

1976

VICTORIA

CONSUMER AFFAIRS COUNCIL
OF VICTORIA

REPORT

FOR THE YEAR ENDED 30TH JUNE, 1976

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

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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 30th June, 1976 to the Honourable the Minister of Consumer Affairs for tabling before both Houses of Parliament.

During the year, the 10th anniversary of the first meeting of the Consumer Affairs Council (originally called the Consumer Protection Council) occurred, and it is appropriate to record the pioneering work undertaken in the field of consumer protection during this first decade of its operation. Much of the consumer affairs legislation now on the statute books originated from its recommendations. The creation and subsequent expansion and development of the Consumer Affairs Bureau also followed strong representations from the Council.

The Council also recognizes that to some extent its role as the prime initiator of recommendations for change has lessened with the appointment of a full time Director of Consumer Affairs and a considerably enlarged Consumer Affairs Bureau. Much of the stimulus for change in either legislation or administrative action arises from weaknesses exposed by consumers in their complaints to the Bureau. For many years this task perforce devolved upon the Council, but now primarily rests with the Director of Consumer Affairs and his staff. The Council remains however as an important monitor of practices within the market place, able to offer independent and impartial advice to the Government on desirable consumer legislation.

For several years, the Council has been commenting on the urgent need for revision of the laws relating to Consumer Credit. It understands that the draft Model Bills being developed to give effect to the recommendations of the Molomby Committee are nearing completion. The Council trusts that the Government will give urgent consideration to the processing of these Bills once they are completed.

Finally, the Council wishes to express its sincere thanks for the help and support given to it by the staff of the Ministry of Consumer Affairs and for the co-operation so willingly extended to it by other Government Departments, business associations and firms whenever their advice was sought.

SECTION I.

SUMMARY OF RECOMMENDATIONS INCORPORATED IN THE CURRENT REPORT.

1. That the position of Legal Officer in the Ministry of Consumer Affairs be re-instated.

Reference Page No. 10.

2. That urgent action be taken to finalize the machinery necessary to allow effective co-ordination of the prescription of consumer product standards.

Reference Page No. 11.

3. That the following standards, once finalized, should be made mandatory :—

Children's Toys and Playthings (Safety Requirements); Flammability of Garments (other than children's nightwear already covered by legislation); and Guard Coverings for Heaters.

Reference Page No. 11.

4. That the Minister of Consumer Affairs requests the Federal Minister for Business and Consumer Affairs to refer for examination and report by the Trade Practices Commission the matters of "ingredient labelling" and "nutritional labelling" of goods.

Reference Page No. 12.

5. That the Food Standards Committee give further consideration to the labelling requirements prescribed or being prescribed for fruit juices and fruit juice drinks with a view to eliminating any possibility of confusion to consumers.

Reference Page No. 13.

6. That regulations be prescribed to require that when fruit juice is reconstituted from concentrate the labels of the product container indicate that this is so.

Reference Page No. 13.

7. That the Ministry of Consumer Affairs produce a pamphlet setting out the arrangements which are necessary to accomplish a satisfactory removal, and highlighting the pitfalls associated with this type of transaction.

Reference Page No. 16.

8. That the Ministry of Consumer Affairs, including representatives of the Council, open negotiations with the Furniture Removalists Division of the Road Transport Association regarding the development and use of new forms of documentation which are equitable to both parties involved in removal and storage transactions. In particular consideration should be given to the development of documentation which allows the simplest forms appropriate to the particular transaction to be used.

Reference Page No. 16.

9. That consideration be given to including removal and storage contracts within the list of consumer contracts being developed under the auspices of the Standards Association of Australia.

Reference Page No. 16.

10. That legislative action be taken to prohibit misleading advertising of employment opportunities.

Reference Page No. 17.

11. That the Government place a higher priority upon consumer education and allots sufficient funds to ensure that a comprehensive education programme is developed and implemented in the State of Victoria.

Reference Page No. 18.

SECTION II.

COMMENTS ON RECOMMENDATIONS IN PREVIOUS REPORTS.

The following action has been taken in respect to the recommendations contained in previous reports of the Council.

RECOMMENDATIONS MADE IN THE 1975 ANNUAL REPORT.

Recommendation 1.

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

The Minister of Consumer Affairs has informed the Council that it is not proposed to amend the Act to allow the Council to report to Parliament other than annually as at present provided. The Council will keep this matter under review.

Recommendation 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.

The Council has been advised that the Minister of Consumer Affairs has recommended an increase in staff and in the budget, to improve the activities of the Ministry. The Council's further comments on this important matter are contained in Section XIV of the present report.

Recommendations 3, 4, 5, and 7.

3. That all contracts be amalgamated with one single and uniform form of credit contract.

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.

5. That uniform disclosure of interest rates should be introduced to enable credit users to make comparative studies of the cost of credit.

7. That there should be control over re-possession, especially in relation to the market value of the goods re-possessed.

The Council has been advised that its recommendations are being considered for incorporation in the Credit Bill currently being drafted as a Model Bill on Consumer Credit.

