

MEDIA RELEASE

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LEGAL TRIBUNAL FINDS MOTOR FINANCE WIZARD'S PRACTICES 'UNFAIR' AND 'SERIOUSLY FLAWED'

First Big Credit Licensing Decision Looms For ASIC

Motor car dealer and financier Motor Finance Wizard has been ordered to cancel a car lease contract with a vulnerable customer, refund her money and clear her credit report.

The legal decision, made after Consumer Action Law Centre issued legal proceedings against one of the Motor Finance Wizard group of companies, DGTV1 Pty Ltd, on behalf of the customer, formally found that the company's contract was unjust, its conduct was misleading and deceptive and unconscionable, and its entire leasing process was seriously flawed.

Consumer Action co-CEO, Carolyn Bond, said that the unfair practices used against this customer seemed to be repeat conduct, and it was now a serious question whether the company should be granted the credit licence it requires to continue trading.

"The new national consumer credit laws that came into force last year require all consumer lending and leasing businesses to apply to ASIC for a credit licence. It will be illegal to keep trading without a licence," said Ms Bond.

"ASIC has received Motor Finance Wizard's licence application, which means it is in the process of deciding if the company meets the requirements to be granted a licence. Our opinion is that this legal decision strongly suggests it does not."

The Federal Government's new legal framework for consumer lending, leasing and broking requires the consumer finance regulator, ASIC,* to assess certain matters before it may grant a licence, including whether it has any reason to believe that the licence applicant is likely to contravene the consumer credit laws or to believe that the person is not a fit and proper person.

This case was brought in the Victorian Civil and Administrative Tribunal (VCAT) under the former State-based consumer lending laws (and general fair trading laws), but the relevant parts of the law remain similar or the same under the new national laws.

"This decision clearly finds that the company's entire leasing process should be redesigned and that it engaged in practices contrary to the consumer credit laws - the same laws that ASIC must now satisfy itself the company won't contravene if it is granted a licence," said Ms Bond.

"The licensing laws must be used as intended - to protect the public, especially more vulnerable consumers, from sharp practices. Motor Finance Wizard's own evidence in the case was that its marketing was intentionally directed to consumers on unstable incomes, with poor credit ratings and social security recipients."

Some of the unfair tactics listed in the decision include taking an unreasonable time; only mentioning the most important matters such as price and contract arrangements at the end - after the customer is already tired; not telling the customer the cash price of the car - which is much lower than the total price they pay under the contract; and not properly assessing if the customer can afford the rental payments.

*ASIC is the Australian Securities and Investments Commission. It is responsible for administering, regulating and enforcing the new *National Consumer Credit Protection Act 2009*.

Consumer Action can provide copies of VCAT's full written reasons for its decision on request.

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