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1994-95



Office of
Fair Trading &
Business Affairs



VICTORIAN
FAIR TRADER
OF THE YEAR

Toy Hedley

VICTORIA

Report to the

MINISTER FOR FAIR TRADING

for the Year ended *30 June 1995*

Ordered by the Legislative Assembly to be printed

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1995



DEPARTMENT OF
JUSTICE
VICTORIA

OFFICE OF THE SECRETARY

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The Hon Jan Wade MP
Minister for Fair Trading
200 Queen Street
MELBOURNE 3000

Madam,

ANNUAL REPORT 1994-95

I present to you my report on the activities and operations of the Department of Justice in relation to fair trading for the year ended 30 June 1995.

The document has been prepared in satisfaction of section 8A of the **Ministry of Consumer Affairs Act 1973**, section 16 of the **Credit (Administration) Act 1984**, and section 13 of the **Residential Tenancies Act 1980** for you to lay before the Houses of Parliament.

Yours faithfully,

WARREN McCANN
Secretary to the
Department of Justice

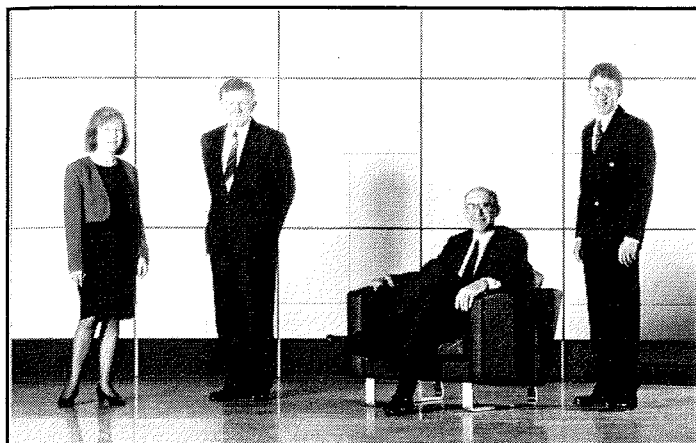


*Hon Jan Wade MP
Minister for Fair Trading*

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OVERVIEW



From left: Vicky Bates, Assistant Director Economics and Information; Malcolm Walter, Director; Frank Lovass, Assistant Director Client Services; and Richard Lyneham, Acting Assistant Director Investigations and Compliance.

1994-95 opened with a move to new premises imminent. This has occurred with pleasingly little disruption. The Office is now firmly established at 452 Flinders Street, Melbourne, Business Affairs Branch having joined the October 1994 "pioneers" in February 1995. The benefits of integrated accommodation in a modern corporate facility are generally recognised by Office personnel, and although we are a little further from the city centre than before, clients clearly appreciate the improved environment for counter service.

Another move appreciated by clients was the reduction in business name registration fees from \$78 to a national low of \$70 foreshadowed last year and effective from 1 January 1995. In addition, revised procedures have led to a reduction in average waiting time for counter registrations from eight minutes to five.

1995-96 will see further integration of personnel and services, with the administrative functions of the former Estate Agents Board becoming part of the responsibilities of the Office proper. The detail of the relevant changes to the Estate Agents Act 1980 is contained in the body of this report.


Another legislative change described in the report - the passage and transfer to the Fair Trading portfolio of the Prostitution Control Act 1994 - has significant implications for the Office. The Act is an important initiative aimed at bringing sensible regulation to an inherently controversial industry. Those used to thinking of the Office as facilitating fair dealing between consumers and traders may be somewhat surprised by its assuming responsibility for legislation largely concerned with health and occupational welfare. However, long experience in the administration of business licensing makes the Office a logical location for the new scheme, and the challenge of a broadening of scope is welcomed.

There will be no change to the registration system for credit providers as a result of the Consumer Credit (Victoria) Act 1995, but the Act has major ramifications for the industry and consumers. The Consumer Credit Code has been or will be similarly incorporated in legislation in all states and territories, to take effect throughout Australia in 1996. For the first time there will be a national system applying truth in lending principles to all consumer credit transactions. Victoria can be justly proud of its central role in the development of the Code.

Assistance to industry in establishing mechanisms for self-regulation continued during the year, notably in the furniture removal industry, and initiatives were taken to encourage businesses to take a positive, systematic approach to customer relations and complaint handling. Not least among these was the introduction of annual Fair Trading Awards, which received wide publicity.

A fair marketplace, which is seen to be operating fairly, benefits the whole community, and the Office is committed to making it easier for businesses to contribute. Part of that commitment involves penalising those who undermine fairness in the marketplace, to ensure that businesses which fail to comply with proper standards of conduct do not gain a commercial advantage from that misconduct. In that regard, I am pleased to note a further large increase in the number of offences prosecuted by the Office.

I look forward to continued achievement across our client service, developmental and compliance programs in the coming year.



Malcolm Walter
Director

Office of Fair Trading and Business Affairs

PART ONE: ABOUT FAIR TRADING AND BUSINESS AFFAIRS

Objectives of the Office

Specifically, it is the responsibility of the Office to:

- foster an informed, competitive marketplace and avoid disputation through advisory services and public information programs which increase awareness and understanding of rights and obligations
- promote a safe market for consumer goods through developing product standards
- assist industry in the development of codes of practice
- inform government decision making and responses to marketplace issues
- develop and give effect to the Fair Trading legislation program
- promote compliance with Fair Trading legislation and with other legal and ethical requirements
- provide high quality and cost-effective business licensing and registration systems and facilitate public access to registered information.

To meet these ends it is necessary to:

- deliver sound and focussed research, policy analysis, advice (including economic/financial) and program review
- conduct litigation and provide legal advice relating to Fair Trading at a high professional standard
- maintain a commitment to quality and continuous improvement of service to clients.

Fair Trading Acts of Parliament

The following pieces of legislation are assigned to the Minister for Fair Trading.

Associations Incorporation Act 1981
Auction Sales Act 1958

The Office of Fair Trading and Business Affairs is a division of the Department of Justice. Its mission is to promote public confidence in Victoria's trading environment. We aim to encourage an efficient economy which really "delivers the goods".

Building Societies Act 1986
Business Investigations Act 1958
Business Names Act 1962
Caravan Parks and Movable Dwellings Act 1988 (Parts 1-5)
Carriers & Innkeepers Act 1958
Charities Act 1978
Chattel Securities Act 1987 (Parts 1 and 2)

Collusive Practices Act 1965
Companies (Administration) Act 1981
Consumer Affairs Act 1972
Consumer Credit (Victoria) Act 1995
Co-operation Act 1981
Co-operative Housing Societies Act 1958
Corporations (Victoria) Act 1990
Credit Act 1984
Credit (Administration) Act 1984
Credit Reporting Act 1978
Disposal of Uncollected Goods Act 1961
Estate Agents Act 1980
Fair Trading Act 1985
Finance Brokers Act 1969
Financial Institutions (Victoria) Act 1992
Friendly Societies Act 1986
Frustrated Contracts Act 1959
Fuel Prices Regulation Act 1981
Fundraising Appeals Act 1984
Funerals (Pre-Paid Money) Act 1993
Goods Act 1958
Hire-Purchase Act 1959
House Contracts Guarantee Act 1987
Industrial and Provident Societies Act 1958
Landlord and Tenant Act 1958
Market Court Act 1978
Marketable Securities Act 1970
Ministry of Consumer Affairs Act 1973
Motor Car Traders Act 1986
Partnership Act 1958

Patriotic Funds Act 1958
 Petroleum Retail Selling Sites Act 1981
 Prostitution Control Act 1994
 Religious Successory and Charitable Trusts Act 1958
 Residential Tenancies Act 1980 (ss.7, 11-13, 49-54, 64, 71, 77(4)-(7), 96, 100-101, 105-106, 108, 111-113, 127-135, 136(4)-(6), and Part VI)
 Retirement Villages Act 1986
 Rooming Houses Act 1990 (ss.11, 12(1) and (3)-(4), 13(2), 15(6)-(9), 19(g), 21(4)-(5), 24, 35-38, 41, and 46-47, part of s.48(1), and ss.48(2) and 49-54)
 Sale of Goods (Vienna Convention) Act 1987
 Sale of Land Act 1962
 Second-Hand Dealers and Pawnbrokers Act 1989
 Travel Agents Act 1986
 Trustee Act 1958
 Trustee Companies Act 1984

The Financial Institutions (Victoria) Act establishes the Victorian Financial Institutions Commission, which administers the Building Societies, Co-operative Housing Societies, Friendly Societies, and Industrial and Provident Societies Acts. The remaining legislation is the direct responsibility of the Office of Fair Trading and Business Affairs.

Information and Public Use Products Available

General

Services We Deliver
 Good Business Guide
 Introduction to Credit
 Managing Credit Problems
 Kidsafe Furniture Guide
 House Building and Renovating
 Car Deals
 Small Claims Tribunals Guide
 Shop Smart - Teachers' Kit
 Consumer Power - Curriculum Development Aid (national joint project)

"Check It Out" Series

Consumers
 Travellers
 Fitness Centres
 Car Insurance
 Motor Vehicle Repairs

Information Sheets

Mail Order
 Refunds and Credit Notes
 Lay-by
 Bag Searches
 Introduction Agencies
 The Fair Trading Act
 The Fundraising Appeals Act

Residential Tenancies

Renting - Your Rights and Responsibilities (in English, Arabic, Cambodian, Chinese, Greek, Italian, Spanish, Turkish, Vietnamese)
 Tenant's Handbook for Renting Problems
 Landlord's Handbook for Renting Problems
 Landlords - Check It Out
 Tenants - Check It Out
 Forms - tenancy application, tenancy agreement, condition report, tenant's application to RTT, landlord's application to RTT

Rooming House Guide
 Forms - rooming house application, notice to the Registrar, notice to retain bond/notice of objection, urgent repairs notice, notice of intention to sell, breach of duty notice, termination notice, condition report

Caravan Parks - Statement of Rights and Duties
 Living in a Caravan Park - Check It Out

Business Affairs

Business Name Information/Application Form
 Associations: Information Booklet
 Model Rules for an Incorporated Association
 Guide to Co-operatives in Victoria
 Draft Co-operative Rules (various types)
 Co-operative Formation Statement
 Co-operatives: Post-registration Guide
 Co-operatives: List of Duties of Directors

How to Register a Business Name

Any name used for trading which includes more than individuals' or companies' own names must be registered. The registration details are then open to public inspection for a fee (see p.12).

The application form is a straightforward double-sided A4 sheet, available from:

Office of Fair Trading and Business Affairs
Business Affairs Branch
GPO Box 4567
MELBOURNE 3001

Telephone: 9627 6200
Fax: 9627 6210

Business Affairs Branch is open for business between 9.00 am and 4.00 pm from Monday to Friday at Level 2, 452 Flinders Street, Melbourne.

Registration currently costs \$70.

Up to four choices of name are requested on the application form. It is not always possible to grant registration of your first choice because of potential confusion with names already in use. When an application is received (and only then), the Office checks that there are no closely similar names already registered for businesses or associations and no identical company names registered with the Australian Securities Commission.

Once a suitable name has been found, a registration number and certificate will be issued, valid for three years. The whole process generally takes only one or two business days.

You are required to commence trading under the registered name within two months of registration and to continue using it - names cannot be reserved. The registered name must be displayed conspicuously outside the registered address and any other business addresses and be used in full on all stationery etc.

Registration is not designed to protect proprietary rights in a business name. This is a separate legal issue, on which the Office cannot offer advice.

How to Handle a Customer Complaint

Consumers are business and your word-of-mouth reputation can make all the difference to your bottom line. These five commonsense tips will help you keep good customer relations when a complaint arises.

1. Listen

Let the customer explain the complaint. Some customers get upset and can be hard to follow. Empathise and acknowledge their feelings. Ask whatever questions are needed to clarify the problem in a calm, courteous manner.

2. Record the details

Write down the essential details to confirm your understanding of the complaint and provide you with a record. (The Office's Good Business Guide contains a sample form for record keeping on customer complaints.)

3. Discuss the options and agree on a course of action

If possible, agree to a solution on the spot. Otherwise, explain the available courses of action. Set a timetable for taking the steps agreed, and advise the customer when you will make contact to advise of progress.

You may need to seek technical information or other advice. If so, make that the first step in your timetable, to be followed by further discussions with the customer. (The Office can give you general advice about your rights and responsibilities as a trader, and most industry, trade and professional organisations provide advisory services to members.)

4. Act promptly

Try to better your agreed timetable. Keep the customer informed at every stage. Respond promptly to letters or telephone messages from the customer.

5. Follow up

Make sure that the problems that led to the complaint have been resolved and the customer is satisfied. Treat the complaint as an opportunity to obtain feedback and improve quality control.

How to Pursue a Consumer or Tenancy Complaint

There is a whole range of problems that can lead to a complaint, but the general approach is the same.

1. Talk to the other party

You should always try to resolve matters amicably yourself before taking any other action. Otherwise, you might be needlessly escalating a problem into a dispute.

2. Get the details straight

If you've talked to the trader, the landlord or tenant but haven't been able to solve the problem, you're entitled to ask for help.

To be able to tell your story properly, you'll need to:

- note down for yourself all that has happened between you and the other party
- gather all the relevant documents together and make copies of any you want to send in.

You can then be brief and to the point but ready to answer any questions you might be asked, whether you're making contact by phone, in writing or in person.

3. Decide what you want - general advice, conciliation or a tribunal hearing?

It's fine just to ask for some advice. If you want to know how you stand or aren't sure what taking matters further would involve this is the sensible thing to do. In many cases, advice is all you'll need.

If you want to request Office staff to conciliate between you and the other party, please note that conciliators only deal with written complaints.

You may also apply direct to the Small Claims, the Credit or the Residential Tenancies Tribunal, administered by the Courts and Tribunals Services Division of the Department of Justice. (See pages 40-41 for descriptions of what these tribunals do and their addresses.) To apply you'll need to obtain and lodge the appropriate application form and pay a small fee.

Write or Visit

Office of Fair Trading and Business Affairs
GPO Box 123A
Melbourne 3001

The Office is open for enquiries between 9.00 am and 4.00 pm, Monday to Friday at Level 2, 452 Flinders Street, Melbourne.

In addition, a number of community organisations are funded to provide a service to the public on consumer and residential tenancies issues. These are listed in Appendix 2, pp.46-52.

Telephone

Residential tenancies enquiries:	9627 6222 or 1800 136 716
Motor vehicle enquiries:	9627 6001 or 1800 678 328
Household goods/services enquiries:	9627 6111 or 1800 634 389
Building enquiries:	9627 6100 or 1800 067 320
TTY/TDD number (for hearing impaired):	9627 6020

Operators are in attendance between 9.00 am and 4.00 pm, Monday to Friday.

Fax

Residential tenancies matters:	9627 6223
Consumer matters:	9627 6006

PART TWO: THE 1994-95 YEAR

Activities of the Office

1. Letting People Know Their Rights and Responsibilities

Information is essential for consumers and traders, tenants and landlords, and those involved with co-operatives, associations or limited partnerships to make reasonable decisions, understand their rights and obligations, solve problems and gain access to further assistance when they need it.

The Office seeks to ensure that relevant advice and information is available to all Victorians, whether it is provided through direct contact with organisations and businesses, over the counter, by telephone or through publications in a range of media. Funded community groups provide contact points across the State on consumer and tenancy issues.

2. Running Client Oriented Business Licensing and Registration Services

The Office administers a variety of legislation requiring the licensing or registration of trading entities in the public interest. It aims to provide a helpful and efficient service both to those subject to the licensing or registration provisions and to members of the public seeking registered information.

3. Enforcing Fair Trading Standards

Established fair trading standards are safeguarded by the Office's compliance programs.

These standards exist to facilitate fair trading in an efficient and competitive marketplace. Traders who fail to observe them are not only acting against consumers' interests, but are taking unfair advantage of honest and efficient competitors for those customers' business.

The Office administers a range of programs and provides advice to the Government on a variety of fair trading matters. Its direct services to the public include provision of advice, information, referral and dispute resolution in consumer and residential tenancy matters and the operation of registration and licensing systems covering business names, co-operatives, associations, and certain categories of traders.

This report on the 1994-95 year also covers the activities of the two ongoing consultative bodies associated with the Fair Trading portfolio, and concludes with descriptions of some particular issues of concern. The first six sections relate to the six major functions of the Office.

4. Promoting Product Safety and Standards

The Office seeks to ensure acceptable standards of quality, performance and labelling of consumer goods, and to minimise risks to the public arising from the trading of hazardous products. To these ends, it provides information to business and consumers, investigates complaints, monitors the marketplace for standards compliance and the emergence of new hazards, shares information with other relevant agencies, and develops policy options, including proposals for new

product standards where appropriate.

5. Fostering an Efficient, Competitive and Fair Marketplace

The consumer marketplace is always changing. Continual monitoring is necessary to ensure that current regulation and industry standards are suited to encouraging fair and honest trading activity.

Legislative review, the development of industry codes and government inquiries into specific issues are major elements in the ongoing revision of fair trading standards.

6. Getting Disputes Resolved

Fair trading and residential tenancies inspectors provide advice (and, in certain tenancy matters, statutory reports) to people seeking to resolve consumer and tenancy-related complaints. Funded community groups also assist in settling disputes.

The Small Claims, Credit and Residential Tenancies Tribunals are readily accessible, at minimal cost, where disputes cannot otherwise be resolved. (Administrative support to these independent, specialist tribunals and their users is the responsibility of the Courts and Tribunals Services Division of the Department of Justice.)

Letting People Know Their Rights And Responsibilities

Direct Assistance

Industry Liaison and Dispute Avoidance

To reflect the Government's policy emphasis on industry self-regulation, the Office has developed a strategy of working with business to prevent disputes arising. This will be a key element of the Office's activities into the future. Senior personnel with a breadth of experience in dispute resolution have established effective working relationships with industry associations and individual businesses and strengthened pre-existing links.

Co-operative training efforts lead to greater awareness among traders of rights and responsibilities in the marketplace. One particular program has catered for customer service staff of several leading retailers and shopping centres. Statewide Good Business seminars will carry the strategy to a new level in 1995-96 (see p.10).

With strong links to traders, problems which do arise can be resolved between parties by referring a telephone enquirer to a contact person in the particular business. This lessens the need for lodging formal complaints with the Office or claims in the tribunals and courts. The success of this strategy is already suggested by a reduction in the ratio of formal complaints lodged compared with general enquiries made to the Office and a reduction in referrals to tribunals.

The response from business and industry to the Office's industry liaison initiatives has been most encouraging.

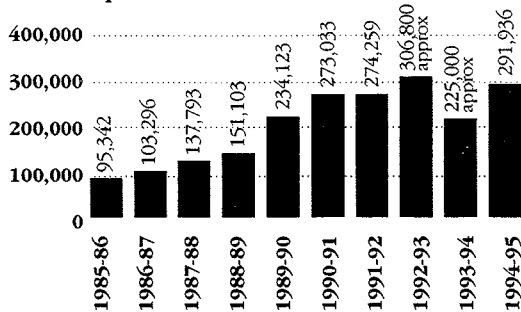
Enquiries

The Office responds to a wide range of telephone, personal and written enquiries on subjects including residential tenancies, rooming house and caravan park residencies, building and extensions, motor vehicles, credit arrangements, household purchases, utilities (electricity, water and gas) and consumer matters in general.

The majority of telephone enquiries involves provision of verbal information. Where necessary, information brochures, booklets on a range of issues, and required forms (such as tribunal applications) are speedily supplied.

TELEPHONE AND COUNTER ENQUIRIES

No. of Enquiries



In addition to the figure in the graph for 1994-95, 4,220 telephone enquiries were handled by the enquiry service of the Estate Agents Board and its successor, the Estate Agents Licensing Authority (see p.34). That service will be fully integrated into the Office in 1995-96.

A new computer system introduced on 1 March 1995 allows Office staff for the first time to record electronic data on all telephone and counter enquiries. The system, scheduled for full functionality by October 1995, incorporates information help displays to assist telephone operators in providing fast, accurate and consistent advice to callers. It has a flexible reporting capability for both enquiries and written complaints, complementing the statistical information captured by the new telephone system installed in October 1994.

The capacity of the telephone system has been increased from 30 to 90 incoming lines and callers are channelled direct to a team specialising in the subject matter of their enquiries. The Office expects to keep the enquiry call abandonment rate at an average of less than 10%, while keeping average maximum waiting time at less than two minutes.