Recommendations 6 and 8.

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.

8. 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.

The Council has been advised as follows in respect to these recommendations :

The Credit Laws Committee recommended to the Standing Committee of Attorneys General that the Credit Bill make provision for the setting up of consumer credit counselling facilities as a responsibility of the Commissioner for Consumer Affairs.

It is understood that the Standing Committee of Attorneys General decided that the Credit Laws Committee should not at this stage consider this matter but should complete their work as currently directed. The Credit Laws Committee could be asked to examine this aspect at a later stage.

The Victorian Council of Social Services have completed a feasibility study for a Consumer Credit Resources Bureau and the report is currently being printed. When this report is published, the Council's recommendation will be considered in the light of both the report and the Credit Laws Committee's recommendations. The Council is also aware that this matter is under reference to the Law Reform Commission.

Recommendation 9.

That there should be a minimum deposit which should be related to the purchase price on all items purchased on credit.

The Council has been advised as follows regarding this recommendation :

The question of minimum deposit was considered by the Committee of the Law Council of Australia in its report to the Attorney-General on fair consumer credit laws. This Committee (Molomby Committee) recommended that legislation should not require the payment of minimum deposits. The reason for this recommendation is contained in the Report Item 4.1.2 and 4.1.3 on Page 59. The Credit Laws Committee in considering this proposal have decided to make no other recommendation.

The Council accepts this decision and now withdraws this recommendation.

Recommendation 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*.

The Minister of Consumer Affairs has advised the Council that he is giving further consideration to this recommendation.

Recommendation 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 Nightclothing 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 ; and Ceramic Ware.

See Section IV of this report.

Recommendation 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.

Provision has been made in the budget to allow attendance at interstate meetings of the Standards Association of Australia.

Recommendation 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.

See Section VIII of this report.

Recommendations 14 and 15.

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.

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.

See Section VI of this report.

Recommendation 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.

The Council has been informed that the Treasurer can find no objection to the State Tender Board practice of issuing contracts at "Nil" cost to the Government, and does not accept the recommendation of the Council.

Recommendation 17.

That the Hospitals and Charities Commission consider the introduction of regulations requiring all hospitals that care for terminal patients to have adequate mortuary facilities.

The Council has been informed that the Hospitals and Charities Commission has very little legislative power to require provision of a mortuary in private hospitals and nursing homes at the present time. The Hospital and Charities Commission issues to proprietors of private hospitals and nursing homes a document, "Basic Requirements for Private Hospital Buildings", as a guide for planning and the Commission will now include a recommendation that a mortuary or body holding room be provided as necessary. However, the Commission has stated that such additions may be expensive and add a further burden to nursing homes which, at present, are facing financial difficulties. It is not proposed to make the extra facilities obligatory. The Council holds to its original views on this subject.

Recommendation 18.

That there is an urgent need for most funeral directors to expand the amount of information available to the public in general.

The Council understands that the Australian Funeral Directors' Association (Victoria) has prepared a booklet designed to meet this recommendation and that the booklet will be available from the printers in late 1976.

Recommendation 19.

That as a matter of urgency, the Ministry of Consumer Affairs issue a pamphlet dealing with the arrangement of funerals.

The Consumer Affairs Bureau is drafting an Information Bulletin on Funerals, which should be available early 1977.

Recommendation 20.

That the Minister for Health be informed of the Council's concern with the regularity of increases in fees charged by Cemetery Trusts.

The Council has been advised that fees charged by Cemetery Trusts are subject to the approval of the Governor in Council following a recommendation by the Commission of Public Health. The Commission has adopted a policy of encouraging Cemetery Trusts to charge realistic fees which will enable not only current operating costs to be covered but also provide for future maintenance costs. The major reason for fee increases over recent years has been the escalating cost of salaries and a need to provide adequate maintenance. The comment by the Sub-Committee of the Council that no justification could be seen for substantial increases in the cost of grave sites at some cemeteries would appear to ignore the fact that these sites have to be maintained in perpetuity by the Cemetery Trust. The recommendations of the Commission of Public Health to revise scales of fees is essentially geared to the problem of maintaining the viability of the particular Cemetery Trust.

Recommendation 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.

The Council has been informed that in the existing building it is not practicable to make other arrangements at present, because of limitations of space but in the planning for a new building for the Forensic Services Centre, provision will be made to deal with the existing problems.

Recommendation 22.

That the Premier be requested to make representations to the Federal Government for an immediate review of Federal benefits associated with funerals.

The Council has been informed that following representations from the Premier, the Acting Prime Minister advised that at this stage there was little likelihood of the Federal Government increasing funeral benefits. However, the Federal Government regularly reviews all social welfare assistance and the level of funeral benefits will be given consideration in this context.

Recommendation 23.

That the Treasurer be requested to undertake an immediate review of the current State probate duty benefit associated with funerals.

The Council has been advised by the Acting Treasurer that the current State probate duty benefit associated with funerals will be considered when the Act is next under review.

