



ANNUAL REPORT 2014





### **Professor Allan Fels AO - Patron**

Professor Fels was formerly Chairman of the Australian Competition and Consumer Commission from 1995 until 2003. He was Chairman of the former Trade Practices Commission from 1991 until 1995 and Chairman of the Prices Surveillance Authority from 1989 until 1992. He was also the foundation Dean of the Australian and New Zealand School of Government.

Professor Fels is the current Chairman of the National Mental Health Commission.

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“the year was dedicated to furthering our reach, working to deliver strong outcomes and increasing our impact”

# Executive Report



**Consumer Action's vision is 'Just outcomes. For and with consumers.' The 2013-14 year was dedicated to furthering our reach, working to deliver strong outcomes and increasing our impact. We are very proud to present this year's annual report and share the stories of the goals we strive for and the challenges we meet.**

By developing smart and targeted campaigns, we work to resolve issues at their root rather than dealing solely with the symptoms of poor market mechanisms or exploitative practices. By engaging with colleagues, stakeholders and industry, we address systemic and emerging issues holistically and collaboratively resulting in better outcomes for all consumers.

Our advocacy is embedded within our service delivery—consumer legal advice and representation for the benefit of Victorian consumers, and telephone financial counselling to help Victorians deal with money and debt. Using the deep evidence base of our advice and casework to inform and bolster our policy work proves well worth the effort when law reform achieves a greater impact than individual services could ever hope to deliver.

A great example of the benefit of this approach and the ability of Consumer Action to be agile in its response was the way in which we responded to an announcement by the Federal Government to impose a mandatory fee on individuals filing for bankruptcy. It was clear that while the return to government would be minor, the impact on disadvantaged Australians during a time of high personal stress would be significant. We joined with other consumer advocates and worked with government and opposition parties over a period of months which resulted in a reversal of the decision in June providing significant relief to low income and vulnerable Australians.

We'd like to acknowledge the support of our key funders—Consumer Affairs Victoria, the Federal Attorney-General's Department and Victoria Legal

Aid. This year the Centre has also benefited from funds received as a result of the over-collection of fire service levies by insurance companies, and the compliance work of the Office of the Fire Services Levy Monitor. Recognising that these are monies of Victorian insurance consumers, it will be used for activities that benefit insurance consumers in the years to come.

Once again Consumer Action participated in the annual Jan Pentland dinner held to commemorate the incredible contribution made by our inaugural Chair to financial counselling and the community sector. One of our former CEOs, Carolyn Bond, continues to be a trustee of the Jan Pentland Foundation, and Consumer Action continues to do what we can to support the work of the Foundation. The Foundation's scholarships have now helped a number of individuals who have received assistance to study financial counselling.

The Foundation has received donations from some members of the finance industry as well as from individuals. If you would like to donate, see details here: <http://www.janpentlandfoundation.org/donations.htm>

Finally, we wish to acknowledge the entire Board of Directors for their leadership and contributions. A collaborative, progressive and bold board means we can be a collaborative, progressive and bold organisation. Toward the end of 2013 we bid goodbye to Anna Stewart who had been a highly valued Director since commencement of the centre; we thank her for her dedication and contribution. We have welcomed new members John Berrill and David Berry to the Board and appreciate their enthusiastic involvement along with the considerable efforts of Peter Gartlan, Roslyn Hunter, Victoria Marles and Paul Murfitt.

**Barbara Romeril – Board Chair**

**Gerard Brody – Chief Executive Officer**

# Consumer Action Board



**Barbara Romeril**  
(Chair)



**Roslyn Hunter**



**Paul Murfitt**



**David Berry**



**Victoria Marles**



**Peter Gartlan**

# HR Report



**The Human Resources function continues to develop within Consumer Action. The past year has seen focus upon consolidating and streamlining HR processes and record-keeping, making it simpler for all to access the information they need whilst ensuring that we meet all related compliance obligations.**

HR also has a role as a “people consultant” providing both managers and staff with ideas and support around workplace issues, communication challenges and sometimes concerns around job clarity or expectations.

With the press often filled with stories about workplace discrimination and conflict, we undertook training in February 2014 with a representative from the Victorian Equal Opportunity and Human Rights Commission, who provided all staff with a useful overview of obligations and duties in this area. Linked to this was a comprehensive review of our Workplace Complaint Resolution policy and procedure.

Of course, we also want to ensure that we continue to pay competitively and much work goes on in the background checking our market positioning, verifying award levels and determining appropriate remuneration.

Recruitment continues to be a significant part of HR activity—fortunately due to expansion as much as staff turnover. With this in mind we have begun to undertake more systematic succession and workforce planning. This ties in well with efforts to track our training and development expenditure and to identify new sources of general training, beyond compulsory CPD offered to our lawyers and financial counsellors. We want to attract but also retain the best people, and part of that is finding appropriate training and opportunities for them to grow their skills.

# Continuing Professional Development Report



**Consumer Action's Continuing Professional Development program enables our staff to maintain subject matter expertise in our areas of specialty so that our phone advice and case work are best practice. For the legal practice, the program ensures the lawyers satisfy some of the requirements for the maintenance of a legal practicing certificate.**

Our financial counsellors, lawyers and policy team all attended extensive training on the changes to the credit reporting regime during 2013/14. The changes, including a new credit reporting code and 'comprehensive' credit reporting system, are far reaching. Credit providers can now collect and record such things as detailed payment histories in addition to that which has been recorded previously. Our front line staff regularly need to consider the impact of certain actions on a client's credit report. We are grateful to the Australian Retail Credit Association who worked with us to tailor training to the specific needs of our practice. The first session gave us a broad understanding of the changes to the credit reporting code and what a comprehensive credit report would look like. The second session allowed us to investigate specific issues which callers to the Consumer

Action advice line may raise. Since the training, all telephone advisers have felt confident in assessing and advising on the implications of a range of legal issues on the credit reports of consumers who contact our service.

The legal practice and financial counsellors came together again to receive training on internal and external dispute resolution from the NAB Dispute Resolution team and personal injury law from Shine Lawyers. New financial counsellors and the entire legal practice also attended an excellent session on Mental Health Awareness and suicide prevention.

Other CPD sessions that the legal practice attended included sessions on: Confidentiality, delivered by Clayton Utz; Legal Costs, delivered by Britton Costs Lawyers; and an engaging workshop from Assoc. Professor Jeannie Patterson on the UK Unfair Trading Prohibition.



# Consumer Action Staff

**Gerard Brody**

CEO

Administration

**Yvonne Musat**

Reception/Administration

**Peta Hepburn**

Legal Support

**Skye Forster**

Office Manager / PA to CEO

**Nila Martin**

Finance Manager

**Denise Lawry**

Human Resources Manager

Legal Practice

**Gregor Husper**

**Tom Willcox**

**Jillian Williams**

Co-Directors Legal Practice

**Gerald Cohen**

**Michael Hermitage**

Senior Solicitors

**Lachlan Edwards**

**Farah Hassim**

**Cameron Horn**

**Katia Sanderson**

**Amanda Storey**

**Agata Wierzbowski**

**Ben Zika**

Solicitors

**Celia Tikotin**

Special Projects – Legal Practice

MoneyHelp

**Penelope Hill**

Services Manager

**Dianne Dejanovic**

**Heather Keen**

**Vanessa Taylor**

Senior Financial Counsellors

**Sarah Brown-Shaw**

**Jenna Conway-Jones**

**Edmund Gale**

**Colin Harte**

**Brian Kerr**

**Anna Tiakanas**

Financial Counsellors

**Thuyen Mai**

**Julie Trompf**

Intake Workers

Policy and Campaigns

**Denise Boyd**

Director Policy and Campaigns

**Sarah Wilson**

Senior Campaigner

**David Leermakers**

**Janine Rayner**

Senior Policy Officers

**Claire Maries**

**Cathy Thwaite**

Policy Officer

**Dan Simpson**

Media and Communications Officer

**Regina Godfredson**

Standards Coordinator

# Volunteers Report



**Consumer Action hosted over 30 volunteers in 2013-2014. Nearly all our volunteers tell us that it's the integration of our legal work with our policy and campaigns agenda that attracts them to volunteer with us.**

We rely on our volunteers to provide high quality assistance to the whole Centre, which helps our lawyers to assist more consumers in need, and helps ensure our policy team can work effectively to address systemic issues affecting our clients. They help us with a broad range of tasks, from administrative tasks like opening and closing client files, helping draft letters of demand, developing case studies for our policy reports and submissions, and helping interview clients to get instructions, to more complex tasks like attending court and reporting back on the outcomes of a hearing, checking the detail of complex contracts, researching legal references and precedents, or helping compile complaints about systemic issues.

At the start of 2014, we implemented a Practical Legal Training placement program. In the past, we have hosted volunteer law students typically in their final year of study; the PLT program requires

placements to have completed their degree and be enrolled in the College of Law.

The PLT program has so far proven a great success. With placements in the office for a minimum of 50 consecutive days, we've found that practical skills required to work in a legal environment, and access to a broad range of tasks, are developed quickly. The continuity of attending work so frequently gives our volunteers the opportunity to work on more challenging and complex tasks.

Many of our volunteers stay with us for a number of years, well beyond their obligation to the Centre so it's always a mixture of pleasure and regret when we farewell them as they leave to embark on their careers.

So to our Consumer Action volunteers—a huge thank you for your skills, commitment and enthusiasm.

