

# CONSUMER INTERACTION

## ISSUE 4 OF 2011

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Welcome to the June/July edition of Consumer InterAction.

The last two months have been something of a roller-coaster for Consumer Action - We heralded some significant legislative reforms, such as bans on mortgage early exit fees and unsolicited credit card limit increases, but were left disappointed by ASIC's (Australian Securities & Investment Commission) decision to grant Motor Finance Wizard a consumer credit licence.

But, throughout the ups and downs, our casework and policy teams continued their good work. We provided legal and financial advice to vulnerable Victorians through our phone services, and added a consumer's voice to debates on unsolicited sales, pay-day loans, and the Smart Meter roll-out.

We've also set our sights on a few emerging issues which you can read about in the *Bullseye* section of this newsletter.

Enjoy Consumer InterAction and, since you're already at your computer, why not take a minute to follow [@consumer\\_action](#) on twitter.

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# **1. HOT TOPICS**

## **Hot Topic #1: ASIC grants Consumer Credit License to Motor Finance Wizard**

In the last edition of Consumer InterAction we told you about a case in which the Victorian Civil and Administrative Tribunal (VCAT) found Motor Finance Wizard's conduct to be misleading and deceptive, and its processes to be 'seriously flawed'. Motor Finance Wizard is the trading name for DGTV1 Pty Ltd. Consumer Action believed that this ruling threw serious doubt on whether ASIC should grant Motor Finance Wizard a consumer credit license.

Well the results are in and, much to Consumer Action's disappointment, the financial services regulator the Australian Securities and Investments Commission (ASIC) has granted Motor Finance Wizard a licence.

Consumer Action has had significant concerns about the conduct of Motor Finance Wizard since 2007, following a barrage of consumer complaints about its practices. These include sales targeting of low income and vulnerable consumers, high pressure sales techniques, imposing seriously inflated costs for low value vehicles, and poor quality of vehicles.

This application provided ASIC with a chance to send a clear message that no-one wants unconscionable conduct in the credit industry. But sadly, it appears to us that they've let this opportunity go by.

It seems we'll be fighting this battle for a little longer yet.

Read our media release [here](#).

## **Hot Topic #2: Door-to-door marketing by energy retailers**

In late June, the Australian Competition and Consumer Commission (ACCC) authorised a new code of practice for energy retailers and marketers who use door-to-door sales agents to sell energy.

While Consumer Action acknowledges the need for improved practices in relation to energy marketing, we're not convinced that this self-regulatory approach will improve standards in the industry. After all, there is a fundamental conflict of interest—high pressure selling techniques are used to make a sale, both the retailer and the salesperson reaps a financial benefit. There's simply no incentive for either sales person or retailer to eradicate these

practices.

Consumer Action will watch the implementation of this code closely, and in the mean time we'll be ramping up our 'Do Not Knock' campaign: [www.donotknock.org.au](http://www.donotknock.org.au).

## 2. WINS

### **Motor Finance Wizard wins**

Given ASIC's decision to grant Motor Finance Wizard a consumer credit licence, we thought we'd include a couple of our recent wins against Motor Finance Wizard to a) cheer ourselves up a little b) remind readers of their practices:

#### **Client v Motor Finance Wizard**

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

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

The legal decision was made after Consumer Action Law Centre issued legal proceedings against one of the Motor Finance Wizard group of companies, DGT1 Pty Ltd, on behalf of the customer.

#### **Client v Motor Finance Wizard & Kwik Finance**

Our client entered into a contract for sale for a vehicle from Motor Finance Wizard for a total of \$19,230.70. He also entered into a purportedly interest free loan for that amount. The red book value of the vehicle at that time was \$6,000 and the value at time of these negotiations was \$4,000 – Our client had already paid \$11,000.