Recommendation 24.

That insurance policies assigned to funeral directors as prepayment for a future funeral should be held in trust and governed by trust law.

The Council has been informed that the Attorney-General did not favour the introduction of legislation to make specific provision in relation to insurance policies assigned to funeral directors. The Council is disappointed at this response and requested that the matter be re-considered in conjunction with its recommendation relating to Trust Funds.

Recommendation 25.

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

The Council has been informed that the Offices of the Australian Insurance Commissioners are currently examining proposals along the lines recommended and that the Council's recommendations have been referred for their consideration.

RECOMMENDATIONS ARISING FROM PREVIOUS REPORTS.**Recommendation.**

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.

The Council has been informed that the Commissioner of Corporate Affairs has on the request of the Minister de-registered one company and one business name which could have been misleading to consumers. Further the *Victorian Gazette* now specifies that certain names shall not be used by companies or firms without the approval of the Minister. On the question of the misleading names, specifically referred to by the Council, viz. Frigicrest, Hoovex and Turnell, the Commissioner of Corporate Affairs has advised that it has always been the practice of that office to attempt to ensure that a proposed company or business name does not mislead or confuse the public. In his view, the complaints received by the Bureau arise, not directly from the use of the business names, but from the practices adopted by the persons engaged in servicing domestic appliances, and that there was therefore no basis on which the registration of the names could be cancelled.

Recommendation.

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.

The Council's attention has been drawn to the Instructions relating to Display Advertising and the General Instructions covering the whole spectrum of advertising in the classified directories issued by Telecom Australia in October, 1975. It would appear that if these instructions are followed, then the concern of the Council in respect to advertisements in the Telecom Classified Directories will be eradicated.

Recommendations.

That legislation should be introduced to outlaw all Chain Letter schemes in Victoria.

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.

That a register of authorised servicemen who are competent to repair colour television sets be prepared for the guidance of consumers.

The Council has decided to withdraw these recommendations for further study.

Recommendations.

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.

That firms engaged in door to door selling activities should be licensed.

That the Government examines the matter of regulating debt collection in Victoria with the object of introducing legislation to control such activities.

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.

That further consideration be given to the dangers of un-enclosed swimming pools by the appropriate authorities.

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.

The Council has been informed that these matters are still under consideration.

Recommendation.

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.

The Council has been informed that regulations to give effect to this recommendation are currently being prepared, and are based upon the appropriate Australian Standards.

Recommendation.

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.

Legislation on the control of travel agents' funds was introduced into Federal Parliament last year. The Department responsible, has been requested to advise the current situation in respect of the Bill and whether there are any other controls envisaged for funds held by travel agents. Further study of this recommendation is being undertaken.

Recommendation.

That the activities of all mutual home loan fund schemes be rigidly controlled by the Government in the State of Victoria.

The Council has been informed that the Minister for Housing has drafted legislation prepared along similar lines to that of New South Wales in respect to the control of mutual home loan fund companies.

Recommendation.

That legislation be introduced to regulate the payment and refunds of rental bonds.

The Council has been informed that the Landlord/Tenancy Working Party is making recommendations in relation to rental bonds and it is hoped that legislation on this subject will be introduced into Parliament in the near future.

SECTION III.

OBJECTIVES OF THE COUNCIL.

Section 6 of the *Consumer Affairs Act 1972* defines the functions of the Council as:

- (a) to investigate any matter affecting the interests of consumers referred to it by the Minister ;
- (b) to make recommendations with respect to any matter calculated to protect the interests of consumers ;
- (c) to consult with manufacturers, retailers and advertisers in relation to any matter affecting the interests of consumers ;
- (d) in respect to any matters affecting the interests of consumers to disseminate information and to encourage and undertake educational works.

The Council has interpreted these functions into a number of objectives, expressed as follows.:

- (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 representation 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 when new or amended legislation appears to be necessary in the interests of consumers ;

- (e) to inform the Minister of Consumer Affairs of business practices which appear to be undesirable or unethical ;
- (f) to assist in the formulation of consumer product standards ;
- (g) to assist in the consumer education programme.

Having regard to the part time nature of the membership of the Council, it is essential that much of the detailed research involved in most of the subject matters for consideration by the Council be undertaken by the permanent staff of the Ministry. It is therefore essential that the capacity of the research staff, together with associated legal advice, is sufficient to service both the day-to-day needs of the Director and his senior executives, and the longer term needs of the Council. In the past, the capacity available has been barely adequate, as a result of which the Council has been reluctant to utilize the limited resources available to the detriment of the daily work of the Ministry. The Council believes that if it is to continue to be effective, it will perforce have to utilize more of this capacity than it has in the past.

The Council was pleased to be associated with the inaugural Victorian Consumer Affairs Seminar held in November, 1975. This Seminar opened the way to the development of a closer relationship between the Council and the various voluntary consumer groups in Victoria, and it is hoped that this closer relationship will be further cemented during the next Victorian Consumer Affairs Seminar held in November, 1976.