**Sarah Wilson and Michael Hermitage  
Volunteer Coordinators**

## A big thank you to our hardworking volunteers of 2013-2014:

- Christie Dunn
- Tom Trotman
- Fiona Newton
- Michael Dorman
- Andrew Theodore
- Patrick McGlynn
- Daniel Opare
- Jon Risby
- Kate Sandford
- Tori Cumner
- Dan Hamilton
- Kit Malone

- Navjot Sandhu
- Jaimee Zullo
- Rebecca Holland
- Sven Svalbe
- Courtney Chan
- Stephen Reeves
- David Gurman
- Lillian Pham
- John Landis
- Bridie Fennessy
- Andrea Samardzija
- Caroline Mayer

### PLT placements

- Ridwaan Manjoo
- Michael Dickey
- Arj Durai
- Lydia Tasevska
- Sarah Bregu
- Pia White
- Erin Dolan
- Paul Johnson



# Legal Practice Report



“we know our impact is so much more. Not just in how we change laws, but where our assistance may break a cycle of disadvantage and hopelessness, and assist a client to move on with their lives”

## Hours of operation

### Public advice line

10 am - 1 pm Monday to Friday

### Worker advice line

10am - 1 pm and 2pm - 5pm  
Monday to Friday

**The legal practice provides information and legal advice, and runs cases. Of course there is much more to the work that we do, and it is our integrated approach that defines our successes in assisting vulnerable consumers and promoting fairer consumer markets.**

Chart 1: Information and Advice sessions



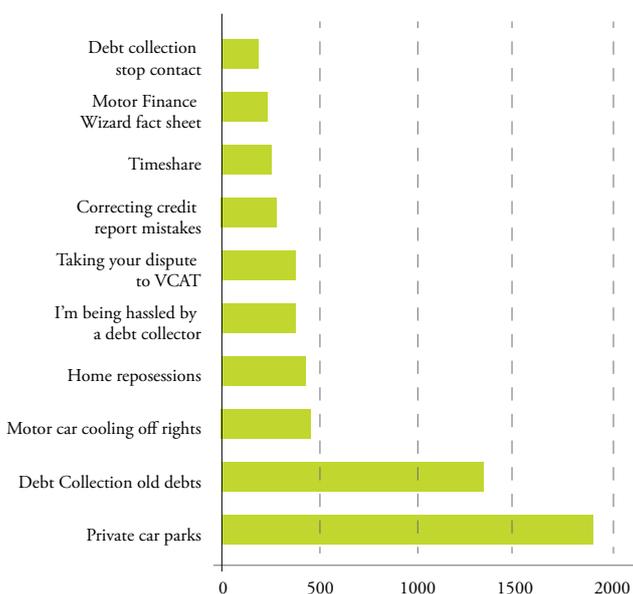
## Assisting clients

For those consumers wanting to contact a lawyer, we provide a telephone advice line, as well as an email portal. These are available to all Victorians with consumer problems. We delivered some 1,300 information sessions and 3,000 expert legal advice sessions in this manner in the last twelve months. This is shown in **Chart 1**, which also demonstrates that information and advices have both been increasing over the last four years.



Consumers seeking legal advice can gain our assistance in a number of ways. We are proud of our website as a source of information for consumers, including our 32 legal factsheets.

Chart 2: Top 10 Fact sheets viewed



Our advice work provides a rich evidence basis from which to identify systemic issues facing Victorian consumers. We understand that we can never meet all unmet legal need, but we seek to achieve positive outcomes for consumers generally by strategically responding to individual legal need—for example, by generating favourable precedent decisions, industry practice and law reform.

We also look out for clients who are vulnerable, because of structural reasons (like low income, disability, remoteness or family violence), or because of the nature of their legal problem (for example, if their home is at risk of repossession).

We address these broader objectives and individual needs through our casework. In the last twelve months we opened over 750 casework files, of which 590 were minor work files (extended legal assistance), and 160 were complex files (including representation and litigation).

**Chart 3** illustrates that ongoing casework is targeted towards vulnerable consumers when



compared to our advice line, where no income eligibility criteria is applied under our funding agreement.

**Chart 4** shows an average decline in our minor casework files over four years, but steady numbers for complex files. We consider the decline in overall (minor) case files is because we increasingly tackle more challenging complex files, and do so in a more exhaustive and sophisticated manner.

### Assisting workers

Financial counsellors, consumer advocates and other sector workers assist the same clients that we do. A strength of our sector is our ability to work collaboratively, and to offer joined up services. One way we do this is through our Worker Advice Line, which provides legal information, advice, draft correspondence and referrals to workers. This financial year we provided 520 worker advice sessions, and some 200 extended advices. The Worker Advice Line is also an important source of referrals to our case work practice.

### Our approach to case work

We approach our casework through negotiation, litigation or dispute resolution that is rigorous, relies upon (and tests) the relevant legislation, and seeks to achieve outcomes that can be leveraged for all consumers. This work is not without its tensions. As experts in consumer and credit law, we are in a unique position to identify and shine a detailed light on breaches of consumer protection codes. But this legalistic approach will not always suit negotiated resolution, or certain decision making forums, for example, external dispute resolution or VCAT.

Similarly, there is a tension between accepting a

settlement, which will likely be confidential, and exposing our client to some risk by maintaining proceedings or rejecting confidentiality.

These are not always competing interests; many cases are intentionally argued on technical grounds, and our clients often stand beside us in seeking broader outcomes. Clients support us in making complaints to regulators, by allowing us to publish their case stories in web warnings, and by engaging with the media to draw attention to injustice.

### What issues have we addressed?

Some of the systemic problems we have responded to through our casework include:

- **Motor Vehicle Disputes** where consumers have bought second hand cars, or had repairs done, but the car has been defective. We challenged these on the basis of, amongst other things, acceptable quality and fitness for purpose, or that repair services were rendered without due care and skill. We have built a campaign to address barriers to justice in these cases, including evidentiary barriers and lack of a suitable dispute resolution forum.
- **Consumer Leases** (for cars and whitegoods) that over-commit consumers, mislead them about the quality of the product and ultimate ownership of it, and charge exorbitant early termination fees. We challenge these on grounds including unconscionable, misleading and deceptive conduct, unfairness and irresponsible lending.
- **Payday Lenders** which exploit low income earners with high interest, credit protection avoidance and irresponsible lending.

Chart 3: Service by Income Level

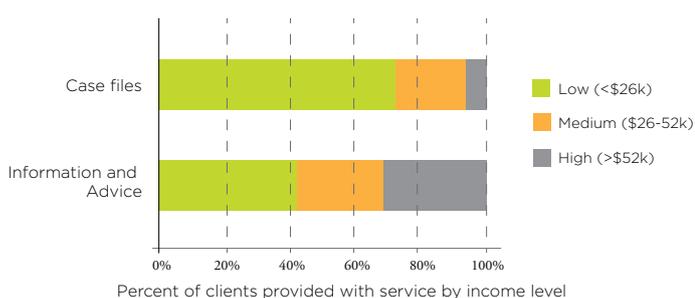
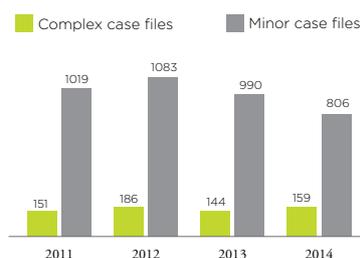


Chart 4: Case files opened



- **Pawnbrokers** which recover exorbitant ongoing payments against hocked goods that we consider to be unconscionable and unjust conduct.
- **Budget Managers** that charge substantial fees to manage finances for consumers struggling to do so, but where consumers complain that their instructions are not followed, there is insufficient communication, and their bills are not paid, resulting in increased costs to them.
- **Credit Repair Services** which are unregulated businesses that can engage in misleading sales conduct and charge significant fees, often with no refund clauses. Clients complain that their bad credit histories couldn't be fixed, they weren't warned about the possibility of further costs or expenses, and they had to do a lot of the work themselves. We challenge these on the basis of misleading, deceptive or unconscionable conduct, and provision of services that were not fit for purpose or rendered without due care and skill.
- **Private Car Parks** that 'fine' consumers for not purchasing or displaying a ticket. We are litigating a case alleging the charge is an unenforceable penalty.
- **Retirement parks** that charge 'deferred management fees' of 25% or more of the value of the dwelling on its sale. We are challenging these alleging the relevant clauses are not properly explained to prospective residents (misleading or deceptive conduct) and are otherwise unfair terms or illegal penalties.
- **Private Colleges** that rely on contract terms in refusing refunds to consumers who terminate their enrolment because of unsuitability or for personal reasons. We have argued that cancellation clauses in contracts may be unfair or

constitute a penalty and that imputations about the level of student support are misleading and/or services were not rendered with due care and skill.

- **Recruitment and Migration Agents** that charge fees of up to \$20,000 to provide employment and visa services that are simply not delivered. We have issued proceedings against these providers, alleging unconscionable conduct and that the services were rendered without due care and skill or were not fit for purpose.
- **Lenders** that we have found to lend irresponsibly to financially vulnerable clients (including those on Centrelink incomes), that ignore Victorian debt collection laws and ignore the valid authorities of financial counsellors and solicitors.
- **Debt collectors** who use bankruptcy as the first option in collecting judgment debts, a practice which has threatened the homes of clients who are able to pay off their debts by instalments.
- **Timeshare operators** who use high-pressure sales techniques and misrepresentations about the costs and nature of the product they sell. The timeshares are very expensive, there are ongoing costs and it is almost impossible to resell them. We have run numerous cases through the two financial services Ombudsman schemes.
- **Door to door sales** of 'educational' software, solar panels and other goods and services are very often the 'snake oil' salesmen of our times, selling overpriced or defective goods or services. Often the sellers do not have the necessary accreditation for the work they do, or the services they sell are unfit for purpose or unavailable. We have taken selective actions in VCAT on behalf of consumers.



## How has our work benefited clients?

This year, we directly saved our clients some \$1.1 million in improper charges, debts and fees. But we know our impact is so much more. Not just in how we change laws, but where our assistance may break a cycle of disadvantage and hopelessness, and assist a client to move on with their lives.

