

Education and Communications Branch
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Annual Report 1999

Office of Fair Trading and Business Affairs



VICTORIA

REPORT TO THE MINISTER FOR CONSUMER AFFAIRS
FOR THE YEAR ENDED 30 JUNE 1999



Department of Justice

Office of Fair Trading &
Business Affairs

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The Hon Marsha Thomson
Minister for Consumers Affairs
55 Collins Street
Melbourne 3000

Dear Minister

Annual Report 1998-99

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 1999.

The document has been prepared in satisfaction of Section 8A of the **Ministry of Consumer Affairs Act 1973** for you to lay before the Houses of Parliament.

Yours sincerely

Jane Reynolds
Director

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Overview

Director's Foreword

Jane Reynolds – Director



I am delighted to report on our work for the last financial year. In particular, I am pleased to highlight:

- introduction of a model for case management, ensuring focus on consumer empowerment, informed traders and forceful action against serious breaches;
 - active communications with a higher media profile;
 - advancement in technology to achieve improved customer service;
 - legislative change to update our regulatory framework;
 - establishment of the Residential Tenancies Bond Authority and the Business Licensing Authority;
- advancements in our planning and performance management processes;
 - improved financial control systems;
 - improved consultation with our stakeholders - consumer and trader groups.

A change in approach to case management of complaints during the year has enabled the Office to focus its resources to achieve results for consumers and business. We handled 406,151 enquiries at our call centre, aiming to empower consumers to negotiate wherever possible. We received 9866 written complaints about traders: the majority of these were resolved either by conciliation or written reply. Of the 2657 cases investigated, 69 led to prosecution. Of those actions concluded, 68 were successful.

The Office raised the profile of its activities significantly during the year in the metropolitan and regional print and electronic media. Enforcement programs were run simultaneously with widespread media campaigns aimed at educating the marketplace about rights and responsibilities. More than 1200 stories appeared in the Victorian media, highlighting our efforts in compliance, product safety and consumer warnings.

A substantial marketing and information campaign was carried out by the Office, aimed at raising awareness among estate agents, private landlords and tenants of the new rules introduced by the *Residential Tenancies Act 1999*. The campaign included advertising on metropolitan and regional television and printing and direct mailing of thousands of residential tenancy forms and guides. More than 400,000 copies of the Renting Guide were distributed during the year, including guides translated into eight community languages.

A major change within the Fair Trading portfolio was the passing of the Fair Trading Act 1999 with bipartisan support of the Parliament. It will establish a revitalised framework for ethical trading within Victoria.

Other legislation passed included the new *Fundraising Appeals Act 1998*, which is directed at protecting the public from fraud and malpractice. The *Prostitution Control (Amendment) Act 1999* was passed which aims to increase the effectiveness of enforcement against illegal brothels and introduce disciplinary powers to the Director to suspend licences.

The Residential Tenancies Bond Authority, which is to hold all Victorian residential tenancy bonds, including those on rented premises, long-term caravans and rooming houses, represents a significant change for the tenancy market in Victoria.

The establishment of the Authority, which at 30 June 1999 held \$175.8 million, representing 245,260 bonds, was a considerable challenge. I am pleased to report that the Office met this challenge and that the Authority is now operating smoothly.

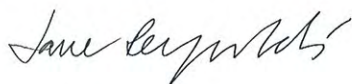
On 1 July 1998, the Business Licensing Authority (BLA), which was created by the *Business Licensing Act 1998*, started operation. This consolidated the functions of previous licensing and registration authorities with streamlined administrative processes and improved communication.

Finally, we involved staff substantially in our planning processes to achieve participation and involvement in the future success of the portfolio. As well, we consulted industry associations and consumer advocacy groups about our performance. From that we learnt that our stakeholders expect a more targeted approach to enforcement and improved front line service. We have actively responded with the development of enforcement policy and principles and a compliance program based on an analysis of industry-wide performance.

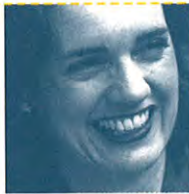
The significant advancement of our data and reporting systems on service performance will also enable us to more closely align services to community expectations in 2000.

We conclude the year with a new management team and a structure and business plan designed to equip us to meet the challenges of the future. We look forward to continuing our work in concert with consumer advocacy organisations and industry associations to ensure marketplace confidence in Victoria.

I sincerely thank all our staff, who are committed to ethical trading and consumer protection and also the people who so actively support our objectives in the community and industry.



JANE REYNOLDS
Director



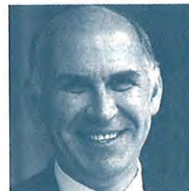
Jane Reynolds
Director



Denis Fitzgerald
Assistant Director
Information Management



Sue Maclellan
Assistant Director
Fair Trading Operations



Frank Lovass
Assistant Director
Business Services



Lois Goodes
Acting Assistant Director
Policy (Feb 1999 – June 1999)



Damian MacDonald
Acting Assistant Director
Policy (July 1998 – Feb 1999)



Stephen Devlin
Manager
Legal Development Branch

Objectives

of the Office

The Office of Fair Trading and Business Affairs is a division of the Department of Justice. It aims to promote public confidence in Victoria's trading environment, providing support for fair dealing in an efficient, competitive and informed marketplace.

Specifically, it is the responsibility of the Office to:

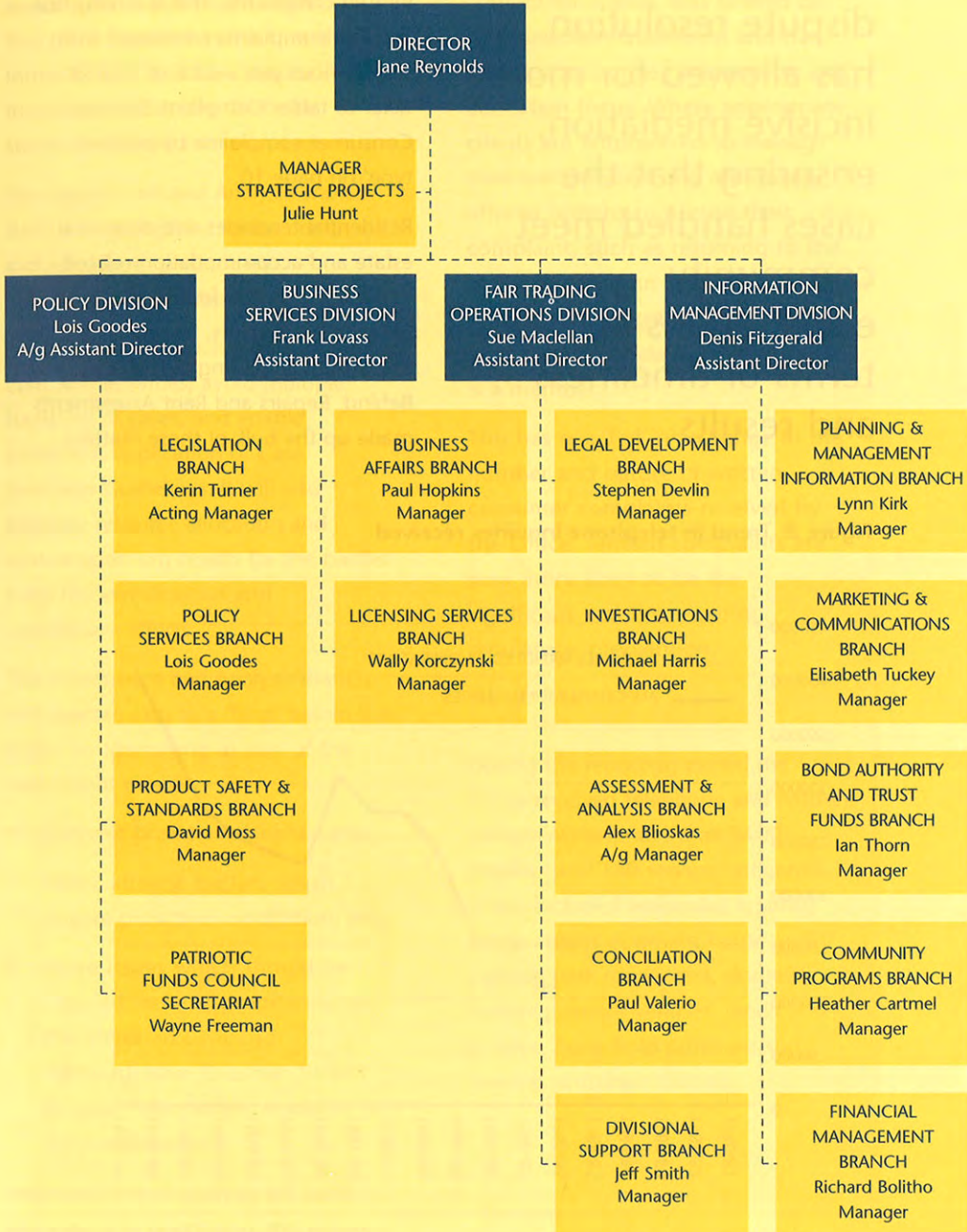
- foster an informed, competitive marketplace and avoid disputation through advisory services and public information programs which increase awareness and understanding of rights and obligations;
- promote a safe market for consumer goods through developing product standards;
- assist industry in the development of codes of practice;
- inform government decision making and responses to marketplace issues;
- develop and give effect to the Fair Trading legislative program;

- promote compliance with Fair Trading legislation and enforce the law; and,
- provide high quality and cost-effective business licensing and registration systems and facilitate public access to registered information.

