Kennedy to a 12-month good behaviour bond without conviction and ordered him to pay compensation totalling \$20,454.39 to five consumers. (DBCA, FTA)
02.09.08	Matthew Reid trading as Expo Joinery Australia – Mr Reid was an unregistered builder who received an excessive deposit and used a non-compliant contract to carry out building work in the Balwyn North area. The building work was both incomplete and defective. The Melbourne Magistrates' Court convicted Mr Reid and fined him a total \$2,000. He was ordered to pay compensation to the consumer of \$1,882. (DBCA, FTA, BA)
08.09.08	Craig Peters – Mr Peters was previously prosecuted in the Wangaratta Magistrates' Court for breaching the DBCA in 2007. He breached the undertaking imposed at that time, and the matter returned to the court. The court convicted Mr Peters and ordered him to pay compensation totalling \$4,500. He also had to pay CAV's costs of \$1,200. (DBCA, FTA, SA)
01.10.08	Damian Allsop – Mr Allsop was an unregistered builder who received an excessive deposit and used a non-compliant contract to carry out building work in the Hastings North area. The consumer paid \$13,000 for building work, which was both incomplete and defective. Mr Allsop was convicted in the Melbourne Magistrates' Court and fined a total \$4,000. He was ordered to refund \$2,500 of the deposit to the consumer and pay costs of \$1,303. (FTA, DBCA, BA)
15.10.08	Michelle Ciavaralla – Ms Ciavarella, an unregistered builder, used a non-compliant contract to carry out building work. She carried out building work that was incomplete and defective in the Viewbank area. The Melbourne Magistrates' Court sentenced Ms Ciavarella to a 12-month good behaviour bond without conviction, and ordered her to pay \$800 to the court fund and costs totalling \$1,265. (FTA, DBCA, BA)
02.12.08	Kurtis Thiele – Mr Thiele was an unregistered builder who entered into a major domestic building contract, did not provide the consumer with a compliant contract and demanded an excessive deposit. He failed to supply the building service within a reasonable time and the supply was materially different to the agreement. Mr Thiele demanded more than the contract price and made misleading representations to the effect that he would supply and complete all the building work. The Frankston Magistrates' Court convicted and fined Mr Thiele a total \$1,000. The court ordered him to pay compensation to the consumer totalling \$8,535 and CAV's costs of \$1,000. (FTA, DBCA)
12.12.08	Raymond Pasco – Mr Pasco was an unregistered builder who received an excessive deposit, used an incorrect contract to carry out building works in various areas including Oak Park, Sunshine West, Tarneit, Newport and Hoppers Crossing. The Melbourne Magistrates' Court convicted Mr Pasco and fined him \$30,000. The court also ordered him to pay CAV's costs of \$3,000. (DBCA, BA, FTA, BNA)
12.12.08	Local Home Improvement Services Pty Ltd – Further to the above, Mr Pasco's company Local Home Improvement Services Pty Ltd was convicted by the Melbourne Magistrates' Court of similar charges and fined \$2,000. (DBCA, BA, FTA, BNA)
20.01.09	Peter Weis trading as Home Wide Relocators – Mr Weis was an unregistered builder who carried on a business as a re-stumper and joiner of relocatable housing. He entered into contracts with consumers and failed to supply goods and services they had paid for. The Melbourne Magistrates' Court convicted Mr Weis and sentenced him to a 12-month good behaviour bond. The court ordered Mr Weis to pay a total \$17,500 in compensation to five consumers and CAV's cost of \$2,500. (FTA)
27.01.09	Jason Douglas Heard trading as Upright Pergolas & Carports – Mr Heard carried on a business as a builder under the name 'Upright Pergolas and Carports'. He entered into major domestic building contracts while an unregistered building practitioner. Mr Heard demanded and received excessive deposits and he used contracts that did not comply with the DBCA. The Melbourne Magistrates' Court sentenced Mr Heard without conviction to a 12-month good behaviour bond. He was ordered to pay compensation to two consumers totalling \$4,500. (DBCA)
27.02.09	Gerard Harrington – Mr Harrington was an unregistered builder who received an excessive deposit and used a non-compliant contract to carry out building work in the Montmorency area. The Dandenong Magistrates' Court sentenced Mr Harrington to a 12-month good behaviour bond without conviction and ordered him to pay the consumer compensation of \$20,000. (DBCA)

Appendix 3 Cont...

ENFORCEABLE UNDERTAKINGS AND COURT ACTION CONCLUDED 2008-09

Prosecutions completed 2008-09 Cont...

BUILDING CONT...

02.03.09	George Theos - Mr Theos was sole director of a company that carried out major domestic building work, without being a registered building practitioner. Mr Theos used non-compliant contracts to carry out building work that was both incomplete and defective in the Doncaster area. The Melbourne Magistrates' Court sentenced Mr Theos to a nine-month good behaviour bond without conviction. The court ordered him to pay the consumer compensation of \$13,450, and CAV's costs of \$750. (DBCA)
01.06.09	Oguz Togay - Mr Togay was an unregistered builder who failed to supply goods and services that consumers had paid for, and used non-compliant contracts in the Shepparton area. The Shepparton Magistrates' Court fined Mr Togay \$1,000 without conviction. (DBCA)
04.06.09	Karin Wemmering - Ms Wemmering was an unregistered builder who received an excessive deposit and used an incorrect contract to carry out building work in the Brunswick area. The Melbourne Magistrates' Court released Ms Wemmering on a six-month good behaviour bond without conviction and ordered her to pay \$5,000 compensation to one consumer. (FTA)