### **4 kids, 1 dodgy car, and an 8-bus school run**

Emily is a single mum with three school age children and a baby. She bought a second hand car, but soon after had numerous problems with it. Unable to drive the car, she and her baby needed to make two bus trips out and back, twice a day, to take her other children to school. We assisted Emily to seek a refund for major failure of the car at VCAT. She was almost entirely unsuccessful. Based on pro bono legal advice from Maddocks and barrister Rupert Watters, an appeal was lodged in the Supreme Court, alleging VCAT had erred in law on a number of grounds. The appeal was granted and the matter soon settled in full. Emily said:

“without your belief in the injustice of my hearing at VCAT I would be unable to take this further. Thanks so much for all your support”.

In taking this matter we wanted to change the life for a vulnerable consumer (and her children), but we also wanted to highlight evidentiary barriers at VCAT, and to clarify consumers' rights at law, particularly for car claims at VCAT.

### **Endless direct debit**

Ian leased some TV and stereo equipment on a four year rental contract about 10 years ago and had a direct debit arrangement in place. Ian was a victim of the 2009 Black Saturday fires, lost the equipment and suffered post traumatic stress. This year a financial counsellor discovered the direct debits were still being made, on the basis of a tiny, illegible ‘hold-over’ clause in the contract. Ian had overpaid some \$14,000, which we were successful in getting refunded.

This case highlighted unfair terms in goods lease contracts, and the value of working with financial counsellors to assist vulnerable clients. Together we made a real difference to our client's financial position.

## Our team

In this financial year, both our highly experienced Directors of Legal Practice, Jillian Williams and Tom Willcox, took 12 months leave. They were replaced by Gregor Husper. We welcomed Katia Sanderson back into a new role of Advice Line Manager, and recruited one new (experienced) lawyer. There was no other turnover in staff, reflecting the cohesiveness of the team, and rewarding the practice with increased expertise, sector knowledge and impact.

# Financial Counselling Practice Report



**During this financial year the Financial Counselling team answered 16,063 telephone calls, assisting 11,252 individuals with financial counselling issues. This was a 29% increase in the number of calls answered from last financial year.**

Financial counselling services during this financial year included:

- Triage telephone assistance;
- Telephone financial counselling sessions (providing up to 6 half hour sessions) sometimes including referral to community based financial counselling services;
- Website (self help);
- Email financial counselling; and
- Referral to community based financial counselling and other services where appropriate.

Chart 5: Calls answered by financial counselling team  
1/7/13 to 30/6/14

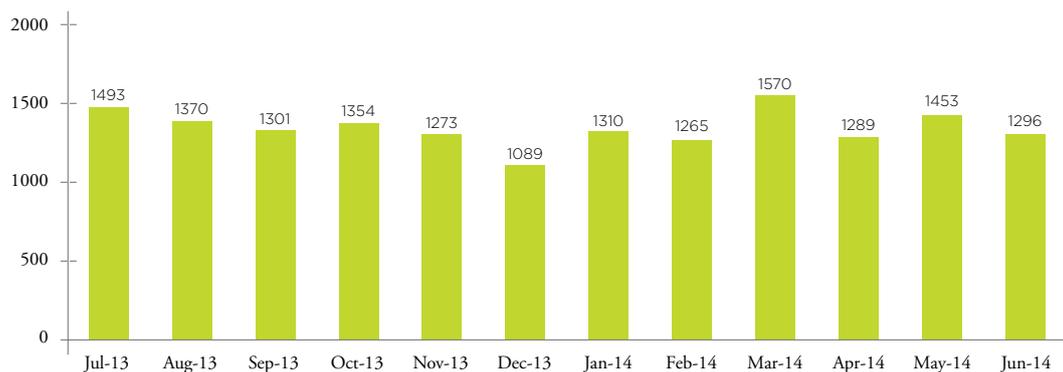
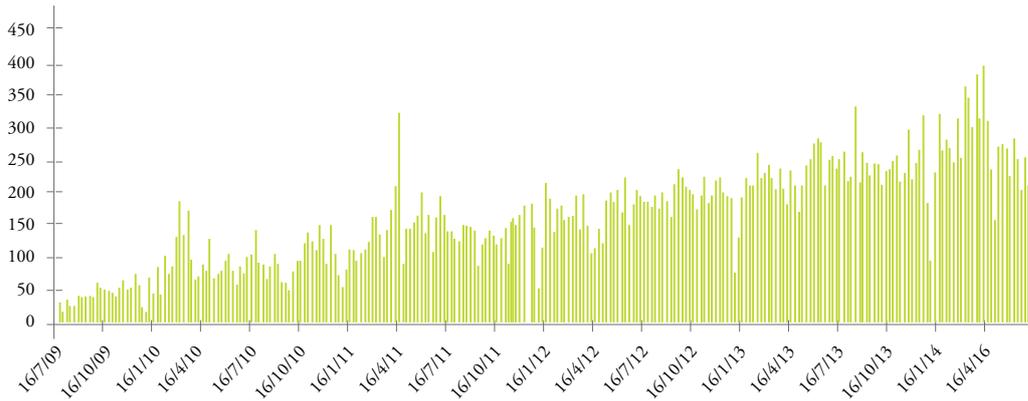


Chart 6: No. of individuals assisted by MoneyHelp each week July 2009 to 30 June 2014



### MoneyHelp Website

The yearly user traffic to the MoneyHelp website has increased by 45% from last year, with 351,432 users this year. The increase in user numbers since the early days of the website is highlighted by comparing random daily figures; for example on Tuesday 13 July 2010 there were 228 users and by Tuesday 17 June 2014, this had increased to 1,582 users in one day. This demonstrates that there is significant and growing need for the valuable information about dealing with debt found on the MoneyHelp website.

### Staffing

Over the past year, the Financial Counselling team has been staffed by 11 part time workers. The team is a good mix of very experienced financial counsellors, student financial counsellors and intake workers who have brought valuable counselling and other experience with them and a manager with experience in the financial counselling sector.

### Case work

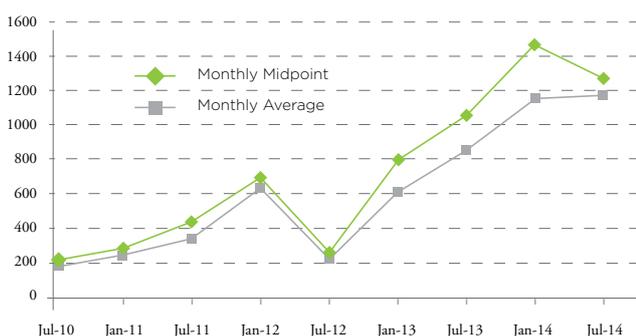
As in the other areas of our practice, inherent to the skill set of a Consumer Action financial counsellor is the ability to recognise systemic and/or public interest issues in casework. The Financial Counselling team is therefore constantly communicating with both the Policy and Legal Practices to ensure that the issues facing our clients are reviewed for the opportunity to influence regulator action or changes to laws, regulations or industry conduct.

The following cases show some of the issues the Financial Counselling Practice has assisted with this year:

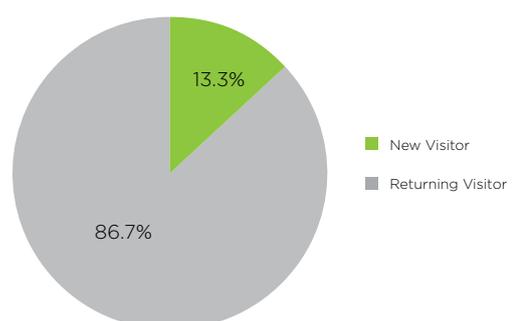
#### Harassment by a debt collector

The client told us a debt collector had contacted her demanding payment for an old \$10,000 credit card debt that she did not think she had incurred. The client said that the debt collector had telephoned her grandparents and had told her that they would take the money from a family member if she didn't come up with the payment. The financial counsellor referred the client to

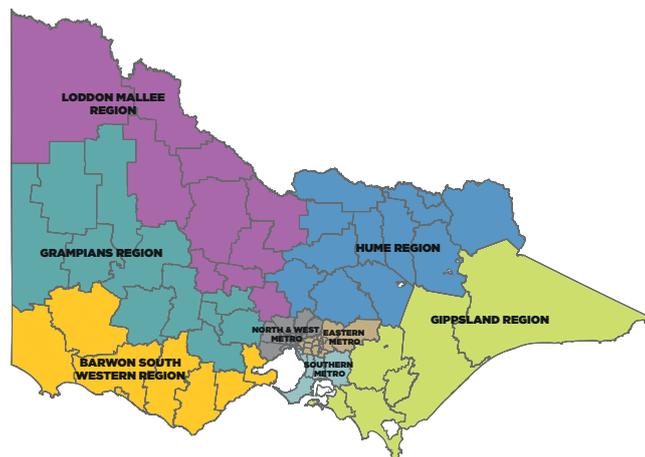
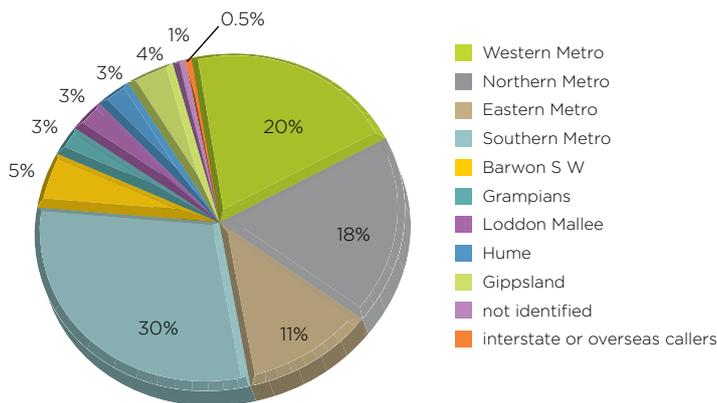
Website users



New and Returning visitors



## Callers to financial counselling team place of residence by region



the legal practice who obtained a copy of the loan application which showed a signature that the client said was not her signature. The legal practice assisted the client to lodge a dispute with the Credit Ombudsman Service in relation to the signature and in relation to harassment issues.