Organisation

Structure at 30/6/99

Figure one: Organisation structure of Office of Fair Trading and Business Affairs



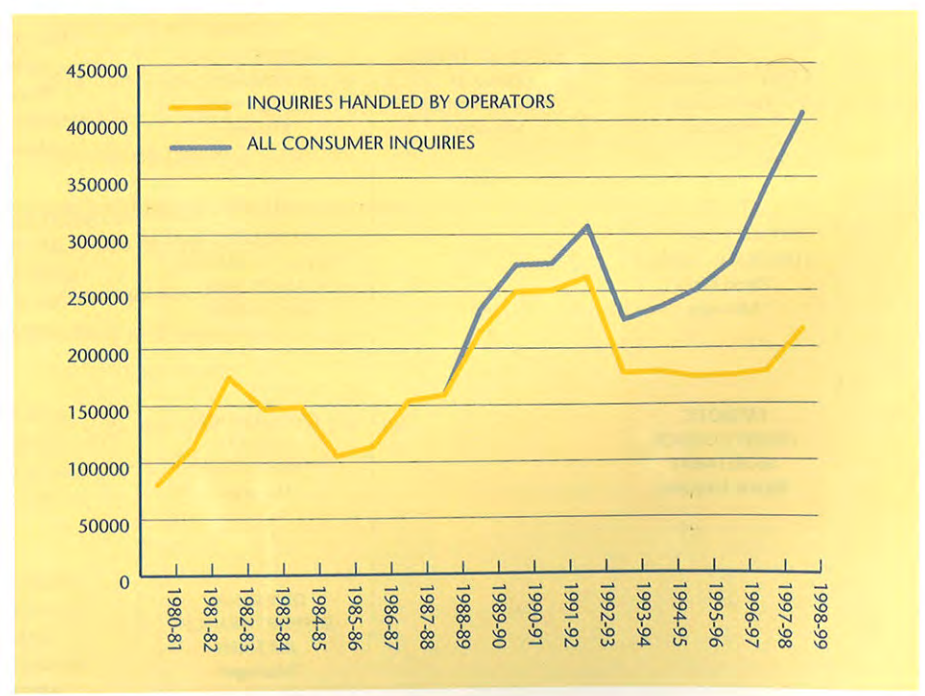
Resolving Consumer and Trader Disputes

A new approach to dispute resolution has allowed for more incisive mediation, ensuring that the cases handled meet community expectations in terms of timeliness and results.

The Office received a total of 9866 written complaints. This is a reduction of 2566 complaints compared with the previous year's total of 12,432. Refer to table 'Complaint Statistics - Consumer complaints by product type' on page 10.

Residential tenancies and other real estate and accommodation-related matters accounted for 56 per cent of the total complaints. Requests for inspections regarding Goods Left Behind, Repairs and Rent Assessments made up the bulk of these matters.

Figure 2: Trend in telephone inquiries received



A review into the Office's investigation and conciliation functions recommended that the Initial Action and Conciliation functions within the Office be streamlined and consolidated.

The Assessment and Analysis Branch deals with complaint assessment, including both preliminary investigation and dispute resolution.

This move will reduce duplication of common activities, avoid multiple handling of cases, and enable consistent application of Case Selection Guidelines. It will also improve resource allocation and ensure optimum results for the parties from the investigation and conciliation efforts.

The Assessment and Analysis Branch will operate akin to a 'filter' within the Office by identifying as part of the assessment process:

- systemic breaches of legislation;
- public interest matters which require proactive conciliation; and,
- those issues which should be referred more appropriately to the Victorian Civil and Administrative Tribunal (VCAT) or other alternatives available to resolve disputes.

Improved trends analysis will assist planning and prioritising and ensure appropriate deployment of resources.

Inquiries Branch, the first point of contact for clients, was briefed on Case Selection Guidelines, and has adopted a stronger information and education focus. Where appropriate, clients are empowered to manage their own matters and are usually offered options to pursue their complaint, such as returning to the trader, lodging an application with VCAT or referring the complaint to an industry association if the trader is a member.

This has resulted in a change in the number and nature of written consumer complaints received by the Office. Written complaints are now more likely to be the significant matters requiring regulatory intervention.

Consumer inquiries

During the reporting period the Office received telephone and written complaints on more than 1100 product and 180 service categories. These included residential tenancy, estate agents, rooming house and caravan park residencies, domestic building, motor vehicles, credit and finance, household purchase and general consumer matters.

Trader Disputes

A total of 406,151 calls were handled, consisting of 170,021 calls satisfied by the Interactive Voice Response (IVR) system and 236,129 calls answered by operators. Calls satisfied by the IVR system represented nearly 42 per cent of total calls handled. Calls satisfied by the IVR system included 6181 calls in which a voice mail request was left and 1291 calls in which the caller requested that an information sheet be faxed back to them.

Figure three: Total number of consumer inquiries 1996/99

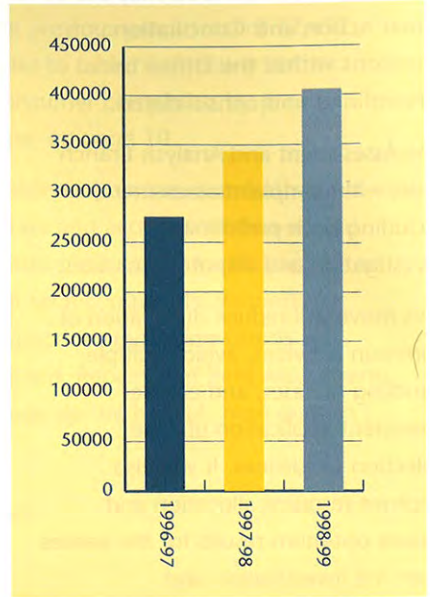


Figure four: Inquiries made to Office of Fair Trading and Business Affairs 1980/81 to 1998/99

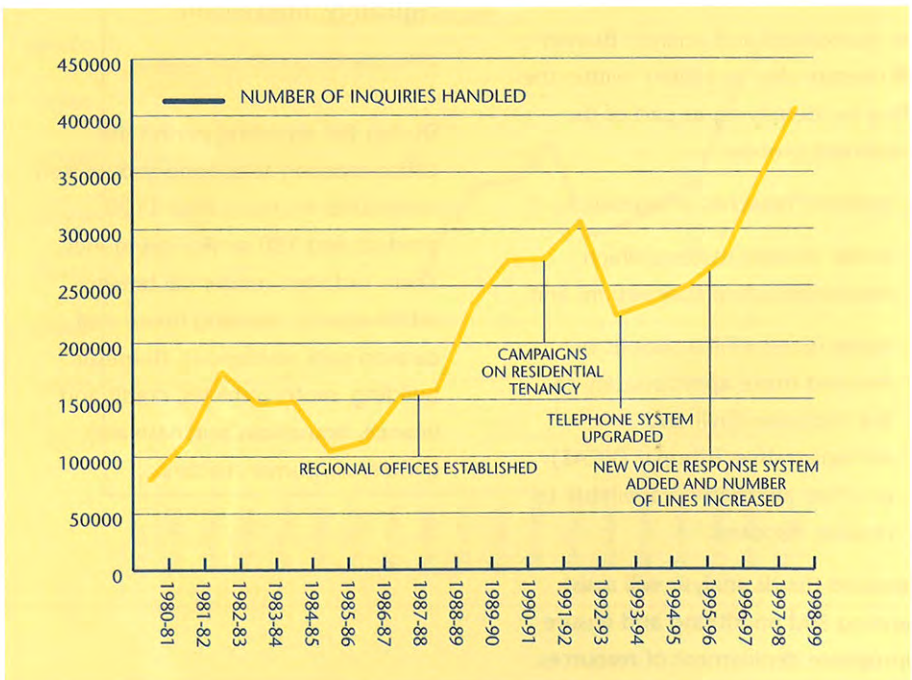


Figure five: Complaints received by the Office of Fair Trading and Business Affairs by product 1998/99



Most of the telephone inquiries were dealt with by immediate information and/or advice. Where appropriate, callers were provided with one of the Office's information products.

The Call Centre introduced a new telephone system during 1998/99. The Infolink Call Back has allowed the Office to let the caller know his or her exact place in the telephone queue, and gives callers the option to key in their telephone number to receive a call back from an operator, usually within five minutes.

The caller retains his or her place in the queue and in most cases receives a call back within five minutes. This system allows the caller to hang up and wait for the call back, rather than the caller waiting for an extended

period. The feedback from the general public since the introduction of the system has been generally positive.

A faxback facility was also introduced on the Recorded Information System. The facility allows callers to request an information sheet from several topics and can be accessed both during and outside business hours.

The Office of Fair Trading and Business Affairs Call Centre was again a finalist in the Australian Telemarketing and Call Centre Victorian Call Centre of the Year Award (*Under 50 staff category*).

Figure six: Complaint statistics 1996/99

Complaint statistics

Consumer complaints received by product type

	1996/97	1997/98	1998/99
Food, Beverages and Tobacco	31 (0.2%)	94 (0.8%)	11 (0.1%)
Clothing, Footwear, Drapery, Manchester	299 (2.2%)	320 (2.6%)	199 (2.0%)
Household Goods	1282 (9.5%)	1059 (8.6%)	954 (9.7%)
Motor Vehicle, Other Transport Equipt	1504 (11.2%)	1039 (8.4%)	883 (9.0%)
Building and Construction	1129 (8.4%)	1136 (9.2%)	904 (9.2%)
Commercial Equipt, Appliances and Supplies	29 (0.2%)	24 (0.2%)	12 (0.1%)
Personal Items, Entertainment and Novelties	306 (2.3%)	434 (3.5%)	347 (3.5%)
Transport, Post, Telephone, Energy	494 (3.7%)	388 (3.1%)	390 (3.9%)
Insurance, Finance and Investment	307 (2.3%)	202 (1.6%)	194 (2.0%)
Real Estate and Accommodation	5943 (44.1%)	5452 (44.1%)	5527(56.0%)
Miscellaneous Services	1968 (14.6%)	2012 (15.7%)	330 (3.3%)
Other/Unspecified	177 (1.3%)	272 (2.2%)	115 (1.2%)
TOTAL	13469	12432	9866

The total number of complaints received during 1998/99 represents a reduction of 21 per cent compared with 1997/98. It is also a 19 per cent reduction compared with the average for the previous ten years (see table of inquiries made to the Office of Fair Trading and Business Affairs from 1980/81 to 1998/99 on page 8).

This reduction results from the application of revised Case Selection Guidelines at the telephone inquiry level, starting in March 1999, which has led to fewer written complaints being received by the Office.

Callers are provided with advice on the most appropriate option for pursuing dispute resolution.

These options may include:

- conciliation by the Office in the case of public interest matters;
- referral to a more appropriate jurisdiction such as the Energy Ombudsman or the relevant industry association; or,
- determination by the Victorian Civil and Administrative Tribunal (VCAT).

Handling more telephone inquiries than ever before, the Office's call centre continues to provide Victorian consumers with expert advice and friendly service



Enforcing

Fair Trading Standards

The fundamental need for the marketplace to be protected from unscrupulous traders is the driving force behind the enforcement strategies embraced by the Office.

Strategies are employed by the Office to promote compliance with the Acts administered by the Office and to encourage fair trading practices generally.

These include:

- consulting with traders to have them put in place complaint handling procedures;
- educating traders on the law to enable them to comply;
- obtaining undertakings not to re-offend;
- issuing formal warnings;
- obtaining injunctions prohibiting traders from engaging in certain conduct; and,
- prosecuting offenders for breaches of the Acts administered by the Office.