We argued misleading and deceptive conduct and unfair contract terms in relation to the price of the vehicle. The matter settled prior to compulsory conference and our client was released from any future liability and the unencumbered vehicle was transferred to him. A saving to the client: \$8,230.70

### **Other Wins**

#### **Client v G.D. Master Plumbers**

Our client engaged plumbers to fix her cistern, she was charged an additional \$1,000.00 for work that was not done (unblocking drains).

We prepared and issued proceedings in VCAT alleging misleading and deceptive conduct, and that the plumbing services were not rendered with due care and skill. VCAT awarded our client's requested refund. Unfortunately, we also had to threaten the plumber with registration of order in the Magistrates' Court and bankruptcy before he paid up.

### **Client v Wyndham Leisure and Events Centre**

Our client started attending the Wyndham Leisure and Events Centre gym when she was 16 years old, but only attended for a few months and never went back. Five years later she discovered that the gym had continued to direct debit funds from her account totaling \$3,796.

The client tried to negotiate an outcome and was unable to get a reasonable offer to settle the matter. After we wrote to the centre questioning whether the client had capacity to enter into the contract, and whether the gym otherwise had authority to direct debit the account, the gym provided a full refund.

## **3. POLICY AND CAMPAIGNS**

### **Banking competition reforms:**

In our last edition, we reported on the implementation of the Federal Government's banking competition reforms and particularly the ban on home loan early exit fees which was initially enacted in March. In June, the Coalition moved to disapprove this regulation in the Senate pushing the issue to a vote. Thanks in part to some last minute [efforts](#) from consumer advocates, the ban was saved. Consumer Action maintains that early exit fees are bad for competition—they make it harder for borrowers to compare the true cost of loans.

Consumer Action also welcomes the enactment of [amendments](#) to the National Consumer Credit Protection Act which deliver on a number of election promises, including a ban on credit card over-the-limit fees, a ban on unsolicited credit card limit increase offers (unless a consumer 'opts-in' to receiving the offer), a requirement for lenders to allocate credit card repayments to higher interest bearing balances first, and new key fact sheets for home loans and credit cards. While the credit card amendments won't come into force until 1 July 2012, they should operate so as to better protect consumers from problems relating to expensive credit card debt. Consumer Action advocates, however, that forthcoming regulations must specify how the 'opt-in' process works in relation to unsolicited credit card increase offers. If an 'opt-in' is hidden in the detail of terms and conditions, Consumer Action believes that the law will be ineffective in ensuring consumers make an active decision about receiving such offers.

### **National insurance reforms:**

Consumer Action has joined with other consumer and community agencies to prepare a [submission](#) to the Treasury calling for a new standard definition of flood in insurance

policies. Recent floods in the eastern states have again demonstrated the consumer confusion and hardship caused by complex insurance policies as well as multiple definitions of flood which make determination of flood claims extremely difficult, if not impossible.

Consumer Action is also participating in the current [Natural Disaster Insurance Review](#). Director of Policy & Campaigns Gerard Brody provided a consumer's perspective to the debate at a recent [Institute of Actuaries public forum](#) looking at proposed reforms. Consumer Action believes that all consumers should have access to affordable insurance, including coverage for flood.

### **Save the cap—high cost, short term lending:**

A new report released by Consumer Action, [Mission Incomplete](#), has found that exorbitant effective interest rates on short term loans, upwards of 400 per cent, continue to put the pinch on vulnerable Australians despite the introduction of responsible lending laws in 2010. The report offers a snapshot into the experiences of twelve pay-day lending clients and details the high social and financial costs of an industry estimated to be worth \$200 million.

### **Smart meter rollout—another cost-benefit analysis:**

Consumer Action has completed a substantial submission to the Victorian Department of Treasury & Finance's review of smart meters. This review was a Ballieu government election commitment and aims to review the consumer costs and benefits of the rollout with a view to informing the Government's position on it continuing. Among other things, we said that there needs to be clearer policy principles that prioritise consumers to guide the rollout. To date, the rollout has been led by energy businesses and consultants, and that has contributed to many of the problems that have arisen.

