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# Vale – Jan Pentland

**Jan Pentland, our Chair since July 2007, died on 15th August 2009.**

**Jan was an extraordinary woman.**

**She was a leader, a mentor and a consumer advocate.**

**She inspired us often.**

Jan played a key role in the sector over many years. She campaigned for change in the law, Government policies and industry practices that had an impact on disadvantaged consumers. She strongly supported the complimentary roles played by Consumer Action - assisting individuals and campaigning - and was an active Director of Consumer Action (and one of its predecessor organisations Consumer Credit Legal Service) since 1997.

Financial counselling was her passion, and this informed her policy and campaign work. Jan cared deeply for the individuals she helped, but she could always see the need to change the system as well.

Jan touched many of the people she worked with - financial counsellors, consumer advocates, those in the finance industry, in ASIC, the ACCC, in ITSA, in state and federal governments, in the ombudsman services and in the community sector.

Jan devoted her time to a wide range of Boards and committees, however, it was her campaign and lobbying work - including working to strengthen the sector - for which she is most recognised. This is where her determination and her ability to bring people together and to continue to fight - even when others might give up - shone through.

The week after she died the Government announced its intention to stop creditors sending debtor's bankrupt for small amounts - a campaign in which Jan had played a leading role.



Jan kept AFCCRA - the national financial counselling body - alive. Despite being defunded in 1996, Jan brought it back from the ashes, devoting endless voluntary hours to the organisation.

Jan was tireless in her lobbying for more funding for financial counselling services. Government listened, and in the 2008 budget, funding was doubled for the Commonwealth Program.

Jan has been the driving force behind the AFCCRA conference and the Financial Literacy and Inclusion Forum.

She fostered the network of Indigenous financial counsellors, organising special meetings for them and wrote AFCCRA's first Reconciliation Action Plan.

Jan would want us to continue to advocate for change - in credit, in bankruptcy, in the way the social security system operates. We know that we can honour Jan by carrying her memory with us. But a greater honour will be to carry on her work.

# Chairperson's Report

**I am proud but saddened to be presenting the 2009 Chairperson's report on behalf of the Board of the Consumer Action Law Centre.**

Jan Pentland was the Chair of the Centre for the period of this report and until her death in August this year. Jan played a key role in the consumer advocacy/financial counselling sector nationally. She also dedicated her time over many years to Consumer Action, and to Consumer Credit Legal Service, one of our predecessor organisations. Jan is sadly missed by the Centre as well the individuals, such as myself, who have had the privilege of working with her.

Under the stewardship of the Board, Consumer Action is clearly established as a major consumer advocacy body throughout Australia. We enjoy a significant media profile, bringing cases of consumer detriment to the attention of the public as well as providing expert commentary on consumer policy issues.

This work reflects a commitment that is central to Consumer Action's philosophy - that of integrating our casework and our campaign work. Our highly expert legal practice gives insight into the problems experienced by thousands of Victorian consumers each year. This in turn feeds into our policy and campaign priorities.

It was exciting to see a number of CALC's campaigns bear fruit this year. For the first time, the Reserve Bank of Australia focused on banking fees in its annual bulletin, a recommendation from our original report on penalty fees. A number of banks also abandoned a large range of penalty fees, a clear victory for the campaign we ran with CHOICE. Government has also responded positively to campaigning by Consumer Action, along with other groups, in relation to unit pricing, unfair contract terms, personal property securities and amendments to proposed national credit laws.

We have also maintained or increased our involvement in key external bodies and our commitment to adding to the capacity of our sector more broadly. During the period we accepted invitations to participate in bodies including the Commonwealth Consumer Affairs Advisory Council and the External Advisory Panel of the Australian Securities and Investments Commission. Within the sector we continue in our

## Chairperson's Report - continued

roles with the Consumers' Federation of Australia and on the Board of CHOICE.

In relation to our financial sustainability, we were very pleased that Consumer Affairs Victoria (CAV) has continued its commitment to Consumer Action, agreeing to provide funding for a further three year period for our policy work, advice and training to community workers. In a reflection of our success in this area, CAV also agreed to additional funding to further promote our work and campaigns through a media and communications position. This is complementary to funding we receive from Victoria Legal Aid and the Commonwealth Attorney - General's Community Legal Services Program. We have also agreed to play a part in a new telephone financial counselling service supported by the State Government and directed at consumers

experiencing financial difficulty as a result of the global financial downturn.

During the year we welcomed two new Board members - Paul Murfitt and Rob Acton. I thank them for the contribution they have already made. I also thank our continuing directors, Ros Hunter, Anna Stewart and Gerard Brown for their ongoing commitment and the expertise they bring. Together with our outstanding Co-CEOs Catriona and Carolyn and the highly skilled staff team, we will honour Jan Pentland's legacy by continuing the work of advocating for positive change for vulnerable consumers.

**Barbara Romeril.**



We have also agreed to play a part in a new telephone financial counselling service supported by the State Government and directed at consumers experiencing financial difficulty as a result of the global financial downturn.



# Consumer Action Board



**Jan Pentland**  
(Chair)



**Rob Acton**



**Gerand Brown**



**Roslyn Hunter**



**Paul Murfitt**



**Barbara Romeril**



**Anna Stewart**



## CEOs Report



The year has been one of growth and success for Consumer Action.

We were able to respond to an increase in demand for legal assistance from both consumers and community workers as well as growing demand for our policy and campaign input.

Regulatory reform was taking place in relation to a number of our priority areas, such as credit, credit reporting, the national consumer law (including unfair contract terms), unit pricing and energy. It was a challenge to respond to all these issues - and more - however we continued to provide input on these issues and in some cases, to witness the impact of our work.

There was a high level of media interest in

Consumer Action issues, with over 370 quotes or comments in the media during the year across print, radio, television and on-line. One report that achieved significant media interest was "Congratulations, You're Pre-Approved", a study of the psychology used in selling credit card limit increases, which we published with Dr. Paul Harrison from Deakin University. We are committed to continuing our work on how consumer behaviour can inform regulation, and have commenced another project with Dr. Harrison focussing on the psychology used to sell educational software in consumers' homes. These types of agreements are one of the most common source of complaints made to Consumer Action.





We have also been successful in attracting media and public attention in relation to issues that impact our clients in other ways - for example, we have adopted a practice whereby we publish a media release when we issue proceedings on behalf of clients, if appropriate.

As the experience of our staffing group grows, we have also seen an increase in our capacity to contribute to the community sector to which we belong. In addition to a range of informal networks, Consumer Action staff provide formal input through the Boards of a range of community organisations including the Australia Communications Consumer Action Network, CHOICE, the Consumers' Federation of Australia, the Energy and Water Ombudsman, the Federation of Community Legal Centres and Jobwatch.

We can also see new experiences on the horizon. As we enter into the next financial year, we will be hosting a new service - MoneyHelp. MoneyHelp is a Victorian Government initiative in partnership with the Consumer Action Law Centre and is funded by the Consumer Credit Fund and the Victorian Property Fund on the approval of the Minister for Consumer Affairs. MoneyHelp will provide free, confidential and independent financial counselling services to Victorians experiencing, or concerned about, job loss or reduced working hours. It promises to be an exciting new opportunity to engage with the

financial counselling sector and to provide a new type of service to Victorian consumers.

At the end of a year that was very exciting but also passed at a breathless pace, we can only thank all the staff and volunteers at Consumer Action for their continuing commitment, good spirits and passion to make a difference for consumers.

“As the experience of our staffing group grows, we also see our capacity to contribute to the community sector to which we belong increase.”

# Consumer Action Staff

**Carolyn Bond**  
**Catriona Lowe**  
Co-CEOs

## Administration Team

**John Davis**  
Finance Manager

**Melanie Keenan**  
Office Manager

**Sarah Pallenberg**  
**Daniel Correa**  
Legal Support

**Elizabeth Morton**  
Reception/Admin Assistant

## Legal Practice

**Paul Gillett**  
**Celia Tikotin**  
Directors Legal Practice

**Michael Hermitage**  
**Tom Wilcox**  
**Jillian Williams**  
Senior Solicitors

**Neil Ashton**  
**Nicole Rich**  
**Christian Groves**  
**Linda Ivory**  
**Kylie Trounson**  
**Rene Van De Rijdt**  
Solicitor

**Kay Li Yeoh**  
Law Clerk

## Money Help

**Penelope Hill**  
**Peter Grattan**

## Policy & Campaigns Practice

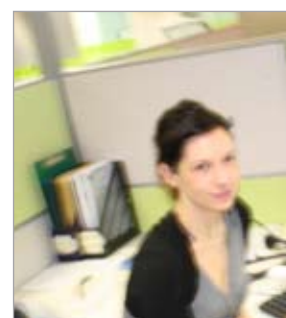
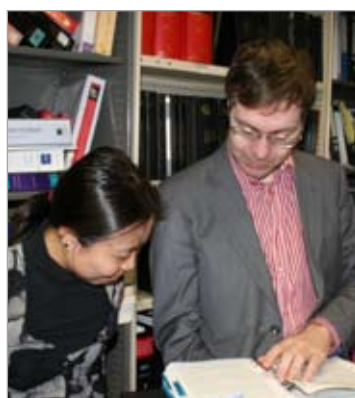
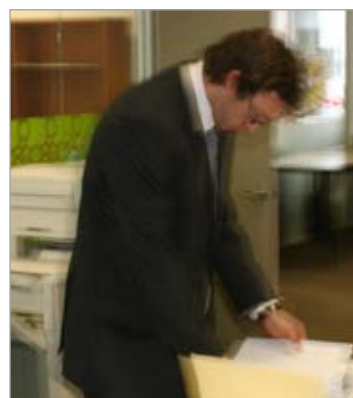
**Nicole Rich**  
Director Policy & Campaigns

**Gerard Brody**  
Deputy Director Policy & Campaigns

**Zac Gillian**  
**Xan Colman**  
**Janine Rayner**  
Senior Policy Officers

**Sean Carroll**  
**Sankar Kasynathan**  
Policy Officers

**Jo Higginson**  
Standards Coordinator



# Directors of Legal Practice Report

**Our legal practice is fortunate to comprise ten lawyers with considerable depth of knowledge and experience. This is particularly important as the year has been one of much growth in the nature and substance of the work done by the litigation practice. We have increased the number of advices (almost doubling our advice to consumer workers) and cases we have conducted. We have continued the strong interaction between our policy and litigation practices.**

Most assistance is provided to consumers, and to consumer advisors, by the provision of advice and the drafting of letters and legal documents for use by the consumer. Through the provision of what we call 'extended advice' Consumer Action is able to give ongoing support, examine legal documents or draft correspondence or documents (such as Tribunal applications) for the consumer or consumer advisor. Consumer advisors include financial counsellors, community legal centre staff, or any other community workers who require our advice/assistance in helping their clients.