The information captured through the new computer system will enable the Office to more easily identify marketplace trends as they develop and thus to be more proactive.

Both the enquiries staff and the telephone system were put to the test when Maroona Trading Co Pty Ltd, then trading as Bamix Australia, was placed into liquidation. Over two days, approximately 5,000 telephone enquiries were received. Around 3,000 calls came in on the first day alone, a record for the enquiries area. See p.25 for further information.

Funded Community Support

Consumer and Tenant Support Programs

Grants under the Tenant Support Program (TSP) and Consumer Support Program (CSP) provide an extensive network of community-based services across Victoria.

Funding allocations for 1994-95 were again made on the basis of services complementing rather than duplicating those of the Office, and with reference to the Office's needs-based funding model, which takes account of locational disadvantage and a number of other indicators of special need for services. Total grants for both programs were unchanged from the previous 12 months. TSP funding of over \$1.7m was provided to 18 regional and three specialist statewide services. CSP grants totalling just under \$1m were made to 15 regional and four statewide specialist services.

A decision was made in 1993-94 to amalgamate or co-locate regional consumer and tenancy support services in the Outer East, Upper Murray, East Gippsland, Central Gippsland, Central Highlands and North Western Regions. It was perceived that services could be made available to clients for longer hours through training workers at single locations in these regions to provide assistance in both consumer and tenancy matters. Following a lengthy period of consultation and negotiation between funded agencies and the Office, recommendations for funding five amalgamated services and one co-located service were implemented in 1994-95.

Funding for caravan park services was reorganised during 1994-95. The \$93,930 previously assigned to funding statewide services was reallocated between six of the regional TSP services with substantial numbers of caravan parks in their local areas and the Tenants Union of Victoria, which takes responsibility for co-ordination of training TSP workers and policy development for the community sector on caravan park issues.

At least 60% of funded resources is devoted to direct client service. Total client numbers were 11,127 under the CSP and 35,194 for the TSP. Respectively, this represents 806 and 1,332 clients per full-time equivalent worker.

All regional TSP and CSP groups have continued to conduct six monthly client surveys. Over a two week period, they collect data on the nature of all complaints and enquiries received and client characteristics. The Office analyses the data and prepares reports on the surveys to assist groups in planning their programs.

Agency performance audits continued, with 10 agencies (five CSP and five TSP) selected and 301 clients interviewed as to their satisfaction with the service received. The overall rate of satisfaction was 98% and only 8% indicated they would use the Office rather than the local agency, which suggests that the local and regional emphasis of the funding program is assisting locationally disadvantaged groups as intended.

Agencies in receipt of grants greater than \$75,000 are required to submit quarterly financial reports. Every agency is also required to submit an audited statement at the end of the funding period and to report against performance indicators.

Funded groups are expected to work closely with other community organisations. Up to 40% of agency funding covers educational activity, disseminating information about rights and obligations so that disputes are either avoided or more able to be resolved by the parties themselves. Talks, information displays, newsletters and media articles also serve to raise awareness of the agencies themselves, should their direct services be needed. A number of agencies have participated in Office educational initiatives for businesses, consumers, tenants and landlords in their local areas.

The Office has continued to arrange for the provision of training and support to workers in funded agencies and gives feedback on performance in liaison and monitoring visits to each agency following receipt of six-monthly program and financial reports. In 1994-95, a survey of training needs led to new training in negotiation and conflict resolution.

Ethnic Tenancy Project

Under the Ethnic Tenancy Project, bi-lingual services were maintained at five metropolitan tenant advice services to assist members of the Vietnamese, Arabic, Turkish, Spanish and Cambodian language groups. Total funding for the 1994-95 period was approximately \$280,000. (Around \$120,000 of this had already been transferred to the funded agencies in the previous financial year.)

An extensive evaluation of the project was undertaken in June 1995 and it was recommended that it continue, but with a shift in emphasis from direct client service to preventive, educational activity. Based on information from the Australian Bureau of Statistics and the Bureau of Immigration and Population Research, it was further recommended that funding be reallocated in 1995-96, introducing a half time Chinese service while reducing grants for the Cambodian and Turkish services by half. The bi-lingual service providers will be required to work closely with the Office to determine a strategic plan for assisting their clients to better utilise mainstream advice services.

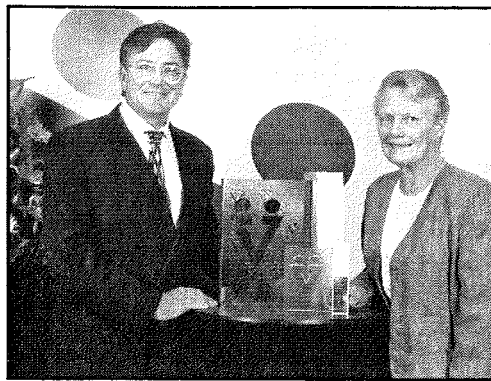
Public Information

Information Strategies

The Office promotes fairness and efficiency in the marketplace by providing information to consumers and traders, landlords and tenants about their rights and responsibilities. Public education is an important tool to reduce the number of disputes generated by ignorance and misunderstandings.

Information material is produced and distributed in printed, audio, video and other formats. Close liaison with national, metropolitan and country media organisations also helps spread the educational message. They frequently co-operate in publicising prosecutions, warnings about business practices, safety issues and information product launches, while the Office responds to hundreds of media requests for comment on tenancy and fair trading issues, particularly from consumer lifestyle and investigative programs.

Funded community groups are regularly supplied with information material, which they are encouraged to adapt to suit local media outlets.



The Minister, the Hon Mrs Jan Wade MP, with the 1995 Fair Trader of the Year, Mr David Stewart of A F Stewart Locksmiths (Vic) Pty Ltd.

1994-95 Highlights

Reaching Out to Business

The Office has been encouraging businesses to participate in developing Victoria's fair trading environment. The new Good Business Guide contains useful information about relevant legislation and good practice in complaint handling and other aspects of running a business, large or small. Planning has already begun for a second edition, which will also promote the Fair Trading Awards, established this year as a way of publicly recognising businesses committed to raising service standards.

There was an enthusiastic response to the inauguration of the awards, culminating in presentations to 16 winning businesses from across the State by the Minister, the Hon Jan Wade MP, in a ceremony on World Consumer Rights Day, 15 March 1995. A video magazine featuring the award winners was produced, as a companion to the Fair Dealing in the Marketplace video outlining the activities of the Office. (All 1995 Fair Trading Award winners are listed at Appendix 7, p.70.)

As another part of the strategy of encouraging business to place a high value on customer service and awareness of legal rights and responsibilities, proposals were developed for a series of Good Business seminars to be held in country Victoria. A pilot seminar proved highly successful and the program will proceed in earnest across the State in 1995-96.

*The Hon Jeff Kennett MLA,
Premier of Victoria, with
a young helper at the
VICNET launch.*



Help for Landlords and Tenants

An ongoing program of seminars - The Business of Being a Landlord - was well attended and clearly appreciated. Landlords managing their own rental properties were addressed by speakers from the Office, the Residential Tenancies Tribunal and the Real Estate Institute of Victoria. Given the positive response, the seminar program will be expanded across Victoria in 1995-96.

Two new problem solving guides - one for landlords and one for tenants - complemented the seminar program. The guides offer practical advice on how to solve difficulties and avoid major disputes.

New and Revised Brochures

The handy brochure, Services We Deliver, provides useful information about the Office for all Victorians. Other new publications include the Living in a Caravan Park booklet for permanent park residents and an information pamphlet about car repairs to help car owners in selecting a repairer, obtaining quotes, and seeking redress if things go wrong.

There was an update of the Home Building and Renovating guide, which continues to be very popular. The Kidsafe Guide to safe nursery furniture was revamped and produced in both booklet and video form. It has been distributed to child maternal health centres and libraries across the State.

Some of the brochures in the Check It Out series have also been reprinted, including those on travel and fitness centres.

Joining the Information Super Highway

The Office is conscious of the need to make its messages accessible in every available medium, including the latest and most technologically advanced. It has begun putting its publications onto VICNET, a computer service launched earlier in the year by the Premier, which is linked in turn to the Internet. The computer network is an unequalled means of making information instantly available, regardless of location. Forty million Internet users around the world now have access to information provided by the Office. The day this annual report is tabled in State Parliament and published, it will also be made available in electronic form for addition to the VICNET service.

Running Client Oriented Business Licensing and Registration Services

Licensing/Registration of Categories of Trader

Estate agents, motor car traders, travel agents and finance brokers are all required to obtain licences, while credit providers must be registered. All must observe certain minimum standards to retain legal recognition (see p.15).

The Office processes licensing documentation and provides administrative support to the statutory licensing and disciplinary bodies. In the case of estate agents, this is a new role. Until 1 February 1995, all Estate Agents Act matters were handled by a separate Estate Agents Board.

Registration of Business Names

The Business Names Act 1962 requires the registration of any name under which business is carried on in Victoria, except where trading takes place under proprietors' names only. This assists anyone who may need to identify the proprietors. Business names must be conspicuously displayed on signs outside the registered and business addresses and used on all business stationery. Productivity improvements allowed the registration fee to be reduced to \$70 from 1 January 1995. That is the lowest business name registration fee in Australia. A laminated certificate can be provided for an additional \$3.

It is hoped that there will be amendments to the Act allowing the Office to begin accepting applications by fax in 1996. This will assist country businesses in particular.

Meanwhile, with the relocation of Business Affairs in February 1995 to the Office's new corporate facility at 452 Flinders Street,

average client waiting times in peak periods have been further reduced, to under five minutes. In 1994-95, 54,516 business names were registered, a decrease of 3.0% on 1993-94.

For a prescribed fee of \$5, any member of the public may obtain extracts of information on any registered business name. The Office facilitated 87,595 business name searches in 1994-95. Searches may also be undertaken through three private information brokers who have direct computer access to the data under contract, and are able to relay search results to individual clients electronically. There is already a trend towards fewer counter searches and more electronic searches via brokers.

Registration of Entities Where Personal Liability is Limited

The Office performs advisory, supervisory and monitoring roles in relation to co-operatives, associations and limited partnerships.

Co-operatives

A co-operative is a type of incorporated entity whose shareholders derive benefits primarily through membership and use of the organisation rather than distribution of profits.

As with companies and incorporated associations, all members of legally incorporated co-operatives have limited liability. Under the Co-operation Act 1981, a co-operative's board of directors is responsible to the membership in much the same way as the board of a company. The size of the board is limited to seven. A co-operative's name must contain the words "Co-operative" and "Limited" (or "Ltd").

An organisation will only qualify for incorporation as a co-operative if it adheres to

LICENSING/REGISTRATION STATISTICS FOR 1994-95

	Estate Agents	Motor Car Traders	Travel Agents	Finance Brokers	Credit Providers
Licences/registrations current at 30-6-95	4,560	1,966	996	328	255
Applications made	341	195	105	111	22
Applications granted	319	186	97	90	24

the general principles of co-operation, which are recognised internationally.

In brief, these require:

- open membership
- democratic control, with each member having one vote regardless of the number of shares held
- limited interest on share capital
- equitable distribution of any surplus
- co-operative education
- co-operation with other co-operatives.

There are at least 750 million co-operative members in over 100 countries throughout the world. Australia has approximately 2,300 co-operatives, with assets in excess of \$3.7 billion.

Forty-seven new co-operatives were registered by the Office during the year. At 30 June 1995, there were 1,066 co-operatives on the register, with total assets in excess of \$160 million.

Work is continuing on new Victorian co-operatives legislation, closely mirroring that recently introduced in New South Wales. A less regulated operating environment for co-operatives will result, particularly with respect to interstate trade.

CO-OPERATIVES REGISTERED AT 30 JUNE 1995

Community Advancement	828
Trading	141
Producer	55
Community Settlement	17
Rental Housing	17
Associations of Co-operatives	5
Federations	1
Foreign Societies	2

Registration costs either \$150 or \$416, depending on the type of co-operative.

Incorporated Associations

The Associations Incorporation Act 1981 allows for the voluntary incorporation and registration of any association operating in Victoria. While incorporation is not compulsory, it benefits association members in limiting their personal liability and establishes a legally recognised entity for such purposes as entering into contracts and holding property. A

minimum of five members is necessary to obtain and retain registration. Registered associations must conduct annual meetings and lodge annual returns with the Registrar as laid down in the Act.

In 1994-95, 1,895 associations were incorporated and registered, 4.6% fewer than in 1993-94.

The register of associations is open to public inspection at a prescribed fee of \$5. Information is available on microfilm for search and copying of extracts at 20 cents per page. Hard copies of documents will be provided at \$5 for the first page and \$2 for each additional page. In 1994-95 2,410 searches were facilitated.

Limited Partnerships

The Partnership Act 1958, as amended by the Partnership (Limited Partnerships) Act 1992, provides for the registration of limited partnerships. These are partnerships between at least one "limited" partner, whose liability is limited to an agreed amount, and up to 20 "general" partners having unlimited liability.

Authorisations, Declarations and Exemptions

A number of the Acts administered by the Office provide for case-by-case decisions as to whether certain general entitlements or restrictions shall apply or recognising certain entities for a particular statutory purpose.

For example, as well as responding to enquiries and investigating complaints relating to the Retirement Villages Act 1986, the Office considers and makes recommendations to the Minister for submission to the Governor-in-Council on applications for partial or total exemption from the Act. Applications for the extinguishment of charges on retirement village land created under the Act and for cancellation of statutory retirement village notices, stating that the Act applies to particular land, are also dealt with. Twelve exemptions were granted in 1994-95 and one retirement village notice was cancelled.

Companies authorised by the Minister under the Trustee Companies Act 1984 can act as executors of wills and trustees of trust estates and unit trusts. Authorised trustee companies

are required to maintain a prescribed level of reserve funds and to lodge their scales of fees with the Office, for inspection by any person. The executive officer, chief financial officer and two directors must lodge a quarterly statutory declaration setting out the financial position of the company, and provide a copy to any person on request. At 30 June 1995, there were 13 trustee companies authorised under the Act.

The Trustee Act 1958 is under review (see p.35), but as it stands, the Office has a responsibility to consider applications related to trustee investments. In 1994-95, there were 10 declarations approving particular mortgage-backed securities and three trust deeds were approved in relation to unit trust investments.

Enforcing Fair Trading Standards

Compliance: Summary

Standards of conduct established through legislation are usually enforceable by prosecution for non-compliance. Most of the Acts of Parliament for which the Office has responsibility (and a number of associated regulations) contain such enforcement provisions.

There is a steady stream of complaints about alleged offences from the public, industry associations, other agencies, community groups, competing traders and other sources. Compliance is achieved by administrative action, such as obtaining written undertakings from offenders that they will alter their conduct or enlisting industry co-operation to change unacceptable practices, as well as warnings to individuals. In appropriate cases, prosecution proceedings are taken.

Prosecution of offenders requires careful and often time-consuming investigation and preparation. Resources are therefore focussed on actions which are likely to be successful and effective in promoting fair, competitive trading. Where convictions are obtained, the Office may also seek injunctions to restrain continuation of the offending conduct. Orders for restitution to those affected by the offences will also be sought in cases where this form of relief is available.

In 1994-95, there were 1,741 matters referred for investigation. Ninety-five defendants were successfully prosecuted for 457 separate offences with total fines of \$205,083 and \$56,516.50 in legal costs awarded against defendants. Prosecutions and further proceedings are summarised in Appendix 6A, p.58.

The Office also conducts investigations into applications for motor car traders', travel agents' and finance brokers' licences and monitors the activities of existing licensees and of registered credit providers. Advice from the Office to the Secretary to the Department of Justice may result in the Secretary objecting to the granting of a licence or to continued licensing or

registration. The Chief Commissioner of Police may also object to an application for a motor car trader's licence. Any person may object in relation to a finance broker or credit provider.

Objections are heard by independent authorities established under the Motor Car Traders Act 1986, Travel Agents Act 1986 and Credit (Administration) Act 1984, respectively. In the case of finance brokers, objections to initial applications are referred to a Magistrates' Court, except where the Registrar appointed by the Minister under the Finance Brokers Act 1969 has been satisfied that the applicant meets the relevant statutory requirements. Magistrates' Courts hear all objections to the continuation of existing finance brokers' licences.

Following the hearing of an objection, a licence or continued registration may be denied, made subject to certain conditions (in all cases except finance brokers), or allowed unconditionally notwithstanding the objection.

Appeals against decisions of the Credit Authority are heard in the Supreme Court, while appeals against Motor Car Traders and Travel Agents Licensing Authority decisions may be taken to the Administrative Appeals Tribunal (AAT). The Office represents the Secretary in these appeals.

At the time of writing, organisational arrangements for the supervision of compliance with the Estate Agents Act 1980 were still in transition. From 1 February 1995, the Secretary to the Department of Justice assumed the role of Estate Agents Licensing Authority. The Authority has responsibility for assessing and deciding on licence applications, previously one of the functions of the superseded Estate Agents Board. A new Estate Agents Disciplinary and Licensing Appeals Tribunal came into being on the same day, as the avenue of appeal from Authority decisions and the forum for disciplinary proceedings. Staff of the former Board have continued to perform their administrative, inspectorial, investigative and other roles, but are being absorbed progressively into the Office's branch structure. The process will be completed in 1995-96.

In 1994-95 there were 430 written complaints arising from real estate transactions lodged

against estate agents or agents' representatives. Of the 428 complaints finalised during the year, 41 were referred for full investigation. Minor breaches were identified in another 97 cases and the responsible agents were reminded of their legal responsibilities. In the remaining 290 matters, no further action was found to be warranted after review.

Maintaining Standards in Licensed/Registered Occupations

Estate Agents

Investigations and Prosecutions

A total of 73 investigations in relation to alleged breaches of the Estate Agents Act, Rules or Regulations were completed in 1994-95. There were 10 prosecutions. Six of these were conducted entirely by the Board's Chief Executive Officer or the Authority while in the remainder, assistance (generally considerable) was provided to the Police or the Director of Public Prosecutions as the prosecuting agencies. See Appendix 6B (p.68) for details.

The Authority's inspectors also review the accounting records of estate agents to check compliance with the legislation. If there were substantial ("medium" or "high" level) qualifications to the previous financial year's audit report on an agent's trust account, the agent's financial records will be checked. Inspectors also attend agencies if information received from an outside source raises concerns, and there is an ongoing random inspection program.

In 1994-95, 605 inspections were carried out.

Disciplinary Action

Nine licensees were subject to disciplinary action before the Board or the Disciplinary and Licensing Appeals Tribunal.

Palmarp Pty Ltd (licence no. 026043L, 140 Bourke Street, Melbourne) was found to have charged landlord clients the full amount on certain invoices for tradespersons' services at rental properties when in fact, due to the volume of business between the agency and the tradesperson, discounts or rebates of 10% had been obtained. The agent was reprimanded, fined a total of \$21,500 and ordered to pay costs,

agreed at \$20,000.

Mario D'Aloia, a "sub-agent" under the previous licensing system (licence no. 027832L, 9 Haddington Crescent, Greenvale), was severely reprimanded by the Board, fined \$2,500 and ordered to pay costs after it was found he had forged the purchasers' signatures on a contract note.

Anthony John ("Tony") Errichiello (licence no. 019435L, 464 Brunswick Road, Brunswick West), a sub-agent who obstructed an investigator and attempted to retake impounded documents, was fined a total of \$2,500 and ordered to pay costs.

The other cases fell into the following two broad categories:

Personal Interest in Property Bought or Sold

Nicholas Collins (formerly licensed as 001155L, 41 Campbell Road, Hawthorn East) - 12 months' suspension by Board changed to cancellation and 18 months' disqualification by AAT on appeal.

Kenneth Charles Dickinson (licence no. 003393L, 85 Nelson Street, Nhill) - \$5,000 fine, plus costs.

Christopher John Koren (licence no. 027087L, 11 Currajong Road, Hawthorn East) - agent's licence suspended for four months; declared ineligible to be an agent's representative during suspension period; \$3,000 fine (Tribunal decision, after application for review of former Board's decision referred by AAT).

Trust Account Deficiencies and Irregularities

Hiam Sharp (licence no. 001129L, 17 Muntz Street, Caulfield North) - reprimand; licence made conditional on provision of six monthly audits of all trust accounts of all real estate practices operated or effectively controlled by licensee; costs.

