

1974-75

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VICTORIA

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CONSUMER AFFAIRS COUNCIL  
OF VICTORIA

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REPORT

FOR THE YEAR ENDED 30<sup>TH</sup> JUNE, 1975

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PRESENTED TO BOTH HOUSES OF PARLIAMENT PURSUANT TO THE PROVISIONS OF SECTION 7 (2)  
OF THE CONSUMER AFFAIRS ACT 1972.

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*By Authority:*

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INTRODUCTION

In accordance with the Consumer Affairs Act 1972, Section 7, the Consumer Affairs Council of Victoria has much pleasure in presenting this report concerning the activities of the Council for the year ended the 30th June, 1975, to the Honorable the Minister of Consumer Affairs for tabling before both Houses of Parliament.

In past years, the Council's report covered much of the work of the Consumer Protection Bureau, in addition to its own formal activities, as there is such a close inter-relationship between the two bodies, and virtually all of the matters reported upon involved both bodies to some extent.

However, the Ministry of Consumer Affairs Act 1973 now requires the Director of Consumer Affairs to submit to the Minister of Consumer Affairs a report on the working of that Act during the year ending 30th June, and this report by the Consumer Affairs Council therefore will no longer concern those matters dealt with by the Bureau which are now appropriately included in the Director's report. As much of the previously included factual data and statistical information is now included in the Director's report, the two reports should be regarded as complementary.

The Council was pleased with the prompt response and support by the Minister to the Council's recommendations in its 1974 report regarding the inadequate level of staffing of the Consumer Affairs Bureau. It recognizes that a certain amount of time must elapse in the administrative processes involved before additional personnel becomes available on the ground. It must be emphasized however that the Council cannot be fully effective without adequate research support from the Bureau.

The Council acknowledges the additional legislative provisions enacted by the Government on consumer affairs matters during 1974-75, as representing yet another step in giving protection to consumers. It is disappointed however that no action has been taken on many of its recommendations, some of which were originated some years ago. Whilst accepting the wisdom of carrying out careful research before enacting legislation, it would like to see more progress in bringing recommendations of the Council to a final conclusion.

Two sections of the report deserve special mention in this introduction to the report viz consumer education and consumer credit. In the opinion of the Council, the development and application of a comprehensive programme of consumer education is of the utmost importance, and the Council would like to see a high priority given to this project. On consumer credit, the social and economic impact of the deficiencies in present legislation in this area is so great that urgent action is necessary to finalize and introduce the legislation required to implement the recommendations of the Molomby Committee.

Finally the Council would like to express its sincere thanks for the dedicated support given to the Council by the staff of the Ministry of Consumer Affairs, particularly the newly appointed Director of Consumer Affairs, and for the co-operation willingly extended to it by government departments, various business associations and particular firms whenever their advice was sought by the Council.

SECTION I  
SUMMARY OF RECOMMENDATIONS INCORPORATED IN  
THE CURRENT REPORT

1. That section 7 (1) of the Consumer Affairs Act 1974 be amended to read the same way as Section 4 1 (d) of the now superseded Consumer Protection Act 1964.  
Reference Page No. .12..
2. That the Government allot sufficient funds to expand the staff and activities of the Ministry to ensure that a comprehensive consumer education programme can be developed and implemented in the State which pioneered Consumer Protection in Australia.  
Reference Page No. .15..
3. That all contracts be amalgamated with one single and uniform form of credit contract.  
Reference Page No. .16..
4. That where there is some commercial link between a supplier of goods and the financier, the financier should incur some liability for the quality of the goods they are financing and should be required to take an interest in the representations made by the supplier in relation to the finance contract. Reference Page No. .16..
5. That uniform disclosure of interest rates should be introduced to enable credit users to make comparative studies of the cost of credit.  
Reference Page No. .16..
6. That the programme of Consumer Education in the use and extension of credit, especially in reference to low income earners, should be increased and sufficient funds for such a programme should be released.  
Reference Page No. .17..
7. That there should be control over re-possession, especially in relation to the market value of the goods repossessed.  
Reference Page No. .17..
8. That a debt management scheme for over-committed debtors who need assistance to regain control over their financial affairs and advice on budgetting and debt consolidation, should be incorporated into the functions of the Ministry of Consumer Affairs.  
Reference Page No. .17..
9. That there should be a minimum deposit which should be related to the purchase price on all items purchased on credit.  
Reference Page No. .17..