### Dealing with energy retailers

The client said he had spoken to his energy retailer which said it wanted him to get a financial counsellor to contact them with a financial plan before it would grant a hardship variation. The client had been unemployed for some months but was hopeful of getting employment soon. Our financial counsellor ascertained that the client was able to advocate for himself and explained to him that because of this, it was not necessary for him to see a financial counsellor at a face to face service. The financial counsellor explained how the Energy and Water Ombudsman Victoria (EWOV) could assist if the client was not able to resolve the matter with the retailer. The client was happy to telephone the retailer again knowing that he could telephone EWOV if he was unable to organise a repayment plan from the retailer.

### Feedback from clients

- **Thank you so much, you have really put my mind at ease. I was so stressed out.**
- **Thank you so much, you have really made me feel a lot more confident.**
- **You've been fantastic, I feel a lot more motivated now!**
- **Your information gives me hope. I didn't know any of it and have had sleepless nights worrying.**
- **That's fantastic I had no idea that this sort of help was available.**
- **Moneyhelp website was really helpful.**
- **I feel like I am no longer drowning.**
- **Thank you so much for listening.**





“we constantly challenge ourselves to deliver tangible outcomes that can improve people’s lives”



# Policy & Campaign Report

**Our policy and campaigns are grounded in the experiences of our legal and financial counselling services. This integrated approach enables us to stay focussed on the issues that affect low income and vulnerable consumers, and we constantly challenge ourselves to deliver tangible outcomes that can improve people's lives.**

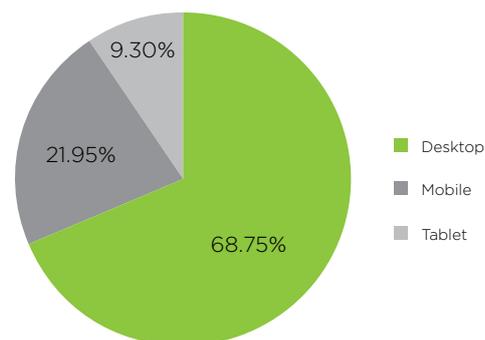
Throughout the year, we wrote 56 submissions to government, regulatory or other reviews. We published 31 media releases and were quoted or interviewed by media 345 times. In addition, we researched and published policy reports and engaged supporters via social media channels.

A key part of our work involves bringing examples of consumer detriment and harm to the attention of regulators. During the year we submitted 14 detailed complaints to regulators, 125 short complaints to a number of State and Federal regulators, and a further 115 complaints to the ACCC on just one issue—the conduct of door-to-door salespeople.

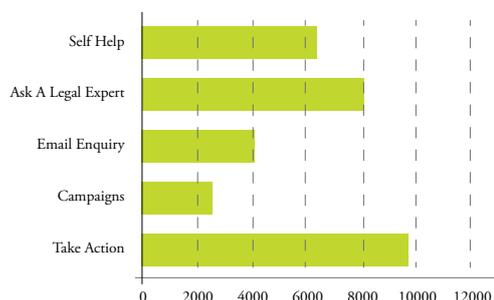
Interest in our website remains strong and is building, with people increasingly using mobiles and tablets to view our content. We recorded 102,964 visits to our website, of which 78% were unique visitors.

We distribute a quarterly e-newsletter, Consumer Interaction, to a list of 680 recipients. This year, we've begun a newsletter series for Federal and Victorian parliamentarians. In addition to the letters we write on specific topics, this year we wrote to all 150 Federal Members of Parliament and 76 Senators following the September 2013 Federal Election, with useful news and facts on

How people access our website



Visits to key pages





key consumer issues. The newsletter has been well received and we will continue this as an occasional publication and engagement tool.

## Culture

**How we work:** We proudly advocate for what we believe is right, and we engage in meaningful dialogue and processes in pursuit of good and lasting outcomes for consumers. We are non partisan, and believe in listening to our allies and our opponents alike, engaging with industry, government and the community sector.

Over the year, in addition to our meetings with parliamentarians and government officials, we attended a range of events, consultations, meetings and forums organised by businesses and industry bodies, and are in demand as panellists and presenters at conferences and public events. We also sit on a number of reference panels to provide consumer expertise and critique to business policy and practices that impact on low income and vulnerable consumers.

The policy and campaigns team works directly with like minded organisations on matters of common interest, such as retirement villages, the Access to Justice Inquiry, funding for community legal centres, debtors' filing fees, the Competition Policy Review, the Financial Systems Inquiry, and a range of energy projects and consultations. We actively support our peak body, the Consumers' Federation of Australia.

Our policy products and campaigning activities are the result of the passion, commitment and hard work of all staff across Consumer Action. We thank our colleagues, partners and funders for their support, advice and goodwill that make it all possible.

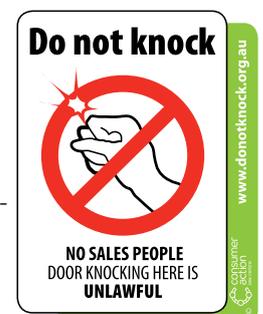
## World Consumer Rights Day 2014

Consumer Action partnered with Choice and the Australian Communications Consumer Action Network to commission research into how consumers use their mobile service. The research found more than 50 per cent of mobile phone customers with an included allowance don't use their full monthly call, text or data—which amounts to millions of Australians giving telcos a big free kick, paying for calls, texts or data that never get used. We issued a joint media release and consumer tip sheet on what to look for on your phone bill and advice for shopping around.

## Campaigns

### Unsolicited door-to-door marketing

With the distribution of around 330,000 Do Not Knock! stickers, consumers have been equipped to protect themselves from door-to-door salespeople. Through [donotknock.org.au](http://donotknock.org.au), consumers have become more informed about their rights and we have facilitated some 400 complaints to consumer regulators. We successfully pressured the major energy retailers to cease door to door selling altogether, despite resistance and court action designed to legitimise the practice. In October 2013 the Federal Court determined that a Do Not Knock sign is 'an unambiguous request to leave the premises'. This was a definitive and landmark win for the ACCC, Consumer Action, and consumers across Australia.



### Exploitative credit—payday loans

Our "What Warning?" report provided a snapshot of a number of prominent payday lenders, and



made observations about the appearance of the newly mandated warnings on their websites. We provided the report to ASIC requesting appropriate compliance and/or enforcement action where non-compliance may be found to have occurred. While the regulator declined to pursue the matter, we were able to alert media and the regulator that the industry requires constant vigilance to protect consumers from one of the worst forms of predatory financial business.

### Funeral Insurance

A consumer stakeholder group was convened by Consumer Action and published a Consumer Strategy to alert consumers and community workers to the problems of funeral insurance. This was provided to stakeholders, insurers and regulators, and we subsequently met with them to seek changes and improvements in this product area. ASIC has advised that it is paying close attention to funeral insurance advertising and this will benefit future consumers. We have been advised by major insurers that significant changes have been made to current and future policies, in line with the consumer strategy. We are also quietly confident that the superannuation sector is willing to alert consumers to already existing coverage for funeral costs, such as insurance held within their superannuation plans.

#### FixIt!

A key feature of our energy advocacy work over the year has been our effort, with the Consumers Utilities Advocacy Centre, to seek a change to the

National Energy Retail Rules to prevent price variations within fixed term energy contracts. We've applied a combination of evidence-based

advocacy and public campaigning to make the case for the proposed change. Energy advocacy is a notoriously complex area, and engaging consumers directly is challenging as a result. We have been encouraged by over 1000 consumers signing our petition in support of the rule change on our FixIt campaign website, which we provided to the rule maker, the Australian Energy Market Commission. This is the first application for a rule change under the Rules, and due to a change in the decision maker's timelines, will not be completed until November 2014.

Affordability has been a strong theme in our work this year, with strong media interest in the rise of consumers experiencing financial hardship and an inability to keep up with their energy bills. We've been collecting evidence from our financial counselling casework to support changes to retailer hardship practices and government welfare support, and will continue this work in the coming year.

### Low income debtor rights

The casework report *Like Juggling 27 Chainsaws* described the impact of default judgement on low income debtors. A follow up strategy forum for senior stakeholders explored options to address the issues raised in the report, and led to Consumer Action providing specific input to the Magistrates' Court civil rules committee about changes to processes and information that may benefit low-income debtors who are subject to default judgments.

### Policy

Three significant policy reviews started this year: the Productivity Commission Access to Justice Inquiry; the Financial Systems Inquiry; and the Competition Policy Review. Each of these processes are directly relevant to our purpose as an organisation, and we have allocated policy

**Fix it**  
FIXED CONTRACT  
= FIXED PRICING

effort to engage with them.

Our approach to developing our policy positions is collaborative, and informed by the views and experiences of other stakeholders, even where their views may be significantly different to our own.

Where we can see that a national approach is needed, we will engage with Ministers beyond Victoria or the Federal Government. For example, we wrote to members of the Ministerial Council on Consumer Affairs strongly opposing the industry suggestion that door to door traders should be permitted to receive payment during the cooling off period required under the Australian Consumer Law. We also wrote to all federal, state and territory consumer affairs bodies to request that regulators take similar steps to that taken by the WA Consumer Affairs Commissioner on vendor terms and rent to buy home promoters.

