SELLING THEIR CUSTOMERS OUT

Consumer Problems with Debt Collection Outsourcing In Australia

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PART ONE - INTRODUCTION

In the past 12 months or so, clients of legal services and financial counsellors from around Australia have been reporting problems with the conduct of Collection House (a debt collection company), their solicitors, ALR Lawyers, and some of the companies which use their services.

These businesses and, in some cases the companies that originally owned the debts (eg finance and telephone companies), have been responsible for:

- Consumers being pursued for debts that have already been paid or settled;
- Consumers being unable to get details of the alleged debt, or documentation (despite their legal right to access statements and documentation);
- Misleading and deceptive conduct about the status of the debt or the debt recovery process;
- Not responding to telephone calls and correspondence;
- Selling or assigning debts while the matter is subject to a current complaint to an industry dispute resolution scheme; and/or
- Issuing proceedings outside the state where the original contract was formed, causing practical difficulties for defendants.

Furthermore, changes in practices of financial institutions and structural changes within the debt collection industry have helped to set the scene for the emergence of these problems.

These changes include:

- an increase in outsourcing and selling of debts by financial institutions and other businesses;
- the growing size and "nationalisation" of debt collection firms (also called mercantile agents);
- the trend towards debt collection on a national, rather than a state basis; and
- in 1992, the introduction of federal legislation that does not prevent legal proceedings being issued in any state regardless of where the matter arose.

This report documents consumer experiences with one of the largest debt collection agencies, Collection House, and its lawyers, ALR Lawyers. We have focused on Collection House because it is, in terms of its reported size and market share, a market leader, and because both Collection House and ALR Lawyers have been, in the last 12 – 18 months, the subject of significant and recurring complaints to our service and to other casework services.

However, the changes noted above are potentially applicable to many other collection agencies, and the practices described in this report are not necessarily unique to Collection House and ALR Lawyers.

The report calls for:

- Collection House and ALR Lawyers to review their methods of operation, implement fairer practices, and ensure that legislative obligations are complied with;
- financial institutions to prevent the inappropriate selling or outsourcing of debts that have been paid, settled or are subject to alternative dispute resolution; and to take increased responsibility for the actions of their agents when debt collection is outsourced, and for the methods used to collect debts that are sold or assigned.

The report also highlights the need for legislative reforms to ensure that consumers are able to defend their case in court when a debt collector issues proceedings in another state, and for more effective regulation of legal practitioners.

PART TWO – SETTING THE SCENE

2.1 The Consumer Experience

Before detailing our concerns about some practices of Collection House and its lawyers, it is worth briefly describing the consumer experience of debt collection.

According to consumer advisers, most consumers being pursued for payment of a debt have little understanding of legal processes, are fearful of court procedures and haven't obtained legal advice. Often legal advice is unaffordable or inaccessible, or the consumer does not know where to find appropriate advice.

This leaves them vulnerable to collection agent conduct such as:

- persistent telephone calls,
- avoidance of the consumer's questions or requests for debt details, and
- misleading statements about legal processes or the consequences of non-payment.

The following example, compiled from the experiences of a number of consumers, illustrates the impact of these practices.

Someone calls on the telephone, out of the blue. They say that you owe thousands of dollars to a finance company – a debt from many years ago. You recall the debt but believe it was paid, and say this – but you can't prove it.

Next you receive a letter from a legal firm, acting for the debt collector and demanding full payment of the debt or they'll take you to Court. You explain that you don't believe you owe the money and ask for statements or documents. Despite continual requests the firm does not provide the information, but tell you that you'll have to prove you don't owe the debt. You continue to receive telephone calls pressuring you to pay.

You contact the finance company directly and ask for documents or statements. They tell you that they have no record of the debt, and that it must have been sold to the debt collector.

You receive Court documents, which give you 21 days to lodge a defence. However, the documents have been issued in Brisbane and you have always lived in Melbourne.

You don't know where to go to get advice. A friend tells you about community legal centres, and you ring your local centre for advice. They give you some initial information, but tell you they don't have the resources to give you ongoing assistance.

You go to a private solicitor and find out that just to "stay" the proceedings in Brisbane so that they can be reissued in Melbourne could cost you money that you don't have.

You don't do anything, and judgment is entered against you in the Brisbane Court. Some weeks later, you receive a call from the legal firm – they tell you that they will be sending the Sheriff to take your household goods, or to sell your car, if you don't pay.

You still believe that you had previously paid the debt in full. However, you feel you don't have any options. You are becoming increasingly stressed and upset by the matter, and the frequent calls and demands from the lawyers. You are also scared by the threats that you will lose your car because you need it for work.

The whole issue is affecting your work and your health. You decide, reluctantly, that you will have to pay the debt (again) so that the lawyers will stop calling you. The only way you can get the funds is to take out a loan, but you know you'll have difficulty meeting the repayments.

As this report will show, this type of experience is not uncommon.

2.2 Debt Collection – The Changing Environment

Debt collection, and the environment in which it operates, has undergone some major changes in recent years. In the experiences of caseworkers, it seems that these changes have created an environment that is at least conducive to the practices and problems identified in the subsequent sections of this report.

2.2.1 Debt collectors have grown in size and income

The last 18 months has seen substantial growth in the size of debt collection companies, and the debt collection industry is now booming. Current annual income is approximately $220 million, and a number of estimates predict an increase to $500 million within the next five years.[1]

In 2000, debt collection firms were listed on the Australian stock exchange for the first time, and there are now three publicly listed companies.[2]

However, the growth in the debt collection industry has not necessarily been evenly spread. A significant amount of business is concentrated in a small number of larger firms. For example, according to an April 2001 report in Shares Magazine, the top 5 or 6 players have 'between 50 or 60% of revenues'. That same report also noted that one agency (Collection House) is '…the *dominant* collector of consumer debts in Australia…', and that it '…counts three of the four big banks, all four big phone companies [and] the top three car financiers as clients.' (emphasis added)

Outside the top 5 or 6 players, the remaining revenue and work is taken up by hundreds of smaller operations.

[1] Sydney Morning Herald 9/10/2000.
[2] Shares Magazine April 2001.

2.2.2 Debt collection has become a national business

Until a few years ago, debt collectors tended to operate wholly within one State or Territory. If a debt was incurred in a particular jurisdiction, it was usual for collection to be undertaken by a collection agent in that jurisdiction. If legal proceedings were issued, they would also be issued in the same jurisdiction. Debt collection firms did little, if any, work outside their own State or Territory. This is still the case for the smaller debt collection businesses.

In recent years, however, national debt collection firms have been established, with offices in a number of states and territories.

The feasibility of a national debt collection firm has been increased with the introduction of the *Service and Execution of Process Act 1992* (Cth). This legislation does not prevent proceedings being issued in any state, regardless of where the relevant contract was formed. The legislation places the onus on the consumer to prove that the jurisdiction is inappropriate – rather than requiring the debt collector to show it has issued in the appropriate jurisdiction. As noted in section 3.7.2 this can prevent consumers from lodging a defence.

In our experience, debt collection on this large scale can lead to a "sausage machine" approach, where standard and inflexible procedures are followed by a collection agency, regardless of the consumer's circumstances or particular legal situation.

For example, Collection House appears to use standard forms and computer generated letters. Similarly, Collection House appears to use, for consumer contact, a large number of staff with inadequate legal training, who use scripted telephone responses that often do not adequately respond to the particular enquiry or circumstance. As discussed below, requests for proof of the debt or other documentation are regularly avoided or ignored, and telephone calls from consumers and their advisors are sometimes not returned.

Despite this trend to nationalisation in at least some parts of the market, regulation of debt collectors is still state based. National firms must therefore be licensed or registered in each of the jurisdictions (with the exception of the ACT) in which they operate. (Licensing or registration is not required in the ACT).

2.2.3 The scope of debt collection work has increased

Debt collection firms have tended to act primarily for non-finance sector creditors, such as councils, hospitals and funeral companies. Until recently, banks, finance companies and insurance companies did much of their debt recovery work "in-house".

Now, however, there is an increasing trend for financial institutions to outsource their collection work to debt collection firms. The firm acts as an agent of the financial institution, and the financial institution can therefore potentially be liable for the firm's conduct.

In addition, more financial institutions are choosing to assign or sell outstanding debts, or books of outstanding debts, outright. This seems to primarily occur when the debt is quite old, and no payments have been made for a number of years. However, caseworkers have also seen examples of relatively young debts being sold.

If a debt is sold, the purchasing collection firm takes on all rights (for example, to collect the debt) and responsibilities (for example, to meet obligations under the Uniform Consumer Credit Code (UCCC)), in relation to the debt. The original financial institution is no longer involved.

As explained below, the sale of debts by financial institutions often severely limits the debtors' access to effective dispute resolution.

Collection House and its related company, Lion Finance Pty Ltd, are amongst the main agencies that appear to be regularly purchasing debts from financial institutions.

2.2.4 Debt collectors have developed close relationships with law firms

Some debt collection firms have developed close relationships with law firms. In our experience, it is not unusual for a law firm to share an address with a debt collector, to apparently act solely for that debt collector, and in cases, to share staff and other resources. This appears to be the case with Collection House and ALR Lawyers.

Legal practice rules in a number of states prohibit the use of a legal practitioner's business name or stationary by a debt collector in a manner that is likely to mislead the public. According to the NSW Solicitors Manual, this is to ensure that a solicitor's practice, which takes instructions from a debt collector, is "not used merely as a convenient mechanism or 'front', for the operation of the collection agency".[3]

These close relationships between debt collection businesses and their lawyers have the potential of blurring the boundaries between the solicitor and debt collection agency, and of therefore causing some of the problems that legal practice rules were intended to prevent.