10. That if there is any doubt in respect to rights of the Ministry as regards professional services then appropriate amendments should be made to Victorian legislation. The attention of the Government is drawn to the definition of "services" contained in the Trade Practices Act 1974.  
Reference Page No. **..18..**
11. That when the following consumer standards are issued by the Standards Association of Australia, their use be made mandatory both by the manufacturers and traders, in the State of Victoria:-  
Children's Toys and Playthings (Safety Requirements)  
Size Labelling of Garments  
Flammability of Garments (other than Children's Night Clothing which is already covered by legislation)  
Care Labelling of Garments and Textiles  
Guard Coverings for Heaters  
Performance Testing of Child Resistant Closures for Therapeutic Substances  
Fences and Gates for Swimming Pools  
Ceramic Ware  
Reference Page No. **..20..**
12. That sufficient funds be allocated in future Departmental estimates to allow Council Members to attend selected interstate meetings of the Standards Association of Australia.  
Reference Page No. **..20..**
13. That the words "fruit" and "juice" should be prohibited from the labels of all drinks except for those drinks that are the undiluted liquid portion of fruit.  
Reference Page No. **..23..**
14. That the Government of Victoria take the lead in pressing for more progress on the national level where action can only be taken on a national basis.  
Reference Page No. **..24..**
15. That the Health Department take unilateral action in the State of Victoria in those cases when national agreement is not essential because of the nature of, and marketing method applicable to, particular commodities.  
Reference Page No. **..24..**
16. That funeral directors be required to submit quotes based on the cost incurred in carrying out the particular services required under State Government Contracts and that representations be made to the Treasurer for the enforcement of this requirement in order to eliminate the practice of issuing contracts at "Nil" cost.

17. That the Hospital and Charities Commission consider the introduction of regulations requiring all hospitals that care for terminal patients to have adequate mortuary facilities.
18. That there is an urgent need for most funeral directors to expand the amount of information available to the public in general.
19. That as a matter of urgency the Ministry of Consumer Affairs issue a pamphlet dealing with the arrangement of funerals.
20. That the Minister for Health be informed of the Council's concern with the regularity of increases in fees charged by Cemetery Trusts.
21. That the Attorney General be advised that the facilities for the storage of unidentified bodies at the Melbourne Coroner's Court are totally unsatisfactory and there is an immediate need for the rectification of this situation.
22. That the Premier be requested to make representations to the Federal Government for an immediate review of Federal benefits associated with funerals.
23. That the Treasurer be requested to undertake an immediate review of the current State probate duty benefit associated with funerals.
24. That insurance policies assigned to funeral directors as prepayment for a future funeral should be held in trust and governed by trust law.  
Reference Page No. 28-29
25. That a registration scheme be established to control the operations of all insurance brokers and insurance consultants as soon as possible.  
Reference Page No. .30.
26. That there should be legislative requirements for a trader to disclose the fact whenever he is acting as an agent for an insurance or finance company.  
Reference Page No. .30..

SECTION IICOMMENTS ON RECOMMENDATIONS IN PREVIOUS REPORTS  
NOT DEALT WITH IN PRESENT REPORT

In this section, the Council reviews the recommendations made in previous reports, which are not dealt with in the body of this report.

RECOMMENDATIONS ON WHICH ACTION HAS BEEN INITIATED

1. That the services of a legal officer should be available.
2. That a national conference of Commonwealth and State Ministers and Officers, and representatives of the main consumer groups in Australia, be convened as soon as possible, with a view to achieving a rational allocation of work and co-ordination between the Commonwealth and the States, and to establish the machinery for future continuous joint consultation and co-ordination.
3. That substantial and immediate increase in the staff with special emphasis on the research capabilities of the Bureau be approved.
11. That the Consumer Protection Act be amended in such a way as to make it obligatory for companies, firms or organisations to reply to any correspondence of the Ministry of Consumer Affairs.
12. That whenever a specific Motor Car is advertised the registration number of the Motor Car is to be shown in the advertisement in a distinct manner.
13. That legislation be passed requiring the year-model (the date of first registration) of the car to be shown on every document issued at the time of sale.
42. That annual conferences of representatives of Government Consumer Bodies of all States and Territories be held.