Frank Varallo (licence no. 001199L, 19 Birdwood Avenue, Brighton) - 12 month suspension; \$5,000 fine plus costs.

David Wentworth White (licence no. 002195L, 530 Upper Heidelberg Road, Heidelberg) - 12 month suspension; payment of agreed costs.



Motor Car Traders

Prosecutions and Investigations

Unlicensed Trading

Unlicensed motor car trading is given high priority in the Office's enforcement program. Making trading conditional on keeping a licence is intended to ensure that consumers are dealt with fairly and receive the benefit of particular statutory protections. Licensees must pay licensing fees and contribute to the Motor Car Traders Guarantee Fund, against which consumers can claim if they suffer financial loss in certain dealings with licensed traders. Unlicensed traders are competing unfairly, and evidence obtained indicates that they often take advantage of their customers, obtaining bogus roadworthy certificates and winding back odometers.

Under the Motor Car Traders Act, a fine of \$10,000 may be imposed for each vehicle bought or sold by an unlicensed trader, as well as a penalty of 15% of the sale price of any vehicle bought, sold or exchanged.

Several small traders have been placed on notice that further sales will result in prosecution. When found operating illegally, some traders claim to believe that they are permitted to sell up to six vehicles annually. In fact, it is not necessary to prove that any particular number of transactions took place before the court can decide that unlicensed trading has occurred.

At the other end of the scale, unlicensed trading can be a fully organised business, with significant turnover.

Cases

Vittorio Lombardi and an associate, John Alexiou, regularly purchased damaged vehicles from auction houses in Melbourne and Sydney. Some repair work was undertaken and the vehicles were then sold. Neither was a licensed trader. Mr Lombardi was convicted in relation to the selling or offering for sale of 17 vehicles and fined a total of \$8,500. Mr Alexiou was fined \$5,500 after being convicted in relation to 11 vehicles sold or offered for sale.

David Horsburgh, a self-styled "broker" trading under the registered business name Automobilia Motor Brokerage, obtained cars from private vendors and dealers and placed them with prospective purchasers. He was fined \$2,400 for unlicensed motor car trading and ordered to pay costs of \$350.

Robin Mellors came to the attention of the Office when a complainant alleged that she had lost money to him over the sale of her Ford Falcon. Soon after agreeing to sell the vehicle on her behalf for between \$1,300 and \$1,500 and taking half of his \$300 commission in advance, Mr Mellors offered to buy it outright for \$500. He claimed "the valves had gone" and that this was the car's value to a wrecking yard. Taking account of the commission already paid, this meant the owner received only \$350 for her vehicle. Several weeks later, Mr Mellors sold it for \$1,500.

Investigation satisfied the Office that Mr Mellors, though unlicensed, was trading in motor cars. On prosecution, he was fined \$3,083 and ordered to pay costs of \$910. An associate involved in the preparation of roadworthy certificates, Domenic Lamanna, was found guilty of misrepresenting vehicles' history and fined \$1,500, also with \$910 costs.

In all, 19 defendants were successfully prosecuted for unlicensed motor car trading:

Gazi Akbulut
John Alexiou
Leslie J Briggs
William Graham Cooper
Eduardo Luis Cabral
David Allan Davis
Cyril Everett
Christopher L Guilmartin
David James Horsburgh

Francois Habib
Vittorio Lombardi
Robin John Mellors
John Lawrence Nelis
Scott Andrew O'Hare
Mark Stephen Potter
Murray Ryan
Ernest Russell Snowball
Darren Tyson
Vincent Paul Vella.

A further eight briefs of evidence were referred for processing and prosecution in the next reporting year. The Office will, wherever possible, assist persons who have lost money through unlawful dealing in motor cars to obtain compensation under the Sentencing Act.

Odometer Tampering and Other Deceptive Conduct

Car buyers should not rely too heavily on odometer readings as indicators of vehicle quality. Unfortunately, it is not only unlicensed traders who deceive customers and compete unfairly with honest businesses by winding the numbers back.

A director of one firm prosecuted for odometer tampering during the year informed investigators that he had turned the speedos back because "business was bad". C&M and S&N Pty Ltd trading as Reliable Motors and the director involved, Sokole Joveski, were each fined \$3,000.

Intending purchasers are advised to look closely at the condition of the odometer on any second hand car. Tampering with mechanical odometers tends to be betrayed by the numbers not being in an even line.

Further Cases

David Bowman was found guilty of failing to comply with the "wholesale trading only" condition on his licence, tampering with odometers on six vehicles and making false representations to consumers regarding the kilometres vehicles had travelled. Mr Bowman advertised vehicles from various private residences where he passed himself off as a private seller. The purchaser of one car, sold with an odometer reading of approximately

60,000 kms, contacted the previous owner and was astonished to learn that it had been a company fleet vehicle, disposed of with over 120,000 kms on the odometer. Fines totalling \$10,000 were imposed on Mr Bowman and he was ordered to pay \$500 in costs. He had surrendered his licence to the Motor Car Traders Licensing Authority prior to prosecution.

Smith Dealership Pty Ltd and Viclock Pty Ltd both trading as R&B Smith Holden were placed on good behaviour bonds and ordered to pay a total of \$11,000 into the court fund. This prominent Geelong region business operated an additional, unlicensed premises, which had been established as a wholesale outlet for disposing of trade-ins. However, vehicles were sold to the public from this site, often with registration suspended and no roadworthy certificate. The two proprietor companies were prosecuted under the Fair Trading Act 1985 for misrepresenting that warranty did not apply to certain vehicles. (Their conduct was also referred to the Motor Car Traders Licensing Authority, see opposite.)

Joseph Nicholas Williams, in his application for a motor car trader's licence, answered "no" to the question "Has the applicant ever been convicted of an offence of fraud or dishonesty?". Subsequent enquiries by the Office established that Mr Williams (under his original name of Joseph Nicolas Couscouris) had been convicted at Ringwood in February 1991 in respect of three charges of obtaining financial advantage by deception, one charge of theft, one charge of making a false document to the prejudice of another and one charge of using a false document. Mr Williams was convicted under the Motor Car Traders Act 1986 of making a false declaration on a licence application. This resulted in a fine of \$1,000 with costs of \$549.

Licensing Objections

It was reported last year that a final outcome in the case of Corngully Pty Ltd trading as Max James Prestige was awaited. The licensee had appealed to the Supreme Court after the Motor Car Traders Licensing Authority's

December 1992 decision to cancel its licence was upheld by the AAT, in August 1993. The Court had granted a stay of the AAT decision, conditional on continuing compliance with the Motor Car Traders Act. In December 1993, the Secretary to the Department of Justice had applied for a revocation of the staying order, on the ground that Corngully had committed numerous breaches of the Act since it was granted.

Mr Justice Beach's decision was handed down on 22 December 1994. He granted the Secretary's application, revoked the stay, and ordered the licensee to sell its stock and close the business within 14 days.

Persons subject to licensing objections during 1994-95 were:

Victor Rino Simeone and Desmond Edward Charles both trading as Epsom Auto Traders - application for licence refused

Julie Anne Harrigan trading as Warmambool's No.1 Used Cars - application for licence withdrawn following objection

Graeme McNiece - application for licence refused

Giuseppe (Joe) Scrimizzi - application for licence approved subject to conditions

Smith Dealership Pty Ltd and Viclock Pty Ltd both trading as R&B Smith Holden - both reprimanded; fined \$500 each

Straightway Motors Pty Ltd - reprimanded and fined \$500

Twenty-fifth Mimosa Pty Ltd trading as Gippsland Motor Auctions - reprimanded and fined \$500.

Travel Agents

Licensed travel agents are required to be members of the national Travel Compensation Fund, which uses membership contributions to provide for the reimbursement of consumers who suffer loss when an agency defaults. In the past few years a number of travel agencies have ceased trading, in several cases owing consumers hundreds of thousands of dollars. The Fund does not have to pay compensation when unlicensed agents fail to honour their obligations.

Unlicensed agents are therefore a threat to both consumers and licensed agents. They take

business away from licensees who trade fairly and contribute to the Fund to protect consumers, and they deprive customers of their right to compensation from the Fund if their tickets are never provided.

John Sebastian Gilson pleaded guilty in the Melbourne Magistrates' Court on 21 June 1995 to operating as an unlicensed travel agent between 1 January and 31 March 1994. The court heard that Mr Gilson sold travel bookings to more than a dozen clients in that period, handling more than \$50,000 in funds. Mr Gilson was convicted and fined \$5,000, with \$633.50 being awarded in costs.

The integrity of the licensing system is also protected by the objection process, through which the Secretary may apply for licences to be denied to persons he believes to be unsuitable. One long-running case mentioned in previous annual reports has been through the Licensing Authority, the AAT and the Supreme Court and has now been referred back to the AAT for final decision.

In November 1992, the Authority cancelled the licence of Corine Frugtniet trading as Karina Travel International, and disqualified her from holding a licence or being involved in the management or conduct of a travel agency business for a period of five years. It had found that Ms Frugtniet had failed to ensure compliance with a condition placed on the licence of Tarson Pty Ltd (trading as Travel Trend Victoria), a company of which she was an executive director. The condition prohibited Rudy Frugtniet from being a director, secretary, trustee, employee or agent of the company and further prevented him from being directly or indirectly concerned in, or taking part in the direction, management or conduct of the business.

On appeal, in February 1993, the AAT overturned the Authority's decision. However, the Secretary in turn appealed to the Supreme Court and, on 15 December 1994, the Full Bench upheld the appeal and referred the matter back to the AAT for a re-hearing. At the time of writing, the result of the re-hearing was not known.

Credit Providers

As mentioned in last year's report, licensing of credit providers has been replaced by a registration or "negative licensing" scheme. Since 10 November 1993, credit providers have been able to enter the market simply by registering, without the barrier of satisfying statutory criteria. However, objections to the continued registration of a credit provider may still be made to the Credit Authority, as the supervisory body is now known.

At the time of writing, the Office had carried out 25 random inspections of licensed motor car traders, who are major generators of regulated contracts for credit providers, as part of a new program for identifying and monitoring problem areas in credit compliance.

Credit Tribunal Civil Penalties Proceedings

Under the credit legislation, a credit provider automatically forfeits credit charges on any contract which is made while the credit provider is not registered (and not exempt from registration), or does not disclose the legally required information, or is assigned to another credit provider who is not registered (and not exempt). The amount financed is itself forfeited where the credit provider is unregistered.

Credit providers may apply to the Credit Tribunal to set aside or reduce these "civil penalties". Consumers who may be liable to pay any credit charges reinstated by the Tribunal (or eligible for a refund of charges already paid) are entitled to become involved in the proceedings. However, many cases before the Tribunal involve similar errors in standard form contracts entered into with a large number of borrowers, and there may be no need for the separate participation of all those affected. The Secretary to the Department of Justice appears in certain cases to make general submissions in the public interest.

Whether or not the Secretary intervenes will depend on a variety of factors including the number of consumers affected, the nature of the problems arising in the credit contracts to which the application relates, and whether important issues of law or fact are likely to arise. The Secretary does not intervene to represent individual consumers.

Involvement in a number of cases continued in 1994-95.

Colonial Financial Management Limited (CFML)

CFML applied for a reduction in civil penalties consequent on misdescription of the credit charge in a small number of loan contracts through an array of documentation errors. The contracts dated from the period between 1985 and 1993.

Appearing in the public interest, the Secretary presented argument to the Tribunal on a number of complex issues of law, including the implications for the operation of the civil penalties provisions of the February 1994 Supreme Court decision in the Avco case (see p.18 of last year's report).

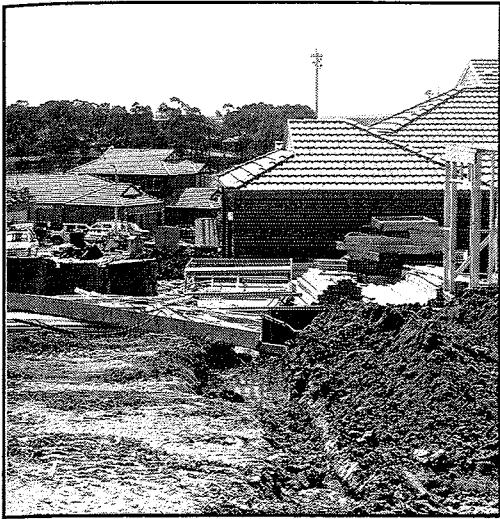
The Tribunal ordered that 20% of the credit charges remain forfeited as a penalty for the breaches. A further amount, totalling approximately 10% of the total charges, was excused to borrowers as damages.

National Australia Bank Limited

The Bank's application concerned two classes of error relating to misdescriptions of the names of insurers providing consumer credit insurance and/or life insurance in connection with the Bank's personal loans in the period 1984 to 1994. There was no evidence of any potential or actual loss or damage to debtors. In relation to the life insurance problem, the Tribunal was not satisfied on the particular facts that there had been any breach attracting a civil penalty. Regarding the consumer credit insurance problem, it found that civil penalty breaches had occurred but ordered a full reinstatement of credit charges.

Ongoing Matters

Matters in which the Secretary will continue to be involved in 1995-96 include applications filed by Australian and New Zealand Banking Group Limited and Custom Credit Corporation Limited (in liquidation). In addition the Secretary maintains a watching brief in a number of local and interstate civil penalties applications filed by institutions across the financial sector, including banks, credit unions and finance companies.



Other Investigations/Prosecutions

Building and Building Trades

Builders

Unregistered builders who perform shoddy work and in some cases fail to complete work are still a major cause of complaint to the Office.

Under the current legislation, builders who perform domestic building work (except those who never do jobs priced higher than \$3,000) must be registered with the Housing Guarantee Fund Ltd (HGFL). They must register every job over \$3,000 and purchase a seven-year guarantee from HGFL for the consumer. This system may change in the coming year (see p.34), but the essentials will remain the same: builders must be registered and must provide for each individual consumer to be able to claim compensation if work is not performed to a proper standard.

It may be that a cheaper quotation can be obtained from an unregistered builder, but employing such a builder is a grave risk. As well as contravening the law by not being registered and not giving a guarantee, these unscrupulous operators often charge deposits or obtain progress payments larger than the legal amount. (The legal deposit limit is 3% of the contract price for work costing \$20,000 or more, or 10% for work priced at less than \$20,000.) Having overpaid in advance, consumers are left with little power to bargain over unsatisfactory or incomplete work.

Consumers should always check that the builder is registered before signing any contract for building works. It is a big mistake to register with a council as an owner builder to hide the real builder's involvement. A consumer dealing with a builder who is prepared to be dishonest at the outset can expect problems later - and, as a registered "owner builder", may have difficulty proving any guarantee rights.

Cases

In all, 22 defendants were prosecuted for matters relating to domestic building works in 1994-95.

Kenneth Mills, trading as Graeme's Carpentry, Joinery & Maintenance Services, took a \$950 deposit on domestic building work from a pensioner client. However, the work was never begun. As Mr Mills was not an approved builder, there was no guarantee for the client to claim on when he failed to refund the money. On prosecution, the builder was fined \$5,200 and ordered to pay \$500 in costs.

Doug Walker, trading as Westcraft Constructions was convicted of five offences, fined \$13,150 and ordered to pay costs of \$631, after entering into a contract to perform domestic building work whilst not an HGFL approved builder, performing domestic building work without a statutory guarantee in force, and trading under an unregistered business name.

House Reblockers

It was reported last year that investigations were continuing into complaints from consumers and building industry associations concerning the deceptive practices and shoddy workmanship of particular reblocking firms. There were two further prosecutions in 1994-95. In both cases, the defendants had falsely represented that they were members of the Housing Industry Association and had changed trading addresses without up-dating their business name registration details with the Office accordingly.

George Hrysanthakopoulos trading as Riteway Reblocking was convicted and fined \$100 with \$551 costs and ordered to pay \$4,080 in restitution to a client.

Nick Gerakoulakos trading as Express Reblocking was convicted and fined \$1,750 with \$759.50 costs.

Residential Tenancies

The Office undertook 24 successful prosecutions under the Residential Tenancies Act 1980 and the Rooming Houses Act 1990, including 20 involving non-compliance with Orders of the Residential Tenancies Tribunal. In three of the cases relating to Tribunal determinations the penalty imposed by the court was the maximum under the legislation.

One particularly difficult case involved a landlord who had used seven different aliases. The prosecution depended on proving that the defendant, Donna Jeffreys, was the person who entered into the relevant tenancy agreement. However, the court was satisfied that it was Ms Jeffreys who had failed to provide a condition report or a statement of rights and duties, not given a receipt for a security deposit in the prescribed form, failed to provide rental receipts as prescribed, wrongly retained the whole of a security deposit, and failed to comply with a Tribunal Order. She was fined a total of \$700 and ordered to pay \$450 in costs.

Business Names

For the protection of both businesses and consumers, it is important that business names and associated details be registered. Those who deliberately trade without registration typically do so in order to avoid being located after failing to honour contracts or business debts.

The Business Names Act 1962 requires registration of any name under which business is carried on, except where proprietors' names only are used. Persons convicted of certain offences involving dishonesty or fraud must also obtain leave from the County Court before trading under a business name within five years following conviction.

In 1994-95, as well as the two restumping contractors mentioned above who failed to notify changes of address, three builders were prosecuted for conducting businesses under unregistered business names. Several cases of persons convicted of relevant offences have been investigated with a view to prosecution

for trading under business names without obtaining leave of the County Court.

Frauds Against Businesses

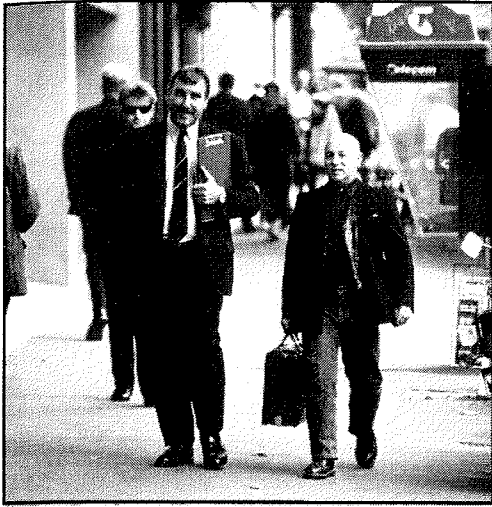
Bogus Fundraising Appeals - The Result That Made Angry Happy

Stories about collecting for charity can be quite convincing. Businesses and individuals who are approached are advised to contact the charity mentioned to make sure the fundraiser is really associated with them. If the alleged purpose of the collection is a worthy one but the organisation concerned is only newly established, caution is advisable unless proof of the fundraiser's bona fides can be supplied.

In a recent, significant case, businesses were being asked to sponsor handicapped children to attend a concert. Singer and well-known advocate of the cause of disadvantaged children, Angry Anderson, was among the entertainers supposedly appearing. However, as he testified at Melbourne Magistrates' Court on 20 April 1995, Mr Anderson knew nothing about any such concert until contacted by an OFTBA investigator looking into the fundraising activities of Keith Stuart Middlemiss and his company, Kemia Enterprises Pty Ltd.

Mr Middlemiss and Kemia Enterprises were involved in fundraising throughout Australia. They had been operating in Victoria without the prior approval of the Minister and without the approval of the group for which they stated they were seeking funds. The court heard that \$10,665 had been procured from Victorian businesses in connection with the supposed concert, allegedly to feature not only Angry Anderson, but also the band Chocolate Starfish, Lochie Daddo and other celebrities. Donors' money had been deposited into the Adelaide bank account of Mr Middlemiss.

In handing down his decision Magistrate, Mr Jones, said that he hoped the penalties imposed would send a message to people like Mr Middlemiss that Victoria would not tolerate this type of behaviour, which exploited the generosity of small businesses. Mr Middlemiss was sentenced to three months' imprisonment and fined \$30,000. The company was fined a further \$20,000.



Entertainer, Angry Anderson, with Fair Trading Investigations Officer, Jon Dunn. Photo: John Woudstra/The Age.

Angry Anderson was later quoted in the press as saying he was very pleased with the decision: "People like this who prey on the goodwill of charities, who steal the credibility of people who are trying to help other people ... are the lowest sort of crooks."

False Billing

Complaints continue from businesses receiving invoices for bogus or unauthorised magazine advertising, often after odd phone calls.