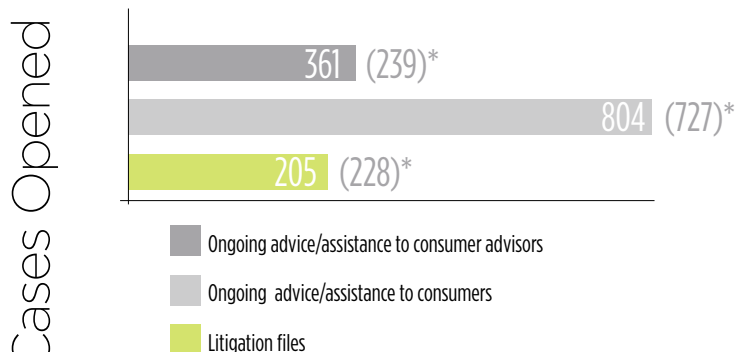
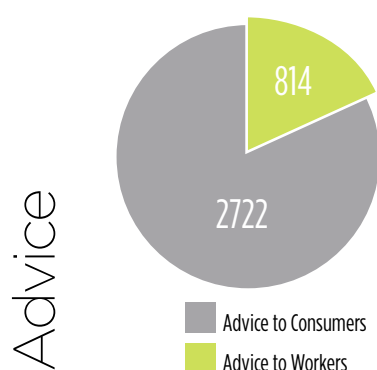
A litigation file is opened when it is necessary for Consumer Action to provide legal representation. The majority of these matters settle as a result of negotiation, without the need to issue legal proceedings. However, over the financial year, our litigation practice has prepared and filed at least **116** court documents comprising proceedings and defences in the

- Victorian Civil and Administrative Tribunal
- Magistrates Court
- Federal Magistrates Court
- Supreme Court

and applications to stay proceedings in interstate jurisdictions.

We have also represented clients in complex disputes before the Financial Ombudsman Service and the Credit Ombudsman.

Our lawyers have appeared before courts or VCAT on **61** separate occasions.



\* 2008 figures in parenthesis



## Key issues arising from casework

The litigation and advice practice continued to act and advise on a range of consumer problems. The key issues for this financial year were:

### Debt collection

#### Harassment

The legal practice continues to receive a large number of serious complaints of harassment by a major debt collector. We issued a case on behalf of one consumer in March alleging unlawful harassment. There are a number of similar proceedings pending. In other cases, the debt collector's repayment arrangements claims have resulted in a number of hardship applications at VCAT, which have settled at mediation. There have also been applications to VCAT Credit List for the debt collector to produce loan documents including statements of account.

#### Interstate proceedings

We continue to seek stays interstate and issue in VCAT where debt collectors, issue legal proceedings in other states and territories against Victorian debtors, making it all but impossible to defend a claim or seek a variation

#### Pursuit of debtors unable to repay

Most creditors in our experience continue to demand repayment from debtors who they know are in receipt of protected income only – that is a level of income or benefits sufficient only to meet essential living expenses. CAV Guidelines for Debt Collectors state that a debt collector should not contact a consumer 'where the consumer has verified that he or she has no capacity to repay a debt'.

### Over commitment

The practice continues to advise and act for consumers who are the victims of reckless lending by bank and non bank lenders. Our casework suggests that while bank mortgages are usually suitable for consumers, their credit card lending may be far less so, with the result that in some cases homes are being lost.

## Case studies

### G and a bank and a Debt Collector

*Our client (aged 59, single, home owner on disability support pension) had a credit card with a \$3,000 which was increased through pre approved and unsolicited increase offers to \$12,000. Our client used the funds and fell in arrears and applied to the bank for hardship. It was a term of the Agreement (Banking Code of Practice, clause 25.2) that the bank (and arguably consequently any assignee) would help our client to overcome his financial difficulties. In 2009 the debt collector (assignee) instituted legal action against our client in the Magistrates' Court Melbourne for payment of the sum of \$18,886.*

*We served and filed a Notice of Defence on behalf of the client claiming that the bank and the assignee acted unconscionably in breach of sections 7 and 8 of the Fair Trading Act 1999 (Vic) and the general law. Breaches of the Banking Code were also pleaded, also that the client was entitled to relief under section 68 of the Code. A VCAT hardship application was drafted but not issued.*

*The debt collector consented to discontinue the Magistrates' Court action against our client and pay \$240 towards our client's wasted legal costs. the bank repurchased the debt from the debt collector and agreed to re-contract the loan amount of*





*\$13,000 in monthly payments of \$130 over a term of 11 years on a variable interest rate (total interest \$4,109), no other charges.*

**Saving to client: \$5886 plus interest and his home is no longer at risk.**

## W and a Bank

*Our client has been a Centrelink benefit recipient since 1993 (Disability Support Pension). Despite being on a fixed income his credit limit was increased from \$400 in 1993 to \$32,000 in 2009 through unsolicited credit limit increases on his account. The minimum repayments on the credit card account constituted more than half of our client's monthly income. The current balance of the account had ballooned to over \$37,000 in part due to default interest. Our client owns an unencumbered home. We intended to go to FOS to prevent legal action but referred the matter to the bank, for comment first. The matter eventually settled on the basis that the balance be reduced to \$8,000 payable at \$80 per month with all interest fees and charges frozen.*

**Saving to client \$29,000 plus interest and his home is no longer at risk.**

## Unfair contract terms

As well as the usual gym membership and direct debit matters we have brought to VCAT in the past, the practice continues to act for consumers misled by so called car hire insurance, consumers who have not appreciated the fact that most car hire companies do not actually arrange for insurance for their customers, but a contractual indemnity in respect of any damage caused to

their, or third party vehicles. Thus if the hirer is in breach of any of the terms of the agreement at the time that any damage occurs, the hire company refuses to indemnify the hirer, and seeks to recover the cost of the damage caused. It is hard to envisage a claim that wouldn't breach the agreement.

## Case study

*At present, we are acting for a client who upon arrival at Sydney airport and picking up his hire car, was sold excess cover and was told that he would be fully insured. Not knowing where he was going, he inadvertently drove through a red light and was involved in a collision. He was subsequently sued by the hire company for \$20,000 and also by the third party for \$25,000. The hire company refused cover because there was a generic clause in the contract stating "you must not operate the vehicle in breach of any legislation, regulation, rules or by laws relating to road traffic and use...". We have issued a claim in VCAT, claiming these sums from the hire car company, alleging that the contract was unfair under the Fair Trading Act.*

### Private car parks

Private car park operators have been issuing 'fines' to consumers who fail to display a ticket on their car. The amount is usually around \$66, increasing to \$88 if the consumer fails to pay within 14 days. Should the consumer continue to ignore the requests for payment, the companies instruct solicitors and/or debt collectors and further sums are demanded, with court action usually threatened for a sum in the region of \$300.

The actions of private car park operators in 'fining' consumers are based on alleged breach of contract. That is, the consumer enters into

“Our legal practice is fortunate to comprise ten lawyers with considerable depth of knowledge and experience.”

a contract to park their car in a company's car park, where it is a term of the contract to display a ticket. The company alleges that the consumer has breached the contract by not displaying a ticket and the fine represents the damage suffered by the company. Whilst the legal position is complicated, our view is that if there is a binding contract - which may or may not be the case - the terms of that contract are unfair and the amount demanded is a penalty rather than a genuine assessment of the company's loss.

#### **Introduction agents**

The legal practice has issued proceedings in three matters against an introduction agent, one of which has been determined in favour of our client, with the introduction agent ordered to refund \$10 000 (the amount of the claim). The claims are that the agent has acted unconscionably and has failed to supply services with due care and skill or that are fit for the purpose for which they are purchased.

## **Case study**

*Z is seeking a refund of \$110,000 paid to an introduction agent and a further \$10,000 in damages for stress and humiliation suffered as a result of an introduction agent's conduct. Our client is profoundly deaf and suffers depression following a workplace accident several years ago. He alleges he was contacted by the agent after completing a free on-line compatibility test advertised in his local newspaper in which he noted his disability. After completing the test, the agency allegedly made numerous unsolicited phone calls offering introduction services. He says he was reluctant to sign-up but eventually yielded after six months of contact. After paying an initial \$1,600 to sign up for*

*introduction services in late October last year, we claim that our client received numerous phone calls offering 'upgraded' services. We are instructed that between October and December 2008 our client paid the amounts of \$5,000, \$2,500, \$5,000, \$400, \$35,000, \$45,500 and \$15,000 successively, totalling a massive \$110,000. This was most of his Workcover payment.*

In both the decided case and the one above, we allege that one of the upgrades promised was an 'Exclusive Makeover Package' consisting of a trip to the Gold Coast to receive various services, including a professional image consultancy, a taped video interview for emailing to potential introductions, a shopping trip with consultants and a life skills course. In both cases, we are instructed that these and other services were not delivered as had been agreed.

#### **Sexual dysfunction**

The practice has acted for and advised a number of former clients of a business which offers to treat sexual problems. We claim that the business misrepresents its services, that they are not fit for purpose and that it is guilty of misleading and or deceptive conduct.

We also think the business takes the prize for toughest refund terms in the market - requiring clients to undergo three stages of treatment, the last of which involves penile injection, before refunding any monies.

Terms of settlements reached are confidential.

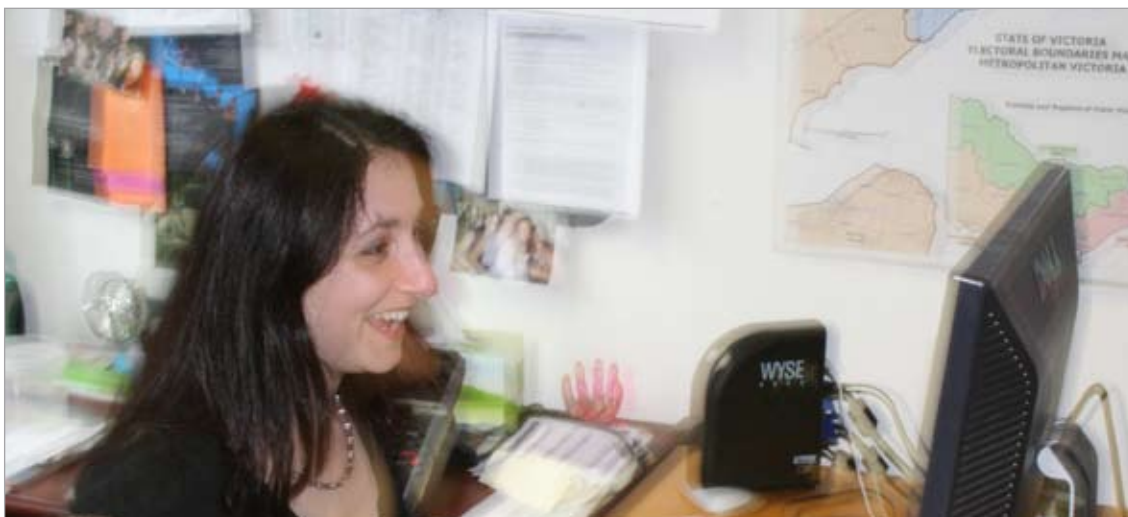
#### **Celia Tikotin and Paul Gillett**

Directors - Legal Practice





# Director Policy & Campaign Report



**The 2008/09 period was a busy and exciting year for Consumer Action on the policy and campaigns front. Our legal practice staff work very hard to provide advice and ongoing help to consumers, particularly low-income, disadvantaged or vulnerable members of our community, and one of the features of community legal practices such as ours is that people approach us over and over again with the same types of problems. It is critical that we also work towards achieving systemic changes that address these problems at their source, and 2008/09 was a year in which we saw significant progress in this regard.**

Consumer Action's policy and campaigns team leads the Centre's efforts to achieve better policies, laws and outcomes for consumers. Consumer Affairs Victoria provides funding for two core policy positions at the Centre and we also receive external funding for other positions. The Director – Policy & Campaigns heads up the team, which in 2008/09 farewelled some members and welcomed others.