ESTATE AGENTS

12.08.08	Property Development & Investment Corporation Pty Ltd trading as Fletchers Northcote - The company advertised an estimated selling price for five properties that was less than the lower limit of the price range stated in the written appointments. The Melbourne Magistrates' Court convicted the company, fined it a total \$7,500 and ordered it to pay costs and disbursements totalling \$640.90. (EAA)
03.10.08	T Som Properties Pty Ltd - The company was charged with understating prices in advertisements for 13 properties. The Melbourne Magistrates' Court fined the company a total \$20,000 without conviction, and ordered it to pay costs and disbursements totalling \$1,240.90. (EAA)

FUNERAL INDUSTRY

13.02.09	Klaus Kreilaus - Mr Kreilaus took deposits for memorials and headstones for graves but failed to supply the goods. The Melbourne Magistrates' Court convicted and fined Mr Kreilaus a total \$10,000 and ordered him to pay \$600 costs. (FTA)
13.02.09	K&B Kreilaus Pty Ltd - Further to the above, the Melbourne Magistrates' Court fined K&B Kreilaus Pty Ltd \$15,000 and ordered the company to pay \$600 costs. (FTA)

MOTOR CAR TRADING

30.07.08	Vahid Osmanovic - The Melbourne Magistrates' Court sentenced Mr Osmanovic to a 12-month good behaviour bond without conviction for unlicensed trading of 14 cars in 12 months. The court ordered him to pay costs of \$1,200. (MCTA)
30.07.08	Zildzija Osmanovic - The Melbourne Magistrates' Court convicted and fined Mr Osmanovic \$3,800 for unlicensed trading of 19 cars in six months. The court ordered him to pay costs of \$1,200. (MCTA)
30.07.08	Aida Mulahusic - The Melbourne Magistrates' Court sentenced Aida Mulahusic without conviction to a 12-month good behaviour bond for unlicensed trading of five cars in 12 months. The court ordered her to pay costs of \$1,400. (MCTA)
21-22.08.08	Michael Psaila - The Melbourne Magistrates' Court fined Mr Psaila \$1,200 without conviction for unlicensed trading of 23 cars in 12 months in the Sunshine area. The court ordered him to pay costs totalling \$3,000. (MCTA)
21-22.08.08	Rushdon Pty Ltd - The Melbourne Magistrates' Court fined Rushdon \$1,200 without conviction for unlicensed motor car trading of 23 cars in 12 months in the Sunshine area. The company was ordered to pay costs totalling \$2,000. (MCTA)
02.09.08	Emrah Sen - The Melbourne Magistrates' Court convicted Mr Sen, a licensed motor car trader, for failing to comply with his licence conditions. He advertised cars for sale in the Sunshine area without disclosing that the seller was a Licensed Motor Car Trader. He was fined \$3,900 and ordered to pay costs of \$1,100. (MCTA)
02.09.08	Senler Pty Ltd - Further to the above matter, the Melbourne Magistrates' Court convicted Senler of similar charges and imposed the same fine (\$3,900) and costs (\$1,100) as for Mr Sen. (MCTA)
27.11.08	Rafad Merhi - Sunshine Magistrates' Court convicted Mr Merhi for unlicensed motor car trading of 45 cars within 12 months. The court fined him \$20,000 and ordered him to pay CAV's costs of \$1,500. (MCTA)
23.02.09	Anthony Edward Taranto - Mr Taranto, of Moorabbin, was prosecuted for odometer tampering and falsifying dealer books. The Melbourne Magistrates' Court convicted and sentenced him to four months' imprisonment, wholly suspended for 12 months. Mr Taranto was also sentenced to a 12-month community-based order with conditions, and ordered to perform 150 hours of unpaid community work. (CA, MCTA, BNA)



Appendix 3 Cont...

ENFORCEABLE UNDERTAKINGS AND COURT ACTION CONCLUDED 2008-09

Prosecutions completed 2008-09 Cont...

MOTOR CAR TRADING CONT...

29.04.09 Boris Ognev – Mr Ognev was an unlicensed trader in motor cars (15 cars) and falsely represented the accuracy of an odometer in the course of selling a car. The Melbourne Magistrates' Court convicted and fined Mr Ognev a total \$9,900 and ordered him to pay CAV costs of \$3,000. (MCTA)

PRODUCT SAFETY

01.10.08 T&C Wholesale Pty Ltd – T&C Wholesale and company director Chen Yu Hua import and wholesale children's toys and other items. CAV seized 207 toys that breached prescribed safety standards, including battery-operated toy dogs, musical steering wheels and toy telephones. T&C Wholesale was convicted and sentenced in the Melbourne Magistrates' Court to a 12-month good behaviour bond. The company was ordered to forfeit and destroy the goods seized by CAV. (FTA)

01.10.08 Chen Yu Hua, director of T&C Wholesale Pty Ltd – Further to the matter above, T&C Wholesale director, Ms Hua, was also sentenced to a 12-month good behaviour bond without conviction. The court ordered her to engage an independent organisation to provide practical and verifiable compliance training to all relevant staff, and publish a notice pursuant to s153 of the FTA within 30 days in *The Age* or *Herald Sun* and a weekly Chinese newspaper. She was also ordered to pay CAV's cost of \$1,000, and forfeit and destroy the goods seized by CAV. (FTA)