Investigations are proceeding regarding alleged misrepresentations made in the name of Alsmyc International Publishing Company, with which one Allan Raymond Hogg is associated in Victoria.

Scores of business people have complained to the Office about being tricked into placing advertisements in supposed Police publications called Police Club and Police History Book. A butcher quoted a telephone call he received: "Les, I've just had a talk to all the boys and they are going to organise their meat with you at the next picnic function if you advertise in our police magazine". Another trader was told: "Congratulations you have been selected by the Police Committee to advertise in the Police year book. The Police Department has found the old tendering process too slow and cumbersome and this new system of having a

year book makes things much easier for the police stations using contractors. This book is being distributed to all police stations throughout Victoria". When asked "Where are you from?", the salesperson represented himself as being from "the Victorian Police Association".

Following such phone calls, invoices arrive, often without authorisation from the "customer". They have a blue and white chequered band and an official looking insignia and motto. However, they do not really come from the Police or the Police Association. The glossy magazine in which advertisements appear carries bizarre articles like "The Talking Cop Car" and "A Character Without Courtesy is Like a Saltless Dish", as well as historical material on such topics as the French Revolution.

Businesses should not be deceived. They are under no obligation to pay for unauthorised accounts, even if the usual threats of legal action come from someone claiming an affiliation with the Victoria Police.

Only one person in a business should be authorised to place magazine advertising and pay accounts. Before authorising such advertising, proper checks should be carried out to confirm beyond doubt that the magazine will be printed and will have the promised distribution. Recipients of advertising invoices should demand evidence of distribution (not just printing) before payment. Check with the public relations staff of the alleged charity, association or government department on whose behalf the magazine is said to be published.

In addition to pursuing "telefraud" operators through the courts, the Office will continue to liaise with other agencies and disseminate warning information through appropriate trade newsletters.

Nigerian Advance Fee Fraud Scheme

Since March 1994, 34 complaints have been received concerning a scheme involving promises of transfer of money from Nigeria. Australian companies, businesses and individuals receive letters claiming that the writer is employed in a Nigerian government organisation and has access to millions of unexpended US dollars discovered in an audit

of government contracts with international firms. A fee of 30% to 35% is offered for the use of an Australian bank account as a holding facility to allow the "official" and his associates to divert the funds for their own use. Those contacted are invited to provide their account details and copies of stamped and signed company letterheads and invoices.

Morality aside, the Office warns businesses not to respond to any such offer. The aim is quite clearly to remove funds from the accounts, not to transfer money into them. Complaints received are being referred to the Australian Federal Police.

Direct Marketing

Lux Pty Ltd (Electrolux)

In 1992-93, the Office responded to a high number of complaints and conducted an investigation into the door-to-door selling techniques of Electrolux sales agents. The investigation found that salespeople were exerting pressure on consumers to buy expensive (\$600 or so) vacuum cleaners which they did not want and could not necessarily afford. In some cases, salespeople allegedly made the deal seem cheaper by offering to pay the deposit themselves, although this would give an inaccurate impression of the consumer's equity in the contract to the credit provider. Consumers did not always understand the terms of the loan contract, such as the interest rate of 29.5%, and there were allegations that salespeople failed to provide the Notice of Termination under the Consumer Affairs Act, which alerts consumers to their 10 day "cooling-off" period for cancelling door-to-door sales.

To spare elderly consumers the ordeal of presenting evidence in a court and to allow the company to demonstrate its good faith, the Office presented its findings to Lux Pty Ltd and invited it to respond. Lux subsequently detailed remedial measures it intended to implement to address all the matters raised.

However, complaints continued, and in March 1994 the Office wrote to the company seeking formal agreement to comply with relevant legislation, including the Consumer Affairs Act 1972. At the time of reporting, despite

protracted negotiations, Lux has refused to enter into a Deed of Assurance to this effect or to provide a written undertaking to take remedial action including:

- implementing an effective training and compliance program which includes a complaint-handling procedure
- introducing a policy of highlighting the words "Notice of Termination" in the documentation provided to consumers
- implementing a disciplinary procedure for breaches of company policy, the Direct Selling Association of Australia's Code of Conduct, and consumer laws
- preparing a questionnaire to be sent to purchasers of Electrolux vacuum cleaners and allowing authorised Office of Fair Trading staff to audit information obtained from these questionnaires and customer complaints.

David Vinson, Comp-U-Card Australia Pty Ltd and CUC Australasia Pty Ltd.

After inducing certain traders to sell them lists of customers and credit card numbers, David Vinson and two companies he operated mounted a telemarketing campaign during which approximately 8,000 people were contacted. Consumers were advised of a new home buying service and asked if they wanted further details. Over 1,000 people duly received an information package in the mail. Some time later, many of them also received bank statements with a mysterious debit of \$79. Investigation disclosed that the information package had included a letter with a paragraph saying that \$79 would be charged through the consumer's credit card if no reply was received within 30 days.

Mr Vinson and CUC Australasia Pty Ltd each pleaded guilty to 36 offences against the Fair Trading Act 1985. CUC Australasia was fined \$12,000, while Mr Vinson was placed on a 12 month good behaviour bond and ordered to pay \$2,000 into the court fund. The 10 offences involving Comp-U-Card Australia Pty Ltd resulted in that company also being placed on a 12 month bond. Payment of \$16,930 in agreed costs was to be shared between the three defendants. Restitution was effected.

Other Areas

Horse Race Betting System Scam

Moneyplus, SUN, TOP and Win System are among the computerised horse race betting systems generating complaints to the Office. The schemes, promoted from Queensland under such names as Silverhouse Investments, Amber International and Locomotive International, are the brainchild of a person with an extensive criminal record, including convictions for false pretences - Roger Matson.

Punters are told they are certain to be long-term winners through the use of a computer database in the rating of horses. The systems have been advertised as employment or work from home schemes as well as business ventures that guarantee profit. However, the reality is that for a price of \$25,000, Mr Matson supplies a pocket computer worth \$369 and a program which yields no measurable increase in betting success. The SUN and TOP systems were recently assessed by the Queensland Government Statistician's office, and it was found that \$50,000 could be completely frittered away following SUN over a six month period.

The Office has made successful representations to the management of Victorian newspapers to ensure that misleading advertisements in relation to these schemes do not appear. Complaints against interstate promoters are referred to the fair trading or consumer affairs agency in the relevant state.

Cotton Dressed as Silk

Kadir and Sons Pty Ltd (principal, Shahid Iqbal Chaudhary) advertised and sold "Indian silk" rugs for approximately \$3,000. Following a complaint from a consumer, investigators attended the store and arranged to have the product laboratory tested. The rugs were proven to be made entirely from cotton. The company pleaded guilty to breaching the Fair Trading Act 1985 and was convicted, fined \$5,000 and ordered to pay costs of \$2,000. The store manager, Mr Zainal, was fined \$750.

Nothing was Delivered

Maroona Trading Co Pty Ltd formerly trading as Bamix Australia is in liquidation, with some 16,000 dissatisfied consumers, following its failure to deliver goods ordered after an extensive advertising campaign. The Office worked with the liquidator to assist, as far as possible, in the resolution of problems thrown up by the insolvency of the company.

Investigations into various contraventions of the Fair Trading Act are nearing completion. The allegations concern misrepresentations as to the place of origin and price of the goods, as well as acceptance of money with no intention to supply.

Promoting Product Safety and Standards

National Issues

In March 1995, following on from changes reported last year, the Consumer Products Advisory Committee (CPAC) agreed on a mission statement, strategic directions document and 1995-96 plan to be submitted for approval to the Standing Committee of Officials of Consumer Affairs (SCOCA). The documents were approved with only minor amendments later the same month.

The agreed mission of the Australasian agency body is to promote a safe and well informed marketplace across Australia and New Zealand by providing a consistent, strategic approach to consumer product issues. Its role is to advise SCOCA, which in turn reports to the Ministerial Council on Consumer Affairs.

Other broad issues discussed at the March CPAC meeting included proposals for a trans-Tasman mutual recognition agreement, the development of mutual recognition arrangements within the Asia-Pacific Economic Co-operation Group, and improvement of reporting arrangements for the national register of allegedly hazardous products (see p.29).

Safeguarding Standards

Enquiries and Investigations re Safety

During 1994-95, there were 305 enquiries relating to the safety of consumer products and 182 complaints for investigation (see Table 1). The reduction in the number of complaints (200 in 1993-94) is consistent with a general trend over recent years, giving the Office some confidence in the effectiveness of its efforts to increase awareness of safety issues among both consumers and traders.

TABLE 1: INVESTIGATIONS AND ENQUIRIES RELATING TO PRODUCT SAFETY

Category	Safety Investigations	Safety Enquiries
Animals, birds & insects (products for)	1	0
Automotive design, parts & accessories	8	11
Building & construction	21	34
Clothing & clothing accessories	4	7
Drapery & manchester	2	0
Food products	4	11
Footwear	3	0
Health products	1	1
Home maintenance products	1	2
Household goods		
consumer durables	28	19
cooling & heating equipment	8	8
electronic	1	6
furniture	10	17
whitegoods	11	9
Nursery products	14	46
Packaging & containers	0	4
Personal use products	20	25
Sporting, recreation & camping	4	10
Stationery	1	3
Toys	37	83
Transport equipment (excluding motor vehicles)	3	9
TOTAL	182	305

Safety Promotion at the Melbourne Show

The contents of 160 showbags were inspected for safety on 16 August 1994 prior to the Royal Melbourne Show. Two items had to be removed - a metal framed fan which had sharp edges and the Petrified Cigarette Trick, which encouraged the smoking of a cigarette. A media release was issued to promote the fact that showbag contents had been checked for safety.

Again, the annual pre-Show inspection, the co-operation of showbag distributors and the assistance of the Royal Agricultural Society kept

the Show free of product safety problems. Not one complaint was received by the Office as to the safety of any showbag's contents.

On 22 September 1994, during the Show, the Minister launched a new print edition and a video of Kidsafe Furniture: A Safety Guide.

Epilepsy

A media release was issued following the Coroner's report of the death of an epileptic man in a fitness centre spa. The Victorian Fitness Industry Association was also specifically alerted to the incident.

Products Voluntarily Withdrawn from Sale

A number of product lines were removed from sale as a result of investigations:

- a toy gun firing plastic bullets, which could cause serious eye injuries
- baby strollers whose harness buckle released with minimum pressure
- balloon blowing kits containing toxic chemicals and prohibited from sale under a banning order
- children's denim shoes from which the eyelets came off, presenting an ingestion/inhalation hazard
- packs of disposable cigarette lighters which suddenly flared due to gas leaking from the sides of the casing
- boxes of candles for aroma therapy burners, which tended to flare suddenly
- pumps containing polystyrene beads for decorating Christmas trees - an ingestion/inhalation hazard
- metal framed arch bunk beds, the design of which presented a strangulation hazard
- insect repellents comprising wax over a layer of polystyrene contained in a terracotta pot, which gave off poisonous fumes.

Enquiries and Investigations - Standards Compliance

The Office monitors the quality, performance and labelling of consumer goods and ensures that they meet established standards through surveys of the marketplace, resolution of consumer complaints, liaison with retailers and manufacturers, and community education.

Prior to Christmas 1994, a survey of compliance with the Australian Standard for toys was

undertaken. Stock at a number of stores was inspected. Safety deficiencies were noted in some items, resulting in removal from sale, relabelling or modification of the toys.

Investigations and enquiries relating to quality, performance and labelling of consumer goods are detailed in the following table.

TABLE 2: INVESTIGATIONS & ENQUIRIES RELATING TO QUALITY, PERFORMANCE & LABELLING

Category	Standards Investigations	Standards Enquiries
Animals, birds & insects (products for)	0	1
Australian Standards	39	17
Automotive design, parts & accessories	6	0
Beverages & containers	1	0
Building & construction	12	0
Clothing & clothing accessories	9	0
Country of origin	36	1
Drapery & manchester	2	0
Food products	17	0
Footwear	0	0
Health products	3	0
Home maintenance products	3	0
Household goods		
consumer durables	10	0
cooling & heating equipment	7	0
electronic furniture	4	0
furniture	8	1
whitegoods	1	0
Nursery products	7	0
Packaging & containers	19	0
Personal use products	17	1
Sporting, recreation & camping	10	1
Stationery	0	0
Toys	23	0
Trade descriptions		
textile products	119	1
footwear	14	0
leathergoods	7	0
upholstered furniture & bedding	13	0
Transport equipment (excluding motor vehicles)	3	2
TOTAL	390	25

Developing and Revising Australian and International Standards

The Office is represented on a number of committees developing or reviewing Australian or joint Australian and New Zealand Standards for particular groups of products. These are committees established by Standards Australia, which is an independent, non-profit organisation whose benchmarks, although not mandatory unless specifically incorporated in legislation, are nationally recognised. Standards are created at the request of any authoritative source, governmental or otherwise.

The Office was involved in the assessment of 43 draft standards in 1994-95.

As a participant in Australian Standards committees, the Office is also called upon to comment on draft standards and vote on adoption of existing, internationally recognised standards from the International Organisation for Standardisation (ISO). ISO standards considered by the Office in 1994-95 related to portable fire extinguishers - performance and construction, safety of toys - migration of certain elements, safety of toys - mechanical and physical properties, and solid fuel burning appliances.

Products dealt with by Standards Australia committees in which the Office was involved in 1994-95 included the following.

Bunk Beds

A joint Australian and New Zealand Standard, AS 4220, was published on 29 August 1994. It specifies safety requirements for materials, design, construction, and performance of bunk beds.

Children's Toys

An amendment to Part 2 of Australian Standard AS 1647 on the testing of children's toys, with specific requirements in relation to stuffed toys, was published on 5 March 1995. The revision draft of Part 3 of the standard, covering toxicology of children's toys, was examined and accepted as suitable for publication.

Children's Cots and Rocking Cradles

The joint Australian and New Zealand Standard AS 2172 containing safety requirements for cots intended for household use was published on 5 April 1995, after exposure in draft form for public comment.

A draft for a standard on rocking cradles was issued for public comment. Responses will be reviewed in 1995-96.

Pedal Bicycles and Bicycle Child Carrier Seats

A draft revision of the safety requirements for pedal bicycles was prepared and released for public comment. Special attention has been given to the development of a stability test for bicycles.

A revised joint Australian and New Zealand Standard covering the safety requirements for pedal bicycle child carrier seats has been published, AS/NZS 4287:1995.

Vehicle Supporting Devices

After a review of public comments on a draft, a revised joint Australian and New Zealand Standard on vehicle support stands, AS/NZS 2538:1995, was published.

The Office collected information on deaths involving hydraulic trolley jacks to identify the most appropriate form of performance testing for these devices. An eccentric load stability test has been included in the new draft of the applicable joint standard. Review of the trolley jacks standard also involved attention to overload protection and the need for jacks to carry a safety pictogram. A draft for public comment was released and the comments received were reviewed. The new revised joint Australian and New Zealand Standard will be published early in the new financial year.

Textile Products

The standards relating to quality requirements for textile furnishings have been reviewed. Draft documents prepared cover both commercial and domestic use, and cotton and other fabrics as well as wool, which has been the main focus in the past.

Another committee looks at a range of standards on flammability and flammability testing of various textile products, floor coverings and furniture. Areas currently under review include children's nightclothes, bedding materials, curtain textiles, and upholstery materials, as well as the full range of testing methods.

Fire Extinguishers

There are numerous standards and parts of standards relating to fire extinguishers, detailing requirements for classification, components, performance testing, labelling, location and use. Meetings are held regularly to review product innovations and proposals for new or amended standards.

Major issues during 1994-95 included proposals for relaxation of aspects of the standard for aerosol extinguishers, certain problems with Australian colour coding, and the question of whether non-rechargeable extinguishers beyond a certain size might be unreliable after some years.

Information Gathering and Exchange Injury Prevention and Control

Consumer complaints to the Office relating to product safety may involve reports of actual injuries. Data on these reports is recorded and monitored. There were 56 reports in 1994-95, including 10 relating to toys. Cuts and lacerations, burns and choking were the major ill effects reported by consumers.

The Office is involved in the "Taking Injury Prevention Forward" strategy being implemented by the Department of Health and Community Services in consultation with other agencies, as a member of the working groups on consumer products and monitoring and surveillance.

It was also represented at the first National Conference on Injury Prevention and Control in February 1995, and a representative will attend the third International Conference on Injury Prevention and Control, to be held in Melbourne in February 1996.

Register of Allegedly Hazardous Products

A Secretariat provided by the Commonwealth Attorney-General's Department co-ordinates notification of allegedly hazardous products to representatives of the fair trading and consumer affairs agencies of the Commonwealth, all states and territories and New Zealand, as members of CPAC.

The Office worked closely with other CPAC members in relation to investigations, notifications and exchanges of information regarding allegedly hazardous products in 1994-95.

In all, 39 products were reported through CPAC, and this Office had initiated four of these notifications.

Product Recall Register

Information was registered on 252 voluntary recalls of consumer products in a variety of categories (see next page).

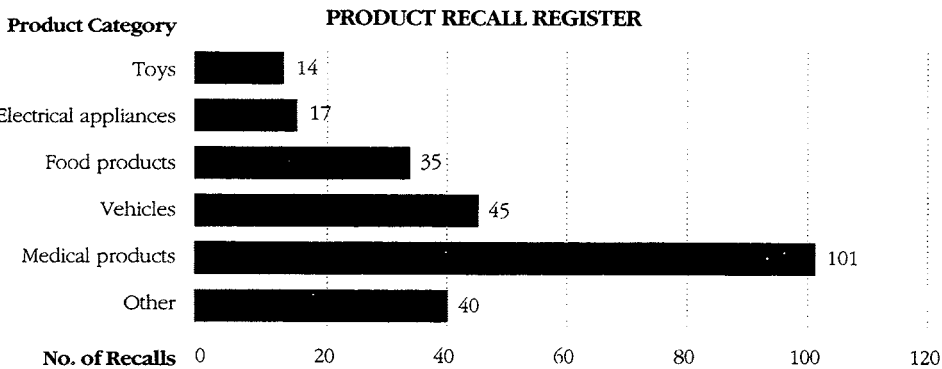
Other Safety and Standards Forums

Domestic Furniture Working Panel

The panel consists of representatives from the furniture industry, the Australian Furniture Research and Development Institute (AFRDI) and government.

Its developmental work bore fruit in 1995 with the introduction of a quality accreditation scheme to promote consumer confidence in the purchase of furniture. Product lines are assessed for eligibility to use the AFRDI Gold Tick logo with reference to the quality of both input materials and finished product and to the manufacturer's quality system and overall competence. Use of the logo involves a three year licence agreement. It is intended to add glass in furniture and mattresses to the product categories already covered: lounge furniture, action furniture, and surface coatings for furniture.

The panel liaises with the Standards Australia committees applicable to the furniture industry, particularly in respect of fabrics and flammability issues.



Food Standards

The Office continued to be represented on the Victorian Food Standards Committee, established under the Food Act 1984 to make recommendations on standards to ensure the purity of food offered for sale to the public.

A representative also attended a meeting with the Victorian Meat Authority and the Meat and Allied Trades Federation regarding new arrangements for meat inspection and quality assurance and the consumer implications of the Authority's five year plan.

Meetings on Television and PC Monitor Fires

Common concern over an apparent increase in the number of fires caused by television and computer monitors brought representatives of the Office, the Federal Bureau of Consumer Affairs, fire authorities, the insurance industry and the Office of the Chief Electrical Inspector together to share information and agree on future monitoring.

Coroner's Court Advisory Group

A new Coroner's Court Advisory Group has been established. The group consists of representatives of a wide range of agencies involved in one form or another of injury prevention, including the Office. While its principal role is that of a monitoring forum for the State Coroner's Office, it provides broader opportunities for information exchange between members which should also prove very useful.

Kidsafe Burns and Scalds Working Party

The Office was represented on a Kidsafe (Child Accident Prevention Foundation of Australia) working party developing a publicity campaign to raise awareness of the danger of burns and scalds from domestic hot water services.

Fostering an Efficient, Competitive and Fair Marketplace

Self-regulation, Codes and Industry Standards

Self-regulation Guidelines

In October 1994, the Office released an information brochure titled "Guidelines for Establishing Self-regulation Schemes". The brochure detailed the conditions necessary for self-regulation to deliver real benefits to consumers and advised industry associations that the Office would be prepared to endorse codes which achieved this.