Early in the financial year policy officer Neil Ashton transferred to a larger role in the legal practice team, and in September 2008 Sean Carroll joined us as a policy officer in a 12 month role. Gerard Brody, our Deputy Director – Policy & Campaigns, left the Centre in November 2008 to take up an exciting role working on financial inclusion with the Brotherhood of St Laurence, and while we were very sad to see him go we are proud that he will continue to do an outstanding job as an advocate for the disadvantaged.



## Submissions

Consumer Action makes a large number of submissions to government and regulatory consultations and these are generally available on our website. In 2008-09 these submissions included:

### JULY 2008

- Consumer Affairs Victoria on the application of unfair contract terms to small amount credit and consumer lease contracts
- Commonwealth Treasury on the Financial Services and Credit Reform Green Paper
- House of Representatives Economics Committee Inquiry into Competition in the Banking and Non-banking Sectors
- Senate Economics Inquiry into the Unit Pricing (Easy comparison of grocery items) Bill 2008
- Insolvency and Trustee Service Australia consultation on the remuneration of registered trustees
- Review of the Code of Banking Practice 2007-08

### AUGUST 2008

- Consumer Affairs Victoria on online property sales
- Australian Competition and Consumer Commission on the Insurance Council of Australia's application for authorisation regarding a common definition for 'inland flood'
- Ministerial Council on Energy regarding the National Energy Customer Framework
- Consumer Affairs Victoria on the application of unfair contract terms to credit card contracts

### SEPTEMBER 2008

- Commonwealth Government Green Paper on the Carbon Pollution Reduction Scheme
- Essential Services Commission Victoria on its Review of Energy Regulatory Instruments – Draft Decision

### OCTOBER 2008

- Ministerial Council of Consumer Affairs' Consultation Regulatory Impact Statement – Responsible lending practices in relation to consumer credit cards
- Commonwealth Treasury on the Unit Pricing – Issues Paper

Gerard's departure also meant that we could recruit Zac Gillam to the Centre as our new Senior Policy Officer. Janine Rayner is our tireless and tenacious Senior Policy Officer – Energy and Jo Higginson is our inspired Standards Project Co-ordinator, not only supporting but enhancing consumer participation in Standards Australia standards development processes. We were also pleased to welcome back former senior solicitor Xan Colman as a senior policy officer working specifically on a new direct debits project. However, all of Consumer Action's staff contribute to our policy and campaigns work. Consumer Action's co-CEOs provide substantial and valuable input, and the legal practice staff also work on systemic issues that arise from their casework, much appreciated given their already busy caseloads. In addition, our administration team provides significant support with matters such as updating our website, coordinating publications and even participating in direct action activities. We strongly value the fact that all of the Centre's staff are a part of Consumer Action's policy activities and campaigning.

While we engaged in a policy review process during 2008/09 and have set some new goals for the coming financial year, our 2008/09 policy plan was as reported in the 2008 annual report. Our policy and campaigns work is broken down into two general categories under Consumer Action's broader 2008-2010 strategic plan, being:

- Fair, efficient and sustainable markets; and
- Consumer protection, regulatory reform.

“we were kept busy participating in working groups, consultations and inquiries, producing over 40 written submissions.”

Within these categories, our policy plan set out five priority campaigns and a number of other key policy areas. In terms of priority campaigns, the fair, efficient and sustainable markets campaigns were:

- **fair fees** – to eliminate unfair and excessive penalty fees from banking in Australia;
- **motor vehicle trading and Motor Finance Wizard** – to address unfair practices that generate a disproportionate number of calls for help to our legal advice line; and
- **unit pricing** – working collaboratively with other Australian consumer groups to get Australian consumers access to this important grocery price information.

The consumer protection, regulatory reform priority campaigns were:

- **high cost of credit** – campaigning for government regulation to prevent exploitative lending; and
- **smart regulation** – linking competition and consumers – campaigning for more effective regulation that promotes both market efficiency and consumer welfare across a broad range of areas.

Details about some of our specific policy and campaigning activities in 2008/09 can be found in the *Working for Change – Casework and Campaigning in Action* section of this annual report. More generally, we were kept busy participating in working groups, consultations and inquiries, producing over 40 written submissions, and communicating our views in print, radio, television and online media over 200 times. We also produced two substantial policy reports in 2008/09:

- **Senate Economics Committee's Inquiry into the need to develop a clear statutory definition of unconscionable conduct for the purposes of Part IVA of the Trade Practices Act 1974**

#### NOVEMBER 2008

- **Ministerial Council on Energy's draft consultancy report – Retailer of Last Resort – Development of a National Framework**
- **Essential Services Commission Victoria's Review of Energy Regulatory Instruments – Final Decision (Stage 1)**
- **Australian Energy Market Commission's Review of Energy Policy in Light of Climate Change**

#### DECEMBER 2008

- **Commonwealth Department of Environment, Water, Heritage and the Arts – Draft Pricing Principles**
- **Consumer Affairs Victoria on its review of the Private Agents Act 1966**
- **Essential Services Commission Victoria on Guideline 19 – Price and Product Disclosure**
- **Senate Standing Committee on Legal and Constitutional Affairs regarding the exposure draft Personal Property Securities Bill 2008**

#### JANUARY 2009

- **Commonwealth Treasury regarding the 2009-10 Budget**
- **Senate Economics Committee's Inquiry into the Trade Practices Amendment (Cartel Conduct and Other Measures) Bill 2008**

#### FEBRUARY 2009

- **Commonwealth Government on the Credit Reporting Privacy Law reforms**
- **Reserve Bank of Australia on its proposed Access Regime for the ATM system**
- **Victorian Department of Justice – Crime Amendment (Identity Crime) Bill 2008**
- **Essential Services Commission Victoria's Metropolitan Melbourne Water Price Review 2008-09**

“Going forward, we will continue to apply our energy, commitment and smarts to representing consumers, particularly the disadvantaged, in public debates in which their voice should be heard.”

### MARCH 2009

- Commonwealth Treasury on the Australia's Future Tax System – Retirement Income Consultation Paper

### APRIL 2009

- Essential Services Commission Victoria's Energy Price and Product Disclosure – Draft Decision – Guideline 19
- Commonwealth Treasury on the An Australian Consumer Law: Fair markets – Confident consumers consultation and information paper – unfair contract terms regulation
- Australian Energy Regulator on Interval Meter Reassignment Requirements
- Commonwealth Treasury on the draft Trade Practices (Industry Codes – Unit Pricing) Regulations 2009

### MAY 2009

- Commonwealth Treasury on the draft unfair contract terms provisions of the Australian Consumer Law
- Commonwealth Treasury on the draft National Consumer Credit Protection Bill 2009
- Commonwealth Department of Broadband, Communications and the Digital Economy on the Review of Consumer-related Industry Code Processes – Issues Paper for Public Consultation
- Essential Services Commission Victoria's Metropolitan Melbourne Water Price Review 2009 – draft decision

### JUNE 2009

- Victorian Civil and Administrative Tribunal President's Review
- Ministerial Council on Energy on the First Exposure Draft of the National Energy Customer Framework: Law, Rules, Regulations and Contracts
- National Human Rights Consultation by La Trobe University Public Interest Law Practice students on placement at Consumer Action

- *Congratulations, You're Pre-Approved! An analysis of credit limit upselling letters*, funded by the Victorian Consumer Credit Fund, has sparked a vigorous debate about modern credit marketing practices.
- *ReclaimingCommunity Legal Centres: Maximising our potential so we can help our clients realise theirs*, funded by the Victoria Law Foundation Community Legal Centre Fellowship program, is already having an impact on the way we deliver, and evaluate, our services.

In 2008/09 some long-desired consumer reforms were announced, including a national consumer law that addresses unfair contract terms, national consumer credit laws imposing licensing and responsible lending obligations on lenders and brokers, and national unit pricing laws. Consumer Action, together with many other individuals and organisations, has worked hard over a number of years to advocate for these reforms, and continued its efforts over the year to try to ensure that the details of these reforms are implemented in a manner that meets the interests of consumers. Going forward, we will continue to apply our energy, commitment and smarts to representing consumers, particularly the disadvantaged, in public debates in which their voice should be heard.

Nicole Rich

**Director – Policy & Campaigns**



### **Consumer Actions Speeches:**

The speeches and presentations our staff gave during 2007/08 include:

- Current issues in consumer law – Leo Cussen Institute consumer law course (August 2008)
- Complaints investigations relating to legal practitioners from the perspective of the consumer – Victorian Legal Services Board training workshop (September 2008)
- Addressing the Concept of Fairness: the new touchstone in the regulation of fees? – Paper presented at the 2008 Credit Law Conference (October 2008)
- What have we done in consumer protection in Australia? – 6th Annual University of South Australia Trade Practices Workshop (October 2008)
- The consumer experience of energy marketing – Essential Services Commission Victoria Market Conduct Forum (October 2008)
- Effective internal dispute resolution - Excellence in Local Government Customer Service Conference (November 2008)
- Debt collection - achieving culture and compliance – Trade practices and Corporate Compliance Summit (November 2008)
- The business case for 'right first time' – a consumer advocate's view – EWOV Scheme Participants Conference (November 2008)
- Consumer Action and Community Information Centres – Community Information Victoria AGM (November 2008)
- Addressing consumer credit problems - Speech to National Pro-Bono Conference (November 2008)
- Rethinking regulation presented to Monash University Masters students (2009)
- Consumers and energy regulation - getting connected – Australian Energy Regulator consultation forum (May 2009)
- Consumer views on Tax reform - Presentation to the Community Tax Forum Symposium (2009)
- Participated in panel on Credit reform at the Financial Ombudsman Service national conference (June 2009)
- FOS and the New Terms of Reference - Financial Ombudsman Service national conference (June 2009)



# Working for change:

## Case work and campaigning in action

**Consumer Action practices law in the activist tradition. We aim to maximise the reach and effectiveness of the legal help we provide to consumers by tackling problems at both the individual and systemic level.**

This section provides some examples of how our casework and policy and campaigns work came together in 2008/09. (All client names have been changed.)

### SMART REGULATION – COMPETITION AND CONSUMERS

While competitive markets generally deliver the best price and service outcomes for most consumers, governments and regulators need to keep a close eye on market conduct to ensure that suppliers are not engaging in anti-competitive conduct, that consumers are in a position to help drive competition including through sound consumer protection regulation, and that the benefits of competition are shared fairly and are not leaving some groups in the community behind. Consumer organisations are sometimes falsely accused of being stakeholders who typically demand more regulation. In fact, it is often industry that argues for regulation – regulation that will protect existing markets from the threat of new entrants or other changes that might increase competition. Consumer organisations do not tend to advocate for ever increasing regulation, rather, we want effective regulation that ensures competition and markets work effectively and fairly for consumers and the community generally.

Competition and consumer protection problems can emerge in a variety of different markets. For example, a lack of competitive pressure on less-than-upfront mortgage early exit fees means they can spiral to unreasonable levels, locking borrowers unfairly into expensive loans. A failure to understand how consumers behave in practice when faced with high-pressure selling situations

such as sales pitches in their own home means that we do not provide the right measures to stop unfair trading conduct and poor outcomes for vulnerable consumers.