01.10.08 Zong Jian Tang, director of Tangs Australia Trading Pty Ltd – Mr Tang and Tangs Australia import and wholesale children's toys and other items. CAV seized 2,869 items that breached ban orders and prescribed safety standards. These included drawing and writing boards, yo-yo water balls, small plastic guitars and magnetic alphabets. The Melbourne Magistrates' Court sentenced Mr Tang to a 12-month good behaviour bond without conviction. The court ordered him to engage an independent organisation to provide practical and verifiable compliance training to all relevant staff and management, and publish a notice pursuant to s153 of FTA within 30 days in *The Age* or *Herald Sun* and a weekly Chinese newspaper. He was also ordered to pay CAV's cost of \$1,500, and forfeit and destroy the goods seized by CAV. (FTA)

15.05.09 Zhigang Hu and Aiqing Zhou, directors of Australia Xingping Pty Ltd – The trader offered for sale children's toys that did not comply with prescribed safety standards and other goods that breached permanent ban orders. Mr Hu and Ms Zhou pleaded guilty to a total 20 charges in the Melbourne Magistrates' Court. They were released without conviction upon undertaking to be of good behaviour for 12 months and engage an independent organisation to provide practical and verifiable compliance training to all relevant staff within three months. They also undertook to publish a notice pursuant to s153 of the FTA within 30 days in *The Age* or *Herald Sun* and a weekly Chinese newspaper, and pay CAV's costs of \$1,500. (FTA)

15.05.09 Australia Xingping Pty Ltd – Further to the above matter, Australia Xingping was prosecuted for breaching a ban order made under the FTA, by offering for sale children's toys that did not comply with prescribed safety standards and other goods that breached permanent ban orders. The Melbourne Magistrates' Court found the charges proven and ordered the company to forfeit and destroy the goods seized by CAV. (FTA)

16.06.09 HQ Pacific Pty Ltd and Jia Hao Huang – This was a prosecution of the trader for breaching a ban order and prohibited safety standards. HQ Pacific and Mr Huang were both sentenced to a 12-month good behaviour bond without conviction. The Melbourne Magistrates' Court ordered them to engage an independent organisation to provide practical and verifiable compliance training to all relevant staff within three months. The court also ordered that they publish a notice within 30 days in *The Age* or *Herald Sun* and a weekly Chinese newspaper. (FTA)

PROSTITUTION

27.02.09 Jinna Shao – This was a prosecution in the Melbourne Magistrates' Court of Ms Shao, for running an unlicensed brothel in breach of the PCA. The court fined Ms Shao \$2,500, payable to the Prostitution Control Fund, without conviction, and ordered costs of \$828.90. (PCA)

RESIDENTIAL TENANCY

01.06.09 Frank Cassar – Mr Cassar, a landlord with properties in the Fitzroy area, was charged and convicted in the Melbourne Magistrates' Court of offences under the RTA. At a re-hearing of the matter, the court convicted Mr Cassar and fined him \$4,500. He was ordered to pay costs totalling \$3,764.70 and compensation of \$5,212.49. (RTA)

Appendix 3 Cont...

ENFORCEABLE UNDERTAKINGS AND COURT ACTION CONCLUDED 2008-09

Appeals completed 2008-09

CIVIL APPEAL - TOURISM

03.12.08	Jetstar Airways Pty Ltd - On 26 March 2007, a consumer commenced proceedings at VCAT in relation to the charges associated with changing the name on a 'Jetsaver' fare. On 27 July 2007, VCAT held that the Jetstar requirement under the 'Fare Rules' to pay the difference in the price of the ticket at the date of purchase and the ticket price at the date of change, was an unfair term of the contract between the consumer and Jetstar. VCAT ordered Jetstar to refund \$600.93 to the consumer. Jetstar appealed the decision to the Supreme Court of Victoria and CAV was requested to act on behalf of the consumer. The appeal was allowed, setting aside the decision of VCAT. (FTA)
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CRIMINAL APPEAL - BUILDING

13 & 17.03.09	Glenvill Pty Ltd - The Supreme Court of Victoria heard CAV's appeal against the Melbourne Magistrates' Court's dismissal of a charge under the DBCA during 2008. The court allowed CAV's appeal, overturned the Magistrate's decision and quashed the order for costs against CAV. The matter was referred back to the Magistrates' Court. Glenvill was ordered to pay CAV's costs of the appeal. (DBCA)
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Appendix 4

