

VICTORIA

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*Report*

of the

**DIRECTOR OF CONSUMER  
AFFAIRS**

for the

Year ended 30 June 1980

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*Ordered by the Legislative Assembly to be printed*

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No. 21

To the Honourable J.H. Ramsay, M.P.,  
Minister of Consumer Affairs,  
Victoria.

Sir,

Pursuant to Section 8A of the Ministry of Consumer  
Affairs Act 1973, I submit the Annual Report  
prepared by me as the Director of Consumer Affairs  
during the year ending 30th June 1980.

Yours sincerely,

C.N. GESCHKE

Melbourne.  
November 1980.

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PART 1INTRODUCTION

- 1.1.1 This is the sixth annual report of the Director of Consumer Affairs, and is made pursuant to Section 8A of the Ministry of Consumer Affairs Act 1973.
- 1.1.2 As it is the last annual report that I will be making as Director of Consumer Affairs, it seems appropriate that I should comment, at least in general terms, on some of the changes that have occurred during the six years, some of the problems faced by the Ministry and the work of its staff.
- 1.1.3 The Ministry of Consumer Affairs is now responsible for the following Acts -
- |          |  |
|----------|--|
| Act 6815 | Disposal of Uncollected Goods Act 1961 |
| Act 6973 | Building Contracts (Deposits) Act 1962 |
| Act 8276 | Consumer Affairs Act 1972              |
| Act 8408 | Motor Car Traders Act 1973             |
| Act 8442 | Ministry of Consumer Affairs Act 1973  |
| Act 8486 | Small Claims Tribunals Act 1973        |
| Act 9196 | Market Court Act 1978                  |



AMENDMENTS TO LEGISLATIONMotor Car Traders Act 1973

- 1.2.1 The principal Act was amended by the Motor Car Traders (Amendment) Act 1980 which came into operation on 13th May 1980. The majority of amendments made were in the nature of "house keeping" matters designed to improve and facilitate the administration of the principal Act.
- 1.2.2 The most significant amendment, from a consumer protection point of view, related to the form and information to be provided on agreements for the sale of a motor car. The amendment requires that every agreement for the sale of a motor car must now contain the name and business address of any proprietor of the motor car within the meaning of the Motor Car Traders Act. Proprietors under that Act include persons who have any rights under a hire purchase agreement, bill of sale or like agreement.
- 1.2.3 The effect of this amendment will be to alert a prospective purchaser to the fact that the vehicle has an encumbrance, and before he can obtain clear title, such encumbrance must be cleared.

Consumer Affairs (Product Safety) (Pedal Bicycles) Regulation 1980

- 1.2.4 See section 1.12 Product Safety/Information Standards.

DEVELOPMENT OF POLICIES AND  
EFFECTIVENESS OF THE MINISTRY

1.3.1 In my first annual report for the year ended 30th June 1975, I stated in the section "Development of Policies" -

"It is a commonly held belief that all traders manufacturers and providers of service will take advantage of a consumer whenever possible.

The experience of the Director since taking up his appointment is the reverse. While there is ample evidence of incompetent tradesmen, dishonest entrepreneurs, confidence tricksters and irresponsible or incompetent management these terms can only be applied to an extremely small percentage of traders and manufacturers."

1.3.2 At the time of this, my last report, the experience in this office has not changed my views, and were it otherwise then there would not be enough resources to cope with the deluge of complaints that would arise.

1.3.3 It was also stated in that first report that one of the objectives of the Ministry is to work towards a fair market place. This has continued to be an aim and is the principal objective of the Ministry.

1.3.4 A fair market place is seen as one where the consumer and trader operate with balanced rights; it is a place where honest traders and consumers are not disadvantaged by other traders who do not observe the law or a standard of ethics in their dealings.

1.3.5 The work of the Ministry is, in the main, devoted to achieving this concept.

1.3.6 To effectively enter the market place, a consumer needs to be fully informed on the choice of products available, the true price, life expectancy, consumption costs if applicable, and not only their rights under consumer and other legislation, but also their obligations as a consumer. The consumer must be warned of unsafe or hazardous products which occasionally come on to the market. The sections of the report

1.9 Consumer/Trader Education

1.10 Country Services, and

1.11 Product Safety/Commonwealth State  
Consumer Products Advisory Committee

describe the informative work of the Ministry in this regard.

1.3.7 As to the second limb of the concept of a fair market place, i.e. a place where both consumers and traders are not disadvantaged by those traders who do not observe the law and standard of ethics or whose conduct is unfair, the sections of the report

1.7 Alleged Breaches/Prosecutions, and

1.8 The Market Court

discuss the Ministry's role in enforcement and development of codes of ethics.

- 1.3.8 Notwithstanding the efforts of the Ministry in the above endeavours, complaints arise and there is, within the Ministry, a number of alternative avenues provided for attempting to resolve such disputes between consumers and traders. These are the Consumer Affairs Bureau, the Small Claims Tribunals and the Motor Car Traders Committee.
- 1.3.9 The work of the Bureau in respect of complaints is discussed in section 1.5, the Small Claims Tribunals in section 1.6 and the Motor Car Traders Committee in a separate report to Parliament.
- 1.3.10 That some disputes arise is perhaps inevitable, that so many arise which stem from a breakdown or inadequacy in communication is deplorable, especially when the breakdown often originates with a trader's staff treating a complaint or complainant in an off-handed or patronising manner. Professional traders would seem to be the worst offenders yet their training would suggest that failure in communication should be the least cause of the complaints against them.
- 1.3.11 In an attempt to reduce the number of complaints arising from communication breakdown, a pamphlet "Consumer Dissatisfaction Reporting Systems" was produced for issue to traders. This pamphlet was prepared by a committee with representatives of the Ministry, retailers, financiers and manufacturers. It proposed a complaint handling system and a monitoring of the complaints by senior management. Some 20,000 of these pamphlets have been distributed.

Effectiveness of the Ministry

- 1.3.12 It is difficult to find an appropriate parameter against which to assess the effectiveness of the Ministry.
- 1.3.13 That this year the Ministry handled 14,930 complaints and claims compared with 9,293 in 1974/75, its first year of operation, can be construed as not being effective in its role of trying to make the market place fair, as complaints have increased. What is not known, however, is how many more complaints would have arisen had the Ministry not conducted its extensive education and public relations programme, but this is virtually impossible to assess.
- 1.3.14 However, it is known that there is an increasing number of phone calls and letters from consumers seeking information before they buy products or contract for services. This is a good indication that the Ministry's efforts to educate consumers and to alert them to making enquiries before they act, is achieving some results.
- 1.3.15 It should be appreciated that the Ministry is in somewhat of a Catch 22 situation - its emphasis on consumer and trader education, its public warnings and participation in various media activities, all bring the attention of the Ministry to the consuming public and, although it has never been the policy to seek complaints, it is an inevitable consequence that publicity of an informative or warning nature will alert consumers to the existence of the Ministry

and that it does accept, negotiate and resolve complaints. Therefore, increased publicity will attract an increased number of complaints. The increased publicity, on the other hand, and the issue of pamphlets, warning notices and the provision of the Enquiries and Information Service Section of the Ministry will also reduce complaints as consumers will be better equipped in the market place and hopefully will not make the mistakes which lead to complaints.

- 1.3.16 Nevertheless, from reports to the Ministry's officers and from the enquiries made to the Ministry, it can be stated with confidence that during the last 12 months, the Ministry's education and information activities have shown further improvement and are now considered to be reasonably effective.
- 1.3.17 With the move of the Ministry to 500 Bourke Street, it was possible to establish a telephone enquiry office and to provide direct line telephones to this. One of the major complaints against the operation of the Ministry was the difficulty that consumers and traders had in making enquiries or in replying to letters by phone. The switchboard at 35 Spring Street was invariably saturated and it was not unusual for some consumers or traders to have to wait up to 40 minutes before their call could be handled. This was because all calls went through one switchboard and they had to be handled initially by the switchboard operator and then passed on to an Enquiry Officer. Now that there is a published number in the white pages of the telephone book for direct

access on initial enquiries or advice, these calls now by-pass in the main the switchboard and go direct to the Enquiry Room. It is conservatively estimated that the Enquiry Officers, of whom two are allocated each day to this role, are handling twice the number of calls that could be handled previously and now not only the enquiry switchboard, but also the main switchboard is usually able to handle all phone calls to the Ministry. Other telephone facilities also now available as a result of the move enable an Enquiry Officer, who may receive a complex problem requiring specific advice, to transfer the call to one of the specialist Bureau teams.

- 1.3.18 Improvements in complaint handling procedures have also meant that a greater number of complaints are being handled by the same number of officers as previously. Unfortunately, however, because of staff ceilings, it is not possible to undertake the in-depth investigations necessary to determine the cause and thus prevent complaints arising.
- 1.3.19 To better meet the demands placed on the Ministry and to avoid the great deal of confusion in the minds of many consumers and traders over the title used by officers in the Ministry, some changes have been made. Traditionally, officers were called 'Inspectors' or 'Investigation Officers', and when this title is used by an officer in attempting to negotiate a complaint by seeking the trader's comments, it has connotations that there was a breach of law (by the use of the term 'Inspector'), or that a complaint against a trader, who may not have heard of the Ministry before, was so serious an investigation had to be made of

the matter. To reduce this confusion, it was decided that officers handling enquiries over the phone would be called 'Enquiry Officers', those handling complaints - 'Complaints Officers' or 'Senior Complaints Officers', and for the investigation of breaches or investigation of marketing practices the title 'Investigation Officer' is used. The Ministry also has a team of officers who visit most towns of Victoria on a regular basis and, while these may fulfil the roles of Enquiry, Complaints or Investigation Officers, in the main they should not be seen as Complaints or Investigation Officers, but largely as educational, public relations and enquiry officers and the term "Country Service Officers" is used to denote their role.

1.3.20 Another parameter of effectiveness relates to the enforcement of legislation. This is discussed in section 7 of this part. Again, the number of prosecutions should not be taken as an indication of effectiveness. It can equally be taken as an indication of an inadequate issue of guidelines to traders, as it is believed that, in the main, most traders contravene legislation unwittingly and without intent. There are a growing number of enquiries from traders seeking clarification of various sections of the Consumer Affairs Act and other related Acts, and traders are increasingly advising the Ministry, on a voluntary basis, where they find that unintentionally they have created a possible breach of one of the provisions of the Act.



- 1.3.21 The Ministry has encouraged such enquiries and will discuss with the trader what action should be taken when an error or omission in their advertising has occurred. It has been proposed for a number of years to establish a trader relations section and devote more resources of the Ministry to trader relations activities and so prevent the incidents which lead to complaints or breaches of the Act. Unfortunately, staff ceilings have not allowed this proposal to be implemented.
- 1.3.22 There are often changes in the market place and practices which, although acceptable some years ago, are no longer so. It is also a feature of the market place that there are many small traders who do not have the resources to keep up with changes in legislation or changes in codes of ethics or practice and so unwittingly they carry on activities which lead to the generation of complaints and perhaps breaches of legislation. The establishment of the trader relations section would, it is hoped, go some way towards overcoming this deficiency. This topic is further discussed in section 7 of this part.
- 1.3.23 On the whole, however, despite staff ceilings and the unsatisfactory organisational issue which has seriously prejudiced the operation of the Ministry since its inception, and is discussed in the next section of this report, it is considered that during the six years of its existence, there has been a continuous improvement in the effectiveness of the Ministry in meeting its objectives. This improvement has in no small way been due to the increased co-operation from all sections of industry and commerce in recognising and assisting the work of the Ministry.

- 1.3.24 Consumer affairs should be seen as a force to bring people together not to push them apart; it should be seen as a salve and not an irritant in the market place and these are perhaps the parameters on which the effectiveness of the Ministry can be judged.
- 1.3.25 It is a matter of public comment perhaps more so than for the Director to say how effective the Ministry has been in the six years of its existence.
- 1.3.26 Nevertheless, the growing acceptance of the Ministry in its role in the market place is an indication of its effectiveness. It is no longer an organisation viewed with suspicion, but one which is now seen by both consumers and traders to be developing an equilibrium and fairness in its dealings with all parties.
- 1.3.27 In the final analysis, this is possibly the ultimate and only true measure of effectiveness.

### ORGANISATION

- 1.4.1 In previous annual reports, mention has been made of the unsatisfactory organisational problems which have arisen because the Ministry of Consumer Affairs Act and the Public Service Act promote conflicting and unworkable responsibilities for the Director of Consumer Affairs and the Secretary of the Department of Labour and Industry.
- 1.4.2 At the time of writing it is understood that approval has been given to appointing the Director of Consumer Affairs as the Permanent Head of the Ministry of Consumer Affairs, and this should resolve the organisational conflict and overcome the problems mentioned in previous reports.

COMPLAINT HANDLING -  
CONSUMER AFFAIRS BUREAU

1.5.1 The Consumer Affairs Act Section 8(1) states that the Director shall -

"(e) where a dispute arises between the consumer and the supplier in respect of goods and services attempt to settle the dispute if it deems such action is in the best interest of the parties."

1.5.2 This responsibility is handled by the complaints section of the Consumer Affairs Bureau. The trend in complaints/claims handled by the Ministry sections is detailed below. The comments in this section of the report relate mainly to the trend in the Consumer Affairs Bureau (C.A.B.). The discussion on the claims handled by the Small Claims Tribunals (S.C.T.) is in section 6 of this part of the report and the complaints lodged with the Motor Car Traders Committee is dealt with in a separate report to Parliament.

	<u>C.A.B.</u>	<u>S.C.T.</u>	<u>M.C.T.C.</u>	<u>Total</u>
30th June 1971/72	2,359			
1973	3,718			
1974	5,832			
1975	8,295	998		9,293
1976	8,922	1,630		10,552
1977	10,031	2,318	788 +	13,137
1978	9,941	2,975	895 *	13,811
1979	10,122	3,006	599 *	13,727
1980	11,388	2,862	680 *	14,930

+ Calendar Year

\* Financial Year

- 1.5.3 It can be noted from the above table that there has been a 12.5% increase in complaints lodged with the Bureau. At the same time, however, there has been a drop in the number of claims lodged with the Small Claims Tribunals and an increase in claims lodged with the Motor Car Traders Committee. It is felt, however, that complaints have reached a peak in all areas, and in future we will only see slight variations.
- 1.5.4 In regard to the Consumer Affairs Bureau, Appendix A is the classification according to product/service, Appendix B classification according to practice and Appendix C correlation of complaints in terms of product/service and practice.
- 1.5.5 Appendix A (classification of complaints according to product/service) indicates a number of significant changes in complaint trends. Possibly the most significant change has been the overall fall in complaints on motor vehicles (3,030 or 29.9% of total complaints in 1978/79 to 2,991 or 26.26% in 1979/80). At the same time, complaints on motor vehicle insurance has also fallen from 224 (2.21%) in 1978/79 to 207 (1.82%) in 1979/80. It is hoped that this is a continuing trend. There has also been a fall in motor vehicle claims lodged with the Small Claims Tribunals (see section 1.6).
- 1.5.6 There has been a significant increase in complaints in the Transport and Energy Services Category - 271 (2.68%) in 1978/79 to 463 (4.07%) in 1979/80. This increase has been due primarily to an increase in

travel complaints - 101 (1.00%) in 1978/79 to 210 (1.84%) in 1979/80. This increase is also reflected in the Small Claims Tribunals, see section 1.6.

- 1.5.7 Building complaints have also increased from 1,144 (11.30%) in 1978/79 to 1,350 (11.85%) in 1979/80, with increases in most areas of building. It is, however, significant to note that complaints on cladding have fallen from 133 (1.31%) to 96 (0.84%) during the same period. In fact cladding complaints are at their lowest level since 1975/76. It is hoped that this downward trend continues since cladding has been a continual source of complaint to consumer affairs agencies for many years.
- 1.5.8 At Appendix B complaints are classified according to practice. As in previous years, the major areas of complaint are quality of product/service and contracts. It must be mentioned that a new category has been added to the classification - Offers of Redress - and this addition does influence any comparison between 1978/79 and 1979/80.
- 1.5.9 Appendix C gives a comparison of product/service codes and practice codes. An explanatory note on the interpretation of this table is also included at Appendix C.1. Direct comparison of statistics in this table and a similar table in the report for 1978/79 is difficult due to the additional practice category - Offers of Redress - which will influence any comparison. It is also dangerous to try and isolate any trends since this is only the second time such a cross tabulation of product/service codes and practice codes has been used. Any movement in the figures which at first sight appears to be significant may only be a temporary aberration.

SMALL CLAIMS TRIBUNALS

- 1.6.1 The number of claims lodged with the Small Claims Tribunals has remained fairly level over the last three years. During the financial year ending 30th June 1980, 2,862 claims were received compared with 3,006 in the year 1978/79, and 2,975 in 1977/78.
- 1.6.2 At Appendices D and E are analyses of the claims determined during the year, classified as to product or service and as to business practice.
- 1.6.3 The areas where there has been a substantial change from the last report are -
- (a) Supply and installation of kitchens, garages, etc. increased from 20 in 1978/79 to 65 in 1979/80.
  - (b) The number of travel complaints have again increased over previous years. In 1977/78 there were only 11 claims; in 1978/79 these increased considerably to 49. However, for 1979/80, the numbers have more than doubled to reach 103 or 3.82% of the total number of claims.
  - (c) Insurance claims have increased from 14 in 1978/79 to 42 in 1979/80.
  - (d) The area of greatest reduction is in used motor vehicle claims. The numbers in the

periods 1977/78 and 1978/79 were approximately 320 whereas in 1979/80, 216 claims were lodged.

#### Suburban and Country Hearings

- 1.6.4 During the year the Small Claims Tribunals conducted hearings at the following country and suburban centres -

<u>Centre</u>	<u>No. of Times Visited</u>
Dandenong	12
Morwell	5
Geelong	10
Ballarat	3
Warrnambool	1
Seymour	2
Mooroopna	1
Benalla	1
Bendigo	3
Ararat	1
Sale	1
Mildura	1
Bentleigh	3
Wodonga	1

#### Matters Referred to the Supreme Court

- 1.6.5 On 4th June 1980, his Honour Mr. Justice Murray in the matter of the Queen ex parte Bastiaan de Jong and Gezina de Jong against a referee of the Small Claims Tribunal and Garry David Fowler and Ailsa Fowler, found that the Tribunal had acted outside its jurisdiction by making an order in the claim which was in the opinion of the Court in excess of two years old.

Compliance with Orders of the Tribunal

- 1.6.6 Whilst most traders comply with orders of the Tribunal a few do not and consumers have had to enforce the order through the Courts.
- 1.6.7 During the year the Registrar's office of the Tribunals prepared 477 enforcement papers involving 477 orders totalling \$161,716. These orders which require the payment of money by a trader are transferred to the Magistrates Court for enforcement and Warrants of Distress are then issued by the Clerks of the Magistrates Courts.
- 1.6.8 Notwithstanding these procedures consumers occasionally encounter difficulty in obtaining their money despite the issue of Warrants of Distress and the strenuous efforts on the part of the Bailiffs.
- 1.6.9 Three businesses which have caused concern to the Ministry and/or which orders made by the Small Claims Tribunal have not been satisfied are -

John Raymond Fairweather and Elizabeth  
Christine Fairweather who trade as Athena  
Removals

Michael Haines trading as Mainsport at 143  
Whitehorse Road, Blackburn

Brian Gilford trading as Kitchen Group from  
427 Church Street, Richmond; Cnr. Brighton  
Road and Chapel Street, St. Kilda, and 5  
Clarendon Place, South Melbourne



These businesses are discussed in part 3 of the report.

#### Assistance of Community Services Centre

- 1.6.10 The Referees and Registrar wish to express their appreciation to the officers of the Community Services Centre, Department of the Premier, for their assistance in providing interpreters to the Small Claims Tribunals. It was often necessary to obtain interpreters in various languages at short notice and despite their other commitments, the Centre has always in some way or another managed to provide interpreters and render such invaluable assistance.

#### ALLEGED BREACHES/PROSECUTIONS

##### Workload

- 1.7.1 As at 1st July 1979, investigations were in progress on 162 files relating to alleged breaches of the legislation being administered by the Ministry of Consumer Affairs. A further 254 investigation files on alleged breaches were created during the current year. These files originate from complaints, and the Ministry's own monitoring of the market place. A file may contain from one to in excess of forty possible offences, or alternatively, a preliminary investigation may show that no offence has occurred.

1.7.2 During the year, 275 alleged breach files were finalised, compared with 233 in the year 1978/79. Details are -

	<u>1979/80</u>	<u>1978/79</u>
Prosecuted Successfully	33	14
Prosecuted Unsuccessfully	3	1
Offence established - decision not to prosecute (warnings issued in 19 cases)	50	41 (22)
No apparent breach - allegations unjustified	133	113
Investigation inconclusive, evidence inadequate	30	48
Trader in liquidation or disappeared	13	10
Lapse of time prevented prosecution	3	3
Section 64 action resolved by reply	2	1
Referred to Trade Practices Commission	6	2
Referred to other Government Departments	2	-
	<u>275</u>	<u>233</u>

NOTE: The above figures relate to files not the number of offences they contain.

- 1.7.3 This comparison demonstrates an improvement in the alleged breaches handling area of the Ministry's operations, and the use of discretion where, although offences were established, it was decided not to prosecute because of mitigating circumstances, or the breach occurred despite reasonable efforts on the part of the trader to comply with legislative requirements.
- 1.7.4 At Appendix G is an analysis of the prosecutions classified according to the sections of the various Acts.
- 1.7.5 It can be seen that investigation of alleged breaches of the Motor Car Traders Act occupies a large proportion of the team's available time. However perhaps the most significant change in the team's activity has resulted from the operation of the Market Court Act. This extra workload imposed by the Market Court legislation on the staff of the Ministry is not reflected in the above statistics. The effort involved is discussed under the section dealing with the Market Court.
- 1.7.6 During the year, officers attached to the Investigations Team, carried out 648 visits. Visits involve field investigations in the form of interviews with traders, inspections of premises, documents and exhibits, discussions with other Government Departments, the serving of information and subpoenas and appearances in Court.

- 1.7.7 The work in the team is of a specialised nature and requires a considerable amount of training. A comparison of the figures showing the output between 1978/79 and 1979/80, clearly shows that there has been a significant increase in resolving alleged breaches and in successful prosecutions. This achievement is a direct result of improved training and the accumulation of experience.

Are Successful Prosecutions an Indication of Efficiency?

- 1.7.8 It is emphasised that there are no targets set in the Ministry for prosecutions. Rather the view is taken, which is not dissimilar to that with complaints, that an increase in successful prosecutions is also an indicator that the Ministry is falling down in the area of education and prevention. For some time it has been thought desirable to establish a trader relations section, however, until staffing allows, this function is handled by various sections of the Ministry, mainly the Investigations Team which not only examine whether a breach of an Act has occurred or not, but also advises traders on the Ministry Acts. This aspect is also a responsibility of the Country Services Officers.
- 1.7.9 With the knowledge that by far the majority of persons do not knowingly attempt to break the law, it seems essential that some part of the Ministry's resources be devoted to providing information on legislation and its aims. It is fortunately becoming more common for traders to seek advice from the Ministry on some aspects of advertising and these

enquiries are welcome, however, it must be noted that its advice is in the nature of advice and not legal opinion, and the Ministry cannot take on the task of approving of advertisements or of goods and services offered.

- 1.7.10 This informal advice is seen as yet another bridge between the Ministry, consumer and trader.
- 1.7.11 It is appreciated that despite the best of intentions on the part of traders, advertising agencies and the media, errors in advertising will occur from time to time. One good example is the publishing of large catalogues which list many hundreds of separate items for sale. Errors, however, will occur in the preparation of the catalogue and there is also the possibility that items will not arrive on the date of the sale due to strikes or other hold-ups. For these reasons, the Ministry has encouraged traders to voluntarily bring to its attention any errors that have occurred in the printing of the catalogue or incidents where goods are not available. Often when this is brought to the Ministry's notice a discussion will occur on what is the best way of alerting consumers that the deficiency is due to a mistake or to a matter over which the advertiser has no control. Such information from traders is also most helpful in answering complaints from consumers who believe quite wrongly that in many instances the inability to supply an item is a bait advertising tactic or one of purposeful misrepresentation.

Breaches of Product Safety/Product Information Standards

- 1.7.12 During the year the Ministry prosecuted a number of traders for the selling of fire extinguishers or children's night-clothes which did not comply with the requirements of the Consumer Affairs Act. The provisions of the Consumer Affairs Act relating to Safe Design and Construction of Goods are used to regulate certain products which are considered to be unsafe or hazardous or may require a warning label if they are to be sold. It is under this section that the above prosecutions were taken.