Conditions for effective self-regulation described in the Guidelines include:

- a well established trade association covering a substantial portion of the industry, with the will and the resources to publicise, monitor and enforce a code
- consultation with relevant government agencies and organisations representing consumers during code preparation
- a code with rules addressing the problems which have been identified in the industry
- establishment of a complaints mechanism
- effective publicisation, monitoring, enforcement and review of the code.

Utilities

The Office has worked closely with the Office of the Regulator-General and the electricity distribution industry in particular, developing customer service policies, procedures and dispute-resolution mechanisms for use by distribution companies. It contributed to the rewriting of the electricity Supply and Sale Code, which covers such issues as security deposits, customer reporting standards, access to essential services and disconnection policy.

Similarly, the Office has had input into the revision of the Customer Contract, which sets out suppliers' obligations in the water industry.

Victorian Furniture Removers' Association Code of Conduct (VFRA)

The VFRA Code of Conduct was officially launched by the Minister, the Hon Jan Wade MP, in October 1994.



The Minister, the Hon Mrs Jan Wade MP, at the launch of the Furniture Removers' Association of Victoria's Code of Conduct.

Major features of the Code are:

- use of the Standards Australia contract for household removals or its equivalent
- provision of detailed advice about insurance related to the items to be moved
- establishment of an independent complaints committee to handle disputes between VFRA members and clients
- a requirement on all members for a \$2,000 bank guarantee that can be drawn on by the complaints committee.

The Office is represented on the complaints committee and is monitoring the effectiveness of the Code in practice.

The kind of problem which can arise when dealing with a removalist who is not part of the self-regulatory scheme is highlighted in the case described on p.43.

Weight Management Code of Practice

It was reported last year that a national committee had developed recommendations for a Weight Management Code of Practice, including standards relating to advertising, sales practices, disclosure, contractual agreements, cooling-off periods, guarantees, refunds, dispute resolution, food and nutrition, health, and data collection.

In July 1994, several members of that committee met to establish an implementation strategy. A Weight Management Code Administration Committee was formed. In 1994-95, the committee comprised Professor Mark Wahlqvist (chair), and representatives from Gloria Marshall Figure Salons of Australia, Jenny Craig Weight Loss Centres, Weight Watchers, the Consumer Advocacy and Financial Counselling Association and the Office. It developed a logo for the self-regulatory scheme, finalised and printed the Code and established a complaints committee. This work was financed by the three inaugural industry signatories to the Code.

At the time of writing, moves to incorporate a national weight management industry association are under way. This will strengthen the framework for self-regulation and an increase in the number of signatories to the Code across Australia is expected to follow.

Insurance Industry Draft Codes

Development of national standards with regard to insurance continued during 1994-95, overseen by the Insurance and Superannuation Commission, through the taskforce process described in last year's report.

Consistent with the co-operative approach suggested by the Office, it was decided to allow the general insurance industry to develop its own code or codes of practice for Commonwealth Government approval. The Office subsequently commented on a draft Insurance Council of Australia code.

Comments were also provided on a draft code for sales practices and complaints handling in the life insurance industry, released for public discussion in August 1994. At the time of writing, a final code was close to publication, to take full effect in 1996. Its key aims are the prevention of the sale of inappropriate policies, more active supervision by life insurance companies of agents' conduct, and effective internal complaints handling by all companies (although customers will also retain access to an external independent complaints body). During the code's development, the original intention to include

basic competency requirements and recruitment standards for life insurance advisers was set aside, in favour of developing an industry-based system under which only accredited and registered agents could provide advice on life insurance products.

Complaint Handling

The Office was represented on the Standards Australia committee which developed a new standard for complaint handling (AS 4269). The Standard, launched on 31 March 1995, addresses the essential elements of a complaint-handling process and can be used as a reference on best practice. It is believed to be the first national standard on this subject to be adopted anywhere in the world.

Other Areas

The Office provided comments on several proposed codes of practice and/or ethics, including a detailed review of the Australian Timeshare and Holiday Ownership Council Limited draft code. A variety of industry associations were assisted in code development and other matters relating to self-regulation.

Comments were provided to the review of the Electronic Funds Transfer Code of Conduct being conducted by the Trade Practices Commission and the Commonwealth Treasury.

At the time of writing, the Office was also involved with a national retailer in preparing its company policy on customer rights and responsibilities.

Changes to the Law

Corporations

Amendments to the uniform national scheme of corporations regulation were enacted for Victoria as the Corporations (Victoria) (Amendment) Act 1995. The most significant change is the conferral of jurisdiction on the lower courts to hear debt recovery and certain other civil matters arising under the Corporations Law. The Act also clarifies the powers of the Commonwealth Director of Public Prosecutions and makes consequential amendments necessary in the light of recent Commonwealth legislation.

At the time of writing, the commencement date of the amendments across the states and territories had not been set, although it was expected to be no later than October 1995.

Financial Institutions

The Victorian Financial Institutions Commission (VICFIC) regulates building societies, credit unions, co-operative housing societies and friendly societies. Amendments to the Financial Institutions (Victoria) Act have added another role, providing for VICFIC to oversee and scrutinise the prudential standards of public bodies referred to it by agreement of the relevant ministers. This supervision will be conducted on a competitive, commercial basis.

Credit

The new Consumer Credit Code is intended to apply truth in lending principles to all consumer credit transactions (including housing loans) and to all credit providers (including banks, credit unions, building societies and finance companies) on a uniform basis throughout Australia.

The Code was initially enacted in September 1994 as an appendix to the Consumer Credit (Queensland) Act. In May 1995, the Ministerial Council on Consumer Affairs (MCCA) confirmed that all jurisdictions would aim to pass legislation adopting the Code by September 1995. Ministers agreed that the uniform commencement date would be six months from the last jurisdiction's passing its legislation and no earlier than 30 March 1996, allowing credit providers time to prepare for transition to the new regime. At the time of writing, it appeared that all states and territories would meet the target.

The Consumer Credit (Victoria) Act 1995 was passed by the Victorian Parliament on 14 June 1995. When proclaimed, sections 5 and 6 will apply the Consumer Credit Code set out in the Queensland Act and any regulations in force under that Act as the law of Victoria. In its Victorian application, the Code is to be referred to as the Consumer Credit (Victoria) Code.

During the reporting period, Victoria and New South Wales continued to manage consultations

on the uniform regulations to apply under the Code. At the time of writing, preparations were being made to present the proposed regulations to MCCA for approval. The proposed regulations include prescribed statements and notices to be provided to borrowers and transitional provisions applying the Code to some existing credit contracts.

The different jurisdictions will continue to provide as they see fit for the registration or licensing of credit providers, vesting jurisdiction in courts or tribunals to hear matters arising under the Code, and matters of administration. The Consumer Credit (Victoria) Act includes provision for registering credit providers and conferral of jurisdiction on the Credit Tribunal. It also creates a Consumer Credit Fund into which civil penalties ordered in respect of contracts regulated by the Code or the Credit Act 1984 may be paid and provides for grants to be made from that Fund for relevant educational and research purposes.

Prostitution Control

The Prostitution Control Act 1994 and associated Regulations came into effect on 14 June 1995, bringing increased regulation to an industry which has traditionally operated on the fringe of society. The legislation requires the proprietors of brothels and escort agencies to be licensed, and any managers they employ must also be approved by the independent Prostitution Control Board. These controls are in addition to planning controls over the location of sexual service providers, such as the prohibition of brothels in residential areas or within prescribed distances of schools, churches and like institutions.

While investigation and prosecution of offences against the Act will be the responsibility of the Police, the Office will provide administrative support to the Board, including the processing of licensing documentation.

As well as ensuring that criminals are not involved in the industry, the new laws aim to minimise health risks for prostitutes and clients and promote the broader occupational safety and welfare of prostitutes by protecting them

from violence and exploitation. The Act addresses the concerns of the broader community by prohibiting prostitution involving persons under 18 years of age, increasing penalties on those who frequent illegal premises, controlling escort agencies for the first time, and ensuring that advertisements are discreet and non-provocative.

The Prostitution Control Regulations 1995 set certain safety standards and established a licensing fee structure. Because the regulations were going to impose significant obligations on the industry, it was necessary to publish a regulatory impact statement (RIS) before they were made, assessing the likely economic and social costs and benefits of the proposals. The RIS concluded that compliance with the proposed standards was desirable and would be better achieved through regulations than a voluntary code of practice. It also examined the proposed fee levels with reference to the need to ensure recovery of the expenditure required for effective operation of the Act. Each of the many submissions received was considered in detail and, in the light of comments made, a number of alterations were made before the regulations were finalised.

Estate Agents

As noted on p.15, new bodies have been created to assume the functions of the former Estate Agents Board. Under the Estate Agents (Amendment) Act 1994, which came into effect on 1 February 1995, the licensing and complaint-handling roles have been assumed by the Estate Agents Licensing Authority, while disciplinary proceedings are now heard by the Estate Agents Disciplinary and Licensing Appeals Tribunal. As its name implies, the Tribunal also deals with any appeals against licence refusals. The Authority determines claims on the Estate Agents Guarantee Fund at first instance; again, the Tribunal hears appeals.

A third body, the Estate Agents Council, has been created to monitor and advise the Minister on the efficacy of the Act and its administration in promoting standards appropriate to protect the interests of the community.

Proposed Changes to the Law

Residential Tenancies

The Minister for Fair Trading and the Minister for Housing established a committee to review the legislation relating to residential tenancies, in line with a pre-election commitment. The committee was chaired by the Hon Louise Asher MLC and included two other Government MPs and representatives from the Office of Housing and the Office of Fair Trading and Business Affairs. It undertook an intensive process of hearings and review of written submissions, and was also asked to consider a recent consultant's report on the feasibility of central administration of residential tenancy bonds. At the time of writing, the Ministers were considering the committee's report and it was expected that there would be amending legislation in 1995-96.

House Contracts

A significant review of the House Contracts Guarantee Act 1987 has been conducted. The Act provides for the registration of domestic builders and provides for a seven year, \$40,000 guarantee on domestic building work or renovations costing more than \$3,000. Other provisions relate to contractual arrangements and deposits.

A discussion and options paper was circulated to 150 interested individuals, industry, legal, government and community organisations in July 1994. Fifty responses were received and representatives of 20 organisations personally addressed the internal review committee. Detailed consultation was then commenced with the industry associations (Housing Industry Association and Master Builders' Association of Victoria). Following Cabinet's approval in principle in March 1995, a Bill was drafted by the end of the financial year.

The Bill addresses all subjects of concern raised with the Office by builders and home owners, including the builder registration system, dispute resolution, the warranty system, and domestic building contracts.

Motor Trade

In September 1994, the Office issued a detailed discussion paper exploring options for amendment of the Motor Car Traders Act 1986.

Major issues covered included the statutory warranty system and measures to combat unlicensed trading. After a review of submissions from interested parties, including industry and consumer groups and other government agencies, proposals were developed for the Minister's consideration. At the time of writing, it was hoped that amending legislation would be introduced into Parliament before the end of 1995.

Trustees

At the time of writing, the Minister had approved the development of proposals for amendment to the Trustee Act 1958 to dispense with the statutory list of authorised investments and substitute a general duty of prudence on trustees in the investment of trust funds.

Financial Institutions - Friendly Societies

Drafting of template legislation for national adoption to bring friendly societies within the national financial institutions scheme is proceeding. The issues involved are complex and considerable consultation will be required. Legislation is expected to be passed in 1996.

A number of procedural amendments are also being considered in relation to the financial institutions scheme.

Fundraising Appeals

The Office's review continued in 1994-95 and at the time of writing proposals for amending the Fundraising Appeals Act 1984 to more effectively regulate fundraising appeals were being developed for submission to the Minister.

Second-hand Dealers and Pawnbrokers

Amendments to the Second-hand Dealers and Pawnbrokers Act have been suggested in correspondence from the Police and a number of individual consumers. A review has been commenced and a discussion/options paper is in preparation. The main areas being examined include making stolen goods more difficult to sell or pawn, by requiring additional seller identification, and improving owners' ability to obtain the return of stolen goods found in pawn and second-hand shops.

Fair Trading Legislation

General proposals developed by the Office for consolidation and up-dating of the Fair Trading, Consumer Affairs and Ministry of Consumer Affairs Acts have been approved by the Minister. Further work and external consultation will proceed in 1995-96.

Other Acts

Other reviews commenced, but still at a preparatory stage, relate to the Associations Incorporation, Auction Sales, Co-operation and Finance Brokers Acts.

Product Safety

From 1 June 1995, a Commonwealth consumer product safety standard for exercise cycles came into effect, making compliance with Australian Standard AS 4092 compulsory. Exercise cycles are required to have substantial guarding over moving parts to prevent the severe hand injuries to children which have on occasion involved amputation of fingers.

The Office proposes that Victorian regulations be made to require compliance with the Standard by all traders, including unincorporated businesses operating exclusively within the State's borders.

Matters Under Review

Introduction Agencies

Following the May 1994 tabling in Parliament of the report, Introduction Agencies in Victoria, the Office circulated a discussion draft for a Code of conduct to address the problems and poor standards identified in that document. Response from the industry was disappointing, although those agencies which did comment were generally in favour of the code's content. After circulation of a revised version, with a further invitation to comment, the code was finalised.

At the time of writing, individual introduction agencies are being invited to provide the Office with undertakings that they will comply with the Code. The Office is also preparing a monitoring report on industry practice since the Minister warned in May 1994 that regulation would be introduced if standards did not improve.

Impact of Deregulation of Estate Agents' Fees

Limits on the fees and commissions charged by estate agents in relation to residential and rural properties were removed from 1 February 1995. As noted on p.34, the amended Estate Agents Act also established the Estate Agents Council, whose responsibilities include advising the Minister on the impact of deregulation and monitoring and evaluating the effectiveness of dispute-resolution procedures under the new system. The Office is assisting the Council with the collection of relevant data through a survey of estate agents and client vendors.

Petrol Pricing

Many letters of complaint continue to be received concerning regional disparities in petrol prices, particularly from country residents who believe the current pricing arrangements to be unfair.

The Office has been involved in a number of Government initiatives to tackle this ongoing problem, including a submission to the Industry Commission Inquiry into Petroleum Products. Unfortunately, the Commission's final report, published during the reporting year, failed to provide solutions to the perceived inequities and lack of transparency in the petrol wholesaling system.

The Minister for Fair Trading has raised the issue of regional price disparities at Ministerial Council (MCCA) meetings and ministers have agreed that a national approach is needed - the major petroleum suppliers are national companies dealing in a national market, and the essential issue of allegedly anti-competitive conduct falls within the Commonwealth Government's trade practices and prices surveillance jurisdiction.

Mailing Lists

It was reported last year that the Office had participated in a working party established by MCCA to investigate consumer issues arising from the compilation, storage, use and rental or sale of consumers' personal information. The working party recommended co-operative development of a mandatory code

to guarantee appropriate industry practice with regard to such key issues as obtaining informed consent for intended re-use or sale of personal information, ensuring its continued accuracy, and providing for individuals to have their details removed from lists. It was also recommended that a study be undertaken of the larger field of direct marketing, in which the problems over mailing lists arise. MCCA accepted the latter recommendation in August 1994.

Direct Marketing

Following MCCA's acceptance of the recommendation of the mailing lists working party, the Standing Committee of Officials of Consumer Affairs (SCOCA) established a further working party to investigate direct marketing, including the use of lists of individuals' details. Industry (Australian Direct Marketing Association), consumer groups (Australian Federation of Consumer Organisations, Australian Consumers Association), the Privacy Commissioner and governments (the Commonwealth, Victoria and the ACT) were represented.

The working party found that direct marketing involves not just mail order and telemarketing bureaux, but traders, charities, agencies of government at all levels, and political and community groups whose practices involve direct client contact or a response mechanism. A discussion paper was released as part of a thorough consultation process and elicited wide response.

Building on the earlier investigation into mailing lists, the working group recommended that industry, consumers and governments develop a code of practice for any organisation engaging in direct marketing. The code would cover both fair trading and fair information handling practices. It was further recommended that the code be made compulsory under state and territory Fair Trading Acts. (Victoria's Fair Trading Act does not currently provide for the scheduling of compulsory codes, but the Act is under review and it is anticipated that a provision to that effect will be introduced.)



*The Minister, Mrs Jan Wade MP, together with her ministerial colleagues at a MCCA meeting.
 (From left: Mr Gary Humphries (ACT); Hon Faye Lo-Po' (NSW); Hon Stephen Hatton (NT); Hon Katherine O'Regan (NZ); Senator the Hon Chris Schacht (Commonwealth); Hon Jeannette McHugh (Commonwealth); Hon Trevor Griffin (SA); Hon Jan Wade (Vic); Dr the Hon Frank Madill (Tas) and Hon Peter Foss (WA).*

Photo courtesy: AUSPIC.

Implications of National Competition Policy

Through MCCA and SCOCA, the Office has contributed to national responses to proposals emerging from the Hilmer report on Competition Policy, focussing on the impact on consumers. Information disclosure, redress mechanisms, representation of consumer views, and quality and safety standards are among the consumer concerns in the reform of government business enterprises in particular. It was pointed out at the national forums that the Victorian Government has anticipated potential competitive conduct problems associated with privatised monopolies and has established a regulatory authority - the Office of the Regulator-General (ORG) - with specific responsibility for the economic regulation of reforming utilities. One of the ORG's stated objectives is "to ensure that users and consumers benefit from competition and efficiency".

A National Competition Policy was endorsed by the Council of Australian Governments in April 1995. One important

aspect of the policy is the extension of Part IV of the Commonwealth Trade Practices Act, which deals with restrictive trade practices. The Commonwealth and all state and territory governments will enact legislation applying Part IV to all government entities carrying on a business. In Victoria, it is proposed that the new regime will take effect from July 1996.

Each department will be responsible for ensuring that its activities comply with the legislation. The Office has already conducted a preliminary competition 'audit' for the Department of Justice as a whole, providing a profile of business activities by the Department which might potentially breach amended trade practices legislation. A more detailed audit will be undertaken in 1995-96.

Another task in the implementation of the National Competition Policy will be an examination of all legislation and regulations to ensure consistency with competition principles.

Simplification of Licensing in Victoria

During the year, the Minister for Small Business, the Hon Vin Heffernan MP, sponsored a Licence Simplification Program, under which all departments were required to review the contemporary need for business licensing and registration schemes they were administering and to examine opportunities for consolidating different licence types. The Office co-ordinated reporting for the Department of Justice as a whole and some outmoded provisions were identified for repeal.

Developmental Work

National Agenda

At its July 1994 meeting, MCCA committed itself to the development and implementation of a strategic agenda for dealing with national fair trading and consumer affairs issues. Ministers directed SCOCA to finalise a national work plan, taking into account major decisions of the Council of Australian Governments and the results of a recent SCOCA survey of 33 key interest groups.

An agenda and work plan was settled between the states and territories in early 1995. Major subject areas include: national competition policy, mutual recognition and other microeconomic reform issues, issues relating to national and international consumer markets, and significant operational matters.

Consumer Education Advisory Committee

Among the operational subjects on the national agenda is consumer education, and an interstate Consumer Education Advisory Committee (CEAC) has been established to report to SCOCA. The inaugural meeting was held in Melbourne.

CEAC has assumed responsibility for the development of a multi-media CD-ROM product for year five and six primary school children, known as "CP2". The product will also be adaptable for use by migrant resource centres. The CP2 initiative follows the successful 1994 release of "CP1", a resource booklet for primary teachers at levels three and four.

Getting Disputes Resolved

Conciliation

If parties to a marketplace dispute cannot resolve their differences themselves, a written complaint may be made to the Office. An inspector will assess the matter and, where appropriate, will intervene in an effort to arrive at a settlement which is acceptable to both parties.

The Office's dispute resolution responsibilities were expanded in October 1994 when it was charged with handling complaints regarding electricity and water supply, previously dealt with by the State Ombudsman.

In 1994-95, the Office received 12,554 written complaints. This represented an increase in absolute numbers, but a decrease in the ratio of complaints to enquiries from approximately 1:20 to less than 1:23.

Tenancy and other accommodation-related matters accounted for 38.8% of complaints. Most of these were requests for inspections relating to abandoned goods, repairs and rental increases (see Appendix 3, p.53, for figures). The next largest categories of written complaint were motor vehicles and other transport equipment (13.4%) and household goods (11.8%).