MEDIA RELEASES ISSUED 2008-09

01.07.2008	Victorian babies safer with new pram and stroller regulations
01.07.2008	LPG tank valves under pressure for replacement
02.07.2008	Do not lose sight of your refund rights
04.07.2008	Last bid to stand at fall of the hammer
08.07.2008	Rogue landlord fined \$16,000
14.07.2008	Renters targeted for online scams
15.07.2008	Consumer Affairs helps vulnerable students
17.07.2008	20,000 dangerous goods destroyed
18.07.2008	Final call for consumer champion nominations
23.07.2008	Consumer Affairs reaches out to isolated Victorians
25.07.2008	Warning for unregistered builders as two fined \$85,000
28.07.2008	Government conducting inquiry into short-term small amount lending
01.08.2008	Dangerous toy guns seized in CAV crackdown
07.08.2008	Dangerous spam airline emails soon to hit Australia
15.08.2008	National consumer protection laws follow Victoria's lead
20.08.2008	Victorians warned to say hasta la vista to Spanish lottery scam
22.08.2008	Unlicensed car traders caught and fined
22.08.2008	New rental guides reach more Victorians
22.08.2008	Consumer Affairs answers more than half a million calls
22.08.2008	Victorians lose more than a quarter of a billion dollars to personal fraud
26.08.2008	Dangerous items removed from show bags
27.08.2008	Travel agent closes leaving consumers out of pocket
27.08.2008	Secret shopper scam hits Victoria
01.09.2008	Victorian business urged to comply with new regulations to keep babies safe
03.09.2008	CAV takes action on unlicensed real estate agencies
03.09.2008	Affordable housing gets a boost from the Victorian Property Fund
04.09.2008	New initiatives for student housing
04.09.2008	Aboriginal Consumer Affairs improved by National Action Plan
05.09.2008	Holidaymakers warned of misleading tourism operator
05.09.2008	Father's Day shoppers warned to shop smart



Appendix 4 Cont...

MEDIA RELEASES ISSUED 2008-09

16.09.2008	New criminal offences to target identity crime
19.09.2008	Warning – treadmills can be a finger trap for children
23.09.2008	Millions recovered for Victorian consumers
25.09.2008	Court orders optometry chain to pay damages
26.09.2008	Victorians warned don't fall for phone scams
26.09.2008	Conveyancers take note—licensing regime comes into effect 1 October 2008
03.10.2008	Estate agent fined \$20,000 for underquoting
08.10.2008	Regional consumers beware—say no to itinerant traders
09.10.2008	Say no to dodgy itinerant traders
09.10.2008	CAV puts car park company on notice
17.10.2008	Brumby Government initiative helps to keep babies safe
21.10.2008	Consumer Affairs secures better odds for racegoers
30.10.2008	Consumers beware—say no to itinerant traders
31.10.2008	Review to revitalise Victoria's consumer protection laws
05.11.2008	CAV victory against unlicensed real estate agency
13.11.2008	Victoria ahead on improving domestic building insurance
14.11.2008	Unsafe toys seized before Christmas
14.11.2008	CAV secures \$2.9 million win for Landmark Home customers
25.11.2008	Sudanese community informed and confident consumers
01.12.2008	South Barwon and Surf Coast warned to say no to itinerant traders
01.12.2008	Murrindindi Shire warned to say no to itinerant traders
02.12.2008	New Bill to protect Victorian borrowers from unfair contract terms
03.12.2008	Unlicensed car dealer fined \$20,000
08.12.2008	Toy safety a priority at Christmas
10.12.2008	Court injunction protects travellers
10.12.2008	Consumer Stuff challenge competition winners honoured
15.12.2008	CAV withdraws public warning after Care Park amends payment procedures
16.12.2008	Be credit wise this Christmas
31.12.2008	CAV issues warning against dance party company
05.01.2009	Parents warned of the blind cord dangers
05.01.2009	Kick start the New Year with a fair go
07.01.2009	Seized toys leads to Supreme Court appearance
12.01.2009	Wangaratta residents warned of itinerant traders
11.02.2009	Victorians warned about bogus bushfire fundraisers
12.02.2009	Ballarat residents warned of dodgy asphalters
13.02.2009	Money can't buy love
17.02.2009	Victorian consumer protection laws the model for national regime
18.02.2009	Geelong and Surf Coast Shire residents warned of dodgy asphalters
26.02.2009	Finance company pays \$100,000 for breaching Consumer Credit Code
02.03.2009	National Consumer Fraud Week
02.03.2009	Car dealer convicted on 27 charges
11.03.2009	Victorians warned of dodgy asphalters
17.03.2009	CAV puts brakes on Ballarat car dealer
24.03.2009	Consumers empowered to reclaim their money
02.04.2009	\$5.3 million for Royal Exhibition Building green restoration project
28.04.2009	\$2.9 million to help support Victorians in global financial crisis

Appendix 4 Cont...

MEDIA RELEASES ISSUED 2008-09

01.05.2009	\$1 million to boost financial counselling for bushfire victims
07.05.2009	Asphalter faces charges
18.05.2009	Bitumen bandits target Gippsland
02.06.2009	Online car dealer faces arrest
19.06.2009	Dangerous toy guns to be destroyed
25.06.2009	State Government freezes out seafood swindlers

Appendix 5

MOTOR CAR TRADERS GUARANTEE FUND

The Motor Car Traders Guarantee Fund indemnifies consumers against certain categories of loss incurred in dealings with motor car traders, up to a maximum of \$40,000. Most of the money in the fund comes from licence fees paid by motor car traders. The Motor Car Traders Claims Committee determines applications for compensation, reducing the need for legal action and offering an easy and simple alternative process. This is especially important for vulnerable and disadvantaged consumers. In 2008-09, there were 122 new claims made on the fund, 70 claims admitted for a total payout of \$784,181, four claims refused and 55 claims withdrawn. Of the 55 withdrawn claims, 22 were resolved by the trader after being contacted by the Committee, in the claimant's favour. The Committee recovered \$91,028 from motor car traders that had claims allowed against them. Claims admitted in 2008-09:

TRADER	NO. OF ADMITTED CLAIMS	TOTAL VALUE OF ADMITTED CLAIMS
Australian Motor Auctions Pty Ltd	3	\$11,660.10
Benword Pty Ltd	2	\$1,215.00
Boronia Quality Used Cars Pty Ltd	4	\$6,513.60
Credit Starters Pty Ltd	1	\$1,109.00
Daniel Luke Pty Ltd	2	\$41,512.28
Dean Burke Motors Pty Ltd	2	\$1,025.80
Elza's Motors Pty Ltd	2	\$1,226.00
Italian Motor Company Pty Ltd	1	\$636.20
Maintenance Overload Pty Ltd	1	\$40,000.00
Melbourne Truck City (Aust) Pty Ltd	1	\$3,778.50
Moto Italiano Pty Ltd	8	\$12,905.00
Peterson Motor Group Pty Ltd	1	\$1,946.56
Sale Auto Centre Pty Ltd	1	\$755.00
David Frederick Snelling	2	\$23,743.55
South Eastern Motors Pty Ltd	1	\$3,400.00
Spruceby Pty Ltd	5	\$19,902.02
Anthony Edward Taranto	8	\$24,958.00
Tasman Checkpoint (Brunswick) Pty Ltd	1	\$21,000.00
Theogam Pty Ltd	5	\$16,162.16
The Packard Motor Company Pty Ltd	2	\$35,985.30
Phoenix Motor Brokers Pty Ltd	17	\$514,747.40
TOTAL	70	\$784,181.47



Appendix 6

GRANTS APPROVED 2008-09

CONSUMER CREDIT FUND

The *Credit (Administration) Act 1984* allows the Minister for Consumer Affairs to make grants from the Consumer Credit Fund. On the recommendation of the Consumer Credit Fund Advisory Committee, the Minister may approve grants for the purposes of providing education, advice, help and research regarding credit. In 2008-09, grants approved by the Minister were distributed as follows:

GRANT RECIPIENT	DESCRIPTION OF FUNDED PROGRAM	VALUE
Bendigo Family and Financial Services	Credit Breakfree-Saving Money Made Simple	\$30,000.00
Brotherhood of St Laurence	Money and credit needs across life transitions	\$89,258.00
Brotherhood of St Laurence	Financial Health Worker pilot	\$115,160.00
Consumer Affairs Victoria	Retrenched Workers Program	\$1,614,000.00
Consumer Affairs Victoria	Financial Counselling Program-non-substantive client research	\$54,545.45
Consumer Affairs Victoria	Smart Shopping and Money Matters Part II	\$23,290.00
Eastwork Employment Inc	Eastwork Credit Education Project	\$12,825.00
Financial and Consumer Rights Council Inc	Promoting financial counselling services to regional youth	\$23,275.00
Financial and Consumer Rights Council Inc	Practical consumer information on legislation, disputes and financial operations	\$51,673.00
Footscray Community Legal Centre	New Settlers Project - face-to-face dealing with consumer credit issues	\$51,377.49
Footscray Community Legal Centre	The African Service - face-to-face dealing with consumer issues	\$24,510.53
Good Shepherd Youth and Family Service	An interactive financial education tool for women's groups	\$39,375.00
Good Shepherd Youth and Family Service	Microenterprise: The role of consumer credit research project	\$62,227.00
Good Shepherd Youth and Family Service	Bankruptcy for people with mental illness-what happens when credit code remedies fail?	\$73,381.00
Good Shepherd Youth and Family Service	Access to financial education for women from CLD backgrounds	\$41,364.00
Hallam Senior College	Financial Health Expo	\$2,000.00
Mental Health Legal Centre	Financial Literacy for Inside Access-prisoners with mental illness	\$53,311.45
Mental Health Legal Centre	Credit and Debt Education Project Part II	\$32,574.55
Multicultural Centre for Women's Health	Creating Better Access-improving credit education for immigrant and refugee women project	\$86,069.00
New Hope Migrant and Refugee Centre Inc	Household Budgeting and Managing Personal Credit	\$8,772.73
St Kilda Legal Service Co-operative Ltd	Young People and Preventing Credit-related Debt	\$19,470.00
The Redundancy Payment Central Fund - Incolink	Victorian Regional and Rural Apprentice Financial Awareness Program	\$65,300.00
The Smith Family	Financial literacy course to disadvantaged Victorian communities-increase your financial know-how	\$113,235.00
Victoria University	Consumer Rights and Financial Literacy for adult migrants in Melbourne's west	\$8,091.00
Women's Information and Referral Service Inc	Credit-Being in the red is the new black	\$65,578.45
TOTAL		\$2,760,663.65

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

Payment of the above grants will extend over more than one year. Expenditure shown in Appendix 9 reflects part payment on these grants, plus payments made in the 2008-09 financial year on grants approved in previous years.

Appendix 6 Cont...