#### Impact on consumers:

##### *Mortgage early exit fees*

Kate entered into a variable-rate home loan with a non-bank lender in July 2007. She chose the loan after considering her options and reading advertising material promising that the loan was market leading, she would not pay “non-conforming” interest rates and the interest rates would be competitive.

Kate’s lender started raising the interest rate on her loan, out of line with Reserve Bank of Australia official cash rate rises. By late 2008 Kate’s home loan interest rate was at 0.99% higher than when she signed, while the official RBA rate was 2% lower. Kate wanted to switch to another home loan with lower interest rates, which could save her up to \$500 per month on her repayments, but her home loan contract stated that she would be charged a large early termination fee if she did so – over \$12,000 in Kate’s case. Feeling “locked in” to a mortgage that was not competitive, Kate sought Consumer Action’s help.

We launched a test case legal action against the non-bank lender on Kate’s behalf, arguing that the early termination fee was unconscionable because it exceeded the reasonable costs arising from the early end to the loan. We also argued that the changes in the interest rate were unconscionable because they were unreasonable, particularly given the advertising material that had been produced.

We generated substantial media coverage of the case, highlighting the effect that mortgage exit fees can have as a barrier to borrowers switching home loans, causing economic harm both to the individual consumer and to competition



in Australia's overly-concentrated home loan market. Media attention on the mortgage exit fee issue has continued since the case and has placed the Federal Government under some pressure to consider reforms.

Kate's case settled on confidential terms. Over 100 other customers of Kate's lender contacted us in response to the media coverage of Kate's case and we are currently considering ways to provide further help to affected consumers.

#### *High pressure selling in people's homes*

An educational software company representative contacted Jim and told him that he had won an educational software program in a competition that his son had entered. The company arranged to visit Jim in his home. The company's salesperson came to Jim's home and convinced Jim to buy an educational software package for his children's use, telling Jim that he had won a 50% discount on the package. Jim was told that he would be making fortnightly payments for the product, and it was not explained to Jim that he was in fact signing a loan contract with a finance provider for almost \$6,000 to pay for the software.

Jim is a disability pensioner with limited English skills and his wife relies on a carer's pension, meaning they could not afford the loan repayments. Jim's children did not use the software. When Jim sought Consumer Action's help, he told us that the company had also told him he would be able to cancel the contract at any time by calling them, but when Jim had tried to cancel a month after the sale they had ignored him.

We took a legal action on Jim's behalf to the Victorian Civil and Administrative Tribunal, claiming the seller engaged in misleading and deceptive and unconscionable conduct and did not comply with Victoria's laws governing sales in the home.

While Jim's case was resolved, this does not prevent the company or other similar businesses from continuing to engage in such sales conduct. Consumer Action received numerous other complaints about the selling practices of maths and English educational software providers during the year, and many consumers would not know how or where to make a complaint.

## What Consumer Action wants

- a national, uniform consumer regulatory regime that includes national unfair contract terms laws
- new economy-wide market studies and investigations powers for the competition and consumer protection regulator, including facility for super-complaints by consumer groups
- new measures to improve competition and consumer benefits in specific markets, including to make it easier to compare and switch bank account or home loan in the retail banking market and to overhaul cumbersome and ineffective telecommunications industry regulation
- a general prohibition on unfair trading
- better use of understandings about consumer behaviour, including through behavioural economics, in formulating policy, regulation and approaches to enforcement
- for the needs of disadvantaged and vulnerable consumers to be considered in policy and regulation design and in undertaking enforcement actions
- a strong consumer voice through funding of consumer research and advocacy

## What Consumer Action has done

- worked with interstate colleagues to advocate strongly to the State and Federal governments, as well as to the Opposition and minor parties, for the improvement of Australia's consumer protection laws, including introducing national unfair contract terms laws

- following the Council of Australian Government's October 2008 announcement of agreement to a new consumer policy framework for Australia comprising a single national consumer law including unfair contract terms laws and improved consumer law enforcement powers, provided submissions to the formal Government consultations on the proposed new laws and advocated for improvements to the draft legislation
- advocated for effective truth in pricing laws that require businesses advertising goods or services with a part of the price shown also to disclose the total final cost as prominently. Laws were enacted by the Federal Government in late 2008 and came into force in May 2009
- provided important contributions to inquiries and consultations, including supporting the proposed new laws to provide for criminal penalties for hard-core anti-competitive cartel conduct and to reform the telecommunications consumer codes regime
- made a submission to the House of Representatives inquiry into competition in the banking and non-banking retail sectors and gave evidence at the inquiry hearings
- published a comprehensive research report, *Congratulations, You're Pre-Approved! An analysis of credit limit upselling letters, that analysed how credit marketing offers are designed to influence consumer behaviour*
- commented vigorously in the media about retail banking market competition problems

## CONSUMER CREDIT AND LENDING REFORM

Consumer Action's legal practice sees a high number of consumers seeking help with credit and debt problems. 2008-09 was the year of the "global financial crisis", which had been preceded by in many cases reckless lending to consumers who did not have the financial capacity make loan repayments, or not without substantial hardship or the loss of their home. Australia's consumer

credit regulation has been inadequate to deal with the modern marketplace - it varies between States and Territories, lenders and brokers do not require a licence in many jurisdictions, access to external dispute resolution is limited and fringe lending practices targeted at low-income and vulnerable consumers are expanding with the help of legal loopholes.

For many years Consumer Action has argued that Australia desperately needs a national, uniform and comprehensive consumer credit regulatory scheme to address the problems that we constantly see confronting Australian consumers. In October 2008 the Federal Government announced that it and the State and Territory governments had agreed to transfer responsibility for consumer credit regulation to the Commonwealth and to implement a national licensing regime for lenders and brokers that would also require licensees to join an external dispute resolution scheme. Consumer Action participated heavily in the consultations on the details of this new scheme in 2008-09.

### Impact on consumers:

#### *Exploiting loopholes in current consumer credit laws*

Stuart approached a lender after seeing their advertisement in the Herald Sun newspaper. He wanted to borrow some money to pay his ex-partner under an informal property settlement they had agreed. The lender extended the funds to Stuart under a loan with a very high set up fee, an interest rate of 60% per annum and an even higher default interest rate of 108% per annum. The lender also took a mortgage against Stuart's home to secure the loan. The loan term was only four months, meaning Stuart would have to pay back a significantly larger sum than he had borrowed after only a short time, and if he could not afford to do so default interest would start to accrue increasing his debt, with





the lender able to sell Stuart's home to collect the loan amount and fees and interest owed. When signing for the loan, the lender had Stuart sign a declaration that his loan was for 'business purposes', even though it was clearly a personal loan. The declaration document was simply included amongst other documents to be signed without any explanation.

In Victoria, consumer credit laws impose an interest rate cap of 48% per annum for consumer loans, which would render a loan such as Stuart's unenforceable, and consumer credit laws more generally would also provide Stuart with various rights to challenge the unfairness of a loan. However, none of these protections apply if the loan is for 'business purposes' and in this case Stuart had signed a 'business purposes declaration', making it very difficult for him to overturn a presumption that his loan was not covered by important legal protections.

#### *Irresponsible lending leads to loss of home*

Doreen and her husband lived in their own home and had only a small amount remaining on their mortgage with a mainstream bank. Doreen was a full-time carer for her terminally ill husband, and they relied for their income on Doreen's carer's pension and her husband's disability pension. Their mortgage repayments were affordable on their limited income.

Doreen and her husband decided that they wanted to borrow up to \$20,000 to carry out minor renovations to their home. They contacted a broker about obtaining a loan and a representative of the broker visited Doreen and her husband at their home. The representative convinced Doreen and her husband to borrow \$143,000, telling Doreen that she could get a job once her husband recovered to pay off the loan. The representative completed the loan applications after Doreen and her husband

signed blank forms, and the representative also had Doreen and her husband sign a brokerage agreement entitling the broker to \$3,965 in brokerage fees.

Less than three months after settling the loan, Doreen's husband passed away and with the loss of the disability pension income Doreen fell behind on the loan. She lost her home when she was forced to sell it to repay the debt.

#### What Consumer Action wants:

- a single national regulatory framework for consumer credit regulation
- effective national licensing of credit providers and mortgage and finance brokers
- an upfront responsible lending obligation on lenders to lend fairly and assess the borrower's capacity to pay
- mandatory membership of an ASIC-approved external dispute resolution scheme for all licensed credit providers and brokers
- the closure of current loopholes in the Consumer Credit Code
- comprehensive interest rate caps that include fees and charges, to put a stop to excessive usury
- responsible marketing of credit and a ban on the use of credit reports for marketing purposes
- obligations on lenders to deal appropriately with consumers in financial hardship and consumer access to external dispute resolution in hardship cases
- regulators who enforce consumer credit law

#### What Consumer Action has done:

- sent a joint letter with other consumer advocates to the Federal and State Ministers responsible for credit regulation urging progress on reforms to close fringe lending loopholes, with these reforms included in the national consumer credit legislative package

# CONSUMER ACTION

Big four banks snare all the  
Bankruptcy reform  
dodgy deals

Call for consumer law with teeth

Lenders fear credit law reform

**Money crisis sinking families**

Race on to install more ATMs

ling over the y work story

“there’s not a do”, Poulakis The former Mitsubishi’s d

Small grocers may avoid unit price

are likely

When people con

Credit card laws under review

Fear for rights of water-bill defa

MELBURNIANS with overdue water bills become bound

New rules are coming and first signs are here

Debt woes tipped to soar

**Repo men's dodgy tricks**

**Now your rights**

Banks set to follow





# N IN THE NEWS

the nation's home mortgages

needs reform

ALS

lot you can  
says.  
president of  
dealer council,  
save

ing plan



PICTURE: MELISSA POWELL

ulters



too good to  
be true, it  
probably is

Nurse feared bankruptcy after bank sold credit card debt

## Risk of ruin for \$2000

Charges of up to \$50,000 to switch loans

## Borrowers in fix on fees

Richard Glavin

RAMS's Glenn Goddard on survival...  
What made the difference?



RHG is Goddard's golden fleece

## Power rises to hit poor

## Plea for national rates cap on home loans to curb predators



## ow NAB's lead on fee reduction



- advocated to government and other stakeholders for national reforms to consumer credit regulation, participated in Federal Treasury's formal consultations on the national consumer credit law reforms and made submissions to the initial Green Paper on Financial Services and Credit Reform and the draft legislative package
- made a submission to Consumer Affairs Victoria on the application of unfair contract term laws to credit card contracts, with the Victorian Government extending Victoria's unfair contract terms laws to cover credit contracts from June 2009
- maintained a strong and extensive media profile on credit and debt issues
- produced fact sheets on credit reporting and pre-screening of credit marketing offers distributed to all Federal MPs
- gave presentations at the annual Credit Law conference, National Bankruptcy Congress, National Pro Bono conference and Financial Ombudsman Service conference on consumer credit reforms
- worked with industry on improving consumer credit outcomes, including participating in the Australasian Retail Credit Association's process to develop responsible lending and credit reporting rules, sitting on the NAB's advisory committee for its small loans pilot project and meeting with various credit businesses
- made a submission to the Department of Prime Minister and Cabinet on its response to the Australian Law Reform Commission's credit reporting recommendations

## DEBT COLLECTION

Consumer Action continues to receive a disproportionate number of complaints about poor or unlawful debt collection practices, including misleading correspondence, failures to provide documents or evidence of debts or to resolve genuine disputes and refusals to negotiate payment arrangements in cases of financial hardship. A particularly concerning practice is the issuing of bankruptcy proceedings against consumers to recover a small debt, placing consumers' homes at risk.