RECOMMENDATIONS ON WHICH NO ACTION HAS BEEN INITIATED

5. That the Corporate Affairs Office should refuse to register company's or business names whenever such names confuse or mislead consumers or are obviously designed so to do or are designed to conceal for the purpose of confusing or misleading consumers the real identity of the beneficial owners of the business or company being registered.
6. That the Postmaster General's Department should not accept such advertisements and greater care should be exercised in respect of advertisements inserted by service firms.
7. That legislation should be introduced to outlaw all Chain Letter schemes in Victoria.



8. That the Consumer Protection Act should be amended to cover all door to door transactions irrespective to whether they are subject to a credit purchase agreement or not, whether or not the transactions are on a cash payment basis and whether or not they are initiated by the vendor or purchaser.
9. That firms engaged in door to door selling activities should be licensed.
10. That the Government examines the matter of regulating debt collection in Victoria with the object of introducing legislation to control such activities.
14. That there should be legislative requirements for a trader to disclose the fact whenever he is acting as an agent for an insurance or finance company.
18. That the Government examine the practicability of establishing standards for any organically or biodynamically grown produce, as well as an efficient policing method to enforce those standards and any claims that the food is of special benefit to the consumer's health.
22. That a register of authorised servicemen who are competent to repair colour television sets be prepared for the guidance of consumers.
23. That only portable fire extinguishers which had received approval of the Chief Fire Officer be distributed or sold, placed on display for sale or marketed in any manner whatsoever.
25. That further consideration be given to the dangers of unenclosed swimming pools by the appropriate authorities.
27. That Aerosol cans containing liquids which are dangerous to humans should be properly labelled with warnings as well as with an appropriate and uniform colour code.
28. That controls similar to those which apply to solicitors' trust funds and presumably similar to those which are envisaged for travel agencies should be extended to all groups, professional or otherwise, holding funds in trust on behalf of clients.
31. That the activities of all mutual home loan fund schemes be rigidly controlled by the Government in the State of Victoria.
33. That legislation be introduced to regulate the payment and refunds of rental bonds.

The Council reaffirms these recommendations.

## SECTION III

OBJECTIVES OF THE COUNCIL

Consequent upon the creation of the Ministry of Consumer Affairs, including the appointment of a Director of Consumer Affairs and the establishment of the Small Claims Tribunal, the previously stated objectives of the Council have been reviewed. Having regard to the functions of the Council as outlined in Section 6 of the Consumer Affairs Act 1972, the objectives of the Council are now more appropriately stated as :-

- a. To review sales, service and other business practices to determine whether they are, in part or whole, contrary to the interests of consumers.
- b. To consult with consumer groups and to receive representations from them in respect to matters affecting the interests of consumers.
- c. To consult with individual businesses, business organisations and associations, government departments and statutory bodies, with a view to eliminating, minimising or clarifying consumer problem areas.
- d. To advise the Minister of Consumer Affairs where new or amended legislation appears to be necessary in the interests of consumers.
- e. To inform the Minister of Consumers Affairs of business practices which appear to the Council to be undesirable or unethical.
- f. To assist in the formulation of consumer product and information standards.
- g. To assist in the consumer education programme.

The Council re-affirms its view that the community should not rely wholly on the Government to regulate dealings between the consumer and the business sector, and that wherever possible, the business sector should regulate its own affairs by the observance of voluntary codes of ethics and standards. Equally however the business sector must recognize that when it fails to provide ethical standards, despite being within the letter of the law, that consideration will be given by the Council to making recommendations to the Government to introduce appropriate legislation. The Council also recognizes that in some business circumstances self regulation may place an unfair burden competitively upon individual firms.

The Council must again state that it cannot properly fulfil its functions without the backing of strong research

capability within the Consumer Affairs Bureau, and it hopes that the additional staff being provided for the Bureau will help considerably in this regard.

The Council is still concerned that it is unable to report to Parliament upon some particular unethical practices other than in its Annual Report. Cases have occurred during the year which warranted immediate publicity, and the Council acknowledges that the Minister of Consumer Affairs readily issued a general press release on the particular subject. In the view of the Council however such press releases cannot have the impact of a detailed report by the Council to the Minister for presentation to the Parliament. The Council believes that Section 7(1) of the Consumer Affairs Act 1972 should be amended to read in the same way as Section 4, 1(d) of the Consumer Protection Act 1964 because of the possible need to report more frequently than once a year and because of the greater flexibility which the original wording afforded the Council.

#### RECOMMENDATION

That Section 7(1) of the Consumer Affairs Act 1972 be amended to read in the same way as Section 4, 1(d) of the now superseded Consumer Protection Act 1964.