Our legal practice continues to see a large number of cases involving various consumer credit problems, and we put significant effort into credit law reform. Financial counsellors, including those from the MoneyHelp service, continue to report a significant number of clients with credit over-commitment. Prior to the Federal election in September 2013, Treasury was developing the Credit Reform Phase 2 Bill, which among other things proposed further reform to consumer lease regulation and a general anti-avoidance provision. Treasury was also developing regulations to enhance disclosure of certain consumer credit related products, including consumer leases, small amount credit contracts and Lenders' Mortgagee Insurance. Following the election, these reforms were put on hold, as the incoming government announced a major inquiry into financial services, so we adopted a different approach. Our policy efforts are currently focussed on the access of consumer lease providers to Centrepay (see Working for Change on page 30 for more details), and we maintain a high level of vigilance for examples of regulatory avoidance in the payday

loans industry that we can report to the regulator.

The new credit reporting system began operating on 12 March 2014, generating a number of pieces of work here at the Centre, with the policy team assisting in the review of our legal and financial counselling practice factsheets. As a result of the media attention generated by the Centre and other colleagues in the sector, the Attorney General approved a lifting of the grace period for listing of late payments on credit contracts from 5 to 14 days.

The Coalition government has deferred any decisions on further regulatory and legislative change until the Financial Systems Inquiry has completed its work. We continue to advocate directly and through the Inquiry process for further reform where detriment to consumers is evident.

We put considerable policy effort into our energy and water utilities work, with a strong focus this year on affordability and complexity. We have carried out a significant piece of research into the opportunities and challenges emerging in the energy sector from new technology, and the adequacy of existing consumer protections. This is a fast moving space and requires a flexible and robust policy response to enable consumers to engage confidently with the energy market.

We've been encouraged by the willingness of ASIC to engage in a policy dialogue on the challenges arising from for-profit financial difficulty businesses, and the regulatory gaps within which they operate. We assisted researchers from Melbourne University looking into credit reporting by providing examples of consumer detriment from our casework. We were also encouraged that our policy report into debt agreements led AFSA to review the advertising guideline for debt agreement administrators.

**Denise Boyd**

**Director — Policy & Campaigns**

- Submission to the Department of State Development and Business Innovation on the Energy Saver Incentive Scheme review
- Submission to the Standing Council on Energy & Resources on Exposure Draft Legislation to amend Limited Merits Review provisions for national energy laws
- Submission to Consumer Affairs Victoria's Regulatory Impact Statement on Retirement Village contract and disclosure options
- Submission to Department of Justice's Civil Procedure Advisory Group on its Civil Appeals Issues Paper
- Joint submission with Consumer Credit Legal Centre NSW and Financial Counselling Australia in response to the Australian Securities and Investments Commission consultation paper on Credit Hardship Obligations - Outstanding Issues
- Submission to the Australian Energy Regulator on its Stakeholder Engagement Framework
- Submission to the Standing Council on Energy and Resources on National Enforcement Regimes for National Energy Laws
- Submission to the Australian Competition and Consumer Commission on its vulnerable and disadvantaged witness project
- Submission to Office of Living Victoria on the Melbourne's Water Future report
- Submission to Consumer Affairs Victoria on its discussion paper, Technical Review of the Retirement Villages Act
- Submission to Standards Australia on the draft revision of the Guidelines for Complaint Handling in Organisations
- Submission to the Telecommunications Industry Ombudsman on contextualising publication of complaints data
- Submission to the Senate Estimates Committee Inquiry into the performance of the Australian Securities & Investments Commission
- Joint submission to the Essential Services Commission on hardship indicators for water businesses: developing an approach to measure the effect of additional hardship allowance
- Joint consumer submission to independent review of Financial Ombudsman Service
- Joint submissions to the Office of the Australian Privacy Commissioner on the Draft Australian Privacy Principles Guidelines
- Submission to the Australian Energy Market Commission for a National Energy Retail Rule change on fixed term energy contracts.
- Submission to the Productivity Commission's Inquiry into Access to Justice
- Submission to Treasury on the Carbon Tax Repeal Legislation
- Submission to Treasury on its Post Implementation Review of the Mortgage Exit Fee ban
- Submission to the Australian Competition and Consumer Commission on Energy Assured Limited code of conduct re-authorisation
- Submission to Consumer Affairs Victoria on Owners Corporation Managers legislation
- Submission to the Australian Energy Regulator on Alternative Energy Sellers
- Joint submission to the Standing Council on Energy & Resources on National Smart Meter Consumer Protection and Safety Review
- Submission to Consumer Affairs Victoria on its Red Tape Review of Motor Car Traders Act
- Submission to Treasury on the Draft Financial Systems Inquiry terms of reference
- Submission to Consumer Affairs Victoria on its Technical Review of the Retirement Villages Act
- Submission on proposed changes to Credit Ombudsman Service Rules
- Submission on the draft revision of the ACCC / ASIC Debt Collection Guideline

- Submission to closed consultation by Commonwealth Attorney-General's Department regarding credit reporting regulation proposals
- Submission to Federal Government Department of Communication on the Do Not Call Register registration period
- Submission to Australian Financial Security Authority on guidelines relating to advertising by debt agreement administrators
- Submission to the Federal Government pre-budget consultation
- Submission to the Federal Government Department of Industry on Energy White Paper Issues Paper
- Submission to the Australian Energy Market Commission's review of electricity customer switching options paper
- Submission to the Australian Competition & Consumer Commission on its statement of issues relating to AGL Energy's acquisition of Macquarie Generation
- Submission to Standing Council on Energy & Resources on its Final Report of Review of Enforcement Regime for National Energy Laws
- Submission to the Federal Attorney-General's Department on Cost Recovery Impact Statement and proposal to introduce Fees for Debtors Petitions, Overseas Travel Requests and the Realisations Charge
- Submission to the Australian Energy Market Commission Retail Competition Review
- Joint submission to the Independent Review of the Energy & Water Ombudsman Victoria
- Joint submission to Federal Treasury on Consumer Credit Regulations relating to payday lending avoidance
- Joint submission to Department of State Development & Business Innovation on its Consultation Paper on Reforms to Retail Regulation
- Submission to the Financial Systems Inquiry
- Joint submission to the Australian Energy Market Commission's Consultation Paper on the Retail Price Variation in Market Retail Contracts Rule Change
- Joint submission to the Department of State Development and Business Innovation on Implementation of Ongoing Arrangements for the Installation of Smart Meters Draft Position Paper
- Submission to the Department of Prime Minister & Cabinet on the Review of the Renewable Energy Target
- Submission to the Productivity Commission's Draft Report on Access to Justice Arrangements
- Submission to the Australian Energy Market Commission on its consultation paper on the Rule Change on Expanding Competition in Metering and Related Services
- Submission to the Australian Energy Market Commission on its consultation paper on the Rule Change on Customer Access to Information about their Energy Consumption
- Joint submission to the Office of Living Victoria on Economic regulation, governance and efficiency in the Victorian water sector: Preliminary advice from the Independent Reviewer
- Submission to the Commonwealth Government's Competition Policy Review
- Submission to Consumer Affairs Victoria regarding proposed technical amendments to the Retirement Villages Act
- Submission to Commonwealth Treasury consultation on insurance Duty of Disclosure regulations





# Representatives for Standards Australia Report

“ The influence and contribution of our skilled and dedicated representatives deliver better, more relevant standards and more desirable end products ”

**Consumer Action Law Centre administers and manages the Consumer Representatives on Standards Australia Committees Project on behalf of Consumers Federation of Australia (CFA). The Project supports and organises consumer participation in the development of standards.**

Standards are documents that impact our lives on a daily basis because they ensure the products, services and systems we use are safe and reliable. Standards Australia develops internationally aligned Australian Standards in the national interest through the technical committee process. It facilitates and manages the development and maintenance of Australian Standards and other related solutions including handbooks and guides. In recognition of the importance of promoting consumer involvement in standardisation, Standards Australia provides an annual grant to facilitate the participation of volunteer CFA representatives on the technical committees. The Project recognises the value of the consumer perspective by providing funding for travel,

training and administrative support.

Consumers are central to the development of standards. A consumer perspective ensures the product or service is more market relevant, enhances consumer confidence and provides feedback from the point of view of the end user. The influence and contribution of our skilled and dedicated representatives deliver better, more relevant standards and more desirable end products.

In 2013-14, over 30 representatives participated on over 60 national and international committees. This includes ISO COPOLCO, an international forum for the exchange of information and experience on standards issues of direct interest to consumers. A key feature in our annual calendar is the National Consumer Congress, and we were delighted to be able to support the attendance of 13 representatives in 2014. The Congress enables the representatives to engage with other consumer advocates, keep abreast of current



and emerging consumer issues, and use this information in their technical and policy efforts. A number of our representatives completed training organised and delivered by Standards Australia on how to draft standards.

Consumer representatives bring their expertise and commitment to the committees developing standards across a broad range of sectors, including manufacturing and processing, food, building and construction, energy and communications, transport, health and safety, and consumer products services and safety. Standards reflect community needs and the marketplace, including nanotechnology, environmental management, traditional Chinese medicine, water efficient appliances, electric vehicles, safety of household electrical appliances, children's nightwear, microwavable heat packs, emergency management systems, IT governance and management, organic and biodynamic products and much, much more.

This year we've had some of our representatives step down and welcomed new representatives to the team. I would like to take this opportunity to thank all our wonderful volunteer representatives for their time, effort and generosity, and congratulate them on their outstanding achievements in 2013-14.

