





### **Professor Allan Fels AO**

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

Professor Fels remains active at the OECD in relation to consumer and competition issues.

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“Consumer Action continues to maintain a strong media profile as a highly effective method of educating the community; I am continually astonished at the volume of press releases, media comments and published quotes achieved by the advocacy staff.”

# Chairperson's Report

**It is my great pleasure to present the Chairperson's report for my first year in the role;** while I came into this role in sad circumstances following the death of our founding Chairperson Jan Pentland, the organisation has built on the strong legacy of her leadership and continues to deliver high quality legal and advocacy services to vulnerable consumers. This success rests on a key component of Consumer Action's philosophy - that of integrating our casework and our campaign work.

This year saw the introduction of a major initiative of Consumer Action, MoneyHelp with the integration of a financial counselling practice within our organisation to assist those affected by job loss or reduced working hours. MoneyHelp provides free, confidential and independent financial counselling services by telephone with the capacity to refer to face to face counselling where needed. By hosting MoneyHelp at Consumer Action, we are able to more broadly address common consumer casework and policy issues. The service was also expanded late in the financial year to assist consumers facing housing stress.

Consumer Action continues to maintain a strong media profile as a highly effective method of educating the community; I am continually astonished at the volume of press releases, media comments and published quotes achieved by the advocacy staff.

This success has brought its own challenges, with some organisations threatening or taking legal action against us in an attempt to silence our public voice; the Board has strongly supported the staff in defending these claims and refusing to be silenced.

With this and other controversial aspects of Consumer Action's work the Board has overseen the

development of strong risk management procedures to enable us to continue to fearlessly fulfill our mission.

After Jan's passing I was privileged to meet with the staff and offer my assurances that the Board would continue to govern the organisation and support the CEOs to ensure continuity. This discussion resulted in a meeting between the full Board and Consumer Action staff to establish a better understanding of each other's roles.

In relation to our financial sustainability, we were very pleased that Consumer Affairs Victoria has continued its commitment to Consumer Action, agreeing to provide funding for a further three year period for our policy work, advice and training to community workers. This is complementary to funding we receive from Victoria Legal Aid and the Commonwealth Attorney - General's department. Furthermore, the Victorian Property Fund and the Office of Gaming and Racing on the approval of the Minister for Consumer Affairs agreed to again fund MoneyHelp for a further 12 months.

I believe that the activities and outcomes of our work documented in this report as well as in various other Consumer Action publications are testament to the ongoing robustness of this remarkable organisation. I would like to take this opportunity to thank our directors Rob Acton, Ros Hunter, Paul Murfitt, Anna Stewart and Gerard Brown for their ongoing commitment, support and the expertise they bring to the Consumer Action Board. And of course our highly skilled staff under the leadership of two remarkable women, our joint CEOs - thank you on behalf of consumers everywhere.

**Barbara Romeril**

# Consumer Action Board



**Barbara Romeril**  
(Chair)



**Rob Acton**



**Gerand Brown**



**Roslyn Hunter**



**Paul Murfitt**



**Anna Stewart**

# Consumer Action Staff

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

## Administration Team

**Ryan Burrett (part year)**  
**El Morton (part year)**  
Reception/Administration

**John Davies (part year)**  
**Maria D'Elia (part year)**  
Finance Manager

**Skye Forster (part year)**  
**Melanie Keenan (part year)**  
Office Manager

**Daniel Correa (part year)**  
**Lachlan Edwards (part year)**  
**Sarah Pallenberg (part year)**  
Legal Practice Administrative Assistant

## Legal Practice

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

**Gerald Cohen**  
**Michael Hermitage**  
**Tom Willcox**  
**Jillian Williams**  
Senior Solicitors

**Chelsea Candy (part year)**  
**Christian Groves (part year)**  
**Rachel Ormiston (part year)**  
**Kylie Trounson (part year)**  
**Rene Van De Rijdt**  
Solicitors

**Neil Ashton**  
**Linda Ivory (part year)**  
**Adriane Swinburn (part year)**  
Hub Solicitors

## MoneyHelp

**Penelope Hill**  
Advice Services Manager

**Marie Andrews (part year)**  
**Heather Brown**  
**Dianne Dejanovic**  
**Heather Keen**  
**Brian Kerr**  
**Liz Stary**  
**Anna Tiakanas**  
Financial Counsellors

**Ken Harris (part year)**  
Locum Financial Counsellor

**Megan Lewis**  
Liaison Officer

**Sarah Bailey**  
Marketing Consultant

## Policy and Campaigns Practice

**Nicole Rich**  
Director Policy and Campaigns

**Zac Gillam**  
**Janine Rayner**  
Senior Policy Officers

**Xan Colman (part year)**  
Policy Project Officer

**Sean Carroll (part year)**  
Policy Officer

**Eileen Kerrigan**  
Media and Communications officer

**Regina Godredson (part year)**  
**Jo Higginson (part year)**  
**Lauren Kenny (part year)**  
Standards Coordinator

**Angela Russell**  
CFA Coordinator

# CEOs Report

“ It has been a year in which we have built on existing capacity, taken on new challenges and made significant strides forward in our mission to make a difference for consumers.”

**As is reflected elsewhere in this report, it has been quite a year. It has been a year in which we have built on existing capacity, taken on new challenges and made significant strides forward in our mission to make a difference for consumers.**

We have sought to affect change in the consumer interest in a wide variety of ways – from direct action to Senate Committee appearances to involvement in the production of short film.

We have also seen the passage of some very significant pieces of consumer legislation – embodying reform that Consumer Action and other advocates have sought for many years. Passage of a national credit law in October 2009 and a national consumer law in March 2010 are the stand out examples, but there are many others.

We have also continued our commitment to research. *Shutting the Gates*, another exciting collaboration with Dr Paul Harrison of Deakin University, sheds light on the manner in which positive psychological or behavioural characteristics in consumers – such as concern for their children’s welfare – can be exploited by marketing tricks – especially when employed in the home.

The year has seen us farewell a number of longstanding and special members of staff. It is always sad to see them go – at the same time it will be exciting to watch them contribute their great talents to other challenges and endeavours. We have also welcomed some wonderful new members to our team and we look forward to working with them over the years ahead.





In particular, with the addition of MoneyHelp, Consumer Action for the first time provides financial counselling as well as legal casework services. It is a great fit with our existing work and we, and our clients, are already seeing the benefits. We thank the Minister for Consumer Affairs, the Hon. Tony Robinson, the Consumer Credit Fund and the Office of Gaming and Racing for their support and vision in bringing MoneyHelp into being. We also thank the Minister, the Victorian Property Fund and the Office of Gaming and Racing for their confirmation that they will continue support for MoneyHelp in the year ahead.

It was a fitting close to a landmark year for many of the Centre's staff to attend the inaugural Jan Pentland Foundation dinner. We still miss

our beloved former Chair, but the dinner was a wonderful reminder and celebration of Jan's values and passion to make a difference.

Looking ahead we can see no diminution in our work, but there will be some different challenges. We expect a greater focus on testing the remit of new laws as well as involvement in discussions about the implications for the funding of advocacy services of the move of several pieces of significant regulation from a State and Territory arena to the Commonwealth. With the support of our ever wonderful and passionate Board and staff they are challenges we can face with relish.

**Catriona Lowe and Carolyn Bond**

# Directors of Legal Practice Report

**The Legal Practice had an exciting and busy year. As usual, the majority of litigated matters settled on confidential terms but we managed to obtain a landmark decision on linked credit (discussed below). We also saw close to a 30% increase in the number of advices to consumers.**

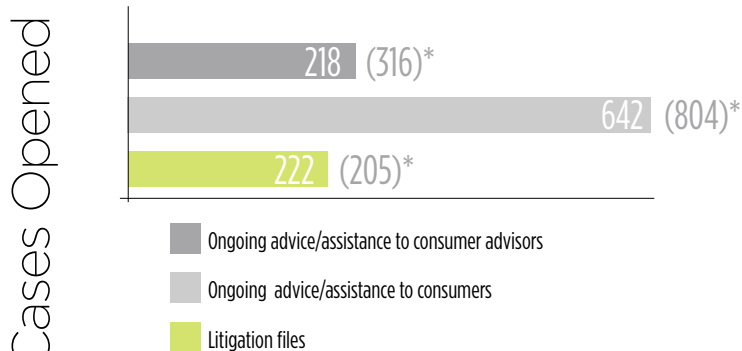
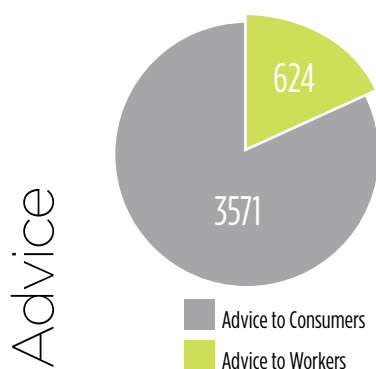
During the financial year, our litigation practice has prepared and filed at least **100** court documents comprising proceedings and defences in the

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

and applications to stay proceedings in interstate jurisdictions. We have noticed that our litigated matters are in general becoming more complex.

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

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



\* 2009 figures in parenthesis



## Key litigation

### Linked credit

#### **Landmark Case: Consumer win sets precedent for others burnt by Kleenmaid collapse**

Consumer Action successfully represented a couple who sought to recover over nine thousand dollars from a linked credit provider who financed their purchase of goods from Kleenmaid Pty Ltd.

After becoming aware that Kleenmaid had gone into administration, our clients contacted Lombard and attempted to terminate their contract.

However, Lombard rejected the termination and instead advised that they should continue to make payments or else risk obtaining a bad credit rating, despite the fact that they were not likely to receive the goods.

After contacting the legal practice, our clients issued an Application in VCAT alleging their termination of the Credit Contract was valid.

In a landmark decision, VCAT found that the credit contract with Lombard had indeed been lawfully rescinded and made an order for our clients to have \$9153.00 credited to them by Lombard, this being the amount they had paid to Lombard under the loan contract.

Given that Lombard Finance estimates it has extended \$6.5 million in similar financing to almost 7000 Kleenmaid customers, the case is a highly important development for those who have been left out of pocket by linked credit contracts where the supplier has collapsed.

The case has been of particular significance in raising awareness among consumers, many of whom mistakenly believe that they remain bound to linked finance contracts when the goods themselves have not been delivered.

### Public interest case threatened

#### **Collection Point misleads client and sues his lawyers**

Consumer Action Law Centre succeeded in the Victorian Civil Administration Tribunal (VCAT) action against money retrieval agency, Collection Point, and recovered the sum of \$1,108.85 for one of its clients.

The client sought to recover monies from Collection Point alleging the company sent him an unsolicited letter advising of unclaimed money he was entitled to and offering to collect it on his behalf. The claim set out that Collection Point then retained more than 25% of the sum as a fee.

Collection Point did not inform our client that the money was unclaimed superannuation funds that he could claim himself at no cost, and VCAT found the reasons given to the client by the company for not disclosing the source of the funds were unjustified.



Our client alleged that Collection Point, through one of its staff members, had falsely represented that it was a government agency and that there was no charge for recouping his money. VCAT accepted that these representations were made and that our client had relied on these when entering into the agreement.

The client's case became more complicated when Collection Point launched proceedings in VCAT against Consumer Action, suing for misleading and deceptive conduct and for the tort of injurious falsehood in relation to a media release. These proceedings were subsequently withdrawn.

While the action against CALC ultimately had little impact on our client's separate claim against Collection Point, the action raises concerns that the legal system leaves open the possibility that other consumer cases could potentially be affected in this way.

## Private car parks

### **Legitimacy of Private Car Park "fines" yet to be decided**

A decision on the legality of the payment demands of private car park operators would help to clarify the rights of consumers and potentially put a stop to the practice, hence it is unsurprising that Care Park have beendefended the matter vigorously.