## SECTION IV

CONSUMER LEGISLATION

The report by the Director of Consumer Affairs for the year ending 30th June, 1975, will outline the changes in consumer legislation which occurred during the current year. The Council acknowledges that these changes represent a recognition of the need to review and amend existing legislation in the light of changing social needs, of the discovery of loop-holes in the legislation, and of the exposure of new or changed business practices which can only be brought under control by new legislative measures.

The Council reiterates its disappointment that little action appears to have been taken on many of the recommendations made in its previous reports as clearly demonstrated in Section II of this report.

## SECTION V

CONSUMER EDUCATION

In the final analysis, probably the most important activity of the Ministry of Consumer Affairs should be Consumer Education, embracing:

- i the education of children (the future consumers)
- ii the education of adult consumers
- iii the education of traders and other business personnel

Some effort is being made towards meeting the first requirement, but it is hoped that further development in this area will be possible when additional staff are appointed to the Consumer Affairs Bureau.

As regards the latter two requirements, the Council believes that in order to establish the best means by which the public can be informed as to its rights and obligations in this field, a comprehensive study needs to be undertaken by the Ministry of Consumer Affairs. The study should take account of the many and diverse avenues of communication available to spread the message, with a view to utilising the most advantageous means for a particular message or audience.

Throughout the year, members of the Council and the Bureau have accepted a large number of invitations as guest speakers from schools, mothers clubs, church groups, service clubs and many other similar bodies. The Council was also associated with some of the inaugural meetings of the Ministry with the regional consumer groups, which will be reported upon in the report by the Director of Consumer Affairs.

Regrettably however, staff shortages in the Bureau have precluded any real progress being made in this most important area of consumer education. It has not been possible to develop the comprehensive programme of consumer education which is so necessary if we are to advance this cause.

It is indeed extraordinary that there is not a single person available in the Bureau to carry out this important work.

One of the consequences of this situation is that Victoria alone of all the States has failed to produce a single publication in this area. There are constant requests for literature and relevant material from both teachers and students of this field of education which the Ministry cannot satisfy.

The Council recognizes that the implementation of a programme of the nature envisaged by it will require the allotment of resources, both of staff and money, but it believes that the importance of this activity necessitates a high priority being given to it.

Following representations by the Council, the Minister of Consumer Affairs has assured the Council that further work in this field will be undertaken when additional staff have been engaged in the Consumer Affairs Bureau.

#### RECOMMENDATION

That the Government allot sufficient funds to expand the staff and activities of the Ministry to ensure that a comprehensive consumer educational programme can be developed and implemented in the State which pioneered Consumer Protection in Australia.

SECTION VICONSUMER CREDIT

In its Annual Report for the year ending 30th June, 1974, the Council expressed its disappointment that no action had been taken to bring into final legislative form the recommendations contained in the "Report on Fair Consumer Credit Laws", a report known as the Molomby Report.

The Council has noted that the South Australian Government has acted unilaterally in the field by the promulgation of two Acts, - the Consumer Credit Act 1972 - 1973 and the Consumer Transaction Act 1972 - 1973.

The Council understands from press reports that a draft model Bill on this subject has been prepared by the Victorian Attorney General for presentation to the Standing Committee of Commonwealth and State Attorneys General.

The Council urges the Government of the State of Victoria to expedite this legislation, as the longer it delays, the longer will the consumers in the State of Victoria not enjoy the benefits which will flow from the introduction of legislation on this subject.

As it is highly probable that the Consumer Affairs Council will not be given the opportunity to comment on this important piece of legislation prior to its presentation to Parliament, the Council reiterates the recommendations which it made in its 1974 report.

RECOMMENDATIONS

1. That all contracts be amalgamated into one single and uniform form of credit contract.
2. That where there is some commercial link between a supplier of goods and the financier, the financier should incur some liability for the quality of goods they are financing and should be required to take an interest in the representations made by the supplier in relation to the finance contract.
3. That uniform disclosure of interest rates should be introduced to enable credit users to make comparative studies of the cost of credit.

4. That the programme of Consumer Education in the use and extension of credit, especially in reference to the low income earners, should be increased and sufficient funds for such a programme should be released.
5. That there should be control over re-possession, especially in relation to the market value of the goods re-possessed.
6. That a debt management scheme for over committed debtors who need assistance to regain control over their financial affairs and advice on budgeting and debt consolidation, should be incorporated into the functions of the Ministry of Consumer Affairs.
7. That there should be a minimum deposit which should be related to the purchase price, on all items purchased on credit.