GRANTS APPROVED 2008-09

VICTORIAN PROPERTY FUND

The *Estate Agents Act 1980* allows the Minister for Consumer Affairs to make grants from the Victorian Property Fund for the purposes specified in section 76(3) of the Act. The Minister makes his decision on grants after consultation with the Estate Agents Council and Consumer Affairs Victoria and with any industry associations, government departments and other bodies he thinks appropriate. In 2008-09, the Minister approved the following grants:

GRANT RECIPIENT	DESCRIPTION OF FUNDED PROGRAM	VALUE APPROVED*
Department of Justice	Financial counselling for working Victorians in mortgage or rental stress	\$500,000
Corrections Victoria	Housing for disadvantaged offenders at risk of homelessness upon release	\$6,000,000
Department of Human Services	Capital funding for purchase of rooming house at 2 McIntyre Drive, Altona	\$2,280,000
Heritage Victoria	Repair and conservation of heritage places 2009-12	\$2,000,000
Australian Livestock and Property Agents Association	Professional Development Program 2008-09	\$146,890
Museum Victoria	Sustainable Conservation Project for the western forecourt of the Royal Exhibition Building	\$5,353,457
Department of Human Services	Home Renovation Services program 2008-11	\$2,779,036
Real Estate Institute of Victoria	Professional Development Program 2008-09	\$175,278
Yarra Community Housing	Low-income household greenhouse gas abatement	\$23,177
TOTAL		\$19,257,838

*Value is exclusive of GST, representing the net cost to the VPF.

Payment of the above grants will extend over more than one year. Expenditure shown in Appendix 9 reflects part payment on these grants plus payments made in 2008-09 on grants approved in previous years.



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 details of these funds are as follows:

FUND	ACT OF PARLIAMENT	CAPITAL OR SOURCE OF INCOME	EXPENDITURE PURPOSE
CONSUMER CREDIT FUND	<i>Credit (Administration) Act 1984 ss. 86AA-86AC</i>	<ul style="list-style-type: none"> - Credit provider contributions - Interest income 	<ul style="list-style-type: none"> - Grants relating to consumer credit education and research as permitted by s. 86AB of the Act - Secretarial support to the Consumer Credit Fund Advisory Committee
DOMESTIC BUILDERS FUND	<i>Domestic Building Contracts Act 1995 s. 124</i>	<ul style="list-style-type: none"> - Part share of the Domestic Builder registration fees and the Domestic Building Dispute Levy collected by the Building Commission - Interest income - Fees collected by VCAT relating to the Domestic Building List - Fines 	<ul style="list-style-type: none"> - Administration of the Act - Costs relating to the Domestic Building List of VCAT
MOTOR CAR TRADERS GUARANTEE FUND	<i>Motor Car Traders Act 1986 ss. 74-75</i>	<ul style="list-style-type: none"> - Interest income - Licensing fees - Fines - Recovery of claims paid 	<ul style="list-style-type: none"> - Administration of the Act - Guarantee claims
PROSTITUTION CONTROL FUND	<i>Prostitution Control Act 1994 s. 66</i>	<ul style="list-style-type: none"> - Interest income - Licensing fees - Fines 	<ul style="list-style-type: none"> - Administration of the Act
RESIDENTIAL TENANCIES FUND	<i>Residential Tenancies Act 1997 ss. 491-498A</i>	<ul style="list-style-type: none"> - Transfers from Residential Bonds Investment Income Account - Interest income - Fees collected by VCAT relating to the Residential Tenancies List 	<ul style="list-style-type: none"> - Administration of the Act - Costs relating to the Residential Tenancies List of VCAT
VICTORIAN PROPERTY FUND	<i>Estate Agents Act 1980 ss. 71-91</i>	<ul style="list-style-type: none"> - Interest income received on real estate agent and conveyancer trust accounts - Interest income - Investment income - Licensing fees - Fines - Fees collected by VCAT relating to Owners Corporation disputes 	<ul style="list-style-type: none"> - Administration of the Act and other real estate related legislation as permitted by s. 75 of the Act. - Grants relating to real estate as permitted by s. 76(3) of the Act - Operation of the Estate Agents Council - Guarantee claims - Costs relating to Owners Corporation disputes and hearings
RESIDENTIAL BONDS ACCOUNT	<i>Residential Tenancies Act 1997 s. 435</i>	<ul style="list-style-type: none"> - Bonds lodged with the Residential Tenancies Bond Authority 	<ul style="list-style-type: none"> - Repayment of bonds
RESIDENTIAL BONDS INVESTMENT INCOME ACCOUNT	<i>Residential Tenancies Act 1997 s. 436</i>	<ul style="list-style-type: none"> - Interest income received from the investment of the Residential Bonds Account and Residential Bonds Investment Income Account 	<ul style="list-style-type: none"> - Administration of the Residential Tenancies Bond Authority - Any amount declared as an additional amount to be added to the bond upon repayment - Transfers to Residential Tenancies Fund