Proactive compliance activities

The proactive compliance activities were responsive to the types of complaints received by the Office and addressed observable trends emerging in the marketplace.

Areas targeted included those where there was:

- the potential for exploitation of vulnerable sections of the community by unscrupulous traders;
- the potential for significant negative financial impact on public finances if traders failed to comply with relevant legislation; and,
- a new legislative regime in which traders had no prior compliance experience.

Pre-paid funerals inspection program

In response to emerging concerns from the community about the pre-paid funeral industry, a series of inspections on a cross-section of funeral organisers were completed in order to establish the level of compliance with the *Funerals (Pre-Paid Money) Act 1993*.

Several serious instances of non-compliance were discovered and investigations commenced with a view to launching prosecutions in the coming year. Minor non-compliance will be addressed with warnings to the funeral organisers to implement corrective measures.

Introduction agents inspection program

Victoria introduced legislation early in the year to regulate the activities of introduction agents and provide improved safeguards for the customers of these businesses.

The *Introduction Agents Act 1997*, which came into effect on 1 January 1998, addressed the growing complaints concerning unconscionable practices adopted by certain operators.

Several inspections revealed serious breaches. Further investigations are being undertaken. Follow-up inspections will be carried out in 1999/2000 to ensure recommended compliance measures have been instigated.

Residential tenancies bond enforcement program

The introduction of the Residential Tenancies Bond Authority, which holds residential bonds previously held in trust by agents and landlords, was supported by an enforcement program to ensure bonds had been correctly transferred by the 31 December 1998 deadline.

Investigators visited 120 estate agents to ensure compliance. Concerns of agents on issues regarding bond lodgements, claims and transfers of bonds were discussed and resolved during these visits.



Confirming its commitment to fostering a fair marketplace, the Office is working to ensure consumers are not exploited when choosing to shop via the Internet.

Estate agents inspection program

The Office continued its estate agents inspection program in 1998/1999 completing 91 inspections of agencies. This program concentrates primarily upon determining compliance with the trust accounting provisions of the *Estate Agents Act* 1980 and its associated regulations. An agency will be generally targeted for inspection when adverse information is made known to the Office, usually either by dissatisfied clients or by the agent's auditor.

Monitoring the Internet

The online marketplace, while still in its infancy, is likely to develop rapidly. Within a few years it is expected that the Internet will be a major channel for the sale and distribution of goods and services. There is potential for the Internet to become a global shopping, mail and information source with ease of access for both traders and shoppers.

The Office took part in an international Internet sweep day organised by the Australian Competition and Consumer Commission (ACCC) on 10 September 1998 to identify and send messages to Internet sites

suspected of operating scams in the area of health cures and products. The Office identified 49 sites. More than 35 agencies from around Australia and the world pooled their resources to search the Internet for sites that advertised health products.

The Office is monitoring the development of the Internet to ensure that fair trading is maintained in this rapidly emerging area of commerce.

Business Licensing Authority (BLA) investigations

The Office undertook 389 investigations relevant to applications before the Authority. Most investigations are undertaken as a result of regulations requiring applicants to be referred to it and its associated power to make recommendations in relation to applications.

This process assists the BLA in identifying applicants who, among other things, may have a history of criminal activity, insolvency or other conduct that might impact upon their ability to hold a licence. The aim of this program is to ensure that new entrants to the marketplace are fit and proper to carry on business in order to minimise the risk of unfair trading practices.

Overseas scams, get-rich-quick schemes and chain letters

Inquiries and complaints relating to overseas schemes and scams continued to be made to the Office.

One Canadian-driven scheme, from a company known as the ISO Group, tells the recipient that they have been specially selected to receive one of seven prizes including a car, cash and a CD player.

The promotion claims that recipients who return the notice with a \$30 claim fee are guaranteed to receive at least one of the listed prizes. But in the fine print the approximate odds of receiving a brand new Holden Barina are 1:750,000 and a CD player 1:250,000.

Other schemes which have been the subject of inquiries and complaints include:

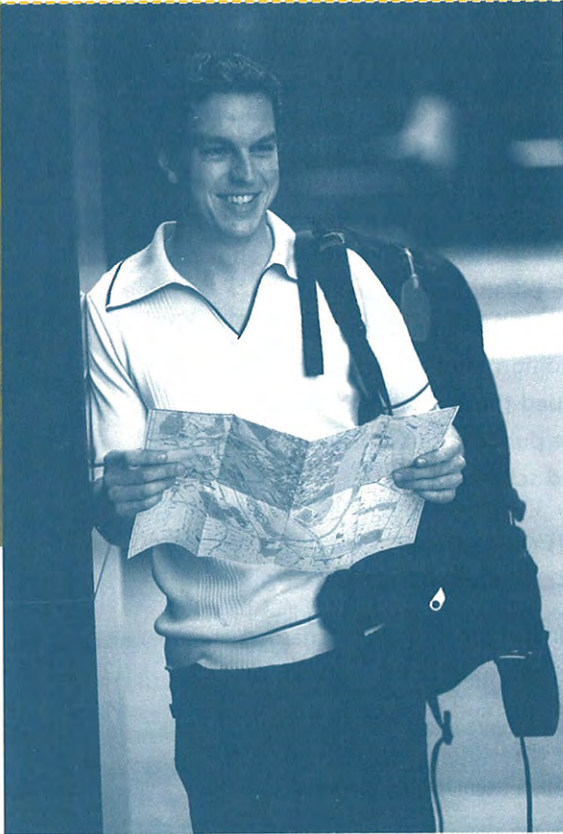
- the 'Pacific Coast Cash' contest from Canada;
- the 'Guaranteed Cash II' from the United States; and,
- the Worldwide and Transworld Lottery Commission, which invites people to send money to participate in the 'El Gordo' or 'La Navidad' Spanish lottery and encourages them to send 'subscription' to receive certificates listing ticket numbers.

The Office provides consumers with general advice and warnings about the pitfalls associated with participating in these schemes. In addition, media releases are also issued throughout Victoria to warn the public about emerging scams and schemes.

Investigation and prosecution activities

Criminal prosecution is regarded as the last resort in the compliance armoury and is generally exercised against flagrant offenders involved in serious breaches of the law.

In the majority of matters, alternative preventative strategies were used to promote compliance with the relevant legislation. The Office investigated 2657 individual matters involving alleged breaches of legislation. Of these, 69 matters culminated in the prosecution of offenders (see Appendix 5.7).



Travel agents

Persons who carry on business as travel agents in Victoria are required to be licensed pursuant to the *Travel Agents Act 1986*. The granting of such a licence is contingent upon the applicant being a participant in the Travel Compensation Fund.

All participants are required to contribute to the Fund, which accepts claims from consumers who have paid money to a travel agent that fails to account for those funds. In the 1998 calendar year, the Fund reimbursed disadvantaged consumers to the total amount of \$2.3 million.

Referral selling

Referral selling involves inducing a consumer to acquire goods by promising that the consumer will receive an additional benefit in return for providing the names of other prospective customers. Referral selling is prohibited under the *Fair Trading Act 1985*.

Travel agents case:

Independent Travel Group Pty Ltd and Philomena Cornu

On 29 December 1998 in the County Court of Victoria, Judge Wodak made an order restraining Independent Travel Group Pty Ltd and Philomena Cornu, formerly of 4/126 Russell Street Melbourne, from carrying on business as travel agents or representing directly or indirectly that either party was a licensed travel agent. Independent Travel Group Pty Ltd was subsequently liquidated. The injunction against Philomena Cornu remains in place.

Referral selling case:

Goldnet International Pty Ltd

Goldnet International Pty Ltd was convicted on seven charges of referral selling under the *Fair Trading Act 1985*. The scam worked by promoting the sale of Australian gold coins. Regular presentations were held with professional guest speakers and large numbers of people attended.

The purchaser was induced to pay an \$80 deposit on a gold coin, that was said to be valued at \$500, on the basis that they would not be required to pay the full cost if they introduced others to the scheme. Some individuals invested thousands of dollars without receiving their promised income. The company was fined \$30,000 and ordered to pay \$16,120 restitution and \$528 in court costs.

The actions of Goldnet International Pty Ltd are very similar to that of the Dutch company Vanilla, which has been operating in Victoria and has also been charged with referral selling.

Estate agents

The *Estate Agents Act 1980* regulates the conduct of estate agents in Victoria. The Office started 153 new investigations during the course of the year and finalised 157. Many of these matters resulted in the Office issuing a warning to the agents concerned, while more serious matters proceeded to hearing.

Ministerial closure of estate agencies

- *Beech Lynch & Co Pty Ltd*
- *John McNamara & Co Pty Ltd*

Two estate agencies were closed as a result of a direction by the Minister for Fair Trading under Section 89 of the *Estate Agents Act 1980*.

Section 89 of the Act empowers the Minister to freeze the trust accounts of estate agents and to order the winding up of the business in cases where the Minister has reasonable grounds to believe that there has been a contravention of Part VI of the Act. This part of the Act deals with an agent's obligations in relation to holding trust money.

In November 1998, Beech Lynch & Co Pty Ltd of Moorabbin were closed as a result of alleged breaches of Section 59 of the Act in relation to trust money. In April 1999, John McNamara & Co Pty Ltd of Yarrowonga was closed also as a result of allegations of breaches of Section 59 of the Act.

*Estate agents:**Case one**Broad McDonald & Co Pty Ltd, Geoffrey Ernest Clingan and Arthur Harold Broad*

On 10 September 1998, Geoffrey Ernest Clingan, trading as Broad McDonald & Co of Kerang, appeared before the Administrative Division of the Victorian Civil and Administrative Tribunal (VCAT). Mr Clingan pleaded guilty to one charge under regulation 59(1) of the *Estate Agents (Licensing, General, Accounts & Audit) Regulations 1992*, where he was aware of a deficiency in a trust account and failed to notify the auditor and the then Estate Agents Licensing Authority.

He also pleaded guilty to seven counts under section 29B of the Act where he failed to take reasonable steps to ensure that his agent's representative complied with the Act.

The charges surrounded the failure of the agent's representative (Mr Arthur Broad), to place trust money received into the specified trust account. The agent's representative, Mr Broad, pleaded guilty to seven breaches of section 59(6) of the Act in relation to the failure to place trust money received into a specified trust account. An aggregate fine of \$3500 was imposed and was to be paid jointly by Mr Clingan and Mr Broad.