## SECTION VII

PROFESSIONAL SERVICES

Almost from the time of its inception, the Consumer Affairs Bureau has received complaints on a fairly regular basis about aspects of the service rendered by persons recognized as professionals.

The staff of the Bureau handled these complaints, as they would any other complaint, and it can probably be fairly said that they achieved the same degree of success with resolution of these complaints as with any other class of business. During the year ending 30th June 1975 complaints in this category totalled fifty two. During the year, as the right of the Bureau to handle these complaints had been questioned, the views of the Council were sought on this matter.

The Council unanimously took the view that complaints about professional services should be treated in a similar manner to complaints about other forms of service rendered to the public.

In this connection the Council noted that all States with the exception of Queensland and Victoria did explicitly include professional services within the scope of their legislation, and that the definition of "services" in the Federal Trade Practices Act also included a similar provision.

RECOMMENDATION

That, if there is any doubt in respect to the rights of the Ministry as regards professional services then appropriate amendments should be made to the Victorian legislation. The attention of the Government is drawn to the definition of "services" contained in the Trade Practices Act 1974.

## SECTION VIII

CONSUMER STANDARDS FOR GOODS AND SERVICES

The Consumer Affairs Council of Victoria has always taken a keen interest in the development of consumer standards by the Standards Association of Australia, and for many years has been on the distribution list for comments on draft standards. Whenever possible the Council has provided a member for sub-committees dealing with the development of particular standards of significance to consumers; but unfortunately, there are no funds available to allow their attendance at any interstate meetings. Council is therefore deprived of continuity of its representation and consultation in this important activity.

The Council strongly supports the development of Standards for consumer goods and services, in the belief that many products which come onto the market are inherently poorly designed and the consumer is immediately disadvantaged despite any warranties/guarantees which may apply. In some cases also major safety factors are involved.

It is important for the public to realise that, except where specifically required by law, there is no obligation on manufacturers or traders to ensure that goods which they are manufacturing or marketing comply with an S.A.A. standard even when such a standard exists for that particular commodity or class. The Council is of the opinion that whenever standards are issued by the Standards Association of Australia, which have a bearing on the safety of consumers, then their use should be made mandatory by regulations under Part iv of the Consumer Affairs Act 1972.

In its 1974 report, the Council recommended that standards covering the following goods or services should be made mandatory when they had been approved and issued by the Standards Association of Australia:-

- Children's Toys and Play Things (Safety Requirements)
- Size Labelling of Garments
- Flammability of Garments (other than Children's night clothing which is already covered by legislation)
- Care Labelling of Garments and Textiles
- Guard Coverings for Heaters

The Council re-affirms those recommendations and in addition now recommends that standards for the following goods, which were the subject of examination by the Council during the year, should be made mandatory when they have been approved and issued by the Standards Association of Australia:-

Performance Testing of Child Resistant Closures  
for Therapeutic Substances  
Fences and Gates for Swimming Pools  
Ceramic Ware

Finally the Council welcomes the fact that the Director of Consumer Affairs has become a member of the Consumers Standards Advisory Committee, as a result of which, the Victorian Ministry of Consumer Affairs now has a voice in the development and progressing of the programme of work being undertaken on consumer standards.

#### RECOMMENDATION

That when the following consumer standards are issued by the Standards Association of Australia, their use be made mandatory, both by the manufacturers and traders, in the State of Victoria:-

Children's Toys and Play Things (Safety Requirements)  
Size Labelling of Garments  
Flammability of Garments (other than Children's  
Night Clothing which is already covered by legislation).  
Care Labelling of Garments and Textiles  
Guard Coverings for Heaters  
Performance Testing of Child Resistant Closures for  
Therapeutic Substances  
Fences and Gates for Swimming Pools  
Ceramic Ware

That sufficient funds be allocated in future Departmental estimates to allow Council Members to attend selected interstate meetings of the Standards Association of Australia.

SECTION IX.FURNITURE REMOVALS AND STORAGE

In its 1974 report, the Council gave details of the nature of difficulties being experienced by consumers in their dealings with removalists, and made the observation that there was a definite need for the Industry to regulate its transactions, even to the point of designing a common set of rules of ethical conduct in relation to consumers. The report went on to say that the Council hoped the Industry would undertake such steps in the near future, and that failing this, some Government action in regulating such transactions would be justified.