[3] For example, see Riley, NSW Solicitors Manual, para 40,475. See also rule 35, Revised Professional Conduct and Practice Rules 1995 (NSW).

PART THREE – IDENTIFIED PROBLEMS

This part of the report outlines some specific problems and difficulties that consumers and their advisers have faced when dealing with Collection House and ALR Lawyers.

3.1 Non-compliance with Consumer Legislation

A major concern of consumer advisors is the failure of Lion Finance and Collection House to comply with their obligations under the Uniform Consumer Credit Code (UCCC).

It is worth noting that these obligations apply both where the debt collector is acting as agent for a financial institution, *and* where the debt collector has purchased the debt.

When a debt is sold, and the debt relates to a credit contract regulated by the UCCC, the consumer retains their rights under the UCCC and the new 'owner' of the debt must fulfil any obligations under that legislation.

When a debt collector is acting as an agent for a credit provider, the debt collector is also obliged to comply with the UCCC on behalf of that credit provider. In this case, however, the credit provider bears legal responsibility for ensuring that the obligations are complied with.

Despite this, it is our experience that many of the staff of Collection House and ALR Lawyers appear to have inadequate knowledge of obligations under the UCCC.

3.1.1 Problems Obtaining Documents and Other Information

A major problem experienced by consumers - and also by their advisors - is the failure of the Collection House or ALR Lawyers to provide documents or information about the debt, despite their legal obligations to do so.

From case study 8: A legal centre wrote a letter to ALR Lawyers requesting documents and information about an alleged debt. No reply was received. Each month for 3 months another follow up letter was sent requesting documents. Eventually, ALR Lawyers wrote a letter confirming they were no longer pursuing the debt – the documents were never provided.

Two major problems that face consumers when they are contacted by a collection agency are establishing or confirming:

- whether they actually owe the debt being claimed by the agency; and
- if the debt *is* owed, whether the amount being claimed is correct.

Particularly in cases where the alleged debt being pursued is a number of years old, it is not surprising that many consumers cannot remember the exact details of how, or when, the debt was incurred (if at all). This is why it is critical that a consumer can receive copies of documents relating to the alleged debt.

Indeed, sections 34, 76 and 163 of the UCCC specifically give a debtor the right to copies of certain documents and information relating to a consumer credit contract. This information must be supplied within a certain time period (in most cases, for a loan over one year old, the required period is 30 days).

If the request is made to an agent of a credit provider – i.e. a debt collection firm - that agent must provide those documents on request.

Where a debt regulated by the UCCC has been sold, the purchaser of the debt also has a legal obligation to comply with the UCCC, and must provide relevant documents and information on request.

Despite this legal framework, consumers asking Collection House and/or ALR Lawyers for information and documents about an alleged debt have been advised that:

- the debt collector or legal representative is not obliged to provide the information;
- the consumer has to pay for the information, as it is stored in archives and it would cost money to retrieve it;
- the debt collector, and/or their legal representative, does not have details of the original loan, or details of when the loan was entered into, or the outstanding amount at the time of breach; and/or
- all original documents have been destroyed, but the debt collector is entitled to rely on scant details held on its computer system to prove the debt was owed.

Many consumers are not aware that they may be legally entitled to the relevant documents. In the face of persistent refusals to provide proof of the debt, these consumers may well pay the debt requested, even if it is not owed, or the figure requested is inaccurate, simply due to the pressure applied by the collector and/or the fear of legal action.

See Case Studies 2, 3, 4, 8, 12, 18, 21, 23

3.1.2 Lack of knowledge of the legal framework

Although the failure to provide documents and information on request is a major problem for consumers and advisors dealing with Collection House and ALR Lawyers, there have also been other instances where it appears that their staff have limited understanding of the legal framework governing consumer credit.

For example, ALR Lawyers and Collection House often seem unaware of the right of consumers to seek a variation of a credit contract on the grounds of hardship.

Case study 17: A financial counsellor was speaking to ALR Lawyers on the telephone and asked to speak to someone more senior. The person she was handed to confirmed he was 'in charge'. She asked if he was a solicitor, and he said 'no'.

She mentioned that her client wished to apply for a hardship variation under the Consumer Credit Code, and he said that he was not aware of these provisions in the Credit Code.

This type of response is a concern, given that a large amount of this firm's work involves contracts regulated by the Credit Code.

3.2 Collecting debts that have previously been paid or settled

ALR Lawyers have, on a number of occasions, pursued for payment some consumers who have already paid or otherwise settled a debt. Their actions in this regard are compounded by a failure to provide any information or documents that would prove that the alleged debt continues to exist. Consumers faced with this refusal to provide information may be sufficiently intimidated or pressured to pay a debt a second time, as the case study below demonstrates.

From case study 3: Ms Q's car was repossessed 8 years ago. She recalls at the time being told that no money was owing, and could not recall hearing from Finance Co A in 8 years. ALR Lawyers contacted her claiming $10,000, but failed to give her any details about the debt when requested.

ALR continued to question her about her ability to pay, and about what possessions she and her family owned. Intimidated, she paid $5,000 before seeking help from a financial counselling service.

In at least some cases, this problem has arisen because one major financial institution appears to have passed on some accounts to Collection House on which the institution suffered a loss – not from the result of failure to pay, but as a result of the consumer legally cancelling the contract or settling a dispute for an amount less than claimed by the institution.

Case study 25: A number of consumers contacted caseworkers in relation to debts allegedly owing to Finance Co A that were being collected by Collections House or ALR Lawyers.

Many of these debts, which we believe were purchased from Finance Co A, were statute barred (see section 3.3) – and a significant number had actually been paid or settled.

Following advocacy by the consumers' representatives, the individual matters were eventually dropped. However, concerns about the handling of these debts were raised at the time with Finance Co A and ALR Lawyers.

Finance Co A responded that it '…did not assign any debt which had been finalised, was statute barred or was the subject of an undertaking … that the debt would not be pursued', and that '…any correspondence sent by Collections House or ALR Lawyers to debtors with accounts in this category was done by them in error'.

ALR Lawyers advised that, since the issue had been drawn to their attention, they had undertaken an audit of their files, and removed names where debts had been paid or settled. However, it is unclear how the personal details of consumers who did not owe a debt, came to be in the possession of a debt collector.

The audit by ALR Lawyers will only go some way to resolving the problem, because, as ALR Lawyers itself noted and subsequent cases revealed, the audit did not identify all consumers in this situation. We expect that judgment will be entered against a significant number of consumers who have already paid or settled a debt, and some of those people may pay the debt twice.

It is, of course, also most unfortunate that the audit by ALR Lawyers did not take place earlier and that Finance Co A did not itself undertake such an audit before assigning the debts. Given the acknowledgement by ALR Lawyers that some errors are to be expected, it is grossly unfair that the procedures often adopted by ALR, including the refusal to provide information about the debt, put barriers in the way of consumers who wish to query or dispute the claim.

We would also have serious concerns if financial institutions did not have appropriate procedures in place to ensure that information about consumers who have paid or settled debts is not disclosed to debt collectors or third parties.

See case studies 1, 2, 3, 4, 5, 8, 9, 12, 14, 21

3.3 Collecting Statute Barred Debts

Under legislation in each State and Territory, consumers gain an unassailable defence to debt recovery proceedings where more than 6 years have passed since the contract was breached or since the consumer last made a payment or acknowledged the debt. This limitations defence applies to all contracts, not just consumer debts. The aim of this type of legislation is to discourage parties from letting a matter lie. It is also recognition of the practical difficulties of litigation where the events in question took place many years earlier. For example, documents may be lost or destroyed, and memories are likely to be less reliable.

This limitations defence is therefore a legitimate defence for consumers if a credit provider has not taken any action to enforce the alleged debt for many years. However, consumers are generally unaware of the existence of this defence.

From case study 20: Mrs. Y's lawyer wrote to a finance company advising them that they were barred from issuing debt recovery proceedings by the relevant Statute of Limitations. But two years later, Collection House asked Mrs. Y. to make arrangements to pay the debt, and threatened legal proceedings if she did not do so.

Although such collection is not by itself illegal, it is, in our view, an unfair practice, particularly if combined with failure to provide information and documents in relation to the debt (see section 3.1.1), misrepresentations about the status of the debt (see section 3.5) and the institution of proceedings in another jurisdiction (see section 3.7.2).

In addition, solicitors are legally entitled to destroy files after seven years, and other advisors may also destroy files after a similar period of time. It would also be unreasonable to expect consumers to maintain records for longer than this.

Where proceedings are instituted in relation to old debts, there is also a risk that the financial institution has not kept the relevant records. This has been the experience of some consumers being pursued for old debts.

We fear that many consumers who cannot prove that an old debt has been paid do not realise they can successfully defend proceedings instituted by credit providers or debt collectors. We are also concerned that the credit providers or debt collectors who institute proceedings in these circumstances are consciously relying on the fact that most consumers will not know of the availability of the defence.

If proceedings are instituted by a debt collector or credit provider, and the consumer does not defend those proceedings – whether because of lack of knowledge or access to legal advice, or other reasons – default judgment can be entered against the consumer. This is the case even if a valid limitations defence would have been available (see section 3.7.1).

