

# CONSUMER LAW CENTRE VICTORIA

## e-bulletin no. 38, April 2006

### EDITORIAL

Since the last e-bulletin, the Centre has been engaged in a wide range of policy and advocacy activities, in addition to continuing to meet the strong demand for legal advice and assistance.

In March, I attended the meeting of the Standing Committee of Officials for Consumer Affairs (SCOCA), in Melbourne. I was joined by Peter Kell and Gordon Renouf, of the Australian Consumers' Association, and we used the session as an opportunity to voice our concerns and frustration at the lengthy delays accompanying implementation of a range of urgently-needed reforms, and to seek some assurances regarding the progress of priority reforms.

Foremost among these is the enactment of nationally-consistent broker legislation. This has been in the pipeline since 2003, yet despite universal agreement among industry, regulators and consumer representatives, it is still not in place. In late March, I spoke at a forum on housing policy in Sydney, and was struck by the extent to which frustration among lenders and brokers at the delay mirrored that of the consumer movement.

The response from SCOCA is that the reforms are now subject to review by the Office of Regulation Review, which is housed in the Productivity Commission. It is unfortunate that this review coincides with the Productivity Commission's broader Regulation Review, but given the unanimous support for this regulation to improve standards in the broking industry and levels of protection for consumers, further delay is unacceptable.

Other reforms discussed at that meeting included nationally-consistent unfair contract terms legislation. It is very pleasing to see the States have agreed to implement such legislation, and that the measure will cover credit. Again, we can only reiterate the need for this reform to be implemented expeditiously, and without the delays which are becoming the hallmark of new consumer protections.

Following the SCOCA meeting, Consumer Affairs Victoria hosted the 2006 Consumer Congress. The two-day event commenced with an excellent lecture by Louise Sylvan, which canvassed new thinking on how to best design consumer protection and promote functioning markets. Louise's speech is available at [www.consumer.vic.gov.au](http://www.consumer.vic.gov.au), as are many of the other papers and notes from the Congress.

More recently, the Centre has been preparing its response to the Victorian Credit Review report, we have launched Gerard Brody's excellent report on water businesses' hardship policies and continue to achieve success in lobbying for fairer outcomes for Victorian energy consumers.

More details on these and other recent activities are contained in the body of this e-bulletin and as ever, if readers would like further information, please get in touch with the Centre.

Best wishes

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**Executive Director**

## CONTENTS OF THIS EDITION

<b>1. What are we doing? .....</b>	<b>2</b>
1.1 Victorian credit review.....	2
1.2 Energy regulation.....	2
1.3 Casework update.....	3
1.4 Launch of <i>The Implementation of Hardship Policies by Victorian Water Businesses: A research report</i> .....	4
<b>2. Representing the consumer interest in the development of product and service standards .....</b>	<b>5</b>
<b>3. Next Edition: June 2006 .....</b>	<b>6</b>

### 1. What are we doing?

#### 1.1 Victorian credit review

As mentioned in previous e-bulletins (see *e-bulletin no 33, June 2005*), in May 2005, the Minister for Consumer Affairs launched the Consumer Credit Review. The objectives of the review are to examine the efficiency and fairness of the operation of credit markets and credit regulation in Victoria, commission research on the credit market, and make recommendations to enhance consumer and public benefit.

The review was designed as a three stage process. Stage one involved the release of an Issues Paper in June 2005, to which the Centre and the Consumer Credit Legal Service (CCLS) prepared a joint submission. Stage two comprised the March 2006 release of the Report on the Consumer Credit Review (the Report), prepared by James Merlino, MP for Monbulk. Stage three is the Government's response to the Report.

The majority of reforms that CLCV and CCLS lobbied for in their submission received support in the report. The most notable departures from the recommendations of the submission were:

- Not recommending an inclusive interest rate cap, such as introduced in NSW, which places a cap on interest rates, including fees and charges at 48%; and
- Not recommending a licensing scheme for credit providers; instead the Report recommends enhancing the registration scheme applicable to credit providers in Victoria.

CLCV and CCLS are currently preparing a response to the Report which emphasises the importance of incorporating an inclusive interest rate cap and introducing a licensing scheme, to address widespread avoidance of the code, and bring the protections afforded to low income and vulnerable consumers closer in line with those available to less vulnerable consumers; that is those with the ability to access the mainstream financial services market.

If you would like further information about the Consumer Credit Review, please contact Xan Colman ([xan@clcv.net.au](mailto:xan@clcv.net.au)) or Lauren Walker ([lauren@clcv.net.au](mailto:lauren@clcv.net.au)) on 03 9629 6300.

#### 1.2 Energy regulation

The Centre continues to provide a voice for consumer protection in the context of the Essential Services Commission's (the **Commission**) reviews of the operation of energy industry markets. The Centre has had some success advocating for consumer protection, particularly in relation to the Commission's 'End to End Project', which examined issues relating to the transfer of consumers from one retail electricity supplier to another.

