

# CONSUMER *INTERACTION*

ISSUE 4/2010

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Welcome to the latest edition of **CONSUMER INTERACTION**.

June and July have been exciting months for the Centre.

We're pleased to report that the hard work of our telephone financial counselling service **MoneyHelp** has been recognised with a new twelve month funding agreement. Under the new agreement, MoneyHelp's service parameters have been extended beyond those experiencing financial difficulty as a result of job loss or reduced working hours and will now include anyone who is experiencing mortgage or rental stress.

At the end of June, we made up a significant contingent at the first Jan Pentland Dinner. It was a wonderful and inspiring night and you can see some of the photos from the evening and learn more about this event in the **Hot Topics** section.

Of course, a raft of new consumer laws came into effect on 1 July 2010 with some wins (and losses) for the sector. But that is just the beginning. We will now focus on the impact of the laws, testing their operation and advocating for effective enforcement.

We hope you enjoy this edition of **CONSUMER INTERACTION** and, as always, we welcome any feedback. If there's anything you'd like to see covered or you'd like to contribute to upcoming editions of the e-bulletin, please email our **editor** with suggestions or ideas.

We'd also encourage you to forward **CONSUMER INTERACTION** throughout your networks.

## IN THIS EDITION...

1. [HOT TOPICS](#)
2. [WINS \(AND OTHER NEWS\)](#)
3. [POLICY AND CAMPAIGNS](#)
4. [STANDARDS](#)
5. [MONEY HELP](#)
6. [BULLS-EYE](#)
7. [ODD SPOT](#)
8. [YOUR VIEWS](#)
9. [CALC IN THE MEDIA](#)

## 1. HOT TOPICS

**Jan Pentland Dinner:** The Jan Pentland Foundation hosted a [dinner](#) in honour of Jan on Wednesday 9th June 2010 where the winner of the inaugural Jan Pentland Foundation Scholarship was announced. The scholarship will help its recipient with the costs of studying to become a financial counsellor.

This year, two scholarships were awarded, to Cheryl Buttigieg and Mwajemi Hussein. Both Cheryl and Mwajemi will use the scholarship to obtain the Diploma in Community Services (Financial Counselling).

To find out how to donate to the Jan Pentland Foundation, [visit their website](#).

Also awarded on the night was the [Jan Pentland Prize](#), which went to Jillian Fletcher of Lifeline Queensland. The prize of \$4,000 is provided by Jan's partner David Morawetz and recognises work in the community sector, focussing on the financial and/or consumer rights of disadvantaged people in Australia.

For those of you who couldn't be there, enjoy [some photos from the night](#) ...

**Do Not Knock:** They're baaack!! After many months, Consumer Action has finally got a new supply of our ever popular [Do Not Knock](#) stickers. If you would like get some, please tell us how many you would like and send a self-addressed, stamped envelope to [the Centre](#).

**2010 Consumer Election Platform:** Consumer Action has spent the past fortnight consulting with other members of the Consumers Federation of Australia to develop an election platform for the major parties to respond to. The final platform will be posted on the [Consumer Action website](#) over the next few days.

**Bushfire Royal Commission:** The [Commission](#) presented its final report to the Governor of Victoria, Professor David de Kretser AC on 31 July 2010. The Centre was disappointed to see the Commission recommended the government replace the Fire Services Levy with a property-based levy. Read our [media release](#).

The [final report](#) and is now available to the public. You can read the Commission's recommendations [here](#).

## 2. WINS (AND OTHER NEWS)

### News

In June, Consumer Action's Legal practice saw one of its Directors, Paul Gillett, leave to join Maurice Blackburn working on the bank fees class action. Paul had been with the Centre for more than a decade.

Paul is hard to replace, but one of our senior solicitors, Jillian Williams, has now taken on the role of Director of Legal Practice with Celia Tikotin. Jill has stood in as a Director of the Legal Practice on a number of occasions previously and so has been able to 'hit the ground running'.

### Wins

#### \*Jean & the Hair Institute

Jean's son underwent treatment for baldness at the Hair Institute after Jean entered into a contract with them on 27 February 2008 for a treatment that was allegedly represented to work 'miraculously' or, , there would be a money-back guarantee.

Despite assurances on the Hair Institute website that there would be an assessment prior to the start of treatment this was never done. Jean was advised there would be no contact with the scalp during treatment but this was also not the case.

It soon became apparent that the treatment was not working and in or around July 2008, Jean visited the clinic and told them this. She was advised that a refund could not be given until the treatment was fully completed. Jean's son completed the treatment and sought a refund for \$3,000.00. Despite sending a letter of demand to the Hair Institute the refund was not forthcoming.