See Case Studies 2, 3, 9, 20

3.4 Failure to Respond to Communication

In our experience, Collection House and ALR Lawyers regularly fail to respond to communications from a consumer or the consumer's representative. For example, they often fail to:

- return telephone calls from a consumer's representative;
- reply to correspondence from a consumer's representative;
- respond to requests from consumers and their representatives for information about the debt or relevant documentation (see also section 3.1.1).

This can contribute to the consumer's anxiety, as the wait for a response lengthens, but the threat of legal action remains.

From case study 23: A friend of Ms L stole her driver's license and used it to sign up a mobile phone account. Through a Legal Aid lawyer, Ms L tried to show that she had not started the account, and that she was not responsible for the bills. It took almost twelve months to achieve a result.

Messages left with ALR Lawyers were not returned. Faxes and letters were not replied to. Delays were explained by staff changes, computer malfunctions, and that ALR itself had changed ownership.

Seven months after the first contact with ALR, Ms L's lawyer learned that Telco A had withdrawn the matter from ALR, and would not be pursuing the debt. However, Telco A advised that it was waiting to receive the Notice of Discontinuance from ALR Lawyers in order to finally settle the matter. Ms. L's lawyer did not receive this for another five months.

As many of the case studies show, consumers' legal representatives are required to undertake an enormous amount of follow-up work because of this failure to respond to communication.

As well as failing to respond, staff at Collection House or ALR Lawyers sometimes fail to reply to specific questions from consumers. For example:

- a question about whether part payment will be accepted is met with a demand for the consumer to obtain a loan to pay the debt; and
- a question about details of the debt claimed may be met with a question about what property the consumer owns.

This manner of communicating is discourteous and denies consumers access to important information.

A practice of ignoring telephone calls and correspondence also significantly increases the communication costs for consumers and their advisers. Where the collection agency is operating from a different state to that in which the consumer lives, the consumer or their adviser must incur high call charges in order to chase up a response. This is particularly of concern for consumers based in Western Australia and/or in rural and remote areas.

As discussed later in this report, some debt collectors and their lawyers do collect debts across state borders. For example, Collection House and ALR Lawyers have offices in most states, but appear to conduct a large amount of their collection work from Queensland.

Some financial institutions take steps to ensure that consumers and their advisors can contact them without additional STD costs. However, when debts are sold or contracted out or sold to a debt collector, our experience is that it is rare for similar assistance to be provided. We believe that businesses collecting interstate debts should introduce free or low cost telephone numbers for regional and interstate callers.

See Case Studies 2, 3, 4, 8, 12, 13, 18, 21, 23

3.5 Misleading Conduct

Consumers and their advisors claim that Collection House or ALR Lawyers have made misleading statements about matters such as:

- The legal status of the debt (often whether or not judgment has been entered)
- The consumer's legal right to documents; and
- The consequences of non-payment.

In a number of instances, consumers and their advisors have been wrongly advised that judgment has been entered. Such misinformation can have serious implications. In relation to a debt where action is statute barred, judgment changes the status of the debt – from being one the consumer can defend because its time limit has expired, to a debt that remains valid for 15 years. Such a 'mistake' can therefore seriously mislead a consumer or consumer representative about the enforceability of the debt or the legal requirement to make a payment.

Case study 24: Mr J's solicitor asked someone at ALR Lawyers whether judgment had been entered against his client.

The person's reply was that '... there's something here that looks like judgment.' In fact, judgment had not been entered.

Some consumers have been told that certain assets (such as a car or household goods) could be seized, in situations where this is not the case – for example where another creditor has security over the asset or where state laws protect certain property.

From case study 26: Mrs X claimed that a Collection House employee said that the Sheriff could take her fridge, microwave, TV, video, washing machine and car.

In Victoria, where Mrs X lives, the Sheriff is prohibited from seizing household assets which are protected in Bankruptcy, and the Sheriff would be unlikely to seize any of Mrs X's whitegoods.

Staff of Collection House and ALR Lawyers often do not appear to understand the legal process. This is reflected in their representations to consumers. In addition, it is not clear to us how many of the staff of Collection House or ALR Lawyers are legally trained. This apparent lack of knowledge and training, together with the fact that Collection House and ALR Lawyers often appear to have minimal details, and no documentation about the alleged debt, increases the risk that consumers could be misled.

Misleading representations in relation to the consequences of non-payment or remedies available to the debt collector are likely to breach the *Trade Practices Act 1974* (Cth).

Section 52 of the *Trade Practices Act* prohibits "*conduct that is misleading or deceptive or is likely to mislead or deceive".* Section 60 of the *Trade Practices Act* prohibits "undue harassment and coercion" in relation to supply or payment of goods or services by a consumer.

In recent years, debtor harassment (including misleading statements) by debt collectors has been the subject of work undertaken by the Australian Competition and Consumer Commission (ACCC). Following from that work, the ACCC released a guideline to s. 60 of the *Trade Practices Act* in 1999. This included principles that:

- "A collector must not engage in any other conduct that is misleading or deceptive or is likely to mislead or deceive."
- "A collector must not make a false or misleading representation about the consequences of non-payment."
- "A collector must not give information about the consequences of legal action that is misleading or deceptive or likely to mislead or deceive".

In our experience, Collection House and ALR Lawyers are often not following these guidelines.

The courts have also confirmed that misleading statements can amount to undue harassment. In *ACCC v McCaskey,*[4] Justice French found that a representation to a consumer about legal remedies which could be taken against her house, and to another consumer about potential criminal liability arising from stopping a cheque were misleading and deceptive conduct.

Justice French also found that such representations could also be "undue harassment and coercion". He said:

"….where the demand includes content which does not serve legitimate purposes of reminding the debtor of the obligation and threatening legal proceedings for recovery but is calculated otherwise to intimidate or threaten the debtor, then the coercion may be undue. So if a threat is made of criminal proceedings, or of the immediate seizure and sale of house and property, a remedy not available in the absence of retention of title or some form of security, the coercion is likely to be seen as undue."

See case studies 3, 7, 10, 11, 16, 19, 20, 26

3.6 Encouraging Financial Overcommittment

Many consumers report that Collection House pressured them to borrow money to repay the debt, and referred them to specific lenders. A number have claimed that Collection House have demanded to see a number of letters of credit refusal so as to confirm that the consumer has applied for credit. Consumers also report that Collection House encourage consumers to pay the debt by credit card and/or refer consumers to a finance broker who can facilitate a personal loan to pay the debt.

Going into further debt in this way may be a temporary solution for some consumers, particularly for those that are being unfairly harassed by collectors or their lawyers. However, it may increase the consumer's financial worries when the repayments for the additional credit need to be found.

In some circumstances, it is irresponsible to encourage financial overcommitment in this way. In addition, allowing consumers to repay a credit card debt with another credit card is clearly contrary to the principles and practices exercised by credit card providers.

See Case Study 19, 26

3.7 Barriers to Defending Legal Proceedings and Accessing Dispute Resolution

As discussed above, consumers often face significant hurdles in obtaining the necessary information to determine their legal position when contacted by a debt collection agency such as Collection House or ALR Lawyers. However, even if a consumer is able to determine their legal position, they often face additional hurdles before they can access justice.

[4] (2000) 104 FCR 8

3.7.1 Default proceedings

Most debt recovery action in the Courts is based on a default procedure; the credit provider or debt collector issues the matter in Court, and the documents are served on the debtor. If the debtor wants to dispute the debt, he or she must lodge a written defence within a specified time. This is the case even if the claim is statute-barred. Once a defence is lodged, the matter can be heard in the relevant court.

If no defence is lodged, judgment will be entered at the request of the creditor (default judgment), and Court sanctioned enforcement proceedings (eg garnishee orders, seizure and sale of goods) become available.

In practice, only a small percentage of people lodge a defence in response to debt recovery proceedings.

Consumer advocates say that, in addition to proceedings being issued outside the consumer's state, there are a number of reasons why consumers (even those with a strong defence) rarely lodge a defence. These include:

- lack of access to legal advice and assistance;
- fear of additional costs if they lose;
- possibility of an appeal by the other party if they win (not uncommon in consumer debt matters);
- general fear of the legal process and courts; and
- personal impact on them and their families due to stress of legal proceedings.

Despite moves in recent years to improve access to justice for low-income and disadvantaged consumers in some matters, there has been little or no improvement in relation to civil default procedures. Further work is needed to ensure that barriers such as those described above can be overcome, particularly for those consumers who do have a strong defence. In addition, any laws or procedures that further restrict the ability for these consumers to defend their cases must be urgently reviewed.

3.7.2 Issuing proceedings in other jurisdictions

ALR Lawyers routinely issue legal proceedings in a state other than that where the relevant contract was entered into. The *Service and Execution of Process Act 1992* described earlier facilitates this practice. This usually means that proceedings are issued in a court in a state where the consumer does not live.

It is clear that consumers wanting to defend proceedings issued in another jurisdiction will often face significant practical difficulties and costs. The defendant will incur costs in transport and accommodation to attend the proceedings. In addition, the defendant will have to either find a solicitor in that jurisdiction, or instruct his or her own solicitor to instruct an agent in the jurisdiction.

However, even if the consumer wants to argue that the proceedings should have been issued in his or her local jurisdiction, he or she will normally have to apply for a stay of proceedings in the original (interstate) jurisdiction. Many of the same practical difficulties will arise.

The *Service and Execution of Process Act 1992* allows defendants to apply to the court where proceedings were issued for an order staying the proceedings. The Court can determine such an application without a hearing. However, in these cases the debt collector or solicitor could object to this course of action,[5] requiring the consumer to appear in the interstate Court. The consumer would have to either find a solicitor where the proceedings were issued or instruct his or her own solicitor to instruct an agent in the jurisdiction.