The Council also became aware during the drafting of this report of the decision to transfer the sole Legal Officer in the Ministry of Consumer Affairs to a Central Legal Section within the Department of Labour and Industry. Having regard to the fact that the creation of this appointment followed a recommendation by the Council to this effect, the Council was shocked to learn of this decision and made immediate representations to the Minister for the decision to be reconsidered.

In support of these representations, the Council makes the following observations :—

“ The Council holds the view that an effective permanent staff in the Ministry of Consumer Affairs is vital to the interests of consumers and it cannot help feeling that the removal of an intimate, readily available, continuous legal service to the Director, senior executives and staff of the Ministry of Consumer Affairs is a retrograde step. The availability of a legal service, located separately from the staff of the Ministry, and not intimately associated with the continuing daily activities of the Ministry, and whose efforts are not solely devoted to the particular legal problems involved in consumer affairs, is no substitute for the arrangements existing at present.

The Council also notes that in the N.S.W. Ministry there are five full-time solicitors, in Western Australia there is one full-time and one part-time solicitor (3 days a week), and in South Australia there are four full-time. The solution arrived at by these States seems to support the views of the Council that the legal officer should continue to be established within our own Ministry of Consumer Affairs, and not in a separate Department.

As already stated, the Council believes that the interests of consumers will be best served by a continuance of the present arrangement in which the Ministry of Consumer Affairs has available the exclusive services of a fully qualified legal officer, able to specialize in the laws associated with consumer affairs, and able to be closely identified and associated with the continuing activities of the Ministry ”.

Recommendation.

That the position of Legal Officer in the Ministry of Consumer Affairs be re-instated.

SECTION IV.

CONSUMER STANDARDS.

The Council has continued to be associated with the work of the Standards Association of Australia, principally by offering comments on draft standards of consumer interest. Regrettably personal attendance by council members at Association sub-committee meetings is limited, as most sub-committee meetings are held in Sydney, and financial limitations preclude the attendance of members at such meetings.

The other main involvement of the Council with Consumer Standards is in the Council considering the desirability or otherwise of recommending to the Minister of Consumer Affairs as to whether a standard approved by the Standards Association of Australia should be made mandatory.

The main factor leading to the Council recommending that a standard should be made mandatory is the question of safety or community health. In this connection, the Council has previously recommended that the following standards, once finalized, should be made mandatory :

Children's Toys and Playthings (Safety Requirements) ;

Flammability of Garments (other than children's night clothing which is already covered by legislation) ; and
Guard Coverings for Heaters.

The Council is aware of the provision in the Federal Trade Practices Act that consumer product safety standards and consumer product information standards can be prescribed under Section 62 and Section 63 of that Act. The Council holds strongly to the view that Australia is one manufacturing entity and it is therefore essential that prescription of standards be undertaken on a national level. It recognizes that the States have a role to play in the consideration of standards being made mandatory and it is extremely concerned that no finality has yet been reached on the necessary machinery to allow Federal-State co-ordination of the prescription of consumer product standards.

Recommendation.

That urgent action be taken to finalize the machinery necessary to allow effective co-ordination of the prescription of consumer product standards.

That the following standards, once finalized should be made mandatory :

Children's Toys and Playthings (Safety Requirements) ;

Flammability of Garments (other than children's nightwear already covered by legislation) ; and Guard Coverings for Heaters.

SECTION V.

DISPLAY OF PRICES.

One of the main factors affecting the daily activities of consumers in the market place is the question of price. Whilst most traders do display the prices of the commodities they are offering for sale, there is a significant number who do not. The Council believes that this essential piece of information should be available to consumers prior to their making a decision to buy a particular commodity or service. It can be argued that a consumer can ask for the price and many do, but equally there are many who are reluctant to do so particularly in a crowded store or shop.

In this connection, the Council's attention was drawn to the existence of New Zealand legislation requiring retailers to display the price of a specific range of items, viz. : meals and food sold in sandwich shops, licensed restaurants, take-away food sellers etc., and to United Kingdom legislation requiring public houses to display the price of the commodities they are selling.

Following its initial consideration of the subject, the Council contemplated whether, as the practice of displaying prices is fairly widespread anyway, it would be imposing any real hardship on traders not currently displaying prices, to require them to do so.

Further study and discussions with appropriate trade associations however convinced the Council that whilst a problem exists a sweeping recommendation along these lines would not be practicable.

At the same time the Council became aware of the increasing introduction of " computerized " retailing in some overseas countries, and of studies being made by some retailers in Australia as to whether and how they might move into this method of retailing in the not too distant future. Such developments would have a major impact on retailing and so bear heavily on the question of display of prices.

Also one of the matters referred for enquiry by the Trade Practices Commission is the subject of unit pricing of goods.

Having regard to all these factors therefore the Council decided that it should make no recommendation regarding the display of prices at the present time but should keep in touch with developments and give further consideration to the question in the forthcoming year.

SECTION VI.