Breaches of Legislation which are Unfair to Law Abiding Traders

- 1.7.13 A recent survey of alleged breaches of the Consumer Affairs Acts indicated that 60% of these were reported by traders who considered that their livelihood was being threatened by the unethical conduct of their competitors in breaching various Acts. In the Ministry's view a fair market place is one which is not only fair between traders and consumers, but is also fair between traders and the use of misleading advertising or other devices to attract custom when the trader knows that his profits will come from failure to meet other obligations of the contract or of the law, then this practice is seen to be unfair. A most pronounced area of complaints in the motor car trade relates to unlicensed trade or back-yarding. And it is quite disheartening, having successfully prosecuted a case of unlicensed trading where there have been some 7 or 8 cars sold, to find that the fines total less than the profit on just one of these transactions.

Establishment of a Principle

- 1.7.14 At times despite guidelines issued by the Trade Practices Commission or the Ministry, a trader will persist in a practice which is thought to be illegal. In these cases the Ministry will launch a prosecution to determine a court's interpretation of the legislation. During the year, one such prosecution took place which related to a newspaper advertisement for a stereo system illustrating a turntable, tuner, speakers and a cassette deck and quoted in bold print a sum of \$599.00. The small print in the advertisement on the other hand, stated that a cassette deck was available as an optional extra. The advertiser claimed that such an advertisement could not be misleading as the wording qualified the illustration. The Ministry held that the advertiser was including all items to attract customers and it was misleading if any one of those items were not available for the total price, despite a small printed exclusion clause.
- 1.7.15 The case went to court and the magistrate found that consumers were entitled to expect the goods as illustrated at the advertised price. He said that consumers did not read the fine print of advertisements; they look at the picture and the price. He further held that consumers should not be expected to read the fine print to discover that they had to pay an extra sum for the items depicted. The trader was fined \$200.00 with \$130.50 costs. This decision is in line with a Trade Practices Commission guideline. Following this case, the Ministry issued a

news release referring to it and warning other retailers that by using advertisements depicting goods laden with optional extras, they are risking prosecution unless all prices are clearly displayed and correspond exactly with the goods illustrated.

### THE MARKET COURT

- 1.8.1 The Market Court Act 1978 was proclaimed and came into operation on 1st June 1979, providing a judicial process to restrain persons from continuing undesirable trade practices.
- 1.8.2 The Court comprises the President, who is a Judge of the County Court, and two advisory members, one to represent the interests of traders and one to represent the interests of consumers. Only the Director of Consumer Affairs is able to apply to the Court for an order against the trader.
- 1.8.3 The Court is able to make an order against a trader either totally prohibiting him from engaging in unfair conduct or prohibiting him from entering into contracts with consumers unless those contracts comply with the terms and conditions specified by the Court.
- 1.8.4 Provision is also made, as an alternative to Market Court action, for the Director to enter into Deeds of Assurance with traders that they will refrain from engaging in conduct which is unfair to consumers.



1.8.5 During the year the Director has taken two actions in the Market Court and has requested a trader to complete a Deed of Assurance. The terms of the Deed of Assurance are still being negotiated.

1.8.6 The first action to the Court was against five companies engaged in the house cladding industry. The Court determined that the five companies had engaged in conduct which was unfair to consumers and made the following orders in respect of these companies, prohibiting them from engaging in that particular conduct which the Court had found to be unfair to consumers.

Australian Clad Industries Pty Ltd  
3/40-42 Elphin Grove  
Hawthorn 3122.

1. misrepresenting the effect of a contract;
2. failing to comply with section 15(1) and (4) and section 20A of the Consumer Affairs Act 1972.

Independent Chemical Imports Pty Ltd  
25 King Street  
Melbourne 3000.

1. misrepresenting the effect of a contract;
2. failing to comply with section 32F of the Consumer Affairs Act 1972;
3. misleading consumers as to the nature of documents tendered for signature.

Colonial Brik Co Pty Ltd  
232 King Street  
Melbourne 3000.

1. misrepresenting the effect of a contract;
2. misleading consumers as to the nature of documents tendered for signature;
3. charging prices for goods and services which no reasonable person would regard as just.

Christina Constructions (Vic) Pty Ltd  
33 Fraser Street  
Airport West 3042.

1. misrepresenting the effect of a contract;
2. failing to comply with section 15(1) and section 20A of the Consumer Affairs Act 1972;
3. delivering goods otherwise than in accordance with sample;
4. charging prices for goods and services which no reasonable person would regard as just.

Glamour Construction (International) Pty Ltd  
48 Sydney Road  
Brunswick 3056

1. misrepresenting the effect of a contract;
2. failing to comply with section 15(1) and (4) section 20A of the Consumer Affairs Act 1972;

3. delivering goods otherwise than in accordance with sample;
4. misleading consumers as to the nature of documents tendered for signature;
5. charging prices for goods and services which no reasonable person would regard as just.

- 1.8.7 It is of interest to note that the Ministry had instituted a number of prosecutions against three of the companies and the directors, John Kovic and Olaf Martin Venskevics in 1978 and 1979 under the Consumer Affairs Act and Building Contracts (Deposits) Act. The result of these prosecutions are at Appendix G.
- 1.8.8 The second application to the Court related to the selling of dogs which were not of merchantable quality. The trader was Edna Helen Holmes Ascott (trading under the names of Mrs. Holmes, Mrs. Ascott, Ascott Kennels, Bayswater Kennels and Cotthalls Kennels) who conducted a business of selling dogs to the public from kennels situated at 130 Bayswater Road, Croydon.
- 1.8.9 Complaints had been received in the Ministry over several years. All the complaints told the same heart-breaking tale of the consumer responding to a newspaper advertisement for "puppies" and after visiting 130 Bayswater Road, paying between \$15 and \$80, only to find on the same day, or shortly afterwards, that the new puppy had distemper or

another disease. A visit to the local veterinary surgeon usually proved to be too late and the puppy was destroyed.

1.8.10

The Court was satisfied that Mrs. Ascott had repeatedly engaged in conduct unfair to consumers, and on 19th June 1980, ordered that she refrain from selling dogs which were not of merchantable quality. It further ordered that -

- "(i) No sale shall take place within a period of six months and then only after the respondent has a written certification from a veterinary surgeon that her premises are free of distemper and in a fit condition to resume sales of dogs to the public;
- (ii) Each sale of a dog must be accompanied by a certificate from a veterinary surgeon issued not less than 14 days prior to the sale, indicating that the dog has been immunised against distemper;
- (iii) Each sale must be accompanied with a written undertaking signed by the respondent that the purchaser will be given a full refund of the purchase price if the dog becomes ill from any disease within one month of purchase."

1.8.11

At the time of writing a further action has been commenced in the Market Court and another request has been made for a trader to sign a Deed of Assurance. The current Market Court case has been adjourned and a question of law has, under provisions of the Market

Court Act, been referred to the Supreme Court for decision.

- 1.8.12 Further cases are being prepared for the Market Court. As has been discussed in section 1.7 actions in the Market Court place a considerable demand on the resources of the Ministry.

#### COUNTRY SERVICES

- 1.9.1 The Country Services Unit operates from regional offices at Geelong, Ballarat, Bendigo, Wangaratta, and Traralgon and by use of a Mobile Unit which visits most cities and towns on a regular basis. (See Appendix F for locations and frequency of visits.)
- 1.9.2 These services which were commenced in 1977, have proved to be most successful. The role of the Country Services Unit epitomizes the changes that are taking place in the approach of the Ministry to consumer affairs matters. Initially, there was a tendency for country people to regard the Country Services Unit as being a form of mobile complaints office. Quite naturally, a number of traders were apprehensive when the vehicle would park outside their premises in a country town. This attitude arose despite the fact that the Unit was never advertised as a depot for complaint taking.

1.9.3 Fortunately, this initial image was quickly dispelled by the attitude and operations of the Country Services team officers and the role of this Unit not only established, but also was seen to be one of the extension of the Ministry's policy of evenhandedness in the market place. An examination of the statistics in a later paragraph will show that complaints occupy but a small percentage of the overall activities of the Regional Offices and the Unit. In fact the prime emphasis of this Service is to talk to consumers and traders, to address groups and, through the media, emphasise the role of the Ministry of Consumer Affairs, its policies and operations and to highlight that the Ministry is basically to bring parties together rather than push them part. The success of the Country Services Unit is in no small way due to the excellent co-operation given by the media, the press, radio and television in making time and space available for discussions on the work and role of the Ministry. Furthermore, without the help of so many public officers in various towns and cities, it would not have been possible to operate this service as effectively as has been done.

1.9.4 A statistical comparison of the operations of the Country Services Unit for this year, compared with 1978/79 is given below and from these figures the emphasis on operations of the Unit can be deduced.

	<u>1978/79</u>	<u>1979/80</u>
<u>Regional Offices:</u>		
Interviews Conducted	651	859
Alleged Breaches Investigated	11	5
Discussions at Traders' Premises re complaints	49	43
Talks to Schools, Service and Community Organisations and Trader Groups	42	57
Complaints Taken	193	199
<u>Country Towns</u>	<u>1978/79</u>	<u>1979/80</u>
Number of visits to Country Towns	137	149
Interviews conducted	1,663	1,576
Alleged Breaches Investigated	3	3
Discussions at Traders' Premises re complaints	124	165
Media Interviews, Talks etc	58	54
Talks to Schools, Service and Community Organisations and Trader Groups	290	233
Complaints Taken	139	121

- 1.9.5 A constant review is made of the activities of the Country Services Unit in cities and townships and adjustments are made to the itinerary to meet what appears to be a sometimes changing demand for the services of the Unit.

- 1.9.6 In the initial days of operation, it was found that there were certain days of the week for particular towns where there was a greater demand than on other days. To some degree this seemed to be related to the shopping habits of the local residents, and attempts have been made in planning the itinerary to visit these towns on these days.
- 1.9.7 It was also apparent that many country people have some apprehension in dealing with Government officials as quite often there is not a Government agency in their local town. The Ministry vehicle has a suggestion of informality about it, and it is found that most people can relax and talk freely to the Ministry's officer. It is quite obvious from general enquiries that the Ministry of Consumer Affairs Mobile Unit is seen not only to represent consumer affairs but also the Government.
- 1.9.8 Unfortunately a person's problems or question do not always co-incide with the visit of the Mobile Unit and in some towns there is a feeling of isolation in being unable to turn to any organisation for assistance. It is believed that life today has become far more complicated than life in the past; the growth in legislation controlling our way of life and the growth in provision of social services and other benefits has created a world somewhat like a maze in which an individual, whether he be a consumer or a trader, can no longer rely on their acquired knowledge to know what reasonably can be done or where to get assistance in the event of some unforeseen circumstances.



1.9.9 In the city of Melbourne it is but a few 10 cents phone calls to get help or information. In the country towns there is not this avenue and officers of the Mobile Unit often find there are questions on matters affecting other Government departments or agencies. The work of the Ministry in country areas has also led to a close liaison with the Citizens Advice Bureaux and other community assistance agencies that have developed over the last 10 or so years. The work of these bureaux and agencies is invaluable and should be encouraged. It has been found that when such an agency is available in a town then requests for Ministry of Consumer Affairs assistance or for that matter requests for information relating to any aspect of Government whether it be State or Local Government, can often be readily provided without delay.

1.9.10 The Ministry's view of the work of the advice bureaux and agencies not only in country towns but also in the city of Melbourne, is that they have been invaluable in helping persons to cope with life's complications and problems. The work of the legal aid bureaux, tenants advice centres has, in many cases, been closely related to that of the Ministry and there is no doubt as to the valuable community service being provided.

CONSUMER/TRADER EDUCATION

1.10.1

In many respects, this year must be regarded as one of the most successful in carrying out its role of consumer and trader education. This section deals mainly with the work of the Ministry's central office and should be read in conjunction with the section "Country Services" which details the operation of that section. The relationships with the Education Department, the Victorian Commercial Teachers Association and the media have achieved a most satisfactory level and the willingness and co-operation given to the Ministry is most welcome. Although the product of this co-operation is not always evidenced in a tangible way, it nevertheless exists and has established very useful lines of communication, the exchange of ideas, and provided an excellent knowledge of the resources and capacities of organisations who are collectively trying to improve the awareness of the consumer and his ability to contract in the market place. It has now been fairly well established that there is no one approach that can satisfactorily reach all consumers and traders and, again this year, various media have been used.

Press

1.10.2

The "Consumer Watch" series in The Herald by Peter Fitzgerald has continued to provide an informative service to consumers. Various press releases were issued throughout the year as warnings to consumers

on matters such as franchise schemes, owner driver schemes, sale of fake Persian carpets and warnings on practices and products. These press releases were complemented by advertisements in the press, and by the provision of recorded phone messages. Two such advertisements were

**OWNER  
DRIVERS**  
**\$70,000 per year**

We have vacancies now for owner drivers to purchase vehicle to take over country/interstate or local runs. Home owners preferred, no experience necessary.

Have you seen ads like this before? The Ministry of Consumer Affairs has, when would-be-truckies, now bankrupt, come for help. The only road you might run down is the one to ruin. Ring Consumer Affairs Bureau for advice to potential owner drivers.

**PHONE 651 3323  
ANY TIME**

**UNIQUE  
OPPORTUNITY  
DELIVERY ROUND**

Potential earnings around \$300 per week. Capital outlay \$7000. Exclusive Territories available. This is a 5-day a week business to suit a man or woman.

**WARNING**

Rewards offered are rarely obtained. Many have lost money on these schemes. Before signing any contract, consult your solicitor, accountant or ring Ministry of Consumer Affairs on special line.

**651 3323**  
for recorded advice.

- 1.10.3 The response to these advertisements was quite remarkable and demonstrated that consumers will seek information if they know where to obtain it.

#### Radio

- 1.10.4 It is unfortunate that the Elizabeth Bond programme on the ABC which had listeners throughout most of Victoria ceased at the end of 1979. The consumer affairs segment of the programme was aimed both at consumers and traders, and through this programme

many country listeners learnt of the locations of the Mobile Unit for the ensuing week and made a point of visiting the Country Services Officer operating with the Mobile Unit. In addition to this regular programme, several interviews were given on an ad hoc basis particularly on country stations. The Ministry is grateful to the management of the ABC and Elizabeth Bond, and the management of the other radio stations that were so helpful during the year.

### Television

- 1.10.5 The fortnightly segments on ATV 10 programme "Everyday" mentioned in the last report continued until August. Later in the year the Minister of Consumer Affairs took part in a series of consumer advice segments on ATV 10 "News" programme.
- 1.10.6 As well as these programmes, a number of television interviews were conducted especially by Regional Inspectors.

### Printed Material

- 1.10.7 A new guideline/newsletter was issued during the year warning of the pitfalls that could be encountered by "owner drivers". Although no new pamphlets were issued, a booklet giving general advice on a number of consumer issues was designed especially for migrants. The booklet has been translated into eight ethnic languages. It is currently awaiting funds for printing.

- 1.10.8 A booklet of case studies is also being prepared in conjunction with the Victorian Commercial Teachers Association for use in schools.

#### Recorded Messages

- 1.10.9 For some years now the Ministry has provided a recorded message on the topic "Buying a Used Car". The phone number for this 602-8188 is listed in the white pages under Consumer Affairs Bureau. During the year, two other recorded messages have been used, the first to warn persons against unviable franchise schemes and the second to potential owner drivers relating to the purchase of trucks in the hope of gaining employment. The text of these messages is in Appendix H. Unfortunately, the telephone number for two of these messages was known too late to be included in this year's edition of the telephone directory but will be included in the following year's edition.
- 1.10.10 If there is a particular matter of concern to the Ministry, a recorded message is made and a warning advertisement is placed in newspapers referring to the recorded message. The response to these messages has been most satisfying and it is hoped that as a result a number of potential franchisees or owner drivers have been prevented from losing their money.

#### Film

- 1.10.11 An animated consumer education film is currently being prepared by the Victorian Film Corporation and it is hoped that this will be on the cinema circuit early in the new year.

Addresses and Lectures

1.10.12 The following talks were given -

	<u>1979/80</u>	<u>1978/79</u>
. Trade and Professional Groups	36	28
. Educational Institutions	29	36
. Migrant Groups (English Classes)	15	5
. Community Groups/Service Clubs/Church Associations/Parent Groups	58	52
. Other (Unemployed Youth Programmes, Army, Trade Union)	5	5
	<u>143</u>	<u>126</u>

These are in addition to those listed in the Country Services section (1.9) of the report.

1.10.13 It is pleasing to see the increase in requests to talk to the migrant section of the community. During the year requests for speakers reached saturation point and because of limited resources, the Ministry was unable to accept many of them.

Assistance to Teachers and Students

1.10.14 In recognition of the belief that the most effective form of consumer education is in the schoolroom, staff of the Ministry have encouraged teachers and tertiary level students to visit the Ministry, particularly its library, to gain information on the material available and the current trends in consumerism.

- 1.10.15 A significant number of teachers and students have accepted this invitation and now have established a most useful liaison with the Ministry.
- 1.10.16 The Victorian Commercial Teachers Association is particularly active in improving the level of consumer education or consumer studies in schools and, although it is too early to assess the effect of this in the market place, from enquiries made and from responses of parents and students, there is little doubt that the next generation of consumers will be far better equipped to handle the sorties in the market place than their predecessors.

#### PRODUCT SAFETY

- 1.11.1 During the year 1979/80, 48 complaints or reports of unsafe or hazardous products were received, ranging through exploding glass oven doors and soda syphons, novelty items, toys and even an electric baton which could be regarded as a dangerous weapon.
- 1.11.2 Comparative figures for 1977/78 and 1978/79 were 53 and 62 respectively.

Fortunately, as in previous years, most of the products referred to the Ministry were found to be harmless. For example, many overseas produced soft toys are filled with a synthetic material usually in the form of very small pellets. When the toy is torn open and the pellets spill out, there is a fear that the

material is toxic. Of the numerous tests made by the Health Commission on toy samples forwarded by the Ministry, none to date has been found to be toxic.

- 1.11.3 There are a number of parents who tend to abrogate their role of responsible selection of their children's toys and supervision of their activities to a Government agency expecting that agency, in this case the Ministry of Consumer Affairs, to act as a form of censor on what parents should or should not buy. At times, as stated in the 1978 report, products have been sold which some persons feel are socially undesirable.
- 1.11.4 There are many products on the market which are hazardous if improperly used, or carelessly used. The view taken by the Ministry is that provided the hazard can be easily recognised, there is no need for Ministry involvement. Where the hazard is latent or beyond the capacity of a consumer to recognise, it should be either banned or properly labelled.
- 1.11.5 For example, there should be no need to label a carving knife with a warning that the edge is sharp or a needle that it has a sharp point. On the other hand, if toys contain a toxic paint, or ceramics a glaze which leaks out toxic materials during use, these should be banned; if a product in its use can create a hazard e.g. an arc welder or a grinding wheel, it is appropriate that at the time of sale adequate instructions are provided and a warning given that protective glasses or clothing should be used.



- 1.11.6 No amount of legislation can stop the individual abuse of products nor the dangers facing children because of apathetic or careless parents. The box of matches is not at fault if children start fires in a car when left unattended. Nor is kerosene or petrol if placed in a soft drink bottle and subsequently drunk by a child.
- 1.11.7 Maturity should bring awareness of the risks children can face and, while an accident free world is perhaps a utopian dream, by far the majority of injuries to children and many adults could have been prevented with a little foresight.
- 1.11.8 In respect of a number of alleged hazardous or dangerous products, the Ministry has been reasonably successful in its negotiations with importers or retailers to have such products withdrawn from the market. However, for the reasons outlined in previous reports the Ministry still sees a need for the power to ban individual unsafe or hazardous products.

COMMONWEALTH/STATE CONSUMER PRODUCTS  
ADVISORY COMMITTEE AND  
THE DEVELOPMENT OF PRODUCT SAFETY/  
INFORMATION STANDARDS

- 1.12.1 The Commonwealth/State Consumer Products Advisory Committee (CSCPAC) comprises one member of each of the Commonwealth authorities involved in consumer matters and one member representing the consumer affairs authorities in each State/Territory. The Committee also has two representatives from the

Standards Association of Australia who act in a consultative capacity. The functions of CSCAPAC are -

- (a) to recommend to Ministers those consumer products for which mandatory safety and information standards under the Trade Practices Act should be established;
- (b) to make recommendations to Ministers on the implementation, scope and date of effect of any of the mandatory standards, and
- (c) to collect and exchange information on potentially hazardous consumer products which may be declared unsafe goods and banned from import and from sale.

1.12.2 This forum has been most valuable in exchanging product safety information between States and in developing product information and product safety standards. These standards can be incorporated in the Trade Practices Act Sections 62 and 63 and in the various State Acts.

#### Pedal Bicycles

1.12.3 Because of growing concern with the unsafe features of pedal bicycles, Ministers for Consumer Affairs recommended at a meeting in April 1977, that steps be taken to declare the Australian Standard for pedal bicycles a mandatory standard.

- 1.12.4 This recommendation was put into effect on 21st March 1979, with the introduction of a mandatory standard under the Trade Practices Act. An amending notice was promulgated on 21st December 1979.
- 1.12.5 Regulations have now been promulgated under the Victorian Consumer Affairs Act to complement the action taken under the Trade Practices Act.
- 1.12.6 The Consumer Affairs (Product Safety) (Pedal Bicycles) Regulations 1980, apply to pedal bicycles and reflectors for pedal bicycles manufactured in or imported into Victoria on or after 31st October 1980. The regulations require that pedal bicycles and reflectors for pedal bicycles must comply with the relevant Australian standards.

#### Information Standards - Care Labelling

- 1.12.7 An information standard under the Trade Practices Act for the care labelling of clothing, household textiles, furnishings, piece goods and yarns came into operation on 1st March 1980, for goods manufactured in or imported into Australia on or after that date. At the time of writing, draft regulations under the Consumer Affairs Act are in the course of preparation.

#### Victorian Legislation

- 1.12.8 Victoria has introduced regulations under the Safe Design and Construction of Goods section of the

Consumer Affairs Act in respect of the following products -

- . Spirit Stoves
- . Protective Helmets for Motor Cyclists
- . Children's Night-clothes
- . Air Pots
- . Portable Fire Extinguishers

CREDIT REPORTING ACT

- 1.13.1 Under Section 14 of the Credit Reporting Act 1968, there is provision for an agreement whereby there can be an investigation of the accuracy of credit records. The agreement provides a procedure that where a credit report is the principal reason for declining credit or hire facilities, then the credit granter will advise the consumer of that fact and the consumer may seek details of the credit record. If the consumer considers the record to be in error and it is not corrected by the Bureau, then the consumer can refer the matter to the Director of Consumer Affairs for investigation.
- 1.13.2 During the year ended 30th June 1980, seven persons (as against six in the previous year) wrote to the Director advising that they had been refused credit as a result of a credit record which in their opinion was incorrect. In four cases the records were incorrect and were appropriately amended. In two

cases the refusal of credit was not as a result of a credit record and in one case the Credit Reference Association maintained its record was correct and following advice of this to the consumer with some relevant facts as to the entry, there has been no reply and it must be assumed that the credit record is correct.

#### THE MINISTRY STAFF

- 1.14.1 The work of Public Servants is often not seen or recognised by the community at large and no doubt there are some consumers and traders who consider that their complaints or representations have not been handled as expeditiously or as effectively as they would wish. However, it would be wrong if this report was not to include a comment on the contribution of the Ministry staff to the achievement of the objectives of the Ministry.
- 1.14.2 As Director of Consumer Affairs, it is with considerable pleasure and gratitude that I am able to comment on the devotion and loyalty of the members of the Public Service who work in the Ministry of Consumer Affairs. Their enthusiasm is beyond question; their persistence and integrity in trying to resolve misunderstandings, differences of opinion and complaints which arise in the market place is worthy of the highest commendation, and it is unfortunate that many members of the public do not realise how much consideration and effort is devoted to handling their complaints or

claims. With the considerable and increasing pressures in the Ministry, but without this conscientious approach, which unfortunately, has occasionally resulted in ill-health of the officers, the role of Director of Consumer Affairs in administering the Consumer Acts and in meeting the many commitments placed on the Ministry would have been virtually impossible, and both consumers and traders alike would have suffered.