Appendix 8

REGISTERS ADMINISTERED BY CONSUMER AFFAIRS VICTORIA 2008-09

	2006-07	2007-08	2008-09
BUSINESS NAMES REGISTER			
New applications lodged	64,044	63,030	61,452
Total on register	374,613	376,672	380,598
REAL ESTATE AGENT REGISTER			
New applications lodged	656	669	719
Total on register	7,767	8,067	8,429
CREDIT PROVIDER REGISTER			
New applications lodged	163	100	118
Total on register	950	915	802
MOTOR CAR TRADERS REGISTER			
New applications lodged	140	145	168
Total on register	2,219	2,223	2,211
INCORPORATED ASSOCIATIONS REGISTER			
New applications lodged	1,439	1,401	1,464
Total on register	33,434	34,385	35,290
COOPERATIVES REGISTER			
New applications lodged	13	13	13
Total on register	742	750	708
TRAVEL AGENTS REGISTER			
New applications lodged	73	67	61
Total on register	928	934	925
FUNDRAISERS REGISTER			
New applications lodged	25	30	19
Total on register	1	0	1
New registrants	321	330	348
Renewals	698	743	808
Total on register	1,019	1,073	1,156
SECONDHAND DEALERS AND PAWNBROKERS REGISTER			
New applications lodged	496	429	401
Total on register	6,093	5,875	5,626
INTRODUCTION AGENTS REGISTER			
New applications lodged	10	15	5
Total on register	50	57	57
PATRIOTIC FUNDS REGISTER			
New applications lodged	4	3	2
Total on register	644	622	621
LIMITED PARTNERSHIPS REGISTER			
New applications lodged	22	26	15
Total on register	116	141	155
CONVEYANCERS REGISTER			
New applications lodged	N/A	N/A	655
Total on register	N/A	N/A	599
OWNERS CORPORATION MANAGERS REGISTER			
New applications lodged	N/A	355	102
Total on register	N/A	352	464



Appendix 8 Cont...

REGISTERS ADMINISTERED BY CONSUMER AFFAIRS VICTORIA 2008-09

	2006-07	2007-08	2008-09
RETIREMENT VILLAGES REGISTER			
New applications lodged	30	2	15
Total on register	352	37	389
FUNERAL SERVICE PROVIDERS REGISTER			
New applications lodged	N/A	349	21
Total on register	N/A	349	370
PROSTITUTION SERVICE PROVIDERS (LICENSEES) REGISTER			
New applications lodged	15	13	16
Total on register	149	146	144
PROSTITUTION SERVICE PROVIDERS (BROTHEL MANAGER APPROVALS) REGISTER			
New applications lodged	162	192	172
Total on register	686	706	682

Appendix 9

CONSUMER AFFAIRS VICTORIA (CAV) FINANCIAL INFORMATION 2008-09

	CONSUMER CREDIT FUND	DOMESTIC BUILDERS FUND	MOTOR CAR TRADERS GUARANTEE FUND	PROSTITUTION CONTROL FUND
CONSUMER AFFAIRS VICTORIA REVENUE				
Revenue recognition from Estate Agent and Conveyancer trust accounts				
Revenue recognition from Residential Tenancy Bonds				
Appropriations				
Interest income	196,581	400,745	53,728	16,875
Fees income			2,567,652	802,167
Transferred from Building Commission Victoria (Note 1)		7,402,785		
Recoveries related to claims previously paid			289,460	
Penalty income	43,316		105,773	52,584
Other revenue		8	6,090	5,000
Unrealised loss on investments				
Transfers				500,000
TOTAL CAV REVENUE	239,897	7,803,538	3,022,703	1,376,626
CONSUMER AFFAIRS VICTORIA EXPENDITURE				
Audit services				
Claims on consumer guarantee funds			791,538	
Consumer Utilities Advocacy Centre				
Contractors, consultants and professional services	2,323	232,407	132,578	189,443
Departmental governance and support costs				
Employee-related costs		3,655,429	2,300,770	1,053,149
Grants paid	536,795			
Information technology		82,754	37,006	14,960
Occupancy costs		367,893	218,052	95,118
Other operating costs		715,968	243,637	102,629
Outsourced contracted costs			2,375	
TOTAL CAV EXPENDITURE	539,118	5,054,451	3,725,956	1,455,299
VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL (VCAT) (NOTE 3)				
Fees revenue offset		(272,168)		
Employee-related costs		1,715,113		
Other operating costs		739,285		
NET VCAT EXPENDITURE		2,182,230		
TOTAL CAV + NET VCAT EXPENDITURE	539,118	7,236,681	3,725,956	1,455,299
Trust Funds, opening equity 1 July 2008	4,027,435	8,110,448	1,002,210	248,563
Current year operating surplus /(deficit), CAV + VCAT	(299,221)	566,857	(703,253)	(78,673)
Adjustments				
TRUST FUNDS, CLOSING EQUITY 30 JUNE 2009	3,728,214	8,677,305	298,957	169,890



RESIDENTIAL BONDS INVESTMENT INCOME ACCOUNT	RESIDENTIAL TENANCIES FUND	VICTORIAN PROPERTY FUND	TRUST FUNDS TOTAL 2008-09	CAV APPROPRIATIONS & OTHER 2008-09	CAV TOTAL OUTPUT 2008-09
		54,020,363	54,020,363		54,020,363
24,755,376			24,755,376		24,755,376
				22,422,900	22,422,900
	2,277,696	14,565,326	17,510,951		17,510,951
		2,970,140	6,339,959	15,035,529	21,375,488
			7,402,785		7,402,785
			289,460		289,460
			201,673	9,765	211,438
		10,779	21,877	4,375,338	4,397,215
		(148,671)	(148,671)		(148,671)
(18,400,000)	18,400,000		500,000	(500,000)	–
6,355,376	20,677,696	71,417,937	110,893,773	41,343,532	152,237,305
9,920			9,920		9,920
		640,377	1,431,915		1,431,915
				552,000	552,000
561,646	661,600	1,720,406	3,500,403	2,127,415	5,627,818
				5,349,782	5,349,782
875,423	5,665,486	5,379,144	18,929,401	14,053,903	32,983,304
	648,938	60,265,911	61,451,644	952,742	62,404,386
21,697	132,318	160,711	449,446	828,265	1,277,711
95,450	713,946	634,533	2,124,992	2,351,203	4,476,195
603,803	818,889	1,400,043	3,884,969	3,266,924	7,151,893
3,676,992	588,809	568	4,268,744	1,573,374	5,842,118
5,844,931	9,229,986	70,201,693	96,051,434	31,055,608	127,107,042
	(1,673,353)	(106,338)	(2,051,859)		
	7,868,574	831,871	10,415,558		
	2,284,985	357,809	3,382,079		
	8,480,206	1,083,342	11,745,778		
5,844,931	17,710,192	71,285,035	107,797,212		
2,018,733	42,951,538	358,654,365	417,013,292		
510,445	2,967,504	132,902	3,096,561		
	(25,979)		(25,979)		
2,529,178	45,893,063	358,787,267	420,083,874		