Serious departures from fair trading standards detected in the conciliation of complaints are referred as appropriate for investigation, for the attention of the relevant statutory authority or to industry liaison personnel.

A Pointer From a Recent File - Building Contracts

The law will not protect you just because you've made a bad deal. It is particularly important to remember this when building, both at the beginning, when you sign the contract, and later, if there are problems and you enter into an agreement to settle them.

In a recent case, some unfortunate mistakes meant the consumers involved were legally powerless to pursue a claim of nearly \$15,000.

They started well, by visiting their solicitor to have the contract checked. However, there was an arbitration clause, which the solicitor did not challenge. Consumers need to be aware themselves of the costly and technical nature of

arbitration and make sure they are not tied to it as the only mechanism for resolving any dispute.

In this case, a dispute did arise. Within two months, the consumers were dissatisfied with the builder's delays and bad workmanship. They were particularly concerned that the mortar in the bricks was inadequate. When they refused to make progressive payments under the contract however, the builder stopped work altogether and, after a nine month stalemate, invoked the arbitration clause.

The consumers obtained a \$4,000 architect's report, but the fact remained that they had failed to make payments as specified in the contract. Acting on legal advice, they came to an agreement with the builder the day before the arbitration hearing. This was formalised as an order by consent that the builder be paid \$37,000 and released from any further liability regarding matters raised in the dispute.

Nonetheless, the consumers believed they should still be compensated for the faulty brickwork and claimed \$14,800 from the Housing Guarantee Fund. The claim was denied on the basis that the brickwork was covered by the settlement. Consumers and their legal advisers must understand that the statutory guarantee is not an all-purpose safety net. It covers the unfulfilled liability of the builder. Once the builder's liability has been closed off by an arbitration order or a settlement agreement, the consumer cannot claim on the guarantee over the same subject matter.

Local Assistance in Dispute Resolution

Agencies funded under the Consumer Support and Tenant Support Programs assist in the resolution of complaints at the local level - primarily by facilitating self-help, but also through intervention where necessary. These roles involve ensuring that clients are aware of their rights and entitlements and thus equipped to resolve matters themselves, and actively assisting in achieving appropriate settlements. Where issues are unable to be resolved, consumers are referred to the Office for appropriate action or are assisted in preparing for hearings in the Small Claims Tribunals or the Residential Tenancies Tribunal.

The Tribunals System

The Small Claims Tribunals Act 1973, Residential Tenancies Act 1980 and Credit (Administration) Act 1984 establish specialist tribunals to deal with disputes.

Administrative support is supplied by the Courts and Tribunals Services Division of the Department of Justice. Members/Referees are independent of the Department. Appointments are made by the Governor-in-Council and, except for particular positions on the Credit Tribunal panel, require legal qualifications.

Tribunal decisions are legally binding. There is no appeal against Small Claims or Residential Tenancies Tribunal decisions, although there is provision to apply for a Supreme Court order that a decision be reviewed under the Administrative Law Act 1978, on the grounds of denial of natural justice or lack of jurisdiction.

To minimise inconvenience and travelling time for the parties involved, hearings are held as near as possible to the place the contract was entered into (in the case of the Small Claims Tribunals) or the rented premises (in the case of the Residential Tenancies Tribunal). Venues in 30 locations across Victoria were used for tribunal hearings in 1994-95 (see Appendix 5C, p.57, for details). The Melbourne address for the Tribunals is Level 7, 55 King Street.

Residential Tenancies Tribunal

Residential Tenancies Act Cases

The number of applications lodged with the Residential Tenancies Tribunal increased by 8.3% in 1994-95 to 37,515. Applications were predominantly by landlords (95.8%), the majority of these (76.8%) being for possession of the rented premises. Detailed statistics are presented in Appendix 5A (p.55).

Caravan Park Cases

The Residential Tenancies Tribunal determines disputes between caravan park



owners or caravan owners, on the one hand, and caravan park residents renting their sites or vans, on the other. The number of applications lodged with the Residential Tenancies Tribunal in relation to the Caravan Parks and Movable Dwellings Act 1988 increased slightly from 117 in 1993-94 to 124 in 1994-95. Further comparative statistics are provided in Appendix 5A (p.56).

Rooming House Cases

The Rooming Houses Act 1990 assigns rights and responsibilities to rooming house owners (and mortgagees) and residents.

In 1994-95 there were 865 applications to the Tribunal under the Act, an increase of 21.7% on the 1993-94 figure of 711. Further comparative statistics are provided in Appendix 5A (p.56).

Fair Rents Board Cases

The Residential Tenancies Tribunal sits as the Fair Rents Board to determine applications regarding prescribed premises under Part V of the Landlord and Tenant Act 1958. Essentially, this legislation protects tenants still subject to tenancy agreements made prior to 1 January 1956, where the rented premises were constructed before 1 February 1954.

Six fair rents hearings were conducted in 1994-95. Yearly comparative statistics are provided in Appendix 5A (p.56). It is expected that the number of hearings will remain small as the number of prescribed premises continues to decrease.

Small Claims Tribunals

The Small Claims Tribunals resolve disputes between consumers and traders, with a limit of \$5,000 on claims. The fee to lodge a claim is \$10.

The number of claims lodged with the Small Claims Tribunals fell by 3.6% in 1994-95 to 3,491. Further statistics are provided in Appendix 5B (p.56).

Credit Tribunal

The Credit Tribunal is located on Level 6, 55 King Street, Melbourne. It hears matters arising under the Credit Act 1984. These include applications by consumers, seeking:

- relief from unjust or unconscionable contracts
 - variations of contracts because of hardship
 - compensation for failure to give a notice before repossession or failure to sell repossessed goods in the required manner,
- and by credit providers, seeking:
- reinstatement of credit charges they have forfeited under the Act by their conduct (civil penalties)
 - to repossess secured items.

There were 173 applications lodged with the Credit Tribunal in 1994-95, compared with 165 in 1993-94. (NB The figure of 117 applications for 1993-94 given on p. 37 of last year's report was published in error.) Further statistics are provided in Appendix 5D (p.57).

Consultative Groups

Victorian Consumer Affairs Committee

The Victorian Consumer Affairs Committee (VCAC) is a source of policy advice to the Minister for Fair Trading and comprises 10 representatives from consumer, industry and community groups. Its monthly meetings are chaired by Suzanne Russell, Associate Professor of Consumer Science at the Royal Melbourne Institute of Technology. Speakers in 1994-95 included representatives of the Westpac Consumer Education Trust, the SIO Appeals Centre and the Australian Federation of Consumer Organisations.

Among the topics on which the Committee undertook consultation were the consumer and general legal rights of older persons and the implications of utility privatisation in Victoria. Advice was provided to the Minister and to government bodies on several pieces of legislation currently under review and on fair trading issues surrounding direct marketing.

The VCAC was involved in World Consumer Rights Day activities and the judging of the Fair Trading Awards. In its own right and in conjunction with other organisations, the VCAC itself organises public events to disseminate information and also to provide opportunities for people to put their views on consumer issues. At the time of writing, events planned for 1995-96 included an information day for consumer workers, a seminar on the regulation of retirement villages and another on utility administration.

Industry Liaison Group

The Industry Liaison Group (ILG) is a consultative forum between the Office, various industry and commerce groups, and relevant government agencies. Those represented include the Victorian Employers Chamber of Commerce and Industry, the Australian Chamber of Manufactures, the Master Builders' Association of Victoria (MBAV), the Real Estate Institute of Victoria, the Victorian Automobile Chamber of Commerce, the Retail Traders Association of Victoria (RTAV), Coles-Myer Limited, Small Business Victoria (SBV), and the Trade Practices Commission (TPC).

The ILG meets on a bi-monthly basis, to share information, to provide feedback to the Office on the development of awareness programs for traders and consumers and to identify areas where research would be desirable in the context of advancing the Government's fair trading policies.

The ILG assisted with the early development of two important Office initiatives, the Good Business Guide and the Fair Trading Awards. The customer complaint handling procedure incorporated into the Good Business Guide was drafted by ILG members. Three quarters of respondents to an evaluation survey indicated that they intended to implement the procedure in their businesses. The highly successful Fair Trading Awards were first proposed to the ILG and proceeded with its enthusiastic support.

In 1994-95, the Director of the Office spoke to the group on legislative review and other policy matters. Guest speakers from participating organisations and elsewhere promoted discussion on other topics, including country of origin labelling (TPC), codes of practice and complaints handling (RTAV), the operations of SBV, and the Small Claims Tribunals.

The continued assistance of ILG member organisations in distributing information materials for the benefit of both traders and consumers was appreciated, and particular mention should be made of the MBAV in relation to the building industry.

Some Matters of Concern

Tailor-made Car and Finance Deals

During the reporting year, complaints were received from consumers who had responded to advertisements in major newspapers offering to arrange finance for car buyers. It appears that they were invited to accompany the advertiser to auction sales. He would purchase a nominated vehicle and then arrange terms for its resale to the customer. These terms allegedly included interest rates of up to 94.7%!

Consumers are warned against purchasing vehicles "on the run" in this way, as it is very difficult to keep control of the transaction and understand the commitment being made.

Used Car Sales

The Office continues to warn consumers about the problems of dealing with unlicensed motor car traders (see p.17). However, consumers should not assume that all licensed traders maintain the highest standards and that price is the only consideration when shopping around.

Two licensed traders whose conduct has disappointed the Office during the year are First Choice Motors (LMCT 8397, licensee George Grant Dugdale) and South Oakleigh Motors (LMCT 8586, licensee David Charles Fleming).

South Oakleigh Motors came to attention on many occasions, in relation to high pressure sales tactics, failure to properly carry out warranty repairs and other matters. Of particular concern was a practice of encouraging the prospective customer to take a vehicle to try out over a weekend - or even just for a test drive - and then claiming that in doing so the customer had taken delivery and was committed to the purchase.

First Choice Motors, a Ringwood yard, was the subject of seven complaints in the last 10 weeks of the 1994-95 year. Matters raised included failure to attend properly to warranty repairs, failure to pay transfer and registration fees, and failure to pay out loans on two trade-in vehicles.

Mobile Home Dealings

The Office has received several complaints from consumers who have consigned the sale of their mobile homes to businesses involving Owen Anderson and had trouble obtaining payment. Numerous cheques have been dishonoured.

Mr Anderson does not always honour commitments to mobile home buyers either. At the time of writing, his company, Anderson Investment Group Pty Ltd trading as Sunset Relocatable Homes, had not returned half of a \$10,000 deposit paid in October 1994 for a new home, promised by Christmas of that year but never supplied. At one point, shortly after fresh promises of delivery, the business disconnected its telephone and relocated without notifying the consumers, who had to trace its new whereabouts.

Consumers are warned to shop around and investigate thoroughly before advancing large amounts or entrusting valuable assets to particular traders. All contractual arrangements should be in writing, in detail - problems are always much harder to resolve when it's one person's word against another's.

Furniture Removals

There have been a number of complaints to the Office arising from furniture removals by operators who do not belong to the Victorian Furniture Removers' Association (VFRA) and do not follow the Code of Practice endorsed by the Office (see p.31). Such operators can be less than co-operative regarding complaints over items missing or found to be damaged after delivery.

In one recent case, the removalist advised a consumer that her substantial missing goods claim would not be dealt with by an insurance company but by him personally, despite the fact that \$184 had been paid in "insurance fees" and the consumer had been trying unsuccessfully to pursue the issue of the lost items with him from the day of delivery. In the end, the documented claim was cavalierly rejected over the phone as "fraudulent". This only added further insult to the injury which had begun with an unexplained failure to deliver on the initially

agreed date and the dumping of the transported goods in the consumer's carport on a working Friday when delivery had actually been rescheduled for the Saturday.

Removals are a serious business and consumers are advised to do their homework. Is the removalist an established member of a recognised industry association? Is its contract at least as good as the Standards Australia contract?

Insurance is a particular concern. Clear advice about the options available should be provided by the removalist. Contract documents should be made available. The customer should not make a choice without understanding the insurance contract and any exclusions it contains. For example, are goods not packed by the removal firm covered for damage?

APPENDIX 1

REGULATIONS MADE OR REVOKED IN 1994-95

REGULATIONS MADE

	DATE MADE
Business Names (Amendment) Regulations 1995	19 April 1995
Business Names (Fee Reduction) Regulations 1994	20 December 1994
Credit Regulations 1995	24 January 1995
Credit (Administration) Regulations 1995	28 February 1995
Credit (Administration) (Credit Tribunal) (Amendment) Regulations 1995	6 June 1995
Estate Agents and Agents Representatives (Courses of Instruction and Examination) Regulations 1994	20 December 1994
Housing (Rental Housing Co-operatives) Regulations 1994	20 December 1994
Goods (Sales and Leases) Regulations 1995	21 February 1995
Prostitution Control Regulations 1995	14 June 1995
Trustee (Secondary Mortgage Market) Regulations 1995	7 February 1995
Trustee Companies Regulations 1995	4 April 1995

REGULATIONS REVOKED

Credit Regulations 1984
Credit (Administration) Regulations 1993
Estate Agents and Sub-Agents (Prescribed Courses of Instruction and Examination) Rules 1992
Housing (Rental Housing Co-operatives) Regulations 1984
Goods (Sales and Leases) Regulations 1985
Trustee (Secondary Mortgage Market) Regulations 1984
Trustee Companies Regulations 1984

APPENDIX 2

COMMUNITY FUNDING PROGRAMS

A. Consumer Support Program from 1 July 1994 to 30 June 1995

The Consumer Support Program provides funding to regional community-based agencies to provide information and education to consumers and traders, and to provide dispute resolution and advocacy services to consumers throughout Victoria, especially disadvantaged members of the community. Funding is also provided to a number of specialist and statewide services for various consumer-related activities.

REGIONAL SERVICES

Ballarat Children's Homes and Family Services Inc
115 Lydiard Street North
BALLARAT 3350
\$53,895

Provides services in the Central Highlands Region.

Broadmeadows Community Health Services Inc
Cnr Coleraine St & Pearcedale Parade
BROADMEADOWS 3048
\$30,763

Provides services in the North West Region.

Consumer and Tenancy Advice Service Inc
110 Hume Street
WODONGA 3690
and
45A Ovens Street
WANGARATTA 3677
\$45,536

Provides services in the Upper Murray Region.

Financial Counselling and Consumer Information Service Inc
40 Myers Street
GEEELONG 3220
\$46,618

Provides services in the Barwon Region.

Gippsland Consumer and Tenants Information Service Inc
22 Hazelwood Road
MORWELL 3840
\$51,538

Provides services in the Central Gippsland Region.

Bendigo Community Health Services Inc
478 Napier Street
BENDIGO 3550
\$56,100

Provides services in the Loddon Campaspe Region.

Consumer and Tenant Resource Centre
Outer East Inc
Suite 11, 6-7 Chandler Road
BORONIA 3155
\$58,393

Provides services in the Outer East Region.

Deer Park Community Information Centre Inc
Shop 95A, Deer Park Central
Neale Road
DEER PARK 3023
\$50,389

Provides services, particularly to people of non-English speaking background, in the northern part of the Western Region.

Frankston North Legal Service Inc
Pines Forest Community Centre
Mahogany Avenue
FRANKSTON NORTH 3200
\$28,000

Provides services in the southern part of the Westernport Region.

Goulburn Valley Community Care Centre Inc
162 Maude Street
SHEPPARTON 3620
\$54,519

Provides services in the Goulburn Region.

REGIONAL SERVICES Cont.

Kilmany Family Care
113 Cunningham Street
SALE 3850
and
6 Park Street
BAIRNSDALE 3875
\$44,566

Provides services in the East Gippsland Region.

North East Consumer Support Service
C/- Sutherland Community Resource Centre
258 Nell Street West
WATSONIA 3087
\$47,976

Provides services in the North Eastern Region.

Springvale Community Aid and Advice
Bureau Inc
5 Osborne Avenue
SPRINGVALE 3171
\$49,440

Provides services, particularly to people of non-English speaking background, in the northern part of the Westernport Region.

Mallee Tenancy Advice Service Inc
1/152 Pine Avenue
MILDURA 3500
and
300 Campbell Street
SWAN HILL 3585
\$48,970

Provides services in the Mallee Region.

South Western Community Care Inc
26 Fairy Street
WARRNAMBOOL 3280
and
63 Percy Street
PORTLAND 3305
and
6 Gunner Street
CAMPERDOWN 3260
and
46 Brown Street
HAMILTON 3300
\$45,087

Provides services in the Glenelg Region.

Wimmera Community Care
185 Baillie Street
HORSHAM 3400
\$42,885

Provides services in the Wimmera Region.

SPECIALIST SERVICES

Organisation

Purpose of Grant

Consumer Advocacy and Financial
Counselling Association of Victoria
4th Floor, Ross House
247-251 Flinders Lane
MELBOURNE 3000
\$47,564

To resource and support consumer support workers, represent members' views to Government and the community and co-ordinate statewide campaigns on key consumer issues.

Consumer Credit Legal Service Inc
1st Floor, Bank House
11-19 Bank Place
MELBOURNE 3000
\$122,451

To promote and safeguard industry standards that achieve a fair financial services market, including objections to registration, class actions and selected individual legal actions; and to seek redress for individuals who have been unfairly treated, particularly those who are disadvantaged and have limited access to redress.

Good Shepherd Youth and Family Services
Inc - Buying Advice Service
117 Johnston Street
COLLINGWOOD 3066
\$57,692

To operate a buying advisory service for low income people which gives access to basic household products at a reasonable price, and assists low income people in making informed choices when purchasing household products.

REGIONAL SERVICES

B. Tenant Support Program from 1 July 1994 to 30 June 1995

The Tenant Support Program provides funding to regional community-based agencies to provide information and education to landlords and tenants, and to provide dispute resolution and advocacy services to tenants throughout Victoria, especially disadvantaged members of the community. Funding is also provided to a number of specialist and statewide services for various tenancy-related activities.

Ballarat Children's Homes and Family Services Inc
115 Lydiard Street North
BALLARAT 3350
\$61,553

Provides services to the Central Highlands Region.

Barwon Region Housing Council Inc
1 Little Ryrie Street
GEELONG 3220
\$117,809

Provides services in the Barwon Region.

Bayside Tenants Information Service Inc
13 Wells Street
FRANKSTON 3199
\$86,191

Provides services in the Westernport Region.

Bendigo Community Health Service Inc
478 Napier Street
BENDIGO 3550
\$99,878

Provides services in the Loddon Campaspe Region.

Broadmeadows Tenants Information Service Inc
100 Longford Crescent
COOLAROO 3048
\$42,581

Provides services in the North West Region. Access to Arabic-speaking and Turkish-speaking workers through the Ethnic Tenancy Project.

Consumer and Tenancy Advice Service Inc
110 Hume Street
WODONGA 3690
and
45A Ovens Street
WANGARATTA 3677
\$88,650

Provides services in the Upper Murray Region.

Consumer and Tenant Resource Centre Outer East Inc
Suite 11, 5-7 Chandler Road
BORONIA 3155
\$66,082

Provides services in the Outer East Region.

Deer Park Community Information Centre Inc
Shop 95A, Deer Park Central
Neale Road
DEER PARK 3023
\$45,638

Provides services in the Western Region. Access to Spanish-speaking, and Turkish-speaking workers through the Ethnic Tenancy project.

REGIONAL SERVICES Cont.

Gippsland Consumer and Tenants
Information Service Inc
22 Hazelwood Road
MORWELL 3840
\$69,033

Provides services in the Central Gippsland
Region.

Goulburn Regional Housing Council Inc
87 Nixon Street
SHEPPARTON 3630
and
Shop 7, Cecily Court
Nunn Street
BENALLA 3672
\$101,228

Provides services in the Goulburn Region.

Inner Eastern Housing Services Inc
12 Rutland Road
BOX HILL 3128
\$53,938

Provides services in the Inner East Region.
Access to a Cambodian-speaking worker
through the Ethnic Tenancy Project.

Kilmany Family Care
113 Cunningham Street
SALE 3850
and
6 Park Street
BAIRNSDALE 3875
\$59,664

Provides services in the East Gippsland
Region.

Mallee Tenancy Advice Service Inc
1/152 Pine Avenue
MILDURA 3500
and
300 Campbell Street
SWAN HILL 3585
\$130,224

Provides services in the Mallee Region.