**Regina Godfredson**  
**Standards Coordinator**

### Thank You to our Consumer Representatives

<b>Elaine Attwood</b>	<b>Katina Michael</b>
<b>Andrew Baghurst</b>	<b>Max Mosher</b>
<b>Rick Barry</b>	<b>Murali Nathan</b>
<b>Antonio Bonacruz</b>	<b>Debra O'Connor</b>
<b>Ray Dennis</b>	<b>Polly Plowman</b>
<b>Robyn Easton</b>	<b>Maree Raftis</b>
<b>John Furbank</b>	<b>Janine Rayner</b>
<b>Jeff Godfredson</b>	<b>George Rechnitzer</b>
<b>Heather Grain</b>	<b>Rebecca Searcy</b>
<b>David Gray</b>	<b>Ron Somers</b>
<b>Gail Greatorex</b>	<b>Eleanor Sumner</b>
<b>Raphael Grzebieta</b>	<b>Matthew Tung</b>
<b>Johannes Hartzenberg</b>	<b>Elizabeth Wheeler</b>
<b>Mark Henley</b>	<b>Catherine Whitby</b>
<b>John Henry</b>	<b>Sue Wicks</b>
<b>Paul Loney</b>	<b>Cam Wilkinson</b>
<b>Darren Margerison</b>	<b>John Wood</b>
<b>Elizabeth Martin</b>	<b>Bill Yeo</b>

# Outreach Report



**The Consumer Action Outreach Program is part of the continuing core business of the Consumer Action Law Centre. The Outreach program seeks to maintain and increase community awareness of the support and services that Consumer Action offer. By engaging with consumers and community workers we are kept abreast of emerging and continuing systemic issues in the community such as debt collection practices, consumer credit related insurance and pay day lending disputes.**

In 2013/2014 the program responded to consumer community needs by providing advice and training for vulnerable consumers, various community organisations as well as regional and metropolitan financial counsellors and other community workers. Training and workshops are provided in various formats and conducted by all members of the legal practice.

## Consumer Action and the Financial and Consumer Rights Council (FCRC)

Consumer Action continued working with the FCRC entering into a new MOU which governs the relationship between the organisations in relation to the provision of training and outreach services to financial counsellors. Training covered topics such as consumer law, credit law (including consumer credit insurance, consumer leases), predatory business models, debt collection, defective motor car disputes, energy hardship, and practical referral options.

Consumer Action, as a content expert through the delivery of its Outreach Program, participated in discussions and meetings with the FCRC and Consumer Affairs Victoria to discuss the FCRC's new Specified Professional Development Programme (SPDP) for 2014/2015. The SPDP aims to provide the minimum professional development required by Consumer Affairs Victoria funded financial counsellors and casework supervisors in the area of legal knowledge and skills.

## Other

Consumer Action also provided outreach services to various community legal centres, community workers and solicitors on topics such as consumer leases, effective referrals, credit law and elder abuse. Outreach on credit law was provided to female prisoners at the Dame Phyllis Frost Centre, Consumer Action partook in the Victorian Law Foundation's Law Week "speed date a lawyer" program, and "Buzz sessions" at the Financial Counselling Australia Conference were chaired by members of Consumer Action's legal team.

As usual, Consumer Action presented training to financial counselling students at Victoria University in relation to the Diploma of Community Services (Financial Counselling).

## Outcomes

The total number of Outreach and training activities was 32 for the year, which equates to a delivery of an activity approximately every 8 business days. Training was given to groups ranging from 10 to 100 attendees.

Training sessions were generally well received and much appreciated. Consumer Action's aim is to:

- continue to provide essential outreach services (as identified through the interaction and co-operation between Consumer Action, its funders, the FCRC and other community organisations) with enthusiasm and professionalism to advance and meet the needs of community workers in relation to Consumer Action's fields of expertise; and
- through the Outreach program, maintain and increase community awareness to advocate for policy change and intervention strategies to address consumer legal problems.

**Gerald Cohen**  
**Outreach Programme Coordinator**



# Working for Change

“ The evidence from our casework provides a solid and authentic basis for change, and we look for external opportunities to use our expertise, knowledge and partnerships to achieve consumer outcomes ”

**Consumer Action has a unique combination of lawyers, financial counsellors, policy experts and campaigners who work together to identify systemic and serious consumer issues, provide strong evidence based policy recommendations, and pursue the changes we need to protect the interests of low-income and vulnerable consumers in a market economy. The evidence from our casework provides a solid and authentic basis for change, and we look for external opportunities to use our expertise, knowledge and partnerships to achieve consumer outcomes. We do this by engaging consumers, media, business and politicians on the case for change.**

It's often a battle to ensure the consumer interest gets the attention it deserves in policy debates that can be blind to the impact of seemingly small changes on disadvantaged and vulnerable consumers. Legislative and regulatory change can take a long time to deliver, so we also look

for opportunities to encourage business to adopt consumer-friendly policies and practices. Sometimes we need to be more adversarial, and expose problems through the media and through tough but fair web alerts on harmful business practices or criticism of policy directions.

We are collaborative by nature, both internally and outwardly—much of our work is done with like minded partners and allies. But we're prepared to work with organisations, agencies or businesses that care about consumers, in particular the low income and vulnerable. We've retained a robust policy framework that provides focus for decisions about which issues we work on, and is flexible enough for us to spot the opportunities for action.

Our integrated approach to law, financial counselling and advocacy is one we're proud of, and key to what we've been able to deliver to consumers.



## Action Centre: Consumer Protection and Competition

Complaints about fair trading are an ongoing feature of our casework at the Centre. Unfair or exploitative trading models, such as high pressure sales or unsolicited marketing, lead to complaints about breaches of consumer guarantees, unfair contract terms and misleading and unconscionable conduct under the Australian Consumer Law.

*From casework to campaigning: what we've done*

- Held regular meetings with enforcement officials at Consumer Affairs Victoria providing an opportunity to inform the regulator about practices of concern to the centre.
- Lodged complaints with regulators and helped consumers seek compensation for shoddy goods.
- Attended meetings of the ACCC Consumer Consultative Committee, ASIC Consumer Advisory Panel, and CAV Working Together Forum.
- Made a number of submissions to Government on general consumer protection issues – a full list can be found appended to the Policy and Campaigns report.

**Private Colleges:** Policy staff and solicitors assessed the Student Agreement (contract) of one of the industry leaders and brought the company's attention to some serious problems we'd identified from casework and in-house analysis. The company implemented changes to the contract, effective from 1 January 2014. We assessed the new contracts looking for evidence that there had been a shift in approach by the provider to students who need to cancel their contracts on grounds other than somewhat subjective compassionate grounds. Despite a significant amount of effort to work constructively with the company, there has been little practical change and the Legal Practice continues to assist clients with their specific cases. This is a key example of unfair contract terms requiring regulator action and we will pursue this as part of our longer term objectives to protect consumers from this sort of business practice.

## Fast facts

- 177,000 Number of Australians in retirement villages in 2013
- 27,000 Australia's increase in retirement village residents in the five years to 2013
- 4 million Number of Australians who'll be aged between 65 & 85 years in 2022
- \$100k - \$500k Initial costs of moving into a for-profit retirement village in Victoria

**Private Car Parks:** We provided significant advice and assistance to government and other parties in an attempt to amend state legislation to prevent VicRoads, the state agency responsible for vehicle and driver registration, being forced to hand over personal details of car owners to private car park operators so that they may pursue consumers for parking payment requests. In New South Wales, this practice has been banned in legislation on the basis that it is an abuse of court processes. A client of our centre ran a petition to the Victorian Roads Minister in support of the legislative change proposal, which achieved almost 4,000 signatures. Despite strong support from the state Opposition and Greens, the Victorian government rejected the change, on the basis that existing consumer

protections were sufficient. We were encouraged by a finding in May 2014 from the Victorian Civil and Administrative Tribunal (VCAT) that the demands for payment were in fact penalties and not legitimate. In the coming year, we will focus further policy and legal effort to bring this nefarious business practice to an end.

**Retirement Villages:** Last year in the Policy & Campaigns report, we raised the problems emerging from the retirement accommodation sector. We've identified some key problems with the legislation in Victoria, and have been working with consumer and seniors' advocates to pursue changes to protect elderly consumers.

Moving into retirement housing can be a big emotional upheaval. For many, the move is necessitated by poor health or the loss of a loved one. We need the laws around retirement living to be clear cut so vulnerable older consumers are protected.

As it stands, the legislation is ill-equipped to deal with the range of retirement living options in Victoria. We're pursuing an overhaul of the legislation, and we're particularly concerned with hidden fees and inadequate dispute resolution provisions.

Policy and Legal staff have engaged with this matter on a number of fronts. We've contributed to review processes and consultative dialogues, as well as meeting with retirement village residents and their advocates to discuss issues of concern. In January, the Legal Practice opened files for a number of retirement park residents who have concerns about the impact of hidden fees known as Deferred Management Fees, which we want to challenge on the basis that they are unfair



Source: [heraldsun.com.au](http://heraldsun.com.au)

# “An ongoing feature of our casework is high cost credit via pay day loans and consumer leases”

contract terms and inadequately disclosed.

This is an excellent example of policy and advocacy being informed by, and supporting, legal casework. While the casework is run by the legal practice, policy provides a strong parallel stream of effort by attending meetings with clients, engaging with advocates and providing assistance in building the evidence base for both advocacy and legal action.

## Action Centre: Consumer Credit & Financial Services

An ongoing feature of our casework is high cost credit via pay day loans and consumer leases. We have lodged numerous complaints with the regulators on behalf of our clients and have been assisting people to get out of contracts they signed without understanding what they were agreeing to.

*From casework to campaigning: what we've done*

- Campaigned for reform in the provision of high cost credit to consumers excluded from mainstream finance, with a key focus on the use of Centrepay by consumer lease providers, as well as exposing the failure to disclose the true costs.
- Made submissions to the Financial Systems Inquiry with a focus on provision of financial products and services that are fair, simple and safe for consumers, particularly the most vulnerable.