### Impact on consumer:

#### *Harassing debt collection conduct*

Linda, who was of a non-English speaking background, fell behind on her credit card repayments after she lost her job and having to take care of her ill mother meant getting a new job was not possible.

Linda's bank sold her credit card debt to a debt collection firm, which began making a number of threatening calls to her even though Linda explained that she could not afford to pay a large lump-sum payment as she relied on a carer's pension for income and owned no savings or assets. In one call a representative of the debt collector told Linda that if she left Australia she would not be able to return whilst the debt remained unpaid and the calls continued even after Linda sought the help of a financial counsellor who sent an authorisation requesting that contact be made through him. The debt collector also telephoned a friend of Linda's and asked for Linda's contact details and information about her family and her home, claiming that Linda had applied for a home loan. Linda was embarrassed that the debt collector had contacted her friend and intimidated by the debt collector's conduct.





A particularly concerning practice is the issuing of bankruptcy proceedings against consumers to recover a small debt, placing consumers' homes at risk.



#### *Using bankruptcy to collect a small debt*

Elizabeth was a 60 year old full-time carer for her daughter and relied on a carer's pension for income, however, she owned her home. Elizabeth's son had asked her to get an Internet account when he was living with her several years earlier and had promised to pay the bills, but when he didn't pay she could not afford the bills, which had reached close to \$1,000. She had tried to explain to her internet services provider that the bills were her son's, not understanding that she was responsible for the account in her name. Several years later, a debt collection firm contacted her to pursue the debt and once interest and costs accrued on the original debt amount, increasing it to just over \$2,000, the debt collection firm issued bankruptcy proceedings against Elizabeth. (The minimum debt amount over which a person can be sent bankrupt in Australia is \$2,000.) Elizabeth explained that she could not afford to pay the lump sum upfront and tried to negotiate a payment plan but the debt collector refused and proceeded with the bankruptcy action. Elizabeth sought Consumer Action's help after she was bankrupted but the bankruptcy trustee had added over \$20,000 in fees to her bill, meaning she needed to pay over \$23,000 to pay out the bankruptcy or her home would be sold to recover this debt.

- reforms to Australia's bankruptcy laws to raise the minimum threshold for taking bankruptcy action against a debtor from \$2,000 to \$10,000 and to allow trustee fees to be properly scrutinised

#### What Consumer Action has done

- made submissions to the Insolvency and Trustee Service Australia on its review of trustee fees and to the Federal Attorney-General's Department on informal proposals to make changes to bankruptcy laws (with the Department releasing an exposure draft Bill proposing to raise the minimum debt threshold from \$2,000 to \$10,000 in August 2009)
- lodged complaints with the regulators CAV, ACCC, ASIC and the Legal Services Commissioner about unfair or illegal debt collection practices
- met with the ACCC and ASIC to discuss debt collection concerns and spoke at their joint forum on debt collection
- met with various industry participants, including creditors, debt collectors, credit reporting agencies and the insolvency practitioners' professional association, to discuss concerns
- garnered extensive media coverage on the need for bankruptcy law reform and on debt collection concerns more generally
- made a presentation to an inaugural industry conference on proposals to develop a new industry code of conduct
- made a submission to Victorian legislation governing debt collection
- handed out copies of a media release outside the CBD flagship store of a large company involved in selling off small debts to a debt collection firm that bankrupted its customers

#### What Consumer Action wants

- more enforcement action from regulators in relation to bad debt collection practices
- harsher penalties for debt collectors who breach their legal obligations
- large creditors to monitor the practices of their debt collectors more closely

## UNIT PRICING

Unit pricing – the display of the price of pre-packaged products per unit (for example per kilogram or per litre) in addition to the total price of a product – can facilitate price competition by making it easier for consumers to make price comparisons between products and between different product sizes. Research also shows that unit pricing allows consumers to make significant savings on their weekly grocery bill. However, unlike in Europe and many states in the US, Australian supermarkets have not been required to display unit prices. Following consumer advocacy, in early 2009 the Federal Government announced that it would implement a nationally-consistent, mandatory unit pricing regime. A unit pricing code was enacted in June 2009 and will come into force at the end of the year.

### What Consumer Action wants

- a national, uniform and mandatory unit pricing system
- effective minimum standards under such a national scheme that ensure consumers are actually able to notice, read and use of unit price information
- an accompanying education campaign and in-store information to inform consumers about the use of unit prices
- adequate monitoring and enforcement of such a unit pricing regime

### What Consumer Action has done

- advocated strongly for a high quality unit pricing system in Australia together with interstate consumer advocates. We acknowledge in particular the work of Ian Jarrett of the Queensland Consumers' Association, who has advocated tirelessly for these reforms for many years.
- made a submission to a Senate Economic Committee inquiry into unit pricing and appeared and gave evidence at the inquiry hearings

- made submissions to the Federal Treasury on an unit pricing issues paper and subsequently on a draft unit pricing code
- engaged in media comment on the need for a high quality unit pricing scheme
- met with the ACCC to discuss education, monitoring and enforcement under the new unit pricing code

## FAIR FEES

We continued our work to try to eliminate unfair penalty fees from bank and other financial service provider accounts in 2008-09. Penalty fees are charged when consumers commit a "default" such as overdrawing their account, having a payment bounce, paying their credit card bill or home loan repayment late or exceeding their credit card limit. These fees are unfair because they are excessive in proportion to the costs incurred in processing the "default" and are often difficult for consumers to avoid. They may also be legally unenforceable, but it is difficult for an individual consumer to challenge the fees in court. Adding to the unjustness of charging penalty fees, low income consumers tend to be the people who pay large amounts of money in penalty fees even though they are the customers who can least afford to do so.

2008-09 also saw important reforms to ATM fees implemented by the Reserve Bank of Australia, moving from a system in which consumers are charged by their own bank or financial institution for using another institution's ATM to more transparent direct charging by foreign ATMs at the time of making a transaction. We participated in this process to try to secure fair ATM fees for all consumers by arguing for foreign ATM fees charged by a consumer's own financial institution to be scrapped and for consumers in country areas to be protected from excessive ATM direct charges.



### Impact on consumers:

*Punishing customers already in obvious financial hardship*

Kate's bank was charging her direct debit dishonour fees consistently over three years, which sometimes left her without enough money to cover her essential expenses each fortnight. The dishonoured direct debits had been set up to repay a payday loan Kate had previously taken out. Kate called her bank and asked at the counter in person for a refund of the fees, without success.

### What Consumer Action wants

- all penalty fees to reflect actual costs to the bank or financial institution
- no penalty fees on concession or pensioner accounts and better efforts by banks to ensure eligible customers are aware that they can switch to these accounts
- better systems and options to assist consumers manage their accounts, including real-time warnings that penalty fees may be charged if a transaction proceeds
- regulatory powers that address market problems with bank fees
- no foreign ATM fees charged by financial institutions following the introduction of ATM direct charging
- fair ATM direct charges for consumers in regional and rural areas

### What Consumer Action has done

- made a submission with CHOICE to the review of the Banking Code of Practice advocating a seven point plan for industry to improve its penalty fee practices
- made a submission to the House of Representatives inquiry into competition in the banking and non-banking retail sectors and gave evidence at the inquiry hearings

- called on all banks to scrap penalty fees on concession accounts and released a Fact Sheet on the issue with CHOICE as part of Anti-Poverty week
- continued our campaign with CHOICE to stop banks and other financial institutions charging unfair penalty fees by helping thousands of consumers to claim back unfairly charged fees: [www.fairfees.com.au](http://www.fairfees.com.au)
- made a submission to the Reserve Bank of Australia on its proposed reforms to the charging of ATM fees and engaged in discussions with the RBA on the issue, with the Reserve Bank commencing the collection and publishing of more information about ATM fees and locations
- wrote to the Federal Treasurer and Consumer Affairs Minister regarding the ATM system reforms
- discussed the dropping of foreign ATM fees with banks, with all banks scrapping these fees after the introduction of direct charging (also strongly influenced by a CHOICE campaign against foreign ATM fees)

(The major banks all announced significant cuts to and/or elimination of penalty fees in the second half of 2009.)

## ENERGY MARKET REFORM

Energy prices are continuing to rise and the introduction of new initiatives such as the roll-out of smart meters in Victoria and the potential introduction of a Carbon Pollution Reduction Scheme will lead to further energy price rises, straining many households' ability to afford their energy bills. As Australia progresses national energy market reforms, best practice consumer protections must be retained both to ensure consumers can drive competition effectively, for example by being able to compare accurate and useful information about competing offers for energy supply, and to protect vulnerable

consumers from the impacts of price rises they cannot afford, for example by ensuring energy retailers have good hardship programs in place.

Our work in this area is supported through funding from the Consumer Advocacy Panel.

### What Consumer Action wants

- a sustainable, affordable and accessible energy supply
- an appropriate regulatory framework that supports genuinely effective competition in the energy market, including the publication of the details of market contracts in a comparable and consistent format and consumer protections that enable consumers to participate confidently
- adequate rights and obligations to ensure consumers are not disconnected from energy supply due to an incapacity to pay
- regulators and institutions that act fairly and in the interests of consumers
- fair market conduct and appropriate avenues for redress for consumers

### What Consumer Action has done

- advocated heavily to the Victorian and Federal Governments for a best practice national consumer protection law framework for the national energy market and made media comment on the reforms
- made submissions on the proposed national energy customer framework legislative package to the Ministerial Council on Energy
- participated in Victorian Government consultations on requirements for energy retailers to publish price and product information
- represented consumer interests in regular consultations on the roll-out of smart meters in Victoria and nationally and made a submission to the Australian Energy regulator on the need to ensure consumers are adequately informed if they are moved to a time-of-use tariff for energy consumption
- continued to distribute our in-demand Do Not Knock stickers to consumers to avoid door-

to-door marketers, especially energy door-to-door salespeople

- made submissions on other important issues affecting consumers including the Carbon Pollution Reduction Scheme Green Paper, the framework of a national Retailer of Last Resort scheme and the Australian Energy Market Commission's review of the national energy market in light of climate change policies
- continued to facilitate a network of consumer advocates from around Australia interested in national energy market reform and convened, with the Consumer Utilities Advocacy Centre, three National Consumer Roundtable on Energy meetings that allow consumer advocates from around Australia to meet, share information and make joint representations to Governments, regulators and industry
- participated in consultative forums relating to energy, including the Essential Services Commission's Customer Consultative Committee, the Energy and Water Ombudsman (Victoria) Case Handling Advisory Committee and the AGL Customer Council

## WATER

Access to water is a basic human right but the price of water is rising rapidly and not all households will be able to manage these price increases. The ongoing drought and climate change pressures are placing huge strains on our water system which are reflected in these price rises, while new initiatives to augment water supply such as the proposed Victorian desalination plant are expensive, and the costs of these large projects are passed through to water users.

### What Consumer Action wants

- fair and affordable water supply for essential needs for all households
- assistance for consumers to reduce their consumption of water
- efficient delivery of reliable, safe, secure and quality water services





We have a strong commitment to working to improve the civil justice system so that it works in the interests of all members of the community and enables fair outcomes.