PART 2MATTERS ARISING FROM THE INVESTIGATION OF COMPLAINTS  
AND REFERENCES TO THE MINISTRYRURAL REAL ESTATE

- 1.1 A small but significant number of complaints and enquiries are received by the Ministry concerning the purchase of rural properties. These relate to farmlets, subdivisions in and near country towns, and old houses on small allotments.
- 1.2 The daily press, especially at week-ends, carries attractive advertisements extolling the values of beautiful country Victoria. The often stated country benefits: clean air, natural playgrounds, wildlife, forests, etc. can often override the consideration that should be given by both vendor and purchaser to questions of Development Orders, availability of building permits, access, essential services (power and water), etc.
- 1.3 Advertisements are designed to sell, and usually describe only the possible advantages. They are often deceptive because of what is not said and the advertiser knows the reader will draw incorrect favourable assumptions.
- 1.4 Very few consumers have the knowledge to buy land without seeking advice. Unfortunately, most of them try to do so after having being lured by attractive advertisements, and come to grief. Advertisements

should be read with a considerable amount of cynicism, and it is necessary for any potential purchaser to ask questions on matters such as Development Orders, availability of building permits, access, essential services (power and water), etc.

- 1.5 The one cardinal rule to follow is never sign a sale note or contract before seeking advice, which is usually not hard to obtain.
- 1.6 Some of these blocks are in sensitive environmental areas and building permits cannot be obtained unless several blocks are consolidated.
- 1.7 The Ministry for Planning, Victoria, have advised that within Victoria there are an estimated 56,000 allotments located in sub-divisions for which a planning permit is not available for the erection of a house on each and every allotment. Some speculative vendors advertise allotments in the above category as being suitable for week-enders and hobby farms, and invariably the selling price does not reflect the planning restrictions which are known to apply to the land. Judging by complaints received and enquiries to the Ministry, there must be a considerable number of suburbanites who have been conned into the purchase of a rural retreat which cannot be used for the purpose for which it was purchased (the erection of a house).
- 1.8 The Ministry has knowledge of purchasers stuck with land to which they have no access and for which they can never obtain a building permit. Many of these blocks are a legacy of the land booms of the 1890's



when speculators sub-divided any land they could get their hands on. Their successors are now selling these blocks to gullible people.

- 1.9 One such sub-division (registered about 1890) of approximately 300 small residential allotments, is laid out on land subject to flooding. The plan of sub-division depicts roads which over the years have been closed, and consequently the individual lots now have no road frontage or means of access. If land adjoins a public road, then generally there should be no problem, but if access is over anything but a public road, then the purchaser should require the vendor to show that he has a legal right to use an access road and that he can transmit this right to the purchaser.
- 1.10 In respect of farms or farmlets, the city dweller when looking at acres should look at fencing, water supply, electricity, etc. and ask himself will he be able to do the host of jobs around a farm that he surely will have to. A farmlet could turn out to be a white elephant. All the tasks that must be performed on a viable farm still have to be carried out on the few acres, yet it would be foolish to invest capital for a certain loss. Farming is virtually impossible without a considerable capital outlay.
- 1.11 The Ministry has had reports of sham land owner action lobbies controlled by speculators, who panic owners into selling their land at far less than they paid for it by spreading rumours of government acquisition.

- 1.12 Any potential purchaser of rural land, or for that matter any land, must decide why it is required and then draw up a list of questions to ascertain whether it is fit for the purpose and whether it is a viable proposition. Regrettably, the vendors' or agents' advice is not always reliable. The enquiries must be greater than would normally be the case for a suburban home. Again, as a matter of emphasis, the cardinal rule is repeated: 'Never sign a sale note or contract before seeking advice and establishing the facts'.

## HOME BUILDING INDUSTRY

### New Home Construction

- 2.1.1 The House Builders' Liability Act was introduced to protect the home owner in the event of default on the part of the builder in not completing a home and to protect the home owner should defects arise during the course of construction, or up to a period of six years after completion of the home. For home owners to be protected under this Act, the house must be built by a builder registered with an approved guarantor body. In Victoria, the two guarantor bodies are the Housing Builders Association Ltd and the Master Builders Housing Fund Ltd. It is an offence for an unregistered builder to construct a home. Furthermore, any homes constructed by a non-registered builder have no protection under the House Builders' Liability Act.

- 2.1.2 There is nothing to stop a potential home owner deciding to build his house and sub-contracting the construction of the dwelling either directly himself, or through an unregistered builder or a project manager. Unfortunately, while this course may be reasonable for the qualified and well informed home owner, it can be a disaster for the unqualified and uninformed. It is becoming more common for potential home owners to be advised by so-called project managers, unregistered builders, and a number of kit home manufacturers that they will build the home for them. The consumer, however, then takes out the permit necessary and to all intents and purposes, he or she has full responsibility for the construction of the home.
- 2.1.3 Many complainants state that some kit home manufacturers suggest or direct consumers to a builder with the inference that the builder is experienced and can be relied on to do a good job on the particular type of construction. Should the owner have problems with the builder, the kit home manufacturer will often deny any responsibility and offer no assistance because, as they say, "We only suggested so and so as a favour to the owner". Legally, the manufacturer is protected, as a separate contract exists between the owner and the builder, but this off-hand attitude is not accepted by the Ministry and will be pursued.
- 2.1.4 The project manager concept is not new in that it has been the forte of architects and other professionals for some time. However, when an unregistered or de-registered

builder or an unqualified person takes it on, then the home owner is at serious risk. That a person is an unregistered or de-registered builder should be sufficient warning as to their capabilities.

2.1.5 Unfortunately, the Ministry's files demonstrate very clearly the disasters that home owners can encounter when they fail to engage a registered builder.

2.1.6 Home owners should also realise that whereas a home built by a registered builder has a guarantee for six years, notwithstanding a change in ownership, and this is an asset when selling a home, the home built by the unregistered builder has no such guarantee and potential purchasers should be wary of any newly built home which does not carry the protection afforded under the House Builders' Liability Act.

### Building Products

2.2.1 Because of the competitiveness of the market for building products, some manufacturers are reluctant to spend money on the proper testing of new products prior to their placement in retail areas. This is also applicable to some importers of overseas manufactured products where very little, if any, consideration is given to long term performance capabilities under Australian conditions.

2.2.2 Some manufacturers and importers are placing new products on the market relying on consumers to do the product testing. Despite impressive guarantees and warranties the consumer has little chance of proper and adequate redress should the product fail because either the local

manufacturer has little in assets, or the importer refers to the manufacturer's guarantee which excludes claims relating to installation and product usage in extreme weather conditions which many parts of Australia experience.

- 2.2.3 The Ministry's files have many examples of short term product failure in the areas of wall cladding, roof covering, roofing treatments, insulation products, swimming pool covers and solar heating panels.
- 2.2.4 Although there are the avenues for redress, the Ministry's experience over many years is that often by the time the product has failed - so has the promoter or company.
- 2.2.5 The "Lifetime" or "40 Year" guarantee is in many cases worth only the paper it is written on.

#### Kitchen Renovations

- 2.3.1 Perusal of the metropolitan press indicates that there are approximately 40 traders advertising as being specialist kitchen suppliers/renovators.
- 2.3.2 The majority of traders in the industry rely on media advertising together with glossy showrooms to obtain sales leads. The common method of operation is for Mr. and Mrs. Public to visit a showroom where there is often a glamorous hostess who cannot, or is under instructions not to, provide information on prices and other details on displayed kitchens. The hostess advises Mr. and Mrs. Public that if she can have their name and address she will arrange for a "Designer" to call at their home and discuss the potentiality of their home for a new kitchen.

- 2.3.3 Little do Mr. and Mrs. Public realise that by taking up the hostess' offer, they will be subjected, within their home, to little more than the sales pitch of a commission salesman parading under the guise of "Designer". All too often a statement like - "After 4 hours of sales talk we signed the contract just to get the man out of the house" appears in complaints forms lodged with the Ministry. As the consumer has gone to the place of business of the kitchen renovator, there is no protection under the Door to Door Sales provisions of the Consumer Affairs Act, and a contract once signed is legally binding.
- 2.3.4 The above method of operation is not by accident, it is by design and the high pressure sales tactics used in the consumer's home are designed to get a sale there and then before the consumer has had the opportunity to get quotes from other kitchen renovators. The less reputable the renovator, the harder will be the sales pressure and the less competitive his price.
- 2.3.5 Any undue sales pressure is usually a sign of unsatisfactory goods or services or an excessive price.
- 2.3.6 The decision to have a kitchen renovated should be based on the same criteria for having other jobs done around the home; any home owner should :
- (a) decide what you want in detail after getting advice from advisory centres or consultants;

- (b) set this down in writing and obtain at least three quotes. Remember that even some small changes in requirements could mean quite large differences in quotes;
- (c) check other work done by the kitchen renovator or contractor;
- (d) ascertain whether any building permits are required for the alterations and insist on these being obtained. The building permits system is designed for the protection of the home owner;
- (e) look carefully at the terms of payment and realise that if a deposit in excess of \$500 is required then this deposit must, under the Building Contracts (Deposits) Act, be paid into a joint trust account. It is not unreasonable for a renovator to receive progress payments for the satisfactory work that has been carried out. This is quite different from the contractor demanding excessive deposits and large progress payments well in excess of the value of the work.

### Landscaping

- 2.4.1 From complaints received and subsequent investigation it has been found that the term "landscaping" has no precise definition. Complaints fall into two categories: the property which is advertised as being landscaped or will be landscaped, and the engagement by the owner of a person to undertake landscaping.

2.4.2 Where a developer has advertised "landscaped" or "landscaping to be undertaken", the purchaser is often disappointed to find the work that has been done is, in some situations, merely the sowing of grass seed and the planting of a few shrubs and trees on virgin ground. The expectations of the purchaser/owner were that features would be formed by various levels of soil, there would be planned planting of shrubs and trees and appropriate lawn edging etc.

2.4.3 Potential purchasers of developments incorporating landscaping should obtain from the developer a plan of what the developer proposes in the way of landscaping. This would overcome the disappointment many consumers report to the Ministry.

2.4.4 Should a consumer consider using a tradesman to undertake landscaping work, it is important that a detailed specification be prepared and used as the basis for the contract/agreement. It is also advisable to check out previous work by tradespeople and obtain several written quotations.

2.4.5 The following job description which is an exact copy of a contract of sale relating to a complaint made to the Ministry, was submitted and accepted without a plan.

Work Description	Plan	
<p>BACK YARD LAWN EDGEING TAN BARK ROCKS + SHRUBS CONCRETE BBQ AREA</p>		
Remarks:	Nett Purchase Price	\$5184
	Less Deposit	
	Balance	\$5184



- 2.4.6 It is totally inadequate and leaves little basis on which to resolve what work was to be carried out. There was no indication of the number or types of plants, the area to be concreted, there is no sketch plan which would put all of the landscaping into perspective, there is no mention whether it is a square foot of tan bark or some square yards and, apart from dimensions of the concreting of the BBQ area, there is no indication of the depth or strength of the concrete, the colour or the finish.
- 2.4.7 In this case, the landscaping firm was co-operative with the Ministry and was not attempting to use vague terms to avoid their responsibilities. However, as an example of what was meant, the term backyard, in the view of the company, meant to rotary hoe the whole of the backyard, set it out, add top soil and prepare the area for sowing of seed, fertilise and sow the seed and carry out some other works in connection with the backyard.
- 2.4.8 Unfortunately, this type of contract is not rare and, although in this section we are dealing with landscaping, there are similarly vague contracts issued for painting homes, carrying on extensions and many other renovations.
- 2.4.9 Whilst most of the blame must be laid at the trader's feet because he is in business and is aware of what is required, the consumer who signs such a vague contract is equally culpable. There has been considerable publicity given to responsibilities of the consumer when entering into contracts and it is with more than some

dismay that the Ministry still finds, despite all its efforts and advice, that people are not observing some fundamental rules, such as those indicated at the end of section 2.3

FALSE TRADE DESCRIPTIONS -  
MEATS AND FISH

- 3.1.1 During the year, the Ministry investigated a complaint from a consumer that he and his wife visited a certain restaurant and ordered Grilled Eye Fillets of Veal and Eye Fillets of Veal with Onions and Mushroom Sauce. To the dismay of the diners, they received fillets of beef instead of veal.
- 3.1.2 Following investigations by the Ministry, the restaurant said that clients were informed before ordering the veal dish that it would not comprise young veal but yearling beef. Secondly, they advised that in Melbourne the custom of both butchers and restaurateurs is to consider the definition of veal to include animals of up to 400 kilograms live weight.
- 3.1.3 The diners, of course, denied they were informed of the substitute dish, and it tests the imagination of the Ministry that a restaurant would on the one hand follow what it says is the custom - i.e. calling beef off animals to 400 kg veal - and then say to each person who is about to order a dish "The veal dishes we serve are not veal but beef", (when such meat is from an animal less than 400 kg.)

3.1.4 At this point, the Ministry which is fortunate to have on its staff a part-time cattleman who said "In no way can the meat from a 400 kg. animal be called veal", decided to have a look at what was veal and how it is described.

3.1.5 The first trade description located was -

"White and milky coloured flesh, small amount of fat. Carcase weight between 20 kilograms (minimum legal weight for sale of carcase) to 75 kilograms."

3.1.6 The Ministry then looked at the Commonwealth of Australia regulation relating to the export of meat. In regard to veal it said -

"Veal is graded in accordance with the following characteristics:

Age

- distinct separation of the sacral vertebrae;
- only slight signs of ossification of the cartilaginous tips of the spinous processes of the sacral vertebrae;
- no ossification of the cartilaginous tips of the spinous processes of the lumbar and thoracic vertebrae;
- only a slight tendency to flatness and some redness of the ribs.

Weight

There is no maximum dressed carcass weight, providing the characteristics of age outlined above are indicative of veal. Certain minimum weight requirements of each grade are specified below.

Conformation - is taken into consideration when determining grades.

Note: There is no grading for sex.

Export Grades

For carcasses and piece veal (Bone-in or Boneless) are -

1st Quality	}	Minimum carcass weight 50 lb.
2nd Quality		(22.6 kilos)
3rd Quality		Minimum carcass weight 42 lb. (19.0 kilos)

Boneless Veal: Derived from carcasses of animals not less than 14 days old when slaughtered and yielding a boneless full side of 10 lb (4.5 kilos) minimum weight.

Note: Bobby Veal and Stirk Veal.

Carcasses, piece veal and boneless veal may be classified as 'bobby veal' if derived from carcasses not exceeding 70 lb (31.7 kilos) in weight. The use of the term 'bobby veal' is optional.

Veal derived from carcasses over 70 lb. (31.7 kilos) in weight is sometimes referred to as 'stirk'."

3.1.7 The Ministry's advisers pointed out that the above description must not be confused with another commonly used trade term 'Vealer'. The trade description of vealer is "Young animal of either sex, usually 12 - 18 months of age. Pink firm flesh, even covering straw coloured fat. Usual weight is in the range of 150 - 175 kilograms."

3.1.8 At this stage, the Ministry again wrote to the restaurant pointing out that none of the three trade descriptions given to us tallied with the restaurateur's view or his knowledge of the custom in the trade.

3.1.9 The restaurateur replied -

"The problem, as I see it, is that our restaurant is being put into a rather invidious position vis-a-vis the rest of the Victorian catering industry. The original complaint of the consumers, and your subsequent correspondence with ourselves and your advisers, has highlighted an anomaly in the definitions of 'veal', 'Yearling beef', etc. current in the butchering trade and catering industry in Victoria. Simply put, it would seem that the term 'veal' is more loosely used in the catering industry than its strict trade description would warrant."

3.1.10 With this last statement the Ministry certainly does not disagree. The restaurateur further said -

"From my own observations over the last few months the majority of Melbourne restaurants are in exactly the same position. Dishes advertised as 'veal parmigiana', 'veal cordon bleu', 'wiener schnizel', etc. will prove on inspection to have been prepared from 'vealer' or yearling beef.

In these circumstances, considerations of fairness would suggest that the Ministry (or whatever authority is appropriate) should, if it thinks fit, carry out a general investigation into current trade practice on nomenclature; it would then be in a position to make a general ruling applicable to the whole catering industry. In the meanwhile, I would respectfully suggest that our restaurant not be singled out for special treatment."

- 3.1.11 The Ministry certainly does not intend to single out that restaurant. However, at this stage the Ministry was able to get hold of the definition of veal from a document "Standard Description of Meat Cuts, an Industry Code of Practice for Display and Advertising Description and Labelling".

"Veal is derived from young beef carcasses up to 90 kg. chilled carcasse weight. The carcasses show distinct physiological signs of immaturity, particularly in regard to muscle colour and fat cover - it is generally pink to pinkish red in colour."

- 3.1.12 It is obvious that the diners did not get veal according to any of the trade descriptions the Ministry could locate. It is also conceded that many veal dishes sold as veal throughout Melbourne are in fact yearling beef. Other investigations over the years have shown that many caterers or restaurateurs often wrongly describe the food being served and there have been admissions from commerce that fish advertised on the menu as whiting, barramundi or snapper frequently is really another substitute fish and that in many cases the diners do not really know what they are eating and perhaps in most cases quite enjoy the meal.
- 3.1.13 In previous years other investigations by the Ministry in relation to meat cuts show that quite often the housewife is not getting the cut of meat she is expecting although she may be paying the price of her expectations. These investigations have highlighted the need for reasonably accurate trade descriptions as to the cuts of meat being sold and of dishes listed on the menu in restaurants. As the prices of these cuts and the dishes are related to the normal cost of the advertised item, it is tantamount to fraud to substitute a cheaper cut of meat or a cheaper fish. Whether the consumer or housewife is able to tell the difference and is sufficiently certain enough to complain is besides the point. However, in the case of the diners that started off this recent investigation, they were sufficiently upset to contact the Ministry. Their complaint was justified and it is little solace for them to know that the practice of the particular restaurant they went to is common with the practice

of other restaurants in Melbourne. In this particular case the diners were from interstate and knew their meat cuts, and no doubt have formed a private assessment of Melbournian discernment, or rather, lack thereof as diners.

#### THEATRE BOOKINGS

- 4.1.1 Over the years there has been the occasional complaint regarding the inability of patrons to purchase theatre tickets from box offices at periods of more than 6 days or so ahead of a performance. There have also been complaints that many seats do not allow a full, unrestricted view of the stage and the acts, but there has been no indication on the seating plan of such limitations. There have also been similar complaints in respect of seats for the Victorian Football League Grand Finals, where there is a restrictive viewing area because of the proximity of cyclone fences.
- 4.1.2 In respect of football, the Victorian Football League agreed that the consumer should know prior to the purchasing of a ticket for the finals, that his seat will not have a clear and uninhibited view of the arena, and it will be interesting to see what the League does in this regard this year.
- 4.1.3 In the most recent case investigated, a consumer tried on the Saturday, 14th June, to purchase tickets for a show on the night of 28th June, but was advised by the booking office that tickets would not be available for purchase until Monday, 23rd June. Notwithstanding this,



as he was again passing the ticket office on Thursday, 19th June, he again tried to purchase the tickets but was given the same advice that they would not be available before Monday, 23rd June. On Monday, 23rd June, at 9.15 a.m. he arrived at the booking office and found that the best seats available were at Row H in the dress circle, and he questioned the Ministry as to how other persons who obtained the better seats got them before 9.15 a.m. on 23rd June.

4.1.4 In reply to the Ministry's query, the company said -

"It has been the practice of most entrepreneurs for many years to open mail bookings for the full run of the show some time before the opening night and when counter bookings open, only to sell 6 or 12 days in advance. Party bookings of 20 or more are also open with mail bookings. Therefore if you get good response from mail and parties the amount of tickets available for counter bookings is limited. One of the reasons for keeping the mail bookings policy is that if for some reason the show has to close the booking office has a record of the purchasers and so can refund direct to the patron."

A further letter stated that -

"The situation is that the computer is programmed in such a way that the booking clerks cannot buy tickets off the machine any further than 6 days ahead. However, the head office and selected terminals are able to buy for the whole season to facilitate mail bookings."

4.1.5 The letter went on to say -

"It would appear that the patron concerned was not informed by the booking clerk that they could book further ahead by mail and I will ensure that for future attraction booking clerks explain this to patrons so that this confusion or complaint should not arise."

4.1.6 Further investigation revealed that the policy which limited the availability of seats for cash to 6 days in advance of a performance was one dictated by the promoters of the show, and that the computer could be programmed to sell tickets for any time span, and on a number of occasions both mail and counter bookings were offered simultaneously for the whole period.

4.1.7 As to the question of refunds, the Ministry is advised that in the event of a performance being cancelled, refunds can be obtained from the specific selling outlets.

4.1.8 The Ministry is critical of the promoters of the show advertised, in that the customer should have been advised at his first visit to the booking office that he could have made a mail booking, but secondly and more importantly, that the policy of allowing cash bookings for only 6 days in advance was a reflection of the promoters' policy and not of any computer programming.

4.1.9 The Ministry appreciates that by opening mail bookings in advance of counter bookings, it does give the country patrons an equal chance with the city patrons for getting good tickets for a particular show. However, with the

exception of this and it is not known how important this is, there seems little justification for opening counter bookings just 6 days in advance of a performance.

#### ALLEGED BENEFICIARY INTEREST IN ESTATES

- 5.1 Enquiries have been made by persons who have received letters advising they may be a beneficiary in an overseas estate, usually England, Ireland or Wales. Quite frequently the initial letter asks for some personal details to allow a more detailed investigation to be made. A second letter advises that from the information provided by the recipient, there would seem to be grounds for a more detailed search. Occasionally the letter will refer to the estate being quite substantial or that a thorough investigation will be necessary to determine entitlement under the estate. A common paragraph of the second letter refers to the need for reimbursement of expenses incurred by the investigators.
- 5.2 Occasionally enquiries are genuine, but it would seem from reports made to the Ministry that more often they are not, and that the person being advised of some interest in an estate has had no relations whatever with the country of origin.
- 5.3 These frauds will probably continue occurring from time to time, some with a slightly different method of operation, but in the main are usually designed to separate the innocent person from their money.

- 5.4 It is appreciated that no one would like to forego an interest in an estate, especially if it is thought to be substantial and, of course, the bogus estate investigators are aware of this gullibility.
- 5.5 In the main, if a firm of solicitors is engaged to seek out the heirs of an estate, it is the estate that bears the expenses.
- 5.6 In its six years of operation, the Ministry is unaware of any person who has received a benefit from an estate following an approach similar to that related above.

CASTING AGENCIES AND  
OTHER TRAINING INSTITUTES

- 6.1 "Film Extras, Potential earnings to \$100 per day. Experience not essential ..."
- "Ordinary looking people 18 - 45 can earn \$100 a day appearing in T.V. Commercials ..."
- 6.2 Advertisements like these attract aspiring young stars and models to the many casting agencies which have mushroomed in Victoria in recent times. While some persons might obtain intermittent work, the vast majority find that having paid the agency money for an interview, for seminars on the industry, video tests or photographic sessions, they hear nothing further.

- 6.3 Many people in their eagerness to get into this industry forget that it is strongly competitive, that more often than not experience is essential, and that other requirements might apply - for example being a member of Actors Equity, and that the unemployment rate of actors/actresses is very high.
- 6.4 Before parting with \$100 - \$400, enquiries must be made from other persons who have completed such courses or with potential employers to ascertain what are the job prospects available. As with the purchase of any goods and services, consumers are encouraged to shop around and certainly they should compare courses offered by some of these casting agencies and other training institutes with those offered by established governmental educational institutes.
- 6.5 Some persons are successful and lucky enough to find jobs after receiving training. Others, however, are not so fortunate. The Ministry receives many enquiries from people contemplating courses not only in casting and acting agencies, but also in the liquor industry, travel industry, business and electronics. And although most of these have attractive advertisements inferring that a door to a successful career is now being opened, none guarantee employment.

#### CARPET STEAM CLEANING

- 7.1 Carpet steam cleaning firms and carpet cleaning franchises (no experience required) have proliferated in this State in recent years and the popularity or unpopularity of steam cleaning is reflected in the increasing number of complaints received.

- 7.2 Carpets have been left soaking wet for days, dye in carpets has run, and in some cases the backing has separated. It is clear that some firms are grossly incompetent and have no knowledge of the product they are cleaning nor of the equipment they are using.
- 7.3 In several cases reported the cleaners concerned have ruined thousands of dollars worth of carpet.
- 7.4 Following such complaints several small businessmen faced with the possibility of legal action for damages, have elected to disappear or seek bankruptcy rather than compensate consumers for damage done.
- 7.5 Consumers should check that they are dealing with an established firm that carries public risk insurance before placing their cleaning business, otherwise a \$50 cheap job can become a much more expensive disaster.