A VCAT Application was issued demanding repayment of the \$3,000.00 and a VCAT order was made on 13 July 2009. It ordered that the Hair Institute repay the amount of \$3,000.00 to Jean and she advised us to prepare a Warrant of Seizure and Sale on the Hair Institute to secure the payment.

The Warrant was issued and sent to the Sheriff for execution, however, the Hair Institute had ceased to trade and the seizure of goods was ineffective. As the client failed to provide instructions to try a second address for the Warrant of Seizure of Sale, the file was subsequently closed.

**Solicitor:** *Gerald Cohen*

### \* **Lena and Millbrook Finance (MF)**

Lena purchased a vehicle in 2005 with a secured loan from MF for \$17,000, repayable at the rate of approx \$500 per month. As a result of employment difficulties Lena got into arrears and eventually MF issued proceedings for possession of the vehicle in VCAT, claiming arrears of \$1,500 and alleging the amount owing was nearly \$6,000.

We wrote to MF alleging that the amount owing was in fact only \$4,600 and that a payment in respect of commission had been wrongly paid at the inception of the loan, in breach of s15(B)(a)(ii) of the Consumer Credit Code. MF denied this and, in order to stay the proceedings, we filed a complaint with COSL on behalf of Lena. The complaint was accepted and expedited by COSL, who sought clarification of MF's response, which we duly complied with.

Eventually, following some negotiation the proceedings and the complaint were both settled on the basis that the outstanding debt was frozen at \$4,000 payable at the rate of \$100 per fortnight.

*Solicitor: Michael Hermitage*

*\*Not their real names.*

## 3. POLICY AND CAMPAIGNS

**Payday Lending:** As many of you would be aware, the Centre is preparing to launch its report on the impacts of payday lending in Australia. This launch will form part of the Save the Cap campaign to ensure that the Qld, Victoria and NSW cap of 48% is retained and expanded nationally as part of the new Consumer Credit Laws.

If you or your organisation aren't already involved in the campaign but would like to be, please [contact us](#).

**Bankruptcy Law Amendment Bill:** The Centre was disappointed to see the Government's backdown on its bankruptcy law reforms in the Senate. Raising the minimum debt for forced bankruptcy to only \$5,000 instead of \$10,000 simply will not stop the current problem of unscrupulous creditors and bankruptcy trustees [misusing the bankruptcy system](#). Instead of using legitimate and cheaper debt collection avenues to collect small debts, they will unnecessarily be able to suck the equity from family homes to pay disproportionate trustee fees.

The Government at least made an additional, and sensible, change to the reform package by deferring any expansion in the ability to sign consumers up to [controversial](#) debt agreements until the full review of this issue is completed later this year.

For more information, see our joint [submission](#) on the original draft Bill and our [submission](#) to the Senate inquiry into the reforms.

**New National Consumer Laws:** Consumer Action welcomed the passage of the final Australian Consumer Law reforms through the Federal Parliament in June. Having one national consumer law will ensure consistent protections for all Australian consumers.

We commend the bipartisan support shown for a late amendment to fix a loophole that would have removed high-pressure door-to-door and telemarketing sales protections if the

consumer “invited” the salesperson to visit them in their home, even where the “invitation” was engineered by the seller – such as where consumers give their contact details to the seller for another reason, such as a competition entry form filled out at a shopping centre.

Consumer Action strongly advocated for this change in our [submission](#) to the Senate inquiry into the Australian Consumer Law.

**Energy Distributor Pricing:** The Centre was pleased to see that the Australian Energy Regulator has reigned in inflated distributor pricing estimates in its Draft Decision on the Victorian Electricity Distribution Price Review for 2011-15 released on 4 June.

The distributors forecast their capital expenditure to rise by 66% or \$5.4 billion (in 2010 prices) to meet supply objectives. The AER Draft Decision would mean total capital expenditure over the period would be \$3.4 billion, an increase only around 38%. However, decisions by the Victorian Government relating to further bushfire mitigation measures may lead to greater capital expenditure.

Consumer Action's [submission](#) on the distributors' regulatory proposals to the AER had argued strongly that the AER would be justified in heavily scrutinising the distributors' claims for increased revenue and thus prices, based on a comparison of their proposals in previous regulatory periods to eventual outcomes.

The full 1500 pages of the AER's Victorian draft decision can be found [here](#).

**National Credit Reform Green Paper:** The Centre is currently preparing its response to Treasury's [Green Paper](#) on National Credit Reform Phase 2, released in July.

## 4. STANDARDS

### New Standards Co-ordinator

Regina Gotfredson has joined the Centre as our new Standards Co-ordinator. If you would like to get in touch with Regina, you can [email](#) her.