PACKAGING AND LABELLING OF GOODS.

In its past four (4) annual reports, the Council has commented on the very great need from the consumer viewpoint for date labelling of perishable foods and has submitted recommendations to the Government in an endeavour to have some progress effected in this important area.

These recommendations have failed to have any effect whatsoever if progress is measured by the accomplishment of any end result.

The Council is therefore pleased to note that the Federal Minister for Business and Consumer Affairs has referred for examination by the Trade Practices Commission the following matters :—

the laws in force in Australia relating to the protection of consumers in respect of the packaging and labelling of goods with particular reference to :—

- (a) date marking of goods ;
- (b) unit pricing of goods sold to a consumer ;
- (c) standardization of packaging of pre-packaged homogenous consumer products ; and
- (d) deceptive packaging of goods (or "slack fill").

Certainly this reference covers a very much wider area than the particular area of date labelling of perishable foods on which the Council has submitted recommendations previously. But the Council hopes that when the report by the Trade Practices Commission is finalized, it will provide a fully documented basis upon which positive action can be taken in all the areas covered by the reference.

The Council refrains from making any further recommendations on the subject until it is able to obtain a copy of the report by the Trade Practices Commission.

Two further aspects of food labelling which have been subject to considerable discussion in various parts of the world, and by elements of the consumer movement in Australia, relate to "ingredient labelling" and "nutritional labelling". In principle the Council supports the concept of ingredient labelling but has reservations on nutritional labelling. In both these areas, the Council believes a pre-requisite to any firm recommendations being made is that they are subject to thorough research and examination and believes further that such an examination could be best undertaken by the Federal Trade Practices Commission.

Recommendation.

That the Minister of Consumer Affairs requests the Federal Minister for Business and Consumer Affairs to refer for examination and report by the Trade Practices Commission the matters of "ingredient labelling" and "nutritional labelling" of foods.

SECTION VII.

PACKAGING OF FRUIT AND VEGETABLES.

During the year the Department of Agriculture invited the Council to make a submission to a Departmental Committee of Inquiry into the packaging of fruit and vegetables prior to sale and the need, or otherwise for that Department to have regulatory powers dealing with the quality control or standards of fruit and vegetables sold in Victoria, for the protection of the consumer.

In response to this invitation, the Council tendered the following advice :

"The Consumer Affairs Council supports the need for your Department to have regulatory powers dealing with the quality control and standards of fruit and vegetables and the packing thereof. In the existing regulations there are many excellent requirements of great benefit to consumers.

In the past, enforcement of the Fruit and Vegetables Packing Regulations has concentrated upon the wholesale level of distribution. The Council believes that this is a practical emphasis, and that we should avoid having a vast body of inspectors to police the regulations at the retail level. The Council recognizes that the average housewife is probably more conscious of the relationship between price and quality with fruit and vegetables than with any commodity in the household budget.

It is conscious too that there can be social advantage in permitting retailers to dispose of "over-ripe" and even mixed lots of fruit and vegetables at an appropriate price ; and it would caution against enforcement of the regulations in a way which would unduly restrict the consumer's freedom of choice.

Yet Council is unwilling to suggest that the regulations should be reframed to apply only at the wholesale level. All fruit and vegetables are not necessarily subject to distribution through the wholesale market system, e.g., roadside vendors and super-market operations.

There is also increased use of pre-packaging at the retail level which makes it difficult for the consumer to guard against mixing of quality and grades by simple inspection.

We conclude, therefore, that there is need for your Department to have comprehensive powers.

In the opinion of the Council, strict enforcement of the regulations at the wholesale level would minimize the likelihood of problems arising at retail outlets and the Council supports any efforts your Department could make to ensure that there are sufficient inspectors to police the regulations.

The Council was also concerned at the possibility of the use of plastics (in packing) from which poisonous [deleterious] materials could transfer to fruit and vegetables.

Whilst the Council doubts that any such materials would be likely to be used for this purpose, it felt that the attention of the Review Committee should be drawn to the existence of Standards Association Committee CS/13—Plastic Materials for Food Contact. The Council feels that provision should be made within the revised regulations for the incorporation of the Standard which will eventually be finalized by the Standards Association of Australia through Committee CS/13, and thus obviate any possibility of this occurring.

In summary, the Council feels that the strict enforcement of the regulations at the wholesale level and the incorporation within the revised regulations of the Standard eventuating from Standards Association Committee CS/13—Plastic Materials for Food Contact, would be in the interests of consumers."

SECTION VIII.

FRUIT JUICES AND DRINKS.

For some years now the Council has been concerned over the confusion facing consumers who are desirous of purchasing pure fruit juices at retail outlets. Quite often side by side with containers of pure fruit juice are containers of fruit juice drinks. These fruit juice drinks contain water, flavour and colour in addition to fruit juice, and are priced considerably below the price of the pure fruit juice products. Both products, to the best of the Council's knowledge are labelled correctly in accordance with regulatory requirements. However, unless taking extreme care in reading the labels, the consumer is faced with the constant possibility that he will choose the fruit juice drink at the lesser price, in the belief that he is buying pure fruit juice.