A court can make an order to stay the proceedings if it is satisfied that another court is the appropriate court to determine the matter(s). The onus is on the defendant to demonstrate the appropriateness of the other jurisdiction.

In deciding whether another court is more appropriate, the original Court must consider factors such as the place where the subject matter of the proceeding is located, the place of residence of the parties and of the witnesses likely to be called in the proceedings, and the financial circumstances of the parties.[6]

The outcome of such proceedings is not always easy to predict. Where the contract was made in the consumer's jurisdiction, the credit provider is in that jurisdiction, and all of the relevant conduct took place in that jurisdiction, then an application to stay proceedings in the issuing (interstate) jurisdiction is more likely to be successful.

However, if there are some links to the jurisdiction in which the proceedings were issued, the outcome will be less certain. Ultimately, the decision rests with the discretion of the Magistrate or Judge hearing the matter.

Of course, if the application is unsuccessful, the consumer then faces the difficult decision of whether or not to defend the proceedings in the foreign jurisdiction, and thus expend further costs.

While the *Service and Application of Process Act 1992* applies in all jurisdictions, there are also rules of procedure that may vary between the different States and Territories. For example, in NSW, a debtor objecting to the jurisdiction of the NSW Court must file a conditional defence, in addition to an application for an order to stay the proceedings. If a normal defence is filed in NSW, the debtor will be seen to be consenting to the jurisdiction of the NSW Court, and will not be able to make an application to stay proceedings on the grounds that another jurisdiction is more appropriate.

[5] s. 20(6).
[6] s. 20(4).

While community legal centres and Legal Aid Organisations may be able to provide assistance or representation in matters of this type, their capacity to do so is very limited, particularly in light of the fact that it requires the solicitor concerned to become cognisant of the procedural rules in another jurisdiction or to instruct another solicitor in that jurisdiction to appear in the matter.

Private solicitors may also be able to provide assistance. However, they will generally charge a fee, and for consumers who are already in financial difficulties, this is unlikely to be a realistic option. Also, in some circumstances in some jurisdictions, a successful application for a stay of the proceedings would not entitle the applicant to recover their legal costs from the other party.

For consumers with limited understanding of the legal system, and/or limited access to legal advice or assistance, the mere fact that proceedings have been issued against them in another jurisdiction may be enough to dissuade them from taking any action to defend the debt.

Instituting proceedings in another jurisdiction therefore creates significant barriers for debtors. In circumstances where the consumer and contract are clearly based in one jurisdiction, and the relevant conduct occurred in that jurisdiction, we can see no logical reason why proceedings should be instituted in a different jurisdiction.

In circumstances where the debt is statute-barred, or has been paid or otherwise settled, this practice is grossly unfair.

From case study 5: Mr G lived in Victoria, where he was contacted by Collections House over a loan contract that had been legally cancelled six years beforehand.

ALR Lawyers commenced legal proceedings against Mr G in the Brisbane Magistrate's Court. Mr G wanted to defend the action, but wanted to do so in the Victorian Courts.

The Legal Service acting on his behalf had to research the Queensland procedures, and eventually lodged a conditional defence in Brisbane, disputing the jurisdiction of the Queensland Court to hear the matter.

See case studies 5, 7

3.7.3 Limited Assistance for Consumers

Debt collection matters usually take a disproportionately large amount of time and resources of legal assistance services, due to constant delays in responses from debt collectors and their solicitors, and to proceedings often being issued in other states.

Community Legal Centres, Legal Aid organisations and financial counsellors have limited resources that need to be allocated to a large range of problems. The majority of these free legal services do few, if any, civil matters.

In addition, those that do provide assistance for civil matters do not normally have the resources to assist every consumer who has a valid defence to a debt and/or who needs to stay legal proceedings issued in another state. Instead, they can usually only assist a small number of consumers each year.

However, for many of these consumers, private legal assistance is not an affordable option, particularly in cases where the alleged debts are relatively small and/or there is no provision for awarding costs even if the consumer is successful.

3.7.3 Sale or Collection Activity While Matter Subject to Alternative Dispute Resolution

Most financial institutions and telecommunications companies are, or will soon become, members of an industry alternative dispute resolution (ADR) scheme that provides free, and often effective, resolution of consumer complaints. For example, most retail banks are members of the Australian Banking Industry Ombudsman (ABIO) scheme, which has the power to make a final determination that legally binds a member bank. The ABIO will also soon have jurisdiction over bank-owned finance companies.

Likewise, most telecommunications companies are members of the Telecommunications Industry Ombudsman (TIO) Scheme.

Members of these schemes cannot take legal action against a consumer while a complaint is being dealt with by the scheme. In a similar spirit, caseworkers and others would also regard it as exceptionally bad practice for a member to continue pursuing a debt whilst the matter is under investigation by the ADR scheme.

On the other hand, a consumer cannot make a complaint to the ABIO or TIO if the scheme member has already started legal proceedings against him or her.

However, consumers are finding that some collectors will often continue to pursue a debt after the matter has been placed in the hands of an external ADR scheme. Collectors have made contact with consumers during this period, and in some cases the consumer has been advised that the debt has been sold, all while the ABIO's investigation is still underway.

From case study 6: Mrs. Y has an intellectual disability. She referred a dispute with Bank B to the Australian Banking Industry Ombudsman, with the assistance of a legal aid lawyer.

While the matter was being investigated, she received a letter demanding payment from ALR Lawyers. The letter also advised that Bank B had sold the debt to Collections House.

Continuing collection activity while the matter is with the ABIO may not affect the consumer's ultimate legal rights. However, it is likely to confuse the consumer and cause further distress. In our view, it is inconsistent with good practice for banks to allow collection activity to continue in these circumstances.

Of greater concern is the fact that a debt can be sold while the matter is being dealt with by the ABIO. While the member banks have committed themselves to abiding by the ABIO's decisions, the purchaser of the debt has no obligation to do so and can continue to pursue the debt against the debtor. In some cases this may lead to judgment being obtained, enforcement action (including bankruptcy) being taken, and the listing of a default or judgment on a credit report – all while the matter is supposed to be in the hands of the ABIO.

This practice therefore threatens to limit the jurisdiction of industry dispute resolution schemes and to considerably reduce access to justice for consumers. It also appears to be inconsistent with the spirit of current benchmarks for industry dispute resolution schemes. For example, the Australian Securities and Investments Commission's Policy Statement on dispute resolution schemes includes the following:

A scheme's coverage should be sufficient to deal with:

(a) the *majority* of consumer complaints in the relevant industry (or industries) and the whole of each complaint; and
(b) consumer complaints involving monetary amounts up to a specified maximum that is consistent with the nature, extent and value of consumer transactions in the relevant industry or industries. (emphasis added)[7]

The sale of accounts by institutions which belong to an industry ADR scheme excludes those accounts from, and therefore reduces the coverage of, that scheme. Any practice that limits the jurisdiction of a dispute resolution scheme reduces consumer access to affordable dispute resolution, and is of great concern.

As well as schemes such as the ABIO, some industries are now required, either through enforceable Codes of Practice or licensing requirements to implement internal procedures for handling disputes. When a debt is sold, the debtor loses access to the financial institution's internal procedures.

Collection House has recently introduced a complaints desk and complaints handling procedures. It is yet to be seen whether these procedures will be effective for consumers, but there are some concerns. A substantial amount of the work of Collection House and ALR Lawyers is done by telephone, and most complaints are likely to involve a consumer's word against that of an employee.

From case study 10: The response to a complaint to ALR Lawyers referred to the firm's policy on recovery of outstanding funds, referred to the employee's notes, and stated that the employee "denies the allegations made with respect to the repossession and sale of the car".

Many of the issues raised appear to affect a number of consumers, and a system designed to handle individual complaints is unlikely to be effective unless broader systemic problems are also addressed.

See case studies 6, 10, 22, 26

[7] ASIC Policy Statement PS139.34

3.8 Legal Practice Issues

Legal professional practice rules and laws have been established for the protection of the clients of legal practitioners, protection of the general public, and to maintain the reputation and integrity of the legal profession; which in turn is important to the administration of justice. The legal practice rules vary between different jurisdictions, however there are many similarities.

Consumers being pursued for debts by ALR Lawyers report a number of practices that contravene the spirit and/or the letter of these legal practice rules. These include:

- Contacting the consumer directly, even though the firm has been advised that the consumer is legally represented;
- Making incorrect statements about the status of the debt and consequences of non-payment;
- Failing to have adequate legal supervision of staff;
- Lack of knowledge of the relevant laws (such as the UCCC or state debt recovery laws) applying to the matter in question;
- Long delays in communication with the public or other legal practitioners;
- Failing to provide documents (or allowing their client to fail to provide them) that the client is legally obliged to provide;
- Failing to act promptly and with courtesy;
- Failing to state unambiguously whether the staff member is a solicitor; and/or
- Failing to correct a misconception that a staff member is a solicitor when they are not.

From case study No 8: A solicitor wrote a letter each month for 4 months to ALR Lawyers requesting documents which ALR's client was obliged to provide within 30 days under consumer credit legislation. No response was received to the first 3 letters, however after the fourth letter ALR agreed not to pursue the consumer for payment.

From case study No 7: Despite a request by the consumer's solicitor, no one at the law firm would provide the name of the solicitor responsible for the case or transfer the call to a solicitor,

From case study No 5: Despite the consumer's solicitor providing detailed reasons why the claimed debt (relating to a contract signed in Victoria) was not owed, the law firm did not withdraw legal proceedings for some months, requiring the consumer's solicitor to undertake significant work to stay the proceedings that had been issued in Brisbane.