**Consumer Leases:** A report from our casework “The Hidden Cost of Consumer Leases” documented our concerns with consumer lease providers. Very low income or vulnerable people enter into lease contracts and pay thousands of dollars under the contract without any guarantee that they will be entitled to own the goods at

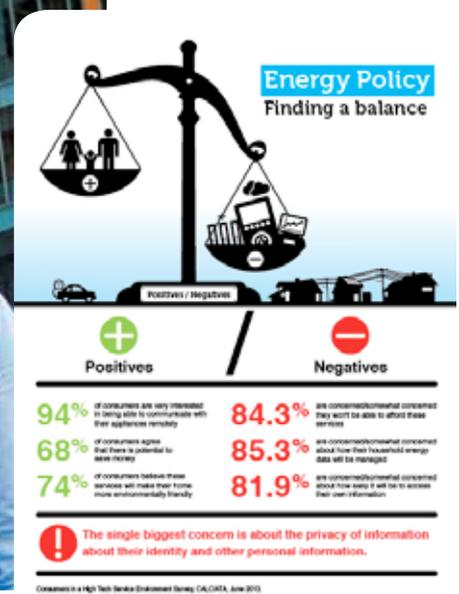
the end. To add to the unfairness, they will have paid significantly more than market value for the product over the term of the contract, and even more than a high cost credit card.

One significant aspect is the ability of many of these providers to access the welfare payment system via Centrepay, a free direct bill-paying service for Centrelink recipients. We contributed to the Federal Government’s Independent Review of Centrepay and wrote directly to Centrepay naming a number of consumer lease providers who were the subject of ASIC enforcement action, arguing that those firms should be removed from Centrepay. We also alerted Centrepay to a particular car trader which has been the subject of a number of consumer complaints and urged that they also be removed from the Centrepay system. We took our concerns directly to Federal Ministers and worked closely with financial counselling colleagues to draw attention to the harm these leases provide and the remedies available.

### Consumer Leases and Centrepay

Sally (not her real name) is a single parent living in suburban Melbourne and has a mental illness which can affect her decision-making. At all relevant times her only income was the Disability Support Pension and family tax benefits.

Between 2010 and 2012, Sally entered into a number of lease agreements for consumer electronics, furniture and whitegoods from the same lease provider. She started off paying \$13.90 per fortnight for one item, but by mid 2012, she had leases for 31 items, and was required to pay \$363.70 to the lease provider per fortnight. Representatives of the lease



provider persuaded her to sign a Centrepay deduction form.

Sally's Centrelink income was insufficient to maintain the payments and she fell into arrears. In early 2012, the lease provider advised Sally she was \$900 behind in her payments. To catch up, she agreed to pay \$300 per week.

However, this proved unsustainable and she soon had to stop making payments altogether. Sally's friend and carer attempted to negotiate a hardship arrangement with the lease provider, but this wasn't successful. The carer then contacted Consumer Action for assistance in mid-2012.

Consumer Action assisted Sally to lodge a complaint about the lease provider at an External Dispute Resolution Scheme, claiming that the lease provider had breached the National Credit Code and the *Australian Securities and Investments Commission Act 2001*.

The lease provider claimed that their agreements were not regulated under the National Credit Code (the Code). Consumer Action also made a complaint to ASIC, arguing that the Agreements, on their proper construction, were subject to the Code, and the lease provider was not complying with its obligations under the Code. We also argued that the lease provider was engaging in credit activities pursuant to the *National Credit Protection Act 2009* without holding a credit license.

The matter was eventually settled between Sally and the lease provider with the assistance of Consumer Action.

## Action Centre: Access to Energy

Energy bills keep going up, and the complexity of the billing system in our increasingly deregulated energy markets makes it unnecessarily difficult to work out what product is right for you, or what your entitlements might be. This is especially difficult for low income and vulnerable consumers, many of whom may be entitled to concessions to ease the burden but have no idea how to claim them or who to talk to if there's a problem. We've been encouraged by improvements in the water sector, with Yarra Valley Water leading the pack in its approach to early identification and hardship arrangements. We've contrasted this with the energy sector, and are increasingly concerned about the chasm that is emerging between policy and practice.

*From casework to campaigning: what we've done*

- Provided submissions to a number of state and federal process on the demand side of the energy market.
- Continued our advisory role in relation to smart meters in Victoria by participating in the Ministerial Advisory Committee on Advanced Metering Infrastructure.
- Provided evidence against the merger of AGL and MacGen in NSW on the basis that it was non-competitive and therefore not in the interests of energy consumers.
- Collaborated with the Victorian Council of Social Services on a report into the impact of a new cap on concessions for low income Victorians struggling with energy bills.
- Collected evidence of poor hardship practices by energy retailers from financial counselling casework to support the case for a more progressive approach.

“Our financial counsellors deal with credit and debt problems every day. The emergence of what we call “for profit financial difficulty businesses” is a growing area of casework”

**CASE STUDY: Retailer Fails the Hardship Practice Test**

Rosemary is 77 years old and a pensioner. She also receives a carer's allowance for her husband, who is in poor health.

Rosemary has been with her retailer for 48 years, and she used a voluntary bill smoothing program to help manage her budget. When she first started on the program, she paid \$25 per fortnight for electricity, and \$32 for gas.

In June 2012, Rosemary and her husband received a bill of almost \$1,500 for their gas usage for the three month period of April to June 2012. When Rosemary spoke to her retailer about it, she told them that she couldn't afford to pay the bill, as she just didn't have the money. The retailer told her that if that was the case, she would be cut off from her gas supply. The retailer representative told her that if she didn't want to be cut off, she would have to continue paying \$25 dollars a fortnight for electricity, but \$60 for gas—double her usual amount. The retailer didn't ask her whether she could afford these payments.

When Rosemary protested that she couldn't afford this, the retailer suggested that she shouldn't turn the gas heating on, and to wear a coat and a blanket to keep warm instead. Rosemary's husband is ill, and it isn't feasible for them to stop using the heating.

Rosemary borrowed money from a friend, and paid \$700 towards her overdue bill the day after she spoke with her retailer. Rosemary is now paying the amounts that the retailer

demanded, even though this is very difficult for her financially. She now pays \$85 a fortnight out of her carer's pension on electricity and gas. Rosemary called MoneyHelp for assistance, and we advised her to contact EWOV if the retailer continued to threaten her with disconnection.

Rosemary's payments do not cover her ongoing consumption, and she has recently received another bill for almost \$1,000.

**Action Centre:  
Financial Inclusion & Difficulty**

Our financial counsellors deal with credit and debt problems every day. The emergence of what we call “for profit financial difficulty businesses” is a growing area of casework. This includes services offering to “fix” or “repair” unfavourable credit reports, and budget management services that in some serious cases have resulted in the consumer losing their home. What's worse is that much of what these services offer is available for free, either from the credit reporting companies themselves, or from financial counsellors who offer free and confidential advice around the country. The policy team have taken these concerns to ASIC which has facilitated a dialogue about the extent of the problem and possible remedies.

*From casework to campaigning: what we've done*

- Submitted complaints to regulators about the practices of "credit repair" agencies that purport to remove defaults and other listings from credit reports.
- Submitted complaints to regulators about the practices of debt collectors.
- Maintained an active dialogue with other consumer advocates regarding our participation in a joint industry-consumer working group to establish a national debt repayment service, the first of its kind for Australia.
- Worked with consumer advocates and financial counsellors to remove a debtors filing fee. (see below)
- Supported efforts by Financial Counselling Australia to secure Commonwealth funding for financial counselling services across the country.

#### **CAMPAIGNING AND CASEWORK: Too broke to go bankrupt?**

Sometimes there's no alternative but to declare bankruptcy, as it can be the most efficient way to move on and start anew. Our financial counsellors won't advocate this route as a matter of course, but it can be the best option for some consumers.

Sharp eyes spotted a small inclusion in the Mid Year Economic and Fiscal Outlook (MYEFO) in December 2013, heralding the Federal Government's intention to charge debtors \$120 to file their petition to go bankrupt. Community legal centres and financial counsellors were alarmed at the potential harm this would cause to the most disadvantaged at a time of high personal stress.

Many callers to our financial counselling service have spent years trying to meet their financial commitments and some have no option but to turn to bankruptcy as a last resort. The \$120 fee was a bridge too far for many and, ironically, it would have meant they were too broke to go bankrupt.

We worked with colleagues across the financial counselling sector through the peak body, Financial Counselling Australia, and took our concerns directly to the Attorney General Senator George Brandis, the Shadow Attorney General Mark Dreyfus, and the Greens spokesperson Senator Penny Wright.

The fee was introduced on 1 April 2014, and almost immediately we started to collect examples of debtors who were, quite literally, too poor to go bankrupt. But action in the Senate in June by the Greens, with the support of Labor and unopposed by the Government, saw the fee scrapped with immediate effect. Removal of the fee means financially vulnerable members of our community can get that fresh start and a chance to become a productive part of our economy. There are flow-on benefits to the business sector which won't have to allocate resources to chasing unrecoverable debts.

This case highlights the value of enabling consumer advocates to advocate on issues which affect vulnerable Australians, and the capacity for compassion by Parliamentarians when presented with a compelling case for action.



## Action Centre: Effective Consumer Dispute Resolution

The Australian Consumer Law can help you get your money back if you discover you've bought a defective product, or have been charged for poor service. It sounds great, but dodgy traders won't want to give you back your money without a struggle. Access to justice is something we should all have, and our dispute resolution forums are intended to be affordable and accessible—somewhere to take your complaint and have a fair hearing in a reasonable time frame. If you can afford to pay for a lawyer, or feel confident enough to take your case to an ombudsman or tribunal, you might have a good chance of succeeding. However many consumers are finding it too hard, and unless you have access to legal advice, you might not get a fair and reasonable outcome.