*Estate agents:**Case two**Garry Maschler First National Pty Ltd and Garry Ignatz Maschler*

On 1 October 1998, the Estate Agent Corporation, Garry Maschler First National Pty Ltd, and Garry Maschler, licensed estate agent, both appeared before the Administrative Division of VCAT. They pleaded guilty to a contravention of regulation 11(a) of the *Estate Agents (Professional Conduct) Rules 1992* for breaching Section 55 of the Act.

The charge related to the corporation being indirectly concerned in the purchase of real estate that the corporation had been commissioned to sell. The corporation was fined \$2000.

Mr Maschler pleaded guilty to breaching regulation 11(a) of the *Estate Agents (Professional Conduct) Rules 1992* for contravening section 55(3) of the Act where, as Officer in Effective Control of a corporation he purchased real estate that the corporation had been commissioned to sell. Mr Maschler's licence was suspended for a period of six months from 1 December 1998 and he was ordered to pay costs of \$1360.



Residential tenancies

The *Residential Tenancies Act 1997* regulates the conduct of landlords and tenants who are parties to residential tenancy agreements. The Act consolidated the legislation in relation to residential tenancies, rooming houses, caravan parks and moveable dwellings and came into effect on 1 July 1998.

The Office may prosecute for offences against the Act. In 1998/99, the Office prosecuted in relation to several offences that had occurred earlier against the *Rooming House Act 1990*.

Residential tenancies:

Case one

Tony Chen

On 11 September 1998, Mr Tony Chen, of Bundoora, appeared before the Heidelberg Magistrates' Court charged with nine counts of contravention of the *Rooming House Act 1990*. Mr Chen was convicted on eight charges. He was fined \$500 on the first charge of forcible removal of a resident from a room and an aggregate fine of \$1200 on the remaining charges with costs of \$1604.

Residential tenancies:

Case two

Violet Barker

On 5 January 1999, Ms Violet Barker, of Thornbury, was convicted in the Preston Magistrates' Court on one count of breaching section 6(1)(b). This section relates to taking possession of a room not in accordance with the *Rooming House Act 1990*. She was also convicted on two counts of breaching section 47 of the same Act, which relates to non-compliance of a determination of the Residential Tenancies Tribunal. The matter was heard in her absence. The charges were found proven and she was fined, with conviction, \$1400 with costs of \$632.

Residential tenancies:

Case three

Lou Moutidis and Sophie Moutidis

On 2 February 1999, Lou and Sophie Moutidis of Richmond, were both to appear at the Melbourne Magistrates' Court each charged on two counts of breaches of section 47 of the *Rooming House Act 1990*. Section 47 relates to the non-compliance with a determination of the Residential Tenancies Tribunal.

Neither party attended court and as a hand up brief had been served, pursuant to section 37 of the *Magistrates' Court Act 1989*, the court was able to rely on affidavit evidence. The court convicted both defendants and imposed a fine of \$1000 each plus \$250 in costs each.

Domestic building

The Office administers the *Domestic Building Contracts Act 1995*. The Act prescribes the manner in which contracts for major domestic building works must be executed. For example, the Act prescribes the necessary contents of a domestic building contract and schedules the progress payments a builder is entitled to demand.

The Office received a total of 954 written complaints about domestic building and construction, representing 9.7 per cent of the overall number of written complaints. Almost 80 per cent of conciliated written complaints were resolved. Major areas of building complaint included work done by unregistered builders without domestic building insurance, defective or incomplete workmanship and disputes about price and other terms of the contract.

A total of 147 matters were investigated by the Office for alleged breaches of the *Domestic Building Contracts Act 1995*. This resulted in the prosecution of a number of unregistered builders, builders who failed to provide the required contractual documents and those who failed to provide the requisite insurance. In other compliance procedures, the Office formally notified a number of builders of their rights and obligations under the Act. Additionally the Office provided a series of industry information sessions to increase awareness of the building laws and regulations.

*Domestic building:**Case one**Mehmet Bulli*

On 6 July 1998, Mr Mehmet Bulli of Roxburgh Park appeared before the Heidelberg Magistrates' Court charged on 13 counts of breaches of the *Domestic Building Contracts Act 1995* and three charges under the *Building Act 1993*. He was convicted on all 16 charges and fined \$5000 with \$534 in costs.

The charges related to Mr Bulli entering into major domestic building works contracts while not being a registered builder, failing to have insurance cover and failing to provide certain information on contracts for domestic building work.

*Domestic building:**Case two**Zlatco Mar aka
Zak Potocnik*

On 27 January 1999, Mr Potocnik was convicted in the Dandenong Magistrates' Court on five counts under the *Domestic Building Contracts Act 1995* and two counts under section 12(e) of the *Fair Trading Act 1985*. Mr Potocnik was fined \$17,500 with conviction and ordered to pay costs of \$932.

The charges under the Act related to domestic building work which Mr Potocnik was contracted to perform while not being a registered builder. Mr Potocnik also received a deposit greater than allowed under the Act and the contract did not contain all the required information. In relation to the *Fair Trading Act 1985*, Mr Potocnik had represented that he was a member of the Master Builders Association and the Housing Guarantee Fund Limited when in fact he was not.

*Domestic building:**Case three**Donald Ferris*

On 19 March 1999, Donald Ferris appeared before the Mildura Magistrates' Court charged on three counts under the *Domestic Building Contracts Act 1995*, 21 counts under the *Building Act 1993* and one count under the *Business Names Act 1962*. Mr Ferris pleaded guilty to all charges and was fined, with conviction, \$5000 with \$200 costs.

The charges related to Mr Ferris carrying out a domestic building contract while not registered as a builder, taking excessive deposit, having inadequate disclosure on the contract and not registering a business name.

Motor car traders

The Office investigates and prosecutes alleged breaches of the *Motor Car Traders Act 1986*. The Office's main areas of concern are unlicensed traders, odometer tampering and consignment selling.

Unlicensed trading

The program of investigation into unlicensed motor car trading continues to have significant results. Illegal trading remained a high priority in the enforcement program. The Office is utilising advanced investigative techniques to identify illegal traders in Victoria who risk prosecution under this program.

Under the *Motor Car Traders Act 1986*, a fine of up to \$10,000 may be imposed for each vehicle bought or sold by an unlicensed trader, as well as a penalty of 15 per cent of the sale price of any vehicle bought, sold or exchanged.

The Office actively encourages compliance by:

- issuing formal warnings to smaller scale unlicensed traders;
- obtaining undertakings from unlicensed traders not to re-offend;
- encouraging and assisting unlicensed traders to obtain licences;
- liaison with the industry to identify alternative strategies for combating unlicensed traders; and,
- liaison with auction houses to discourage unlicensed traders from using them as a source of motor cars.

As part of the first stage of the program, letters were sent to operators identified as illegally trading in up to nine vehicles in the last 18 months. These operators were given the opportunity to apply for a licence, sign an undertaking not to continue trading in contravention of the Act, or risk prosecution. A substantial proportion of illegal traders have signed undertakings to cease trading.

The second stage of the program concentrates on chronic offenders with the Office attempting to obtain injunctions against those illegal traders identified as trading in ten or more vehicles. The injunctions prevent the traders from continuing to operate as an unlicensed trader.

The Office obtained 15 undertakings and five injunctions and has referred other matters for action in the next reporting year.

Odometer tampering

Odometer tampering is still a source of complaint to the Office. Changes to the *Motor Car Traders Act 1986* have introduced a maximum imprisonment of two years for each offence of tampering with odometers and in addition have increased fines to \$24,000 for each offence for a natural person.

Unlicensed trading case: Peter Kolevski

Mr Peter Kolevski of Highton pleaded guilty to one charge under section 7 of the *Motor Car Traders Act 1986*. The court heard Mr Kolevski had sold or offered to sell 11 cars within a 16-month period without possessing a licence to do so. Mr Kolevski advertised the cars he offered for sale in *The Age*, *The Geelong Advertiser* and *The Melbourne Trading Post*. Mr Kolevski was convicted and fined \$2500 and ordered to pay costs of \$2026.50.

Odometer tampering case: Cornelius Kersley

Mr Cornelius Kersley of East Malvern, carried on the business of trading in motor vehicles whilst not being licensed. During a nine-month period, he traded in 60 motor vehicles. From July 1996 to November 1996, Mr Kersley on 16 occasions misrepresented the distance travelled by a vehicle. He was convicted and fined \$30,000 and ordered to pay costs of \$1905.

Consignment selling

The Office continues to receive complaints regarding consignment selling, an offence with the potential for significant economic loss to the consumer. Under the Act, a motor car trader who sells a car by consignment or has a car in his possession for the purpose of selling it by consignment is liable for a fine of up to \$10,000 per offence.

Improved investigations function

To achieve a more focused effort in the enforcement function, certain changes were introduced, such as:

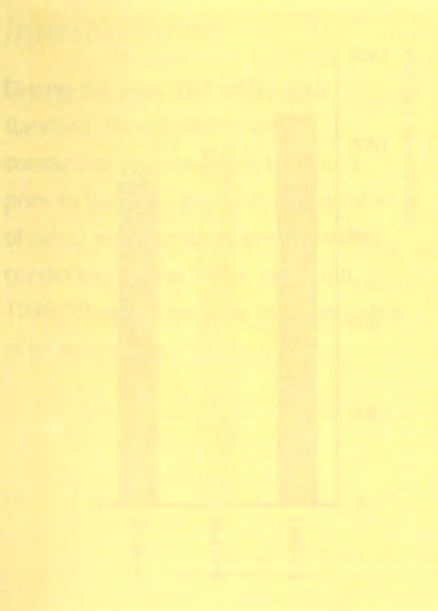
- the formation of an Assessment and Analysis Branch to determine the priorities to be accorded to complaints received by the Office;
- the development of a comprehensive enforcement policy;
- targeting investigation, inspection and dispute resolution activities to high priority cases; and,
- the development of appropriate referral mechanisms.

The result has been that there is now a more effective allocation of investigative resources. The focus is now on matters that have a potentially serious impact on the community, in particular upon vulnerable or disadvantaged groups, and on offenders who have persistently failed to comply with the law.

Investigating and prosecuting according to these criteria is designed to deter would-be offenders in those areas that significantly affect the wellbeing of the community and the marketplace.

Consignment selling case: SOS Motors Pty Ltd

SOS Motors Pty Ltd of Fairfield and Director, Mr Srecko Lorbek of Eltham South pleaded guilty to a charge of consignment selling amongst other charges in March of this year. Both parties were placed on a bond and ordered to pay a total of \$9000 into the court fund and costs of \$1500.



Injury Prevention

Promoting Product and Safety Standards

By establishing effective relationships with private and government product and child safety groups throughout Australia and New Zealand, Victoria has a leading voice on safety standards.