- fair, accountable and transparent regulatory and consultation processes that ensure efficient and equitable prices for all water users and meaningful community consultation on important water issues

#### What we have done

- met with the Victorian Government several times regarding reforms to harmonise retail water services regulation between Melbourne and regional Victoria and wrote to the Victorian Water Minister seeking to ensure that consumer interests are protected in this reform process
- participated in the Essential Services Commission's metropolitan Melbourne water price review for 2009-2013, making formal submissions to the review and presenting at a Stakeholder Forum
- made a submission to the Federal Department of Environment, Water, Heritage and the Arts on its Draft Pricing Principles for water

### ACCESS TO JUSTICE

Consumer Action makes use of both the formal justice system and alternative dispute resolution processes to pursue remedies for consumers who have been harmed by unfair or unlawful conduct. However, the civil justice system does not always serve consumer interests well because seeking a remedy can generate delays and costs that individual consumers cannot afford to bear. Affordable alternative dispute resolution schemes provide another option for resolving consumer disputes but it is important to work to ensure that they remain fair and accountable in their decision-making and that access is not unfairly limited by factors such as monetary caps or undue exclusions to their jurisdiction.

We have a strong commitment to working to improve the civil justice system so that it works in the interests of all members of the community and enables fair outcomes, especially for low-income and disadvantaged consumers.

#### What Consumer Action wants

- accessible, efficient and affordable access for consumers to both the judicial system and to alternative dispute resolution processes
- a civil justice system that understands the needs of low-income and disadvantaged consumers and provides practical measures to enable their interests to be pursued

#### What we have done

- made a submission to the Victorian Civil and Administrative Tribunal President's review
- produced a comprehensive Briefing Paper on access to justice issues under the proposed new national consumer credit laws with other consumer advocates and distributed the paper to Ministers and stakeholders, with the Federal Government subsequently including provisions for a low cost judicial forum for consumer credit disputes in the legislative package
- launched a report into maximising the work of Community Legal Centres
- participated in the new Financial Ombudsman Service's consultations on its proposed Terms of Reference and co-ordinated and produced three joint consumer movement submissions to the review process
- coordinated and produced a joint consumer submission to ASIC on its consultation paper proposing improvements to the way financial services businesses resolve disputes with consumers
- facilitated a submission to the National Human Rights Consultation on the protection of consumer rights by La Trobe University public interest law students on placement with Consumer Action
- participated in the Federation of Community Legal Centres Victoria's civil justice working group

# Consumer representation on Standards Australia committees project

## **2009 marks the tenth anniversary of the Standards Project finding a home at Consumer Action and its forerunner, the Consumer Law Centre Victoria.**

The project is managed on behalf of the Consumers' Federation of Australia (CFA) and its purpose is to source, place and support consumer representatives on Standards Australia technical committees and some International Organisation for Standardisation (ISO) committees. The project itself has been running for over twenty years, with Standards Australia being one of the first standardisation organisations to provide dedicated funds and resources to support consumer involvement in its processes.

“Despite these difficult times our volunteers have achieved some fantastic outcomes during the year.”

Standards form an important aspect of the consumer protection toolkit. They set out product safety and testing requirements, minimum performance requirements and expected outcomes. Many are developed specifically to protect vulnerable consumers. A significant number of the Standards Australia committees that CFA representatives are involved in, for instance, deal with protecting children from hazards and injuries - from unsafe toys, badly designed furniture or playgrounds, unprotected back yard swimming pools or from injuries in car crashes. Another key area is standards for a more accessible built environment for people with disabilities. Many of the Standards that CFA representatives assist in developing are called up in legislation as mandatory product safety standards under the *Trade Practices Act* or are referred to as requirements under the Building Code of Australia. Some standards set benchmarks for energy saving and environmental performance, or measure and set labelling requirements for environmental claims. Others act as guidance documents for dispute resolution, governance and social responsibility.

The processes by which standards are developed are also important. The inclusion of the fullest range of representative stakeholders - industry, consumers, regulators, testers - all working with an equal voice (if not equal resources) has always been an important part of the process, as has the aim of working towards consensus.

This is a critical time for the Standards Project. The CFA is struggling after working for over a decade with no organisational funding of its own. The Standards Project, which relies on the



efforts of a dedicated group of 30 volunteer CFA representatives, illustrates that a lot can be achieved, well beyond the primary project aim, with modest organisational and administrative funding. Over the past year our volunteers have been sought out for consultation, involvement and advice by government and industry in areas such as product safety, nanotechnology, e-health and solaria industry regulation due to their subject area expertise and consumer representative credentials, consolidated through, often years of, involvement with their standards committees.

More significantly for the project, Standards Australia has moved to a new business model, whereby stakeholders are expected to fund and resource their own standards. Evolution towards the new model was expedited in June 2009, when Standards Australia retrenched almost a third of its staff, due to financial problems stemming from diminishing returns from the investment income on which it has become largely reliant. This means that many of the standards which the CFA has traditionally been involved in developing will be wholly or substantially funded by either industry stakeholders or government regulators. The valued neutral space provided though Standards Australia will close, possibly permanently, in June 2010. It will also possibly be harder to find support for public interest standards (such as the ISO Social Responsibility Standard) where there is no obvious, well resourced stakeholder.

Despite these difficult times our volunteers have achieved some fantastic outcomes during the year. The new Solaria Standard, published in January 2009, reflected massive gains for consumer and public health advocates with new bans on use

by minors and people with skin types that burn easily, improved operator training requirements, a reduction in the amount of allowable ultraviolet exposure and improved consumer warnings. What is significant is that consumer and public health representatives were able to bring industry operators to a point of common agreement. The new standard has been called up in regulations in Victoria and New South Wales and Standards Australia awarded the Solaria Committee with Outstanding Committee of the Year recognition.

CFA representatives have been involved with new and revised standards for mobility appliances, babies dummies, helmet testing, wiring rules and children's toys. Australia's first domestic organics standard is nearly complete and the International Social Responsibility Standard (for which Australia's consumer representative, Deni Greene, acts as project editor) has reached Draft International Standard status. Another long-serving CFA representative, Robyn Easton, has been appointed as the Chair of COPOLCO's Product Safety Working Group. COPOLCO is the ISO's Consumer Policy Committee.

Process sustainability and credibility will become crucial issues for standards development into the future. Well resourced and independent consumer representation will also continue to be a cornerstone of good standards development, as are good consumer representatives. Ours are exceptional!

**Jo Higginson**  
Standards Project Co-ordinator

# Outreach and Training Programme



**The Consumer Action Outreach Programme is part of the continuing core business of the Consumer Action Law Centre. In 2008/09 the Programme responded to a significant, identified need in the consumer community by providing advice and training for vulnerable rural and regional consumers as well as regional and metropolitan community workers.**

The Outreach Programme seeks to maintain and increase community awareness of the support and services that the Consumer Action Law Centre offers. By engaging with consumers and community workers Consumer Action is kept abreast of emerging and continuing systemic issues in the community such as debt collection practices and pay day lending disputes. The Outreach Programme has resulted in the referral of cases to the Consumer Action legal practice with positive outcomes for consumers involved.

The Outreach Programme training and workshop services are supplied by all members of the legal practice including the directors of legal practice. Outreach projects and training ranges from presentations to small groups of 10 to audiences numbering over 100 attendees.



“The Outreach Programme seeks to maintain and increase community awareness of the support and services that the Consumer Action Law Centre offers.”

### REGIONAL OUTREACH PROGRAMME

Director - Legal Practice Paul Gillett attended the Financial and Consumer Rights Council's annual conference to present on the practical implications of the great deleveraging to more than 100 attendees.

Albury -Wodonga was visited by solicitor Jillian Williams who presented legal training on the application of the Consumer Credit Code to financial counsellors and local caseworkers. Jillian also travelled to Geelong to train workers on hardship applications in VCAT where a writ of possession has been issued in the Supreme Court. She also presented this valuable workshop to financial counsellors and CLC workers in Bendigo. Solicitor Christian Groves presented on a range of consumer issues to community workers in Morwell and Bairnsdale and solicitor Tom Wilcox traveled to Mildura and conducted credit and debt workshops with both consumers and community workers.

### METROPOLITAN OUTREACH PROGRAMME

Solicitor René van de Rijdt facilitated a credit and debt workshop at the Collingwood Neighborhood Justice centre for workers and consumers. Solicitor Jillian Williams hosted a credit and debt presentation for indigenous elders at the Darebin City Council. Jillian further facilitated the training of African client support workers at Footscray RSL. Solicitor Michael Hermitage presented on private carpark fines at the FCRC infringements

training day at Trades Hall to over 100 financial counsellors and CLC solicitors.

Solicitors Gerald Cohen and Neil Ashton both presented on a variety of topics including Hardship applications and VCAT procedures to members of the FCRC at Ross House, Melbourne.

Director of Policy Nicole Rich made a 2 hour presentation on Public Interest Law to students enrolled in the masters in Public Interest Law Course at La Trobe University.

Director- Legal Practice Celia Tikotin presented on credit and debt issues to workers and consumers at Senior Rights Victoria. Fellow director Paul Gillett also presented to Senior Rights Victoria on the topics of credit, debt and bankruptcy. Celia Tikotin and solicitor Tom Wilcox presented a workshop on debt collectors and high pressure sales to the FCRC at Ross House. Tom Wilcox furthermore presented an overview of credit debt and bankruptcy to over 100 attendees at the Homeless Person's Legal Clinic. Tom also made a general presentation on consumer law to workers at the Environmental Defenders Office.

### CONSUMER AFFAIRS VICTORIA TRAINING

Upon request from Consumer Affairs Victoria (CAV) the Consumer Action Law Centre through the Outreach Programme provides legal training to CAV metropolitan and regionally based advocates. This year topics included judgment debt recovery, legal steps that can be taken to prevent home repossession, credit and debt

training ,VCAT procedures, an overview of bankruptcy and insolvency law and casework workshops. This training was provided by solicitors Jillian Williams and Michael Hermitage. Other outreach services were delivered by Director-Legal Practice Celia Tikotin to the public at the public forum at Brooklands Green Estate, Cranbourne, with over 500 members of the public present. Celia also addressed members of the Mental Illness Fellowship Victoria at Heidelberg. Solicitor Gerald Cohen presented a workshop on the pitfalls of mobile telephone contracts to students at NMIT.

## TARGETS AND OUTCOMES

The total number of Outreach and training activities were 24 for the year, that equates to a delivered activity approximately every 10 business days.

For funding purposes Consumer Action is required to complete 4 Metropolitan outreach projects, 6 Regional and up to 4 for CAV (as requested). Our targets were all reached or exceeded. We completed 7 regional, 14 metro and 3 for CAV, as requested.

Our aim for 2009/10 is to continue providing this essential service with enthusiasm and professionalism while striving to exceed the required targets.

**René van de Rijdt and Gerald Cohen**

Outreach Programme Coordinators





# Volunteers and work experience students...

**As always we wish to take this opportunity to thank all of our hardworking, enthusiastic and committed volunteers who have contributed so much to the successful operation and broad knowledge base of Consumer Action. We could not assist the thousands of consumers that we do without you.**

Consumer Action is fortunate to receive hundreds of applications from volunteers and students wishing to undertake a placement with us each year and as the Centre builds an increasing public profile for its excellence in legal services, consumer campaigns and policy work, the numbers of applications grow. In an attempt to deal with these applications more efficiently we established a formal application process this year which allows applicants to complete an online application form and provides for formal intake periods in June / July and December / January each year.