#### BILLIARD TABLES

- 8.1 The supply of small billiard tables for use in the home is an increasing cause of complaint by consumers.
- 8.2 Complaints about excessive delays in delivery, poor quality finish, failure to refund deposits, evasive salesmen, have been received regarding a number of suppliers to this popular market.
- 8.3 The rules in buying a billiard table are no different from other purchases in terms of signing a contract.

If the salesman makes any promises as to delivery dates or warranties, insist that these be included in the contract. If he/she is unwilling to do so, then go elsewhere. Verbal promises are of no value when there is a dispute.

On delivery check the goods for faults, damage and completeness - note any defects or differences on the delivery docket. Do not be put off by the delivery man who is in a hurry to get away. If there is damage to the table, he probably knows this and naturally does not want to get involved. You are under no obligation to accept defective goods.

#### THE CHEAP WATCH OR OTHER PRODUCT

- 9.1 During the year, the Ministry received a complaint from an interstate person who had purchased four watches at a very cheap price from a travelling salesman. Over the year, there have been other complaints where consumers have bought watches or goods from persons in 'pubs' or on the streets who have been ready to identify themselves with a business card which often proves to be phoney.
- 9.2 It is surprising how gullible some people are. But while they are gullible, they are also optimistic and have great faith in the ability of the Ministry of Consumer Affairs to trace itinerant salesmen using false business cards and get redress for them over a watch, which at \$10 or \$12, is grossly overpriced.

- 9.3 The Ministry can only warn potential purchasers or consumers if they buy items from itinerant travelling salesman or a stranger in a 'pub', that they are in an entirely caveat emptor situation and have to be prepared to lose the full value of their purchase.

#### HIRING OF GOODS

- 10.1 With the increase of the "do it yourself" philosophy, many consumers hire tools and equipment. For short duration tasks, this is often a reasonable proposition, provided problems do not arise.
- 10.2 The hiring industry is like most others; there are good hiring firms and there are some bad ones. With some firms there is good documentation, and the responsibilities of the hirer are clearly set out. With others, the contracts are designed to be confusing and to give the consumer no rights. Some contracts have clauses which are void under the Trade Practices Act, and these clauses are used to mislead consumers as to their rights. One contract recently examined has three foolscap pages of terms in small print, which takes over an hour to read and possibly a week to understand.
- 10.3 Some equipment hired out is faulty, and when returned, the hirer is expected to make good the faults which existed before the item was hired.
- 10.4 On the other hand, some hirers do not use proper care and are rightly responsible for the damage done to the equipment.



- 10.5 Many complaints reaching the Ministry could have been avoided by exercising some care and asking a few questions.
- 10.6 Most hiring agreements show in small print on the back of a document that the hirer is responsible for loss. The good documents will have a clause in bold type above the signature space -
- "THESE GOODS ARE NOT INSURED WHILE IN YOUR POSSESSION"
- 10.7 If they are lost or damaged by accident, the responsibility is with the hirer and it is wise to insure. Good hiring organisations will provide information as to agents who can arrange insurance.
- 10.8 This, however, is not the only trap, and the following advice is offered -
- (1) Carefully read any contract you sign.
  - (2) Note when the goods are to be returned without increased charges. Ask whether the firm will be open on that day. One firm well known to the Ministry is closed Monday and many hassles arise over the return.
  - (3) Check the operation of the item and note on the contract any apparent damage or evidence of previous misuse.
  - (4) Ask who should be contacted, and how, if the item hired malfunctions.

- (5) If petrol or oil is to be used, find out what grades and how the machine is lubricated.
- (6) Check safety guards and movable parts.
- (7) Ask how to clean the items after use and make sure they have been cleaned before return. Some firms deduct excessive amounts from a deposit to clean the item on return.
- (8) Ask other friends who have hired equipment their experience with a hire firm.
- (9) Make sure you know how to operate equipment.
- (10) If you lend it to a friend, you are responsible for his actions.

### TRAVEL INDUSTRY

#### International Air Fare Increases

- 11.1.1 Rapidly escalating fuel costs have forced fares steadily upwards. The system of advising international airlines who operate into Australia of proposed fare increases is unsatisfactory. In several instances, lack of adequate warning has caused chaos within the travel industry and considerable dissatisfaction to some travellers.
- 11.1.2 In a number of cases consumers have complained that they have paid money to a travel agent in the belief that they have paid the full current fare, and then subsequently

have been advised that an additional sum must be paid prior to the ticket being issued. Many agents who collect money are not licensed to issue international airline tickets and must forward the consumer's money on to an airline or to a further travel agent. By the time this money has been forwarded, often there has been a fare increase.

This problem would appear to be an insoluble one unless more adequate warning is given to the travel industry of proposed air fare increases.

#### Unconfirmed Travel Arrangements

- 11.2.1 An international tour agency recently caused a number of complaints from school teachers who were booked on a package tour to Bali.
- 11.2.2 The tour had been advertised as having definite arrangements and money had been collected from potential travellers. Several weeks prior to the departure date a large number of the participants were advised that the agent had been unable to confirm flights from Bali to Melbourne on days suitable, therefore, the tour had been cancelled.
- 11.2.3 The Ministry subsequently established the agent had never confirmed bookings on the dates advertised for the return of the tour and, in fact, the teachers had only been on a waiting list.

- 11.2.4 Because of the heavy traffic at school holiday time, and the late notice given to teachers of cancellation of the tour, most of them were unable to book to equivalent destinations. When the agent was approached by the Ministry he indicated that a similar scheme had worked satisfactorily for the May school holidays when he had a number of people on waiting lists for flights. On that occasion the airline had been able to confirm them at a later date because of a number of cancellations from other travellers, not associated with the travel agent.
- 11.2.5 This practice is considered to be totally unsatisfactory and unethical.

#### Advance Purchase Excursion Fares and Travel Insurance

- 11.3.1 Cancellation penalties for advance purchase excursion fares now generally stand at 50% or less of the fare, rather than the previous 100%.
- 11.3.2 Many consumers attempt to cover the possibility of this loss by taking out travel insurance. Complaints have been received where consumers have had to cancel travel arrangements because of illness and find that their claim on insurance has been denied because of a pre-existing medical condition.
- 11.3.3 These problems were highlighted in the last report and it is now pleasing to note that both the travel and insurance industries have recognised and are endeavouring to alert potential travellers to the severe limitations of travel insurance in respect of the cover on illness or death.

11.3.4 In many cases brochures and policies issued by companies are now highlighting the particular exclusion clause relating to pre-existing conditions, and attempts have been made to make the clause more explicit in meaning. The Insurance Council of Australia has made a recommendation recently on a standard pre-existing illness clause.

11.3.5 The clause states -

"The Insurer will not pay any claim in respect of death or accidental bodily injury or illness directly or indirectly caused by or arising from or traceable to any pre-existing physical defect or infirmity for any recurring disease of the insured person."

11.3.6 Although this is clear, the term traceable has been used to relate to the most insignificant incident to the illness preventing travel. Travellers intending to take out some form of travel insurance must inspect the policy wording prior to taking out a policy, and must appreciate that companies apply a severe attitude to claims in respect of sickness.

11.3.7 There is no such thing as cheap travel insurance and the amount charged for a policy usually directly relates to the cover which it provides.

11.3.8 It is understandable why some insurance companies have become inflexible in their attitude to claims. Recently a travel agency had booked a potential traveller on an overland-tour through Africa. He

was quoted \$2,180 for the trip between Melbourne and London. This was the limit of the amount of money he could afford for such a trip. He was issued with a receipt indicating that he had paid for a tour between Melbourne and London. Subsequently it transpired that the agency had not quoted him for the cost of an air fare between Melbourne and Johannesburg. As he could not afford the additional sum of money for the air fare, he had no option but to cancel the tour. As the tour was due to depart within 60 days of his booking under the terms of the contract, he was not entitled to any refund.

- 11.3.9 Officers of the Ministry sought help for the traveller and discussed the matter with the manager of the travel company. The manager's views were that the consumer was proving unduly difficult as he, the manager, had lined up a doctor who would have given the traveller a false medical certificate indicating an illness which would have been sufficient for a claim on the travel insurance policy which had been taken out. The consumer would not agree to this fraud. The name of the doctor is unknown, however, that a manager of a travel agency would have such a good but unethical working relationship with a doctor, raises questions of how many times there has been fraud against insurance companies in similar circumstances.

INSURANCE INDUSTRYInsured value

- 12.1.1 The Ministry is continuing to receive complaints against the insurance industry and the investigations show that these complaints are, in the main, justified. The complaints arise from the documentation used by insurance companies, the representations made by its agents or brokers and a break-down in communication which leads to consumers having unreal expectations or knowledge of their cover. Some of these matters have been dealt with in previous reports, however, there is still a need to highlight a number of areas of dissatisfaction.
- 12.1.2 The Ministry believes it is not unreasonable for a policy holder to expect to receive the full insured value of his house when it is totally destroyed if the agent of the company has advised the home owner to insure to a certain level. Notwithstanding the attitude of the industry that a person should not stand to gain by an insurance loss, it seems quite immoral to suggest to a home owner that his house should be insured for say \$40,000 and for the company to collect premiums on this value, and then if there is a total loss to state that the house is only insured for its market value which may be \$20,000 or \$25,000.
- 12.1.3 There have been complaints as to whether the house has been insured for market value or replacement value and Ministry officers have little doubt that the home owner believes that he has been covered for replacement when, in fact, the policy or its application is related to market value.

12.1.4 The Ministry has a case of a consumer who insured a holiday house but on receipt of the policy found that holiday houses were excluded. It was the intention of the company to insure the house but the only printed forms available were printed for Australia-wide use and in other States holiday homes were excluded. This was not the case in Victoria. Whilst the Ministry has no doubt that the policy would have been honoured, surely it would have been a simple matter for the company concerned to have issued a policy clearly stating that holiday houses are covered in Victoria. It seems that the economy of printing was allowed to out-weigh the costs that confusion or misunderstanding would generate.

12.1.5 The problem of household insurance is not limited to Victoria, and the Tasmanian Consumer Affairs Council is currently investigating matters relating to household insurance policies. Their terms of reference are to investigate, and report on -

- (1) Procedures for determination of the insured value placed on a property under a household insurance policy.
- (2) Procedures for the determination of the value of a property when total damage is sustained, and the adequacy of those procedures.
- (3) Procedures resulting in annual increases in the insured value of a property, either automatic or optional, suggested or imposed by an insurer.
- (4) The degree to which consumers are made aware of the meaning of values set out in household insurance policies.



12.1.6 Perhaps the majority of complaints relating to the insurance industry, apart from the collapse of companies or brokers, arise from a communication breakdown. This can occur at any stage during the relationship between the consumer and the company. More often it is the consumer who is incorrectly advised of the cover of a policy and its exclusions. There is inadequate documentation, in the form of pamphlets to which the consumer can refer. It is almost impossible to get hold of a pro forma policy before being committed to paying a premium for insurance. After premiums have been paid, there is an unacceptable delay in the issuing of policies to consumers and this delay has resulted in consumers being without cover or lacking knowledge that a premium they have paid has not been received by an insurance company. Delays of three months are not uncommon.

#### Incompetent Insurance Brokers

- 12.2.1 From time to time, consumers have found that premiums paid to insurance brokers, have not been remitted to an insurance company. Consumers believe that when they pay a premium to an insurance broker that they are in effect paying the premium to an insurance company. This belief has previously been reinforced when the broker had a name which suggested that it was an insurance company.
- 12.2.2 Several consumers have complained that on placing a premium through a broker, they were informed that they were insured with a particular insurance company, but on trying to claim on their insurance through the broker, they were informed by the broker that the insurance

had been placed with a different company, or one which has since gone into liquidation.

- 12.2.3 Again, a consumer insured a house and contents with a particular insurance company and, after a fire, lodged a claim through the broker in October 1979. After complaining about delays in processing the claim, they were finally informed that they were in fact insured with a different company, which has since gone into liquidation.
- 12.2.4 In another case, an industry council had a number of exhibitions insured through a broker and, although they had no claims, they were surprised to find on re-insuring in June 1980, that the company they originally insured with had gone into liquidation in December 1979. The council concerned was most upset to find that they were uninsured for over six months without notification by the broker.
- 12.2.5 The following story is perhaps the most unfortunate in terms of personal loss and grief.

A married couple migrated to Australia in 1971, and after working hard for 8 years, were eventually able to purchase a second-hand truck for \$32,500 through a finance company, by paying a deposit of \$6,000 the balance to be repaid by 48 monthly payments of \$954. Their problems began when the second year's comprehensive insurance became due in January 1979. As their previous insurance premium had been rather high, they were advised by their tax consultant to contact a local broker who would arrange cheaper insurance.

Consequently, they paid a 12 month premium of \$1,800 to this broker. Within two weeks they received a statement from a second broker stating that their truck was covered until February 1980 and that the premium that they had received for this insurance was \$1,300. In June 1979, the insured had an accident and the truck was virtually a write-off. When he approached the second broker to make a claim, he was informed that a third broker had arranged the insurance! On contacting this third broker, he was finally told that the claim could not be met as the insurance company holding the policy had a provisional liquidator appointed on 13th June 1979, and subsequently the official liquidator was appointed on 18th July 1979.

This couple had, therefore, lost over \$20,000 in deposit and repayments and were still required to repay the finance company a further \$23,000.

- 12.2.6 The Ministry suspects that the premium was paid to the insurance company after the date of the accident by the third broker in a long sorry chain of events.
- 12.2.7 It is obvious that some brokers are not meeting their obligations to their insured or keeping them up to date with the current situation. An insurance company can fail and a broker cannot be blamed for this. However, if he leaves his client uninsured because of the failure of an insurance company with which he has placed the business and the client is unaware of this and has not the opportunity to re-insure, then it is believed that broker should be liable for any loss suffered by his client. It is one thing to have placed insurance with

a company that has failed, it is another to keep the knowledge of the collapse from his client and there is no doubt that some brokers are becoming extremely evasive in the handling of individual claims and negligent in advising clients with which company they are insured.

- 12.2.8 It is essential that these criticisms be kept in perspective and there is little doubt that the vast majority of brokers act in their client's interest and their performance is beyond reproach. Unfortunately, there are the few that do not and it is impossible for the Ministry to indicate who are the reasonable and who are the unreasonable brokers. Consumers should be wary of cheap insurance and they should insist on obtaining a copy of a policy before they become committed to a particular insurance company. All too often because of the variations in policy, it is likely that a consumer is not covered for the very risk they are insuring against.

#### Need for Brokers Trust Funds

- 12.3.1 From time to time, there has been the suggestion that there should be a regulation of traders who receive money from the public which is ultimately to be passed on to another company, e.g. an insurance broker discussed above, or travel agents. Currently there is a working party established by the Standing Committee of Ministers for Consumer Affairs to enquire into the need for control or regulation of the travel industry. There have also been suggestions that insurance brokers should also be regulated or controlled.

12.3.2 Irrespective of whether such regulation or control is introduced, it is believed essential that any person who holds money on the part of another should have that money placed in a trust fund. In the complaints lodged, it would seem that the monies which have been paid by consumers to these agents for tickets, have not been passed on to the airline companies or tour operators, but have been used in the running of the business. Similarly some insurance brokers have used premiums received in the running of the business and not passed these on. While it is reasonable for the commission proportion of the monies paid by consumers to be used within the business, the balance which is paid to the insurance company, travel operator or airline, should be held in a trust account.

12.3.3 The Consumer Affairs Council in 1974, recommended the establishment of trust accounts for items such as these. It would seem that the need still exists. The holding of monies in a trust fund would not be administratively costly in terms of bureaucracy, but should an agent or broker collapse, and investigation indicates that consumers have lost money because of this failure, then there should be a severe penalty.

#### Consumer Credit Insurance

12.4.1 A consumer credit insurance policy (CCI) is designed to cover the borrower's repayments to the finance company should he be unable to work, either through injury or illness, and in some cases because of unemployment. The policy also covers death by accident.

- 12.4.2 A consumer's introduction to CCI is usually at the time he signs a hire purchase or personal loan finance contract.
- 12.4.3 At the time of signing the finance contract, the representative of the motor car trader or finance company sells the policy, often explaining its benefits, but rarely its limitations. Such policies do offer protection if the untoward should happen, however, consumers are often lulled into a false sense of security as they do not realise the implications of exclusion clauses relating to such things as pre-existing illness. In many cases, at the time of entering into the contract, the consumer is not aware that he is suffering from a "pre-existing" illness, or that there are exclusion clauses relating to age limits or activities. This section of the report gives a number of examples of what is considered by the Ministry to be unfair decisions based on these exclusion clauses.
- 12.4.4 The first example is that of a 20 year old who bought a motor bike on hire purchase and was advised by the dealer to take out a consumer credit insurance in respect of the hire purchase repayments. Unfortunately, the youth was killed on the motor bike and the insurance company denied liability for payments under one of its exclusion clauses which covered motor cyclists. The Ministry is not suggesting what should be included or excluded in insurance cover; this is a matter for the company and, no doubt, the premiums reflect the risk involved. However, it is considered immoral to sell a person a consumer credit insurance to cover the purchase of a motor bike when the riding of a motor bike is

excluded from the cover. It is appreciated that the lad could have suffered illness or some other accident which would have been covered by the policy but it is understood that he thought he was covered for any accident on his motor bike.

12.4.5 The premium varies and usually depends on the amount to be borrowed as well as the period of the contract, for example

	<u>Amount Borrowed</u>		<u>CCI Premium As Shown on Contract</u>
1)	\$8,000	- 48 repayments of \$323.33 each	\$730
2)	\$3,500	- 24 repayments of \$285.31 each	\$521
3)	\$7,349	- 60 repayments of \$287.44 each	\$716
4)	\$16,518	- 60 repayments of \$703.08 each	\$2,641

The amount of commission payable was raised in a previous annual report. (See Director's report for year ended 30th June 1977, page 31.) It is not necessary to expand again on the subject, however, it should be stated that with respect to the first example (\$8,000 borrowed with 48 repayments of \$323.33 each - premium \$730) the insurance underwriter requested and received only \$230 from the finance company. The balance of \$500 was the commission paid for persuading the borrower to sign a CCI proposal - perhaps it took the representative two or three minutes to explain the nature of a CCI policy.

- 12.4.6 When "selling" a CCI policy, it is obvious that all aspects of the policy are not clearly explained to the borrower. It is only when the borrower makes a claim that he realises the true nature and limitations of the policy.
- 12.4.7 During the year under review, 66 complaints were lodged concerning CCI. In the majority of cases the complaint arose because the insurance company had denied a claim. When denying claims, the insurance companies would refer the insured to the wording of the policy of which the consumer was not aware.
- 12.4.8 The second example of a denied claim because of unreasonable interpretation of a policy limitation is -

"On 20th March 1980 a consumer was unable to work because of a pilonidal abscess on his lower back region. He visited his local medical clinic on the same date, and on a further 21 occasions during the next two months. The visits were for dressings because according to the doctor, "there was a delay in his being admitted to hospital for an operation". This operation was performed on 26th May and the consumer received medical certificates up until the 15th July. He was disabled for approximately 4 months.

Upon submitting his claim to the insurance company he was referred to the policy wording which stated -



'Total disablement from engaging in or attending to usual profession, business or occupation caused solely and directly and independently of any other cause by any illness which shall require the Insured to be confined to house and/or hospital and to be regularly treated by a legally qualified medical practitioner approved by the Company as long as such continued disablement is certified by such medical practitioner.'

- 12.4.9 The claim was denied because the consumer had not been confined to his house. According to the insurance company, the fact that he was able to visit his doctor meant that he was not confined to his house.
- 12.4.10 Eventually after considerable pressure from the Ministry this claim was met.
- 12.4.11 In another case a consumer was involved in a motor vehicle accident and was admitted to hospital with concussion. An x-ray of the skull showed a fracture in the right temple bone, as well as evidence of a pituitary tumour. Surgery was necessary almost immediately, and he was permanently incapacitated.
- 12.4.12 After lodging his claim, the insurance company made one monthly payment representing the period of disability for the fractured skull.
- 12.4.13 With reference to the pituitary tumour, the insurance company stated that it was pre-existing. The policy states -

"... caused by any illness and/or disability which the Insured has previously suffered or which was existing at the date of acceptance of the contract, whether treated for same or not."

- 12.4.14 The consumer was unaware of this condition, and perhaps he was fortunate that his skull was x-rayed following the accident. The decision in this case though perhaps technically correct is considered to be morally wrong.
- 12.4.15 There was also an increase in the number of claims involving other cancerous conditions. From the information available at the Ministry, some insurance companies are refusing to pay these claims because the cancer was pre-existing, and although most companies accepted the fact that the consumer was unaware of his condition prior to the commencement of a policy, the claims were nevertheless refused because the policy wording excluded conditions which had never been previously treated.
- 12.4.16 Such strict interpretations of the insurance companies own rules detracts from the spirit of the policy. Without doubt, the rules have to be changed to bring some equity into the field of consumer credit insurance.
- 12.4.17 Consumer credit insurance provides a valuable indemnity to a borrower in the event of accident or illness. Like most other insurance, unjustified claims are submitted for risks not covered by the policy, and no doubt cases of fraud exist. Notwithstanding these abuses on the part of the insured, it is the Ministry's view that there are equal abuses and fraud on the part of some companies or dealers selling consumer credit insurance. Over the years cases have been cited in previous annual reports, which indicate that the insurers are interested in premiums but not obligations.

- 12.4.18 Exclusion clauses are deliberately not brought to the attention of the potential insured; premiums are accepted from persons who, because of age or other stated factors, will not have a claim accepted.
- 12.4.19 It is difficult not to accept that the policy of some companies is to knowingly accept premiums on which, should a claim arise, they can avoid liability because of their exclusion clauses. One company whose actions are considered unethical and irresponsible is mentioned in part 3 section 8 of the report.

## MOTOR VEHICLE INDUSTRY

### Trading Practices

- 13.1.1 During the last half of the year under review, in both the Consumer Affairs Bureau and the Small Claims Tribunals, there was a downward trend in the number of complaints lodged which related to new and used cars. There could be several reasons for this trend but time and resources do not allow the research to form a proper opinion.
- 13.1.2 There is no doubt that the sales of cars both new and used have fallen and there does seem to be some correlation between the number of transactions in the market place and the number of complaints lodged.
- 13.1.3 On the other hand, it is probably not unreasonable to expect that at last the policies and actions of the Ministry in its Consumer Affairs Bureau, Motor Car Traders Committee and Small Claims Tribunals, together

with a lesser percentage of unethical or unfair dealers, is a contributing reason for the down turn in complaints. As mentioned in part 1 of the report, it is believed that the Ministry's consumer education policies are also starting to have effect in alerting consumers as to how to approach the purchase of goods or services. Again, the enquiries made to officers before the purchase of a motor car would, it is thought, prevent a number of complaints arising from otherwise uninformed consumers.

- 13.1.4 With the down turn in sales of cars, some dealers have resorted to a form of advertising which is considered to be deceptive. For example, one practice is to advertise vehicles at a very low price. In one instance, a 20 year old saw an advertisement for a 1976 Holden priced at \$1,900 with weekly repayments of \$15. He visited the yard where a salesman showed him a vehicle which was in very poor condition, and obvious even to the most gullible, that it was a very poor buy. The advertisement, however, achieved its aim of attracting him to the yard following which the salesman spent several hours with him. He was eventually persuaded to purchase a 1976 Galant priced at \$5,699 with 60 repayments at \$159 per month. This illustrates the necessity for a potential purchaser not to be persuaded to commit himself to repayments which are greatly in excess of what he considered he could afford. It is a form of bait advertising and the Ministry will pursue this.
- 13.1.5 Another popular advertising gimmick is to advertise the minimum trade-in allowance of \$900 or \$950. It should be realised that the dealer increases the

asking price for a vehicle to cover the minimum trade-in allowance. Some consumers place too much emphasis on the value of their trade-in. More attention should be paid to the change-over price of the vehicles they want to purchase. To many dealers, the consumer's trade-in is only regarded as a "heap" and is usually of only some value to a wrecker. Where this is the case, it is obvious that the dealer must make up the difference in its wrecking value and its trade-in value in some way, usually without a loss of profit to him. Consumers who do not have a trade-in fail to negotiate on the asking price and finish up paying an exorbitant amount for a vehicle.

- 13.1.6 Unfortunately, notwithstanding this downward trend in car complaints, far too many still illustrate that consumers are being "conned" by professional salesmen, the quality and the age of vehicles are being misrepresented and some dealers are still trying to avoid their warranty obligations.
- 13.1.7 Again, this year it is stressed that the percentage of motor car traders causing concern to the Ministry is about 1 to  $1\frac{1}{2}$  percent, and it is a great shame that this small number have done so much to tarnish the image of the industry.