Promotion of product safety and standards contributes to minimising risks arising from unsafe products, which facilitates injury prevention.

Promoting product safety and standards

Inquiries

This year, the Office received a total of 1084 calls from consumers and industry, seeking advice on matters relating mainly to the safe use and design of consumer products. This is a 7.4 per cent decrease compared with the same period last year, and 18.9 per cent lower than for the 1996/97 period (see graph).

Of the 19 categories used for classifying data, the categories responsible for the majority of inquiries during 1998/99 were:

- nursery products (32.2 per cent of inquiries);
- legislative and administrative inquiries (9.5 per cent);
- play items (9.1 per cent);
- personal use products (8.6 per cent); and,
- textiles (6.9 per cent).

Together, these categories accounted for 66.3 per cent of all inquiries.

Figure seven: Safety and standards inquiries 1996/99

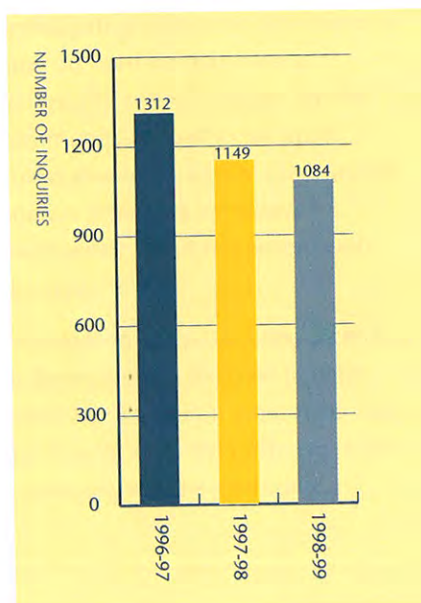
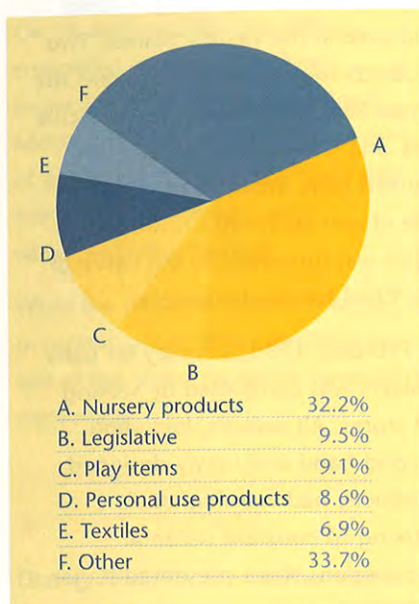
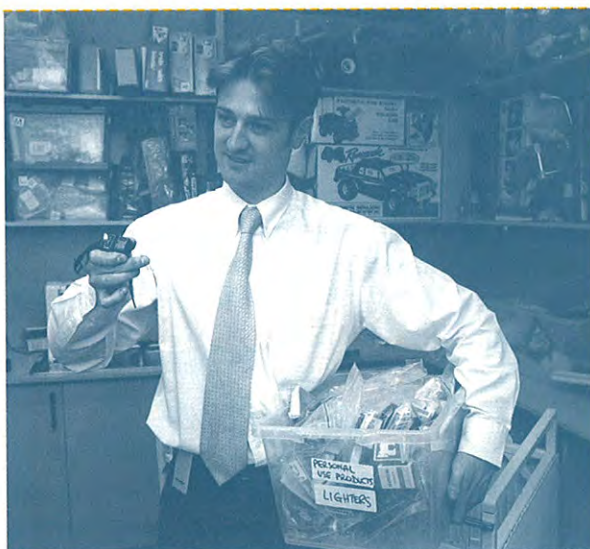


Figure eight: Categories of product and safety inquiries 1998/99



Investigations

During the year, 167 safety and standards investigations were conducted. In contrast to the trend prior to last year, in which the number of safety and standards investigations conducted by this Office increased, 1998/99 saw a decrease in the number of investigations.



The Product and Safety Standards Branch rigorously tests suspect products to confirm safety standard compliance.

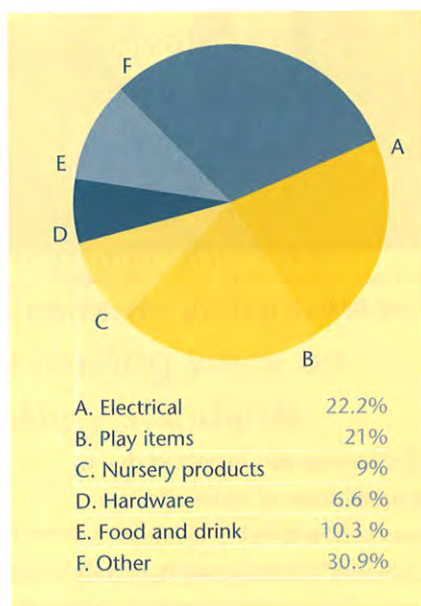
This decrease was expected due to the application of more effective assessment and risk evaluation techniques to safety and standards complaints, together with an increase in community awareness through product safety education/information provided by the Office.

There has been a 43.4 per cent decrease in annual investigation numbers since 1995/96.

There were five product categories that accounted for the majority of the investigations. These were:

- electrical (22.2 per cent of total);
- play items (21 per cent);
- nursery products (9 per cent);
- hardware (6.6 per cent); and,
- food and drink products (10.3 per cent).

Figure nine: Product categories investigated in 1998/99



Compliance surveys

Four product compliance surveys were completed during the year.

A random survey of shopping centres and surrounding stores in September 1998 showed a high level of compliance of cigarette lighters with the child resistance requirements of the *Consumer Affairs (Product Safety)(Lighters) Regulations 1998*.

In November 1998, a toy survey was carried out, concentrating on inspections of cheap \$2 type stores and stalls in the Victoria Market. Two products were removed from sale: the Arrow Rifle, which failed the projectile test, and Grow Aliens, which is a banned item. Information about the sale of non-approved Christmas tree lights was forwarded to the Office of the Chief Electrical Inspector.

In February 1999, a survey on baby walkers was completed by visiting 12 stores. All walkers, including second-hand and newly designed products, had warning labels relating to constant parental supervision. None presented finger or limb entrapment hazards or scissoring/pinching hazards from folding mechanisms.

In June 1999, the Office participated with the Australian Competition and Consumer Commission (ACCC) in a joint survey of cots for household use. The Office surveyed a total of 30 stores in the north east and south east metropolitan area, targeting the second-hand market. Three cots were found to be non-compliant and removed from sale.

Safety promotion at the Melbourne Show

On 18 August 1998, the Office completed its annual pre-Show inspection of showbags at the Royal Melbourne Showgrounds. The contents of 245 showbags were examined and five dangerous products were withdrawn from the bags.

While the Office received a few general inquiries about products on sale at the Show, no safety complaints were made.

Information gathering and exchange

During 1998/99, the Internet again proved to be a valuable resource in relation to the identification of hazardous products and sharing of information.

The availability of the US Consumer Product Safety Commission (CPSC) recall notices and warnings have continued to be an important resource. The availability of these notices has allowed the Office to follow up product availability in Australia and advise local industry of the problems. In some cases, these notifications have been the catalyst for product recalls.

The Consumer Products Advisory Committee (CPAC) Product Safety Recall website at <http://recalls.consumer.gov.au> incorporates an interface, which provides public access to certain types of recall information, and an interface which is restricted to regulators of product recalls. The register of Allegedly Hazardous Products is to be included in the website in the future.

The Office keeps a copy of this register, including recalls, which is regularly updated by the Commonwealth. The Office also maintains its own database of product safety investigations. Both databases are utilised to provide information and advice when requested by consumers and traders.

Communication with other government agencies and specific interest groups is also promoted through Office participation in committees and working groups such as the Victorian Injury Prevention Committee, the LPG Autogas Working Group and The Victorian Injury Control Forum.



The Office has also provided advice on product safety and standards issues through:

- **Seniors Expo.** A talk on home safety and product safety presented during each of the three days from 17 – 19 March 1999.
- **Amcal Parents, Children and Babies Expo.** About 2500 *Keeping Baby Safe* booklets and 4500 product safety information sheets on bunk beds, toys, cots, soft bedding and gardening were distributed.
- **National Day of Baby Walker Action.** On 14 August 1998 a ministerial media session was held with Channel 10 and the Herald Sun, with the aim of promoting the safety of baby walkers.
- **Second-hand cots.** An explanatory letter and fact sheet on cots for household use was posted to second-hand furniture dealers in both metropolitan and regional Victoria.
- **Information sheets.** These were produced on laser pointers, cots for household use, bunk beds, toys, soft bedding and gardening.
- **Media.** An extensive media campaign included media releases and coverage on radio, television and in newspapers on toy safety, nursery furniture, Christmas tree lights and related issues.
- **Safety in Action Expo.** A 'Snakes and Ladders' Safety Game which proved to be popular with primary school students was used as an interactive exhibit during February 1999.
- **Toy Fair.** The Office inspected samples of toys displayed by various distributors and importers during the Fair in March 1999. The Office also met with some of the distributors and discussed general issues of safety and standards.

Standards development

Developing and revising Australian and international standards

The Office is represented on committees developing or reviewing Australian or joint Australian and New Zealand Standards for particular groups of products. As a member of these committees, the Office comments on draft standards from the International Organisation for Standardisation (ISO) and votes on the adoption of existing internationally recognised ISO standards. This work is becoming increasingly important given the trend to align domestic and international standards.

The Office took part in Standards Australia Committees and reviewed/commented on several standards including bunk beds, household and portable cots, children's nightwear and toy safety.

Consumer Products Advisory Committee (CPAC)

The Standing Committee of Officials of Consumer Affairs (SCOCA) established CPAC to provide advice on consumer safety matters and to develop and implement a national approach to consumer product safety issues.

National awareness strategies were undertaken, including safety sheets for consumers and traders on cots, a booklet on nursery furniture safety and national days of action on baby walkers and cots.

Victoria and the Commonwealth developed market survey checklists for monitoring compliance by industry with the relevant Australian Standards on nursery furniture.

Other issues before CPAC included controls on lead in toys and glazed ceramic ware, misuse of laser pointers and scams targeting older people for National Consumer Day and the International Year of the Older Person.

Running

Client Oriented Business Registration and Licencing Services

Victorian businesses are provided with licensing and registration facilities that make use of the very latest advances in computer and processing technology, allowing for faster response times and the highest standards of service.

