

# CONSUMER INTERACTION

ISSUE 1 OF 2012

To subscribe or unsubscribe, please email us at [info@consumeraction.org.au](mailto:info@consumeraction.org.au) with 'consumer interaction' in the subject line.

We're back to a full complement of staff after the holiday season and looking forward to an action packed 2012. On the policy front we'll continue our campaigns for greater consumer protections around payday lending and door-to-door sales. Stay tuned also for the launch of at least two new campaigns during the year. Our legal practice and recently expanded financial counselling team will continue to assist Victorian consumers while identifying systemic consumer problems that need to be addressed.

On the personnel front, we're pleased to have Jillian Williams, co-Director of Legal Practice, back from maternity leave. Jillian will be joined in the Director position by Tom Wilcox who has recently taken over the role from Celia Tikotin. We're pleased that Celia's extensive skills aren't lost to Consumer Action as she'll be continuing in a new position after a well earned break.

We also wish a temporary farewell to Senior Policy Officer and all-round energy expert Janine Rayner who is heading off on maternity leave. We wish her all the best over the coming months and look forward to her return in the second half of 2012.

## IN THIS EDITION...

1. [HOT TOPICS](#)
2. [WINS](#)
3. [POLICY AND CAMPAIGNS](#)
4. [STANDARDS](#)
5. [MONEY HELP](#)
6. [BULLS-EYE](#)
7. [CONSUMER ACTION IN THE MEDIA](#)

# 1. HOT TOPICS

## **Consumers the losers as competition tribunal sides with power companies – yet again**

Victorian households are staring down the barrel of yet another electricity price hike after the Australian Competition Tribunal overturned significant aspects of the Australian Energy Regulator's (AER) electricity distribution price ruling.

The decision will put further strain on households, many of which are still feeling the pinch of the 1 January price rise, and makes what is supposed to be an essential service look increasingly like a luxury. Consumer Action and the Consumer Utilities Advocacy Centre believe the decision continues the worrying trend of energy distribution companies successfully challenging a ruling from the independent AER, which had sought to limit the amount of costs distributors could pass onto households. Read our full media release [here](#).

## **Community lawyers claim The Cash Store's holiday marketing is irresponsible**

A pre Christmas advertisement from one of Australia's leading payday loan brokers, The Cash Store, has raised the ire of Consumer Action and the Murray Mallee Community Legal Service which fear the advert may have resulted in many Victorian's entering the New Year in a perilous financial position.

The flyer, delivered to households in the Mildura region, is a certificate that states the recipient is guaranteed a loan of 'at least four hundred dollars' and implies that the recipient has been pre-approved without any credit assessment—a practice which would fly in the face of responsible lending laws and undermine the payday lending industry's claims to be lending responsibly. Read our full media release [here](#) or view a copy of the flyer [here](#).

## **Consumer Affairs Victoria launches Energy Marketing campaign**

Householders have contacted Consumer Affairs Victoria with complaints and enquiries about the practices of salespeople representing some energy service providers, including the provision of alleged misleading information and the use of pressure sales tactics.

That's why CAV has launched a campaign to inform consumers of their rights when dealing with energy marketing salespeople – don't feel pressured to sign up unless you're comfortable with what's being offered and understand your obligations.

CAV's message is that if you're considering changing your energy service provider, always:

- read and understand documents before signing;
- take the time to consider if an agreement is right for you;
- shop around for the best deal; and

- Check with your current energy retailer whether cancellation fees apply for switching.

Consumers can also obtain a free Do Not Knock sticker from Consumer Action to protect themselves from unwanted door-to-door sales people. The website <http://www.donotknock.org.au> has all the information about the sticker and the Do Not Knock campaign.

The Victorian Government website [yourchoice.vic.gov.au](http://yourchoice.vic.gov.au) offers tips and tools for choosing an energy retailer and for more information and advice on dealing with door to door salespeople, contact Consumer Affairs Victoria on 1300 55 81 81 or visit [consumer.vic.gov.au/energy](http://consumer.vic.gov.au/energy).