## **4. STANDARDS**

### **Update on Committee work:**

#### **ME-064 Access for People with a disability:**

According to the United Nations, 10 % of the world's population, or 650 million people are affected by some kind of disability.

To support this population, Standards Australia has developed a standard AS 1428 Design for access and mobility, to provide building designers and users (architects, property owners and regulators) with the minimum design requirements for new building work to enable access for people with disabilities. The committee established to monitor this standard recently facilitated a forum to discuss and consider work in the areas of adaptable housing/universal design; wayfinding and fixtures and fittings and fitments within buildings.

The CFA Representative Eleanor Sumner has been an active member of this committee for

approximately 10 years.

Ultimately these standards will provide solutions to meet federal and state disability discrimination legislation and the needs of people with disabilities. We'll keep readers informed as work on the standard progresses.

If you are interested in finding out more about becoming a CFA standards representative, please contact

Standards Coordinator  
[standards@consumeraction.org.au](mailto:standards@consumeraction.org.au)

## 5. MONEYHELP

Demand for telephone financial counselling continues to increase, as does use of the MoneyHelp website (which is now receiving about 10,000 hits per month.)

MoneyHelp is excited about the continuation of the Bulk Debt Project ([www.bulkdebt.org](http://www.bulkdebt.org)) , and has joined many other community and financial counselling organisation in registering on the website so that we can link our clients into the bulk debt project, where low-income, vulnerable consumers can seek a waiver of debt.

We will say a sad goodbye to Danielle Archer our liaison officer on August 5th as she leaves us to work for the Financial & Consumer Rights Council. Danielle has done a fantastic job for us and we will miss her personally and professionally.

We've also had to add three new part-time financial counsellors to cope with the increased numbers of calls. The new financial counsellors will work one day each which will ensure that we have four financial counsellors working each day of the week.

Our expanded and experienced financial counselling team includes: Dianne Dejanovic, Heather Brown, Heather Keen, Anna Tiakanas, Brian Kerr, Garry Rothman, Vanessa Stanton, John Hartnett and Sandra Blake.

**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

### **Private Colleges & training centres:**

Recently Consumer Action has seen a number of cases where consumers have been left high

and dry by small, private education institutions.

The complaints we've heard have been over a number of issues including; poor educational standards, high pressure selling, unfair contracts and large upfront fees wasted when the institution became insolvent.

We're investigating the industry, liaising with key stakeholders and looking for ways to improve standards in the private college industry.

### **Unpaid trial work:**

Consumer Action's case work suggests that there's a growing problem with recruitment and job placement agencies directing their clients into unpaid work placements.

For a price, sometimes as much as \$2000, these companies will help jobseekers find unpaid work and imply that it will lead to paid employment down the track. Sadly, this paid employment is not a sure thing and many of our clients feel misled and cheated.

Consumer Action is currently looking at both the legality of unpaid trial work, as well as the fairness of some of the contracts these companies use. Watch this space....

## **7. CALC IN THE MEDIA**

### **ACCAN slams telco opposition to ACMA regulation**

*CIO Magazine, 26 July 2011, Hamish Barwick*

ACCAN is fighting for a telecommunications industry to be regulated by a mandatory code. The article mentions Consumer Action's role in the Reconnecting the Consumer summit.

### **Dealer snares ASIC licence despite reprimand**

*The Weekend Australian Financial Review, 23 July 2011, Matthew Drummond*

ASIC has granted a credit licence to Motor Finance Wizard despite VCAT finding that the company had engaged in misleading and deceptive conduct.

### **It's cold comfort for Victorians as power bills bite**

*Herald Sun, 23 July 2011, Karen Collier*

Energy company advisers Victorians to save electricity by leaving the house and knitting a tea-cosie. Comments from Consumer Action's Janine Rayner.

### **Surge in home repossession**

*Herald Sun, 23 July, Shelley Hadfield*

More than 400 repossession writs have been served in the past two months. Comments from Consumer Action's Gerard Brody.