During this year the Council studied in particular the form of contract used by several of the larger removalist companies, and concluded that it was heavily biased against consumers. At about the same time the Council was informed that the Removalist Division of the Road Transport Association was in the process of revising this Standard Contract Form and would make the draft available to the Council when they had completed its revision. To date this revised draft contract has not been sighted by the Council.

The Council will continue to pursue this question with a view to ensuring that a more equitable form of contract is developed for use between consumers and the removal industry.

SECTION X  
HEALTH AND NUTRITION

As previously mentioned the Council is most reluctant to enter into the area of nutritional values of food because of the specialised knowledge and professional experience required before any opinion can be offered on this topic.

There were however certain matters within this generic heading, which were the subject of consideration by the Council during the year, in relation to specific consumer problem areas and these are reported upon in succeeding paragraphs.

A. FRUIT JUICES AND DRINKS

The Council has for some time now been concerned that consumers have been confused over the various types of fruit beverages being offered for sale. In an earlier report, the Council drew attention to the requirements under the Health Act in respect to these products in the following terms:-

"The requirements under the Health Act in relation to fruit juices and drinks prescribe, amongst other things, that the word "Juice" can only be used to describe a product which is the undiluted liquid portion of fruit. It is permissible for "Juice" to contain added sugar, vitamins, minerals and preservatives, but if more than 4 per cent sugar is present, it must bear the word "sweetened". Fruit cordials and syrups are required to contain at least 20 per cent of juice and fruit drinks must contain at least 5 per cent juice except in the case of passionfruit drinks when the minimum is 3.5 per cent".

In its 1974 Report, the Council recommended, in order to eliminate the confusion faced by consumers, that the words "fruit" and "juice" should be prohibited from the labels of all drinks, except for those drinks that are the undiluted liquid portion of fruit.

The Council has recently been informed that the National Health and Medical Research Council has recommended that a standard for "fruit juice drinks" be adopted which would provide inter alia that:-

"Fruit Juice drink is a drink, carbonated or not, which contains not less than:-

- i 25% of black currant juice or lemon juice, or
- ii 50% of pineapple, pear or apple or mixtures of pineapple, pear or apple, or
- iii 35% of all other fruit not named in i or ii or mixtures of fruit not named in ii.

Whilst the Council acknowledges that this standard may set higher levels of the fruit juice content in drinks, described as fruit juice drinks, it remains concerned that consumers will continue to be misled and confused by the labelling and marketing of these products in what is in reality a basically deceptive way. It reaffirms the recommendation made in its 1974 report.

#### RECOMMENDATION

That the words "fruit" and "juice" should be prohibited from the labels of all drinks except for those drinks that are the undiluted liquid portion of fruit.

#### B. DATING OF PERISHABLE FOODS

The Council wishes to express its great concern at the lack of progress in this important area of consumer interest. The Council is aware of the fact that work is being undertaken on this matter both on an international and national level, but it feels that perhaps the difficulties inherent in trying to reach national and in some cases international agreement in some areas is preventing even limited progress being made. However, the Council believes that this is a misplaced emphasis in view of the fact that the foods are perishable originating for the most part within State Boundaries.

The Council recognises that it is a most complex subject, but many national and state governments throughout the world have found it possible to introduce legislation regarding particular commodities to the benefit of consumers protected by that particular national/state legislature.

The Council further recognises that the responsibility for formulating recommendations for uniform food standards for adoption under State legislation rests with the Food Standards Committee of the National Health and Medical Research Council, but it recommends that the Government of Victoria

take the lead in pressing for more progress on the national level, where action can only be taken on a national basis, and secondly that the Health Department take unilateral action in the State of Victoria, in those cases when national agreement is not essential because of the nature of, and marketing method applicable to particular commodities.

RECOMMENDATION

That the Government of Victoria take the lead in pressing for more progress on the national level where action can only be taken on a national basis.

That the Health Department take unilateral action in the State of Victoria, in those cases when national agreement is not essential because of the nature of, and marketing method applicable to particular commodities.

SECTION XIADVERTISING.

For many years, the Council has been concerned at the contents of advertisements in many areas of business through each form of communication. In some cases, legal action was taken by the Consumer Affairs Bureau; in others, discussions with offending parties lead to a withdrawal or change in the offending material; but the greatest number undoubtedly fell in the "grey area".

The Council's concern with the apparent frequent departures from accepted standards of advertising was reflected in its recommendation in its two previous reports that an Advertising Justification Tribunal be established in the State of Victoria.