## 2. Wins

### **eBay amends website after concerns were raised**

We're pleased to report that eBay has amended a number of pages on its website that provided what we believe was possibly misleading information about consumer rights.

In particular, we were concerned that eBay made statements saying that consumers don't have a right to return faulty goods when they are bought 'at auction'. In our view, this information could have made consumers and businesses think that consumer rights to return don't apply to sales on eBay, as many people consider eBay an 'auction site'. As far as we can see, eBay sales are not an 'auction' according to the definition in the Australian Consumer Law, and consumers who purchase items from businesses (as opposed to individuals) on eBay have the same rights shopping on eBay as they do anywhere else.

Initially eBay's response was fairly disappointing – it took around five months, a [media release](#) and a complaint to the ACCC before eBay gave us a substantive response to our inquiries. But it has since been more responsive - making the necessary amendments and offering to meet with us in future to discuss further queries we have about information on its website.

### **Motor car cooling off period enforced**

For many products, such as those sold door-to-door, property or motor vehicles, there is a cooling off period during which the consumer can change his or her mind about the purchase. But one of our recent cases demonstrated why clear written notification of a cooling off period should always be given at the time of purchase.

Our client had purchased a Toyota Camry from Motor Court Mornington. He wished to terminate the agreement and came to Consumer Action for advice. As he was still inside the three day cooling off period, a fax was swiftly sent to Motor Court on his behalf to terminate the agreement, but Motor Court came back suggesting that the vehicle was outside the

three day cooling off period. We subsequently reminded Motor Court that the legislation allows a cooling off period of three clear days not including the day of the contract or weekend days. Our client was refunded \$410 for the deposit he had paid.

## 3. POLICY AND CAMPAIGNS

### **Do Not Knock update**

Over 40,000 Do Not Knock stickers have now been distributed to consumers and campaign partners since the campaign was launched—the sticker is certainly popular with consumers!

Our campaign website [www.donotknock.org.au](http://www.donotknock.org.au) now features a step by step guide on how to run a Do Not Knock community meeting. The program developed by Victoria Legal Aid encourages Victorians to promote the sticker through their own networks. We hope this will lead to communities becoming increasingly active in the campaign.

The Do Not Knock website and campaign received another round of media attention on the back of the energy retailers releasing their self-regulatory code of conduct for door-to-door salespeople. While the industry code requires salespeople to avoid using high pressure selling tactics and to respect Do Not Knock signs, we're not convinced that it will greatly improve consumer outcomes in the sector.

While it might be a good start, the self-regulatory code doesn't address some key features of retail energy selling that inhibit good market outcomes. First, selling is largely done through outsourced, commission-based door-to-door sales representatives—meaning that sales agents have an inherent incentive to get a sale, whether or not it's in the interests of the consumer. Second, complex tariffs and confusing pricing structures mean that consumers are significantly constrained when attempting to understand an offer. Third, information to compare offers is hard to come by—it is certainly not available at the door.

If energy retailers want to improve selling conduct, they need to be fairly providing consumers with the information needed to make an effective decision. Providing information at a door-step, where it is almost impossible to consider other options, might lead to “churn” but it's not going to result in effective competition or cheaper electricity prices.

### **Your rights to return goods bought online—a scan of the return policies of online retailers in Australia**

In January 2011, the Australian Government introduced legal protections for consumers buying goods or services called ‘consumer guarantees’. Consumer Guarantees ensure that you can get a refund, replacement or another remedy if goods or services you buy are faulty, unsafe, or don't do what you reasonably expect them to do.

Consumer Action looked at the returns policies of 12 leading online businesses in December

2011 to find out if online retailers understood their obligations under the Consumer Guarantees and whether they reflect that understanding in the information they provide to consumers. What we found was pretty disappointing. In our assessment, only two of the 12 retailers we looked at had returns policies that were both compliant with the Consumer Guarantees and demonstrate good practice. Eight businesses, including some big names like Apple, Coles Online and Officeworks, had policies with many serious deficiencies. Read our findings [here](#).