See case studies 3, 11, 18, 21, 23

PART FOUR – IMPLICATIONS FOR CREDIT PROVIDERS

While this report describes the conduct of Collection House and ALR Lawyers, it is also relevant to credit providers who outsource debt collection activities and/or sell debts to these businesses and other third parties.

Where a credit provider refers debts to a debt collector for recovery, the debt collector and its solicitor are acting as the credit provider's agent. The credit provider is therefore legally responsible for the conduct of its agent and could be expected to take steps to ensure that the practices described in this report do not take place.

However, our concern is that many credit providers fail to make enquiries about the procedures used by their agents, and do little or nothing to monitor their agents' conduct.

In addition, we are concerned that some credit providers may not implement procedures and practices to ensure that debts that have been paid, cancelled, or otherwise settled, or which are clearly statute-barred, are not sent to agents for collection.

This apparent lack of care seems to exist despite the fact that many credit providers have developed sophisticated systems to monitor compliance with their own obligations. Many have also gone further than ensuring compliance with the law, and have developed considerable energy to improving customer service through developing and promoting industry codes, charters and ADR schemes. It is therefore disappointing that that they have failed to expend similar efforts in monitoring or controlling the conduct of their debt collectors.

While the legal responsibility of the credit provider is reduced when debts are sold, credit providers should ensure that their decisions to sell or assign allegedly outstanding debts do not disadvantage consumers or create unnecessary barriers to consumers who wish to clarify their obligations and/or dispute the debt.

For example, credit providers should ensure that debts that have been paid, cancelled or otherwise settled, or which are clearly statute-barred, should not be forwarded to a collection agent or sold to a third party. Unfortunately, it appears that this is not always happening.

We do not believe that credit providers are entitled to "wash their hands" of debts once they are sold or collection of the debts is outsourced. Legal obligations and expectations that credit providers will act fairly, suggests that credit providers should:

- Establish appropriate audit systems before debts are sold or collection is outsourced;
- make enquiries about, and monitor collection procedures of their agents and purchasers; and
- ensure that the purchaser of the debts and/or collection agent is able to comply with credit legislation by providing documentation and statements within the time periods allowed by the Consumer Credit Code.

Financial institutions should not wait for complaints to be made about their debt collectors. As part of a compliance program, institutions should clearly ask financial counsellors and community lawyers to provide them with information about the behaviour of their debt collectors and lawyers. Community lawyers may risk breaching legal practice ethics if they make such contact without the request of the financial institution, so an invitation to contact the financial institution should be unambiguous.

See case studies 1, 2, 3, 4, 6, 10, 12, 14, 15, 16, 20, 21, 22, 23

PART FIVE – CONCLUSION AND RECOMMENDATIONS

This report shows a range of unfair practices that consumers and consumer advocates are seeing when dealing with Collection House and ALR Lawyers. These practices may be more efficient for the finance and debt collection industries. However, they are creating an environment where consumers wanting to:

- clarify their legal position and their rights;
- negotiate with a credit provider or debt collector; and/or
- defend proceedings instituted against them;

are likely to face significant barriers and unnecessary difficulties.

In addition, these practices are imposing an unsustainable demand on limited community and legal aid resources. The costs of this demand are ultimately borne by other consumers and taxpayers who are unable to access these important services. Efficiencies in the provision of legal services to those unable to access private services would be greatly increased if Collection House and/or ALR Lawyers discontinued their practices of:

- failing to respond to correspondence and telephone calls;
- failing to provide documents and information covered by the UCCC;
- issuing proceedings where it is known that there is a statute of limitations defence;
- instituting or continuing collection activity or legal proceedings while the matter is the subject of investigation by the ABIO or other similar scheme;
- issuing proceedings in jurisdictions that have limited, if any, connection to the consumer or the contract.

Credit providers cannot wash their hands of debts by outsourcing or selling those debts, and should take steps to reduce the incidence of these types of practices by collection agents and/or the lawyers of collection agents.

5.1. Recommendations for Collection House and ALR Lawyers

Collection House and ALR Lawyers should:

5.1.1 Immediately commission an independent audit of its compliance with consumer protection legislation.

5.1.2 Ensure that they respond to enquiries by consumers or their advisors in a timely and courteous manner.

5.1.3 Comply with the obligations in the Uniform Consumer Credit Code to provide documents and information on request and within the time limits specified in the Code.

5.1.4 Ensure that staff with responsibility for dealing with consumers have an adequate understanding of the UCCC and other relevant legislation and do not make misrepresentations about the status of the debt, the consequences of non-payment, the debt recovery process, or any other matter.

5.1.5 Not institute proceedings to recover alleged debts, or take enforcement or collection activity in circumstances where (i) the consumer's request for a current statement of account and other documents covered by ss 34, 74 and 163 of the UCCC has not been fully complied with; (ii) the debt is statute-barred, or (iii) the matter has been referred to an external dispute resolution scheme such as the ABIO, and the scheme has not yet made a final decision.

5.1.6 Not institute proceedings to recover debts in a jurisdiction that is different to that in which the consumer resides unless there is a strong connection with the jurisdiction in which the proceedings are issued.

5.1.7 If proceedings are issued in a jurisdiction that is different to that in which the consumer resides, the consumer must be clearly advised that they have a right to seek a stay of the proceedings, and that they should seek legal advice for more information.

5.2. Recommendations for Financial institutions that outsource collection activity or sell or assign allegedly unpaid consumer debts

Financial institutions should:

5.2.1 Take steps to monitor the conduct of collection agents to whom they outsource debt collection or assign debts and to ensure that such agents comply with the UCCC. Such steps should include consultations with caseworkers and other consumer advisers.

5.2.2 Ensure that debt collection agencies to which debts are outsourced or sold have, or can readily access, copies of documents and information that must be provided to consumers under ss. 34, 74 and 163 of the UCCC.

5.2.3 Provide, on request, a statement of the account history and amount owing up to the time the debt was sold or outsourced to a debt collector.

5.2.4 Implement sufficiently robust audit systems to ensure that debts that are paid or otherwise settled or are statute-barred are not sold or passed to another company for collection.

5.2.5 Not sell or assign a debt, or outsource collection of a debt, whilst a complaint in relation to that debt is under consideration by either the financial institution's internal complaints process or a relevant industry alternative dispute resolution scheme.

5.2.6 Ensure that the financial institution's internal dispute resolution procedures remain available to consumers even when accounts have been sold or sent to another company for collection, and that contact details for the procedures are included in all correspondence from the debt collector.

5.2.7 Ensure that any purchaser of a debt agrees to comply with any order made by the relevant industry alternative dispute resolution scheme, and to cease all collection or enforcement action while the matter is being dealt with by the scheme.

5.2.8 Ensure that purchasers or agents either issue proceedings in the jurisdiction in which the contract was entered into or clearly advise the consumer that they have a right to seek a stay of proceedings issued in a different jurisdiction, and that they should seek legal advice for more information.

5.3. Recommendations for Industry Dispute Resolution schemes

Industry dispute resolution schemes should:

5.3.1 Advise members of the need for internal systems to prevent the sale of a debt, or the passing of that debt to a debt collector, while the matter is being dealt with by that scheme.

5.3.2 In individual cases, consider making an initial determination that requires the bank to take back the debt (as far as its contract with any purchaser enables it to do so) and/or compensate the consumer for any loss suffered because the matter is no longer within the scheme's jurisdiction.

5.3.3 Ensure that the issue of sale of debts is dealt with in the scheme's Terms of Reference so as not to unfairly limit the jurisdiction of the scheme.

5.4. Recommendation for State and Federal Law Societies

Law Societies should:

5.4.1 In consultation with Legal Ombudsman offices, Attorney-Generals Departments, the ACCC, and caseworkers, develop (i) standard wording to be included on demands and proceedings issued in relation to statute-barred debts and (ii) standard wording to be included on demands and proceedings issued in relation to consumer debts issued in a jurisdiction other than that in which the consumer resides.

5.4.2 Ensure that legal practice rules and regulations are adequate to protect members of the public (including those who are not clients of legal practitioners).

5.4.3 Investigate the practices of ALR Lawyers.

5.4.4 Publicise widely the fact that individuals who aren't the client of the solicitor can lodge complaints about solicitors.

5.5. Recommendation for State and Federal Attorneys-General:

5.5.1 State and Federal Attorneys-General should review the operation of the *Service and Execution of Process Act 1992* and implement any changes needed to ensure that consumers' access to justice is not restricted by the issuing of proceedings in inappropriate jurisdictions.

5.6 Recommendations for Regulators

The Australian Competition and Consumer Commission should:

5.6.1 Give priority to the investigation of complaints received about the conduct of Collection House and ALR Lawyers and take appropriate action in relation to any breaches of the *Trade Practices Act 1974*.

Australian Securities and Investments Commission (ASIC) should:

5.6.2 Examine the issues arising from the report, and monitor the practices of Collection House and ALR Lawyers in relation to ASIC's current responsibilities and its new responsibilities in relation to credit.

5.6.3 Once ASIC gets responsibility for credit matters, it should review the debt collection guidelines originally prepared by the ACCC with a view to issuing those guidelines in relation to the harassment provisions of the *ASIC Act 2001*. [8] The review should ensure that the guidelines are adequate to deal with the issues arising from this report.

5.7 Recommendations for State and Federal Consumer Affairs Ministers

The following recommendations reflect the fact that current state and federal legislation is inadequate for regulating debt collection, particularly national debt collection companies.