It acknowledged in these reports the relatively recent establishment of the Australian Advertising Standards Advisory Authority. Whilst the Council has had no direct contact with this authority, the Council has noted with interest the First Report of the Authority and accepts that it is probably too early to form a judgement on the efficiency of this body.

The Council has also noted the guide-lines on advertising recently issued by the Trade Practices Commission. It is conscious that there is an important area for State legislation in this field, bearing in mind that there are significant constitutional limitations on the powers of the Commonwealth.

The Council is now of the opinion that it should await the outcome of the effect on the advertising industry and its users, of the guidelines issued by the Trade Practices Commission and of the impact which the A.A.S.A.A. will have on these same people, before re-affirming its previous recommendation.



SECTION XIIFUNERALS.

Arising from a complaint received from a former social worker the Minister requested the Council to carry out an investigation into the activities of funeral directors.

In view of the findings of an earlier N.S.W. enquiry into the funeral industry which concluded, inter alia, that price control in the industry would be impracticable; that the application of price control in South Australia in respect to funerals was extremely limited; as government policy in Victoria is firmly against the introduction of price control, the Council sought and received from the Minister, agreement that the enquiry should not concern itself with enquiring into the prices charged by individual funeral directors, with the objective of determining the justification of these prices. Such a requirement would have necessitated an extensive investigation into industry costs, structure, ownership etc., before any meaningful conclusions could be reached on the prices charged by individual members of the industry.

After a lengthy investigation by a Sub-Committee of the Council to which Mrs. J. Fleming, M.B.E., Secretary of the Combined Pensioners Association and a former Member of the Council, was co-opted, the Council endorsed the following conclusions of its Sub-Committee:-

1. The Sub-Committee believes that most of the allegations made at the commencement of the investigation were totally unfounded.
2. There is an apparent reluctance by people to plan for their inevitable death and hence a widespread ignorance of the arrangements which must be made when this event occurs. There is nonetheless concern in the minds of many people, more especially pensioners, about this subject. Some funeral directors have prepared brochures which are available to members of the public giving them helpful advice on preparing for a death in the family and on the arrangement of funerals.
3. There is like-wise a lack of understanding by the public on the elements of cost which make up the total charge for a funeral.

4. The practice of the State Tender Board issuing contracts to funeral directors for the carrying out of particular services associated with funerals at "Nil" cost is viewed with concern by the sub-committee, as the costs involved in carrying out these services must obviously be subsidised by all private funerals.
5. There is a need for all hospitals and old peoples' homes caring for terminal patients to have proper mortuary or refrigeration facilities as it may help to lessen the practice of "kick backs" or "spotter fees".
6. The sub-committee has noted the trend over the last few years towards merger by take-over and/or amalgamation, but believes that with the enforcement of the provisions of the Trade Practices Act 1974 relating to mergers this trend will not be able to reach such proportions as to substantially lessen competition within the industry.
7. It appears to be more than coincidental that the V.F.D.A. have made substantial variations to their rules, in all cases to the benefit of consumers, since the commencement of this investigation.
8. The sub-committee believes that at present good quality coffins at a reasonable price are available to the public and has been unable to substantiate the allegation that only high price coffins are on show at funeral directors' premises.
9. Whilst the sub-committee accepts that increases in cemetery fees are inevitable due to wage increases they can see no justification for the substantial increases in the cost of land at some cemeteries.
10. Due to the substantially lower cost of a cremation as compared with a burial, the sub-committee is surprised that the percentage of cremations in Victoria is still relatively low.

11. The assignment of insurance policies to funeral directors as pre-payment for the funeral is not a very widespread practice and whilst, as a general rule, the sub-committee does not favour such a practice, any policies assigned to funeral directors should be held in trust and governed by trust law.
12. The benefits allowed by the Federal Government, especially those applicable to pensioners, have not kept pace with changes in the cost of funerals.
13. The State Government allowance for Probate Duty purposes has not been amended since 1962, is disproportionate to similar allowances granted by other State Governments and bears no relationship to the current cost of a funeral.
14. There is a wide range of prices for the service charge element of a funeral director's account and this applies to a lesser extent to coffins and caskets. People should also ascertain any charges not covered by the service charge, e.g. transfer costs.
15. Setting up of a special fund for pensioners similar to that operated by the Western Australian Division of the Australian Pensioners' League would appear to be impracticable in Victoria without substantial Federal assistance.