Note 1 - Domestic Building Dispute Levy and Registration Fees

Note 2 - CAV Total Output for 2008-09 was \$127,107,042 (CAV 2007-08 Output was \$127,866,525) which includes \$50 million grant to Office of Housing for public housing but does not include \$9,300,866 for Responsible Alcohol Victoria

Note 3 - VCAT activities are partly supported by CAV trust funds.

VISIT US

Victorian Consumer & Business Centre

113 Exhibition Street, Melbourne

OFFICE HOURS: Monday–Friday 8.30am–5pm (except public holidays)

Regional Offices

OFFICE HOURS: Monday–Friday 9am–5pm (except public holidays)

Check our website for mobile service timetables

SOUTHERN METROPOLITAN

12 Wheeler Street, Berwick

EASTERN METROPOLITAN

703 Station Street, Box Hill

NORTH WESTERN METROPOLITAN

25–27 Dimboola Road, Broadmeadows (from late 2009)

BARWON SOUTH WEST (GEELONG AND WARRNAMBOOL)

MAIN OFFICE: 65 Gheringhap Street, Geelong

Mobile service to: Camperdown, Colac, Corio, Drysdale, Queenscliff, Winchelsea

SUB OFFICE: 192 Liebig Street, Warrnambool

Mobile service to: Casterton, Hamilton, Heywood, Mortlake, Port Fairy, Portland

GRAMPIANS (BALLARAT)

OFFICE: 206–208 Mair Street, Ballarat

Mobile service to: Ararat, Bacchus Marsh, Beaufort, Daylesford, Edenhope, Horsham,

Meredith, Nhill, St Arnaud, Warracknabeal

LODDON MALLEE (BENDIGO AND MILDURA)

MAIN OFFICE: 60 Mitchell Street, Bendigo

Mobile service to: Castlemaine, Echuca, Kerang, Kyneton, Maryborough, Swan Hill,

Wedderburn, Wycheproof

SUB OFFICE: 122 Ninth Street, Mildura

Mobile service to: Ouyen, Robinvale

HUME (WANGARATTA)

OFFICE: 62–68 Ovens Street, Wangaratta

Mobile service to: Alexandra, Benalla, Cobram, Corryong, Euroa, Mansfield, Myrtleford,

Rutherglen, Seymour, Shepparton, Wodonga

GIPPSLAND (MORWELL)

OFFICE: 25 Ann Street, Morwell

Mobile service to: Bairnsdale, Churchill (Monash University), Cowes, Korumburra, Sale,

Warragul, Wonthaggi, Yarram



CONTACT US

Consumer Helpline

1300 558 181

(for the cost of a local call from anywhere in Victoria)

Call the Consumer Helpline for all enquiries, or call these numbers to go directly to the service you need. For enquiries about:

	TELEPHONE
GENERAL ENQUIRIES INCLUDING FAIR TRADING	1300 558 181
Motor cars Residential accommodation and renting Owners corporations (formerly bodies corporate) Retirement villages	
CREDIT AND DEBT	1300 558 181
DOMESTIC BUILDING	1300 557 559
Building Advice and Conciliation Victoria	
BUSINESS NAMES, INCORPORATED ASSOCIATIONS, COOPERATIVES, PARTNERSHIPS, REGISTRATION OF RETIREMENT VILLAGES	1300 361 673
BOND LODGEMENTS, TRANSFERS AND CLAIMS	1300 137 164
Residential Tenancies Bond Authority	
REAL ESTATE MATTERS	1300 737 030
Estate Agents Resolution Service	
LICENSING OCCUPATIONS	1300 135 452
FEEDBACK ABOUT CONSUMER AFFAIRS VICTORIA STAFF AND PROCESSES	1800 008 194
TOY AND NURSERY SAFETY	1300 364 894
TRADE MEASUREMENT	1300 365 500
MULTICULTURAL/INDIGENOUS - ALL ENQUIRIES	
Mandarin, Cantonese	1300 726 656
Vietnamese	1300 855 110
Arabic	1300 655 503
Indigenous	1300 661 511

EMAIL consumer@justice.vic.gov.au

VISIT www.consumer.vic.gov.au

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Authorised by the Victorian Government, 121 Exhibition Street, Melbourne VIC 3000

PRINTED BY Energi Print, 25-27 Olive Grove, Keysborough VIC 3173

DESIGNED BY Magnetic Design, main photographer James Braund

ISBN: 1-92-1079-27-4 C-73-01-1336