Perhaps in an attempt to mitigate the potentially wide reaching impact of our test case, Care Park decided to waive their claim against Mr Davis and ban him from parking on its premises in the future. However, given the potential importance of this case for the wider public, Consumer Action continued to pursue the action by stating that a ban on using Care Park facilities could leave Mr Davis open to a claim of trespass. The practice amended Mr Davis' claim to allege that Care Park's latest actions amount to unconscionable conduct, harassment and coercion. The matter was settled confidentially.

## Debt Collection

### **Client alleges unlawful threats and harassment by ACM and says NAB should have known better**

The legal practice issued proceedings in VCAT against the debt collection company ACM and the National Australia Bank (NAB) on behalf of a client who claims he was misled and intimidated by the collection company after NAB sold on his debt.

Our client instructs that after being provided with more than \$45,000 in unsecured debt by NAB, he had been relentlessly pursued by ACM for payment despite the fact he had no assets and is currently unemployed. His claim alleges ACM's questionable debt collection practices have included contacting him, his father and his financial counsellor to make threats to enter the family home and seize any goods for which our client cannot prove ownership.



“ Though the NAB has since stopped selling their debts to ACM, the case is a cautionary tale to companies who outsource their debts recklessly ”

ACM ought to be aware that in the absence of a court judgment making such threats falls outside the regulatory guidance on debt collection and in our view is a breach of laws which prohibit debt collectors from misleading debtors about the consequences of not paying a debt. Consumer Action argues that ACM should have ceased contacting our client once it had been established that he had no capacity to make payments. Instead of continued demands, it has the option to issue proceedings to protect its interest against our client's future earnings.

We welcome the NAB's decision to stop selling their debts to ACM. Nevertheless the case is a cautionary tale to companies who outsource their debts recklessly, particularly given that there is often little that can be done once the debt has been sold.

The case is of high significance for consumers who have suffered similar distress and anxiety as a result of the dubious debt collection practices that often flow from the irresponsible outsourcing of debts.

ACM has consistently been one of the most complained about debt collection companies, and Consumer Action continues to push for ASIC to investigate their practices more thoroughly and take public action to protect future consumers from exposure to such conduct.

#### **Unfair Contract Terms**

The practice is currently taking action against DTGVI Pty Ltd (Motor Finance Wizard) on behalf of one of our clients who claims her contract with them was littered with unfair terms. She claims that DTGVI acted unconscionably in taking advantage of her age and lack of commercial experience, drafting a contract that was to her detriment and providing her with an unsound vehicle.





“From the very first till the very last day of the year, we were busy dealing with critical policy and regulatory issues for Australian consumers.”

# Director Policy & Campaign Report

**People often remark that working for systemic change, which is what Consumer Action does through its policy and campaigns activities, can take many years and requires patience and persistence. While true, 2009/10 was a high-water mark for reform after many years' hard work by consumer advocates across several important issues, meaning it felt more like we were riding the consumer policy rapids than a glacier!**

From the very first till the very last day of the year, we were busy dealing with critical policy and regulatory issues for Australian consumers. On 1 July 2009, Australia's first mandatory unit pricing code for grocery retailing came into being after several years of sustained advocacy - and we were right there in the media talking about both the good and the bad in it. In the last week of June 2010 we were delighted to be attending the ceremony marking the formal handover of consumer credit regulation from the states to the Commonwealth, again after so many years of advocacy for the reforms, and there we were on 30 June 2010 talking to the media about the implications of those reforms coming into effect the following day.

Our commitment to work for systemic change comes from our understanding that, even with our dedicated legal team (and now MoneyHelp financial counsellors as well) providing their very best advice and support to consumers - particularly low-income or disadvantaged consumers, there are only so many people we will be able to help on a case-by-case, individual-by-individual basis. It is also unfair





“We must always be looking to identify the root causes of problems, so that we can make efforts to address them at their source and try to prevent unnecessary consumer loss and distress.”

## Submissions

Consumer Action makes a large number of submissions to government and regulatory consultations and these are generally available on our website. In 2009-10 these submissions included:

### JULY 2009

- Senate Economics Committee Inquiry into the Trade Practices Amendment (Australian Consumer Law) Bill 2009
- Senate Legal and Constitutional Affairs Committee Inquiry into Personal Property Securities Bill 2009 [Provisions]
- Senate Economics Committee Inquiry into the National Consumer Credit Protection Bill 2009 and related bills

### AUGUST 2009

- National Stakeholder Steering Committee on Smart Meter Policy Issues (joint consumer submission)

### SEPTEMBER 2009

- ASIC Consultation paper 112 on External dispute resolution schemes
- Australian Energy Regulator on its Draft Decision - Victorian advanced metering infrastructure review, 2009-2011 AMI budget and charges applications
- Federal Attorney-General's Department on Personal Property Securities Bill 2009
- Commonwealth Consumer Affairs Advisory Council on its issues paper Consumer rights: Statutory implied conditions and warranties
- Bankruptcy Legislation Amendment Bill 2009 - Exposure Draft (joint submission with the Financial and Consumer Rights Council)
- Essential Services Commission's proposed amendments to the Energy Retail Code
- Ministerial Council on Energy Policy Recommendations to the National Customer Energy Framework in relation to Smart Meters (joint consumer submission)

that consumers have to seek help to undo harm that could be prevented from occurring in the first place. In other words, incorporating into our work an element of striving for broader change is both more effective for consumers and the right thing to do. Consumer Action strongly believes we must always be looking to identify the root causes of problems, so that we can make efforts to address them at their source and try to prevent unnecessary consumer loss and distress.

Consumer Action's policy and campaigns team facilitates our work for better consumer outcomes. Consumer Affairs Victoria (CAV) provides funding for the core of the team, which includes policy roles and a media and communications position. While it is natural that we won't always agree on policy and regulatory matters, we think it is laudable that the Victorian consumer affairs department has a strong commitment to supporting Victorian consumer advocacy for the benefit of the community as a whole. Other roles in our team are supported by external funding, including from the Consumer Advocacy Panel - which is the mechanism by which the Federal and State & Territory governments support consumer advocacy on national electricity and gas issues.

As in previous years, the team underwent various changes in 2009/10. The Director - Policy & Campaigns continues to head up the team with strong and passionate support from our two senior policy officers, Janine Rayner and Zac Gillam. It was sad to have to lose policy officer, Sean Carroll, after his 12 month position finished in August 2009 but we were really pleased to see him make a decision to stay on in consumer affairs by taking a role in CAV's policy division. On the other hand, we gained a welcome addition to our team with a new media and communications position created due to the growth in our public-





facing activities, and we are very happy to have had Eileen Kerrigan with us in that new role since October 2009. Our other loss after several years in the team was our much-loved Standards Project Co-ordinator, Jo Higginson, in February. We certainly hope that in her new chosen path as a secondary school teacher, her students appreciate her as much as we did. We were lucky that Lauren Kenny was able to step into the Co-ordinator role for a few months and ensure that we could continue to support our consumer representatives on standards committees, while at the very end of the financial year our new Co-ordinator, Regina Godfredson, started in the role with us.

As noted in previous years, however, the whole organisation is focused on achieving more effective outcomes for consumers. Our legal practice team works closely with the policy & campaigns team and our busy lawyers often undertake additional tasks on their case files to address systemic issues that are raised by the matters they see. Our newer MoneyHelp financial counselling team has also started identifying broader concerns raised by calls from Victorian consumers for financial advice, and our administration team puts in a huge effort to support our various activities by doing everything from coordinating large mail-outs to joining in our direct actions. Not least, the co-CEOs also incorporate a significant involvement in policy & campaigns work into their chock-full management schedule.

#### **OCTOBER 2009**

- ASIC Consultation Paper 115 on Responsible lending
- Victorian Parliament Economic Development and Infrastructure Committee inquiry into State Government taxation and debt (joint submission with Footscray Community Legal Centre, West Heidelberg Community Legal Service and Brotherhood of St Laurence)

#### **NOVEMBER 2009**

- Standing Committee of Officials of Consumer Affairs on its consultation on Australian Consumer Law draft Regulation Impact Statements
- Senate Legal and Constitutional Committee regarding the Inquiry into the Bankruptcy Legislation Amendment Bill 2009
- Essential Services Commission Victoria's review of the wrongful disconnection payment

#### **DECEMBER 2009**

- Victorian Bushfires Royal Commission in response to its 2009 Fire Services Levy and Insurance Discussion Paper and Attachment (joint submission)
- Federal Government's Unconscionable Conduct Issues Paper
- Federal Department of Environment, Water, Heritage and the Arts regarding the National Water Initiative Pricing Principles – Consultation Regulation Impact Statement
- Federal Government's Super System Review on Phase 2 – Operation and Efficiency

#### **JANUARY 2010**

- Essential Services Commission Victoria on the Draft Report of the Review of Victoria's Wrongful Disconnection Payment
- Federal Government regarding the 2010-2011 Federal Budget
- Federal Government commenting on the Government's Action Against Fraudulent Phoenix Activity – Proposals Paper



## **FEBRUARY 2010**

- Australian Energy Regulator on the Victorian Electricity Distribution Businesses' Price Proposals for 2011 - 2015

## **MARCH 2010**

- Federal Government's Financial Services Working Group on the Corporations Amendment Regulations 2009 relating to product disclosure statements for superannuation funds and managed investments schemes
- Federal Department of Resources, Energy and Tourism commenting on the Second Exposure Draft of the National Energy Customer Framework: Law, Rules, Regulations and Contracts

## **APRIL 2010**

- Senate Economics Committee Inquiry into the Trade Practices Amendment (Australian Consumer Law) Bill (No.2) 2010
- ACCC, ASIC and State and Territory consumer protection agencies on the draft Guide to unfair contract terms
- Federal Treasury on the proposed regulatory framework for lenders with pre-existing contracts in force when the national consumer credit laws commence (joint submission with Consumer Credit Legal Centre NSW and National Legal Aid)

## **MAY 2010**

- Essential Services Commission Victoria on Smart Meters Issues Paper
- Australian Energy Regulator on Retail Pricing Information Guidelines – Issues Paper
- Federal Treasury on Unfair Terms in Insurance Contracts – Options Paper

## **JUNE 2010**

- Consumer Affairs Victoria on the Draft Model Domestic Building Contract

Consumer Action's 2008-2010 strategic plan sets out two general categories for our policy and campaigns work:

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

Our 2009-10 policy & campaigns plan sets out six priority areas for our work:

### **Consumer protection, competition and fair trading**

This covered the Australian Consumer Law reforms; a push for further reforms including an unfair trading law and market studies & investigations powers; high pressure sales and our Do Not Knock campaign; statutory warranties reform; unit pricing; improving poor motor car trader conduct and dispute resolution; consumer tax issues; and private car park fines.

### **Consumer credit**

This covered the national Consumer Credit Bill reforms; payday lending; irresponsible marketing and lending (including credit card limit increase offers, store credit and consumer leases); intermediaries (such as brokers); credit reporting; and personal property securities law reform.

### **Debt collection**

We focused on two aspects of this area - improving poor and unlawful debt collection conduct; and reforms to the bankruptcy minimum debt threshold.

### **Banking and financial services**

Some of the issues covered under other areas impact on financial services, but more specifically we focused on improving competition through demand-side initiatives (such as improving account switching and exit fees); eliminating penalty fees; expanding concession account use; direct debits; and some insurance and superannuation matters.

“We undertook a range of different activities during the year on these issues, including making over 30 formal written submissions, distributing 27 media releases and doing over 300 media interviews.”

### **Utilities**

Again, various general consumer policy issues also impact on essential services but we also focused specifically on the national energy consumer law reforms; energy marketing and prices & other important information disclosure; energy smart meters; telecommunications consumer protection regulation; and household water prices and services.