The Consumer Affairs Council, having considered the report prepared by its sub-committee made the following recommendations to the Minister of Consumer Affairs.

RECOMMENDATIONS.

1. That funeral directors be required to submit quotes based on the cost incurred in carrying out the particular services required under State Government Contracts and that representations be made to the Treasurer for the enforcement of this requirement in order to eliminate the practice of issuing contracts at "Nil" cost.
2. That the Hospitals and Charities Commission consider the introduction of regulations requiring all hospitals that care for terminal patients to have adequate mortuary facilities.

3. That there is an urgent need for most funeral directors to expand the amount of information available to the public in general.
4. That as a matter of urgency the Ministry of Consumer Affairs issue a pamphlet dealing with the arrangement of funerals.
5. That the Minister for Health be informed of the Council's concern with the regularity of increases in fees charged by Cemetery Trusts.
6. That the Attorney General be advised that the facilities for the storage of unidentified bodies at the Melbourne Coroner's Court are totally unsatisfactory and there is an immediate need for the rectification of this situation.
7. That the Premier be requested to make representations to the Federal Government for an immediate review of Federal benefits associated with funerals.
8. That the Treasurer be requested to undertake an immediate review of the current State probate duty benefit associated with funerals.
9. That insurance policies assigned to funeral directors as prepayment for a future funeral should be held in trust and governed by trust law.

SECTION XIIIINSURANCE

In its 1974 report, the Council re-affirmed a previous recommendation that insurance companies be examined as to their economic soundness and financial backing and should be required to lodge more substantial guarantees at the time of incorporation than are presently required. It is pleased to note that appropriate action along these lines is being undertaken by the Federal Insurance Commissioner.

Two further recommendations relating to insurance were made in the 1974 report:-

- i. that a registration scheme be established to control the operations of all insurance brokers and insurance consultants as soon as possible.
- ii. that there should be legislative requirements for a trader to disclose the fact whenever he is acting as an agent for an insurance or finance company.

The Council re-affirms these recommendations as still being required in the interests of consumers.

There are other matters within the insurance field which the Council believes warrant further examination and/or discussion with the insurance industry. They will be the subject of further study by the Council during the ensuing year.

RECOMMENDATION

That a registration scheme be established to control the operations of all insurance brokers and insurance consultants as soon as possible.

That there should be legislative requirements for a trader to disclose the fact whenever he is acting as an agent for an insurance or finance company.

SECTION XIV  
LAY - BY SYSTEMS

In its 1974 report, the Council indicated that it had embarked on a survey of the various lay-by systems in use in Victoria. An extensive questionnaire was prepared and distributed to a number of traders throughout the metropolitan and country areas of Victoria. For several reasons including the fact that the sample of firms may not have been "random" from the strict statistical meaning of the word, and that approximately 25% of the traders, to whom questionnaires were sent, failed to respond, some reservations necessarily had to be placed on the results of the survey. The survey nevertheless did provide the Council with a significant amount of information on the nature and use of lay-by systems in Victoria.

Legislation covering the use of lay-by sales exists only in N.S.W. and the A.C.T. Investigations into the use of lay-by systems have been conducted in both South Australia and Tasmania and, so far as the Council is aware, neither State proposes to introduce legislation on the subject in the immediate future.

From the statistics maintained by the Consumer Affairs Bureau, it appears that the use of lay-by systems by consumers in Victoria is not presenting a major problem presumably because of the impact of inflation.

The Council nevertheless was of the opinion that there were some problems for both the consumer and the trader in the use of the lay-by system and has requested the Ministry of Consumer Affairs to formulate a set of guidelines on lay-by sales for consideration by the Council.

SECTION XV  
STAFF SUPPORT FOR THE COUNCIL

The Council expresses its sincere thanks to the staff of the Consumer Affairs Bureau for their great help and their willing co-operation throughout the year.

The Council was very much aware of the difficulties being experienced by the Bureau in face of a rising workload and an inadequate level of staffing. Despite these difficulties, however, at some cost to the carrying out of other activities in the Bureau, temporary satisfactory arrangements were made for one of the members of the staff to act as Secretary from October 1974 until a permanent replacement was able to be made in July, 1975.

The Council notes that approval has been given for additional staff for the Bureau, and the increase to the Research Staff when it does become available should certainly add to the effective functioning of the Council.

J. D. PURCELL, Chairman.  
Council Members  
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19th November, 1975