5.7.1 State and Federal Consumer Affairs Ministers should commit to the development of national fair debt collection legislation to complement the current harassment provisions in the *Trade Practices Act 1974* and the *ASIC Act 2001*, in consultation with each other, the ACCC and ASIC.

[8] s 12DJ.

APPENDIX – CASE STUDIES

Case Study 1

Mr L suffers from a number of chronic health problems.

Over 10 years ago Mr L was forced to retire after a serious work injury. At that time he had a personal loan with Bank B. There was total and permanent disability insurance attached to the loan, which would have paid out the loan - however, no one informed Mr L he had a claim.

For a number of years Mr L and his wife made small payments every fortnight that they could ill afford toward the loan. Collection for the bank was conducted by one debt collection company, and then later by Collection House.

Mr L sought assistance from a financial counselling service because Collection House were putting pressure on him to increase payments. The financial counsellor discovered the error in relation to the insurance. Bank B refunded the payments Mr L had made since his injury and retirement plus interest and instructed Collection House to close its file, because there was no debt.

A year later, instructed by Collection House, ALR Lawyers reactivated collection activity. ALR wrote to the new residents of Mr L's former home asking for details of Mr L's whereabouts. The new residents spoke to their neighbours, who were friends with Mr L and his wife. They telephoned Mr L to tell him ALR were trying to find him.

Mr L was angry and embarrassed. He telephoned ALR and explained there was an error. Mr L claimed that ALR did not believe him, and told him he still owed money to Bank B. He claimed that ALR refused to investigate and told him it was up to him to provide proof of what he was saying.

Mr L again sought assistance from the financial counsellor, and after a month, numerous letters and referrals to state and federal regulators, ALR acknowledged the mistake and apologised. The bank was informed when the error was discovered. It confirmed its instructions to Collection House a year before to close the file.

Mr L was very upset by the events, especially in light of the payments made over so many years when they were not required. The episode adversely affected his health. Neither ALR nor Collection House offered any compensation at the time, although an apology was eventually provided.

- *Financial Counselling Service, ACT*

Case Study 2

Mr Y had an account with Finance Company A that was settled 7 years ago. A letter from a debt collection company in 1994 confirmed settlement of the account in full.

In early 2001, Mr Y received a letter from ALR Lawyers alleging he still owed the debt. ALR informed Mr Y that they were acting for Collection House, the assignee of the alleged debt. The letter, sent from another state, allowed 4 days from the date of postage for Mr Y to contact ALR or legal proceedings would commence without further notice.

Mr Y received the letter the day he arrived home from hospital after an operation and was recovering from a life threatening illness. He was very worried about the date on the letter and telephoned ALR to correct the mistake.

Mr. Y said that an officer at ALR told him she did not believe him, that she would not investigate the claim that the debt was settled and that it was up to Mr Y to provide proof of what he was saying.

A financial counsellor had assisted Mr Y at the time the debt was settled. The counsellor had kept a copy of the settlement letter on file and sent it to ALR. On behalf of Collection House, ALR apologised "for any inconvenience caused". ALR were informed of Mr Y's health and the risk their action and that of their client exposed him to. They were also told that regardless of the settlement, the debt was statute barred. No further explanation, offer of compensation or proposal of any type was put to Mr Y.

- *Financial counselling service, ACT*

Case study 3

Ms Q entered into a car loan with Finance Company A. Sometime later the car was repossessed and sold, at which time Ms Q says she was advised that no further amounts were owed. To the best of her recollection she had heard nothing in respect of that account or the alleged debt for a period of at least 8 years. Accordingly, even if there was a valid claim, it was clearly statute barred.

In early 2001 Ms Q was contacted by ALR Lawyers. She was told Finance Company A had assigned a debt to Collection House, and that she currently owed over $10,000.

At that time, and given the age of the debt, Ms Q was unable to recall details of the debt. Accordingly she asked ALR for relevant details of the debt, including the age of the debt, but they refused to provide any such details.

Ms Q says she was then questioned about her ability to make some payment, and about her possessions, jewellery, and the financial position of family members. Ms Q said she felt intimidated and pressured by this line of questioning, and soon agreed to make a lump sum payment of nearly half the amount claimed in full and final settlement. She did not seek help from a financial counsellor until after she had paid the amount.

- *Consumer Credit Legal Service, Melbourne*

Case Study 4

In 1994, Mrs. A sought assistance from Consumer Credit Legal Service (CCLS) in relation to a debt claimed by a debt collector acting on behalf of Finance Company A. Following the legal service's representations, the debt collector sent a letter stating that they were prepared not to recover the amount outstanding.

In 2001, Mrs. A received a demand from ALR Lawyers in relation to the debt, which they claimed had been sold to Collection House. Mrs. A sought advice from CCLS again. ALR Lawyers did not comply with CCLS's request for information and documentation pursuant to the *Credit Act 1984* (Vic).

ALR Lawyers eventually agreed to take no further action after CCLS provided details of the previous settlement.

- *Consumer Credit Legal Service, Melbourne*

Case Study 5

Mr. G. bought a second hand car in 1994. The purchase was financed by Finance Company A. All contracts were signed in Victoria where Mr. G lived.

Mr. G advised that the sale contract was cancelled on legal grounds within a short period of time, and that Finance Company A were advised of this. According to the *1984* (Vic), Finance Company A was obliged to cancel the loan contract.

Finance Company A did not contact Mr. G again. However, in 2000, Collections House - which had purchased the 'debt' - contacted him to demand payment. In March 2001, ALR Lawyers commenced legal proceedings in the Brisbane Magistrates Court on behalf of Collection House.

The legal centre that acted for Mr. G found that ALR Lawyers were slow to return correspondence, and it took a number of letters and telephone calls before they could speak to a lawyer at ALR. ALR would not agree to withdraw the legal proceedings.

Mr. G wanted to defend the matter in Court, however it was necessary to transfer the matter to Melbourne.

CCLS had to file a conditional defence in Queensland, according to that state's rules, disputing the jurisdiction of the Queensland Court to hear the matter.

Despite an indication of ALR Lawyers that they would agree to transfer the matter to Melbourne, and their failure to reply to correspondence, CCLS had to draft, file and serve 3 copies of an application, supported by Affidavit, outlining the reasons that Melbourne was the more appropriate jurisdiction.

It was only after all of this work that ALR Lawyers agreed to withdraw their proceedings.

Had this work been undertaken by a private solicitor rather than a legal centre, the consumer would have incurred considerable expense. However, in Queensland, costs are not awarded for debts less than $5000 – so the consumer would have not been able to claim back these costs even if he had won.

Each state has slightly different civil procedure rules, which means that the process of transferring these matters is not straightforward unless the legal practice is doing this work all the time. However, legal centres don't have the resources to regularly take on these types of matters.

- *Consumer Credit Legal Service, Melbourne*

Case Study 6

Mrs. Y has an intellectual disability. She referred a dispute with Bank B to the Australian Banking Industry Ombudsman, with the assistance of a legal aid lawyer. While the matter was being investigated, she received a letter demanding payment from ALR Lawyers, advising that Bank B had sold the debt to Collections House.

- *Legal Aid, NSW*

Case study 7

Mrs. Y from New South Wales was having difficulty in meeting payments on her Bank A credit card. She applied to the Tribunal in New South Wales to reduce the payments and the Tribunal granted a temporary Variation Order pending a further hearing.

Mrs. Y was making payments in accordance with the order, when legal proceedings were issued against her in Melbourne Magistrates' Court by ALR Lawyers. She says that she telephoned ALR and explained about the Tribunal Order, and was told '…we can ignore that'.

Mrs. Y sought help from Legal Aid in New South Wales. The lawyer telephoned ALR Lawyers to request that the legal proceedings be withdrawn. He asked to speak to a solicitor, but was put through to the accounts manager. He asked for the name of the solicitor who was responsible for the matter, but the ALR employee refused to tell him.

ALR initially refused to withdraw the legal proceedings, however proceedings were withdrawn after the legal aid lawyer wrote to ALR.

However, some weeks later, despite the fact that the matter was still before the tribunal, and Mrs. Y had legal representation, ALR made direct contact with Mrs. Y and demanded payment.

- *Legal Aid Solicitor, NSW*

Case Study 8

Ms. H was contacted by ALR Lawyers alleging that she owed a debt. When Ms. H asked what the debt was for, the person from ALR Lawyers said the debt was for the purchase of furniture. Ms. H said she did not remember getting a loan for any furniture. The person from ALR Lawyers said that Ms. H had to prove that she did not get a loan for furniture. If she could not prove it, she had to pay the debt.

Ms. H contacted New South Wales' Consumer Credit Legal Centre (CCLC) for assistance. CCLC wrote a letter to ALR Lawyers requesting documents and information. No reply was received. Each month, for 3 months, another follow up letter was sent requesting documents. Eventually ALR Lawyers wrote a letter confirming they were no longer pursuing the debt. Ms. H never received the documents requested.

- Consumer Credit Legal Centre, NSW

Case Study 9

Consumer Credit Legal Service (CCLS) acted for Mr and Mrs Z in 1989 in relation to a Matter with Finance Company A. In that year, Finance Company A wrote to CCLS stating, "we are prepared to agree not to issue legal proceedings".

In 2001 Mr and Mrs Z received a letter from ALR Lawyers, advising that the debt had been sold to Collection House and demanding payment.