### **Access to justice**

As a consumer community legal service, we retain a strong interest in ensuring consumers, especially lower-income or disadvantaged consumers, can pursue fair and just outcomes through the formal justice system. This area covered the review of VCAT; the operation of External Dispute Resolution schemes; civil law reform; reform to unfair use of interstate proceedings against consumers; and an accessible court system for consumer credit disputes in the transition to national regulation.

We undertook a range of different activities during the year on these issues, including making over 30 formal written submissions, distributing 27 media releases and doing over 300 media interviews. In March we also launched a significant report with Deakin University into high-pressure selling in the home, *Shutting the Gates*: an analysis of the psychology of in-home sales of educational software, funded by the Victorian Consumer Credit Fund. You can read more about our activities in the Working for Change – Casework and Campaigning in Action section of this annual report.

After a year that saw a new unit pricing code, a new Australian Consumer Law, new national consumer credit laws, bankruptcy law reforms, a proposed new national energy consumer law, the scrapping of various penalty fees and a government announcement of new credit reporting reforms, there is a temptation to take it a bit slower for the coming year. Instead, we'll be taking a deep breath and plunging deep into ongoing debates and advocacy for reform in 2010/11. Consumers, particularly poorer or disadvantaged members of our community, find it hard enough to be heard on issues that affect them - they deserve our fiercest efforts in their interests.

### **Nicole Rich**

Director – Policy & Campaigns

# MoneyHelp Report

1

April 2009

Consumer Action and state government departments commenced discussions around employment of financial counselling team

2

15 May 2009

Office of Gaming & Revenue confirmed it would fund the MoneyHelp service at Consumer Action

3

May to June 2009

new telephone system set up and office refitted to accommodate extra telephone advice staff within Consumer Action

4

May 2009

communications consultant commenced employment

5

June 2009

MoneyHelp manager commenced employment

6

13 July 2009

financial counsellors and liaison officer commenced employment

7

1 April 2010

MoneyHelp criteria expanded to include the provision of financial counselling to anyone suffering housing stress

8

22 June 2010

funding approved for a further 12 months

**In July 2009 Consumer Action started up a dynamic new team of workers - the MoneyHelp financial counseling team. The team has a mixture of full and part time workers including 5 financial counsellors, a liaison officer, a marketing and communications consultant and a manager.**

MoneyHelp was initially funded by the state government as part of a new Victoria-wide 12 month financial counselling program for people in difficulty as a result of loss of income due to the global financial crisis. The government program also funded 8 other Victorian agencies that provide face to face counselling when needed by MoneyHelp clients (plus other financial counselling to clients who contact those agencies directly).

From April 2010, the government extended MoneyHelp's jurisdiction to cover not just clients with loss of income but also those clients suffering mortgage or rental stress. In March 2010 the federal government provided a further 12 months funding for the 8 external agencies and subsequently, the state government confirmed that funding for MoneyHelp would continue for a further 12 months until 30 June 2011.





MoneyHelp's objective is to provide advice and assistance to a target group of Victorians through:

- Triage telephone financial counselling;
- Information on the MoneyHelp website [www.moneyhelp.org.au](http://www.moneyhelp.org.au);
- Liaison officer presentations; and
- Dissemination of MoneyHelp information.

In the year to 30 June 2010, MoneyHelp achieved the following:

- Provided telephone financial counselling to **3,316** individuals across Victoria;
- Delivered information sessions to **614** retrenched workers at **23** workplaces;
- Distributed approximately **20,000** advice booklets to individuals and agencies; and
- Provided information on credit and debt issues via its website with a total of **42,956** hits.

## CASE STUDIES

### Payday loans causing rental stress

Our client and his wife were both on pensions. Over the past few years the client had taken out five payday loans totaling around \$5,000. The first loan had occurred after helping a daughter to pay a large phone bill. The number of loans then accumulated as the client tried to make payments for the fees and interest accruing on the first loan. The client and his wife had insufficient income to pay all their outgoings and had been regularly accessing emergency relief for food parcels and other assistance.

MoneyHelp gave the client information about how to immediately cancel the direct debits to his savings account so he and his wife could have some cash for food, rent and other basic

expenses. MoneyHelp also referred the client to a face to face financial counsellor for ongoing support.

### Call in response to outreach visit to redundant workers

The MoneyHelp liaison officer attended a workplace where workers were being made redundant to present information about how the MoneyHelp service worked. At the information session, the client registered his interest in being called back by one of the MoneyHelp financial counsellors. When the financial counsellor called the client, the client said he was worried that the redundancy payout would not be enough to make payments on existing debts, particularly as he was not confident of getting new work quickly and had 6 children to support. The financial counsellor took a full list of the client's debts which totalled \$295,000 (including a home loan). As it seemed that the client had insufficient income to pay all the debts, the financial counsellor referred the client for face to face counselling for support in considering all options including a possible sale of the house.

### Financial counsellors team up with lawyers to battle car repossession

Our client was a construction worker who was laid off for around six months and although he had just regained employment, he had fallen into arrears with his car loan and his creditor had a tribunal hearing listed to get repossession of the car. The car loan was the client's only debt and he was very concerned to keep his car as he had already paid a significant amount of the loan and the value of the car was greater than the amount left outstanding.

“She gave me the numbers I needed, who to ring such as the ombudsmen, they sorted it out very quickly, the person at MoneyHelp was very friendly and I didn’t feel uncomfortable to talk to her, she didn’t judge me.”

The financial counsellor ascertained details of the client’s income and expenditure and formed a view that the client could manage to pay the arrears if the loan contract were extended. The financial counsellor then worked together with one of Consumer Action’s solicitors who agreed to attend the tribunal hearing to assist the client to apply for a stay of any repossession order until the Financial Ombudsman (FOS) considered the client’s application for the loan to be varied on hardship grounds.

At the hearing of the stay of repossession order, the creditor agreed to withdraw its repossession application and accepted the client’s payment proposal.

## EVALUATION

In April 2010 Consumer Action commissioned an external evaluation of the MoneyHelp program. The evaluation was useful in countering an expectation that consumers prefer face to face contact, rather than telephone contact, for financial counselling advice.

As stated in the evaluation report, of the clients surveyed, even those who took up the offer of referral to a face to face service, reported that the initial discussion with MoneyHelp meant they felt more comfortable about attending the appointment.

Some of the participants’ quotes from the report are:

*“...she gave me the numbers I needed, who to ring such as the ombudsmen, they sorted it out very quickly, the person at MoneyHelp was very friendly and I didn’t feel uncomfortable to talk to her, she didn’t judge me ... the company I was dealing with had no right to request full payment of the debt in full... I got off the phone feeling very happy, the opposite to when I initiated the call.”*

*“It really benefited me and changed my life, she gave me a few website links where I could get some sample letters, once I did a few letters I got feedback from the people and they change things so I was in a much better position than before.”*

*“They put me in touch with Centerlink who put me in touch with a Social Worker...If I hadn’t made the phone call to MoneyHelp and had the advice from (name) I probably would still be sitting at home wondering how I could pay all my bills.”*

A full copy of the evaluation is available on the Consumer Action website.





# Working for change:

## Case work and campaigning in action

**Consumer Action is committed to helping as many consumers as possible. That means we must deliver our advice and assistance services in a way that maximises their reach and effectiveness – not just for our individual clients but for other consumers who may not have found their way to our service but are being harmed by the same problems.**

This section provides some examples of how our casework and policy and campaigns work came together in 2009/10 (All client names have been changed).

### CONSUMER PROTECTION, COMPETITION AND FAIR TRADING

We see examples of unfair trading practices daily in the experiences of consumers who contact us. As well as causing loss and stress to individual consumers, bad business conduct harms consumer confidence more generally and can allow some traders to compete on an unfair and uneven basis with others who are doing the right thing by their customers.

It is this practical experience that leads consumer organisations to advocate for effective regulation that ensures competition and markets work effectively and fairly for consumers and the community generally. Competitive markets have the potential to deliver the best price and service outcomes for most consumers, but this requires governments and regulators to be vigilant both in stamping out unfair or anti-competitive trading practices and in driving ongoing reforms – reforms both to enhance trader competition and improve the ability of consumers to drive competition through informed choices. They can do this through the right legal and regulatory settings and through compliance and enforcement activities.

2009/10 saw significant progress in this area, with the Federal and State & Territory Governments agreeing to implement one, uniform national

consumer law for Australia, incorporating not only consumer protection provisions currently existing in various jurisdictions but also a new national unfair contract terms law, new national product safety regime and new national consumer guarantees law. The full legislative package passed the Federal Parliament in June 2010 (and some elements have already come into force) – all of which should enhance fair trading and consumer confidence in the Australian marketplace. In addition, the new Unit Pricing Code, which we also hope will drive more informed grocery shopping by consumers, came into force on 1 July 2009. We will continue to focus on ensuring these new laws are effectively implemented and enforced.

Consumer Action also believes, however, that Australia needs to continue the consumer policy reform agenda to reach international best-practice and we will continue to advocate for further reforms in the coming year. Our priority is reform to address general unfair trading conduct such as high-pressure selling, in a more effective way and to give our regulators clear powers to study the operation of particular market sectors as a whole. Certain specific industries exemplify the need for such powers so they continue to throw up problems for consumers, such as motor car trading and private car parks.

#### Impact on consumers:

*Unfair trading conduct that takes advantage of vulnerable consumers*

##### *Shane's case*

Shane had a workplace accident a few years ago. He received a Workcover payment but is deaf, suffers from depression and can no longer work.

One day Shane filled out a free online "compatibility test" which had been advertised in his local newspaper and noted his disability on the test. He was subsequently contacted





repeatedly by an introduction agency offering their services and although reluctant to sign up to their services, he eventually did so after many months of phone calls.

Shane paid over \$1,500 to sign up but then received a number of phone calls offering 'upgraded' services and over the following three months he paid a series of additional sums of money, ultimately paying the company over \$100,000. This depleted most of his Workcover payment. Further, almost all of the upgraded services were simply not delivered.

We took a legal action on Shane's behalf for breaches of telephone marketing laws and the consumer protection prohibitions on misleading and deceptive conduct and unconscionable conduct. As the company had gone into liquidation, our legal team sought and obtained judgment against the former directors and one of its employees.

However, we also had complaints from other consumers about the same business, and about similar practices by other businesses, suggesting further reforms or action might be required to protect vulnerable consumers.

#### *Jack's case*

Jack rang the number of a business he had seen advertising its services in addressing male sexual dysfunction. He spoke to a nurse and a doctor over the phone about his medical needs and was asked to visit the business premises in person.

Jack did so and ended up signing up for services and paying a deposit of \$300 even though he did not really want to, as he had been at the business for over an hour and felt pressure to sign up because he didn't want to have wasted anyone's time. Jack was also under the impression that his contract was subject to a cooling off period.

The next day Jack tried to cancel the contract but was told that he couldn't. He also found out that

if initial medical procedures were not effective, he would not be entitled to a refund unless he also undertook a series of increasingly invasive medical procedures first to see if they worked. Jack said he would never have agreed to these procedures if told about them upfront. Jack also felt the service was much more expensive than he had thought it would be.

We contacted the company on Jack's behalf and it ultimately agreed to cancel the contract and refund Jack's deposit. However, we have had several other complaints about the business and are concerned about the number of people impacted.

#### *High-pressure sales*

David attended a seminar advertised as addressing sleep problems. After sitting through two hours where attendees were strongly encouraged to buy special beds and mattresses, David signed a contract to buy a bed for over \$2,000, with the purchase price to be financed by an associated loan. David's friend also paid a \$200 deposit on his behalf.

David could not afford the bed or the loan but had felt pressure to sign up after sitting through the seminar. He sought our help soon afterwards and we contacted the seller and finance company on his behalf, at which point David was released from the contract and the deposit refunded. However, it is likely that other consumers at such seminars have signed up to contracts in similar circumstances.