#### New Vehicles

- 13.2.1 It is pleasing to report that motor vehicle manufacturers show an improvement in their attitude to the honouring of warranty obligations. The attitude of General Motors Holden appears to be an exception, and this is referred to in part 3 of the report.

- 13.2.2 That the Ministry has found it necessary to approach manufacturers on so many occasions means that there is much room for improvement in the resolution of complaints between the dealer and the manufacturer.
- 13.2.3 The consumer who purchases a new vehicle expects it to be just that - NEW. It is unreasonable for him to accept delivery of a vehicle with scratches, dents or marked upholstery and then be told that these faults will be rectified at his first service. It should not have been delivered in that condition. That some minor blemishes or damage may occur between the factory and the delivery to a dealer, or while in the dealer's possession, is acknowledged. However, it is believed that considerable long term dissatisfaction of a consumer arises because of the many faults or superficial damage which is evident at the time of delivery or very soon thereafter. Subsequent minor faults assume undue seriousness, and a belief that the vehicle is a lemon, because of the initial dissatisfaction which would not have arisen had there been better pre-delivery checks.
- 13.2.4 Such problems should be resolved between the dealer and the manufacturer, prior to the involvement of the consumer. However, it seems that often the dealer is placed in a position where he must accept delivery and it is the usual practice to give the vehicle to the consumer and later make a warranty claim against the manufacturer.
- 13.2.5 In the past it was usual for a manufacturer to refuse to assist with mechanical repairs after the expiration of the contractual warranty period. Recently, this

situation appears to have changed and manufacturers are taking a more flexible attitude regarding mechanical repairs outside warranty. Depending on the fault, and the mileage covered, most manufacturers are offering substantial assistance on a goodwill basis.

- 13.2.6 Regarding paint work on vehicles, the Ministry maintains that where a failure can be traced to a faulty product rather than to any lack of care on the part of the consumer, the manufacturer is responsible.

The Inequitous Market Place: Unfair Contracts and Practices

- 13.3.1 It has been stated in previous annual reports that the Ministry receives many complaints from consumers who have signed a contract for the purchase of a motor vehicle and subsequently, for a variety of reasons, they wish to cancel the contract. In many cases the consumer's reason for wishing to cancel a contract is genuine. For example, many consumers sign contracts for motor vehicles because of the unequal bargaining position, where they are subjected to quite subtle sales pressure.
- 13.3.2 It must be realised, however, that a contract is a legally binding document, and cannot usually be cancelled due to a change of mind. Some dealers are only too ready to point this out to officers of the Ministry when it suits them.
- 13.3.3 On the other hand, there is a degree of double standards in such arguments. The VACC standard Agreement of Sale for used vehicles makes provision for traders to cancel the contract within five days. The contract does

not give a consumer the same entitlement. In other words, the dealer is able to cancel a contract for any reason, whether it is due to a mistake in price or a mere change in mind. A consumer does not have the same right. In a number of cases, the dealer has taken advantage of this clause and cancelled the sale because a better price has been offered by another customer. This is a scandalous situation, and the form of contract does little credit to the V.A.C.C. or to the dealers using and abusing it.

- 13.3.4 In the 1979 report, the revaluation problem was discussed whereby dealers deliberately take the consumer out of the market place by offering them a very high trade-in allowance on a new vehicle, but when the new vehicle is ready for delivery, the dealer decides to revalue the trade-in by a much lower amount. This unethical practice has continued, but not to the same degree as in 1979.
- 13.3.5 Such instances of where the dealer does not want to adhere to the original terms of the contract typifies his "double standards". As stated in the 1979 report, the Ministry is participating in the development of a Standard of Motor Vehicle Sales Contracts with the Standards Association of Australia. When this is finished, such inequitous contracts should be eliminated.
- 13.3.6 Another unethical practice which relates to new vehicle contracts is where the salesman notes on the contract "subject to management approval". Either the management is absent from a dealership at the most opportune time, or it is another ploy to take the consumer out of the market place and re-negotiate a better deal from the company's view point at a later date.



- 13.3.7 The Ministry believes that an ethical business cannot be run unless management has control of staff and accepts responsibility for their actions.
- 13.3.8 In this regard, the Ministry was surprised to learn of the attitude of one company where the Ministry had resolved a complaint with the company's general manager on the basis that \$140 would be refunded to the consumer. When this undertaking was not honoured, the Ministry wrote to the company.
- 13.3.9 The managing director replied that he did not propose to refund the \$140, saying "I will not be held personally responsible for statements and promises made by both past and present members of my staff".
- 13.3.10 Such a statement is considered unacceptable, as it implies that employees of the company have a free hand to embark on any unethical action they wish to take without the company actually accepting responsibility for such an action.

The Trespassing Trader - Deal Pinching

- 13.4.1 It is an unwritten law within the industry that the motor car trader should not sell a vehicle to a consumer who has done a deal with another trader a day or so earlier.
- 13.4.2 If the second trader warns the consumer that he could be the owner of two vehicles, then perhaps there is no breach of the unwritten law. But in reality, no such warnings are given.

- 13.4.3 There have been several examples where a second trader has told the consumer that the contract he signed with the first trader "was not worth the paper it's written on". Based on this "advice" the consumer then does business with the second trader. The consumer is then in the unenviable position of having signed two apparently legally binding contracts. Even when a trader takes the quite novel approach of "indemnifying" the consumer, things can go wrong. This was illustrated in the following complaint reported to the Ministry.
- 13.4.4 A consumer spent several days shopping around at various car yards for a 1976/77 Torana. Eventually, he paid a \$100 deposit for a 1976 Torana, signed a hire purchase contract for a balance (\$5,400) and accepted delivery. However, another dealer with whom he had negotiated then visited him and told him that "we can do a better deal". He was then advised by trader No. 2 to return the vehicle to trader No. 1, and he was given the assurance that the contract would be rescinded. The consumer expressed reservations about such "advice" but trader No. 2 was so confident that all the consumer would lose was the \$100, that he introduced the consumer to a solicitor, and an agreement was drawn up indemnifying the consumer against any liabilities which could arise out of the contract entered into with trader No. 1. In other words, if trader No. 1 or their finance company went ahead with legal proceedings for loss of profits or breach of contract, then trader No. 2 would be totally responsible. Unfortunately, for trader No. 2 the finance company is seeking recover of \$1,973 which is the balance owing after they repossessed and sold the vehicle.

- 13.4.5 At the time of writing this report, the Ministry has been advised that trader No. 2 is no longer in business, and this further complicates the consumer's position.
- 13.4.6 In another case reported to the Ministry, a young consumer paid \$500 deposit for a new vehicle with delivery to be effected "as soon as possible". For reasons best known to herself, this consumer visited another trader where she was told that the contract she had signed "was not worth the paper it was written on" and she should return to trader No. 1 and receive a refund of the \$500.
- 13.4.7 Acting on this "advice" she then took delivery of a new vehicle from trader No. 2. Much to her surprise, when she returned to the original trader, the \$500 was not refunded.
- 13.4.8 Consumers are warned that the signing of any contract places obligations on them and they must carefully consider such action.

PRIVATE/PUBLIC HOSPITALS  
AND OTHER MEDICAL SERVICES

- 14.1 Following a consumer affairs segment of the Elizabeth Bond programme on 27th August 1979, the Ministry received a significant number of phone calls relating to abuses of health insurance funds by hospitals, doctors and para medical services.

14.2 The allegations covered fraud, misrepresentation, failure to disclose probable charges, and poor documentation procedures at hospitals.

14.3 Typical complaints are detailed in the following paragraphs.

14.4 Private Hospitals

- \* Shared accommodation charged to health fund as private accommodation. This was by far the most common complaint.
- \* Health fund charged for 3 days but patient hospitalised for 2 days only.
- \* Extra days hospitalisation charged to fund to cover direct charges to patients, for telephone, chemist and other minor items.
- \* Charges made for items such as dressing trays which should normally be part of general charge.
- \* Patients quoted a hospital charge but after the hospital learns they are contributing to a higher schedule, they are charged at a higher rate.

14.5 Public Hospitals

- \* An unemployed patient who was partially handicapped was treated at an out-patients, but received an account for \$70. On questioning this charge it was found that the resident

medical officer had signed a referral to a specialist who carried out the treatment. In other words, the patient had, without his or his parent's knowledge, been treated as a private patient.

- \* Patients were influenced to sign documentation admitting them as a private rather than a public patient. Social workers complained to the Ministry of this practice stating that in interviewing a number of patients, they were concerned that the alternative of admission as a public patient was played down, and the patient was virtually left with the view that it was in their interest to be admitted as a private patient.
  
- \* Patients were not advised that admittance as private patient would result in them paying the difference between fund rebates and the fee charged by the hospital or doctor, whereas admittance as a public patient would generate no charges payable by patient.

#### 14.6 Doctors, Surgeons and Para Medical Services

- \* Charges for visits not made.
  
- \* Charges for a doctor waving as he passed a bed at high speed, or when a doctor has just leaned over the bed and said "How are we going today?"

- \* Accounts for visits allegedly made before actual first visit.
- \* Charges greatly in excess of recommended or schedule fee or referrals by a general practitioner to a specialist, who charge greatly in excess of schedule fee.
- \* During a consultation a doctor may take a blood or other sample, and then the patient receives an account from a person they have never heard of (pathologists).
- \* Referral to a pathology service whose charges are higher than other pathology services, or when only one test is required, more than one is made and charged for.
- \* Accounts not detailed.
- \* Charging of single visit rate for multiple visits to hospitals and nursing homes.
- \* Patient sent to hospital for very minor surgery which was once carried out in the doctor's consulting rooms.

14.7 Following these complaints, and the publicity given to the topic, a number of meetings were held between the Ministry staff, the Victorian Hospitals' Association, Private Hospitals' Association, Public Hospital staff and others. From these discussions, the Ministry was left in no doubt that the Associations

were genuinely interested in correcting any abuses or misunderstandings that may occur. It was recognised that occasionally errors are made, and that patients can misunderstand the implications of information provided or the effect of their choice between hospitalisation as public or private patients.

- 14.8 It was also recognised that on some occasions, there had been a fraud on the insurance funds and on the patients.
- 14.9 There is little doubt that during 1979 there was a considerable confusion as to the state and coverage of health insurance brought about, to a large degree, by the many changes made to the health insurance schemes and to the short notice given to funds of the legislative changes. This uncertainty, aggravated by increasing charges, lack of knowledge of recommended fees, schedule fees and actual fees, placed many members of the public in an unenviable and completely confused position.
- 14.10 There is also little doubt that some part of the cost of the health insurance fee is to cover fraud on the funds in the areas mentioned in the earlier paragraphs; and these high costs of cover have led to many persons, who probably should be insured, opting out of health insurance.
- 14.11 In the last half of 1979 there were many requests to the Ministry seeking guidance as to benefits or entitlements to be gained from health insurance and

whether a person should carry health insurance or not. The Ministry cannot give such advice; it would be improper and dangerous to do so. The Ministry can offer information as to facts and to implications, and has done this and can draw attention to limitations of cover offered by various health funds. Whether a person should be covered or not is their choice; unfortunately the tossing of a coin could equally achieve as good a decision as an educated analysis of the situation. Such is the state of confusion and uncertainty in the health insurance system.

- 14.12 To reduce the incidence of fraud on health funds and to reduce the cost of subscriptions to these funds because of fraud, the Ministry has supported the action of some funds asking patients to act as auditors on their hospital accounts and to check that hospitals or doctors have not submitted accounts for services which have not been provided.
- 14.13 When the Ministry has questioned persons as to the outcome of their fund being over-charged, the patient has often said, "I didn't want to create a fuss and as I was not out of pocket let it go - I may have to see that doctor or go to that hospital again."
- 14.14 That they are not out of pocket is a myth, as subscriptions to funds have been set to cover the drawings on the funds arising from fraud and so the patient is out of pocket. As to the second point - their attitude is understood but not supported - it merely encourages dishonesty.



- 14.15 The Ministry is aware of many mistakes in doctors' accounts in terms of the number of visits or the services provided; instances where the error is to the advantage of the patient are virtually unknown.
- 14.16 The Ministry warns consumers that, as with other trades and professions, there is in the medical and hospital business a percentage who will take any opportunity, ethical or otherwise, to make a fast buck. It is impossible for any authority to police this, however, the public as individuals have a responsibility to prevent fraud and should question accounts which do not reflect the exact services rendered. As with many other trades or professions, the elderly are the victims of unfair and illegal practices engaged in by this small percentage of the health care industry, and children of elderly persons should keep a close watch on the accounts submitted.
- 14.17 The Ministry has also been concerned with the ownership of private hospitals by doctors and surgeons who use the hospital for their patients. Is this akin to a judge having shares in a jail and being paid accommodation charges for the inmates? Alternatively, should there be a legislative requirement for such doctors or surgeons to disclose any interest before arrangements are made with patients for admission to the hospital?
- 14.18 The above paragraph is not to be interpreted as a criticism of private ownership of health care facilities, nor that a profit is unethical, but merely to indicate a conflict of interest situation which would not be acceptable in other professional areas.

PART 3TRADERS WHOSE ACTIVITIES OR ATTITUDES  
WARRANT SPECIAL MENTIONBUILDING/HOME RENOVATIONS INDUSTRY

John Eric Cuthbertson - also known as Brody, Trevillian, Conway, Brady, Trevill, Treadwell, Barnes, Maher, Shannon, Ladd, Bush and now Brook

- 1.1.1 In the report for the year ended 30th June 1978, the activities of John Eric Cuthbertson as a home renovator were reported. It was said "At this stage it cannot be said under which name the tradesman will appear". In May 1980, a Mr. R. Brook came to the Ministry's attention by way of consumer complaints (same problems highlighted in the 1978 report) and with the assistance of the Victorian Police, Mr. Brook was identified as Cuthbertson thus adding a new alias to his already commanding list.
- 1.1.2 New complaints against Mr. Cuthbertson were not expected to arise for at least a minimum of 22 months from 23rd June 1980. However, a recent news item published in The Sun on 10th September states "On September 4 John Eric Cuthbertson 32 walked out of Dhurringile Rehabilitation Centre near Tatura. He was serving a sentence for theft and deception".

Lawson's (Builders-Renovators)

- 1.2.1 A number of complaints were received against this business, none of which could be resolved because Mr. Lawson cannot be traced.
- 1.2.2 From the calendar at Appendix I the public could be excused for thinking Lawson's were a well established firm ("10th Anniversary" etc). It is believed that Lawson's (which is neither a company nor a registered business name) commenced operations around October 1979 (note commencement month on calendar) so that at best the "10th Anniversary" refers to the 10th day or 10th week.
- 1.2.3 As can be seen, Lawson's offered everything, however, their performance offered nothing. Complaints received showed that following large deposits, little if any work was done. Lawson's method of operation is well described in the following statement by a consumer's solicitor -

"I advise that on or about the 13th December 1979, my clients received the enclosed pamphlet in their letter box as a result of which my clients telephoned the number stated therein and requested that the builder attend at their home and give a quotation for certain renovations and extensions. Approximately one hour later, a man whom my clients know as Mr. Johnston attended at their property. After some discussions, he took the plans for the proposed work so that he could speak with his boss regarding cost.

On the 19th December the job was commenced and on the 27th December a further payment of \$2,000 was made by my clients. On the 15th January 1980, a woman representing herself as Mr. Lawson's secretary, attended at my clients business requesting a further sum of \$2,000. My clients refused to pay same.

On the 1st February, Mr. Lawson personally requested a further \$5,000. My clients were prepared only to pay \$1,000 as their sons had not been paid any wages up to that date. My clients requested a statement of their hours worked.

On the 7th February 1980 Mr. Lawson's secretary again attended my clients business and demanded a further sum of \$2,000 with the ultimatum that if same was not received, the builder would walk off the site. My clients advised that they were prepared only to pay \$1,000 less the wages of \$656 owed to their sons i.e. \$344.

The builder did not return to the site the following day and no further contact has been had with him despite a letter by my office dated the 19th February 1980.

I further advise that on Sunday the 2nd March 1980 I telephoned the telephone number stated on the contract and was advised by a woman who answered that Mr. Lawson no longer resided at the address and she was unable to supply a telephone number or an address at which he could be contacted.

My clients have consulted with another builder who has indicated that the value of the work carried out to date is \$2,000 approximately."

- 1.2.4 The Ministry's efforts as well as those of the Police to locate Mr. Lawson have to date been unsuccessful. It is believed that Lawson may have left Australia using an assumed name.
- 1.2.5 Not only consumers of Mr. Lawson suffered at his hands, the Ministry is advised that Mr. Lawson not only sold his landlord's furniture, but also left numerous unpaid utility accounts.
- 1.2.6 A number of warning signs were available to the wary consumer -
1. Calendar gave only a telephone number and no address.
  2. Initial quote was substantially higher than other advice.
  3. Contract price was rapidly dropped by \$4,000 when another quote mentioned.
  4. When consumers said they would consider the matter the typical sales pressure of "con men" was brought into operation - i.e. contractors would have to take another job. Other alternatives often used are "price is for today only", "only able to give discount to one person and we are calling on another after we leave you". There are many variations to this

theme all of which really mean "if we give you time to consider you will not go ahead with it as

- the price is too dear
- you will learn we are crooks
- you will see some of our shoddy work
- you will know we do not ever complete a job"

5. Excessive demands for payment which value for work in progress did not justify.
6. The initial deposit was not placed in a trust fund in accordance with the Building Contracts (Deposits) Act.

#### Kitchen Group

- 1.3.1 Brian Gilford and Elizabeth Gilford trade as Kitchen Group registered address 5 Clarendon Place, South Melbourne. Kitchen Group also operated from 225 Swan Street, Richmond; 427 Church Street, Richmond; and Cnr. Brighton Road and Chapel Street, St. Kilda.
- 1.3.2 As the registered business name implies Mr. and Mrs. Gilford are or were in the business of manufacturing and installing kitchens. The Gilfords record in the eyes of the Ministry is very poor as reflected in unresolved complaints and outstanding warrants for monetary orders given by the Courts and the Small Claims Tribunals. In the 1979/80 period, known monetary orders against the Gilfords totalled \$35,120.

- 1.3.3 The complaints received by the Ministry related to incomplete and unsatisfactory work and non-supply of contracted materials. In most cases the consumer had paid a large deposit followed by further payments which exceeded in value any work done.
- 1.3.4 Of interest is a comment made by Mr. Gilford to an officer of the Ministry wherein Gilford stated that the consumer had lodged a claim with the Small Claims Tribunals, which did not worry them because if they lose "it's just another order on the list".
- 1.3.5 Brian and Elizabeth Gilford seem to have neither the technical expertise nor the financial capacity to undertake kitchen renovations or any other project.

#### RURAL INVESTMENT SCHEMES

##### Nut Farms of Australia Pty Ltd

- 2.1 In the Director's reports for the years ended 30th June 1978 and 30th June 1979, the activities of this company have been reported.
- 2.2 The report for the year ended 30th June 1979 concluded by saying "Investment in Nut Farms of Australia Pty Ltd is risky in the extreme and prospective investors are warned of the dangers in being impressed by advertising claims of various promotions".
- 2.3 This warning is again repeated in light of an injunction granted by the Supreme Court of Western Australia - 27th June 1980. "It is ordered that: The Defendant and

it's servants and agents be restrained and an injunction is hereby granted restraining it from carrying on and/or holding itself out as carrying on the business of dealing in securities within the meaning of the Securities Industry Act 1975, namely the offering to the public of the right to participate by investment or otherwise in any profits, assets or realisation of the business of nut tree farming and other nut tree operations conducted by the Defendant."

2.4 Promotion of rural investment schemes is usually most attractive, highlighting the potential earnings and developing markets. Unfortunately, most schemes the Ministry has investigated have failed. The causes vary from deliberate fraud to ill-informed management where unjustified optimism has given way to the proper evaluation of the scheme. Too often potential investors are influenced by the warmth of this unjustified optimism and fail to take into account the winter realities of unsuitable soils, and climates, and that markets for products may not be available. Needless to say promotion material never reflects the possible hazards, or the prior performance of the promoters.

### FRANCHISES

#### Colourshot Pty Ltd

3.1.1 In February 1979, a business which had previously operated in New South Wales under the name of "Budget Colour" started operations in Victoria under the name of



"Colourshot", the registered business name owned by Barry Stacey, giving a residential address at a St. Kilda Motel and a registered business address at 474 St. Kilda Road, Melbourne.

- 3.1.2 Mr. Stacey and several associates contracted with a film development company to develop prints supplied through his organisation and then canvassed small business owners such as milk bar proprietors and service stations in a particular area until they had a list of approximately 20 names in one region who could act as a pick-up point to take films for development from members of the public.
- 3.1.3 The agreement with the shopkeepers was that they were to receive a dollar for each film and Mr. Stacey upon establishing a number of these regions, a system which he continued to develop for the next 12 months in Victoria, Tasmania and South Australia, then offered that particular region for sale as a franchise under the name of Colourshot.
- 3.1.4 The franchise operator was expected to service these pick-up points on a daily basis and forward the films to Colourshot for development and return within an average of 3 days.
- 3.1.5 For servicing his area the regional franchise holder received approximately 40 percent commission out of which he was expected to pay the individual shopkeepers \$1.00 a film and subsidise his own running costs.

- 3.1.6 Given the profit margin included in the scheme it appealed to many people, including retired gentlemen, married couples looking for a second part-time job and again in country areas, unemployed persons, several of whom were subsidised by their parents into the scheme in the absence of other full-time work.
- 3.1.7 Colourshot made continuous promises regarding a proposed radio and television advertising scheme to attract customers, but in the absence of any such advertising, it soon became apparent that the promised returns of \$300 - \$400 a week plus were not going to eventuate.
- 3.1.8 Further problems occurred with the late delivery of films causing problems with the pick-up points at shops who understandably wished to keep faith with their customers and the franchise holders having increasing difficulty in getting anything more than vague promises and excuses from the increasingly unavailable Mr. Stacey.
- 3.1.9 In the meantime, Barry Stacey expanded the franchise field to Tasmania and South Australia, and in the meantime incorporated his business name in July 1979 as Colourshot Pty Ltd, thus bringing himself under the jurisdiction of the Trade Practices Act.
- 3.1.10 The scheme eventually collapsed not due to any problems caused by the franchise holders, but mainly due to the failure of Colourshot Pty Ltd to carry out the promises made.

- 3.1.11 The company concerned, without prior warning or instruction to its solicitors, through whom a number of promises of refund of franchise fees had been made, shut its doors in February 1980, and the Managing Director, Barry Stacey, disappeared.
- 3.1.12 It is understood from the Trade Practices Commission that Mr. Stacey has now been located and charged under the Trade Practices Act.
- 3.1.13 Over 20 complaints were received by the Ministry from franchisees of Colourshot in the State of Victoria.
- 3.1.14 The fees charged for the franchise varied between \$4,000 and \$8,000 and it has been conservatively estimated that over a quarter of a million dollars has disappeared from the pockets of members of the public who could least afford it.
- 3.1.15 Mr. Stacey, in the latter days of 1979, obtained a franchise for Victoria from a Sydney firm for unit advertising, and proceeded to sell regional franchises in Victoria, whereby the franchise holder could lodge a projection unit in a public place, e.g. shopping mall, hotel or other similar area, and sell advertising for slides to local business people.
- 3.1.16 After some months during which performance promised by him to regional franchise holders did not eventuate, the scheme collapsed, again leaving a number of franchise holders out of pocket.

Interlandi Laboratories

- 3.2.1 The above business name was registered on 24th July 1979, by Santo Interlandi, giving as his place of business Suite 5, 428 St. Kilda Road, Melbourne.
- 3.2.2 Mr. Interlandi was personally known to this Ministry through his activities in the house cladding field where he was a director of Amalgamated Brick Industries Pty Ltd, U-Tile Pty Ltd and U-Tile (Australasia) Pty Ltd. Another director of the above companies was Roger Yallouz.
- 3.2.3 Mr. Interlandi under the name of Interlandi Laboratories, advertised a film development round in the major Victorian country towns for over \$6,000.
- 3.2.4 In an almost exact duplication of the business methods used by Colourshot Pty Ltd., Interlandi sold a number of franchises in major country centres after running an ad similar to that below.