South Western Community Care Inc
26 Fairy Street
WARRNAMBOOL 3280
and
Camperdown Hospital
CAMPERDOWN 3260
and
63 Percy Street
PORTLAND 3305
and
46 Brown Street
HAMILTON 3300
\$95,900

Provides services in the Glenelg Region.

Springvale Community Aid and Advice
Bureau Inc
5 Osborne Avenue
SPRINGVALE 3171
\$54,491

Provides services in the northern part of the
Westernport Region. Access to a Vietnamese-
speaking worker through the Ethnic Tenancy
Project.

Tenancy Advisory Service for Southern Inc
372 South Road
MOORABBIN 3189
\$53,932

Provides services in the Southern Region.

Wimmera Community Care
185 Baillie Street
HORSHAM 3400
\$52,526

Provides services to the Wimmera Region.

SPECIALIST SERVICES

Organisation	Purpose of Grant
Housing for the Aged Action Group Inc 3rd Floor, Ross House 247-251 Flinders Lane MELBOURNE 3000 \$49,865	Provision of a community education, information/advice and advocacy and support service on tenancy issues for the aged as a statewide project.
Rooming House Tenants Association Inc 98 Gertrude Street FITZROY 3065 \$124,654	Provision of rooming house resident information/advice, complaint resolution and advocacy services. Contribution to policy development and legislative change on rooming house issues.
Tenants Union of Victoria Inc 35 Smith Street FITZROY 3065 \$291,992	Provision of a full range of tenancy information/advice, complaint resolution, advocacy and education services, particularly to assist disadvantaged tenants in the Inner Urban, North East and Western Regions. Provision of access to a Vietnamese-speaking worker in the Western Region and a Cambodian-speaking worker in the North East Region through the Ethnic Tenancy Project. Undertaking of statewide resourcing, and supporting of regional tenant advice services, research, policy and community education work.

C. Ethnic Tenancy Project

ETHNIC TENANCY PROJECT BI-LINGUAL PROGRAM FROM 1 JULY 1994 TO 30 JUNE 1995

The Ethnic Tenancy Project provides funding to four community agencies to employ bi-lingual workers within the framework of the Tenant Support Program, to provide a full range of tenancy information/advice, complaint resolution, advocacy and education services to Victorians of five different ethnic origins. Workers are developing strategies to achieve full provision of tenancy services to these communities by mainstream services.

Cambodian Association of Victoria Inc 52 Queens Avenue SPRINGVALE 3171 \$60,183	Provides services to the Cambodian-speaking community. Outreach to Inner Eastern Housing Service, Box Hill (Inner East Region), and the Tenants Union Northcote Office (North East Region).
Deer Park Community Information Centre Inc 73 Dumfries Street DEER PARK 3023 \$37,591	Provides services to the Spanish-speaking community.
Tenants Union of Victoria Inc 35 Smith Street FITZROY 3065 \$60,183	Provides services to the Vietnamese-speaking community. Service is based at Footscray.

ETHNIC SERVICES Cont.

Broadmeadows Tenants Information Service
Inc
100 Longford Crescent
COOLAROO 3048
\$60,183

Provides services to the Arabic-speaking
community.

Broadmeadows Tenants Information Service
Inc
100 Longford Crescent
COOLAROO 3048
\$60,183

Provides services to the Turkish-speaking
community.

APPENDIX 3

COMPLAINT STATISTICS

Consumer Complaints by Product Type (National Consumer Complaints Statistics System)

	1992-93	1993-94	1994-95
Food, Beverages, Tobacco	35 (0.3%)	24 (0.2%)	33 (0.3%)
Clothing, Footwear, Drapery, Manchester	609 (5.1%)	478 (4.2%)	370 (2.9%)
Household Goods	1,434 (12.0%)	1,309 (11.6%)	1,485 (11.8%)
Motor Vehicles & Other Transport Equipment	1,675 (14.1%)	1,661 (14.7%)	1,686 (13.4%)
Building & Construction	813 (6.8%)	735 (6.5%)	1,044 (8.3%)
Commercial Equipment, Appliances & Supplies	29 (0.2%)	37 (0.3%)	41 (0.3%)
Personal Items, Entertainment & Novelties	638 (5.4%)	628 (5.6%)	418 (3.3%)
Transport, Post, Telephone, Energy	467 (3.9%)	412 (3.7%)	541 (4.3%)
Insurance, Finance & Investment	515 (4.3%)	363 (3.2%)	355 (2.8%)
Real Estate & Accommodation	4,359 (36.6%)	4,273 (37.9%)	4,869 (38.8%)
Miscellaneous Services	1,217 (10.2%)	1,244 (11.0%)	1,465 (11.6%)
Other/Unspecified	113 (0.9%)	112 (1.0%)	247 (1.9%)
Total	11,904	11,276	12,554

Consumer Complaints by Practice Type (National Consumer Complaints Statistics System)

	1992-93	1993-94	1994-95
Advertising	110 (0.7%)	50 (0.4%)	67 (0.4%)
Representations	174 (1.1%)	236 (1.8%)	87 (0.6%)
Product Labelling	8 (<0.1%)	12 (<0.1%)	12 (<0.1%)
Sales	154 (1.0%)	170 (1.3%)	85 (0.6%)
Price	692 (4.5%)	640 (4.8%)	616 (4.1%)
Quality	6,231 (40.3%)	4,430 (32.9%)	4,742 (31.6%)
Credit	319 (2.1%)	191 (1.4%)	152 (1.0%)
Contracts	2,147 (13.9%)	2,320 (17.2%)	3,243 (21.6%)
Warranties	421 (2.7%)	513 (3.8%)	535 (3.6%)
Miscellaneous Conduct	677 (4.4%)	495 (3.7%)	254 (1.7%)
Tenancy	4,540 (29.3%)	4,403 (32.7%)	5,197 (34.7%)
Total	15,473	13,460	14,985

Note: The totals in this table are higher than those in the preceding one because a complaint can only be about one product but may concern more than one practice.

APPENDIX 4

RESIDENTIAL TENANCIES: INSPECTIONS & OTHER SERVICES

MATTERS REFERRED	1992-93	1993-94	1994-95
Inspections directly requested			
abandoned goods	2,110	2,286	2,527
repairs	1,268	1,319	1,518
rent increase	172	171	180
Total written requests for assistance (including inspection requests and complaints regarding termination, bonds, quiet enjoyment etc)	4,233	4,401	4,765

APPENDIX 5

TRIBUNAL DATA

A. Residential Tenancies Tribunal

APPLICATIONS TO THE RESIDENTIAL TENANCIES TRIBUNAL UNDER THE RESIDENTIAL TENANCIES ACT

YEAR	Landlord	Tenant	Total
1990-91	27,469 (93.2%)	2,013 (6.8%)	29,482
1991-92	24,539 (92.6%)	1,952 (7.4%)	26,491
1992-93	28,718 (93.2%)	2,086 (6.8%)	30,804
1993-94	32,637 (94.2%)	2,000 (5.8%)	34,637
1994-95	35,919 (95.8%)	1,596 (4.2%)	37,515

TENANT APPLICATIONS BY TYPE

APPLICATION	1992-93	1993-94	1994-95
General Applications s.23	418 (20.0%)	497 (24.9%)	366 (22.9%)
Compensation s.105	938 (45.0%)	773 (38.7%)	692 (43.4%)
Reduction in fixed term tenancy s.113	447 (21.4%)	468 (23.4%)	326 (20.4%)
Repairs - General s.100	135 (6.5%)	110 (5.5%)	94 (5.9%)
Repairs - Urgent s.99	24 (1.2%)	24 (1.2%)	7 (0.4%)
Entry s.96	65 (3.1%)	78 (3.9%)	54 (3.4%)
Other	59 (2.8%)	50 (2.5%)	57 (3.6%)
Total	2,086	2,000	1,596

LANDLORD APPLICATIONS BY TYPE

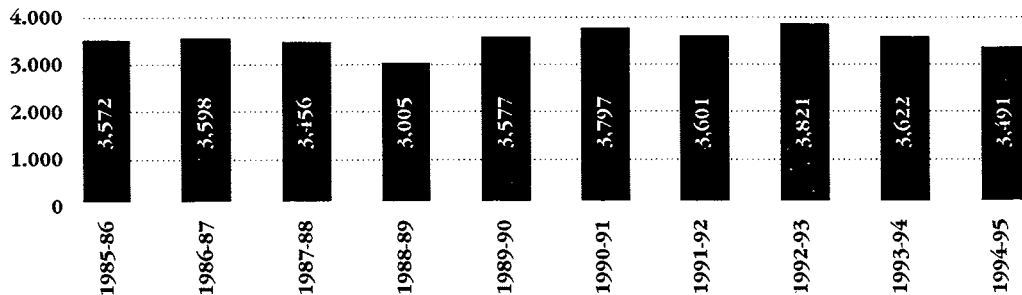
APPLICATION	1992-93		1993-94		1994-95	
Possession						
s.118	234	(0.8%)	283	(0.9%)	292	(0.8%)
s.119	19,441	(67.7%)	22,019	(67.5%)	23,420	(65.2%)
s.120	117	(0.4%)	115	(0.4%)	163	(0.5%)
s.121	12	(<0.1%)	10	(<0.1%)	15	(<0.1%)
s.122	2,939	(10.2%)	3,398	(10.4%)	3,688	(10.3%)
s.123	22	(<0.1%)	19	(<0.1%)	25	(<0.1%)
Sub Total	22,765	(79.3%)	25,844	(79.2%)	27,603	(76.8%)
Compensation s.105	1,561	(5.4%)	1,942	(6.0%)	3,049	(8.5%)
Abandoned premises s.111	379	(1.3%)	405	(1.3%)	341	(0.9%)
Reduction in fixed term tenancy s.113	55	(0.2%)	44	(0.1%)	64	(0.2%)
Security deposit s.77	3,281	(11.4%)	3,846	(11.8%)	4,283	(11.9%)
Other	677	(2.4%)	556	(1.7%)	579	(1.6%)
Total	28,718		32,637		35,919	

APPLICATIONS TO THE RESIDENTIAL TENANCIES TRIBUNAL UNDER OTHER LEGISLATION

YEAR	Caravan Parks and Movable Dwellings Act	Rooming Houses Act	Landlord and Tenant Act (sitting as Fair Rents Board)
1990-91	112	227	15
1991-92	138	521	10
1992-93	144	919	10
1993-94	117	711	7
1994-95	124	865	6

B. Small Claims Tribunals

APPLICATIONS TO THE SMALL CLAIMS TRIBUNALS



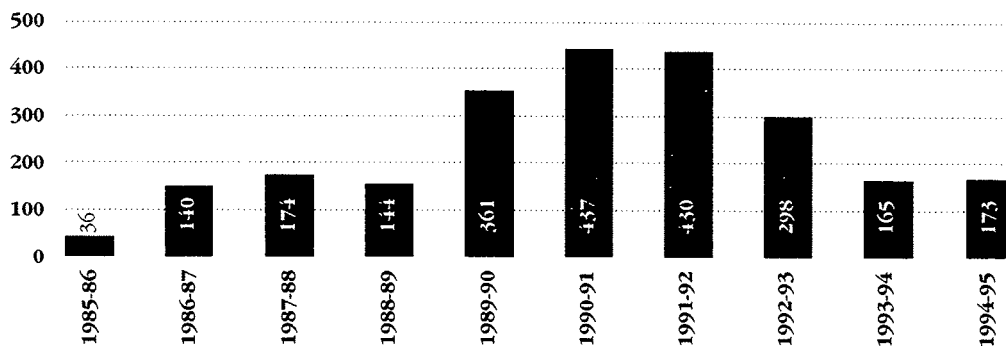
C. Regional Tribunal Hearings

REGIONAL TRIBUNAL SITTING DAYS

Location	1992-93	1993-94	1994-95
Bairnsdale	20	19	15
Ballarat	62	77	65
Benalla	10	10	15
Bendigo	40	54	51
Cobram	7	13	13
Colac	15	12	11
Dandenong	369	456	363
Echuca	16	13	13
Footscray	358	335	112
Frankston	52	45	93
Geelong	104	139	110
Hamilton	15	12	13
Horsham	13	13	16
Kerang	1	-	3
Knox	-	159	327
Korumburra	14	14	13
Mansfield	8	6	11
Maryborough	7	10	9
Mildura	18	25	23
Moe	45	61	63
Mordialloc	35	-	-
Myrtleford	6	13	9
Orbost	-	1	-
Portland	17	13	15
Ringwood	369	32	-
Sale	20	21	15
Seymour	15	14	18
Shepparton	26	11	32
Swan Hill	14	34	14
Wangaratta	19	21	18
Warmambool	19	20	21
Werribee	-	1	25
Wodonga	18	22	21

D. Credit Tribunal

APPLICATIONS TO THE CREDIT TRIBUNAL



APPENDIX 6

A. PROSECUTIONS 1994-1995 (General)

DATE OF HEARING	DEFENDANT	ACT	SECT	SUMMARY	OFF-ENCES	FINES \$	COSTS \$	OTHER ORDERS DETAILS
7 Jul 94	Kenneth Graeme Mills trading as Graeme's Carpentry, Joinery & Maintenance Services	HCGA	23(3) 5(1) 18 20(1)	A person who entered into a domestic building agreement while not an approved builder, failed to provide the required guarantee, failed to provide a proper written contract, and obtained an excessive deposit.	1 1 1 1	1,500.00 1,500.00 700.00 1,500.00	500.00	Fine with conviction.
13 Jul 94	Frank Cappelleri	HCGA	23(3) 18 5(1) 12(e) 12(b) 20(b) 5(1)	A person fined a total of \$148,600 on 15 April 1994 for entering into building contracts when not an approved builder, failing to provide the required contracts and guarantees, falsely representing that he was a registered plumber and that his work was guaranteed by the Housing Guarantee Fund Ltd, taking payment for goods and services without reasonable expectation of delivery, and failing to register business names under which he traded.	5 5 5 1 4 3	880.00	Application for rehearing dismissed. Fines affirmed. Stay of 30 days on fines and costs. Subsequent application to convert fines to 500 hours work under community based order granted. (Office of Corrections has since applied to have the CBO order set aside and fines restored.)	
15 Jul 94	Frank Cappelleri	FTA	34	A person made subject on 15 April 1994 to an interim injunction restraining him from making false representations and breaching Part II of the Fair Trading Act 1985.				Permanent injunction granted restraining defendant from conduct contravening Part II of the Fair Trading Act 1985, including conduct constituting a breach of provisions of the House Contracts Guarantee Act 1987 requiring registration of builders and provision of guarantees in relation to domestic building work.
20 Jul 94	Steve Haljilji	RTA	40	A person who failed to comply with a Residential Tenancies Tribunal determination.	1	200.00	483.00	

DATE OF HEARING	DEFENDANT	ACT	SECT	SUMMARY	OFF-ENCES	FINES \$	COSTS \$	OTHER ORDERS DETAILS
25 Jul 94	Mizzan Pty Ltd	FTA	12(i)	A company which made false representations in advertising that a particular motor vehicle had received a specific award.	4	1,500.00	368.00	Fine without conviction.
25 Jul 94	Lee Broomhall	FTA	12(i)	A person who made false representations in advertising that a particular motor vehicle had received a specific award.	4	1,000.00		Fine without conviction.
25 Jul 94	Ian Cook	RTA	67(1) 76(1)	A person who failed to pay a security deposit into an approved trust account and to provide a receipt for a security deposit.	1 1		300.00	12 month bond. No conviction recorded.
26 Jul 94	David Allan Davis	MCTA	7(1)	A person who engaged in unlicensed motor car trading.	1		350.00	\$200 into court fund.
2 Aug 94	Cyril Everett	MCTA	7(1)	A person who engaged in unlicensed motor car trading.	1	2,000.00	239.00	
5 Aug 94	Fenning Oaks Pty Ltd	HCGA	23(3) 20(1)	A company which entered into a domestic building contract while not an approved builder and obtained an excessive deposit.	1 1	500.00	260.50	Fine without conviction.
5 Aug 94	Graham Leslie Jones	HCGA	23(3) 20(1)	A director of Fenning Oaks Pty Ltd knowingly concerned in the offences committed by the company.	1 1	100.00		Fine without conviction.
5 Aug 94	Commercial and Industrial Carpentry Pty Ltd	HCGA	24(2) 20(1)	A company which failed to notify Housing Guarantee Fund Ltd of a domestic building contract and obtained an excessive deposit.	1 1	500.00	260.50	Fine without conviction.
5 Aug 94	Peter James Douglas	HCGA	24(2) 20(1)	A director of Commercial and Industrial Carpentry Pty Ltd knowingly concerned in the offences committed by the company.	1 1	100.00		Fine without conviction.
30 Aug 94	Anthony William Trim	RTA	40	A person who failed to comply with Residential Tenancies Tribunal determinations.	2	600.00	384.00	
31 Aug 94	Paul Castran	FTA	13(1)	A person who misrepresented characteristics of property that was for sale.	1		655.25	12 month bond.

DATE OF HEARING	DEFENDANT	ACT	SECT	SUMMARY	OFF-ENCES	FINES \$	COSTS \$	OTHER ORDERS DETAILS
31 Aug 94	Castran Gilbert Pty Ltd	FTA	13(1)	A company which misrepresented characteristics of property it was selling.	1		655.25	12 month bond.
7 Sep 94	Doug Walker trading as Westcraft Constructions	HCGA	23(3) 5(1) 27(1) 20(1) 5(1)	A person who entered into a domestic building contract while not an approved builder, failed to provide the required guarantee, made a false representation, charged an excessive deposit, and traded under an unregistered business name.	1 1 1 1 1	3,000.00 3,000.00 4,000.00 3,000.00 150.00	631.00	
8 Sep 94	John Lawrence Nelis	MCTA	7(1)	A person who engaged in unlicensed motor car trading.	1	750.00	396.00	
9 Sep 94	Frank Bevaqua	FTA	13(1)	A person who misrepresented characteristics of property for sale.	1			12 month bond.
9 Sep 94	Bellevue Hill Pty Ltd	FTA	13(1)	A company which misrepresented characteristics of property it was selling.	1	1,500.00	500.00	
13 Sep 94	David Bowman	MCTA FTA	14(2) 12(a)	A motor car trader who failed to comply with conditions on his licence and who tampered with odometer readings thereby falsely representing vehicles' history.	1 6	1,000.00 9,000.00	500.00	
26 Sep 94	John Meimaris trading as Superior Reblocking	HCGA FTA	27(1) 12(e) 12(f)	A person who represented clients as owner builders, claimed an affiliation (with the Housing Industry Association) he did not have and made false representations.	40 43 2	3,000.00	700.00	
28 Sep 94	Mark Stephen Potter	MCTA	7(1)	A person who engaged in unlicensed motor car trading.	1		375.00	6 month bond and \$1,000 to Kids Help Line.
29 Sep 94	Robert McIntosh	FTA	12(i) 12(f)	A person who made a misleading representation that a skylight had no "heat gain" and a misleading representation as to the price of a skylight.	1 1	100.00 100.00	490.00	
5 Oct 94	Leslie J Briggs	MCTA	7(1)	A person who engaged in unlicensed motor car trading.	1			Convicted and discharged.

DATE OF HEARING	DEFENDANT	ACT	SECT	SUMMARY	OFF-ENCS	FINES \$	COSTS \$	OTHER ORDERS DETAILS
6 Oct 94	Ballarat Quality Builders Pty Ltd	HCGA	20(1) 24(2)	A company which demanded an excessive deposit on a domestic building contract and entered into the contract without notifying the Housing Guarantee Fund Ltd.	2	4,000.00	1,033.00	
6 Oct 94	Peter Krasulak	HCGA	20(1) 24(2)	A director of Ballarat Quality Builders Pty Ltd involved in the offences committed by the company.	2	4,000.00		
6 Oct 94	Irena Krasulak	HCGA	20(1)	A director of Ballarat Quality Builders Pty Ltd involved in an offence committed by the company.	1	2,000.00		
10 Oct 94	James M Cooper-Poole	RTA	40	A person who failed to comply with a Residential Tenancies Tribunal determination.	1	250.00		
11 Oct 94	Darren Tyson	MCTA	7(1)	A person who engaged in unlicensed motor car trading.	1	500.00	1,270.00	
12 Oct 94	William Graham Cooper	MCTA	7(1)	A person who engaged in unlicensed motor car trading.	1			50 hours of unpaid community work over 6 months.
13 Oct 94	Domenic Lamanna	FTA	12(a)	A person who falsely represented vehicles' history.	2	1,500.00	910.00	
13 Oct 94	Robin John Mellors	MCTA FTA	7(1) 12(a) 12(f)	A person who engaged in unlicensed motor car trading and falsely represented vehicles' history.	1 2 1	3,083.00	910.00	
14 Oct 94	Simon Ansell trading as Stans Fencing Company	FTA	12(e), (h) and (i)	A person who falsely claimed affiliation with Master Fencers Association of Victoria, falsely represented that a guarantee applied to his work and that his work had been inspected and passed by a local council, and falsely identified the builder of a fence.	6		371.00	6 month bond and \$500 into court fund.
14 Oct 94	Wendy Price	RTA	40	A person who failed to comply with a Residential Tenancies Tribunal determination.	1	250.00	394.00	\$26 into court fund.