The Office is responsible for the registration of business names, incorporated associations and co-operatives, and provides support to the Business Licensing Authority in relation to its occupational licensing responsibilities. The Office also maintains the Public Registers.

The Business Affairs Branch had in excess of 435,000 customer contacts last financial year. The majority of these contacts are electronic in the form of telephone inquiries (228,915). The Licensing Branch processed 9249 applications, handled 14,880 annual statements and handled 30,000 telephone inquiries.

The following improvements to service delivery were implemented in 1998/99:

- trialed a priority business names registration service for regional Victorians;
- trialed priority registration service for bulk applications for business names registrations;
- improved information on the automated telephone service;
- invested in infrastructure to support self-service by customers in the future;
- conducted information seminars (of particular note this past year were the information sessions in support of the new Fundraising Appeals legislation);
- posted annual returns forms to Incorporated Associations to improve their compliance with legislative requirements; and,
- completed the development of a new computer system to support the processing of licensing applications.

The Office also undertook inspection activities in relation to co-operatives and associations.

Registration of business names

Any name used for trading which includes more than individuals' or companies' own names must be registered.

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

In the past financial year, 56,155 business names were registered in Victoria. This represents an increase of 5.5 per cent on the previous year.

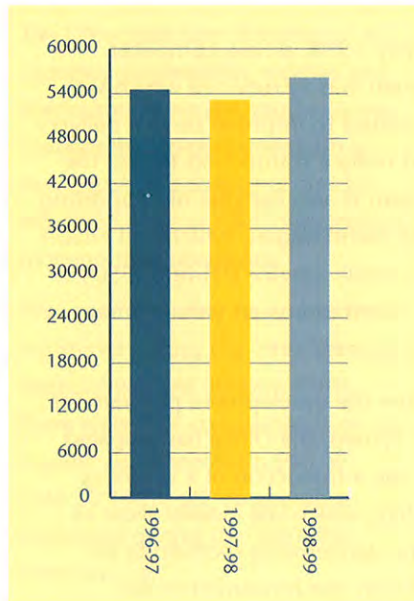
There has been a demand for 'Internet names' to be registered, where customers are registering a business name in order to set themselves up on the Internet as on-line businesses. This trend is likely to continue.

A service is also provided where a member of the public can obtain information regarding a business name. For a small fee, information known as an extract can be obtained on the names of the proprietors and addresses of the business. Extracts are also available for incorporated



Processing more than 50,000 business name registrations this year, the Business Services Division provides a professional and valuable service to its many customers.

Figure 10: Business names registered 1996/99



associations, providing the name and address of the association, and also the name of the Public Officer.

Some customers access business name details through private information brokers. These brokers have a copy of the data under contract and are able to relay the search results to the individual clients electronically.

The Office facilitated 108,880 business name searches, including those undertaken by the private information brokers.

Business Affairs redevelopment program

In July 1998, a new computer system was introduced which was designed to improve service delivery and reduce transaction times. The system is also capable of supporting new technologies, which will enable Electronic Service Delivery (ESD) to be rolled out as an enhancement in the future.

Under the development program for the system, the Office has prepared for the introduction of a scanning system, which will initially allow all paper lodgements received to be scanned and forwarded to the appropriate operator for processing.

The introduction of this new process, known as workflow, will substantially speed up service times to all customers. This investment will also enable the Office to take a further step towards the introduction of interactive ESD.

Imaging has improved efficiency as all new registration records since 1997 are now kept in electronic format, allowing staff and the public quicker access to those old records.

The system keeps all imaged documents for a particular organisation together so that they can be viewed almost instantaneously. Previously, document location was time consuming, as it required a search for and of, microfilm records.

In the near future customers will be able to self search most of the information on the register concerning business names and more recent data concerning associations, without delay, as the information required will be online and available to them.

Registration of entities where personal liability is limited

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

Co-operatives

A co-operative is one type of incorporated entity where members 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-operatives Act 1996*, 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 five. 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 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;
- strictly limited rate of interest to be received on share capital;
- equitable distribution of any surplus;
- co-operative education; and,
- co-operation with other co-operatives.

The Office maintains a register of all Victorian co-operatives, receives and checks annual returns, processes any changes that co-operatives wish to make, such as a change of director, registered office or rules, and generally monitors their operations.

There were 43 new co-operatives registered during the 1998/99 financial year. At 30 June 1999, there were 924 co-operatives on the register compared with 955 at June 30 1998. 27 co-operatives registered during the 1997/98 financial year.

There are four main categories of co-operatives. These are:

- trading co-operatives;
- non-trading co-operatives with shares;
- non-trading co-operatives with shares (Government guaranteed); and,
- non-trading co-operatives with no shares.

Limited partnerships

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.

Currently, there are 36 limited partnerships on the register.

Incorporated associations

The *Associations Incorporation Act 1981* allows for the voluntary incorporation and registration of any association operating in Victoria. A minimum of five members is necessary to obtain and retain registration.

While not compulsory, incorporation benefits association members in limiting their personal liability and establishes a legally recognised entity for such purposes as entering into contracts and holding property.

The Office maintains the registry of incorporated associations and monitors compliance with the requirements of the Act.

There are currently 34,923 incorporated associations on the register. Of these, 1478 were incorporated and registered in 1998/99, a 3.6 per cent increase on 1997/98.

BUSINESS LICENSING AUTHORITY (BLA)

Licensing and registration of categories of trader

On 1 July 1998, the Business Licensing Authority (BLA) started operations. The new BLA was created by the *Business Licensing Authority Act 1998* and administers the licensing and registration provisions of the following Acts:

- *Consumer Credit (Victoria) Act 1995*;
- *Estate Agents Act 1980*;
- *Motor Car Traders Act 1986*;
- *Prostitution Control Act 1994*;
- *Second-hand Dealers and Pawnbrokers Act 1989*;
- *Travel Agents Act 1986*; and,
- *Introduction Agents Act 1997*.

The creation of the BLA has facilitated a one-stop shop for licensing, registration and notification functions. It has brought further efficiencies in processing applications by creating greater consistency between various Acts, including making licences and registrations perpetual with information updated annually and removing the necessity for hearings to be conducted to determine applications.

An example of this is the prostitution service provider licences. The BLA doubled the number of applications processed - granted or refused - compared with the previous year.

If an application for a licence or registration is refused by the BLA, an applicant can appeal to the Victorian Civil and Administrative Tribunal (VCAT), which is responsible for reviews of decisions of the BLA and other bodies and all disciplinary hearings.

The Office provides support services to the BLA. It undertakes administrative activities necessary for processing licensing and registration documentation, conducts relevant probity and eligibility inquiries, maintains databases and electronic registers across all schemes, and provides information to the public and businesses about eligibility criteria for the businesses and occupations regulated by the previously mentioned legislation.

Separate from its administrative support responsibilities for the BLA, the Office also registers notification of fundraising appeals and, up until 30 June 1999, had responsibility for licensing of finance brokers.

Under the previous *Fundraising Appeals Act 1984*, there were extensive exemptions and less than 100 fundraisers applied for a permit from the Minister's delegate. These were usually professional fundraisers that raised money on behalf of a beneficiary. Organisations that collected money on behalf of themselves did not have to apply for a permit under the old Act. The new Act is a notification scheme.

There has been little change generally in the total number of licensed/registered occupations during the reporting year. The table below outlines the total numbers registered as being able to carry on a business or an occupation throughout 1998/99.

The table does not document the numbers of applications refused by the BLA, withdrawals of applications or number of registrations surrendered or cancelled throughout the year.

Second-hand dealers and pawnbrokers registration scheme

Registration of second-hand dealers and pawnbrokers was transferred to the BLA from licensing arrangements previously administered by local government.

This change has standardised and improved the checks made on applicants, and has deregulated charges that may be made by pawnbrokers on pawn transactions. Multi-store traders are no longer required to have a licence in each municipality in which they operate, allowing such traders to operate on a statewide basis once registered.

Revised eligibility criteria also apply. Unlike the former three year licence, the new registration system is perpetual, requiring only an annual update of changed trading circumstances. Amendments to the

Figure 11: Licensing/registration statistics for 1998/99

Licences Registrations & Notifications	Estate Agents	Motor Car Traders	Travel Agents	Finance Brokers	Credit Providers	Prostitution Service Providers	Introduction Agencies	Second-hand Dealers & Pawnbrokers
As at 30/6/99	5292	2224	960	576	683	152	57	5866
Applications received	395	187	73	148	72	64	-	3169
Applications granted	358	166	63	161	73	25	57	5268

Act effective from February 1999 enable certain persons who are ineligible to be registered, to apply to the BLA for permission to be registered where special circumstances apply.

Introduction agents regulation scheme

The *Introduction Agents Act 1997* became operational from 1 July 1998. The two main elements to the Act are:

- restrictions on those who can operate in the industry to ensure undesirable people will be prevented from acting as agents; and,
- standards to ensure both agents and clients have clear, enforceable rights and obligations.

During the year the Office processed 57 notifications to the BLA from agencies stating their intention to either commence or continue operation as an introduction agency. There were also eight notifications of cessation of trading lodged.

Prostitution control

The establishment of the BLA has achieved the intended efficiencies in the processing of applications for the prostitution control scheme. In the BLA's initial year more licence applications for prostitution service providers have been able to be processed and finalised than in any previous financial year since the legislation was enacted for the scheme.

In the reporting year, 25 applications for licences were granted and a further 35 were refused.

Generic licensing database

During the reporting period, the Office replaced the various outdated and non-Y2K compliant stand-alone databases with a single integrated database that stores all registration and licensing schemes.

The new REGAL (**R**egistration and **L**icensing) database will facilitate better work practices by being networked across all schemes. The REGAL database has been specifically developed to enable expansion should there be a need to administer any new or referred schemes to the Office or the BLA.

Motor Car Traders Guarantee Fund Claims Committee

There still appears to be a trend for claims to be made on the Fund for associated transfer and roadworthy costs as a result of traders ceasing to trade and failing to forward the relevant transfer fees and documentation to VicRoads. A total of 92 claims were made against the Guarantee Fund, of which 65 were paid out by the Committee.

Three motor car traders that continued to be licensed at the time a claim was made against the Fund voluntarily surrendered their licences. One trader successfully applied to retain its licence and repay \$18,000 paid out by the Fund.

Authorisations, declarations and exemptions

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

Estate agents - sales involving beneficial interest

To prevent unethical conduct due to conflicts of interest, the *Estate Agents Act 1980* prohibits estate agents and their employees from purchasing any property or business that the estate agency is commissioned to sell. It also prevents them selling any such property to direct family members or business entities to which they or direct family members belong.