**EXCELLENT OPPORTUNITY  
TO PURCHASE A  
SERVICING ROUND**

**TO RETAIL OUTLET IN CLOSE  
PROXIMITY**

Requires approximately 3-4 hours work daily for either male or female with own car. **NO SELLING INVOLVED.**

**Potential earnings estimated \$300 per week. Full price of business, \$6500.**

**For further details, in first instance, give personal backgrounds with telephone number. Write to Personnel Manager, P.O. Box 273, Collins St. Melbourne. 3000.**

- 3.2.5 The business name was sold to a Guiseppe Salvatore in September 1979, but the firm's chief salesman in all complaints brought to the Ministry's attention was Roger Yallouz.
- 3.2.6 Despite promises of advertising in both radio and television fields to promote business, the franchise holders received little other than promises from Salvatore who, after several months activity in Victoria, switched his advertising to the northern New South Wales and Queensland areas. Complaints were subsequently received by the New South Wales Department of Consumer Affairs and the Trade Practices Commission.
- 3.2.7 The firm subsequently ceased operation in February 1980, after establishing substantial debts with a prominent film development laboratory, motel chains, car rental companies and travel companies, including promised refunds to a number of franchise holders.
- 3.2.8 Currently the Ministry has on hand a number of films, and is trying to trace franchise holders and consumers to return these films.
- 3.2.9 To this date, the whereabouts of Mr. Salvatore and the details of his involvement with Interlandi, and Yallouz remain a mystery but the results of their intervention in the film development field speak for themselves.
- 3.2.10 The warning given in part 1 in investment in franchise schemes is again drawn to the reader's attention.

RETAILERSRinfune Pty Ltd trading as Yanke Bros

4.1.1 This trader was named in last year's report as the Respondent in claims heard in the Small Claims Tribunals. This business, whose directors are Dale Lawrence James and Jane Logie, trades at Corner Waverley and Warrigal Roads, Chadstone. Allegations of the sale of faulty domestic appliances, delays in effecting repairs and the misrepresentation of goods as demonstration models when they are in fact ex-rental television sets, have continued.

4.1.2 One complaint stated -

"Trader represented himself as a supplier of reconditioned Black and White T.V. sets - price range \$29 - \$79. Trader was advised that I was prepared to pay top price for a set as T.V. was the main form of entertainment enjoyed by my mother. The set then offered as the best performer, fully reconditioned was priced at \$99 ... The T.V. was installed in my mothers premises on the late afternoon of 27/12/79. The same evening I received a call from my mother advising that the T.V. was "playing up" ... Returned T.V. to Yanke Bros 28/12/79 and complained about the transaction and the fact that the so called reconditioned T.V. did not last 4 hours before malfunctioning. Yanke Bros. representative not interested ... would have set repaired but labour would be charged."

4.1.3 This is an entirely unsatisfactory situation, however, the firm's conditions of sale clearly indicate its attitude towards consumers. The conditions provide as follows -

"Goods under warranty must be brought to shop for services. This company does not commit itself to condition, quality, age, performance or capability of goods sold.

Goods are sold as inspected. No refunds.

We the customer acknowledge that because of the nature of goods (secondhand - Electrical) they are prone to breakdown at any time.

Customer has 48 hours from receiving goods under warranty or service work, to notify company of any fault, in which case there will be no charge. Any faults or damage caused through transportation or interference of goods by other than Yanke Bros. is not covered by warranty.

Warranty - Excludes cost of labour."

4.1.4 From the complaints received, the company obviously makes verbal claims as to the quality of the goods. However, when consumers return to Yanke Bros. seeking redress they are then referred to the conditions of sale.

4.1.5 The Ministry is also concerned at the alleged treatment people received when complaining to Yanke Bros. Not only are they given the "runaround", but more serious allegations of abuse and lies are also made.

4.1.6 This business has been of concern to the Ministry for a number of years. An examination of Ministry records shows the following complaint pattern -

	<u>Consumer Affairs Bureau</u>	<u>Small Claims Tribunal</u>
1978/79	15	7
1979/80	24	19

4.1.7 The terms of sale are quite unsatisfactory and it is believed that despite the conditions being printed on the sales docket, their true significance is not understood by most customers especially the need to return a refrigerator or washing machine if it fails immediately after purchase and that any warranty does not include labour costs.

4.1.8 It is the Ministry's view that consumers would do better shopping elsewhere.

#### Mainsport

4.2.1 Michael Haines trades as Mainsport from premises at 143 Whitehorse Road, Blackburn. During the year 12 orders totalling \$3,933 were made in the Small Claims Tribunal against Michael Haines. These claims related



to the purchase or servicing of metal detectors. In the same period, 19 complaints were lodged with the Consumer Affairs Bureau relating to the same practices.

- 4.2.2 Mainsport sells, amongst other things, metal detectors, and the problems arose because Mr. Haines will accept substantial deposits promising delivery within the next few weeks, but unfortunately these few weeks become the next few months and, in some cases, 12 - 18 months. Any customer would naturally become anxious particularly when the metal detector ordered can be purchased easily elsewhere. When the customer requests a refund of his deposit as Mainsport has been unable to fulfil his order, he is turned down.
- 4.2.3 Following orders made in the Small Claims Tribunal, a number of Distress Warrants were issued, however, the Warrants were unable to be executed by the Bailiff because of the existence of two Bills of Sale over Haines property, one in the name of his wife and the other in the name of his father. Mr. Haines claims these Bills protect longstanding debts, however, they are very convenient to protect him from the execution of Distress Warrants.
- 4.2.4 In some cases consumers have been able to get goods instead of money awarded to them, and in a few cases payment of money has been made.

- 4.2.5 The concern of the Ministry arises not only because Mainsport or Michael Haines is unable to satisfy orders of the Small Claims Tribunal, but also Mr. Haines has tried to divert the course of the Ministry's investigations and enquiries by his customers, by giving false information. For example, Mr. Haines claimed that the Bailiff had never called on him in relation to the unsatisfied orders. The Bailiff's record states he called on 14th December 1979, 6th January, 7th February, 18th February, 21st February, 29th February, 13th March and 15th April 1980. Haines has claimed that delivery to him was being made by a certain transport company. Investigations by the Ministry indicated this was not the case.
- 4.2.6 Potential customers of Mainsport are warned against paying any money for deposit on goods and, unless the item is immediately available, they should shop elsewhere. Even when goods are available for immediate delivery problems relating to service could arise.

#### REMOVALS

John Raymond Fairweather (and, at times Elizabeth Christine Fairweather) trading as Athena Removals and John Raymond Fairweather and Elizabeth Christine Fairweather trading as Itama Removals & Taxi Trucks

- 5.1 Both the Consumer Affairs Bureau and the Small Claims Tribunal have received a number of complaints regarding the activities of Athena Removals and Itama Removals and Taxi Trucks.

- 5.2 The complaints relate to delays in delivery, overcharging, damage and loss of articles and a lack of response to enquiries. Indeed, the Ministry itself has been unsuccessful in gaining reasonable replies to its correspondence.
- 5.3 Numerous telephone calls were made to the office of Athena Removals, but despite promises being given by Mr. Fairweather's secretary that calls would be returned, this hardly ever eventuated. Various excuses were given by his secretary but generally it was that he was interstate on another removal and she did not know when he would contact her.
- 5.4 Of the 19 complaints recorded in the Consumer Affairs Bureau up to 30th June 1980, there has not been one written reply from either of the above firms.
- 5.5 In a number of claims before the Small Claims Tribunal, orders have been made against Athena Removals for sums in some instances exceeding \$300. These orders have not been met and, consequently, Warrants of Distress were issued. These Warrants were returned nulla bona.
- 5.6 One consumer who secured an order in the Small Claims Tribunal for \$126 against Itama Removals and Taxi Trucks, wrote to the Registrar and advised -

"Following our recent telephone conversation, I now wish to confirm that my claim for recovery of \$126 from Mr. Fairweather has proved unsuccessful. A Warrant of Distress was issued from the Mordialloc City Court on 4th February 1980 and a Bailiff acted on this."

5.7 The consumer went on to say -

"The Bailiff advised that Mr. Fairweather's vehicles are all on lease from a finance company, and that the contents of his home etc. are in the name of his wife and as I explained are protected under a Bill of Sale; therefore, there is nothing that can be taken by the Bailiff. The Bailiff told me that he has had no less than 10 Warrants to execute on Mr. Fairweather but in each case, because of Leasing Agreements and a "Bill of Sale", his hands are tied and not even the Supreme Court can change the situation under our present laws affecting hire purchase etc. Mr. Fairweather obviously realizes he is protected and acting within the law, therefore, even if you obtain a favourable judgment, there is no way it can be enforced if Mr. Fairweather elects to avoid payment of claims such as mine. The Bailiff was sympathetic and helpful, and I can assure you that his comments concerning the carrier left no doubt in my mind that we are lucky our loss was not a larger amount.

We trust that the law will one day be amended to prevent people such as this fellow from preying on the public."

5.8 The letter from this consumer has been confirmed by investigations of the Ministry and reports from other Bailiffs. The Ministry has ascertained that the Bills of Sale have lapsed. However, the Fairweathers claim there is another Bill of Sale which to them achieves the same purpose and the Bailiffs are unable to execute the Warrants.

- 5.9 As mentioned earlier, the Tribunals have made a number of orders for varying amounts against John Raymond Fairweather and Elizabeth Christine Fairweather and similar difficulties have been encountered in each case.
- 5.10 In another case a consumer had his family's belongings, including his tools of trade, removed from Brunswick to Gladstone, Queensland. The contract specified a delivery date of 8th January 1979. By mid-January these belongings had still not arrived and as they contained the tools of trade, the consumer was unable to gain employment. The goods arrived on 29th January. Many items were broken or damaged. In an attempt to resolve the delay in the delivery of goods and get some redress for the missing and damaged items, the Consumer Affairs Bureau made 35 telephone calls to Mr. Fairweather without success. Finally, the consumer lodged a claim in the Small Claims Tribunal and received an order to cover the cost of replacing the missing items and repairing the damage. For the reasons mentioned above, this order has not been met and the consumer has incurred a further \$16 cost in trying to enforce it.
- 5.11 Persons proposing to engage a removalist should be alerted by the sad story related above. Complaints can be lodged with the Consumer Affairs Bureau or claims lodged in the Small Claims Tribunal and these actions can be taken by consumers against businesses who are above reproach and where there can be a genuine disagreement as to the merits of a particular

case. That a complaint or a claim is lodged is not in itself an indictment of the trader. However, where it is necessary to ring a trader 35 times to try and get redress over an amount of less than \$150 and where orders are made following hearings of a claim by a Tribunal, and such orders are not met and subsequent Distress Warrants returned nulla bona, then it can no longer be considered to be a matter of little consequence but one sufficiently serious that consumers should not deal with companies or businesses who cannot meet their legal obligations to satisfy orders.

#### TRUCK SALES - OWNER DRIVER

##### Menville Pty Ltd trading as Latrobe Truck Sales (also known as Latrobe Street Transport)

- 6.1 Latrobe Truck Sales is a business name, the registered proprietor of which is Menville Pty Ltd. The directors of this company are Kevin William Harrick and Lola Merle Harrick.
- 6.2 A truck driver in a steady job earning \$2,000 per month responded to an advertisement for an owner/driver, published by Latrobe Truck Sales.
- 6.3 At that time, he had a reliable truck which he had paid \$7,600 for some three years earlier. His repayments on the truck were \$250 per month.

- 6.4. The advertisement he saw promised earnings of up to \$80,000 per year for interstate and country work. He told David Kirkham, a representative of Latrobe Truck Sales, that he could not do interstate trips but was keen to do country work. Kirkham stated that in that case his earnings would be guaranteed to be between \$3,000 - \$4,000 per month through work arranged through Latrobe Truck Sales.
- 6.5 The nightmare for the consumer started at this point.
- 6.6 He was persuaded by Kirkham to trade his truck in for one that Latrobe Truck Sales had in stock. That truck was offered at \$16,000. His own truck was traded in at a price matching the pay out figure to the finance company who had loaned him the money for its purchase, that is, approximately \$6,000.
- 6.7 He was then introduced to a finance company. That company wanted better security for money they were to advance for the purchase of Latrobe's truck.
- 6.8 The consumer was living in a home he was purchasing from the Housing Commission. He had been paying it off to the Commission for 23 years and, at the time, only owed \$8,208 on it, which he was repaying at \$41.20 per month. In order to secure its loan, the finance company arranged to pay out the Housing Commission, so it could register a mortgage over the property. The result of these financial arrangements and advice was for the consumer to progress from a debt of some \$14,000 for his first truck and house with repayments of \$291.20, to a debt of \$26,000 to be repaid over 10 years at \$520 per month.

- 6.9 The promised earning of between \$3,000 - \$4,000 per month to service this new debt turned out to be fiction rather than fact. His earnings dropped to nothing per month when the truck's performance could not match the sale spiel that went with it, and it was off the road with mechanical problems, and the promised work just did not exist. The most he earned in one month was \$835 and from this figure, tax, commission to his employer, and running expenses, including his petrol, had to be deducted.
- 6.10 The new debt of \$26,000 repayable over ten years would mean a total expenditure of \$62,400.
- 6.11 He simply could not meet the repayments of \$520 per month out of his reduced earnings. A visit to the finance company led to the loan being re-negotiated with repayments of \$404 per month over 18 years; however, this increased the total liability to \$87,264.
- 6.12 This case is not the only one brought to the Ministry's attention. There were other owner/drivers who were deceived by the representatives of Latrobe Truck Sales. Blatant lies were told as to the earnings that could be obtained. The work was not available as guaranteed; the trucks/vans that were purchased were faulty and over-priced. In some instances, the year models were misrepresented, and dubious means were used to acquire finance.



- 6.13 Finance was relatively easy to arrange, especially if the consumer owned or was buying his home, because Latrobe Truck Sales had a contact at a bank. The bank manager, and he alone, interviewed the applicants. The policy of this bank was not to give loans on trucks/vans, but many loans were approved by this bank manager for purchasers from Latrobe Truck Sales.
- 6.14 Latrobe Truck Sales also had their contacts in the transport industry, who would provide employment once the truck/van purchase was made. It is in the interests of the transport company to have a surplus of owner/drivers so that all requests for deliveries are fulfilled. In some instances, the owner/driver would wait for hours (sometimes days) before a job became available.
- 6.15 From the information retained at the Ministry, it is obvious that the representatives at Latrobe Truck Sales have no business ethics. They have recklessly placed people and their families in very precarious positions. The Ministry warns people not to deal with Latrobe Truck Sales - the only road you might run down is the road to ruin.

SKI INSTRUCTION AND SKI HIRE

Hubert Light, trading as Alpina Ski School,  
Ski Tours Accommodation Ski Hirer & Sales,  
and Ski Dry School Melbourne

- 7.1 The Ministry has received a number of complaints during the year against the Alpina Ski School and Ski Tours Accommodation Ski Hirer and Sales. (This is the registered name of a business, however, it operates under several aliases: the Alpina Dry Ski School and the Alpina Ski School.) Although Corporate Affairs' records show that a Hubert Light of 31 Holyrood Street, Hampton, is registered as the proprietor, it is believed that a Mr. Lich operates the school and uses a number of aliases, such as List, Listen and Nordic. The school operates behind a derelict house at 1 Hardy Street, Hampton.
- 7.2 Most consumers who become involved with the school appear to have contacted it through the listing in the Yellow Pages, under "Ski Equipment and Supplies" or "Teachers", as Ski Dry School. Most students are requested to forward a deposit to cover the cost of lessons, so when they arrive at the premises it is a little late for them to back out.
- 7.3 One consumer advised that they arranged four hours of private lessons, but the first half an hour of lessons was spent haggling over the amount of money which remained to be paid. Subsequently, another person arrived for a private lesson at the same time with the same teacher. The following week-end four people had simultaneous private lessons with the one teacher.

- 7.4 Another consumer wrote to the Ministry that "after having spent the first 55 minutes of lessons waiting for him to collect money and write receipts for his nine pupils, the lesson got under way ... Having nine people to teach at once, there was no room in his small backyard for more than one person at a time to be involved in any actual skiing activity - most of the time was spent waiting in line for a turn."
- 7.5 A complaint was received from a school group who had been given a quotation for lessons. Following the lessons, they were abused by the proprietor when they refused to hand over an additional amount equal to twice what had been quoted.
- 7.6 Various complaints have been received from consumers that the equipment being used by Mr. Lich is antique and not in accordance with current skiing equipment practice, and that the nylon ski slope on which practices are held is not particularly safe.
- 7.7 Mr. Lich has been proven to be quite unco-operative when the Ministry has attempted to resolve problems concerning his business. People who wish to learn skiing would be well advised to stay clear of his business if they wish to obtain value for their money.

INSURANCEAustralian Community Insurance Company Limited

- 8.1 The company underwrites (amongst other classes of business) Consumer Credit Insurance, which, as explained in part 2 of this report, is a policy taken out in conjunction with a loan contract to cover the consumer's payments to the finance company should he be disabled and unable to work. The premium paid is shown on the finance contract and covers the full term of the contract period.
- 8.2 The policy distributed by Australian Community Insurance has certain conditions similar to other insurance company policies, two of which are as follows -
- "Condition 8 - Insurance under this Policy shall not cover any person under the age of 18 years or over the age of 65 years.
- Condition 9 - The company may cancel this policy at any time by giving written notice to the insured ..."
- 8.3 A consumer complained to the Ministry that he took out a personal loan in November 1977 and consumer credit insurance to cover this obligation. At that time the consumer was 53 years of age. The term of the loan was for six years, concluding in 1983. He

paid a premium of \$420 for consumer credit insurance with Australian Community Insurance Company Limited to cover the whole of that period.

- 8.4 In December 1979, Australian Community Insurance Company Limited informed him that this policy had been cancelled as from 10th December 1979, in accordance with clause 9 of the policy, mentioned in paragraph 8.2.
- 8.5 When the Ministry contacted the Victorian Manager for Australian Community Insurance and asked for further details, it was informed that a company decision was made in early 1977 to the effect that cover would not be provided to anyone over 50 years of age. The Ministry was advised that the decision followed a survey of claims which disclosed that a majority of consumer credit insurance claims were lodged by people in the over 50 age group. The decision was made despite the policy reference to provide cover for any person between 18 and 65 years of age.
- 8.6 The Ministry is concerned on two counts -
- (a) that despite a company decision in February 1977 not to insure persons over 50, a consumer aged 53 was accepted for consumer credit insurance in November 1977, and
  - (b) that the company having accepted the premium and the proposal for cover should arbitrarily cancel the insurance some two years later with some four years still to run.

- 8.7 A premium is paid to cover the full repayment period and it is probable that many policy holders enjoy peace of mind in the belief that should anything untoward occur during the contractual period, their commitment to the finance company would be covered. Many consumers take this into consideration before actually committing themselves to a finance company. As one consumer put it, "as far as I am concerned, at my age I could easily have become an unacceptable risk during the past two years, and at age 56 next birthday, I might not now be able to get a replacement policy. This is essential for the protection of my family."
- 8.8 Whilst the Ministry does not question the right of an insurance company to determine its policies, it is considered that once a company accepts a risk it should continue to do so for the full contract period. Consumers in this particular age group could be influenced to take on loan commitments because of the added security of a consumer credit insurance policy. In this case, the consumer has lost this security.
- 8.9 The action of the company, notwithstanding its exclusion clause, is considered immoral and irresponsible, and one could have wondered what next class of people would have been its unfortunate innocent victims.
- 8.10 Since the above complaint occurred, the company has been taken over by Associated National Insurance Company and discussions with its management have indicated a more flexible and responsible attitude.

MOTOR VEHICLE INDUSTRYGeneral Motors-Holden

- 9.1 During the year, there has been an unusually high number of complaints lodged relating to General Motors-Holden (G.M.H.) vehicles.
- 9.2 With new models or complex components, the Ministry accepts that even with the best of research and reasonable quality control, there will usually be some faults found when a product is placed on the market, and this comment is applicable to washing machines, refrigerators, electrical and electronic equipment, as well as to motor cars.
- 9.3 Where such product failures or deficiencies are remedied satisfactorily by the manufacturer or trader, the Ministry of Consumer Affairs need not become involved.
- 9.4 Regrettably this year, there have been far too many complaints lodged by owners of G.M.H. vehicles where it is considered that G.M.H. have not met the obligations expected of a reputable manufacturer.
- 9.5 New car owners have not been able to get defects remedied, have been put to unnecessary inconvenience by being given the runaround, or have not been advised of problem components in sufficient time to avoid costly repairs.

- 9.6 There are a number of problem areas, some of which are detailed in the following paragraphs.

Broken Tie Rod End

- 9.7 A consumer states -

"On the 8th of May 1979 I took delivery of a Holden Commodore, and on the 10th of May at approximately 10.00 p.m. when about 50 feet from my home, the car ran out of control and hit a car that was parked on the kerb. A considerable amount of damage was done to my car, and it eventually had to be towed away. Before this, however, the Police were called, inspected the cars, and reported that a tie rod end had broken on my car. The next morning, I telephoned General Motors-Holden's Sales and Service, and asked them to inspect the damage to my car. They refused and said I'd have to put it through my insurance. I was advised by a solicitor to again contact General Motors, and on two occasions I left messages at their office to contact me, but they have not done so.

In order to get my car back, I had to make a claim on my insurance, as I needed it for work; not only have I lost my no claim bonus, but I have had to pay the first \$100 as well."



- 9.8 The consumer was seeking to recover the cost of the loss of the no claim bonus and the \$100 excess. The matter was referred by the Consumer Affairs Bureau to G.M.H. who rejected the complaint saying that the dealer's service manager was quite adamant that the fracture of the tie rod was not caused by faulty material. How this assessment could be made when G.M.H. did not inspect the tie rod is unknown. Why a manufacturer would not examine an alleged faulty product causing an accident is not only unknown but also irresponsible unless they were already aware of the defect.
- 9.9 The consumer then lodged a claim with the Small Claims Tribunal and an order was made to pay him \$200 forthwith.

#### Vibration in Commodore Steering

- 9.10 There have been a number of complaints lodged concerning vibrations in Commodores. A typical example is shown in the following extracts from a consumer's letter.

"Following numerous telephone calls and a heavy outlay in travelling time, mileage and consumption of petrol, with no satisfaction being obtained, I have taken the step of bringing my complaint to your attention to see if I can obtain some answers and resolve the major problems that have been plaguing the enjoyment of my new car over the past six months.

On the 1st of March 1979, I took delivery of a new vehicle, and while running the car in, I noticed a vibration/shuddering coming through the steering wheel. I made a phone call to the dealer, who advised me that they had some trouble like this with previous new Commodores, and the problem would be rectified at the first service.

The vehicle was taken to the dealer and serviced and there was an attempt to solve the vibration problem. This was to no avail. The vibration is still very much evident. Another phone call was made to notify the dealer of the problem. They promptly replied "We don't know exactly where the problem lies. We'll have another go at the next service."

I continued to drive the car, which was unfortunately not living up to its standard of ride, easy handling and quietness, and another day was taken off work to take the vehicle to its 10,000 mile servicing, and hopefully, vibration solving.

I returned to the garage to pick up the car to find out that only a slight attempt had been made to solve the problem. Disgruntled I left the dealer, who told me it wasn't their problem, it was the tyres that were out of round. I would have to approach the tyre company.

The car dealer had supposedly contacted the local tyre agent, who said he could not do anything, and I'd have to go to a major outlet. When I approached the major outlet, they tested the car and informed me the problem lay in the wheel rims. They were out of balance and it would cost \$35 to be fixed. I again rang the dealer and told him the result. His answer was "No way - it's the tyres that are at fault. The only problem we have like this is with Commodores fitted with ..... tyres." Though the dealer said that if they could find a fault they didn't know about they would pay the \$35, otherwise it would be my expense.

In the end, I had to pay the \$35. Still not happy about the outcome, I contacted General Motors- Holden's, who noted the story. I eventually got a telephone call from my local dealer asking what the complaint was. I re-explained it, and I was then told that I had \$35 worth of credit at the dealers, and they would investigate my complaint. No action.

I approached another local dealer, who said that they had similar complaints but could not do anything for me as I did not buy my car from him. I understood this.

So I am left with the problem of the car dealer blaming the tyres, and the tyre dealer blaming the rims. Both of them admitted there is a problem, but no one wants it. It was mentioned this was typical of a number of cases."

- 9.11 The Ministry's view is that it does not matter whether it is tyres or rims, G.M.H. supply a vehicle package and must be responsible for any defect in any part of that package. That they may have recourse to a tyre dealer if the tyres are faulty is a matter for their concern, it is not for the consumer's. The philosophy and practice of the company, and for that matter any other company, that is not prepared to take action to remedy a part of its product package that is obtained from a sub-contractor, is not acceptable.
- 9.12 The consumer had to buy some accessories to get value for his \$35 credit as the dealer had said the money had gone through their books and they could not make a refund. This is nonsense.