Case Study 10

Ms E was paying a car loan to Finance Company B, which had a mortgage over the car. Ms E also had a personal loan with Bank A. This loan was in arrears and had been sold to Lion Finance Pty Ltd. Ms E claimed that ALR Lawyers telephoned her about the debt to Lion Finance Pty Ltd and said they could repossess the car.

When a financial counsellor telephoned ALR to query this, he says that ALR told him that they could repossess the car. According to the financial counsellor, ALR stated that they could repossess the car because the debt was originally owned by Bank A, Bank A owned Finance Company B, and Finance Company B had a mortgage over Ms E's car. This is clearly wrong at law.

The response to a complaint to ALR Lawyers referred to the firm's policy on recovery of outstanding funds, referred to the employee's notes, and stated that the employee "denies the allegations made with respect to the repossession and sale of the car".

- Financial Counsellor, Melbourne

Case Study 11

Ms. K was a single woman from a non-English speaking background.

Her income had reduced, and she was struggling to make mortgage payments and pay her Bank A credit card. She became ill, and wasn't able to keep up credit card

payments. She owed about $1,350, and hoped to resume payments when she returned to her employment, which was still available to her.

ALR Lawyers contacted her. She had returned to work and offered payments of $75.00 per fortnight. She says that ALR refused this. Mrs. K said they were rude and aggressive. Ms. K said she had spoken a number of times to someone in ALR whom she believed to be a lawyer, who said that no arrangement other than full payment would be accepted.

Ms. K sought assistance from a financial counsellor, who telephoned ALR Lawyers. The financial counsellor spoke to someone who the financial counsellor believed was a lawyer. The financial counsellor says ALR said that it was too late for any negotiations as Court judgment had been entered for $2,300 the previous Friday and ALR were going to force the sale of Ms. K's home.

The financial counsellor contacted the Court, and confirmed that no judgment had been entered. She telephoned the Law Society and was advised that the ALR employee was not a lawyer.

- *Financial Counsellor, Queensland*

Case Study 12

Mr. M was being pursued for an alleged debt to a credit card account that was opened in 1981. He did not believe any money was owing on the credit card.

In January 2001, Mr. M was contacted by ALR Lawyers requesting a payment of $2,300 for an outstanding debt with Bank B. Mr M. disputed the amount owing, and argued to ALR that he had never been contacted by Bank B regarding any outstanding amounts, nor had she received any bank statements identifying an overdue balance.

The ALR representative informed Mr. M that they could not provide him with any further details regarding the debt, and directed him to contact Bank B.

- *Legal Aid Queensland*

Case Study 13

Mr. M owed $6,000 to Bank A for a credit card debt. Collection House in Brisbane were attempting to collect the debt.

Mr. M is blind, and he asked the caller from Collection House to correspond with him via e-mail, so he could read the output from his Braille printer. They did not agree to this request.

Mr. M said that he found Collections House difficult to negotiate with. He says that he offered $500 per month (more than he could afford), and when he failed to pay the fourth payment Collections House demanded full payment and wouldn't accept further instalments. Legal proceedings were issued, and after judgment was entered against him, he was told '…we will take furniture from your house.'

He says that he asked for an explanation of some of the legal terms and procedures, but the person he spoke to just repeated their statements. He thought he was speaking to a lawyer, although this is unlikely.

- *Credit Helpline, Victoria*

Case Study 14

Mr and Mrs Mc received letters from ALR Lawyers in relation to two debts allegedly owing to Finance Co A. Mr and Mrs Mc had paperwork showing that the debts had been paid many years before. Their financial counsellor sent copies of these letters to Finance Co A, and Finance Co A instructed ALR Lawyers to stop collection action.

- *Financial Counsellor, Victoria*

Case Study 15

Ms. K had financial problems, including a credit card debt to Bank A of $3,500, and was trying to sell her flat to get out of her financial difficulties. During one telephone conversation with Collection House, in relation to the debt to Bank A, Collection House told her that Bank A could put a caveat on the flat and stop the sale. In the experience of the legal service, it was most unlikely that Ms. K had a clause in her credit card contract which would have given Bank A this right.

- *Consumer Credit Legal Service, Victoria*

Case Study 16

Mr. S is a truck driver. He has had financial problems, due to a reduction in available work. He had arranged with Bank A to pay off a credit card debt of $3,000 at $70 per month. However, he was late with a payment, and Bank A passed the debt onto Collection House.

Mr. S received a letter from Collection House demanding payment within 7 days. Mr S rang Collection House and asked if he could pay $70 per month. Collection House said no, the amount had to be paid in full, and that the matter was not in Bank A's hands any more. Collection House told Mr. S that he had to prove he could not refinance the debt by sending him two rejection letters and Collection House would then reconsider his position.

Mr S approached a finance company. His loan application was refused, but the company would not provide a letter. Mr. S rang Collection House to tell them he could not get a personal loan, but they would not accept the information without a letter.

Mr S has been away working, and Collection House therefore usually spoke to Mr. S's partner. She was unwell and says she was being badly affected by the aggressive manner of the callers from Collection House. She says she was 'scared to answer the phone', and that the caller was 'unbelievably rude and frightening'. She says Collection House's conduct included:

- At least two telephone calls per week over an eight week period;
- Refusing to believe her when she explained Mr. B was away;
- Treating the debt as jointly owed, telling her they will 'take you to court', and she would 'have a black mark against your name';
- Continual demands that they get a personal loan to pay the debt;
- Failing to answer her on a number of occasions when she asked whether the $70 would be accepted if it was sent, responding with another demand that they obtain a personal loan.

A financial counsellor contacted Collection House in writing stating that Mr. S could only afford $70 per month, but Collection House said that wasn't enough. The financial counsellor asked whether the offer had been put to Bank A. Collection House said it had not.

The counsellor knew the bank's guidelines, and that the bank would accept the offer. She asked Collections House to pass the offer on to Bank A and provide written confirmation of the decision.

Collection House said that 'letters [were] a waste of time' and asked if Mr. S could pay $50 per fortnight. The financial counsellor insisted that he couldn't and Collection House advised that he keep paying the $70 per month.

- *Financial Counsellor, Victoria*

Case Study 17

A financial counsellor was speaking to ALR Lawyers on the telephone and asked to speak to someone more senior. The person she was handed to confirmed he was 'in charge'. She asked if he was a solicitor, and he said 'no'.

She mentioned that her client wished to apply for a hardship variation under the Consumer Credit Code, and he said that he was not aware of these provisions in the Credit Code.

- *Financial Counsellor, Victoria*

Case Study 18

ALR Lawyers were collecting a debt for Collections House. Collection House had previously bought the debt from Finance Company A. A financial counsellor wrote to ALR Lawyers on June 27, 2001 requesting documents and statements in accordance with consumer credit legislation (which requires these to be sent within 30 days).

As of October 1, there had been no response, although the financial counsellor telephoned ALR Lawyers in mid September and was told they were considering the request.

- *Financial Counsellor, Victoria*

Case Study 19

Ms. O was on a low income and her only property was her household furniture. She received a telephone call from Collection House who said she had a debt to Bank A and asked for details of her financial situation.

Ms. O sent Collection House a written offer to pay the debt by instalments.

Collection House telephoned her and told her this wasn't acceptable and that they wanted "the lot". Collection House told her to obtain a loan immediately, and telephoned her two days later to ask if she had a loan (which she didn't).

Collection House subsequently telephoned her at work, even though they had her home telephone number. Ms. O said they sounded rude and aggressive, and that she was upset and frightened by the most recent telephone call. Collection House told her that she had 21 days, of which 9 had elapsed, until everything came "crashing down around you".

They said that:

- the Sheriff would come and take her furniture, and
- they would take her employer to court to garnishee her wages.

She understood this would happen in 12 days, although she had no legal documents to indicate that legal action had been commenced. In Victoria, where Ms. O lived, the Sheriff is not allowed to seize certain household assets, and would be unlikely to seize any of her furniture.

- *Consumer Credit Legal Service, Victoria*

Case Study 20

Mrs Y was the sole borrower on a Finance Co C loan contract, financing a vehicle purchased by her brother. Consumer Credit Legal Service (WA) advised the client that she had grounds to make an unjust contract claim under the *Credit Act*, however was time barred because the vehicle had been repossessed more than two years before she approached the legal service.

CCLS(WA) attempted to negotiate with Finance Co C, but they refused any attempts to negotiate. They also did not issue debt recovery proceedings which would have revived the client's ability to make the unjust contract application. Several years passed, and the limitation period under the Statute of Limitations expired.

CCLS(WA) wrote to Finance Co C advising them that the six years had lapsed and they were barred from issuing debt recovery proceedings by the Statute of Limitations. 2 years later the client received correspondence from Collection House asking her to contact them to make arrangements to pay the debt, and threatening legal proceedings if she did not do so.

- *Consumer Credit Legal Service, Western Australia*

Case Study 21

Mrs. S received a letter from ALR Lawyers demanding payment for a debt to Collections House. Collection House had bought the debt from Finance Co A. Mrs. S. had been assisted by a financial counsellor about 8 years earlier in relation to a dispute with Finance Co A, and she recalled that the matter had been settled. She returned to the financial counsellor, but her file had been destroyed.

The financial counsellor wrote to ALR Lawyers requesting copies of documents and statements. These were not sent within 30 days, as required by consumer credit legislation. The financial counsellor telephoned ALR Lawyers and was told they would send them when they could.

The financial counsellor contacted ALR Lawyers on a number of subsequent occasions. Although the documents and statements were never received, Mrs. S. continued to receive demands for payment from ALR Lawyers.