To eliminate this possibility the Council in its two previous reports recommended that the words "fruit" and "juice" be prohibited from the labels of all drinks, except for those drinks that are the undiluted liquid portion of fruit.

The Council has been informed that the Victorian Food Standards Committee appointed under the Health Act does not support this recommendation but considers that if the percentage of fruit juice is shown on the label of fruit juice drinks there should be no problem.

The Council acknowledges that this will be an improvement, but it still holds the view that the labelling requirements to differentiate between pure fruit juice and fruit juice drinks should be such as to eliminate any possibility of confusion to consumers. It accepts that its previous recommendation may perhaps have been too restrictive and now recommends that the Food Standards Committee gives further consideration to this problem with a view to finding a suitable alternative solution.

A further aspect of this subject which has received consideration by the Council during the year is the use of concentrates to reconstitute fruit juices. In this connection, the Council has been informed that:—

- (a) some fruit juice manufacturers in Victoria are using concentrates to reconstitute single strength fruit juices ;
- (b) samples of juice are taken by Health Inspectors and examined for compliance with the regulations ;
- (c) there is no nutritional disadvantage in consuming juice made from concentrate when compared with single strength juice ; and
- (d) there is no legal obligation for manufacturers to indicate that a juice has been derived from concentrate.

Despite the advice received from the Health Department in paragraphs (c) and (d) above, the Council believes that consumers are entitled to know that such products are reconstituted from concentrate and are not manufactured from single strength fruit juice.

Recommendation.

That the Food Standards Committee give further consideration to the labelling requirements prescribed or being prescribed for fruit juices and fruit juice drinks with a view to eliminating any possibility of confusion to consumers.

That regulations be prescribed to require that when fruit juice is reconstituted from concentrate, the labels of the product container should indicate that this is so.

SECTION IX.

SUPPLY OF SCHOOL AND COLLEGE WEAR.

Over the years there has been a fairly constant flow of complaints, though not significant in number, regarding the related questions of cost and quality of school wear.

In an endeavour to obtain more information on the nature of the problems being experienced and some indication whether the problems were indeed widespread the Council sought views and comments from both the Association of Independent Schools of Victoria and the Victorian Council of School Organisations. There was a surprisingly disappointing response from schools and parents organisations to this invitation, but the comments received from those schools who bothered to reply confirmed the view already held by Council that the main problems centred around :—

- poor construction ;
- use of shoddy materials ; and
- inaccurate sizing.

The principal complaint clearly however was the generally high cost of this type of garment, compared with the price of similar items, not supplied as items of school wear.

The Council is pleased to note that the first of two standards being developed by the Standards Association of Australia as a means of improving the quality of school wear is now nearing finality. This part covers the manufacture, size labelling and care labelling for laundering and dry-cleaning of all types of outerwear garments for school wear. The second part, upon which work has not yet commenced, will cover Materials and Components (Performance Requirements) and will include such things as colour fastness, staining, shrinkage and seam strengths.

The Council draws the attention of all schools to the coming availability of Part 1 of the standard and earnestly commends them to require manufacturers to guarantee compliance with the standard, when it has been approved. It is confident that use of this standard will help to minimize the problems now being experienced in this area.

Finally the Council would like to quote a paragraph from the preface of the draft standard :—

“ In the course of preparing this part the increasing cost of school wear was discussed by the Committee which emphasizes the point that schools and parents groups responsible for the choice of uniforms could reduce the costs considerably, firstly, if a degree of voluntary standardization in the basic design of girls and boys uniforms was possible, and secondly, if they approached school wear manufacturers for advice and assistance in the choice of fabrics. This would allow manufacturers to make larger runs of basic uniforms which could be given some individuality by the addition of special trims or pockets.”

The Council also commends these thoughts to those responsible for arranging the design and supply of any particular school's uniform requirements.

SECTION X.

SUPPLY OF ASSEMBLIES OR COMPONENTS IN THE AUTOMOTIVE INDUSTRY.

One aspect of the automotive industry's operations which was subject to consideration by the Consumer Affairs Council during the year was the question of the supply of assemblies/sub-assemblies rather than individual components.

The Council's consideration of the matter arose from a particular complaint received by the Consumer Affairs Bureau, and, as there had been periodic adverse comments in the media regarding this aspect of the automotive industry's operations, the Council decided to seek comments from each of the companies involved in manufacturing or importing cars for the Australian market, in respect to the policies and practices followed in determining whether a component, a sub-assembly or an assembly, would be marketed in the spare parts range supplied by each company.