The *Estate Agents Act 1980* allows the prohibition to be waived, subject to any necessary conditions, if it can be shown that the vendor's interests would not be compromised. This year, 181 waiver applications were made and 179 granted.

Estate agent licensing survey

Clients of the Office's licensing services area were surveyed in June 1999. The aim of the survey was to find out the level of satisfaction of practitioners using the services relating to the licensing scheme for estate agents and to gather suggestions for improvements to these services.

Two surveys were completed - one involved applicants for an estate agent licence, the other related to the Annual Statement process for licensed estate agents.

The surveys indicated that a large majority of clients of these services are satisfied with the service they received from the Office.

Letting People Know

Their Rights and Responsibilities

Empowering consumers, traders, tenants and landlords with knowledge about their rights and responsibilities is one of the fundamental ways disputes and problems in the marketplace can be successfully prevented.

FUNDED COMMUNITY SUPPORT

Consumer and Tenant Support Programs

The Consumer Support and Tenant Support Programs have provided funding for a network of community-based services throughout rural Victoria and Melbourne metropolitan areas, complementing the services provided by the Office in central Melbourne.

These services include advice, assistance in achieving resolution of consumer and tenancy problems, community education and promotion of relevant issues through local media.

In 1998/99 total funding comprised \$1.16 million under the Consumer Support Program and \$2.2 million under the Tenant Support Program (see Appendix 5.3 for a full listing of the funded agencies and their level of funding).

In January 1999, tenders were advertised for the provision of the Fair Trading Community Program from 1999 – 2002 for many regions. Following a competitive selection process, providers of services and education programs were chosen for most of the state's regions. This completes the competitive tendering process for funded agencies.

Specialist services were not tendered and those existing agencies providing specialist services continued to be funded. Specialist services were provided to aged tenants by the Housing for the Aged Action Group. Services to rooming house tenants were provided by the Tenants Union of Victoria, which was also funded to provide advice and training to tenancy workers in funded agencies.

Other specialist services were also provided by the Financial and Consumer Rights Council and the Consumer Credit Legal Service.

Administrative responsibility for the funding of the Buying Advice Service provided by the Good Shepherd Youth and Family Services Inc transferred to the Department of Human Services at the start of the 1998/99 financial year.

The number of clients increased significantly over the period with 12,507 consumer clients and 50,410 tenancy clients. This represents a nine per cent and 23 per cent increase respectively from the previous year.

The increase in tenancy clients was in response to the introduction of the new *Residential Tenancies Act 1997* with increased education raising awareness and resulting in more people seeking information regarding the changes.

Clients from six agencies were surveyed about the quality of the service provided. The results showed the overall client satisfaction with the service provided by the agencies at 98 per cent.

Training for workers employed by the funded agencies continued through the conduct of regional forums. These forums continued to provide an opportunity for Office staff to interact with workers in the funded agencies. Topics included the:

- *Residential Tenancies Act 1997*;
- *Domestic Building Contracts Act 1995*;
- operation of the Victorian Civil and Administrative Tribunal; and,
- telecommunication complaint processes.



Consumer Credit Fund

Grants are provided from the Consumer Credit Fund on an annual basis for the purpose of providing education services including advice or assistance to people who have been provided with credit and research about the use of credit.

These are advertised in the media during June each year and an advisory committee appointed under the *Credit (Administration) Act* 1984 makes recommendations to the Minister for Fair Trading on what grants should be made.

A total of \$163,012 was provided in the past financial year. The projects approved ranged from research projects on the pawnbroking industry, the effects and use of credit in non-English speaking population sectors to education programs with Aboriginal and youth groups. A full list of those who received grants is found in Appendix 5.4.

INFORMATION PROGRAMS

Information strategies

Public information strategies were central to the enforcement and prevention objectives, reinforcing the rights and responsibilities of consumers and traders, tenants and landlords.

The Office employed targeted marketing campaigns to foster a fair trading environment and ensure informed compliance with legislation administered by the Office.

The mass media remains an important vehicle for informing traders of and reminding them about their obligations, as well as the commercial advantages of trading fairly. The media is also useful in informing consumers of their rights.

The Media Unit oversaw an ongoing media and community relations campaign, which used media releases, information kits, product launches and interviews to maintain the profile of the Office and provide consumers and traders with important information on their rights and responsibilities.

The total number of media exposures was 1612 compared with 1080 in 1997/98, with a particular focus on suburban and regional print media.

The Office's publications were the centrepiece of innovative information campaigns (see Helpful Information, page 66).

During 1998/99, the Office used other communication tools to ensure its message reached the target audiences. These included brochures, fax back sheets, an increasing use of the Internet, education seminars, selected interviews with the media and news releases.

The communication and information approach of the Office has been underpinned by a proactive approach to media. As a direct result, the Office developed a profile on commercial television networks, major radio programs and metropolitan newspapers. There was also strong coverage in the key areas of suburban and regional media.

Some of the material produced and projects undertaken by the Office in 1998/99 included *Get A Life* magazine, the second edition of *Senior Power*, the Victorian Fair Trading Awards, and an extensive re-design of all forms used internally and by the public. A *Refund Policy* sign was produced and made available for all retailers - this sign warned consumers to choose carefully before making their decision to buy goods.

Additionally, the Office liaised with Fair Trading bodies in other states to produce publications such as *Keeping Baby Safe - a guide to nursery furniture* and *Customer Service Guidelines - how happier customers can lead to healthier business*.

Residential tenancies marketing campaign - Know your rights and you can't go wrong

A substantial marketing campaign was run from June 1998 through to January 1999, which was aimed at raising awareness amongst all key players of the new *Residential Tenancies Act 1997* and the establishment of the new Residential Tenancies Bond Authority.

The campaign included:

- intensive advertising on metropolitan and regional television, in cinemas, in metropolitan and regional newspapers, on the Internet and on postcards and posters;
- printing and direct mailing of thousands of residential tenancy, rooming house and caravan park forms and guides;
- translation of the renting guide (*Renting: Statement of Rights and Duties*) into eight languages, with distribution to more than 200 outlets;

- a fact sheet on tenancy rights, *Renting a Place to Live*, which was translated into 24 languages (this fact sheet is made available to the Department of Immigration which places it in every Welcome to Victoria Kit provided to new arrivals from overseas); and,
- the writing and distribution of nine fact sheets on common tenancy issues.

Close to 12,000 people responded to an advertising hotline number requesting either a copy of the renting guide or fact sheets on the new Residential Tenancies Bond Authority. More than 400,000 copies of the renting guide were distributed during the financial year.

The Office also experienced an increase in calls to its inquiries line of 63 per cent about residential tenancies matters. Independent research of the marketing campaign showed that it had "excellent reach".

The Victorian Good Business Program

The Victorian Good Business Program, featuring seminars, workshops and education programs, continued via the distribution of *The Victorian Good Business Guide*. *The Victorian Good Business Guide* informs business operators in simple terms about fair trading laws and regulations in this state. The Office continued to issue a copy of the magazine to every person registering a new business name.

Launches and campaigns by the Minister for Fair Trading

The Minister for Fair Trading, Mrs Jan Wade MP, launched the following programs:

- **Christmas safety campaign:** The Office launched a Christmas safety campaign with a 12 Days of Christmas theme. Each day for 12 days a new topic relating to Christmas safety was issued to Victorian media. Topics included toy safety, safety tips around swimming pools and advice on credit card spending. The launch kicked off with a demonstration of what can happen if faulty lights are used to decorate a Christmas tree.
- **Senior Power launch:** *Senior Power*, a consumer rights magazine for senior citizens, is designed to help senior citizens make informed decisions about consumer issues including buying goods and services, buying a car, house-building and renovating, insurance, rental accommodation and introduction agencies.
- **Get A Life:** About 100,000 copies of *Get A Life* were distributed during the year and the Office maintained its exclusive alliance with the Board of Studies to ensure all graduating VCE students in Victoria received a copy at their home address. The magazine provides advice and information on practical matters, which may arise in the transition from adolescence to adult life. The magazine also serves to increase their awareness of their rights and responsibilities.

The Victorian Fair Trading Awards

The Victorian Fair Trading Awards entered their fourth year. Businesses entering the Awards were judged on how customer complaints are handled, customer service policies and any initiatives introduced to make the customer feel special.

The entry categories in 1998 ensured the Awards were broad enough to encourage and attract all Victorian businesses to showcase their excellence in Customer Service. Categories included 'Woman in Business',

'Seniors Card', 'Government Department' and 'Not for Profit'. Awards presentations were held separately for businesses in regional and metropolitan Victoria.

The 1998 Victorian Fair Trading Awards winners are listed in Appendix 5.8.

Comments from winners of the 1998 Fair Trading Awards

New Oak Ford, Oakleigh, Winner Motor Vehicle Industry and Fair Trader of the Year.

"Winning these awards exuded a sense of pride throughout the organisation. Staff recognised the heightened expectancy of new clients and responded with the keenness of a

winning team providing top class service. In an industry thought of as 'horse traders' we strive to be ahead and beyond customer expectations and the Awards recognise our efforts."

Philip Webb Real Estate, East Doncaster, Winner Real Estate Industry.

"Winning the Award was extremely motivating for our entire team. It was a tremendous boost to know that the commitment we made to exceptional service was recognised as setting the standard for the industry. We are now working even harder to raise the benchmark further."

Peter Smith, Amcal Chemist, East Burwood, Winner Seniors Card.

"The success of the business depends on my staff. They serve and delight the customers and when there is a problem, they turn lemons into lemonade. Winning the Award gave them the 'pat on the back' they deserve and reminded me how great they are."

Nautilus Floating Dockside Restaurant, Lakes Entrance, Winner Regional Fair Trader.

"Feedback from customers and suppliers suggests that they are as proud of this Award as we are, for it proves to all of us that a small business in a country town can aspire to and achieve a standard of quality recognised as amongst the highest attainable."



Education

Seminar program

As part of its commitment to ensuring industry has timely access to information on new legislation, the Office conducted 41 seminars attended by some 2600 traders.

Two seminar programs were conducted following the introduction of the *Residential Tenancies Act 1997*. The seminars were of assistance in overcoming the perception that the changes to tenancy law were onerous and complex.

During the period June to November 1998, a program of six metropolitan and seven regional seminars were conducted to inform private landlords and rooming house owners about changes to residential tenancy law in Victoria.

In response to stakeholder needs the program included a seminar for ethnic landlords and a series of seminars for rooming house owners. This was the first time seminars had been run for rooming house owners and the initiative was applauded by industry.