### *From casework to campaigning: what we've done*

- Made submission to review of the Financial Ombudsman Service and the Energy & Water Ombudsman (Victoria), in collaboration with colleagues.
- Provided a substantial submission to the Productivity Commission's Inquiry into Access to Justice Arrangements.
- Engaged with the Victorian Civil & Administrative Tribunal on changes to fee waiver criteria and the role of expert evidence in dispute resolution.

**Driving change:** Many of the cases we are asked for advice on relate to second hand cars, the traders who sell or lease them, and the credit agencies who provide loans or leases. Going to court is intimidating for most consumers, and almost always too expensive. We've invested significant effort over the year into analysis of our casework in this area, exploring alternatives that are effective, efficient, accessible and affordable. We've also looked at mechanisms to overcome the evidence barriers that currently exist in the Australian Consumer Law consumer guarantee

provisions. That's because getting an expert report can be prohibitively expensive, while dodgy traders can write off the cost of providing their own evidence as a cost of doing business.

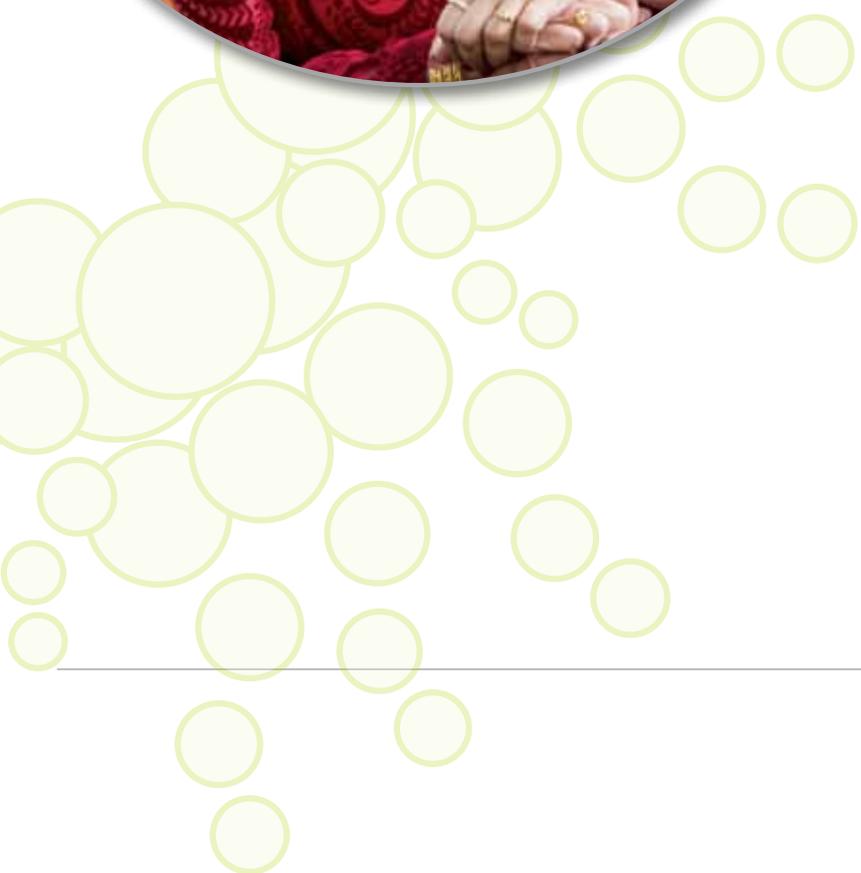
**The value of advocacy:** The Productivity Commission's investigation into access to justice arrangements was announced in June 2013. We collaborated with our colleagues at the Financial Rights Legal Centre (NSW) on submissions to the Inquiry, and gave evidence at the Commission's public hearings in June. We continued this collaboration in joint advocacy with Federal parliamentarians on the value of this work in response to the announcement by the Attorney-General of his decision to change Commonwealth funding agreements for community legal centres. This change is intended to prevent that funding being used for advocacy. By contrast, the Productivity Commission found that "advocacy should be a core activity of Legal Aid Commissions and Community Legal Centres." The Commission also said that the sector is "uniquely placed to identify systemic problems affecting disadvantaged Australians. Advocacy can also be an efficient way to use limited taxpayer dollars."

**Keeping VCAT affordable and accessible:** Early in the year, our lawyers began to have concerns about changes to fee waiver arrangements at VCAT that were disadvantageous to low income and vulnerable consumers. The Policy team worked with the Legal Practice on a letter to the VCAT President setting out our concerns about the process for assessing applications for fee waiver on the basis of hardship. We have maintained a respectful dialogue with VCAT on this issue, and appreciated access to Tribunal members to assist us in our understanding of the role of expert evidence in determinations. We have modified our policy and campaign approach to assess the accessibility and affordability of expert evidence to low income and vulnerable consumers pursuing claims through the Tribunal.



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# Financial Report

## STATEMENT OF COMPREHENSIVE INCOME FOR THE YEAR ENDED 30 JUNE 2014

<b>INCOME</b>	<b>2014</b>	<b>2013</b>
Fire Services Levy Income	1,108,132	-
Core Grants - VLA State	825,456	813,259
Core Grants - VLA Commonwealth	253,248	146,060
Core Grants - Consumer Affairs Victoria	602,682	552,986
Core Grants - Other	1,129,180	680,597
Interest received	39,911	39,849
Consulting & Sitting Fees	24,596	24,933
Donations	50	5,987
Costs Recovered & retained	7,729	40,325
Refunds & Reimbursements	32,418	67,028
Set Up Funds	-	11,055
Set Up Funds - Money Help	11,443	44,142
Set Up Funds - Money Help - IT	-	1,572
SACS ERO - VLA	54,440	22,225
SACS ERO - Commonwealth	7,864	1,667
SACS ERO - CAV	-	20,577
Transfer to CALC - Money Help	-	88,710
Transfer to CALC - Other	19,418	45,371
VLA excess surplus project	18,126	67,155
	<b><u>4,134,693</u></b>	<b><u>2,673,498</u></b>
<b>EXPENDITURE</b>		
Salaries	1,970,750	1,884,105
Superannuation	211,831	185,503
Salary On Costs	32,386	25,917
Rent	273,579	252,838
Occupancy	26,512	27,202
Staff Training	50,760	45,911
Staff Recruitment	2,583	1,719
Communications	37,058	34,001
Office Overheads	53,614	66,415
Insurance	1,001	2,496
Finance & Accounting	8,453	12,518
Library Resources & Subscriptions	19,185	17,064
Travel Costs	101,842	98,028
Programming & Planning	61,779	293,585
Client Disbursements	2,489	1,818
Depreciation	28,086	47,599
Other	29,327	19,416
Money Help Surplus (Deficit)	55,283	(9,315)
VLA Surplus	(13,099)	(55,429)
	<b><u>2,953,419</u></b>	<b><u>2,951,391</u></b>
Profit (loss) before income tax	1,181,274	(277,893)
Income tax expense	-	-
Profit (loss) after income tax	1,181,274	(277,893)
Other comprehensive income:	-	-
Other comprehensive income for the year, net of tax	-	-
Total Comprehensive Income for the year	1,181,274	(277,893)
Retained Profits at the beginning of the financial year	681,971	959,864
Retained Profits at the end of the financial year	<b><u>1,863,245</u></b>	<b><u>681,971</u></b>

## STATEMENT OF FINANCIAL POSITION AS AT 30 JUNE 2014

	2014	2013
	\$	\$
<b>CURRENT ASSETS</b>		
Cash and cash equivalents	2,182,433	1,216,521
Trade and other receivables	276,633	186,273
<b>TOTAL CURRENT ASSETS</b>	<u>2,459,066</u>	<u>1,402,794</u>
<b>NON-CURRENT ASSETS</b>		
Property, plant & equipment	64,433	95,519
<b>TOTAL NON-CURRENT ASSETS</b>	<u>64,433</u>	<u>95,519</u>
<b>TOTAL ASSETS</b>	<u>2,523,499</u>	<u>1,495,313</u>
<b>CURRENT LIABILITIES</b>		
Trade and other payables	137,571	162,059
Provisions	430,725	530,609
<b>TOTAL CURRENT LIABILITIES</b>	<u>568,296</u>	<u>751,017</u>
<b>NON-CURRENT LIABILITIES</b>		
Provisions	91,958	55,370
<b>TOTAL NON-CURRENT LIABILITIES</b>	<u>91,958</u>	<u>62,325</u>
<b>TOTAL LIABILITIES</b>	<u>660,254</u>	<u>813,342</u>
<b>NET ASSETS</b>	<u>1,863,245</u>	<u>681,971</u>
<b>EQUITY</b>		
Retained profits	1,863,245	681,971
<b>TOTAL EQUITY</b>	<u>1,863,245</u>	<u>681,971</u>

Full financial reports are available at [www.consumeraction.org.au/about/](http://www.consumeraction.org.au/about/)



# 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.

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**Peter Fary**

**Astrid Haban-Beer**

**Kristine Hanscombe QC**

**Will Houghton QC**

**Caroline Kenny QC**

**Carolyn Sparke QC**

**Cam Truong**

**Rupert Watters**

Barristers

**Clayton Utz**

**K&L Gates**

**Maddocks**

**Maurice Blackburn**

**Lander & Rogers**

Pro Bono Partners

**Australian Government Solicitors Office**

**Gilbert + Tobin**

**Kerryelle Bucknell**

Legal Practice Support

**NAB Dispute Resolution Team**

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**Sam Quadara**

**Rhonda Smith**

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**Reliable Legal Precedents**

**Thomson Reuters (Softdocs)**

**Victoria Legal Aid (for printing and distribution of the Do Not Knock sticker)**

**The 110 community partners who help distribute**

**Do Not Knock stickers across Australia**

Administrative Support





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The Consumer Action Law Centre is an  
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