In its End to End Project Issues Paper released in October 2005, based on preliminary consultations with businesses in the electricity industry, the Commission proposed a number

of changes to various Codes affecting the transfer of customers. The Centre was concerned to see that the proposed changes would mean, amongst other things:

- that retailers would no longer need to wait until after the ‘cooling-off’ period before transferring customers; and
- that additional obligations could be imposed on consumers relating to the reading of meters.

The Centre made a submission to the Commission, raising its concerns as to the changes proposed in the Issues Paper. The Draft Decision of the Commission, released in March 2006, provided that there would be no change to the current rules which allow the transfer of a customer only after the expiry of the ‘cooling-off’ period following a consumer’s decision to transfer between retailers. It also provided that there would be no further obligation imposed on consumers in relation to metering, at least until after a State government report on metering is released and taken into account.

The Centre is pleased that the Commission has taken note of its submissions. The Centre has written to the Commission generally supporting the Draft Decision, subject to some further comment on several issues.

The Centre will continue to lobby for the need for robust consumer protection frameworks in the energy industry. The Centre will seek to ensure that future energy market developments benefit all consumers, including the most vulnerable and disadvantaged.

If you would like further information about the report, please contact Gerard Brody at [gerard@clcv.net.au](mailto:gerard@clcv.net.au) or (03) 9629 6300.

### **1.3 Casework update**

A number of the Centre’s cases have come to successful conclusions in the past few months.

#### *Case 1:*

A Vietnamese client with very limited English language skills had approached the CLCV with a \$1900 judgement debt against her. She had gone to look at a car with a friend and had made her lack of English skills known to the car dealer. She also made the dealer aware that she was unsure whether she would be able to afford to purchase the new car. The dealer stated that if she wanted to secure a car in the colour she wanted, she would need to pay a deposit, which she did. She was also asked to sign a piece of paper; when our client asked what the paper was, she was told it was merely a description of the vehicle. Our client signed the document, and subsequently found out that it was a contract for the purchase of a new car. She returned to the dealer the next day, with a support person, who explained that our client could not afford to purchase the car, and that she did not know that she had signed a contract for the purchase of the car. The dealer refused to listen to our client and demanded that she take delivery of the vehicle or face legal action. Our client attempted on a number of times to explain that she could not afford the car and that she had been misled into signing the contract.

The motor car trader then obtained a default judgement against our client for \$1,900, and sought to enforce the debt. We assisted our client to obtain an adjournment of an oral examination, the first step in enforcing a debt. We also assisted our client in making an application for a rehearing of the matter. Prior to the application being heard, the motor car dealer offered to discontinue the proceedings against our client. The matter has now being struck out, and we are applying to have the default judgement removed from our client’s credit report.

*Case 2:*

The Centre recently assisted a Somali refugee with a large debt to a mobile telecommunications provider. Our client suffers from post-traumatic stress disorder and, as a result, made expensive telephone calls to a number of international and domestic destinations over a two-month period. After our client was unable to pay the bills, his service was disconnected. The provider continued to charge our client for premium subscription services, despite him being unable to use his handset. Our client had previously paid his bills in full for over six months. We wrote to the provider on our client's behalf, asking them to waive the debt on the basis that they had not dealt with the uncharacteristically large debt appropriately. The provider had failed to restrict our client's service, despite being asked to, and did not contact our client before disconnecting his service. We also asked the provider to consider our client's financial circumstances. When the provider did not respond to our letter, we lodged a complaint with the Telecommunications Industry Ombudsman (**TIO**). The TIO raised the complaint with the provider's senior level management, who agreed to waive the debt in full.

*Case 3:*

We have also assisted a client from NSW, an aged pensioner living in a Department of Housing property, who had received an offer to purchase shares from National Exchange Pty Ltd. Our client has significant health problems and could not remember accepting the offer to sell her shares. National Exchange Pty Ltd obtained a default judgement against our client for \$3,000 and sought to enforce the judgement in NSW. We obtained a stay of proceedings in NSW, and assisted our client to make an application for a rehearing on the basis that our client had not been served with the original complaint, and judgement was therefore defective. Prior to the rehearing, we received an offer to discontinue the proceedings on the basis that each party bear their own costs. The default judgement has been set aside, and we are currently assisting our client to have the debt removed from our client's credit report.

#### **1.4 Launch of *The Implementation of Hardship Policies by Victorian Water Businesses: A research report***

On 20 April 2006 the Centre launched its report *The Implementation of Hardship Policies by Victorian Water Businesses: A research report*. The report was researched and written by the Centre's Water Policy Officer, a position funded in 2005 by the Consumer Utilities Advocacy Centre and the Department of Sustainability and Environment.

The report analyses hardship policies which have been implemented by Victorian metropolitan and regional urban water businesses as required under the Water Customer Service Code. Incorporating evidence from financial counsellors and water businesses themselves, the report suggests that effective hardship policies can help consumers by promoting flexible payment arrangements and other solutions enabling ongoing access to essential water services. However, the report also finds that levels of assistance and support vary. Some consumers still find it hard to access help, or have been restricted inappropriately.