“Our advocacy in turn, has, and continues to be fuelled by the high number of concerning cases we see of consumers in trouble with credit and debt problems.”

#### *Motor car trading*

Lee bought a vehicle from a motor car trader for \$22,000 and paid a \$1,000 deposit when he signed the contract. Lee was given a form to sign waiving his statutory cooling off rights, but he subsequently cancelled the contract by a hand delivered letter a week later. The trader refused to accept the cancellation and refused to repay the balance of his deposit. We wrote to the trader on Lee's behalf pointing out that Lee had never taken delivery of the car, and the Victorian motor car trading laws only allow buyers to waive their cooling off rights if they do so immediately before taking delivery of the car. Lee was returned the balance of the deposit he had paid.

#### What Consumer Action wants

- effective implementation of the new national, uniform consumer regulatory regime, including of national unfair contract terms and consumer guarantees laws
- new economy-wide market studies and investigations powers for the competition and consumer protection regulator, including facility for super-complaints by consumer groups
- a general prohibition on unfair trading
- better regulation of problem areas such as motor car trading and private car parks
- better use of understanding about consumer behaviour, including through behavioural economics, in formulating policy, regulation and approaches to enforcement
- for the needs of disadvantaged and vulnerable consumers to be considered in policy and regulation design and in undertaking enforcement actions
- a strong consumer voice through funding of consumer research and advocacy

#### What Consumer Action has done

- advocated strongly to the State and Federal governments, as well as to the Opposition and minor parties, for best practice provisions in the new Australian Consumer Law, including through formal submissions, appearances at parliamentary inquiries and public commentary
- made submissions on other aspects of reform to Australia's consumer laws, including to the Commonwealth Consumer Affairs Advisory Council on statutory consumer refund and warranties rights and to the Federal Government on unconscionable conduct laws
- advocated to the Federal Government and regulator for improved public education on the new national unit pricing laws
- launched a new research report, Shutting the Gates: an analysis of the psychology of in-home sales of educational software, which studied the psychological aspects of in-home sales techniques used by the sellers of educational software and makes recommendations for consumer policy
- commented regularly in the media about competition, consumer protection and fair trading issues including on the new Australian Consumer Law, unfair contract terms laws and retail banking competition

#### **CONSUMER CREDIT AND LENDING REFORM**

Last year the Federal Government announced that it and the State and Territory governments had agreed to transfer responsibility for consumer credit regulation to the Commonwealth and to implement a number of other important reforms. This followed many years of advocacy for such reforms by Consumer Action and numerous hard-working colleagues in other consumer organisations. Our advocacy in turn, has, and continues to be fuelled by the high number of concerning cases we see of consumers in trouble with credit and debt problems.

These reforms became “Phase 1” of the national consumer credit reforms and we participated in



ongoing work in the 2009-10 year to have these reforms implemented. The new laws passed through the Federal Parliament in October 2009 (and came into force on 1 July 2010). We also continued our advocacy for other reforms that are being investigated by the governments as part of "Phase 2" of the reform process, including on credit cards, the selling of credit at the retail point of sale, law avoidance practices such as consumer leases and high-cost short term lending such as payday lending.

The Federal Government also responded to the Australian Law Reform Commission's comprehensive report into privacy laws including credit reporting and began its work on the implementation of credit reporting reform, while other reforms such as to personal properties securities law continued.

#### Impact on consumers:

##### *Unsolicited credit card limit increase offers put consumer's home at risk*

Simon has been on a fixed Centrelink income (a Disability Support Pension) since 1993. He has undergone continual medical care since that time.

Despite this, Simon's credit card limit was continually increased over that period, from \$400 in 1993 to \$32,000 in 2009, all via unsolicited offers to increase his credit card limit.

When Simon approached us for help, he was in severe debt on the credit card and the minimum repayments on his account constituted more than half of his monthly income. The current balance of the account had ballooned to over \$37,000, in part due to default interest. Simon owned his home, which was at risk due to the credit card debt.

The bank acted quickly when we contacted it about Simon's case, and ultimately the balance owing on the card was reduced significantly and

all interest, fees and charges were frozen to allow Simon to repay the remainder via a payment plan he could afford.

##### *Irresponsible lending increases consumer's hardship and leads to loss of home*

Kirsty suffers from bipolar disorder and was a compulsive problem gambler. She had borrowed an amount against her home but was in ongoing financial difficulties as she was not working full-time, had run up \$15,000 in credit card debts and could not obtain further funds under the home loan. Her home, however, was still worth significantly more than the loans secured against it.

Kirsty approached a broker to get a loan to refinance her home and pay out her debts. She told the broker that she was in financial trouble and that she had a gambling problem.

The broker obtained a series of eight loans for Kirsty over an 18 month period, mainly through a solicitor's firm and the seventh loan through another fringe lender at a huge 90% interest rate, driving Kirsty to and from each appointment to sign the loan documentation, even though it was clear that Kirsty would be unable to make repayments on the loans. The loans also substantially increased the amount Kirsty owed that was secured against her home.

The broker received more than \$30,000 in brokerage fees via the loans and other charges associated with the loans, including the solicitor's fees, exceeded \$40,000. The fringe lender that made the seventh loan also approached Kirsty directly inviting her to take out another loan which she did at a 60% interest rate.

Ultimately Kirsty could not cope with the pressure that she felt due to her indebtedness and tried to commit suicide. She went on to sell her home once she realised she could



In debt, as in life, bad times hurt

## NAB drawn into tussle Ugly tactics

Lenders are preying on vanity in offering people finance for cosmetic surgery they can't afford.

## Fears for con laws in feder

### Pay late, pay more Water penalty threat

### Bankruptcy debate stirs emotio Revolt over parking sting

### Shonks to be shame

Insurers feel heat  
over unfair terms

Power  
cuts f  
hard-  
fami

### Deaf chef claims dating agency conned him out of \$110,000 Lonely broken heart

### Consumer setback feared Rush to change

Not in your  
best interest

Debt bill  
aims to  
protect  
battlers

Consumer b  
gets the noc

New ru

## Courtroom

It's important to know what your  
likely to be and where to go if a dis

### Ban on solicitor for cash misuse

Trapp  
Deb  
To

Government  
should consider  
resourcing the  
development of a  
consumer  
submission... so  
that the consumer  
interest is  
effectively  
voiced. 9  
- Carolyn Bond  
co-chief  
executive of  
the Consumer  
Action Law  
Centre



We remain very  
concerned that  
the taskforce  
timetable does  
not allow for  
adequate  
consultation. 9  
- Robert Milliner  
representing the  
largest rate  
national law  
firms



### \$200 sting per household Now a bill for power poles

## Small lenders gain in slump



## Payday trap

Short-term lenders may seem an easy solution to a cash-flow  
problem - but there can be a heavy ongoing cost

### Dodgy doorknockers blamed Energy switch can be a con

The i  
paren

Regulators are agai  
misleading method

### Pricing policy need

NICOLE RICH  
and SEAN CARROLL

### Dark side of 'expert' help

Using your home loan to consolidate all your  
could be the worst thing you do.

## Corporate watchdog taken off the leash to pur



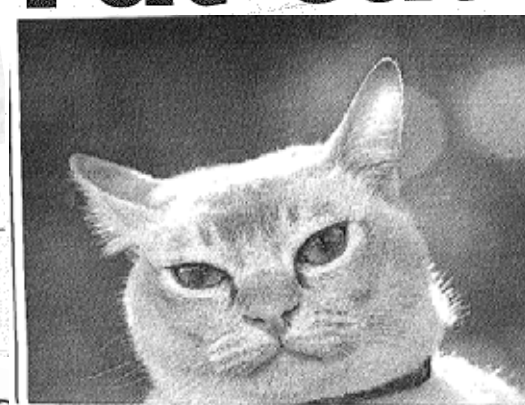
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Debtors  
piling  
up debt

**Have insurance, will travel**  
Always read the terms and conditions before you buy travel insurance  
- otherwise you may be in for a nasty surprise when making a claim.

Politically correct madness as fears grow poor will suffer

# Fat cats unplugged



'This is more than political correctness gone mad... it could have the effect of keeping the community in the dark about hardship problems'

- Consumer Action Law Centre's NICOLE RICI

**NAB repays millions in late charges**

Seeing right through you  
Your credit history will soon be available in more detail to lenders. Here's what it means for them and us.

les are coming and first signs are here  
n drama

lawyer's charges are  
pute arises.

**Consumers 'need a say on rules'**  
Carolyn Bond says the legal profession needs to realise that consumer expectations are changing



t spiral creates 'living hell'

ugh challenge for new credit laws

nsidious Insured not protected enough  
nt trap Housing market tightens as no-deposit home loans dry up

**Mortgage stress alarm**  
ls teeth if it's to really benefit consumers

**Teaching software not a smart buy**  
SCHOOLKIDS are being sub-

Karen Collier

We pay \$14m a day in interest ... and they want us to borrow more  
**Credit card debt blitz**

Banks lose fight over bankruptcy changes

sue mortgage lenders over unfair exit fees



not manage the loans, but sought our help to address the conduct of the broker and the lenders.

### What Consumer Action wants:

- effective implementation, including enforcement, of Australia's new national regulatory framework for consumer credit
- the closure of ongoing loopholes in consumer credit laws that allow for avoidance and anti-avoidance powers for the regulator
- a comprehensive national cap on the cost of consumer credit (interest and fees) to put a stop to excessive usury that traps vulnerable Australians in a poverty cycle
- responsible marketing of credit and a ban on the use of credit reports for marketing purposes
- appropriate regulation of consumer credit sold at the retail point of sale

### What Consumer Action has done:

- continued to advocate strongly to government and other stakeholders for best practice reforms to consumer credit regulation, including via participation in Federal Treasury's formal consultations on the national consumer credit reforms
- made submissions on important elements of the national consumer credit reforms, including to the Senate inquiry into the proposed legislation and to the Australian Securities and Investments Commission on its consultation papers into credit, external dispute resolution and responsible lending
- worked with the Victorian Government, Opposition and minor parties to achieve transitional reforms in Victoria to ensure current Victorian protections for finance broker customers are not removed until the new national consumer credit laws take effect next year
- ran and won a test case on behalf of consumers caught up in the collapse of whitegoods retailer Kleenmaid, that consumers were entitled to cancel tied loan contracts entered to finance the purchase of Kleenmaid goods and to receive a refund of loan payments made

- advocated to the Federal Government for credit reporting reforms that do not allow access to credit reporting information for marketing purposes
- made submissions on the consumer interest in personal properties securities law reform to the Senate inquiry into the proposed legislation and to the Federal Attorney-General's Department
- worked with industry on improving consumer credit outcomes, including on responsible lending and on credit reporting
- remained a trusted media commentator on credit and debt matters

## DEBT COLLECTION AND BANKRUPTCY LAW REFORM

Complaints about poor and unlawful debt collection practices unfortunately continue to keep Consumer Action's legal and financial counselling teams very busy.

Consumer protection laws clearly prohibit misleading or deceptive conduct, unconscionable conduct or harassment or coercion in the collection of a debt, and other laws provide for additional obligations when dealing with consumers in financial hardship or who are "judgment proof" (whose only source of income is through Centrelink and do not own any seizable assets).

Consumer Action believes comprehensive action by governments and government consumer regulators is well overdue to tackle ongoing poor conduct by a segment of the debt collection industry.

We also worked hard during the 2009-10 year to achieve reforms to Australia's bankruptcy laws to put an end to the particularly nasty practice of issuing bankruptcy proceedings against consumers to recover a small debt, thereby placing consumers' homes at risk, rather than using alternative, cheaper legal processes



“Complaints about poor and unlawful debt collection practices unfortunately continue to keep Consumer Action’s legal and financial counselling teams very busy.”

intended for such debt collection. We advocated strongly for the debt threshold for bankruptcy notices and creditors’ petitions to be raised from the inadequate \$2,000 to \$10,000. We also advocated that this amount be indexed for subsequent years and be tied to the amount of debt originally owing, rather than debt after interest and collection costs are added, so that unscrupulous creditors cannot get around the threshold by simply waiting for enforcement costs to accrue.