This year we had the pleasure of taking on Renaud Pruvost, a law graduate from France who specifically sought out the Centre to undertake his internship due to his interest in consumer law. Renaud was with us for 6 months and in that time

he provided invaluable assistance to the lawyers and policy officers on a range of matters not to mention providing us with valuable information about the wines and ciders of the Bordeaux region. He has gone on to secure employment with a law firm in Paris.

We also had the good fortune of having Ken Harris a "retired" financial counsellor offer his services 2 days per week (though we are sure we saw him in here more than that). Throughout his time with us Ken has undertaken his duties with immense enthusiasm and energy. He has offered invaluable support to the solicitors by preparing financial statements and drafting hardship applications to VCAT on behalf of clients at risk of losing their home as well as offering valuable advice and a new perspective. He thereby greatly increased the legal service's capacity to assist people in financial difficulty. After leaving us to provide much needed support to the victims of the fires, we recently got him back on board to assist with specific campaign work.

“All of our volunteers work hard undertaking often complex legal and policy research, drafting documents and answering calls from many distressed clients on our telephone advice service.”

We were also very lucky to be able to employ our longest standing volunteer as a member of staff on our advice line. Kay Li Yeoh started with the Consumer Law Centre Victoria in February 2006 and as a highly reliable, talented volunteer with a wonderful, caring and friendly personality she was an obvious candidate when an opening came up on our telephone advice service. While it was sad when she had to finally leave Consumer Action to undertake her articles, we know that she will make a fantastic solicitor in the future.

Renaud, Ken and Kay Li are three of the many volunteers that come through Consumer Action's doors each year, bringing with them their own unique perspective and set of skills. All of our volunteers work hard undertaking often complex legal and policy research, drafting documents and answering calls from many distressed clients on our telephone advice service. We greatly appreciate the work done by all of our volunteers and hope that they gain as much from being here as we do from them.

**Jillian Williams & El Morton**  
Volunteer Coordinators





# Our great appreciation goes out to the following volunteers . . .

Nicole Brooks  
Joshua Buckland  
Kathleen Casey  
Yuan Yuan Chien  
Saskia Deerson  
Jenna Donsky  
Lachlan Edwards  
John Erbacher  
Christian Farinaccio  
Nefertari Georgious  
Loredana Giarrusso  
Maria Glykokalanous  
Tanya Haroutiun  
Louisa Hermitage  
Ken Harris  
Chen Hung Lin  
Feng Lin  
Kate Luckman  
Savitri Judiono  
Jisung (Kevin) Kang

Joshua Levy  
Jane Liu  
Rajneeta Maharaj  
Seona March  
Kate Minogue  
Thomas Mutton  
Dion Nania  
Dennis Neu  
Naomi Newbound  
Margarita Ntostas  
Justin Orders  
Renaud Pruvost  
Meg Sandecock  
Katherine Savage  
Better Shao  
Niva Shrestha  
Agnes Skoczek  
Warren Smith  
Rachel Soh  
Daniel Song

Adie Swinburn  
Toby Verey  
Shu Qing Tan  
Michael Ting  
Mei Ling Wang  
Adela Woliansky  
Ao-Ling (Arlene Wu)  
Sherry Wu  
Kay Li Yeoh  
Ilksen Yokus  
Alice Zhang  
Nechama Zwier



# Continuing Professional Development

**Consumer Action's continuing professional development program represents our commitment to maintaining the significant expertise in consumer law and advocacy possessed by the organisation. The program also forms part of our solicitors' continuing education requirements under the *Legal Profession Act 2004* (Vic).**

Consumer Action staff have made thorough use of external CPD programs this year, introducing new skills and knowledge to the organisation. Blake Dawson provided a valuable opportunity to our staff by making its internal CPD program available to them through the Federation of Community Legal Services. Highlights of this program included a seminar on negotiation by Professor John Wade of Bond University and the six lecture Advanced Contract Law Series 2009 by former University of Sydney Lecturer and current Blake Dawson special counsel, Jeffery Goldberger. Staff also had the opportunity to attend external CPD sessions run through the Law Institute of Victoria on a number of topics, including mediation, ethics and the implications of a client's incapacity.

Our internal CPD sessions continued to focus on sharing the significant litigation experience and consumer law knowledge within the organisation and included Nicole Rich, Director - Policy & Campaigns, presenting on her recently published report, *Reclaiming Community Legal Centres: Maximising our potential so we can help our clients realise theirs*, and Paul Gillett, Director - Legal Practice, talking on the proposed changes to consumer credit law under *National Consumer Credit Protection Bill 2009* (Cth).

Visiting speakers formed an important part of the program. Ken Moran and Bae Bastian of the Financial Ombudsman Service spoke on the topic of break costs on fixed interest loans, an issue that became prevalent during the year due to the decline in interest rates on variable loans. Former CEO of Consumer Credit Legal Service and Consumer Law Centre, Denis Nelthorpe, inspired staff with a presentation the history of the consumer movement.



“Staff also had the opportunity to attend external CPD sessions run through the Law Institute of Victoria on a number of topics, including mediation, ethics and the implications of a client’s incapacity.”

In a valuable learning and team-building opportunity, all staff benefitted from a full day of training on communication with mediation and dispute resolution expert, Nina Harding.

Consumer Action wishes to thank all those who contributed to the program for generously sharing their time.

Next financial year looks to be an exciting and full year for professional development within the organisation with significant changes to our practice area foreshadowed by the *National Consumer Credit Protection Bill 2009 (Cth)*, *Bankruptcy Legislation Amendment Bill 2009 (Cth)* and *Trade Practices Amendment (Australian Consumer Law) Bill 2009 (Cth)*.

**Tom Wilcox**  
CPD Coordinator



# Financial Reports



## INCOME STATEMENT FOR THE YEAR ENDED 30 JUNE 2009

INCOME	Note	2009 \$	2008 \$
Core Grants		1,208,330	1,152,001
Non Core Grants		386,455	422,302
Interest received		23,752	32,074
Consulting & Sitting Fees		35,652	31,665
Rental Income		-	56,001
Donations		12,770	-
Costs Recovered & retained		15,781	666
Refunds & Reimbursements		7,559	32,147
Profit on Sale of Assets		-	68
Set Up Funds		22,817	99,678
Set Up Funds - Money Help		23,710	-
Transfer to CALC		38,344	61,257
		<u>1,775,170</u>	<u>1,887,859</u>
<b>EXPENDITURE</b>			
Salaries		1,094,734	893,725
Superannuation		113,852	90,328
Salary On Costs		16,942	11,991
Rent		179,746	222,030
Repairs & maintenance		2,788	3,839
Occupancy		52,326	27,815
Staff Training		11,337	5,383
Staff Recruitment		1,316	2,475
Communications		22,540	21,770
Office Overheads		48,828	38,349
Insurance		4,337	4,958
Finance & Accounting		8,256	9,152
Library Resources & Subscriptions		18,139	21,487
Travel Costs		82,253	83,487
Programming & Planning		109,347	87,270
Client Disbursements		3,320	775
Depreciation		31,155	27,266
Other		43,711	53,107
Set Up Costs		-	80,671
Set Up Costs - Money Help		23,710	-
VLA Surplus		7,108	-
		<u>1,875,745</u>	<u>1,685,878</u>
Profit (loss) before income tax		(100,575)	201,981
Income tax expense	2	-	-
Profit (loss) after income tax		(100,575)	201,981
Retained Profits at the beginning of the financial year		<u>566,435</u>	<u>364,454</u>
Retained Profits at the end of the financial year		<u>465,860</u>	<u>566,435</u>



**BALANCE SHEET AS AT 30 JUNE 2009**

	<b>Note</b>	<b>2009</b>	<b>2008</b>
		<b>\$</b>	<b>\$</b>
<b>CURRENT ASSETS</b>			
Cash and cash equivalents	<b>3</b>	380,477	549,249
Trade and other receivables	<b>4</b>	179,681	139,386
TOTAL CURRENT ASSETS		<u>560,158</u>	<u>688,635</u>
<b>NON-CURRENT ASSETS</b>			
Property, plant & equipment	<b>5</b>	199,917	141,258
TOTAL NON-CURRENT ASSETS		<u>199,917</u>	<u>141,258</u>
TOTAL ASSETS		<u>760,075</u>	<u>829,893</u>
<b>CURRENT LIABILITIES</b>			
Trade and other payables	<b>6</b>	87,723	75,920
Provisions	<b>7</b>	189,842	174,569
TOTAL CURRENT LIABILITIES		<u>277,565</u>	<u>250,489</u>
<b>NON-CURRENT LIABILITIES</b>			
Provisions	<b>7</b>	16,650	12,969
TOTAL NON-CURRENT LIABILITIES		<u>16,650</u>	<u>12,969</u>
TOTAL LIABILITIES		<u>294,215</u>	<u>263,458</u>
NET ASSETS		<u>465,860</u>	<u>566,435</u>
<b>MEMBERS' FUNDS</b>			
Retained profits		465,860	566,435
TOTAL MEMBERS' FUNDS		<u>465,860</u>	<u>566,435</u>

**STATEMENT OF RECOGNISED INCOME AND EXPENDITURE  
FOR THE YEAR ENDED 30 JUNE 2009**

	<b>Retained Earnings</b>	<b>Total</b>
	<b>\$</b>	<b>\$</b>
Balance at 1 July 2007	364,454	364,454
Profit attributable to the entity	201,981	201,981
Balance at 30 June 2008	566,435	566,435
Profit attributable to the entity	(100,575)	(100,575)
Balance at 30 June 2009	<u>465,860</u>	<u>465,860</u>

**STATEMENT OF CASH FLOWS FOR THE YEAR ENDED 30 JUNE 2009**

	<b>Note</b>	<b>2009</b>	<b>2008</b>
		<b>\$</b>	<b>\$</b>
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
Receipts from customers & other sources		103,188	163,451
Core grants		1,197,773	1,026,567
Non Core Grants		386,455	535,052
Payments to suppliers and employees		(1,790,125)	(1,465,819)
Interest received		<u>23,752</u>	<u>32,074</u>
Net Cash provided by operating activities	<b>8</b>	<u>(78,957)</u>	<u>291,325</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
Proceeds on sale of investments		-	68
Payments for purchase of property and equipment		<u>(89,815)</u>	<u>(131,649)</u>
Net Cash provided by (used in) investing activities		<u>(89,815)</u>	<u>(131,581)</u>
Net increase (decrease) in cash held		(168,772)	159,744
Cash at the beginning of the year		549,249	389,505
Cash at the end of the year		<u>380,477</u>	<u>549,249</u>

**Note 1: Statement of Significant Accounting Policies**

This financial report is a special purpose financial report prepared in order to satisfy the financial report preparation requirements of the Corporations Act 2001. The directors have determined that the company is not a reporting entity. Consumer Action Law Centre is a company limited by guarantee, incorporated and domiciled in Australia.