#### Trimatic Transmission Failures

- 9.13 There have been a number of failures of the trimatic transmission fitted to Holden vehicles. In February 1980, the company issued a recall notice advising all owners of vehicles with trimatic transmissions purchased between 1976 and 1979 to take their vehicles to the dealer for examination and the fitting of an additional filter to the automatic transmission.
- 9.14 Investigations by the Ministry indicate that this transmission problem was known to G.M.H. at least twelve months before the date of the press announcement. During this twelve month period, a number of vehicle owners experienced transmission failure, and in most cases, as this was past the 20,000 km or 12 months warranty, or because they were closer to a transmission specialist, the transmissions were replaced or repaired by other than G.M.H. dealers.

- 9.15 Some eleven consumers lodged complaints with the Consumer Affairs Bureau, and when the first few of these were referred to G.M.H., the claims were rejected, and it was considered pointless referring further of these to receive the same answer.
- 9.16 G.M.H claim that if there are exceptional circumstances they will meet the cost of repairs. However, when the following case was put to them, it was rejected.
- 9.17 A consumer's vehicle broke down at Lake Boga and he went to the auto service there to try and get the transmission attended to. It was decided a change-over transmission was necessary, and the auto service tried Swan Hill, Shepparton, and Bendigo, but those Holden dealers said they did not have any in stock. Finally, a transmission unit was obtained from a Melbourne company and brought up and fitted by the auto service station at Lake Boga. On returning to Melbourne and talking to this company, the consumer was advised that it was a common fault for this model trimatic transmission to fail at between 35,000 and 40,000 kms.
- 9.18 On approaching G.M.H., he was informed that as the vehicle was out of warranty and he had not returned to a G.M.H. dealer, that it was bad luck. He explained that he tried to get the transmission from various Holden dealers, but without success. G.M.H. replied that if he had contacted the General Motors dealer in Swan Hill, consideration would have been given to the costs involved in the rectification.

Their letter further says that their dealers do not stock change-over units, therefore, it was understandable that contacts with the dealers at Shepparton, Bendigo and Swan Hill were unsuccessful.

9.19 In another case, a consumer purchased a Holden Kingswood sedan in June 1978. Within the first twelve months, the consumer complained of a noise in the transmission. The dealer's service manager confirmed that the car was returned on four occasions during warranty but they could not fault the car.

9.20 At 18 months with 17,451 kms on the clock, the vehicle was taken in for a transmission service, which ended in a change-over transmission unit being fitted. Prior to this repair, G.M.H. had a publicity campaign to fit an additional filter screen to the consumer's model of car. The report on damage to the transmission stated -

"Reverse Clutch material restricting Filter Screen resulted in severe damage to Band, Low Reaction Drum, 2nd and 3rd Gear Clutches, badly contaminating Transmission Fluid and converter."

9.21 The consumer claimed he was not aware of the campaign. Despite approaches by the consumer and the Ministry, G.M.H. were not prepared to assist the consumer.

- 9.22 In addition to the recall advertisement, it is understood that G.M.H. sent out letters to its customers who were on their computer records and also advised the dealers to contact some owners. Despite this, a number of owners who, either because of inadequate records, changed addresses or sale of vehicles were unaware of the recall notice, experienced transmission failure, and took their vehicles to automatic transmission specialists for repair. It is believed that these consumers should be reimbursed by G.M.H. as the transmission was defective through a manufacturing or design fault.
- 9.23 At the worst, they should be reimbursed the genuine cost that G.M.H. would have incurred had the car been returned to a G.M.H. dealer.
- 9.24 A number of Holden owners who experienced trimatic transmission failures with their cars and whose claims were rejected by G.M.H., have lodged claims with the Small Claims Tribunal, and three recent orders against G.M.H. have been for the sums of \$275.30, \$250 and \$300. Some other claims, where the claimants have not been consumers in the terms of the Small Claims Tribunals Act, have been struck out for want of jurisdiction.
- 9.25 These events over the last twelve to eighteen months are very similar to those experienced by the Ministry in 1975 and reported in the annual report of the Director for the year ending 30th June 1976. The problems at that time also related to the trimatic

transmission, and the Ministry's primary concern was not that some of these failed, but that G.M.H. did not publicise an extended warranty policy on these transmissions. In fact it was given no publicity until Federal Parliament was advised by a Member of the House of Representatives of the public notice issued by the Car Consumers' Association of Victoria, advising members of the existence of this policy relating to the extension of cover of trimatic transmissions from twelve months and 12,000 miles to three years and 50,000 miles. At that time a number of car owners who were unaware of this extended policy had had their cars repaired when the transmission broke down by other than G.M.H. dealers, and again their claims for damages were rejected.

- 9.26 History has been repeated and again some car owners have suffered because of the attitudes of G.M.H.

#### Gearbox Problems with Geminis

- 9.27 There were numerous complaints that a grinding noise emanated from the gearbox of this car. Consumers approached dealers on many occasions in regard to the matter, but their approaches were usually fruitless. Quite often G.M.H. advised the consumer that the problem could not be fixed and that the vehicle was now of a commercially acceptable standard. Naturally, many consumers disputed this.
- 9.28 In one letter of reply to a consumer the company stated -

"We would advise that we are fully aware of the problem in question, as this has been mentioned to us by a number of owners, and the matter is currently under investigation with our Engineering



Department. As soon as any improvement or service fix covering this particular area is found, you will be advised in due course by the selling dealer."

- 9.29 Some consumers have advised the Ministry that long trips of any nature in these vehicles were practically impossible due to the severity of this noise.
- 9.30 Is it perhaps too radical a thinking that where a car is sold which is not of merchantable quality, and the company cannot fix it, then the consumer should be entitled to a refund or an exchange car instead of being informed that G.M.H. may find a cure one day?
- 9.31 G.M.H. have since advised the Ministry that they now have a remedy for this problem, and it would be hoped that they contact previous complainants and arrange for the necessary rectifications to be carried out.

#### Vibrations in Sunbirds

- 9.32 There were a number of complaints of vibrations throughout the body of some of these vehicles. Again, it would appear that while the company was aware of the problems, they were not sure how they could be remedied. The Ministry certainly has sympathy for a manufacturer who has produced a product with faults that they do not know how to remedy. However, the Ministry has greater sympathy for the consumer who has bought an unsatisfactory

product and is then subjected to a great deal of inconvenience. In many cases, this involves numerous trips to and from dealers, often having to take a day off work to do so, and still having a car that is unsatisfactory. Consumers who have complained to the Ministry state that at this date their problem has not been remedied.

9.33 Again, it should be stated that the reasons that G.M.H. have been named in this section of the report were not primarily because of a criticism of their vehicles, but of an intransigent attitude towards consumers and their failure, in the Ministry's opinion, to accept their obligations as a manufacturer.

APPENDIX AConsumer Affairs BureauAnalysis Of Consumer Complaints - Product/Service  
Classification - 1978/79 and 1979/80

	<u>1978/79</u>		<u>1979/80</u>	
	<u>Number</u>	<u>o/o</u>	<u>Number</u>	<u>o/o</u>
<u>Food and Beverages</u>				
Food Products	106	1.05	97	.85
Beverages	36	.35	36	.32
Other	<u>9</u>	<u>.09</u>	<u>8</u>	<u>.07</u>
SUB TOTAL	151	1.49	141	1.24
<u>Clothing, Footwear and Drapery</u>				
Clothing	332	3.28	417	3.66
Footwear ,	171	1.69	205	1.80
Accessories	27	.27	36	.32
Drapery	161	1.59	37	.32
Trousseau	-	-	20	.18
Other	<u>9</u>	<u>.09</u>	<u>13</u>	<u>.11</u>
SUB TOTAL	700	6.92	728	6.39
<u>Consumer Durables</u>				
Electrical Goods, etc.				
Washing Machines, Dishwashers, Drying Cabinets	94	.93	91	.80
Stoves	44	.43	55	.48

(Cont'd)

## Electrical Goods, etc. (Cont'd)

Refrigerators and Freezers	91	.90	92	.81
Television	142	1.40	81	.71
Air Conditioners	39	.38	42	.37
Heaters	74	.73	71	.62
Vacuum Cleaners	8	.08	45	.39
Radio, Hi-Fi, etc.	94	.93	127	1.11
Other	112	1.11	62	.54
Used Electrical Goods, etc.	55	.54	55	.48

Repair of Electrical  
Goods, etc.

Washing Machines, Dishwashers, Drying Cabinets	121	1.19	120	1.05
Stoves	18	.18	29	.25
Refrigerators and Freezers	54	.53	78	.68
Television	98	.97	98	.86
Air Conditioners	14	.14	12	.10
Heaters	38	.37	37	.32
Vacuum Cleaners	5	.05	31	.27
Radio, Hi-Fi, etc.	68	.67	72	.63
Other	28	.28	28	.25
Furniture	303	2.99	303	2.66

## Furnishings

Carpets and Other Floor Coverings	198	1.96	178	1.56
Curtains and Blinds	70	.69	110	.97
Hard Floor Coverings	-	-	48	.42
Other	13	.13	10	.09

(Cont'd)

## Consumer Durables (Cont'd)

Hardware and Kitchenware	59	.58	68	.60
Other	<u>6</u>	<u>.06</u>	<u>5</u>	<u>.04</u>
SUB TOTAL	1846	18.24	1948	17.11

Motor Vehicles and Other  
Transport Equipment

New Motor Vehicles	626	6.18	640	5.62
Used Motor Vehicles	1219	12.04	1146	10.06
Repair and Servicing Of Motor Vehicles:				
Mechanical	436	4.31	402	3.53
Electrical	19	.19	15	.13
Panel Beating	105	1.04	82	.72
Exchange Engines	-	-	63	.55
Towing/Storage	-	-	24	.21
Other	57	.56	37	.32
Parts and Accessories	243	2.40	205	.18
Motor Bikes and Trail Bikes	43	.42	48	.42
Other Transport Equipment:				
Caravans and Campervans	117	1.16	95	.83
Boats and Outboard Motors	52	.51	65	.57
Trucks	60	.59	67	.59
Other	47	.46	91	.80
Other	<u>6</u>	<u>.06</u>	<u>11</u>	<u>.10</u>
SUB TOTAL	3030	29.93	2991	26.26

Building and Construction

New Home Construction	136	1.34	168	1.47
Extensions and Renovations:				
Concreting, Blockwork, Brickwork, etc.	64	.63	104	.91
Fences and Walls	29	.29	51	.45
Carpentry	16	.16	20	.18
Painting and Decorating	68	.67	57	.50
Plumbing	77	.76	101	.89
Electrical Work	25	.25	31	.27
Roofing and Insulation	100	.99	92	.81
Cladding	133	1.31	96	.84
Other	161	1.59	167	1.47
Supply of Packages - Kitchens, Garages, etc.	76	.75	130	1.14
Building Products	110	1.09	186	1.63
Swimming Pools	70	.69	61	.54
Gardening	72	.71	82	.72
Other	<u>7</u>	<u>.07</u>	<u>4</u>	<u>.03</u>
SUB TOTAL	1144	11.30	1350	11.85

Miscellaneous Products

Communications - Newspapers, Books, Periodicals, etc.	220	2.17	251	2.20
Tools and Equipment	40	.39	21	.18
Sporting Goods	47	.46	67	.59
Jewellery, Watches and Clocks	231	2.28	266	2.34

(Cont'd)

## Miscellaneous Products (Cont'd)

Toys and Musical Instruments	43	.42	56	.49
Photographic Equipment	43	.42	61	.54
Chemical Products	44	.43	60	.53
Animals, Pets and Livestock	37	.36	37	.32
Other	<u>207</u>	<u>2.04</u>	<u>253</u>	<u>2.22</u>
SUB TOTAL	912	9.01	1072	9.41

Transport and Energy Services

Postal and Telephone Services	32	.32	24	.21
Public Utilities and Fuel Supplies	86	.85	131	1.15
Travel	101	1.00	210	1.84
Other	<u>52</u>	<u>.51</u>	<u>98</u>	<u>.86</u>
SUB TOTAL	271	2.68	463	4.07

Insurance and Finance

## Insurance:

Life	52	.51	67	.59
General	98	.97	-	-
Health	41	.40	51	.45
Motor Vehicle	224	2.21	207	1.82
Fire	91	.90	4	.03
Household	-	-	111	.97
Marine	-	-	6	.05
Consumer Credit	-	-	79	.69
Other	-	-	103	.90

(Cont'd)

## Insurance and Finance (Cont'd)

## Finance:

Credit Cards	10	.10	16	.14
Store Credit	14	.14	18	.16
Chattel Mortgage	18	.18	20	.18
Lay-By	3	.03	3	.03
Hire Purchase	136	1.34	196	1.72
Lease	30	.30	27	.24
Personal Loan	-	-	37	.32
Other	58	.57	42	.37
Other	<u>4</u>	<u>.04</u>	<u>-</u>	<u>-</u>
SUB TOTAL	779	7.70	987	8.67

Real Estate and Accommodation

Investment	4	.04	12	.10
Purchase	115	1.53	135	1.18
Lease and Rental	125	1.23	173	1.52
Short Term Accommodation	37	.36	45	.39
Other	<u>15</u>	<u>.15</u>	<u>19</u>	<u>.17</u>
SUB TOTAL	296	2.92	384	3.37

Miscellaneous Services

Professional Services	307	3.03	455	3.99
Semi-Professional Services	248	2.45	316	2.77
Household Services	290	2.86	367	3.22
Educational	42	.41	37	.32
Entertainment, Restaurant, Catering	76	.75	105	.92

(Cont'd)



## Miscellaneous Services (Cont'd)

Work at Home Schemes	-	-	6	.05
Other	<u>30</u>	<u>.30</u>	<u>38</u>	<u>.33</u>
SUB TOTAL	993	9.81	1324	11.63
<u>T O T A L</u>	<u>10122</u>	<u>100 %</u>	<u>11388</u>	<u>100 %</u>

NOTES

1. Percentage sub-totals may not total exactly because of rounding of decimal places.
2. The above table is only a summary. Any person interested in a particular classification may obtain a copy of that classification on request to the Ministry.
3. A number of sub-classifications have been added as from 1st July 1979, and at the same time a number of sub-classifications used in previous years have been deleted. The Ministry will provide information on such alterations on request.

APPENDIX BConsumer Affairs BureauAnalysis of Consumer ComplaintsPractice Classification - 1978/79 and 1979/80

	<u>1978/79</u>		<u>1979/80</u>	
	<u>Number</u>	<u>o/o</u>	<u>Number</u>	<u>o/o</u>
<u>Advertising and Representations</u>				
Health and Safety	4	.03	34	.26
Price	174	1.53	164	1.27
Quantity	36	.32	26	.20
Sponsorship, Approval	13	.11	21	.16
Specification, Goods	-	-	695	5.38
Nature of Services	-	-	16	.12
Free Gifts/Special	-	-	43	.33
Availability	-	-	43	.33
Conditions of Sale	-	-	209	1.62
Other	<u>626</u>	<u>5.52</u>	<u>151</u>	<u>1.17</u>
SUB TOTAL	853	7.52	1402	10.85
<u>Packaging and Labelling</u>				
Safety Label, Instructions	-	-	4	.03
Operating Instructions	18	.16	20	.15
Contents, Description of	5	.04	17	.13
Deceptive Packaging	11	.10	5	.04

(Cont'd)

## Packaging and Labelling (Cont'd)

Date of Manufacture on Packaging	3	.03	7	.05
Other	<u>12</u>	<u>.10</u>	<u>16</u>	<u>.12</u>
SUB TOTAL	49	.43	69	.53

Sales Methods

Unsolicited Product or Service	93	.82	104	.80
Door to Door Sales	195	1.72	114	.88
Auctions	16	.14	14	.11
Mail Order Sales	297	2.62	301	2.33
Over-Ticketing	-	-	2	.01
Other	<u>570</u>	<u>5.02</u>	<u>343</u>	<u>2.66</u>
SUB TOTAL	1171	10.32	878	6.80

Prices and Charges

Charge Above Quote	158	1.39	239	1.85
Industry Pricing Policy	59	.52	59	.46
Overcharging	443	3.90	472	3.65
Other	<u>92</u>	<u>.81</u>	<u>136</u>	<u>1.05</u>
SUB TOTAL	752	6.63	906	7.01

Quality of Product or Service

Installation	112	.99	109	.84
Servicing or Repair	1425	12.56	1561	12.08
Unavailability of Product, Component or Service	372	3.28	232	1.80
Unsafe or Hazardous Product or Service	47	.41	68	.53

(Cont'd)

Quality of Product or Service  
(Cont'd)

Unauthorized Repairs	30	.26	38	.29
Defective at Purchase )			1936	14.99
Defective After Purchase )	2878	25.37	677	5.24
Damage to Consumer			327	2.53
Weight/Measure of Unpacked Goods	-	-	7	.05
Other	<u>53</u>	<u>.47</u>	<u>65</u>	<u>.50</u>
SUB TOTAL	4917	43.34	5020	38.86

Credit Practices

Repossession	69	.61	108	.83
Debt Collection	67	.59	145	1.12
Deposits or Lay-Bys	308	2.71	148	1.14
Incorrect Interest or Credit Charge	63	.55	46	.36
Over Commitment			41	.32
Documentation Complaints			71	.55
Credit/Insurance Rebates			121	.94
Other	<u>114</u>	<u>1.00</u>	<u>195</u>	<u>1.51</u>
SUB TOTAL	621	5.47	875	6.77

Contracts

Harsh or Unconscionable Contracts	86	.76	95	.73
Non-Disclosure or Misrepresentation of Terms	174	1.53	291	2.25
Retention of Bond	76	.67	121	.94

(Cont'd)

## Contracts (Cont'd)

Other Landlord/Tenant Disputes	41	.36	44	.34	
Cancellation of Contract			472	3.65	
Non Supply Goods and Services )	1311	11.55	842	6.52	
Non Performance of Contracts )			349	2.70	
Other	<u>394</u>	<u>3.47</u>	<u>155</u>	<u>1.20</u>	
SUB TOTAL	2082	18.35	2369	18.34	
<u>Guarantees and Warranties</u>	SUB TOTAL	901	7.94	1048	8.11
<u>Offers of Redress</u>					
Provision of Credit Note			33	.25	
Provision of Replacement			1	-	
Repair - No Replacement - Refund			76	.59	
No Refund Policy of Seller			214	1.66	
Insistence on Repair			12	.09	
Other			<u>16</u>	<u>.12</u>	
SUB TOTAL			352	2.72	
<u>T O T A L</u>	<u>11346</u>	<u>100 %</u>	<u>12919</u>	<u>100 %</u>	

NOTES

1. Percentage sub-totals may not total exactly because of rounding of decimal places.

(Cont'd)

2. The above table is only a summary of the full classification. Any person interested in a particular classification may obtain a copy of that classification on request to the Ministry.
3. A number of sub-classifications have been added as from 1st July 1979, and at the same time a number of sub-classifications used in previous years have been deleted. The Ministry will provide information on such alterations on request.

## APPENDIX C

## Consumer Affairs Bureau - Comparison Of Complaints By Product And Practice 1979/80

PRODUCT	Advertising & Representations	Packaging and Labelling	Sales Methods	Prices and Charges	Quality of Product or Service	Credit Practices	Contracts	Guarantees and Warranties	Offers of Redress	TOTAL
Food, Beverages, & Tobacco	63 42.6 4.5	19 12.8 27.5	9 6.1 1.3	24 16.2 2.6	18 12.2 0.4	4 2.7 0.3	8 5.4 0.3	- -	3 2.0 0.9	148
Clothing, Footwear, & Drapery	86 10.3 6.1	33 4.0 47.8	73 8.7 8.3	8 1.0 0.9	449 54.3 8.9	6 0.7 0.7	79 10.0 3.3	2 0.2 0.2	90 10.9 25.6	826
Consumer Durables	182 8.3 13.0	3 0.1 4.3	69 3.2 7.9	125 5.7 13.8	1402 64.3 27.9	43 2.0 4.9	169 7.7 7.1	150 6.9 14.3	38 1.8 10.8	2,181
Motor Vehicles & Other Transport Equipment	426 12.0 30.4	- -	260 7.3 29.6	181 5.1 20.0	1252 35.3 24.9	127 3.6 14.5	462 13.0 19.5	805 22.7 76.8	35 1.0 9.9	3,548
Building & Construction	83 5.6 5.9	- -	35 2.4 4.0	148 10.0 16.3	853 57.4 17.0	28 1.8 3.2	268 18.0 11.3	60 4.0 5.7	12 0.8 3.4	1,487
Miscellaneous Products	177 12.8 12.6	13 0.9 18.8	345 25.0 39.3	52 3.8 5.7	440 31.9 8.8	14 1.0 1.6	277 20.0 11.7	28 2.0 2.6	35 2.5 9.9	1,381
Transport & Energy Services	120 24.6 8.6	- -	24 4.9 2.7	109 22.3 12.0	69 14.1 1.4	19 3.9 2.2	92 18.9 3.9	- -	55 11.3 15.6	488
Insurance & Finance	28 2.6 2.0	- -	10 0.9 1.1	13 1.2 1.4	17 1.6 0.3	554 51.4 63.3	442 41.0 18.7	1 0.1 0.1	13 1.2 3.7	1,078
Real Estate & Accommodation	59 14.6 4.2	- -	13 3.2 1.5	14 3.5 1.5	39 9.7 0.8	26 6.5 3.0	236 58.6 10.0	1 0.2 0.1	15 3.7 4.3	403
Miscellaneous Services	178 12.9 12.7	1 0.1 1.4	40 2.9 4.6	232 16.8 25.6	481 34.9 9.6	54 3.9 6.2	336 24.4 14.2	1 0.1 0.1	56 4.1 16.0	1,379
TOTAL	1402	69	878	906	5020	875	2369	1048	352	12,919

APPENDIX C1 - Interpretation

The Ministry uses the National Consumer Complaints System for classifying complaints. That system allows for double recording of a complaint on the basis of type of product or service and also type of practice involved. There is also the facility for coding for up to two practices for each complaint.

The table at Appendix C details the distribution of the practices amongst product groups. Each row of the table refers to a particular product or service group and each column refers to practice groups. An appreciation of the information contained in the first box of the table will assist in interpreting the table. The box contains three pieces of information relating to "Food, Beverages and Tobacco." Firstly, it shows that there were 63 complaints in this category, secondly, that 42.6% of all complaints about "Food, Beverages and Tobacco" related to Advertising, and thirdly, that 4.5% of all "Advertising and Representation" complaints were about "Food, Beverages and Tobacco".

A similar table for complaints received in 1978/79 appeared in Appendix C of the Director's Report for the year ended 30th June 1979.