Unfortunately, we were only partially successful - a Bill proposing a \$10,000 threshold was introduced into Federal Parliament in late 2009 but it was rushed through the parliament in June with the threshold raised to only \$5,000 and with no indexation for future inflation and no tying of the threshold to the original debt amount. We genuinely believe this reform is inadequate and remain very concerned about the impact unfair bankruptcy proceedings will have on vulnerable debtors.

#### Impact on consumer:

##### *Debt collection harassment and misleading conduct*

As a young hospitality worker, Andy was keen to buy his first car. He borrowed \$15,000 from his bank to buy a car and accepted the offer of a credit card with an additional \$3,000 limit. A few years later he borrowed again to buy a new car and had also accepted unsolicited offers to increase his credit card limit to \$9,000.

By the time Andy was 21, he owed the bank more than \$45,000 in unsecured debt, despite a relatively low income of around \$34,000 a year. However, Andy then lost his job. He applied for and obtained unemployment benefits but began being pursued to repay the debts to the bank, which then sold the debts to a debt collection firm.

The debt collectors continued to contact Andy despite being told that he was on legally protected social security income and owned no assets. They also contacted Andy’s father and his financial counsellor with threats that they would enter the family home and remove any goods which Andy’s parents didn’t have receipts to prove were theirs. Without a court judgment, however, debt collectors have no right to seize property and further, they can never seize assets belonging to someone other than the debtor.

This behaviour created a lot of distress and anxiety for Andy and his family, and the debt collectors should have been aware of the laws in this area. We took legal action on Andy’s behalf against the bank and debt collector for the conduct they had engaged in.

#### Impact on consumer:

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

Tom is 33 years old, has a wife and children and owns his home.

Tom incurred a debt for \$3,836.48 with a firm of solicitors. He disputed his costs bill and the firm pursued Tom for the alleged debt, allegedly incurring around \$8,000 in collection costs before the firm turned the debt over to another firm to engage in collection activity. This second firm allegedly incurred costs of around another \$8,000. The firm then successfully petitioned to bankrupt Tom and a private trustee was appointed upon his bankruptcy.

The total of the legal costs and the trustee’s fees was \$24,500 when he sought Consumer Action’s help, which was to be recovered through sale of the family home. The creditor could have applied for an instalment order to repay the debt but instead chose to pursue the more expensive option of bankruptcy proceedings, meaning



A large highlight for 2009-10 was that, after years of advocacy, in July 2009 the NAB announced it would scrap penalty fees on its transaction accounts.



Tom's home was put into the estate for sale to repay the debt.

Bankruptcy laws at the time allowed creditors to force a debtor into bankruptcy (via a creditor's petition) for debts over \$2,000. However, we observed that in Tom's case, even if the minimum debt threshold for a creditor's petition was raised to \$5,000 or \$10,000, Tom's creditor would still have been able to seek his bankruptcy over an original alleged debt of less than \$4,000 – because by the time of the bankruptcy petition the total alleged debt had reached around \$20,000.

#### What Consumer Action wants

- more enforcement action from regulators in relation to bad debt collection practices
- harsher penalties for debt collectors who breach their legal obligations
- large creditors to monitor the practices of their debt collectors more closely
- reforms to Australia's bankruptcy laws to allow trustee fees to be properly scrutinised and to raise the minimum threshold for taking bankruptcy action against a debtor to \$10,000, indexed for inflation and with clarification that this amount applies to the original debt amount, not to the debt after interest and enforcement costs are added

#### What Consumer Action has done

- did significant media work highlighting poor debt collection conduct
- undertook legal test cases against debt collectors for unlawful harassment
- lodged new complaints with the government consumer regulators about unfair or illegal debt collection practices
- made submissions in relation to the Australian Consumer Law regarding the debt collection provisions of the law
- met with industry participants, including creditors, debt collector firms and credit reporting agencies, to discuss debt collection matters
- made submissions on proposed bankruptcy legislation reforms to the Federal Attorney-General and the Senate inquiry into the

proposed legislation

- undertook a large amount of media commentary on the bankruptcy law reforms

### BANKING AND FINANCIAL SERVICES

A large amount of our legal and financial counselling services are directed at helping consumers who have financial services problems, particularly banking services but also other financial services such as insurance. We have a long history of working to improve the operation of financial services for consumers, including by advocating for improved competition in the retail banking market via measures such as easy bank account switching and the removal of unfair mortgage early exit fees, and for the elimination of other unfair fees like penalty fees.

A large highlight for 2009-10 was that, after years of advocacy, in July 2009 the NAB announced it would scrap penalty fees on its transaction accounts. This sparked a wave of activity by other financial institutions to scrap or substantially reduce their penalty fees across transaction and loan accounts and by 30 June 2010 while some penalty fees remain to be scrapped, the fees landscape is certainly a much fairer one for Australian banking customers than on 1 July 2009.

We also had a busy year on the insurance front. Our strong advocacy was needed on two issues in particular. First that insurance contracts should not remain exempt from the new national unfair contract terms law. Secondly that reforms announced by the Federal Government to the main legislation governing consumer insurance contracts, the Insurance Contracts Act, should represent a much more balanced package of reforms so that Consumers as well as insurers benefit. Both these matters will require ongoing work in the coming year.





### Impact on consumers:

#### *Unfair insurance contract terms*

Rob lives in Victoria. From Victoria, he ordered a hire car online from a major national rental car company to collect at Sydney airport. Upon picking up his hire car at Sydney airport, Rob was sold excess cover and was told that he would be fully insured.

Rob later inadvertently drove through a red light while driving in unfamiliar surrounds, and was involved in a collision. Despite believing he was 'fully insured', he was subsequently sued by the rental car company for \$12,000 and also by the third party for \$20,000. The rental car company refused cover to Rob because there was a generic and broad clause in the contract stating 'you must not operate the vehicle in breach of any legislation, regulation, rules or by laws relating to road traffic and use...'. This put Rob at risk of being liable to pay a huge debt he could not afford.

We issued a legal action on Rob's behalf claiming these sums from the rental car company. We alleged that the rental car company was guilty of misleading, deceptive and unconscionable conduct and also challenged the exclusion clause in his contract as being unfair and not specifically drawn to his attention at the time the contract was signed.

The action was initially hotly contested by the rental car company but eventually settled.

- no penalty fees on concession or pensioner accounts and better efforts by banks to ensure eligible customers are aware that they can switch to these accounts
- better systems and options to assist consumers manage their accounts, including real-time warnings that penalty fees may be charged if a transaction proceeds
- fair ATM direct charges for consumers in regional and rural areas
- extension of the national unfair contract terms law to insurance contracts
- balanced reforms to the Insurance Contracts Act to benefit Australian consumers not just insurers

### What Consumer Action has done

- worked with industry and other community organisations on initiatives to improve financial literacy and financial inclusion
- participated in the Federal Government's consultations on simplifying superannuation disclosure for consumers and made a submission on the proposed new regulations
- made a submission to the Super System Review on superannuation fund operation and efficiency issues
- undertook ongoing public and media advocacy on the need for reforms to drive more effective banking competition
- engaged in strong advocacy to the Federal Government and made submissions to the Government and a Senate inquiry arguing for insurance contracts to be covered by the national unfair contract terms law
- made joint submissions with other consumer representatives to Federal Treasury on the draft Insurance Contracts Amendment Bill 2009 arguing for more balanced reforms in the consumer interest
- made joint submissions with other Victorian advocates to a Victorian parliamentary inquiry and to the Victorian Bushfires Royal Commission regarding access to insurance
- made a submission to the Australian Competition and Consumer Commission regarding Suncorp-Metway and Adelaide & Bendigo Banks' application to allow cheaper ATM fees for their customers

### What Consumer Action wants

- a better bank account switching process to help consumers drive competition in the retail banking market
- an end to excessive mortgage early exit fees that stymie mortgage switching
- simplified information provision to consumers about financial services, including at the marketing and application stages of a transaction and on ongoing statements
- all penalty fees to reflect actual costs to the bank or financial institution



## UTILITIES - ESSENTIAL SERVICES FOR CONSUMERS

Essential services such as energy, water and even telecommunications throw up some unique issues for consumers. Access is not a luxury so much as a necessity, so if things go wrong the impact can be very distressing for consumers.

Increasing pressure on energy and water prices in particular is straining household budgets, so in 2009-10 we undertook work on several issues that have an effect on utilities prices, such as the rollout of electricity smart meters, electricity distribution pricing and water pricing principles. Electricity distribution pricing makes up a large proportion of the final electricity bill households receive and our submission to the Australian Energy Regulator on Victorian distribution pricing strongly argued for increased scrutiny of business claims for more funds.

We also continued our work on reforms to non-price consumer protection regulation in the energy and water areas. One of the bigger work items for Consumer Action in this regard in 2009-10 was the ongoing development of a new national energy consumer law to harmonise existing state and territory regulatory regimes, and we continue to advocate for best practice provisions on issues ranging from marketing to contracting to dealing with customers in financial hardship to the ability of regulators to enforce the rules. On marketing, demand from consumers for our Do Not Knock stickers, especially in response to door to door selling by energy retailers, continues to flourish.

Our work on national energy consumer issues is supported through funding from the Consumer Advocacy Panel.

## What Consumer Action wants

- a sustainable, affordable and accessible energy supply
- fair and affordable water supply for essential needs for all households
- efficient delivery of reliable, safe, secure and quality water services
- an appropriate regulatory framework that supports genuinely effective competition in the energy market, including addressing consumer difficulties in accessing and comparing information about energy offers and consumer protections that enable consumers to participate confidently
- adequate rights and obligations to ensure consumers are not disconnected from energy or water supply due to an incapacity to pay
- regulators and institutions that act fairly and in the interests of consumers
- assistance for consumers to reduce their consumption of energy and water
- fair, accountable and transparent regulatory and consultation processes that ensure efficient and equitable prices for all water users and meaningful community consultation on important water issues

## What Consumer Action has done

- made submissions advocating the interests of consumers with regard to smart meter functions, costs and regulation, including to the Australian Energy Regulator, the Ministerial Council on Energy's smart meter processes and the Victorian Essential Services Commission
- provided a key submission to the Australian Energy Regulator's consultations on the Victorian electricity distribution businesses' proposals to increase prices for 2011 - 2015
- continued our heavy involvement in the development of a new national energy consumer law to be applied by all Australian jurisdictions, advocating on consumer issues to the Federal and Victorian Governments and making a submission on the draft legislative package to the Federal Energy Department
- participated strongly in Victorian regulatory processes regarding ongoing energy customer protections including to prevent wrongful



disconnections from supply and regarding ongoing water customer protections including to deal with financial hardship

- provided consumer input to the Federal Water Department on Pricing Principles for retail water services
- undertook media commentary on a range of energy and water matters affecting consumers

## ACCESS TO JUSTICE

We retain our strong commitment to working to improve the civil justice system and alternative dispute resolution processes. This is a key component of our activities given that these systems and process are the channel through which many substantive outcomes for consumers are achieved (or not achieved).

The formal civil justice system does not always serve consumer interests well, particularly the interests of low-income or disadvantaged members of the community. Seeking a remedy can generate delays and costs that individual consumers cannot afford to bear, and because industry participants can have a “repeat player” advantage in terms of experience and ability to choose which cases to settle. Affordable alternative dispute resolution schemes are also important in achieving consumer outcomes but it is important to work to ensure that these schemes remain fair and accountable in their decision-making and that access is not unfairly limited by factors such as monetary caps or undue exclusions to their jurisdiction. In addition, throughout 2009-10 work continued on national legal profession reform and we engaged in advocacy for the under-represented consumer interest in this process.