## 5. MONEYHELP

### Criteria and Funding

The Minister has agreed to extend the funding for [MoneyHelp's phone financial counselling service](#) for another year.

The criteria for accessing the MoneyHelp financial counselling service have been expanded to include clients who are suffering mortgage and/or rental stress as well as those with money problems as a result of job loss or reduced working hours.

### New Faces

Danielle Archer took up her new role as the new Industry Liaison Officer on 19 July but has already been out on the road making site visits.

Marketing communications consultant, Rebecca Camilleri, has joined the team for eight weeks from Plum Communication. Rebecca will be developing a new marketing communication strategy to reflect MoneyHelp's expanded criteria.

Liz Stary, one of original MoneyHelp financial counsellors has decided to return to the world of face to face counselling. Liz will be missed but we wish her every success in her new role.

### **Site Visits:**

Danielle attended a worker information session at National Foods Factory in Cobden on 20<sup>th</sup> July (her second day on the job).

### **On the phones**

Anita\* was referred by her energy provider after she ran up \$5,000 on her energy bill and was struggling with the payments. Anita had been making regular payments towards the debt, but stopped due to a relationship breakdown and domestic violence. The energy provider had told her it would only accept \$200 minimum a week for the debt, and threatened her with disconnection within a week if she didn't comply. Anita was receiving benefits and could not afford these payments, so was in danger of having both her gas and electricity disconnected.

The financial counsellor referred Anita to [EWOV](#) and to a domestic violence worker for assistance. The case was then forwarded to CALC's policy group for review of the energy provider's approach to financial difficulty. This resulted in CALC's energy policy officer meeting with the energy provider where this case, amongst others, was raised to illustrate shortcomings in how that company dealt with hardship cases.

The meeting was only held recently, so we are yet to see whether any improvements have been made in the delivery of this energy provider's approach – however, we are hopeful this will occur.

*\*Not her real name.*

**Remember, if you have clients who fit our criteria,  
refer them to MoneyHelp for phone counselling and referral if needed.  
Contact MoneyHelp on 1800 149 689 or visit [www.moneyhelp.org.au](http://www.moneyhelp.org.au) for  
more information**

## **6. BULLSEYE ... WHAT'S IN OUR CROSS HAIRS**

**MCE Review Process:** Consumer Action has received notice that the Ministerial Council on Energy (MCE) has 'requested' the Consumer Advocacy Panel (the funding body of Consumer Action's energy policy position) to [implement a process](#), that will require any reports and submissions produced by Consumer Advocacy Panel funded organisations to be reviewed by the MCE for 'accuracy' "prior to its public release in any form".

This means that anything produced by CALC or others funded through the NEM Consumer Advocacy Panel will need to be sent to the MCE for approval prior to submission to any regulatory process.

Whilst the review is cast as being confined "to technical and factual data and does not enable any editorial changes to the reports or submissions" – in practice, this distinction will be difficult to draw and we believe it will stifle advocacy and severely hamper our ability to effectively and independently scrutinise government policy in the Australian energy market.

Consumer Action is concerned that interests representing Australian energy consumers are already dwarfed by the resources available to represent industry interests and this measure will only serve to further tilt an already overwhelmingly imbalanced playing field. We note no similar efforts are being directed to ensure that submissions from industry are 'accurate.'

At least 10 other energy consumer representatives are funded by the Consumer Advocacy Panel and will be subject to this requirement.

**CALC Scam:** Consumer Action is concerned that unwitting consumers are still being misled by telephone scammers contacting them with bogus claims of being able to refund unfairly charged bank fees. The scammers are often saying they are from Consumer Action or MoneyHelp.

We are urging consumers to be extremely cautious of anyone contacting them with these sorts of promises and would advise consumers to never provide any bank or personal details over the phone and never send money as the result of such a call.

To find out more about how this scam operates and what you can do if you are contacted by the scammers, visit our [website](#) or read [our factsheet](#) and [media release](#).

**National Energy Customer Framework:** Consumer representatives from across the country greeted the Federal and State & Territory Energy Ministers when they met in Melbourne.

The June Ministerial meeting was to decide on the final form of the new national law for energy customer protections. The representatives are protesting major failures in the law that will lead to unfair treatment of consumers and faster disconnections of households and small businesses, particularly at a time when energy prices across Australia are rising rapidly. For more information, read our [media release](#).

## 7. ODD SPOT

**British Gas:** Okay, this isn't really odd, it's just staggering.

**MoCo – is it milk? Is it cola? It's both!!!:** A New Zealand farmer has been left shaken by his attempt to sell a milky cola beverage at a trade fair only to be stopped by Coke asserting their exclusive "cola rights" to the event.