From the comments received by the Council, it is clear that the overall policy followed by each of the companies, is to be able to supply replacement parts to owners for as long as there is a continuing demand and it is reasonably practicable to do so. Whilst each of the companies expressed in their own words the criteria used by them to establish whether to make an individual component or an assembly or sub-assembly available as a service part, the following considerations express the overall general view of the reasons justifying a decision to service an assembly only :—

- (a) when the labour repair cost of dismantling and re-assembling the assembly is estimated to exceed considerably the cost of a new assembly ;
- (b) when the assembly process requires special tools, special skills or a controlled environment not normally available in a typical service situation, for an acceptable quality assembly to be achieved ;

- (c) where several interlocking components making an assembly are subject to wear, and it is considered good engineering practice to replace all the components as soon as one part needs replacement, or when the mating of a new part with a worn part would result in unsatisfactory operation of the assembly and/or for possible premature break-down.
- (d) when the design of the assembly precludes subsequent disassembly or servicing ; and
- (e) when the correct functioning of the assembly is considered to be critical to the safety of the vehicle and its occupants, or where Standards Association of Australia approval can only be obtained for the complete assembly or system.

It was also stated by some of the companies that they were prepared to reconsider any anomalies brought to their attention, recognizing that some measure of judgement is necessary in implementing company policies in matters such as this.

The Council could find no grounds for believing that any of the companies was, as a matter of policy, specifying a higher level of parts than was necessary. It is possible in the detailed implementation of these policies that human error can intrude, but judging from the very few complaints received by the Consumer Affairs Bureau on the matter, the Council does not consider that a significant problem exists. Any owner who believes that he is being forced to accept supply of an assembly, when having regard to all the considerations affecting the particular situation, a component part should have been available, should make representations to the major manufacturer/supplier.

SECTION XI.

SAFETY OF BEACH UMBRELLAS.

Arising out of correspondence received by the Minister of Consumer Affairs, the Council gave consideration to the possibility of introducing regulations under the product safety provisions of the Consumer Affairs Act in relation to the safety of beach umbrellas.

The Council was informed that the Home Safety Committee of the National Safety Council of Australia had considered this issue shortly after a tragic accident arising from a beach umbrella but had concluded that little could be done to prevent the repetition of such an accident.

The Council considered that legislative action regarding this matter would not be appropriate at the present time as only beach umbrellas sold henceforth could be covered by regulation and this would not solve the problem of safe use for the great multitude of beach umbrellas already in existence. The Council was also conscious of the virtually impossible tasks of ensuring that people would anchor beach umbrellas safely, even if and when such a modified umbrella is marketed. It was suggested in Council that it may be possible to design an umbrella which will collapse automatically when it is disturbed from its fixed location.

The Council therefore decided to present the problem to the Industrial Design Council of Australia, the Australian Innovation Corporation Limited, and the Aeronautical Research Laboratories of the Department of Defence.

Each of these bodies expressed interest in the problem. The Industrial Design Council of Australia has referred the problem to the Lateral Thinking Forum in Victoria and additionally have asked the industrial design schools in Victoria for their help. In the latter case it has been suggested that they include the problem in the student curriculum as a real life problem in contrast to the many hypothetical exercises currently studied. The Aeronautical Research Laboratory agreed to publicise the problem to their staff in the belief that whilst a number of possible solutions existed they lacked the simple elegance required for an acceptable one, and that the answer we are seeking will more likely come as a flash of inspiration to somebody who may not necessarily have an engineering background or research training.

The Council acknowledges the interest of these bodies and hopes that that flash of inspiration will come to somebody and thus provide a solution to a most difficult problem. Without it, the Council cannot conceive of any solution which could lend itself to acceptable legislative action.

SECTION XII.

FURNITURE REMOVALS AND STORAGE.

Following reference by the Council in its two previous reports to difficulties being experienced by consumers in their dealings with removalists, the Council during the current year undertook further detailed research into the subject, particularly when it was ascertained that the review of the standard contract form used by several of the larger companies would not be completed for some considerable time.

The conclusions reached as a result of this further study were :—

1. That having regard to the vast number of removals which it can be assumed are effected, the number of complaints received by the Bureau indicate that the vast majority of removals are effected to the *ultimate* satisfaction of the consumer. It may be that a considerable number are subject to negotiation between consumer and removalist to obtain redress and it may also be that some consumers in desperation accept a degree of redress which is less than satisfactory ;
2. That the two main causes for complaints being lodged with the Bureau are :—
Loss and Damage to Goods ; and
Overcharging.

It is clear that the most of these particular complaints arise from inadequate documentation or a misunderstanding by the parties concerned as to their respective situations.

The Council believes that complaints in these areas can be still further lessened by firstly better educating the consumer as to the steps involved in arranging a satisfactory removal and secondly by endeavouring to have the Furniture Removalists' Association and its members agree to the adoption of a code of ethics and practice, equitable to both parties ;

3. That there is a need for the production by the Ministry of Consumer Affairs of a brochure or pamphlet setting out the arrangements which are necessary to accomplish a satisfactory removal and highlighting the pitfalls which may be associated with this type of transaction. A household removal is an event which does not occur very frequently in the average householder's life-time and there is therefore a need for some guidance by the Ministry regarding this particular type transaction ; and
4. That there is a need for the definition of more satisfactory forms of documentation for use in this industry. The Council believes that different forms of documentation should be developed to cover the different types of removals which arise, e.g., local, intra-state, inter-state and overseas. It should be a main aim to develop the simplest form of documentation appropriate to a particular type of transaction.