***Note:** Since reviewing the policies in December 2011, some of these companies have said that they'll review or change their policies. Some of the problems we identify in this document may have already been addressed.*

## **End the Debt Trap: Committee's report shows responsible lending laws aren't enough to stop poor payday lending practices**

Late last year we welcomed the finding from a parliamentary committee of inquiry that Australia's responsible lending laws don't sufficiently protect consumers from harmful payday loans. However, we were disappointed the inquiry hasn't supported a cap on the cost of credit.

The Joint Parliamentary Committee examining the Consumer Credit and Corporations Legislation Amendment (Enhancements) Bill 2011 recognised that responsible lending laws, on their own, were not enough to protect borrowers from harm involved with high cost, short-term loans. This finding echoes our concern that responsible lending laws are ill-suited to address unsafe products, such as payday loans.

The committee said that 'the very nature of a small amount short-term loan indicates that the loans are being sought to address financial difficulty' and that additional measures are required to complement responsible lending obligations. We agree—in most cases, a high-cost short-term loan does not address financial difficulties, but only exacerbates them further.

We're now calling on the Government to stay firm on its proposals, which will increase consumer protection in the payday lending industry, and urging it to remain strong in the face of strong lobbying from vested interests.

## **4. STANDARDS**

### **Bioenergy and sustainability**

The Clean Energy Council reports that Bioenergy is a type of renewable power generation technology that efficiently extracts considerable quantities of clean, low-emission electricity from sources such as agricultural crop wastes, plantation wood waste, urban garden and food waste, sugar cane residues (known as bagasse), sewage and animal wastes. Bioenergy can be stored and controlled and creates little or no greenhouse gas emissions.

Virtually every country in the world produces and consumes some form of bioenergy.

Sustainability credentials for bioenergy are now seen as a necessity. The Consumers' Federation of Australia (CFA) has appointed a representative, Tracey Colley, to the new Standards Australia Technical Committee EV-020 Sustainability Criteria for bioenergy. This committee will participate in developing the [ISO](#) standard *Sustainability criteria* for bioenergy which will provide a framework for considering the environmental, social and economic aspects of bioenergy that could be used for production, supply chain and application. More information on bioenergy can be found on the [Rural Industries Research and Development Corporation](#) and the [Bioenergy Australia](#) websites.

For more information [about the Standards Project](#) or [CFA's Standards Representatives](#) (including how to get involved) please contact the CFA's Standards Coordinator [standards@consumeraction.org.au](mailto:standards@consumeraction.org.au).

## 5. MONEYHELP

We're pleased to announce that we've expanded our MoneyHelp team with the addition of another 2 day a week financial counsellor - welcome Janet! We have also employed two part-time intake workers to streamline the extra queries coming in via telephone and email to the MoneyHelp service - welcome Felicity and Tegan.

The financial counsellors answered 2,160 telephone calls in the last 3 months (1 November to 27 January) and many more people were assisted through the MoneyHelp website with the website receiving about 21,018 hits last month.

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

**Victorians who are in financial stress can contact MoneyHelp for information, phone financial counselling and/or referral.**

Contact MoneyHelp on 1800 007 007 or visit [www.moneyhelp.org.au](http://www.moneyhelp.org.au) for more information

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

### **Testing the scope of Victoria's new 'prohibited debt collection practices'**

The Consumer Action Law Centre is helping two clients pursue legal cases against debt collection agencies in the Victorian Civil Administrative Tribunal. Both cases will test [section 93M\(2\)\(m\) of the Fair Trading Act 1999 \(Vic\)](#) which, in summary, requires debt collectors to stop contacting a debtor once it is asked in writing to do so, unless the contact is by way of legal action or a genuine threat of legal action.

New debt collection laws which commenced last year, provide that debt collectors and creditors can be ordered to pay up to \$10,000 to consumers who experience humiliation or distress as a result of a course of prohibited debt collection practices ([section 93N of the Fair Trading Act 1999 \(Vic\)](#)).

The clause being considered in our VCAT action is intended to have the effect of protecting consumers from persistent contact by debt collectors and creditors where ongoing contact is being used as the primary—or only—means of collection. We hope to establish it does.