The financial counsellor then contacted Finance Co A asking for documents and statements relating to the alleged debt. Finance Co A said the debt had been sold, it wasn't their debt, and they couldn't assist.

Finally, ALR Lawyers apologised and agreed not to pursue payment.

- *Financial Counsellor, Victoria*

Case Study 22

This case study, and the next, show the amount of work undertaken by legal aid and community lawyers due to unfair and inefficient industry practices.

22 June 2001: Mr J faxes a written complaint to the Australian Banking Industry Ombudsman (ABIO) about a disputed debt.

25 June: Consumer Credit Legal Service (CCLS) writes to the ABIO confirming details of complaint.

27 June: Mr J is contacted by Debt Collector X regarding the debt. CCLS contact Debt Collector X and advise of the complaint to the ABIO. Debt Collector X insist that they are entitled to have discussions with Mr J because the matter "has gone a bit further" than the complaint to the ABIO. CCLS faxes to Debt Collector X authority from Mr J, and confirms complaint to the ABIO.

27 June: CCLS receive a letter from the ABIO advising that the complaint be referred to Bank A, with a request that a response be provided by July 28.

3 July: Mr J receives a letter dated 27 June from Debt Collector X, advising that they act on behalf of the Bank A, and offering a 25% discount if the amount is paid.

4 July: CCLS contacts Debt Collector X. They say they have no record of previous conversation or fax, and advise they will seek further instructions from Bank A.

3 August: Debt Collector X contacts CCLS seeking confirmation of complaint to ABIO. Apparently Bank A have still not advised them of the complaint. Fax from CCLS to Debt Collector X enclosing copy letter of 25 June. Letter from CCLS to ABIO advising that no response has been received, and advising of continued correspondence with Debt Collector X.

7 August: Bank A contacts CCLS to advise complaint has been investigated. Will confirm in writing.

8 August: Letter from Bank A to CCLS denying all allegations in client's complaint, and suggesting client contact Debt Collector X to discuss payment. Letter does not enclose relevant enclosure.

13 August: Letter from CCLS to Bank A requesting copy missing enclosure.

15 August: Letter from ABIO allowing until 15 September to respond to Bank A's response.

24 August: Further letter from CCLS to Bank A requesting copy missing enclosure.

29 August: Client receives letter from Bank A collections demanding payment.

10 September: Fax from Bank A to CCLS enclosing missing enclosure.

11 September: Letter from Collection House to client demanding payment.

13 September: Letter from CCLS to Bank A including a without prejudice offer, and noting issues with Collection House and Debt Collector X. Copies of this letter sent to ABIO and Collection House.

28 September: Letter from ALR Lawyers to client (at CCLS' address) advising that debt has been assigned by Bank A to Lion Finance Pty Ltd, and demanding payment of the debt.

Case Study 23

Ms L was a New South Wales resident who suffered from schizophrenia. She approached a Legal Aid lawyer for advice because a friend had stolen her driver's licence and used it to sign up to a Telco A mobile phone account.

The friend used her own address so that all correspondence was sent there. Ms L did not know about this until the friend gave her the $5,000 Statement of Claim, issued by ALR Lawyers, which had been served at the friend's house.

18 January 2000: Ms L's lawyer faxed a 4-page submission to ALR Lawyers in Melbourne.

15 February: Ms. L's lawyer called ALR Lawyers to chase up the letter and was given the name of the person handling it and left a message.

16 February: Ms. L's lawyer rang and spoke to the person whose name he'd been given. This person said that his Telco A work had been taken from him and given to someone else, who didn't know about it yet. He said they were waiting for a response from the police to confirm a fraud complaint had been made, so Ms L's lawyer sent a fax that day to ALR giving details of Ms L's contact with police.

28 February: Ms. L's lawyer received a fax from the original contact at ALR Lawyers saying they'd referred the fax to its client (Telco A) for consideration and instructions.

13 April: Ms. L's lawyer sent a fax to the original contact at ALR Lawyers with a letter from a police constable asking for the information which Ms. L's lawyer had already requested from ALR by way of further and better particulars.

1 May: Ms. L's lawyer sent a follow up fax asking for a response. The next day, he received a response from the original contact at ALR Lawyers saying they were still awaiting instructions from their client.

4 July: Ms. L's lawyer called the original contact at ALR Lawyers who wasn't there, so he spoke to the person who had apparently taken over the work back in February. He said the work was now being done out of the Brisbane office. Ms. L's lawyer left a message for the original contact.

Later that day he called the original contact and received the name of the Brisbane office contact who was now doing the work. Ms. L's lawyer called the Brisbane ALR Lawyers contact.

He was told ALR had restructured their computer system and it was 'down', so no information could be found about what's happening. He was asked to fax all previous correspondence, and told that the system would be up the next day and then they could see what was going on. He asked what would happen with the court proceedings issued in Melbourne if the Brisbane office was now handling the matter, and was told that if the contract was formed in Melbourne it would stay in the Melbourne court. In fact, the contract had been formed in Sydney. He said if he had no answer in a week he'd contact Telco A directly, and he confirmed this by fax.

10 July: Ms. L's lawyer called the Brisbane contact at ALR and left a message.

11 July: He called again and was told his fax had been received and enquiries of Telco A would be made, however the system was 'down' and no information could be obtained until after it was back up.

12 July: He again called and was told that ALR Lawyers had been taken over, causing the delay. His fax would be passed to Telco A and they'd get back to Ms. L. in a couple of weeks. He sent a fax to Telco A's general manager of credit in Melbourne. He asked that Telco A provide its instructions to ALR Lawyers to withdraw the legal proceedings as soon as possible. A copy of that letter was faxed to ALR Lawyers in Brisbane.

25 July: Ms. L's lawyer was called by a person at Telco A working in the office of the General Manager of credit. He was informed Telco A is now handling the matter, and that although it appeared to be a clear case more information was needed. He advised

that the matter had been withdrawn from ALR. He sent a fax to Telco A with the additional information as requested.

29 August: Ms. L's lawyer received a call from Telco A apologising for the delay caused by their inability to find the contract to assist in the case against the friend. They were satisfied it was a fraudulently connected service, Ms L. would not be pursued for the debt, and the agency would finalise the Court proceedings in Melbourne.

9 October: Ms L's solicitor left a message for the Telco A contract regarding the finalisation of the proceedings.

16 October, he sent a fax asking for a sealed copy of the Notice of Discontinuance and written confirmation of the decision not to pursue the client.

31 October: Ms L's solicitor received from Telco A, a faxed copy of a letter dated 7 September 2000 releasing Mrs. L. Telco A was still waiting on the Notice of Discontinuance from ALR Lawyers.

12 December: Ms L's solicitor called the contact at Telco A, who expressed surprise that he had not yet received the Notice of Discontinuance. Telco A agreed to call ALR Lawyers and see what was happening.

15 December: Ms L's lawyer received from Melbourne Magistrate's Court a copy of the Notice of Discontinuance which had been filed on 5 September 2000.

- *Legal Aid, NSW*

Case study 24

Mr J's solicitor asked someone at ALR Lawyers whether judgment had been entered against his client.

The person's reply was that '... there's something here that looks like judgment.' In fact, judgment had not been entered.

- *Consumer Lawyer, Queensland*

Case study 25

A number of consumers contacted caseworkers in relation to debts allegedly owing to Finance Co A that were being collected by Collections House or ALR Lawyers.

Many of these debts, which we believe were purchased from Finance Co A, were statute barred (see section 3.3) – and a significant number had actually been paid or settled.

Following advocacy by the consumers' representatives, the individual matters were eventually dropped. However, concerns about the handling of these debts were raised at the time with Finance Co A and ALR Lawyers.

Finance Co A responded that it '…did not assign any debt which had been finalised, was statute barred or was the subject of an undertaking … that the debt would not be pursued', and that '…any correspondence sent by Collections House or ALR Lawyers to debtors with accounts in this category was done by them in error'.

ALR Lawyers advised that, since the issue had been drawn to their attention, they had undertaken an audit of their files, and removed names where debts had been paid or settled. However, it is unclear how the personal details of consumers who did not owe a debt, came to be in the possession of a debt collector.

- *Consumer Credit Legal Service (Victoria)*

Case Study 26

Collection House contacted Mrs X in relation to a debt with Finance Co A.

Mrs. X offered to pay by instalments, but Collection House refused her offers, and insisted that she apply for a loan. Collection House referred her to a finance broker, and although a loan application was made it was refused.

Mrs. X claims that in a telephone conversation with Collection House, she was told:

"I can guarantee that they can go into your house, get all the whitegoods".

She says that she asked what this meant. The Collection House employee said that it meant that the Sheriff could take her fridge, microwave, TV, video, washing machine and car.

He said, "This can all be done before Christmas, so if you want a nice Christmas I suggest you do something about it now", and "Once we've taken all your stuff, it will take you two years to get over it, but eventually you will".

In Victoria, where Mrs. X lives, the Sheriff is prohibited from seizing household assets which are protected in Bankruptcy, and that Sheriff would be unlikely to seize any of Mrs. X's whitegoods.

Mrs. X obtained advice, and sent a written complaint to the Australian Competition and Consumer Commission and sent a copy to Collection House.

Mrs. X received a telephone call from ALR Lawyers in relation to her complaint. The person apologised for the conduct of the Collection House employee. However, when Mrs. X explained that she had received advice that the debt collectors could not arrange for the Sheriff to seize all her whitegoods, the ALR employee said "Oh yes we can".

- *Consumer Credit Legal Service, Victoria*