## What Consumer Action wants

- accessible, efficient and affordable access for consumers to both the judicial system and to alternative dispute resolution processes
- a civil justice system that supports public interest and understands the needs of low-income and disadvantaged consumers and provides practical measures to enable their interests to be pursued
- an end to inappropriate use of the judicial system against consumers such as by issuing interstate proceedings against consumers
- national regulation of the legal profession that includes independent oversight and adequate dispute resolution processes

## What we have done

- coordinated a joint consumer response to the Australian Securities and Investments Commission consultation on how it proposes to apply forthcoming dispute resolution requirements for consumer credit and margin lending businesses under the national consumer credit laws
- advocated for regulation to address creditor use of legal proceedings issued interstate to pursue judgments against consumers for alleged debts
- made submissions on the legal profession reforms and garnered media coverage of consumer interests with regard to lawyer regulation
- participated in ongoing Financial Ombudsman Service consultations on its new Terms of Reference
- conducted various training sessions for community lawyers and financial counsellors on different civil law issues participated in the Victorian Legal Assistance Forum, a formal collaboration between CLCs, Aboriginal legal services, Victoria Legal Aid, the Law Institute of Victoria, the Victorian Bar and the Victoria Law Foundation to increase and improve the delivery of legal services for socially and economically disadvantaged people in Victoria, and in the Federation of Community Legal Centres Victoria’s civil justice working group



# Consumer representation on Standards Australia committees project

**Standards are one of the foundation tools used for consumer protection. Many Standards are industry-led voluntary guidelines, others are called up by law.**

Standards Australia is recognised by government, industry and non-government organisations as the main standards-setting body in Australia. On behalf of the Consumers' Federation of Australia (CFA), Consumer Action manages a project to recruit and support the involvement of suitable and effective consumer representatives to Standards Australia (and some international) technical committees that develop standards of direct interest to consumers. Through this Consumer Representatives on *Standards Australia Committees* Project, Standards Australia provides an annual administrative grant and travel budget for reimbursing volunteer consumer representatives' travel and related expenses.

Areas of consumer interest and involvement have expanded significantly since the initial focus on consumer product safety when the project began in 1999. The range of committees the CFA representatives are involved in reflects contemporary consumer concerns about environmental issues, information technology and security, emerging technologies, business practice and governance and consumer health issues.

2009/10 continued to be a busy year for the project, with CFA representatives participating in over 20 active domestic committees and five international forums, including the addition of the International Organisation for Standardisation (ISO) committee on Nanotechnology. In total, CFA representatives attended around 50 domestic and ten international meetings this year.

Six CFA representatives also attended the 2010 National Consumer Congress in Sydney. The Congress provided our standards representatives with a great opportunity to engage with the broader consumer movement and share issues across their respective technical committees.

Our representatives on committees continued to put forward the consumer perspective on important safety and technical standards for the Australian community ranging from a new standard for Cricket Balls to the safety of Lighting Equipment and of Private Swimming Pools, from a standard for Access for People with Disabilities to one for Health Informatics.



Significant progress was made on a number of domestic and international standards including:

**Social Responsibility** - After five years, ISO 26000, a new standard on social responsibility, was approved by an overwhelming majority of countries participating in the process and the final standard will be released in November 2010. The process included 400 participants from 99 countries, including consumer organisations from 35 countries and Consumers International. The CFA was actively represented by Deni Greene, who participated in the drafting group for the standard and was Project Editor. ISO 26000 provides guidance on the fundamental community expectations of the social responsibility of organisations and detailed guidance in the areas of human rights, organisational governance, labour practices, consumer issues, environment, fair operating practices and community development. It is likely to provide new benchmarks for organisational behaviour.

**Testing Sun Protection Products for Water Resistance** - Australia has the highest incidence of skin cancer in the world and sunscreen preparations are a vital health concern. The ISO Cosmetics committee has a working group which is developing the first international standard for testing sun protection products and a major success this year was the verification of an Australian proposal to include the testing of water resistance in this work, which followed advocacy by dedicated participants including the CFA's representative, Robyn Easton.

**Organic and Biodynamic Products** - After a lot of hard work by the committee, a standard for organic and biodynamic products, AS 6000, was published this year together with an accompanying publication, MP 100, on procedures for certification of organic and biodynamic products. This was a significant achievement and well received by the majority of the organic industry, with the standard containing a number of consumer protection requirements not previously covered in the National or Certifiers standards. The committee, with John Furbank as the CFA representative, will continue to meet in order to progress work on standards for synthetic amino acids, wine making issues and cosmetics as well as general maintenance of the standard.

**Olive Oil** - Presently there is no Australian Standard for olive oil. A proposed olive and olive-pomace oil standard was widely discussed this year and a substantial draft was prepared. An objective of the proposed standard is to provide a basis in terms of quality and testing to give Australian consumers a clearer view and understanding of the olive oil they are purchasing.

**Nanotechnology** - The development and use of this new area of technology is attracting increasing interest in the community. The CFA's representative on the domestic nanotechnology standards committee, Elaine Attwood, was appointed to represent the committee on the ISO's international Nanotechnology committee, to provide a consumer perspective to two working groups, the Societal and Consumer Dimensions task group and the Sustainability task group.



**International Consumer Policy** – Last year, CFA representative Robyn Easton was appointed the co-Chair of the COPOLCO Product Safety Working Group. COPOLCO, with 106 international members, is one of the ISO's main policy committees and, amongst other functions, advises the ISO Council on consumer views and works to help consumers benefit from and participate in standardisation. The Product Safety Working Group promotes the design and manufacture of safer consumer products and this year it undertook a range of successful activities, including working on the revision of safety guides dealing with issues such as hazards for children and general safety risk assessment, developing a new Guidance Standard on safety for the whole supply chain from design to end product, and supporting work on a new standard on Corrective Action and Recalls.

While expenses associated with meetings are reimbursed, time spent working on standards development is not, and all of our consumer representatives give freely and generously of their time and expertise. They are greatly appreciated

for voicing the interests of otherwise under-represented consumers in the development of standards for the benefit of the Australian community. We thank them all for their hard work and achievements this year.

As a final note, we wish to acknowledge and thank the contribution of our former Standards Project Coordinator, Jo Higginson, who left the Centre during the year after many years of passionate support of our consumer representatives and strong advocacy for the consumer interests in standards development. We wish Jo all the best as she embarks on a new career as a school teacher! We also thank Lauren Kenny, who ably stepped into the Coordinator role for three months and helped keep our project administration on track. Stepping into the role on the second last day of the financial year, I am looking forward to the challenge of supporting and growing our ability to represent the consumer voice in the development of standards for the benefit of the Australian community.

**Regina Godfredson**

# Outreach and Training Programme

**The Consumer Action Outreach Programme is part of the continuing core business of the Centre. In 2009/10 the Programme continued to respond to a significant, identified need in the consumer community by providing advice and training for vulnerable rural and regional consumers as well as regional and metropolitan community workers.**

The Programme continues to inform Consumer Action's advocacy for policy change and intervention strategies to address consumer legal problems.

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

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



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

### **REGIONAL OUTREACH PROGRAMME**

Solicitors Tom Willcox and Neil Ashton attended the Financial and Consumer Rights Council's annual conference presenting to more than 100 attendees. Tom also conducted training to workers in Bendigo covering mobile phone contracts, telemarketing, pay day lending and hardship.

Solicitor Gerald Cohen travelled to Mildura and conducted Credit Code training sessions for community workers. He also conducted training in Morwell in relation to young adults and mobile phone contracts as well as motor vehicle purchases and related finance contracts.

### **METROPOLITAN OUTREACH PROGRAMME**

Director of Legal Practice Celia Tikotin conducted a session for financial counsellors in training. In addition she presented an overview of credit and debt matters at Victoria University.

Director of Legal Practice Paul Gillett acted as the facilitator at the EDR schemes conference, made a presentation on consumer credit advocacy at Melbourne University and presented an information session on current issues in consumer law at Victoria Legal Aid. At the Public Interest Law Clearing House and Victorian Aboriginal Legal Service he presented sessions on fringe lending and harassment by debt collectors. An overview of the new national credit legislation was presented by Paul to the Financial and Consumer Rights Council.

Senior Solicitors Jillian Williams, Tom Willcox and Gerald Cohen conducted training on the Fair Trading Act, the Consumer Credit Code and dealing with difficult fringe lenders to various groups of financial counsellors.

Senior Solicitor Tom Willcox also provided training on credit, debt and bankruptcy to the Homeless Persons' Legal Clinic and the Senior Rights Legal Service

### **CONSUMER AFFAIRS VICTORIA TRAINING**

Upon request from Consumer Affairs Victoria (CAV) Consumer Action through the Outreach Programme provides legal training to CAV metropolitan and regionally based advocates. This year topics included clients' rights in relation to hardship situations, 'payday' lending, mobile phone contracts and telemarketing. This training was provided by Senior Solicitors Jillian Williams and Tom Willcox. Solicitor René van de Rijdt provided an information session on referrals through the CAV Advocacy Programme.





## OTHER

Other outreach services were delivered in the form of presentations on the new credit legislation in conjunction with ASIC by Senior Solicitors Michael Hermitage and Gerald Cohen. Director of Policy and Campaigns Nicole Rich and Communications and Media Officer Eileen Kerrigan provided media training to PILCH staff. In addition Nicole Rich presented a session on community lawyering skills to the Federation of Community Legal Centres' solicitors.

## TARGETS AND OUTCOMES

The total number of Outreach and training activities was 23 for the year which equates to a delivered activity approximately every 10 business days.

For funding purposes Consumer Action is required to complete four metropolitan outreach projects, six in regional areas and up to four training or outreach activities for CAV (as requested). Our targets were all reached or exceeded. We completed 7 regional, 13 metropolitan and 3 CAV requested activities.

Our aim for 2010/11 is to continue providing this essential service with enthusiasm and professionalism while striving to exceed the required targets.

### **René van de Rijdt and Gerald Cohen**

Outreach Programme Coordinators



## Volunteers and work experience students...

Volunteers are the life blood of the Community Legal Sector, and Consumer Action is no different. We don't offer caches of cash, or expensive cars, yet month after month we receive requests from a range of students and graduates seeking to offer their experience and skills. These volunteers become part of the Consumer Action team and an vital participants in the changing face of Consumer Law in Australia. Between the Legal Practice, our Legal Advice Hotline and our Policy Team, there is no shortage of ways for our volunteers to be involved with cases that service the community, and ultimately, shape the industry. Our annual tribute and end of year volunteer drinks never provide thanks enough for all the work of our outstanding volunteers but it does come close! In keeping with our long history of fostering and recognising great talent, this year a number of volunteers and interns went on to paid positions and relief work within the organisation.

This year, like the three years before it, saw new developments in the volunteer program which aim to increase the number and quality

of volunteers coming through our door and strengthen the support they can provide to the work of Consumer Action. One key development has been in our ability to offer internships and professional placements through strengthening ties with outside organisations who have students keen to work with us.

Following an invitation from Melbourne University Law School to participate in its internship program, Consumer Action took on its first summer law student intern in January this year. Katherine did an excellent job during her 6 week full time placement, providing much needed research and project support to the solicitors and policy officers. Consumer Action is looking forward to working with Melbourne University in relation to its Internship program in the future and has already taken on another outstanding student during the mid-semester break.

Other internship or professional placement opportunities to students undertaking a broad range of course are:

“As well as its general volunteer program Consumer Action offers internship or professional placement opportunities to students undertaking a broad range of courses”

- a 3 week placement to Leo Cussen's students for the purposes of satisfying their professional placement obligations for admission as a solicitor;
- a 6 week placement to law students from the La Trobe Public Interest Law Course;
- a placement to students from the RMIT Bachelor Legal and Dispute studies course; and
- a two week work experience placement to high school students.