**State's taxi complaint system is rank**

*Melbourne Times Weekly, 12 July 2011, Meagan Weymes*

A Melbourne Times Weekly article about Consumer Actions submission to the taxi industry enquiry which call for the Public Transport Ombudsman handle taxi complaints.

**Hampton Park family's 'Storm' over claim knockback**

*Casey Weekly, 11 July 2011, James Taylor*

Consumer Action's Gerard Brody provides advice on what customers can do if they are unhappy with their insurer's decision.

**ICA wades into flood debate**

*Australian Financial Review, 7 July 2011, Jane Searle*

Insurance Council of Australia rejects newly proposed insurance mode. Consumer Action's Gerard Brody quoted.

**State relaxes estate agent controls**

*The Age, 7 July 2011, Simon Johanson*

The Victorian Government is passing laws which ease the restrictions on estate agents buying a house that they've been commissioned to sell.

**Door open to regulations**

*Banyule & Nillumbik Weekly, 6 July 2011, Meagan Weymes*

Consumer Action's Janine Rayner explains why the energy industry's new self-regulation scheme for door-to-door sales will not work.

**Bankruptcy**

*ABC Radio - The Law Report, 5 July 2011*

Consumer Action's co-CEO Catriona Lowe discusses Bankruptcy with Erica Vowles

**Passengers continue to book Tiger flights**

*Nine MSN - Nine News Finance, 4 July 2011*

Gerard Brody warns consumers to be wary of Tiger Airways.

**CASA warns travellers to be wary of Tiger**

*The World Today, 4 July 2011, Alison Caldwell*

Consumer Action's Gerard Brody talking on The World Today about Tiger Airways and a need for them to be upfront with consumers.

**Tiger chief arriving for crisis talks, but airline still taking bookings**

*The Age, 4 July 2011, Andrew Heasley*

Consumer Action's Gerard Brody commenting on Tiger Airways taking flight bookings despite the future of the airline being uncertain.

**Urgent talks to save Tiger Airways**

*Herald Sun, 4 July 2011, Nick Leys & Shannon Deery*

Consumer Action's Gerard Brody commenting on Tiger Airways taking flight bookings despite the future of the airline being uncertain.

**Flood Levy dries up your cash**

*The Sunday Telegraph, 3 July 2011, Helen Pow*

Consumer Action's Janine Rayner comments on the rise in household electricity bills.

**Lenders reward home loan loyalty**

*Courier Mail, 27 June 2010, Alex Tulbury*

Consumer Action's Gerard Brody comments on the tactics of small home loan lenders.

**Same old devil, just different details**

*Sydney Morning Herald - Domain, 25 June 2011, Chris Tolhurst*

Consumer Action's Gerard Brody supporting a ban on mortgage early exit fee.

**Bell sounds for rip-off salespeople**

*Herald Sun, 24 June 2011, Karen Collier*

Consumer Action's Janine Rayner comments on the new self-regulation scheme for energy doo-to-door sales.

**Treasury defends reforms**

*The Australian Financial Review, 23 June 2011, Jane Searle*

Treasury argues that credit reforms will not end up costing borrowers.

**Reform to combat rogue financial advisers opening 'Phoenix' companies**

*Herald Sun, 18 June 2011, Karina Barrymore*

Increased regulations needed to stop insolvent financial advisers reopening their businesses under a different name.

**Banking fees honestly evil**

*Sydney Morning Herald, 17 June 2011, Joe Hildebrand*

Consumer Action fighting for a ban on mortgage early-exit fees.

**Choice to tackle 'super complaints' in NSW**

*ABC News online, 8 June 2011, Meredith Griffith*

Consumer Action supports new 'super complaints' trial in NSW.

**Super fraud foils ASIC**

*The Australian Financial Review, 6 June 2011, Mark Ludlow*

Consumer Action co-CEO Carolyn Bond comments on the need for ASIC to remain vigilant.