The legal system provides an appropriate method to recover debts, that is, through the courts. In our experience, however, some collectors or creditors have no intention of taking legal action because:

- the relevant debtor has so few assets and so little income that while a Court may record a judgment, it could not make an order requiring them to make payments toward the debt, or seizure of assets by the Sheriff would be unlikely; or
- the relevant debtor has a reasonable prospect of defending any proceedings.

It is important that the most disadvantaged debtors who simply cannot pay their debts, and those consumers who honestly contest debts, are protected from persistent and badgering contact by creditors and debt collectors, and can require the collector or creditor to use the legal system.

### **Unsolicited agreements**

The Australian Consumer Law was recently amended to allow salespeople to supply goods sold door-to-door and worth less than \$500 before the cooling-off period has expired (previously, the Law said that goods couldn't be provided until after the cooling off period had expired).

We're concerned about this change because behavioural economics research suggests that consumers may be unlikely to exercise cooling off periods if they have received goods and made payment. According to a report by [Consumer Action and Deakin University](#), this is because 'it requires cognitive effort for the consumer to initiate the withdrawal, resulting in a rejection of previous choices, and high ego costs.'

We'll be closely monitoring the amended law. Another approach that we think is worth considering involves a consumer 'opting in' to an unsolicited agreement, subsequent to the initial contact by the trader. This would have the same purpose as the cooling-off protection—to give the consumer an opportunity to reconsider their purchasing decision. A consumer could opt-in after a designated period (without further contact or inducements from the trader) to consider their purchase, which could be as short as 24 hours. This would benefit traders in comparison with the current arrangement, as they could provide the goods and services and receive payment within a much shorter period of time.

## 7. CONSUMER ACTION IN THE MEDIA

### **Power complaints soar as price rise looms**

Geelong Advertiser, 25 January 2012, Anthea Cannon

### **Electricity giants win right to sting Victorians again**

Herald Sun, 20 January 2012, Karen Collier

### **Anger as energy firms bump up prices again**

Mozo, 20 January 2012

### **Consumers allege harassment by debt collectors**

Banking Day, 19 January 2012, John Kavanagh

### **Women claim they were illegally harassed by debt collectors**

Herald Sun, 18 January 2012, Michelle Ainsworth

### **Collectors calling**

Today Tonight, 17 January 17, 2012, Tineka Everaardt

### **Driver expects a boom in MSAC fines**

Port Phillip Leader, 17 January 2012, Sally Spalding

### **The gift that stops giving**

The Sydney Morning Herald, 18 January 2012, John Collett

### **Doorknockers abused, stabbed, threatened with baseball bats**

Herald Sun, 18 January 2012, Karen Collier

### **No sign of savings with electricity meters plagued by problems**

Herald Sun, 14 January 2012, Carly Crawford and Karen Collier

### **Taxi Ombudsman**

The Age, 12 January 2012, Gerard Brody

### **Fury at \$1900 parking bill**

Herald Sun, 10 January 2012, Wes Hosking

### **Families slugged again for power bills**

Herald Sun, 10 January 2012, Karen Collier

### **Commission laws will kill timeshare, says industry**



The Age, 9 January 2012, Ruth Williams

**How to get rid of Debt**

ABC Radio, 7 January 2012, Hilary Harper

**Retailers flout refund laws**

The Age, 1 January 2012, Deborah Gough

**Banks rush to raise credit card limits ahead of tougher solicitation rules**

The Age, 1 January 2012, Stephen Cauchi

**Consumer advocates want cap on payday lenders**

ABC Radio AM, 22 December 2011, Simon Lauder

**Warranties remain a bugbear**

Sydney Morning Herald, 14 December 2011, Lesley Parker

**Government told to explain benefits of smart meters**

ABC News, 14 December 2011

**Banks' credit card play tests the limits**

Australian Financial Review, 13 December 2011, Matthew Drummond

**Gift voucher black hole**

Today Tonight, 12 December 2011, Jonathan Creek