Consumer Action always tries to ensure that the students get as much as possible from their placement and attempts, where possible, to ensure that the students are doing work in an area that suits their interests and course requirements. Obviously the experience gained through working at Consumer Action is considerable, as many intern and professional placement students return to volunteer at Consumer Action even after their placement is completed.

As with our general volunteer program, interns and professional placement students do a broad range of work including: undertaking research for solicitors and policy officers; drafting letters of demand and complaints to regulators on individual files; drafting simple pleadings and briefs to Counsel; filing documents and answering calls to our advice line from members of the community in relation to their consumer problem and general administrative assistance.

We are always extremely grateful for the work of all our volunteers, interns and placement students who offer not only their personal time, energy, many and varied skills and ideas but also their friendly and supportive smiles and their contribution to a rich and exciting workplace atmosphere.

**Jillian Williams and Ryan Burrett**  
Volunteer Coordinators



# Our sincere thanks go out to:

Olivia Aliwarga  
Paul Annabel  
Shreenu Bhaskar  
Lara Boulom  
Kathleen Casey  
Sophie Chen  
Yuen Yuen Chien  
Jacob Clancy  
Mark DahDah  
Leonie Davis  
Saskia Deerson  
Michael Dodsworth  
Lachlan Edwards  
Jason Fink  
Kathy Ge

Maria Glykokalamos  
Henry Hamilton  
Ken Harris  
Adam Jones  
Savitri Judiono  
Kevin Kang  
Madeleine Karipidis  
Jane Kitson  
Lauren Levin  
Joshua Levy  
Jane Liu  
Seona March  
Luke McMahon  
Dion Nania  
Justin Orders

Rachel Ormiston  
Agnes Skoczek  
Warren Smith  
Adriane Swinburn  
Shu Tan  
Michael Ting  
Onkar Tukaram Kale  
Katherine Wangmann  
Grant Webster  
Adela Woliansky  
Arlene Wu  
Sherry Wu  
Nechama Zwier







# Continuing Professional Development



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

This year, Consumer Action staff have again taken advantage of high-quality external CPD programs which have allowed us to introduce new skills and knowledge into the organisation. *The Community Lawyers CPD Training 2010* presented by the Federation of Community Legal Centres provided important sector-based training on ethics for community lawyers, the law and organising movement, working with clients who have mental illness, and dealing with conflicts of interest. Blake Dawson once more provided valuable training opportunities to our staff by making some of its internal CPD program available to us through the Federation of Community Legal Centres. Highlights of this program included the Advanced Contract Law Series 2010 presented by former University of Sydney Lecturer and current Blake Dawson special counsel, Jeffery Goldberger.

“This year, Consumer Action staff have again taken advantage of high-quality external CPD programs which have allowed us to introduce new skills and knowledge into the organisation.”

Our internal CPD sessions continued to focus on sharing and developing the significant litigation experience and consumer law knowledge possessed within the organisation and included training on the new consumer credit laws under *National Consumer Credit Protection Act 2009* (Cth) and further training in relation to on-line research with Lexis Nexis Australia.

As always, visiting speakers formed an important part of the program and included Victoria's Health Services Commissioner, Beth Wilson, talking about her powers under the *Health Services (Conciliation and Review) Act 1987* (Vic) and a team from the Financial Ombudsman Service speaking about hardship variations under the new Financial Ombudsman Service's Terms of Reference.

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

Next financial year will continue to be an exciting year for professional development within the Centre as we see more clients presenting with cases regulated by the new *Australian Consumer Law and the National Consumer Credit Protection Act 2009* (Cth).

**Tom Willcox**  
CPD Coordinator

# Financial Reports





## INCOME STATEMENT FOR THE YEAR ENDED 30 JUNE 2010

| INCOME  | Note | 2010             | 2009             |
|---|------|------------------|------------------|
| Core Grants   |      | 1,299,867        | 1,208,330        |
| Non Core Grants   |      | 1,064,052        | 386,455          |
| Interest received                                       |      | 24,130           | 23,752           |
| Consulting & Sitting Fees                               |      | 29,009           | 35,652           |
| Donations   |      | 10,650           | 12,770           |
| Costs Recovered & retained                              |      | 11,853           | 15,781           |
| Refunds & Reimbursements                                |      | 63,874           | 7,559            |
| Profit on Sale of Assets                                |      | 95               | -                |
| Community Legal Education                               |      | 196              | -                |
| Set Up Funds  |      | 39,717           | 22,817           |
| Set Up Funds - Money Help                               |      | 75,670           | 23,710           |
| Transfer to CALC - Money Help                           |      | 88,710           | -                |
| Transfer to CALC - Other                                |      | 30,726           | 38,344           |
|   |      | <b>2,738,549</b> | <b>1,775,170</b> |
| <b>EXPENDITURE</b>                                      |      |                  |                  |
| Salaries  |      | 1,405,704        | 1,094,734        |
| Superannuation  |      | 147,045          | 113,852          |
| Salary On Costs   |      | 29,015           | 16,942           |
| Rent  |      | 209,822          | 179,746          |
| Repairs & maintenance                                   |      | 746              | 2,788            |
| Occupancy   |      | 36,270           | 52,326           |
| Staff Training  |      | 5,304            | 11,337           |
| Staff Recruitment                                       |      | 1,514            | 1,316            |
| Communications  |      | 26,403           | 22,540           |
| Office Overheads  |      | 35,072           | 48,828           |
| Insurance   |      | 3,782            | 4,337            |
| Finance & Accounting                                    |      | 8,007            | 8,256            |
| Library Resources & Subscriptions                       |      | 18,666           | 18,139           |
| Travel Costs  |      | 92,340           | 82,253           |
| Programming & Planning                                  |      | 296,717          | 109,347          |
| Client Disbursements                                    |      | 4,727            | 3,320            |
| Loss on Assets Sale                                     |      | 6,442            | -                |
| Depreciation  |      | 47,033           | 31,155           |
| Other   |      | 38,726           | 43,711           |
| Set Up Costs - Core                                     |      | 9,455            | -                |
| Set Up Costs - Money Help                               |      | 66,096           | 23,710           |
| VLA Surplus   |      | 43,003           | 7,108            |
| Money Help Surplus/Deficit                              |      | 146,693          | -                |
|   |      | <b>2,678,582</b> | <b>1,875,745</b> |
| Profit (loss) before income tax                         |      | 59,967           | (100,575)        |
| Income tax expense                                      | 2    | -                | -                |
| Profit (loss) after income tax                          |      | 59,967           | (100,575)        |
| Other comprehensive income:                             |      | -                | -                |
| Other comprehensive income for the year, net of tax     |      | -                | -                |
| Total Comprehensive Income for the year                 |      | 59,967           | (100,575)        |
| Retained Profits at the beginning of the financial year |      | 465,860          | 566,435          |
| Retained Profits at the end of the financial year       |      | <b>525,827</b>   | <b>465,860</b>   |

## BALANCE SHEET AS AT 30 JUNE 2010

|                                | Note | 2010<br>\$       | 2009<br>\$     |
|--------------------------------|------|------------------|----------------|
| <b>CURRENT ASSETS</b>          |      |                  |                |
| Cash and cash equivalents      | 3    | 639,492          | 380,477        |
| Trade and other receivables    | 4    | 248,991          | 179,681        |
| TOTAL CURRENT ASSETS           |      | <u>888,483</u>   | <u>560,158</u> |
| <b>NON-CURRENT ASSETS</b>      |      |                  |                |
| Property, plant & equipment    | 5    | 185,830          | 199,917        |
| TOTAL NON-CURRENT ASSETS       |      | <u>185,830</u>   | <u>199,917</u> |
| TOTAL ASSETS                   |      | <u>1,074,313</u> | <u>760,075</u> |
| <b>CURRENT LIABILITIES</b>     |      |                  |                |
| Trade and other payables       | 6    | 77,568           | 87,723         |
| Provisions                     | 7    | 444,842          | 189,842        |
| TOTAL CURRENT LIABILITIES      |      | <u>522,410</u>   | <u>277,565</u> |
| <b>NON-CURRENT LIABILITIES</b> |      |                  |                |
| Provisions                     | 7    | 26,076           | 16,650         |
| TOTAL NON-CURRENT LIABILITIES  |      | <u>26,076</u>    | <u>16,650</u>  |
| TOTAL LIABILITIES              |      | <u>548,486</u>   | <u>294,215</u> |
| NET ASSETS                     |      | <u>525,827</u>   | <u>465,860</u> |
| <b>EQUITY</b>                  |      |                  |                |
| Retained profits               |      | 525,827          | 465,860        |
| TOTAL EQUITY                   |      | <u>525,827</u>   | <u>465,860</u> |

**STATEMENT OF CHANGES IN EQUITY FOR THE YEAR ENDED 30 JUNE 2010**

|                                   | <b>Retained<br/>Earnings<br/>\$</b> | <b>Total<br/>\$</b> |
|-----------------------------------|-------------------------------------|---------------------|
| Balance at 1 July 2008            | 566,435                             | 566,435             |
| Profit attributable to the entity | (100,575)                           | (100,575)           |
| Balance at 30 June 2009           | <u>465,860</u>                      | <u>465,860</u>      |
| Profit attributable to the entity | 59,967                              | 59,967              |
| Balance at 30 June 2010           | <u>525,827</u>                      | <u>525,827</u>      |

**STATEMENT OF CASH FLOWS FOR THE YEAR ENDED 30 JUNE 2010**

|   | <b>Note</b> | <b>2010<br/>\$</b> | <b>2009<br/>\$</b> |
|---|-------------|--------------------|--------------------|
| <b>CASH FLOWS FROM OPERATING ACTIVITIES</b>         |             |                    |                    |
| Receipts from customers & other sources             |             | 372,904            | 103,188            |
| Core grants   |             | 1,248,401          | 1,197,773          |
| Non Core Grants                                     |             | 1,067,006          | 386,455            |
| Payments to suppliers and employees                 |             | (2,414,134)        | (1,790,125)        |
| Interest received                                   |             | <u>24,130</u>      | <u>23,752</u>      |
| Net Cash provided by operating activities           | <b>8</b>    | <u>298,307</u>     | <u>(78,957)</u>    |
| <b>CASH FLOWS FROM INVESTING ACTIVITIES</b>         |             |                    |                    |
| Proceeds on sale of investments                     |             | 1,945              | -                  |
| Payments for purchase of property and equipment     |             | <u>(41,237)</u>    | <u>(89,815)</u>    |
| Net Cash provided by (used in) investing activities |             | <u>(39,292)</u>    | <u>(89,815)</u>    |
| Net increase (decrease) in cash held                |             | 259,015            | (168,772)          |
| Cash at the beginning of the year                   |             | 380,477            | 549,249            |
| Cash at the end of the year                         |             | <u>639,492</u>     | <u>380,477</u>     |

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

This financial report is special purpose financial report prepared in order to satisfy the financial reporting requirements of the Associations Incorporations Act 1981 (Vic). The committee has determined that the association is not a reporting entity.

The financial report has been prepared on an accruals basis and is based on historical costs and does not take into account changing money values or, except where specifically stated, current valuation of non-current assets.

The following significant accounting policies, which are consistent with the previous period unless otherwise stated, have been adopted in preparation of this financial report.

**a) Cash and Cash Equivalents**

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

**b) Income Tax**

The income tax expense (revenue) for the year comprises current income tax expense (income). The association does not apply deferred tax.

Current income tax expense charged to the profit and loss is the tax payable on taxable income calculated using applicable income tax rates enacted, or substantially enacted, as at the end of the reporting period. Current tax liabilities (assets) are therefore measured at the amounts expected to be paid to (recovered from) the relevant taxation authority.

