

CONSUMER *INTER*ACTION

ISSUE 6 OF 2011

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Welcome to the October/November edition of Consumer InterAction. Over the last two months we've published ten policy submissions, issued ten media releases, launched a new campaign website, and our legal practice has taken on some particularly interesting cases – so it's fair to say we've been keeping busy.

We also worked hard for, and were pleased to receive, funding to continue our MoneyHelp financial counselling service for the next 12 months.

This newsletter provides information on what we've been and where we're headed but, as always, more detailed information, including copies of all submissions and media releases, can be found at www.consumeraction.org.au.

And remember, if you find yourself missing us between newsletters, you can keep an eye on what we're up to on [twitter](#).

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1 . HOT TOPICS

Payday lending practices challenged in court

The lending practices of Australian's biggest payday lender, Cash Converters, are being challenged in proceedings issued in the Victorian Magistrates Court. Consumer Action is assisting a disability support pensioner who alleges that two Cash Converters companies ('Cash Converters') breached the National Consumer Credit Protection Act 2009 and the National Credit Code when it gave him at least 64 short-term loans over a three year period.

Mr Ronald Hayes, who battled significant health issues throughout the three year period, says he was forced to rely on family, friends and charities for food and medication because his pension was being eroded by loan repayments.

Mr Hayes' case, one of the first to challenge a payday lender under recently implemented national responsible lending laws, alleges amongst other things that Cash Converters:

- failed to make an appropriate assessment about the suitability of the loans and
- ought to have been aware that the loans would cause Mr Hayes substantial hardship, which could lead him to borrow more money to pay off his loans.

[Read our full media release.](#)

Consumer Action launches a national 'do not knock campaign'

A national *Do Not Knock* campaign, aiming to put a stop to unwelcome, dishonest and intimidating door-to-door salespeople, has begun with the Consumer Action Law Centre launching a new interactive website www.donotknock.org.au.

For many Australians, particularly the elderly and people living on their own, being visited by salespeople can be an unnerving experience. For others, having valuable time at home with family and friends interrupted by pushy salespeople is simply an unwelcome distraction. But help is at hand.

We developed this sticker a few years ago and, not surprisingly, it struck a chord with community members, as well as organisations including Financial Counselling Australia and Victoria Legal Aid who have lent their support to the campaign.

Thanks to wide-spread support we're now in a position to run a national campaign, where we can provide do not knock stickers to the community on a larger scale and give people a say about who visits their home. The website also features a range of handy information on consumers' rights when dealing with door-to-door salespeople.

[Read out full media release.](#)

2. Wins

Client #7264

CALC's client and his wife entered into a timeshare scheme with Wyndham for \$19,250. Systemic allegations arose in that client did not understand the arrangement and that there were high pressure sales. He was under the impression that he had the right to cancel membership at any time after the 7 business day cooling off period but when he decided he wanted to cancel, Wyndham refused.

CALC provided client with a draft toolkit and client used this to write to a letter of complaint to Wyndham. After waiting more than 45 days for a response from Wyndham, CALC advised the client to complain to FOS. Soon after Wyndham offered release from the contract and refund \$5,081 paid. Overall, a successful "road test" of the tool kit. **Savings to client: approx. \$23,081.**

Client #7232

Our 71 year old client who was receiving Centrelink says that she used her NAB credit card to cover living expenses. In August 2010 she requested an increase in her credit card limit from \$17,000 to \$19,000 and was declined, only to receive a letter offering an increased limit of \$20,000 a few weeks later. She now owes \$20,000. The client has no assets other than a car worth about \$6-8,000. She missed out on Bulk Debt Negotiation, and she is also effectively judgment proof.

CALC negotiated with the NAB on her behalf, explaining that she was judgment proof, had missed out on Bulk Debt Negotiation (under which her debt would have been waived), and sent documentation detailing the client's assets and Centrelink payments. After correspondence, NAB agreed to waive the debt. **Saving to Client: \$20,637.96.**

Client #7318

Our client entered into a subscription agreement with the Victorian Academy of Learning for use of the CAMI results program and accompanying telephone tutor service for her seven year-old daughter. The salesman allegedly made representations about the CAMI results program and tutoring service that were misleading and deceptive. To the extent that the subscription agreement was a contact sales agreement, it was deficient in a number of ways and it also contained unfair contract terms.