**Basis of Preparation**

The report has been prepared in accordance with the requirements of the Corporations Act 2001, and the following applicable Australian Accounting Standards and Australian Accounting Interpretations:

- AASB 101:** Presentation of Financial Statements;
- AASB 107:** Cash Flow Statements;
- AASB 108:** Accounting Policies, Changes in Accounting Estimates and Errors;
- AASB 110:** Events after the Balance Sheet Date;
- AASB 112:** Income Taxes
- AASB 1031:** Materiality;
- AASB 1048:** Interpretation and Application of Standards.

No other applicable Accounting Standards, Accounting Interpretations or other authoritative pronouncements of the Australian Accounting Standards Board have been applied.

**Reporting Basis and Conventions**

The financial report has been prepared on an accrual basis and is based on historical costs and financial assets and financial liabilities for which the fair value of accounting has been applied. The following is a summary of material accounting policies adopted by the company in the preparation of the financial report. The accounting policies have been consistently applied, unless otherwise stated.

**Accounting Policies****a. Income Tax**

The charge for current income tax expenses is based on profit for the year adjusted for non-assessable or disallowed items. It is calculated using tax rates that have been enacted by the balance sheet date. The company is exempt from paying income tax by virtue of Division 50 of the Income Tax Assessment Act, 1997. Accordingly, tax effect accounting has not been adopted.

**b. Cash and Cash Equivalents**

Cash and cash equivalents includes cash on hand, deposits held at call with banks, other short-term highly liquid investments with original maturities of three months or less, and bank overdrafts.

**c. Revenue**

Revenue from the rendering of a service is recognised upon the delivery of the service to the customers. All revenue is stated net of the amount of goods and services tax (GST). Interest revenue is recognised on a proportional basis taking into account the interest rate applicable to the financial assets.

**d. Goods and Services Tax (GST)**

Revenue, expenses and assets are recognised net of the amount of GST, except where the amount of GST incurred is not recoverable from the Australian Taxation Office. In these circumstances the GST is recognised as part of the cost of the acquisition of the asset or as part of an item of the expense. Receivable and payables in the balance sheet are shown inclusive of GST. Cash flows are presented in the cash flow statement on a gross basis, except for the GST component of investing and financing activities, which are described as operating cash flows.

	2009 \$	2008 \$
<b>Note 2: Income Tax Expense</b>		
Prima facie tax payable on operating profit at 30% (2007 - 30%)	(30,173)	60,594
Less tax effect of:		
- non-taxable member income arising from principle of mutuality	30,173	(60,594)
Income tax expense	-	-
<b>Note 3: Cash and cash equivalents</b>		
Cash on hand	84	255
Cash at bank	211,966	462,862
Cash on Deposit	168,427	86,132
	<u>380,477</u>	<u>549,249</u>
<b>Note 4: Trade and other receivables</b>		
Accounts Receivable	36,127	7,415
Accrued Income	140,748	132,808
Prepayments	2,806	(837)
	<u>179,681</u>	<u>139,386</u>
<b>Note 5: Property, plant &amp; equipment</b>		
Leasehold Improvements - at cost	190,484	127,500
Less: Accumulated depreciation	(40,284)	(19,008)
	<u>150,200</u>	<u>108,492</u>
Computer Equipment - at cost	47,854	23,714
Less: Accumulated depreciation	(15,344)	(8,476)
	<u>32,510</u>	<u>15,238</u>
Telephone System - at cost	13,319	11,937
Less: Accumulated depreciation	(3,142)	(1,856)
	<u>10,177</u>	<u>10,081</u>
Office Equipment - at cost	7,351	7,351
Less: Accumulated depreciation	(3,676)	(2,205)
	<u>3,675</u>	<u>5,146</u>
Office Furniture - at cost	3,858	2,549
Less: Accumulated depreciation	(503)	(248)
	<u>3,355</u>	<u>2,301</u>
Total Property, plant & equipment	<u>199,917</u>	<u>141,258</u>
<b>Note 6: Trade and other payables</b>		
Trade Creditors and accruals	52,427	45,200
PAYG Tax payable	-	9,004
GST Payable	35,296	21,716
	<u>87,723</u>	<u>75,920</u>

**Note 7: Provisions**

## CURRENT

Provision for annual leave	58,685	53,993
VLA Grants in advance	7,108	-
CALC Set up Funds	97,759	120,576
Money Help Set Up Funds	26,290	-
	<u>189,842</u>	<u>174,569</u>

## NON-CURRENT

Provision for Long Service Leave	<u>16,650</u>	<u>12,969</u>
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**Note 8: Reconciliation of Cash Flow from Operations with Profit from Ordinary Activities after Income Tax**

Profit after income tax	(100,575)	201,981
Cash flows excluded from operating profit attributable to operating activities;		
Non-cash flows in profit		
- Depreciation	31,155	27,266
- (Profit)/Loss on sale of assets	-	(68)
Changes in assets and liabilities;		
- (Increase)/decrease in trade and other debtors	(29,738)	(85,270)
- Increase/(decrease) in trade and other payables	11,804	34,507
- Increase/(decrease) in provisions	8,397	112,909
Net cash provided by Operating Activities	<u>(78,957)</u>	<u>291,325</u>

**Note 9: Company Details**

The registered office of the company is:  
Consumer Action Law Centre, Level 7, 459 Little Collins Street, Melbourne VIC 3000.

**Note 10: Accounting Policies, Changes in Accounting Estimates and Errors**

There was a change in accounting policy during the 2008 year. The nature of the change related to the CALC set up costs. The nature of the funds provided for set up costs was reviewed and subsequently the board of management, and they have determined that the provision of initial funds for set up costs should have been grossed up and recognised as a liability. It was determined that the use of these funds for set up expenses should be expensed and corresponding entry to income be made to match that expenditure.

The funds used to purchase capital equipment should then be capitalised as assets in the balance sheet as a non-current asset. An appropriate entry should then be made to depreciate those assets accordingly and to bring to account income in the income statement corresponding to that depreciation charge. This treatment appropriately matches revenue with those expenses.

This affect of this treatment is as follows:-

	Debit \$	Credit \$
Set up costs expense	80,671	
Depreciation	19,007	
Leasehold Improvements assets account	127,500	
Set up funds income account		99,678
Set up funds liability account		108,493
Less: accumulated depreciation		19,007
	<u>227,178</u>	<u>227,178</u>



**CONSUMER ACTION LAW CENTRE**  
**ABN 37 120 056 484**

**INDEPENDENT AUDIT REPORT TO THE MEMBERS OF  
CONSUMER ACTION LAW CENTRE**

**Report on the Financial Report**

We have audited the accompanying financial report, being a special purpose financial report, of Consumer Action Law Centre, which comprises the balance sheet as at 30 June 2009, and the income statement of recognised income and expenditure and cash flow statement for the year then ended, a summary of significant accounting policies, other explanatory notes and the directors' declaration.

*Director's Responsibility for the Financial Report*

The director's are responsible for the preparation and fair presentation of the financial report and have determined that the accounting policies described in Note 1 to the financial statements, which form part of the financial report, are appropriate to meet the requirements of the Corporations Act 2001 and are appropriate to meet the needs of the director's of the members. The director's responsibility also includes establishing and maintaining internal control relevant to the preparation and fair presentation of the financial report that is free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies and making accounting estimates that are reasonable in the circumstances.

*Auditor's Responsibility*

Our responsibility is to express an opinion on the financial report based on our audit. No opinion is expressed as to whether the accounting policies used, as described in Note 1, are appropriate to meet the needs of the directors. We conducted our audit in accordance with Australian Auditing Standards. These Auditing Standards require that we comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the financial report is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial report. The procedures selected depend on the auditor's judgment, including the assessment of the risks and material misstatement of the financial report, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial report in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the director's, as well as evaluating the overall presentation of the financial report.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

*Auditor's Opinion*

In our opinion the financial report of Consumer Action Law Centre is in accordance with the Corporations Act 2001, including:

- (a) giving a true and fair view of Consumer Action Law Centre financial position as at 30 June 2009 and of its performance for the period ended on that date in accordance with the accounting policies described in Note 1; and
- (b) complying with Australian Accounting Standards to the extent described in Note 1 and complying with the Corporations Act 2001.

Sean Denham

Dated: 23 September 2009

Sean Denham & Associates - CPA's

Suite 12, 13-25 Church Street, Hawthorn VIC 3122

**CONSUMER ACTION LAW CENTRE**  
**ABN 37 120 056 484**

**DIRECTORS' REPORT**

Your directors present their financial report on the Consumer Action Law Centre for the year ended 30 June 2009.

The names of the directors throughout the year and at the date of this report unless otherwise stated are:

Janet Kay Pentland	Gerard John Brown	Anna Lindsay Stewart
Barbara Ann Romeril	Roslyn Isabel Hunter	Robert Acton
Paul Murfitt		

The principal activities of the Company during the financial year were:

To provide free legal advice and representation to Consumers who would not have access to Consumer legal advice and representation, and to the extent to which it will assist Consumers and for the purpose of the furtherance of the object:

- to advocate on behalf of Consumers on consumer protection laws, law reform, policy development and in relation to industry practices;
- to undertake research, policy development and education on Consumer protection issues;
- to advance the interest of Consumers;
- to promote and protect the health, safety, financial wellbeing and general welfare of Consumers;
- to promote and protect human rights for Consumers and to promote social justice for Consumers; and
- to eliminate systematic disadvantages to Consumers for the purposes of achieving a fair market.

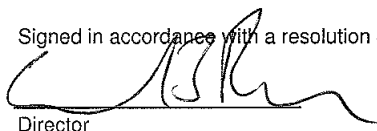
The loss from ordinary activities after income tax amounted to \$100,575.

No matters of circumstances have arisen since the end of the financial year which significantly affected or may significantly affect the operations of the company, the results of those operations, or the state of affairs of the company in future financial years.

**Auditor's Independence Declaration**

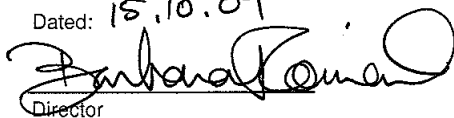
A copy of the auditor's independence declaration as required under section 307C of the Corporations Act 2001 is set out on page 2.

Signed in accordance with a resolution of the Board of Directors:



Director

Dated: 15.10.09



Director

Dated: 15.10.09

# Acknowledgements

Consumer Action thanks the following individuals and organisations, who have assisted us during the year – providing their valuable services and expertise free of charge or at a reduced fee.

**Members of the Victorian Bar:**

**Gary Bigmore QC,**

**W. Brind Zichy-Woinarski QC,**

**Kristine Hanscombe SC,**

**Richard Antill,**

**John Armstrong,**

**Paul Bingham,**

**Robin Brett,**

**Jonathan Evans,**

**Peter Fary,**

**Michael Hines,**

**Carolyn Kenny,**

**Teri Konstantinou,**

**Stewart Maiden,**

**Emily Porter,**

**David Robertson,**

**Caroline Sparke,**

**Ted Woodward.**

**Base Location** for discounted hosting for the MoneyHelp website.

**FOS** for off-site storing our back up tapes.

**Chris Flaherty**, graphic designer for our Annual Report

**Os Kong**, graphic designer for the Do Not Knock Stickers

For provision of CPD presentations:

**Ken Moran** and **Bae Bastian** of the Financial Ombudsman Service.

**Denis Nelthorpe.**

**Blake Dawson Waldron**