The Association is exempt from paying income tax by virtue of Section 50-45 of the Income Tax Assessment Act, 1997. Accordingly, tax effect accounting has not been adopted.

**c) Property, Plant and Equipment**

Leasehold improvements and office equipment are carried at cost less, where applicable, any accumulated depreciation.

The depreciable amount of all property, plant and equipment is depreciated over the useful lives of the assets to the association commencing from the time the asset is held ready for use. Leasehold Improvements are amortised over the shorter of either the unexpired period of the lease or the estimated useful lives of the improvements.

**d) Employee Entitlements**

Provision is made for the Association's liability for employee benefits arising from services rendered by employees to the end of the reporting period. Employee benefits that are expected to be settled within one year have been measured at the amount expected to be paid when the liability is settled. Employee benefits payable later than one year have been measured at the present value of estimated future cash outflows to be made for those benefits.

Provision is made for the Association's liability for long service leave from commencement of employment, not from the 5 year employment period normally accrued as industry practice.

**e) Provisions**

Provisions are recognised when the Association has a legal or constructive obligation, as a result of past events, for which it is probable that an outflow of economic benefits will result and that outflow can be reliably measured.

**f) Impairment of Assets**

At the end of each reporting period, the entity reviews the carrying values of its tangible and intangible assets to determine whether there is an indication that those assets have been impaired. If such an indication exists, the recoverable amount of the asset, being the higher of the asset's fair value less costs to sell and value in use, is compared to the asset's carrying value. Any excess of the asset's carrying value over its recoverable amount is expenses to the income statement.

**g) Revenue**

Revenue is brought to account when received and to the extent that it relates to the subsequent period it is disclosed as a liability.

***Grant Income***

Grant income received, other than for specific purposes, is brought to account for the period to which the grant relates.



**Deferred Income**

Unspent grant income received in relation to specific projects and events is not brought to account as revenue in the current year but deferred as a liability in the financial statements until spent for the purpose received.

**Capital Grants**

Grant Income received relating to the purchase of capital items is shown as Unamortised Capital Grant and brought to account over the expected life of the asset in proportion to the related depreciation charge.

**Interest Revenue**

Interest revenue is recognised using the effective interest rate method, which for floating rate financial assets is the rate inherent in the instrument.

**Donations**

Donation income is recognised when the entity obtains control over the funds which is generally at the time of receipt.

**h) Goods and Services Tax (GST)**

Revenues, expenses and assets are recognised net of the amount of GST, except where the amount of GST incurred is not recoverable from the Tax Office. In these circumstances, the GST is recognised as part of the cost of acquisition of the asset or as part of an item of the expense. Receivables and payable in the assets and liabilities statement are shown inclusive of GST.

**i) Adoption of New and Revised Accounting Standards**

During the current year the company adopted all of the new and revised Australian Accounting Standards and Interpretations applicable to its operations which became mandatory.

The adoption of these standards has impacted the recognition, measurement and disclosure of certain transactions. The following is an explanation of the impact the adoption of these standards and interpretations has had on the financial statements of the entity.

In September 2007 the Australian Accounting Standards Board revised AASB 101 and as a result, there have been changes to the presentation and disclosure of certain information within the financial statements. Below is an overview of the key changes and the impact on the company's financial statements.

**Disclosure impact**

*Terminology changes* — The revised version of AASB 101 contains a number of terminology changes including the amendment of the names of the primary financial statements.

*Reporting changes in equity* — The revised AASB 101 requires all changes in equity arising from transactions with owners, in their capacity as owners, to be presented separately from non-owner changes in equity. Owner changes in equity are to be presented in the statement of changes in equity, with non-owner changes in equity presented in the statement of comprehensive income. The previous version of AASB 101 required that owner changes in equity and other comprehensive income be presented in the statement of changes in equity.

*Statement of comprehensive income* — income The revised AASB 101 requires all income and expenses to be presented in either one statement, the statement of comprehensive, or two statements, a separate income statement and a statement of comprehensive income. The previous version of AASB 101 required only the presentation of a single income statement.

The entity has elected to present one statement.

*Other comprehensive income* — The revised version of AASB 101 introduces the concept of 'other comprehensive income' which comprises of income and expenses that are not recognised in profit or loss as required by other Australian Accounting Standards. Items of other comprehensive income are to be disclosed in the statement of comprehensive income. Entities are required to disclose the income tax relating to each component of other comprehensive income. The previous version of AASB 101 did not contain an equivalent concept.

Of the issued, not yet adopted standards, preliminary reviews indicate there will be no material impacts from their adoption.

|   | 2010<br>\$     | 2009<br>\$     |
|---|----------------|----------------|
| <b>Note 2: Income Tax Expense</b>                               |                |                |
| Prima facie tax payable on operating profit at 30% (2007 - 30%) | 17,990         | (30,173)       |
| Less tax effect of:   |                |                |
| - non-taxable member income arising from principle of mutuality | (17,990)       | (30,173)       |
| Income tax expense  | -              | -              |
| <b>Note 3: Cash and cash equivalents</b>                        |                |                |
| Cash on hand  | 36             | 84             |
| Cash at bank  | 371,619        | 211,966        |
| Cash on Deposit   | 267,837        | 168,427        |
|   | <u>639,492</u> | <u>380,477</u> |
| <b>Note 4: Trade and other receivables</b>                      |                |                |
| Accounts Receivable   | 60,476         | 36,127         |
| Accrued Income  | 192,214        | 140,748        |
| Prepayments   | (3,699)        | 2,806          |
|   | <u>248,991</u> | <u>179,681</u> |
| <b>Note 5: Property, plant &amp; equipment</b>                  |                |                |
| Leasehold Improvements - at cost                                | 190,484        | 190,484        |
| Less: Accumulated depreciation                                  | (68,856)       | (40,284)       |
|   | <u>121,628</u> | <u>150,200</u> |
| Computer Equipment - at cost                                    | 49,315         | 47,854         |
| Less: Accumulated depreciation                                  | (27,520)       | (15,344)       |
|   | <u>21,795</u>  | <u>32,510</u>  |
| Telephone System - at cost                                      | 41,524         | 13,319         |
| Less: Accumulated depreciation                                  | (4,292)        | (3,142)        |
|   | <u>37,232</u>  | <u>10,177</u>  |
| Office Equipment - at cost                                      | 7,351          | 7,351          |
| Less: Accumulated depreciation                                  | (5,146)        | (3,676)        |
|   | <u>2,205</u>   | <u>3,675</u>   |
| Office Furniture - at cost                                      | 3,858          | 2,549          |
| Less: Accumulated depreciation                                  | (888)          | (503)          |
|   | <u>2,970</u>   | <u>3,355</u>   |
| Total Property, plant & equipment                               | <u>185,830</u> | <u>199,917</u> |
| <b>Note 6: Trade and other payables</b>                         |                |                |
| Trade Creditors and accruals                                    | 26,855         | 52,427         |
| BAS Payable   | 50,713         | 35,296         |
|   | <u>77,568</u>  | <u>87,723</u>  |

**Note 7: Provisions**

## CURRENT

|                            |                |                |
|----------------------------|----------------|----------------|
| Provision for annual leave | 58,685         | 53,993         |
| VLA Grants in advance      | 7,108          | -              |
| CALC Set up Funds          | 97,759         | 120,576        |
| Money Help Set Up Funds    | 26,290         | -              |
| Money Help Surplus         | 146,693        | -              |
|                            | <u>444,842</u> | <u>189,842</u> |

## NON-CURRENT

|                                  |               |               |
|----------------------------------|---------------|---------------|
| Provision for Long Service Leave | <u>26,076</u> | <u>16,650</u> |
|----------------------------------|---------------|---------------|

**Note 8: Reconciliation of Cash Flow from  
Operations with Profit from Ordinary  
Activities after Income Tax**

|   |                |                 |
|---|----------------|-----------------|
| Profit after income tax   | 59,967         | (100,575)       |
| Cash flows excluded from operating profit attributable to operating activities; |                |                 |
| Non-cash flows in profit  |                |                 |
| - Depreciation  | 47,033         | 31,155          |
| - (Profit)/Loss on sale of assets   | 6,346          | -               |
| Changes in assets and liabilities;  |                |                 |
| - (Increase)/decrease in trade and other debtors                                | (69,310)       | (29,738)        |
| - Increase/(decrease) in trade and other payables                               | (10,155)       | 11,804          |
| - Increase/(decrease) in provisions   | 264,426        | 8,397           |
| Net cash provided by Operating Activities                                       | <u>298,307</u> | <u>(78,957)</u> |

**Note 9: Company Details**

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

**Note 10: Member's Guarantee**

The entity is incorporated under the Corporations Act 2001 and is a company limited by guarantee. If the company is wound up, the constitution states that each member is required to contribute a maximum of \$50 each towards meeting any outstanding and obligations of the company. As at 30 June 2010, the number of members was 6.

**Sean  
Denham  
& Associates**  
Business Advisors  
and Accountants

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707 Mt Alexander Road  
Moonee Ponds Vic 3039

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

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

**Report on the Financial Report**

We have audited the accompanying financial report, being a special purpose financial report, of Consumer Action Law Centre, which comprises the statement of financial position balance sheet as at 30 June 2010, and the statement of comprehensive income, statement of changes in equity and statement of cash flows for the year then ended, a summary of significant accounting policies, other explanatory notes and the directors' declaration.

*Director's Responsibility for the Financial Report*

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

*Auditor's Responsibility*

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

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

The financial report has been prepared for distribution to users for the purpose of fulfilling the director's financial reporting under the Corporations Act 2001. We disclaim any assumption of responsibility for any reliance on this report or on the financial report to which it relates to any person other than the director's, or for any purpose other than that for which it was prepared.

*Independence*

In conducting our audit, we have complied with the independence requirements of the Corporations Act 2001. We confirm that the independence declaration required by the Corporations Act 2001, provided to the directors of Consumer Action Law Centre, would be in the same terms if provided at the date of this auditor's report.

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

*Auditor's Opinion*

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

- (a) giving a true and fair view of Consumer Action Law Centre financial position as at 30 June 2010 and of its performance for the period ended on that date in accordance with the accounting policies described in Note 1; and
- (b) complying with Australian Accounting Standards to the extent described in Note 1 and complying with the Corporations Act 2001.

  
**Sean Denham**

Dated: 11 October 2010  
Sean Denham & Associates - CPA's  
Suite 6, 707 Mt Alexander Road, Moonee Ponds Vic 3039



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

**DIRECTORS' REPORT**

Your directors present their financial report on the Consumer Action Law Centre for the year ended 30 June 2010.

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

Janet Kay Pentland (Until 17 August 2009)  
 Barbara Ann Romeril  
 Paul Murfitt  
 Roslyn Hunter

Anna Lindsay Stewart  
 Robert Acton  
 Gerald Brown

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

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

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


The profit from ordinary activities after income tax amounted to \$59,967.

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


**Auditor's Independence Declaration**

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

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

  
 Director

Dated: 23-10-10

  
 Director

Dated: ~~7 September 2010~~ 25/10/2010

The accompanying notes form part of this financial report.

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# 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.

**Allan Fels**

Patron

**John Armstrong**

**Garry Bigmore, QC**

**Paul Bingham**

**Jonathan Evans**

**Peter Fary**

**Leslie Glick SC**

**Andrew Hanak**

**William Houghton, QC**

**Caroline Kennedy**

**Stewart Maiden**

**Emily Porter**

**David Robertson**

**Carolyn Sparke**

**Bill Swannie**

Barristers

**Nick Pullen (the of Tress Cox)**

**Andrew Thompson (Tress Cox)**

Solicitors

**Beth Wilson**

**Georgina Frost**

**Anna Mandoki**

CPD Presenters

**Damien King**

**Martin Reynolds**

Property Advice

**Chris Flaherty**

Annual Report