When the client's daughter tried to get the assistance from the tutor service, she was often unable to get through or advised to "call back later". The client was also finding it difficult to maintain the fortnightly subscription payments of \$115 and wanted to cancel the contract but was advised by the company that she couldn't.

We wrote a letter to VAL demanding that it / EduCollect agree to cancel the Subscription Agreement and Direct Debit Agreement, refund our client all subscription fees paid and confirm that no adverse listing had been made on our client's credit file. All of these demands were met.

Case Outcome: Cancellation of subscription and direct debit agreements; full refund of subscription fees paid (\$1,792.73)

Client # I think 7307

Our elderly clients owned their home, had a mortgage, lived of the pension and the husband suffered from mental health issues. A dealer called the clients and offered them a groceries prize

and got them to make an appointment to demonstrate the Kirby vacuum cleaner. Clients advised that they would not be able to afford it and the representative suggested the Line of Credit. He was a good salesman and did not initially mention the purchase price- he built up to it later. He said that the clients could have the demo machine at a good price if they “took it today”. Clients entered into a sale contract for the purchase of a vacuum cleaner at \$2,800.00. Clients home has 2 carpeted rooms and a passage.

Case Outcome: Our clients have been released from liability under the loan agreement. There has been no attempt by the trader to collect the vacuum cleaner. The clients paid \$800 in instalments but did not wish to pursue a refund of that sum. We have advised that should the trader attempt to collect the goods then they are to contact us for further assistance. It appears the trader has paid out the loan account. **Savings to client:** \$2,000

3. POLICY AND CAMPAIGNS

Campaign for consumer protection in payday lending rolls on

After the Federal Government introduced legislation into parliament to increase consumer protections in the industry, it became clear that the lenders were going to throw their substantial resources behind derailing the bill. They published anti Government ads in marginal Labor electorates, paid for full page ads in The Australian, and flew someone out from the UK to help. Cash converters even revealed that it has hired the services of three different lobby firms to support its case.

To counter the lenders and their ability to throw mountains of cash to defeat the legislation, consumer groups and financial counseling agencies have used the strength of numbers and the cold hard facts to support the proposals.

Along with the campaign website, www.debttrap.org.au, we’ve seen financial counselors host protests in Geelong, as well as at the [Cash Converters’ AGM in Perth](#), and a coalition of financial counseling organisations published a [letter of support](#) to The Hon Bill Shorten which was signed by over 200 financial counselors.

Our campaign has also been heartened by the support of Mike Symon MP, whose [letter to the Maroondah Leader](#) and [speech to parliament](#) showed that our message is understood in the corridors of power. Another letter to the editor that caught our eye was from the former Victorian Minister for Consumer Affairs, [The Hon. Tony Robinson](#), who got right to the point.

It’s now evident that the legislation won’t be voted on until the new year – Along with our consumer group and financial counseling colleagues around Australia, we’ll continue to lobby for the necessary consumer protections right to the end.

Stronger response needed to ensure consumers are protected in times of disaster

The Consumer Action Law Centre has expressed disappointment with the Government's initial response to the National Disaster Insurance Review (NDIR) Panel's report which it labeled as 'indecisive'. While we welcomed moves towards a system which would see more Australians covered by flood insurance, we're concerned about the proposed 'opt out' model and the lack of tangible interim measures in the Government's response.

Under the model the Government is seeking further feedback on, consumers will be given the opportunity to opt out of flood insurance, decreasing the overall cost of their policy. We fear that those most likely to opt out would be those most in need of flood cover and believe the Government should adopt the NDIR's panel recommendation of premium discounts where flood insurance is unaffordable. Consumer Action's thoughts on the Government's response are outlined in greater detail in our [media release](#).

Outdated information provided by eBay on consumer rights

Consumer Action wrote to eBay in June this year to highlight our concern that the information on their website about consumer rights to return faulty goods bought on eBay was out of date and possibly misleading.

It took nearly five months, a complaint to the ACCC and a [media release](#) to get their attention, but eBay finally responded to our letter.