The report makes a number of recommendations to ensure water businesses actively use and promote hardship policies to protect and assist vulnerable consumers. These include:

- Requiring water businesses to proactively promote and use their hardship policies;
- Requiring water businesses to report numbers of customers accessing relief under hardship policies to the Essential Services Commission (the **Commission**);
- Ensuring water business staff from senior management down be provided with extensive and ongoing training to support the hardship policy; and
- Expanding coverage of hardship policies to all vulnerable consumers.

The Centre will continue to work closely with the water businesses, the Commission and other consumer advocates to improve consumers' access to affordable and quality water services. In particular, the Centre will work closely with the Commission in its upcoming investigation into water affordability.

If you would like further information about the report, please contact Gerard Brody at [gerard@clcv.net.au](mailto:gerard@clcv.net.au) or (03) 9629 6300.

## **2. Representing the consumer interest in the development of product and service standards**

*For up-to-date information on the Standards Project, go to the CFA website; [www.consumersfederation.com](http://www.consumersfederation.com)*

### *Consumer Alert*

From 3 April 2006, only insulated pin electrical plugs may be sold. All electrical appliances must be fitted with a plug that has the two top pins coated in insulating material. Most manufacturers have been doing this for some time, but some products may still be available. Insulated pins are safer as they protect users from the unlikely but possible event of a thin conductive material, such as metal venetian blinds, sliding between the power point and plug, and connecting with the live pins. Non-insulated pins will continue to be found on older appliances. If you have further questions, contact the electrical regulator in your state, or Energy Safe Victoria; [info@esv.vic.gov.au](mailto:info@esv.vic.gov.au)

### *Productivity Commission Review*

The Productivity Commission will conduct a review of the standards and accreditation processes in Australia, with particular exploration of the roles of Standards Australia and NATA. If you would like to read the discussion paper, be included in their communications dissemination or make a submission to the review, log on to the website; [www.pc.gov.au/study/standards/index](http://www.pc.gov.au/study/standards/index)

We are currently seeking consumer representatives for the following committees:

<b>BD-85</b>	Inspection of Buildings
<b>CS-88</b>	Furniture
<b>CS-102</b>	Reduced Fire Risk Cigarettes
<b>E-000-04</b>	Electrical Products Environmental Reference Panel
<b>EL-34</b>	Power Quality
<b>EN-3</b>	Energy Performance of Buildings
<b>FP-3</b>	Fire Extinguishers
<b>ME-84</b>	Four Wheel Drive accessories and Cargo Restraint Systems
<b>NT-001</b>	Nanotechnologies
<b>TE-001</b>	Energy performance and labelling of televisions

CFA representatives attending Standards Australia committee meetings are entitled to have their travel expenses reimbursed.

Public comment is invited on the following draft standards and amendments.

- Water Supply – Valves for the control of hot and cold water – Tempering valves and end-of-line temperature-actuated devices, **DR 06168**, and control valves primarily for use in heated water systems, **DR 06169**. Comments by 15 May 2006.
- On-site Domestic Wastewater Treatment Units - Part 1: Septic Tanks, **DR 06927**. Comments by 19 May 2006
- Water dispensers - Hot and cold - Method for assessing energy efficiency, **DR 06152**. Comments by 22 May 2006

- Child restraint systems for use in motor vehicles, **DR 06109**. Comments by 23 May 2006
- Closed Circuit Television (CCTV) - Part 4: Remote video monitoring - Code of practice, **DR 06133**. Comments by 24 May 2006
- Quality Management – Guidelines for training, **DR 06174**. Comments by 24 May 2006.
- Personal flotation devices – Parts 1 and 3, **DR 06151**. Comments by 26 May 2006
- Approval and test specification - Bayonet lampholders, **DR 06156**. Comments by 28 May 2006
- Household electrical appliances – Safety; Amendments regarding a wide range of appliances, **DR 06901 – DR 06926**. Comments by 23 June 2006.
- Australian and New Zealand Wiring Rules, **DR 06001 – DR 06010**. Comments by 30 June 2006.

*To access copies of draft standards or to find out how to lodge your comments, go to [www.committees.standards.org.au](http://www.committees.standards.org.au)*

The Standards Co-ordinator maintains a record of consumer comment on draft standards. If you choose to make a comment on a standard, it would be appreciated if you informed Angela Russell by telephone on (03) 9629 6300 or email at [angela@clcv.net.au](mailto:angela@clcv.net.au)

### **3. Next Edition: June 2006**

Our *e-bulletin* is designed to keep our stakeholders up to date on the work of the Centre. We welcome your comments on the *e-bulletin*. If you would like to be added to the Centre *e-bulletin* mailing list, please contact Melanie Keenan at [info@clcv.net.au](mailto:info@clcv.net.au) or on (03) 9629 6300.