Arising from these conclusions the Council recommended :—

1. That the Ministry of Consumer Affairs produce a pamphlet setting out the arrangements which are necessary to accomplish a satisfactory removal, and highlighting the pitfalls associated with this type of transaction ;
2. That the Ministry of Consumer Affairs, including representatives of the Council, open negotiations with the Furniture Removalists Division of the Road Transport Association regarding the development and use of new forms of documentation which are equitable to both parties involved in removal and storage transactions.

In particular consideration should be given to the development of documentation which allows the simplest forms appropriate to the particular transaction to be used ; and

3. That consideration be given to including removal and storage contracts within the list of consumer contracts being developed under the auspices of the Standards Association of Australia.

SECTION XIII.

ADVERTISING OF EMPLOYMENT OPPORTUNITIES.

The Council's attention was drawn during the year to a number of advertisements inserted in the daily press which mainly invited young men and women to apply for positions which were largely misrepresented as to the nature of the position and to the likely remuneration to be expected.

The Consumer Affairs Bureau had been the recipient of complaints from young persons who had been misled by these advertisements had have suffered much inconvenience and distress as a result thereof.

Typical of these advertisements are the following :—

YOUNG
MEN OR WOMEN
18-30

To assist newly appointed Sales Manager of large international company. No experience necessary but must be able to start immediately High remuneration attractive conditions. For appointment phone

STUDENTS, GIRLS AND GUYS
Good jobs, good pay, apply in person

In order to warn young people of the nature of these advertisements, the Ministry of Consumer Affairs inserted the following advertisement in the daily press :—

MEN AND
WOMEN
GIRLS
YOUNG MEN
STUDENTS

Excellent opportunity for free training in public relations, sales. Gain valuable experience, high earnings, etc.

BEWARE ! Some of the so-called "opportunities" are nothing more than selling educational and other material on commission basis—usually part time and from your home. Very few make it pay : some have contravened provisions of the Consumer Affairs Act. Before wasting your time, insist on being informed by the advertiser as to the type of work and basis of pay. Don't become one of the hundreds caught by this type of advertisement. Inserted by Ministry of Consumer Affairs.

This advertisement was supplemented by a Ministerial press release at about the same time.

The Council was advised that these advertisements whilst objectionable are not offences against the *Consumer Affairs Act 1972*, as the misleading advertising provisions of that Act relate only to advertisements concerning the supply of goods and services. It would also appear that they are not in breach of any legislative provisions of the Department of Labour and Industry.

The Council took the view that legislative action to prohibit misleading advertising of employment opportunities was warranted, that such legislation should preferably be enacted by the Department of Labour and Industry and that if there were obstacles to the Department of Labour and Industry bringing down such legislation that consideration should be given to it being brought within the jurisdiction of the Ministry of Consumer Affairs.

The Council recommended to the Minister that action along these lines be taken and this recommendation is still under consideration.

Recommendation.

That legislative action be taken to prohibit misleading advertising of employment opportunities.

SECTION XIV.

CONSUMER EDUCATION.

In its report for the year ending 30th June, 1975, the Council stressed the importance of developing and implementing a comprehensive programme of consumer education in the State of Victoria and after noting the inadequacies of the efforts being made in this area recommended 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.

The Council has been bitterly disappointed to observe that there has been no real improvement in this area during the period under review.

It understands despite approval being given some 12 months ago for the appointment of an additional officer whose main functions were to be concerned with this activity, that the administrative machinery involved in securing a suitable person for the appointment prevented the vacancy being filled prior to 30th June, 1976.

The Council recognizes that the existing staff resources are fully committed in meeting their present day-to-day tasks and have very limited capacity to make any real impact on this task. It also recognizes that, even when the additional officer is appointed the nature and extent of the educational programme which it may then be possible to develop, will only be capable of implementation, if sufficient funds are also made available to allow the use of the diverse avenues of communication available and necessary to spread the message.

It acknowledges the efforts made by the staff of the Ministry and members of the Council in addressing more than fifty meetings, representative of a wide range of interests. These included mothers clubs, church groups, Rotary, Lions and Apex Clubs, and commercial and industrial associations.

The Council is aware of the efforts being made by other State Ministries of Consumer Affairs in this field and is seriously concerned at the lack of any comparable programmes in the State of Victoria. It is also aware that the budget allocations to enable effective consumer education programmes being implemented in some other States is considerably greater than what is made available in Victoria. The Council can only conclude with a great deal of concern that the Government in Victoria gives a lesser priority to this activity than do some other States of the Commonwealth.

Recommendation.

That the Government place a higher priority upon this important activity and allots sufficient funds to ensure that a comprehensive consumer education programme is developed and implemented in the State of Victoria.

J. D. PURCELL, Chairman.

Council Members:

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