To their credit, eBay also invited Consumer Action's Co-CEO to meet with them personally for further discussions. We were less than impressed with eBay's initial response because it didn't address the issues we raised, but are pleased to say they've become more engaged with the issue and have expressed a willingness to address the issues we raised.

Consumer representatives from across the nation demand fairness in energy prices

Consumer Action has joined with consumer groups from around Australia, the Australian Energy Regulator (AER) and some of the nation's biggest businesses in calling for reform to the process that sets electricity network prices.

With network charges comprising over 40 per cent of a household's electricity costs, reform is urgently needed to break the cycle of sharply rising energy prices and to ensure this essential service remains affordable to all Australians

Energy network companies invest heavily in infrastructure—claiming that it is necessary for reliable network performance—but, at present, there are no checks or balances to ensure this level of investment is warranted or carried out efficiently. A [media release](#) on this issue, ratified by 16 other organisations, details our position.

Advertising guidelines for financial services

Earlier this year, ASIC released a [discussion paper](#) proposing the development of new guidelines for the advertising of financial products and advice services. Consumer Action provided a [submission](#) on this issue in October.

We are generally supportive of ASICs proposal to develop these guidelines. In particular, we approve of ASIC's intent that financial service providers should be trying to make advertisements that assist consumers to make balanced decisions, not just trying to avoid being misleading or deceptive.

We do, however, think that stricter, more prescriptive guidelines should be developed for products which are often advertised poorly, like [funeral insurance](#) and holiday timeshare schemes.

4 . STANDARDS

Safety of Children's Toys

Standards for toy safety ensure toys are hazard free and safe to play with, a major concern for parents and carers. These are vital safety standards that reduce the risk of a child being injured by unsafe equipment, dangerous substances and choking hazards. Standards are the documents that set out specifications and procedures designed to ensure products, services and systems are safe, reliable and consistently perform the way they are intended to.

There are a number of standards designed to minimize potential toy hazards. The Standards Australia Technical Committee CS-018 Safety of Children's Toys have published a series of standards, the most recent being:

AS/NZS ISO 8124.1-2010/Cor 1:2011 *Safety of toys – Part 1: Safety aspects related to mechanical and physical properties*. This amendment to the standard adopts ISO 8124-1:2009 with national variations to specify general safety, construction and labelling requirements and test methods for toys intended for use by children, aged from birth to 14 years.

AS/NZS ISO 8124.6:2011 *Safety of toys – Swings, slides and similar activity toys for indoor and outdoor family domestic use*. This standard gives requirements and test methods for swings, slides and many other activity toys, thereby ensuring fun and safe playtime.

The volunteer CFA representative Robyn Easton has been actively involved with this technical committee since 2002. The committee is currently working on a number of projects including activity toys; concerns about impaction and impalement; and projectiles, rotors and propellers.

More information [About the Standards Project](#) or [CFA's Standards Representatives](#) (including how to get involved in being a representative) please see those links or contact CFA's Standards Coordinator standards@consumeraction.org.au.

5 . MONEYHELP

We are pleased to announce that our MoneyHelp financial counselling program has just received funding for a further 12 months so we can continue our valuable telephone financial counselling service.

The financial counsellors answered 2,911 telephone calls in the last quarter (1 July to 31 October) and many more people were assisted through the MoneyHelp website with the website now receiving about 14,900 hits per month.

The Bulk Debt Project (www.bulkdebt.org), where low-income, vulnerable consumers can seek a waiver of debt, has accepted 11 of MoneyHelp's clients and we are waiting for the outcome of these negotiations.

Our strong 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 for more
information**

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

Low income debtor rights

In Victoria companies can allege a debt in the Magistrates Court and, if the alleged debtor fails to file a defence, an order can be taken out against them without the debt even being proven – potentially costing them their house or forcing them into bankruptcy.

Alarminglly ### per cent of all orders made in the Magistrates Court are go undefended; we're interested in both finding out why so many people fail to lodge a defence, and in offering these people financial support and guidance about what options are available to them one the judgment has been handed down.

We hope that, by engaging with people who have been through this process, we be able to offer them appropriate support, and identify possible improvements in the court process.

Regulator watch

7. CALC IN THE MEDIA