**Going above and beyond:** A group of Taiwanese doctors test their theories on the effects of electrical current on the human body – after being unable to find any willing volunteers (the article explains why) they conducted the experiments on themselves – this is stuff that would make even the folks at Australian Medical Institute squeamish!

## 8. YOUR VIEWS

**CONSUMER INTERACTION** is committed to including commentary from industry and government on issues of concern to the consumer and community sector. If you would like to submit material for the Your Views section, or have any suggestions for organisations you'd like to see appear here, please email the [Editor](#).

This edition's offering comes from Victoria's [Department of Primary Industries](#), in response to the negative coverage of the State Government's mandated smart meter roll out.

### **What is the smart meter upgrade all about?**

Electricity is an essential service. And delivering it from power stations to us all involves some of Victoria's more important infrastructure.

A vital link is the meter. While the existing meters may have served us well, they are out-dated mechanical devices, based on 100-year-old technology. Unless we take steps to upgrade this infrastructure now, it won't be able to cope with the demands of the future.

This is why Victoria's metering infrastructure is now being upgraded with Smart Meters.

By the end of 2013, 2.5 million Smart Meters will have been installed in every home and small business across Victoria, by power distribution companies – the same companies who are responsible for the state's electricity poles and wires.

The Smart Meter upgrade will cost customers on average less than \$1.50 per week – a charge which is fixed by the Australian Energy Regulator.

Like other advanced countries around the world, this upgrade will mean the state benefits from a better, more efficient energy system – one that helps keep our energy costs lower than they otherwise would be.

Smart meters differ from current meters in that they can be read automatically, providing all the details of your power supply straight to your power company.

This will mean meter readers no longer need visit, and it reduces the need for estimated bills. The meter can also notify the power company if your power goes out, so they can get electricity back on more quickly.

Importantly, Smart Meters will enable consumers to access more detailed and accurate information about their electricity usage at different times – either from the power company, from a web portal, or with the purchase of a display device for the home, which wirelessly connects to the meter.

Over time consumers will also be able to choose an electricity contract with different rates for different times of the day, like you can for a mobile phone or the internet.

Consultation with Victorian consumer advocacies, industry and other interested groups is currently underway to ensure rigorous analysis of the consumer impact of new types of pricing, and to reassess current consumer protections in the context of these changes.

The Consumer Action Law Centre is one party working with Government to ensure that safeguards are in place to protect vulnerable consumers for adverse impacts from the pricing changes.



## 8. CALC IN THE MEDIA

### Talkback: Debtor Harassment

Life Matters, ABC Radio National, 28 July 2010, Richard Aedy

Australians are now carrying record levels of personal debt - Consumer Action Co-CEO, Carolyn Bond, discusses what debt collectors can and can't do and what your rights are.

### Consumer Rights

Done by Law, Radio 3CR, 13 July 2010, Sam Sowerwine

Consumer Action Senior Policy Officer Zac Gillam discusses payday lending and private car park fines.

### Consumer advocates say independence is at stake if lawyers are handed self-regulation

The Australian, 9 July 2010, Chris Merritt

Carolyn Bond, Co-CEO of Consumer Action, comments on the Law Council's proposal that lawyers and judges control regulation of the Australian legal profession.

### Bid to curb consumers' card debt

The Age, 8 July 2010, Ari Sharp

Consumer Action's Co-CEO Catriona Lowe discusses proposals by the Government that could see credit card companies having to assess the amount of credit customers are capable of repaying and then being banned from enforcing debts beyond that amount.

### Packing a punch

The Sydney Morning Herald, 29 June, Lesley Parker

Nicole Rich, Consumer Action's Director - Policy and Campaigns, discusses the new consumer laws requiring businesses to make sure their contract terms are fair and bringing many credit providers under a stricter licensing regime.

### Corporate watchdog taken off the leash to pursue mortgage lenders ...

The Australian, 28 June 2010, Nicola Berkovic

Consumer Action's Director - Policy and Campaigns, Nicole Rich, comments after the corporate watchdog says it will crack down on banks and other lenders who unfairly charge their customers extra fees.

### States' 11th hour spats over new energy legislation

The Australian, 11 June 2010, Natasha Bitá

Power utilities must be banned from charging late-payment fees, Victoria demanded yesterday, as the states squabbled over a new law to protect customers.

### Revolt over parking sting

Herald Sun, 2 June 2010, Karen Collier

Tens of thousands of drivers stung with hefty shopping centre car park fees are being urged to push for a mass claim for compensation.