APPENDIX DSmall Claims TribunalsAnalysis Of Claims Determined - Product/Service  
Classification - 1978/79 and 1979/80

	<u>1978/79</u>		<u>1979/80</u>	
	<u>Number</u>	<u>o/o</u>	<u>Number</u>	<u>o/o</u>
<u>Food and Beverages</u>				
Food Products	1	.04	5	.18
Beverages	1	.04	1	.03
Other	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
SUB TOTAL	2	.09	6	.22
<u>Clothing, Footwear and</u>				
<u>Drapery</u>				
Clothing	179	5.96	140	5.19
Footwear	101	3.36	63	2.33
Accessories	8	.27	12	.44
Drapery	15	.50	4	.15
Other	<u>3</u>	<u>.09</u>	<u>4</u>	<u>.15</u>
SUB TOTAL	306	10.18	223	8.26
<u>Consumer Durables</u>				
Electrical Goods, etc.				
Washing Machines, Dishwashers, Drying Cabinets	33	1.09	26	.96
Stoves	4	.14	8	.30
Refrigerators and Freezers	30	1.00	47	1.74

(Cont'd)

## Electrical Goods, etc. (Cont'd)

Television	40	1.32	38	1.40
Air Conditioners	16	.55	5	.18
Heaters	32	1.05	30	1.11
Small Appliances	1	.04	8	.30
Radio, Hi-Fi, etc.	20	.68	11	.41
Other	11	.36	31	1.15
Used Electrical Goods, etc.	7	.23	3	.11
Repair of Electrical Goods, etc.				
Washing Machines, Dishwashers, Drying Cabinets	27	.91	32	1.18
Stoves	3	.09	1	.03
Refrigerators and Freezers	30	1.00	10	.37
Television	42	1.41	7	.26
Air Conditioners	4	.14	5	.18
Heaters	8	.27	11	.41
Vacuum Cleaners	-	-	1	.03
Radio, Hi-Fi, etc.	15	.50	12	.44
Other	6	.18	8	.30
Furniture	137	4.55	116	4.30
Furnishings:				
Carpets and Other Floor Coverings	130	4.32	103	3.81
Curtains and Blinds	59	1.95	48	1.78
Other	8	.27	16	.59
Hardware and Kitchenware	13	.45	6	.22
Other	<u>10</u>	<u>.32</u>	<u>20</u>	<u>.74</u>
SUB TOTAL	686	22.82	603	22.35

Motor Vehicles and Other  
Transport Equipment

New Motor Vehicles	49	1.64	41	1.52
Used Motor Vehicles	322	10.69	216	8.00
Repair and Servicing Of Motor Vehicles:				
Mechanical	283	9.41	231	8.56
Electrical	10	.32	19	.70
Panel Beating	49	1.64	38	1.41
Other	17	.55	38	1.41
Parts and Accessories	56	1.86	67	2.48
Motor Bikes and Trail Bikes	11	.36	8	.30
Other Transport Equipment:				
Caravans and Campervans	20	.68	21	.78
Other	35	1.18	45	1.67
Other	<u>-</u>	<u>-</u>	<u>12</u>	<u>.44</u>
SUB TOTAL	852	28.33	736	27.27

Building and Construction

New Homes	32	1.05	17	.63
Extensions and Renovations:				
Concreting, Blockwork, Brickwork, etc.	104	3.46	82	3.04
Fences and Walls	35	1.18	30	1.11
Carpentry	10	.32	19	.70
Painting and Decorating	59	1.95	35	1.30
Plumbing	57	1.91	65	2.41
Electrical Work	18	.59	21	.78
Roofing and Insulation	47	1.55	31	1.45

(Cont'd)

Extensions and Renovations  
(Cont'd)

Cladding	7	.23	11	.41
Other	124	4.14	94	3.48
Supply of Packages - Kitchens, Garages, etc.	20	.68	65	2.41
Building Products	52	1.73	45	1.67
Swimming Pools	15	.50	23	.85
Gardening	30	1.00	28	1.03
Other	<u>1</u>	<u>.04</u>	<u>18</u>	<u>.67</u>
SUB TOTAL	611	20.33	584	21.64

Miscellaneous Products

Communications - Newspapers, Books, Periodicals, etc.	5	.18	8	.30
Tools and Equipment	8	.27	2	.07
Sporting Goods	18	.59	18	.67
Jewellery, Watches, and Clocks	70	2.32	41	1.52
Toys and Musical Instruments	4	.14	14	.52
Photographic Equipment	8	.27	8	.30
Chemical Products	3	.09	1	.03
Animals, Pets and Livestock	18	.59	16	.59
Other	<u>34</u>	<u>1.14</u>	<u>10</u>	<u>.37</u>
SUB TOTAL	168	5.59	118	4.37

Transport and Energy Services

Post and Telephone Services	4	.14	17	.63
Public Utilities and Fuel Supplies	14	.45	13	.48
Travel	49	1.64	103	3.82
Other	<u>-</u>	<u>-</u>	<u>3</u>	<u>.11</u>
SUB TOTAL	67	2.23	136	5.04

Insurance and Finance

Insurance	14	.45	42	1.56
Finance	5	.18	9	.33
Other	<u>1</u>	<u>.04</u>	<u>-</u>	<u>-</u>
SUB TOTAL	20	.68	51	1.89

Real Estate and Accommodation

Investment	1	.04	1	.03
Purchase	3	.09	1	.03
Lease and Rental	-	-	-	-
Short Term Accommodation	7	.23	4	.15
Other	<u>3</u>	<u>.09</u>	<u>10</u>	<u>.37</u>
SUB TOTAL	14	.45	16	.59

Miscellaneous Services

Professional Services	37	1.22	33	1.22
Semi-Professional Services	41	1.36	44	1.63
Laundry and Dry Cleaning	90	2.98	69	2.56
Other Household Services	43	1.43	44	1.63

(Cont 'd)

## Miscellaneous Services (Cont'd)

Educational	4	.14	1	.03
Entertainment, Restaurant, Catering	11	.36	23	.85
Other	<u>54</u>	<u>1.77</u>	<u>12</u>	<u>.44</u>
SUB TOTAL	280	9.26	226	8.37
 <u>T O T A L</u>	 <u>3006</u>	 <u>100 %</u>	 <u>2699</u>	 <u>100 %</u>

NOTES

1. Percentage sub-totals may not total exactly because of rounding of decimal places.
2. The above table is only a summary of the full classification. Any person interested in a particular classification may obtain a copy of that classification on request to the Ministry.

APPENDIX ESmall Claims TribunalsAnalysis Of Claims Determined - PracticeClassification - 1978/79 and 1979/80

	<u>1978/79</u>		<u>1979/80</u>	
	<u>Number</u>	<u>o/o</u>	<u>Number</u>	<u>o/o</u>
<u>Advertising and Representations</u>	12	.39	26	.87
<u>Packaging or Labelling</u>	-	-	5	.17
<u>Sales Methods</u>	4	.13	4	.13
<u>Prices or Charges</u>				
Charge Above Quote	14	.45	43	1.44
Overcharging	96	3.09	164	5.51
Other	<u>48</u>	<u>1.86</u>	<u>115</u>	<u>3.86</u>
SUB TOTAL	158	5.08	322	10.82
<u>Quality of Product or Service</u>				
Installation	44	1.44	151	5.07
Service or Repair	93	2.99	343	11.52
Unavailability of Product, Component or Service	89	2.86	132	4.43
Unsafe or Hazardous Product or Service	46	1.48	143	4.80
Unauthorised Repairs	12	.39	14	.47
Defective at Purchase	(		79	2.65
Defective After Purchase	(1424	45.79	836	28.08

(Cont'd)

Quality of Product or Service  
(Cont'd)

Damage to Consumer's Property	-	-	216	7.26
Weight or Measure of Unpacked Goods	-	-	-	-
Other	<u>1120</u>	<u>36.01</u>	<u>437</u>	<u>14.68</u>
SUB TOTAL	2828	90.93	2351	78.97

Credit Practices

Repossession	-	-	4	.13
Debt Collection	-	-	-	-
Deposits and Lay-Bys	31	1.00	57	1.91
Exorbitant or Incorrect Interest or Credit Charges	-	-	1	.03
Over Commitment	-	-	-	-
Documentation Complaints	-	-	-	-
Rebates (Credit and Insurance)	-	-	10	.34
Other	<u>8</u>	<u>.26</u>	<u>21</u>	<u>.71</u>
SUB TOTAL	39	1.25	93	3.12

Contracts

Harsh and Unconscionable Contracts	3	.10	-	-
Non Disclosure and Misrepresentation of Terms	11	.35	4	.13
Retention of Bonds	-	-	-	-
Other Landlord/Tenant Disputes	-	-	-	-
Disputes Concerning Cancellation of Contracts	-	-	20	.67

(Cont'd)



## Contracts (Cont'd)

Non Supply of Goods and Services	-	-	52	1.75
Non Performance Within a Reasonable Period	24	.77	15	.50
Other	<u>4</u>	<u>.13</u>	<u>20</u>	<u>.67</u>
SUB TOTAL	42	1.35	111	3.73

Guarantees and Warranties

Statutory	-	-	1	.03
Express Warranties	-	-	4	.13
Other	<u>100</u>	<u>3.58</u>	<u>10</u>	<u>.34</u>
SUB TOTAL	100	3.58	15	.50

Offers of Redress

Provision of Credit Note	-	-	4	.13
Provision of a Replacement	-	-	2	.07
Repair - No Replacement or Refund	-	-	1	.03
No Refund Policy of Seller	-	-	24	.81
Insistence that Consumer Pay for Repair	-	-	9	.30
Other	-	-	<u>9</u>	<u>.30</u>
SUB TOTAL			50	1.68

<u>T O T A L</u>	<u>3110</u>	<u>100 %</u>	<u>2977</u>	<u>100 %</u>
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NOTES

1. Percentage sub-totals may not total exactly because of rounding of decimal places.
2. The above table is only a summary of the full classification. Any person interested in a particular classification may obtain a copy of that classification on request to the Ministry.
3. A number of sub-classifications have been added as from 1st July 1979, and at the same time a number of sub-classifications used in previous years have been deleted. The Ministry will provide information on such alterations on request.

APPENDIX F

Table Of Cities And Towns Visited By Mobile Unit  
July 1st 1979 - June 30th 1980

<u>City Or Township</u> <u>Visited</u>	<u>Number</u> <u>Of Visits</u>	<u>Persons</u> <u>Interviewed</u>
Ararat	4	27
Apollo Bay	1	3
Bairnsdale	3	54
Beechworth	1	4
Benalla	1	4
Bright	2	7
Camperdown	4	21
Castlemaine	1	6
Casterton	2	9
Charlton	3	15
Cobden	1	9
Cobram	2	24
Colac	6	65
Dandenong	1	27
Daylesford	1	10
Dimboola	1	4
Donald	1	6
Echuca	3	26
Foster	2	14
Frankston	1	30
Hamilton	5	39
Horsham	2	29
Kerang	3	20
Kyneton	1	9

(Cont 'd)

(Appendix F Cont'd)

<u>City Or Township</u> <u>Visited</u>	<u>Number</u> <u>Of Visits</u>	<u>Persons</u> <u>Interviewed</u>
Leongatha	3	16
Lorne	1	4
Mansfield	1	5
Maryborough	4	40
Mildura	5	139
Mortlake	2	6
Myrtleford	1	2
Nhill	1	2
Numurkah	1	9
Orbost	1	18
Penshurst	1	7
Portland	4	25
Puckapunyal	4	17
Robinvale	5	29
Rutherglen	1	0
Sale	6	136
Sea Lake	1	5
Seymour	4	17
Shepparton	5	95
Stawell	4	33
Sunbury	1	7
Swan Hill	4	44
St. Arnaud	2	4
Tatura	1	2
Terang	5	35
Warracknabeal	2	14
Warragul	2	33

(Cont'd)

## (Appendix F Cont'd)

<u>City Or Township Visited</u>	<u>Number Of Visits</u>	<u>Persons Interviewed</u>
Warrnambool	10	226
Wodonga	6	73
Wonthaggi	3	21
Wycheproof	1	2
Yarram	2	26
Yarrawonga	<u>2</u>	<u>22</u>
TOTAL	148	1,576
	<u><u>        </u></u>	<u><u>        </u></u>

\* Mildura visited on 5 occasions, but duration is for two days each visit.

APPENDIX GAnalysis Of Prosecutions

<u>Consumer Affairs Act</u>	<u>Number Of Informations</u>			<u>Total</u>
	<u>Convicted</u>	<u>Adjourned</u>	<u>Dismissed</u>	
<u>Section</u>				
13 (1)	6	-	2	8
13 (2A)	4	-	1	5
13 (2B)	2	-	-	2
13 A (2)	-	-	2	2
15 (1)	9	-	-	9
15 (4)	1	-	-	1
20 A	6	-	-	6
32 F	2	-	-	2
32 B (1)	-	-	1	1
36	-	-	1	1
38	5	-	-	5
60	7	-	-	7
64	<u>1</u>	<u>1</u>	<u>1</u>	<u>3</u>
	43	1	8	52

(Cont'd)

(Appendix G Cont'd)

<u>Motor Car Traders Act</u>	<u>Number Of Informations</u>			
	<u>Convicted</u>	<u>Adjourned</u>	<u>Dismissed</u>	<u>Total</u>
<u>Section</u>				
14	4	2	-	6
19	1	-	-	1
26	29	-	-	29
29	1	-	-	1
40	59	18	1	78
41 A	11	8	-	19
55	3	-	-	3
 <u>Regulation</u>				
403	<u>5</u>	<u>-</u>	<u>-</u>	<u>5</u>
	113	28	1	142
 <u>Building Contracts</u> <u>(Deposits) Act</u>				
<u>Section</u>				
3	4	-	-	4
 TOTAL	<u>160</u>	<u>29</u>	<u>9</u>	<u>198</u>

NOTE: These figures cannot be compared to those given in Section 1.6, Alleged Breaches/Prosecution, as the latter relates to files, while the former, i.e. those listed in this appendix, relate to individual breaches and there may be a number of breaches in any one file.

APPENDIX H1Advice On Buying A Used Car

First, decide what type of car you want to buy and how much you can afford to spend.

Next, check prices in the newspapers before you start to shop around.

Always have the vehicle mechanically checked.

Never leave your trade-in with the dealer until you are absolutely certain that you intend to go ahead with the transaction.

Government legislation compels the dealer to show the price of the vehicle on the rear side window and provides for a warranty, depending on the price you pay.

Beware of a Defects Notice. If you sign this document, the defects listed will not be covered by the statutory warranty.

The price on the window may be inflated to allow the salesman some room for negotiation, so always drive a hard bargain.

Understand hire purchase contracts. Read everything, and if necessary, seek advice before you sign. Take your time and think carefully before you commit yourself. You can always sign the following day.

For further information, contact the Consumer Affairs Bureau, 500 Bourke Street, Melbourne.



APPENDIX H2Advice To Franchisees

Thank you for calling.

The Ministry of Consumer Affairs is concerned at the significant number of franchise operations that have lost money for investors. These operations include delivery runs.

In any business proposition, start off like a businessman. Never sign any papers or outlay money before you are fully satisfied that your investment of time and money is really worthwhile.

Before committing yourself, talk to your family. Ask a solicitor to check any contract. Get an accountant to look over any figures quoted as return on investment.

Ask yourself if the product or service you will have to sell is one that you yourself would buy. Is it better or cheaper than established businesses already offer ?

If you have to borrow the money to start off, forget it. Ask yourself why are you being asked to pay to sell for other people.

You may ring the Ministry on 602 4288 during working hours for further information.

APPENDIX H3Advice To Potential Owner Drivers

Don't commit yourself to any truck deal before you check it thoroughly.

Have you talked to other truck drivers ? They have experience you may lack.

Is the truck suitable for the job and reliable ? Get an expert to check it over. This won't cost you much but could save you some thousands.

Is the price asked fair ? Shop around. What would it be worth if it broke down or you were out of work ?

If you have to get finance, ask an independent expert for advice on your financial commitments. Repayments have to be deducted from earnings before you get a wage. What are the operation costs ? How many hours will you have to work for your wages ? Compare this with what you now earn. Could you make running repairs on the truck ?

Check and double check earning prospects held out to you as an inducement. Make sure you have some savings to fall back on if things don't work out.

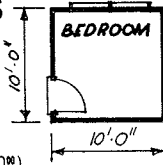
Send a stamped addressed envelope to the Consumer Affairs Bureau, 500 Bourke Street, Melbourne, for your copy of advice.

APPENDIX I

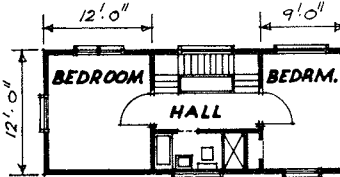
Advertising Calendar - Lawson's

WE BUILD HOMES & HOME EXTENSIONS FOR A FRACTION OF THE COST YOU MIGHT IMAGINE LOOK AT THIS

OFFER:—  
**BEDROOMS**  
FROM A **LOW**  
**\$2,650<sup>00</sup>**  
(BONUS VOUCHER \$230\*)



**1st FLOOR ADDITIONS**



FROM A **LOW \$17,850** (BONUS VOUCHER \$460\*)

**BUNGALOWS**  
FROM A **LOW**  
**\$4,850<sup>00</sup>**  
(BONUS VOUCHER \$290\*)



FINANCE: WE MAY BE ABLE TO HELP.

**NEW HOMES**  
from a **LOW**  
**\$19,760<sup>00</sup>**  
1200 SQ FT FLOOR AREA

HERE'S OUR CHECK LIST IF YOUR JOB IS NOT LISTED **ASK** WE WILL HELP

**SMALL JOBS**

RE-ROOFING from \$950\*  
NEW WINDOWS from \$130\*  
PAINTING from \$60\* per room  
LIGHT & POWER POINTS from \$25\* each  
TAP WASHERS from \$3\* each  
FENCES from \$4\* metre  
LANDSCAPING from \$260\* (100 sq ft)  
TERRACES from \$430\* (100 sq ft)  
RUBBISH REMOVED from \$30\* load  
RANCH SLIDERS from \$190\* each

REPAIRS  
DRAUGHTS FIXED  
LEAKS STOPPED  
WALL PAPERING  
LOCKS FITTED  
DRIVES PAVED  
PATHS  
TILING WALLS  
QUARRY TILES  
CARPORTS  
POOLS  
SAUNAS  
BRICK VENEERS

ROTTEN BOARDS  
PLUMBING REPAIRS  
ARCH BARS REPLACED  
GARDENING  
LAWNS CUT  
HEDGES TRIMMED  
BUILT-INS  
WARDROBES  
FURNITURE FIXED  
GARAGES  
BARBECUES  
GUTTERING  
BRICKWORK

WITH A SMALL JOB VALUE OVER \$50\* A BONUS VOUCHER TO THE VALUE OF **\$10<sup>00</sup>**  
WITH A SMALL JOB VALUE OVER \$300\* A BONUS VOUCHER TO THE VALUE OF **\$40<sup>00</sup>**  
WITH A SMALL JOB VALUE OVER \$750\* A BONUS VOUCHER TO THE VALUE OF **\$60<sup>00</sup>**

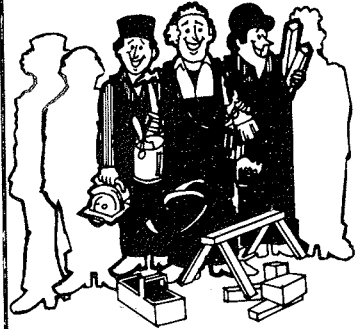
Phone **LAWSON'S**  
**578-2362**  
**now**

CONDITIONS OF OFFER: ALL BONUS OFFERS ARE ISSUED TO THE STORE OF YOUR CHOICE. ALL BONUS VOUCHERS ARE ISSUED AFTER FULL SATISFACTORY COMPLETION OF THE PROJECT. VALID IN VICTORIA ONLY.

THIS CALENDAR COMES TO YOU WITH COMPLIMENTS OF

**LAWSON'S**  
Builder • Renovators

**10<sup>TH</sup>**  
**ANNIVERSARY**  
**BONUS**  
**BONANZA**



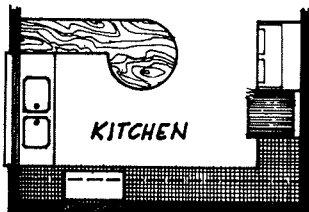
LOTS & LOTS & LOTS OF BONUS GIFTS FOR ALL THOSE GIRLS WHO HAVE BEEN NAGGING THEIR HUSBANDS FOR THAT SPECIAL SOMETHING FOR YEARS

KITCHENWARE • JEWELLERY • CLOTHES • SHOES • WASHERS • DRIERS • DISHWASHERS AND MANY, MANY MORE — HURRY — HURRY

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<b>OCTOBER '79</b> <table border="1"> <tr><td>S</td><td>M</td><td>T</td><td>W</td><td>T</td><td>F</td><td>S</td></tr> <tr><td></td><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td><td>6</td></tr> <tr><td>7</td><td>8</td><td>9</td><td>10</td><td>11</td><td>12</td><td>13</td></tr> <tr><td>14</td><td>15</td><td>16</td><td>17</td><td>18</td><td>19</td><td>20</td></tr> <tr><td>21</td><td>22</td><td>23</td><td>24</td><td>25</td><td>26</td><td>27</td></tr> <tr><td>28</td><td>29</td><td>30</td><td>31</td><td></td><td></td><td></td></tr> </table>	S	M	T	W	T	F	S		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31				<b>NOVEMBER '79</b> <table border="1"> <tr><td>S</td><td>M</td><td>T</td><td>W</td><td>T</td><td>F</td><td>S</td></tr> <tr><td></td><td></td><td></td><td></td><td>1</td><td>2</td><td>3</td></tr> <tr><td>4</td><td>5</td><td>6</td><td>7</td><td>8</td><td>9</td><td>10</td></tr> <tr><td>11</td><td>12</td><td>13</td><td>14</td><td>15</td><td>16</td><td>17</td></tr> <tr><td>18</td><td>19</td><td>20</td><td>21</td><td>22</td><td>23</td><td>24</td></tr> <tr><td>25</td><td>26</td><td>27</td><td>28</td><td>29</td><td>30</td><td></td></tr> </table>	S	M	T	W	T	F	S					1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30		<b>DECEMBER '79</b> <table border="1"> <tr><td>S</td><td>M</td><td>T</td><td>W</td><td>T</td><td>F</td><td>S</td></tr> <tr><td>30</td><td>31</td><td></td><td></td><td></td><td></td><td>1</td></tr> <tr><td>2</td><td>3</td><td>4</td><td>5</td><td>6</td><td>7</td><td>8</td></tr> <tr><td>9</td><td>10</td><td>11</td><td>12</td><td>13</td><td>14</td><td>15</td></tr> <tr><td>16</td><td>17</td><td>18</td><td>19</td><td>20</td><td>21</td><td>22</td></tr> <tr><td>23</td><td>24</td><td>25</td><td>26</td><td>27</td><td>28</td><td>29</td></tr> </table>	S	M	T	W	T	F	S	30	31					1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29
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ANOTHER FANTASTIC OFFER  
KITCHENS FROM A

**LOW \$1,780<sup>00</sup>**  
(BONUS VOUCHER \$270\*)



**KITCHEN**

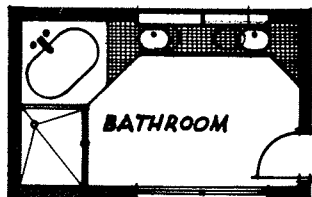
**NO!** WE DON'T HAVE STOCK,  
OFF THE HOOK DESIGNS, ALL OF  
OUR WORK IS TAILOR MADE,  
EXACTLY TO YOUR REQUIREMENTS.  
WE CAN DO THE FULL JOB —  
FROM PLANS TO PAINTING — OR  
PART ONLY READY FOR YOU TO  
COMPLETE. FOR MORE DETAIL  
phone

**LAWSON'S NOW**  
on **578 2362**

**BATHROOM**

ANOTHER FANTASTIC OFFER  
BATHROOMS FROM A

**LOW \$1,140<sup>00</sup>**  
BONUS VOUCHER \$180\*)



<b>APRIL '80</b> <table border="1"> <tr><td>S</td><td>M</td><td>T</td><td>W</td><td>T</td><td>F</td><td>S</td></tr> <tr><td></td><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td><td></td></tr> <tr><td>6</td><td>7</td><td>8</td><td>9</td><td>10</td><td>11</td><td>12</td></tr> <tr><td>13</td><td>14</td><td>15</td><td>16</td><td>17</td><td>18</td><td>19</td></tr> <tr><td>20</td><td>21</td><td>22</td><td>23</td><td>24</td><td>25</td><td>26</td></tr> <tr><td>27</td><td>28</td><td>29</td><td>30</td><td></td><td></td><td></td></tr> </table>	S	M	T	W	T	F	S		1	2	3	4	5		6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30				<b>MAY '80</b> <table border="1"> <tr><td>S</td><td>M</td><td>T</td><td>W</td><td>T</td><td>F</td><td>S</td></tr> <tr><td></td><td></td><td></td><td></td><td>1</td><td>2</td><td>3</td></tr> <tr><td>4</td><td>5</td><td>6</td><td>7</td><td>8</td><td>9</td><td>10</td></tr> <tr><td>11</td><td>12</td><td>13</td><td>14</td><td>15</td><td>16</td><td>17</td></tr> <tr><td>18</td><td>19</td><td>20</td><td>21</td><td>22</td><td>23</td><td>24</td></tr> <tr><td>25</td><td>26</td><td>27</td><td>28</td><td>29</td><td>30</td><td>31</td></tr> </table>	S	M	T	W	T	F	S					1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	<b>JUNE '80</b> <table border="1"> <tr><td>S</td><td>M</td><td>T</td><td>W</td><td>T</td><td>F</td><td>S</td></tr> <tr><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td><td>6</td><td>7</td></tr> <tr><td>8</td><td>9</td><td>10</td><td>11</td><td>12</td><td>13</td><td>14</td></tr> <tr><td>15</td><td>16</td><td>17</td><td>18</td><td>19</td><td>20</td><td>21</td></tr> <tr><td>22</td><td>23</td><td>24</td><td>25</td><td>26</td><td>27</td><td>28</td></tr> <tr><td>29</td><td>30</td><td>31</td><td></td><td></td><td></td><td></td></tr> </table>	S	M	T	W	T	F	S	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31				
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