DATE OF HEARING	DEFENDANT	ACT	SECT	SUMMARY	OFF-ENCES	FINES \$	COSTS \$	OTHER ORDERS DETAILS
19 Oct 94	John Alexiou	MCTA	7(1)	A person who engaged in unlicensed motor car trading.	1	5,500.00	376.00	
19 Oct 94	Vittorio Lombardi	MCTA	7(1)	A person who engaged in unlicensed motor car trading.	1	8,500.00	386.00	
24 Oct 94	Gregory Gavin Kannemeyer	HCGA	23(3) 5(1) 20(1) 12(e)	A person fined on 17 November 1993 for entering into a domestic building contract while not an approved builder, failing to provide the required guarantee, demanding and receiving an excessive deposit, and claiming an affiliation (with the Housing Industry Association) he did not have.	1 1 1 1	4,500.00	728.50	Fines reduced from \$10,000.
28 Oct 94	Gazi Akbulut	MCTA	7(1)	A person who engaged in unlicensed motor car trading.	1	650.00	350.00	
28 Oct 94	Nelliston Pty Ltd	FTA MCTA	12(a) 52(6)	A motor car trader which misrepresented service history of motor vehicles and failed to retain a "Form 8" window notice.	2 1	3,250.00	398.00	
28 Oct 94	Harry Griffiths Duncan trading as Building Supervisor Services	HCGA	23(3) 5(1) 18 20(1)	A person who entered into a domestic building agreement while not an approved builder, failed to provide the required guarantee, failed to provide a signed contract, and obtained an excessive deposit.	1 1 1 1	500.00	250.00	Fine without conviction.
9 Nov 94	Thomas Barrett	HCGA	23(3) 5(1) 18 20(1)	A person who entered into a domestic building agreement while not an approved builder, failed to provide the required guarantee, failed to provide a signed contract, and obtained an excessive deposit.	1 1 1 1	3,000.00	551.00	
17 Nov 94	F&L Pty Ltd	RTA	40	A company which failed to comply with a Residential Tenancies Tribunal determination.	1	450.00		
22 Nov 94	Astelot Tooling & Equipment Pty Ltd trading as Shepparton World of Cars	MCTA	41(2)(b) 35(2)(a) 52(6) 35(2)(b) 41(2)(a)	A licensed motor car trader fined on 9 August 1994 for failing to provide a purchaser with a copy of a sale agreement, to enter odometer readings in its dealings book and sales agreements, to ensure that dealings book entries were signed, and to retain prescribed notices for three years.	1 3 6 5 19	2,500.00	916.00	Fines reduced from \$18,000. Costs in addition to original costs of \$616.96.

DATE OF HEARING	DEFENDANT	ACT	SECT	SUMMARY	OFF-ENCES	FINES \$	COSTS \$	OTHER ORDERS DETAILS
24 Nov 94	Francois Habib	MCTA	7(1)	A person who engaged in unlicensed motor car trading.	1	200.00	389.50	Fine without conviction.
29 Nov 94	George Hrysanthakopoulos trading as RuteWAY Reblocking	FTA BNA	12(e) 12(8)	A person who claimed an affiliation (with the Housing Industry Association) he did not have and failed to give notice of a change of address for a registered business name.	1 1	100.00	551.00	Restitution of \$4,080.00.
5 Dec 94	Nick Gerakoulakos trading as Express Reblocking	FTA BNA	12(e) 12(8)	A person who claimed an affiliation (with the Housing Industry Association) he did not have and failed to give notice of a change of address for a registered business name.	57 1	1,750.00	759.50	
8 Dec 94	Robert Leslie Armistead	RTA	40	A person who failed to comply with a Residential Tenancies Tribunal determination.	1	500.00	250.00	
12 Dec 94	Goulburn Valley Auto Wreckers Pty Ltd	MCTA	35(2) 52(1)	A motorcar trader which failed to enter details of motor vehicles in its dealings book and failed to display required particulars on used motor vehicles.	6 9	3,050.00	384.00	Fine without conviction.
13 Dec 94	George Hryscos	RTA	40 ↓	A person who failed to comply with a Residential Tenancies Tribunal determination.	1	350.00	526.50	
15 Dec 94	Edward Charles Vella	RTA	73 * 86	A landlord who failed to provide condition reports and a copy of a tenancy agreement.	2 1	100.00	350.00	Fine without conviction.
16 Dec 94	Theodora Panayiotis	RTA	40	A person who failed to comply with a Residential Tenancies Tribunal determination.	1		257.50	12 month bond.
16 Dec 94	Angelo Giannopoulos	HCGA	23(3) 5(1) 27	A person who entered into a domestic building contract while not an approved builder, failed to provide the required guarantee and falsely represented that his client was an owner builder.	1 1 1	2,000.00	524.00	
20 Dec 94	Elizabeth Slovic	RTA	40 *	A person who failed to comply with a Residential Tenancies Tribunal determination.	1	100.00	294.00	
20 Dec 94	Smith Dealership Pty Ltd trading as R&B Smith Holden	FTA	12(h)	A motor car trader which misrepresented its warranty obligations.	6		464.00	12 month bond. \$6,000 into court fund.

DATE OF HEARING	DEFENDANT	ACT	SECT	SUMMARY	OFF-ENCES	FINES \$	COSTS \$	OTHER ORDERS DETAILS
20 Dec 94	Viclock Pty Ltd trading as R&B Smith Holden	FTA	12(h)	A motor car trader which misrepresented its warranty obligations.	5		464.00	12 month bond. \$5,000 into court fund.
31 Jan 95	Dean Coladonato	RTA	40	A person who failed to comply with a Residential Tenancies Tribunal determination.	1	300.00	300.00	
2 Feb 95	Natalie Maatorana	RTA	40	A person who failed to comply with a Residential Tenancies Tribunal determination.	1			Found proven; without conviction.
7 Feb 95	Peter Brennan	HCGA	23(3) 5(1) 18(1) 20(1)	A person who entered into a domestic building agreement while not an approved builder, failed to provide the required guarantee or a signed contract, and charged an excessive deposit.	1 1 1 1	750.00	400.00	Fine without conviction.
10 Feb 95	George Loulelis	RHA	47	A person who failed to comply with a Residential Tenancies Tribunal determination.	1	200.00	274.00	Fine without conviction.
13 Feb 95	Kadir & Sons Pty Ltd	FTA	12(a)	A company which falsely represented that oriental rugs were of a particular composition.	1	5,000.00	2,000.00	
13 Feb 95	Mohamed Zainal	FTA	12(a)	A person who falsely represented that oriental rugs were of a particular composition.	1	750.00		Fine without conviction.
20 Feb 95	C&M and S&N Pty Ltd trading as Reliable Motors	MCTA	38(1) 35(2)	A motor car trader which engaged in odometer tampering and failed to make dealings book entries.	1 1	3,000.00		
20 Feb 95	Sokole Joveski	MCTA	38(1) 35(2)	A director of C&M and S&N Pty Ltd involved in the offences committed by the company.	1 1	3,000.00	150.00	
22 Feb 95	Geneva Cove Pty Ltd trading as Burwin Motors	MCTA	48(1) 35(2)	A motor car trader which failed to procure the cancellation of a security interest in a motor car before selling it and failed to make dealings book entries.	1 1	1,200.00 500.00	513.50	
22 Feb 95	Lou Papile	MCTA	48(1)	A motor car trader who failed to procure the cancellation of a security interest in a motor car before selling it.	1	500.00		
28 Feb 95	Hazelmeade Nominees Pty Ltd	FTA	12(a)	A company which falsely represented the history of a motor vehicle.	1	750.00	390.00	

DATE OF HEARING	DEFENDANT	ACT	SECT	SUMMARY	OFF-ENCES	FINES \$	COSTS \$	OTHER ORDERS DETAILS
1 Mar 95	Eduardo Luis Cabral	MCTA	7(1)	A person who engaged in unlicensed motor car trading.	1	5,000.00	350.00	Fine without conviction.
2 Mar 95	Frank Dimitrou	RTA	40	A person who failed to comply with a Residential Tenancies Tribunal determination.	1	200.00	707.00	Fine without conviction.
6 Mar 95	David James Horsburgh trading as Automobilia Motor Brokerage	MCTA	7(1)	A person who engaged in unlicensed motor car trading.	1	2,400.00	350.00	Fine without conviction.
9 Mar 95	Peter Hojeij trading as Melkite Open Centre	FAA	5	A person who engaged in fundraising when not entitled to do so.	1		255.00	12 month bond.
9 Mar 95	George Hojeij	FAA	5	A person who engaged in fundraising when not entitled to do so.	1		277.00	12 month bond.
15 Mar 95	Zak Mar trading as Tile Right Restorations	HCGA	23(3) 5(1) 18 27	A person who entered into a building agreement while not an approved builder, failed to provide the required guarantee or a signed contract, and falsely represented that he was a member of a committee of Housing Guarantee Fund Ltd.	1 1 1 1	11,000.00	779.00	
23 Mar 95	Dragan Talevski	RTA	40	A person who failed to comply with Residential Tenancies Tribunal determinations.	2	500.00	272.00	Fine without conviction.
23 Mar 95	Velika Talevski	RTA	40	A person who failed to comply with a Residential Tenancies Tribunal determination.	1	250.00	272.00	Fine without conviction.
29 Mar 95	Garry Parrington	RTA	40	A person who failed to comply with a Residential Tenancies Tribunal determination.	1	100.00	350.00	
14 Apr 95	F&L Pty Ltd	RTA	77	A landlord which failed to return a security deposit within 14 days of the tenancy ending.	1	850.00	512.40	
20 Apr 95	Kemia Enterprises Pty Ltd	FAA	5 36 34	A company that conducted a fundraising appeal when not entitled to do so, without consent identified persons on whose behalf the appeal was supposedly being made, and failed to provide information lawfully requested.	1 1 1	20,000.00		

DATE OF HEARING	DEFENDANT	ACT	SECT	SUMMARY	OFF-ENCES	FINES \$	COSTS \$	OTHER ORDERS DETAILS
20 Apr 95	Keith Middlemiss	FAA	5 36 34	A person who conducted a fundraising appeal when not entitled to do so, without consent identified persons on whose behalf the appeal was supposedly being made, and failed to provide information lawfully requested.	1 1 1	30,000.00		3 months imprisonment.
4 May 95	Ernest Russell Snowball	MCTA	7(1)	A person who engaged in unlicensed motor car trading.	1	300.00	234.00	Fine without conviction.
4 May 95	Murray Ryan	MCTA	7(1)	A person who engaged in unlicensed motor car trading.	1	500.00	234.00	Fine without conviction.
17 May 95	David Vinson	FTA	12(i) 29	A person who made false and misleading representations concerning the agreement of consumers to purchase its services and unreasonably asserted a right to payment in debiting credit cards without express authority.	18 18		16,930.00 shared between 3 defendants	12 month bond and \$2,000 into court fund.
17 May 95	Comp-U-Card Australia Pty Ltd	FTA	12(i) 29	A company which made false and misleading representations concerning the agreement of consumers to purchase its services and unreasonably asserted a right to payment in debiting credit cards without express authority.	5 5		16,930.00 shared between 3 defendants	12 month bond.
17 May 95	CUC Australasia Ltd	FTA	12(i) 29	A company which made false and misleading representations concerning the agreement of consumers to purchase its services and unreasonably asserted a right to payment in debiting credit cards without express authority.	18 18	12,000.00	16,930.00 shared between 3 defendants	Fine without conviction.
18 May 95	Kevin Francis-Wright	RTA	76 40	A person who failed to complete a receipt for a security deposit and failed to comply with Residential Tenancies Tribunal determinations.	1 2	100.00 200.00	100.00	
19 May 95	Scott Andrew O'Hare	MCTA	7(1)	A person who engaged in unlicensed motor car trading.	1		250.00	12 month bond. \$200 into court fund.
23 May 95	Donna Jeffreys	RTA	87 73(1) 76(2) 61(2)(a) 61(2)(c) 77(2) 40	A landlord who failed to provide a statement of rights and duties or a condition report, failed to provide a receipt for a security deposit in the prescribed form, failed to provide prescribed details on a rent receipt, failed to return a security deposit within 14 days of the tenancy ending and failed to comply with a Residential Tenancies Tribunal determination.	1 1 1 1 1 1 1	100.00 100.00 100.00 100.00 100.00 100.00 100.00	450.00	

DATE OF HEARING	DEFENDANT	ACT	SECT	SUMMARY	OFF-ENCES	FINES \$	COSTS \$	OTHER ORDERS DETAILS
30 May 95	Christopher L Guilmartin	MCTA	7(1)	A person who engaged in unlicensed motor car trading.	1	3,000.00	850.00	
30 May 95	Nicolouléas Socrates	HCGA	23(3) 5(1)	A person who entered into a domestic building contract while not an approved builder and failed to provide the required guarantee.	1		500.00	12 month bond.
31 May 95	Scott Wilson	RTA	40	A person who failed to comply with Residential Tenancies Tribunal determinations.	2	1,000.00	399.00	
1 Jun 95	Sandra Gliddon	RTA	40	A person who failed to comply with a Residential Tenancies Tribunal determination.	1	100.00	200.00	Fine without conviction.
8 Jun 95	Trevor Parsons trading as Tradies Available	HCGA	23(3) 5(1) 27 12(e)	A person who entered into a building contract while not an approved builder, failed to provide the required guarantee, falsely represented that he was an approved builder and claimed an affiliation (with the Housing Industry Association) he did not have.	1 1 1 1	1,600.00	985.00	
16 Jun 95	Joseph Nicholas Williams, also known as Joseph Nicolas Couscoursis	MCTA	10	A person who made a false statement in relation to an application for a motor car trader's licence.	1	1,000.00	549.80	
21 Jun 95	John Sebastian Gilson	TAA	6	A person who traded as a travel agent without being licensed.	1	5,000.00	633.50	
22 Jun 95	Alan Moore trading as A J Moore (Builder & Contractor)	HCGA BNA	23(3) 5(1) 18 5	A person who entered into a domestic building agreement while not an approved builder, failed to provide the required guarantee, and failed to provide a written contract and who conducted business under an unregistered business name.	1 1 1 1	750.00	441.00	Fine without conviction.
26 Jun 95	Vincent Paul Vella	MCTA	7(1)	A person who engaged in unlicensed motor car trading.	1	750.00	384.00	Fine without conviction.
27 Jun 95	David Byron trading as Byron & Lovelace Carpentry	HCGA FTA	23(3) 5(1) 20(1) 12(i)	A person who entered into a domestic building agreement while not an approved builder, failed to provide the required guarantee, demanded and received an excessive deposit and claimed an affiliation (with the Housing Industry Association) he did not have.	1 1 1 1	950.00	427.50	

DATE OF HEARING	DEFENDANT	ACT	SECT	SUMMARY	OFF. ENCES	FINES \$	COSTS \$	OTHER ORDERS DETAILS
28 Jun 95	Stephen Compton trading as Compton Constructions	HCGA	23(3) 5(1) 18 5	A person who entered into a domestic building contract while not an approved builder, failed to provide the required guarantee, and failed to provide a written contract, and who conducted business under an unregistered business name.	1 1 1 1	2,500.00	1,195.00	Appeal lodged.

Note: Italic type indicates re-hearing or appeal.

BNA Business Names Act 1962 **FAA** Fundraising Appeals Act 1984 **FTA** Fair Trading Act 1985 **HCGA** House Contracts Guarantee Act 1987 **MCTA** Motor Car Traders Act 1986
RHA Rooming Houses Act 1990 **RTA** Residential Tenancies Act 1980 **TAA** Travel Agents Act 1986

B. Prosecutions 1994-95 Relating to Estate Agents Act

DATE OF HEARING	DEFENDANT	SUMMARY	OFF. ENCES	FINES \$	COSTS \$	OTHER ORDERS
14 Jul 94	Barclay's Business Brokers Pty Ltd	A company which acted as an estate agent when not licensed in Victoria to do so.	8	4,800.00	1,500.00	Fine without conviction.
14 Jul 94	Walter William Mumford	A person who acted as a sub-agent for a corporation not holding a Victorian agent's licence.	3	\$1,800		Fine without conviction.
14 Jul 94	Janette Daphne Robb	A person prosecuted by the Director of Public Prosecutions for theft.	4			20 months imprisonment with a minimum of 8 months before eligibility for parole.
15 Sep 94	Robert Roland Poustie	A licensed estate agent who had a trust account deficiency without sufficient or satisfactory explanation and who fraudulently converted moneys to his own use.	1 1			12 months imprisonment, suspended for 2 years. Restitution of \$38,788.84 to Estate Agents' Guarantee Fund.
19 Sep 94	Mark Lawson Harrison	A person prosecuted by the Police for obtaining property by deception, theft, and false accounting.	25 39 27			2 years' imprisonment, of which 15 months suspended for 2 years. Restitution orders of \$44,667.62

DATE OF HEARING	DEFENDANT	SUMMARY	OFF-ENCES	FINES \$	COSTS \$	OTHER ORDERS
17 Oct 94	Julie Margaret Dean	A licensed sub-agent prosecuted by the Police for theft.	3 7			9 months imprisonment, suspended for 12 months. Sub-agent's licence cancelled. \$33,529 restitution. 12 month community based order.
21 Oct 94	<i>Les Milan Takacs</i>	<i>A licensed sub-agent prosecuted by the Police for theft.</i>	47			<i>3 months imprisonment. Restitution orders of \$34,522, including \$18,920 to Estate Agents' Guarantee Fund.</i>
24 Oct 94	Deal-Direct Property Marketing Pty Ltd	A company which acted as an estate agent when not licensed to do so.	2	2,000.00	638.00	
24 Oct 94	Peter Philip Peters	A person who acted as an estate agent when not licensed to do so.	2	2,000.00	638.00	
14 Dec 94	John Romania	A person who acted as a sub-agent for a licensed estate agent when not licensed to do so.	1	150.00	750.00	Fine without conviction.
19 Jan 95	<i>Les Milan Takacs</i>	<i>A licensed sub-agent prosecuted by the Police for theft.</i>	47			<i>12 months imprisonment, suspended for 2 years. Restitution orders of \$31,852, including \$16,250 to Estate Agents' Guarantee Fund.</i>
18 May 95	Philip Aslanidis	A person prosecuted by the Police for theft.	1			12 month community based order. 200 hours unpaid community work. Restitution order of \$9,900.

Note: Italic type indicates matter subsequently subject to re-hearing or appeal. Bold Italic type indicates re-hearing or appeal.

APPENDIX 7

1995 Fair Trading Award Winners

Fair Trader of the Year	A F Stewart Locksmiths (Victoria) Pty Ltd
Media Industry	TCN9 "Money" Program
Building Industry	joint winners - Archicentre and Building Surveying Services
Regional Awards - up to 30 employees	Bill Price Horse Dentistry
- up to 100 employees	Mildura Auto Works
Safety Award	Kidsafe
Motor Vehicle Industry - dealer	joint winners - Harris Wood Toyota and Etheridge Ford Ringwood
- repairer	Independent Body Repair Group Inc
Non-English Speaking Background Project	Sutherland Community Resource Centre - A Program of Berry St Inc
Retail - up to 30 employees	Syndal Authorised Newsagency
- over 100 employees	Coles Supermarkets
Real Estate Industry	Plunkett & Co
Education	National Primary School Consumer Education Working Party
Director's Award	Franklins Big Fresh Supermarket
Merit Awards	Granny Mays, Knox City Shopping Centre
	Consumer and Tenant Resource Centre Outer East Inc
	Victorian Furniture Removers' Association



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