In conjunction with the Residential Tenancies List of the Victorian Civil and Administrative Tribunal (VCAT), and with the assistance of the Real Estate Institute of Victoria Ltd (REIV), 19 workshops were held for estate agents across Victoria. These outlined the process for lodging and claiming bonds from the newly established Residential Tenancies Bond Authority (RTBA).

Further seminars were conducted for specific groups of agents through the REIV network and for private landlords. About 1200 estate agents and landlords attended the seminars. Further seminars, along with a program of agency visits and the distribution of regular circulars, are part of an ongoing program to educate stakeholders about the operations of the RTBA.

During June, a public seminar was held in Melbourne to inform fundraisers about changes to the *Fundraising Appeals Act 1998*. More than 450 fundraisers attended the seminar that was organised with the assistance of the Fundraising Institute of Victoria. The seminar is part of a program of seven regional seminars that will continue during July and August 1999.

Program evaluations confirmed that participants considered that seminars met their objectives, were a good investment of time and provided a forum to raise and discuss issues.

Education for estate agents

The Office plays an important role in maximising the effectiveness of the training system for intending estate agents and agents' representatives.

Delivery and funding of the prescribed course for agents' representatives continued to be monitored in consultation with TAFE to ensure the availability of the course at locations suitable to industry in metropolitan and regional Victoria.

The Office worked with Open Training Services and Vocational Education and Training Assessment Services (VETASSESS) to update the resource materials and prescribed examinations for the *Course in Real Estate for Agents' Representatives and the Certificate IV in Business (Estate Agency Practice)*.

This material incorporated new legislation relating to residential and retail tenancy law, the Business Licensing Authority (BLA) and the Victorian Civil and Administrative Tribunal.

To ensure that real estate practitioners have access to current legislation and other information relevant to real estate practice, the Office continued to provide the Estate Agents Legislation Service to all licensed estate agents. Material circulated to estate agents included an updated reprint of the *Estate Agents Act 1980*, *Retail Tenancies Reform Act 1998* and three *Practice Notes*.

Practice Notes provide a means of keeping real estate practitioners informed of procedures and other matters of interest relating to legislation. They covered issues including the security of trust monies handled by estate agents, the establishment of the BLA and the Residential Tenancies List of VCAT and new retail tenancy laws.

Real Estate Competency Standards

An Office staff member represented all state and territory real estate licensing authorities on the real estate sub-committee of Property Services Training Authority (PSTA) which revised the National Real Estate Competency Standards (NRECS) and developed national credentials for endorsement under the national real estate training packages.

The real estate training packages will comprise the NRECS, national credentials, assessment guidelines and support materials and are expected to be endorsed and registered by the Australian National Training Authority in October 1999.

Review of professional development programs for estate agents

In October 1998, KPMG provided its report of the first stage of a review of the professional development programs for real estate agents and agents' representatives carried out by the REIV with funding from the Estate Agents Guarantee Fund.

Recommendations of the review included the:

- keeping of more detailed data on participation in the training programs;
- more regular issuing of the training manual and its redesign to maximise its use and appeal;
- development of mixed mode or distance delivery for some courses;
- delivery of more training at non-metropolitan locations; and,
- continuation of provision by the REIV of professional development training in areas with a significant real estate specific component and for which there is sufficient industry demand.

Fostering

An Efficient, Competitive and Fair Marketplace

The creation of contemporary fair trading legislation for the marketplace has made it possible for all Victorians to contribute to and enjoy fair and equitable trading.

Changes to the law

Legislative reform was significant, including:

- the introduction of the new *Fair Trading Act 1999*;
- the abolition of licensing for finance brokers;
- greater accountability for fundraisers;
- stricter controls on the prostitution industry;
- greater discipline on large incorporated associations; and,
- the implementation of the *Residential Tenancies Act 1997*, which included the establishment of the Residential Tenancies Bond Authority.



Fair Trading

The new *Fair Trading Act 1999* passed through Parliament in May 1999 and will come into effect on 1 September 1999. This act consolidates the *Fair Trading Act 1985*, *Consumer Affairs Act 1972* and *Ministry of Consumer Affairs Act 1972* and repeals the *Market Court Act 1978*.

The Act introduces law into new areas, including:

- lay-by sales provisions;
- power to prescribe industry Codes of Practice;
- mandatory recall powers for dangerous goods;
- power for the Director of Fair Trading to accept written undertakings from traders relating to breaches of the Act;
- an 'anti-blower' provision;
- minimum requirements for Non-Contact Sales (more widely known as 'Distance Sales'); and,
- a prohibition against traders providing false testimonials to promote their products.

Some provisions in the former Acts have been retained and updated to deal more effectively with current market practices. This includes contact sales, previously known as door-to-door sales, pyramid selling and harassment and coercion.

Financial sector reform

The responsibility for the supervision of building societies, credit unions and friendly societies will transfer from the state-based Financial Institutions Scheme to the Commonwealth on 1 July 1999.

The Australian Securities and Investments Commission and the Australian Prudential Regulation Authority will now be responsible for the market conduct and prudential regulation of these entities. The *Building Societies Act 1986* will be repealed on 1 July 1999. The *Financial Institutions (Victoria) Act 1992* and the *Friendly Societies (Victoria) Act 1996* will also be repealed in due course, and the Financial Institutions Scheme wound up.

As part of the re-organisation of supervision of financial institutions and related entities, responsibility for co-operative housing societies has been transferred to the Treasurer of Victoria, and trustee companies will be supervised jointly by the Minister for Fair Trading and the Treasurer of Victoria.

Fundraising Appeals

A significant piece of new legislation will commence operation on 1 July 1999. *The Fundraising Appeals Act 1998* is designed to maintain public accountability of fundraisers seeking donations from the public. The Act seeks to achieve this objective by imposing specific notification, record keeping and banking requirements on fundraisers.

The new Act received Royal Assent on 10 November 1998 and repeals the *Fundraising Appeals Act 1984*.

Patriotic Funds

The subject of Patriotic Funds was addressed with the introduction of the *Patriotic Funds (Amendment) Act 1998*, which made amendments to a 40 year old Act.

The new Act received Royal Assent on 4 November 1998 and came into operation on 1 December 1998. The Act:

- extends the application of patriotic funds to members of the Defence Forces and their dependants;
- clarifies responsibility for control of assets;
- updates the banking requirements; and,

- enables a trustee to transfer assets up to \$20,000 in value from a patriotic fund to a non-patriotic fund without Governor in Council sanction.

Chattel Securities

The *Chattel Securities Act 1987* provides a system for the registration of security interests in goods - principally motor vehicles - so that prospective purchasers can check whether a vehicle is subject to a financial encumbrance.

The Ministerial Council on Consumer Affairs (MCCA) set up a working party in 1994 to facilitate the linkage of state-based registers of motor vehicle securities and to ensure that the linked system was supported by nationally consistent laws.

By 1997, the vehicle securities registers in all mainland states and territories were linked providing, in effect, a national register which enables prospective purchasers to access the register in their home state and ascertain whether a vehicle registered anywhere in mainland Australia is subject to a financial encumbrance.

The MCCA working party commissioned a report which identified the necessary amendments to state and territory legislation to achieve national consistency in the laws supporting the linked vehicle securities registers.

The Victorian Parliament passed amendments to the *Chattel Securities Act 1987* in November 1998 to implement the recommendations of the MCCA working party and ensure that Victoria's laws are consistent with the national model.

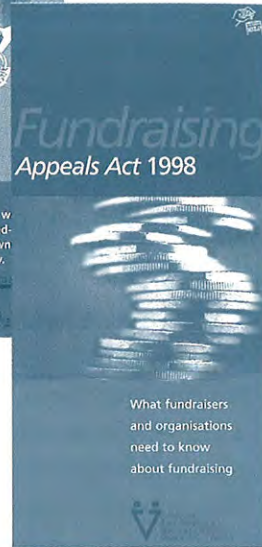
Finance Brokers

The *Finance Brokers Act 1969* was repealed by the *Consumer Credit (Finance Brokers) Act 1998*, which inserted modified provisions applicable to finance brokers in the *Consumer Credit (Victoria) Act 1995*. The new system of finance broking regulation is one of negative licensing which focuses on the conduct of finance broking transactions. The new system will commence on 1 July 1999.

Prostitution Control

The *Prostitution Control (Amendment) Act 1999* amends the *Prostitution Control Act 1994*, and aims to:

- increase the effectiveness of enforcement against illegal brothels;
- further prevent criminal involvement in the prostitution industry;
- prevent live sexually explicit entertainment venues which do not comply with the Act from providing prostitution-type services; and,
- amend the *Summary Offences Act 1966* to regulate the advertising of sexually explicit entertainment.



The amendments came about as a result of concern that people who were ineligible to hold a prostitution service providers licence, were able to use commercial and legal devices to become involved in the prostitution industry.

Evidence suggested that these devices were also being used to circumvent the prohibition on multiple interests. This was inconsistent with the object of ensuring that criminals are not involved in the prostitution industry and created the potential to undermine the integrity of the licensing system.

The *Prostitution Control (Amendment) Act 1999* received Royal Assent on 8 June 1999. Some provisions of the Act, particularly those concerned with the prohibition on an interest in more

than one brothel licence, will come into effect on 1 September 1999. The inspectors' powers provisions will come into effect on or before 1 February 2000.

Residential Tenancies Bond Authority

The Residential Tenancies Bond Authority (RTBA) was established by the *Residential Tenancies Act 1997* on 1 July 1998 to hold all Victorian residential tenancy bonds including those on rented premises, long term caravans and rooming houses.

The RTBA is a statutory authority constituted by the Director of the Office of Fair Trading and Business Affairs to hold bonds on trust for landlords and tenants. It holds bonds in a neutral capacity, either repaying the bond as agreed by the landlord and tenant, or as directed by the Victorian Civil and Administrative Tribunal (VCAT) or a court.

The bonds received by the RTBA are held in the Residential Tenancies Bonds Account. At 30 June 1999, this account held \$175.8 million, representing 245,260 bonds. This included approximately \$165 million transferred from the previous system of individual bond trust accounts held by landlords or estate agents.

Interest on the Residential Bonds Account is paid to the Residential Bonds Investment Income Account, where it is applied to meet the costs of administration of the central bond management system and to make contributions to the Residential Tenancies Fund.

The Act also provides for the payment of interest on bonds subject to actuarial opinion on the sustainability of the Residential Tenancies Fund. Due to the low market rate of interest presently earned on the Bond Account, the payment of interest has not yet been activated.

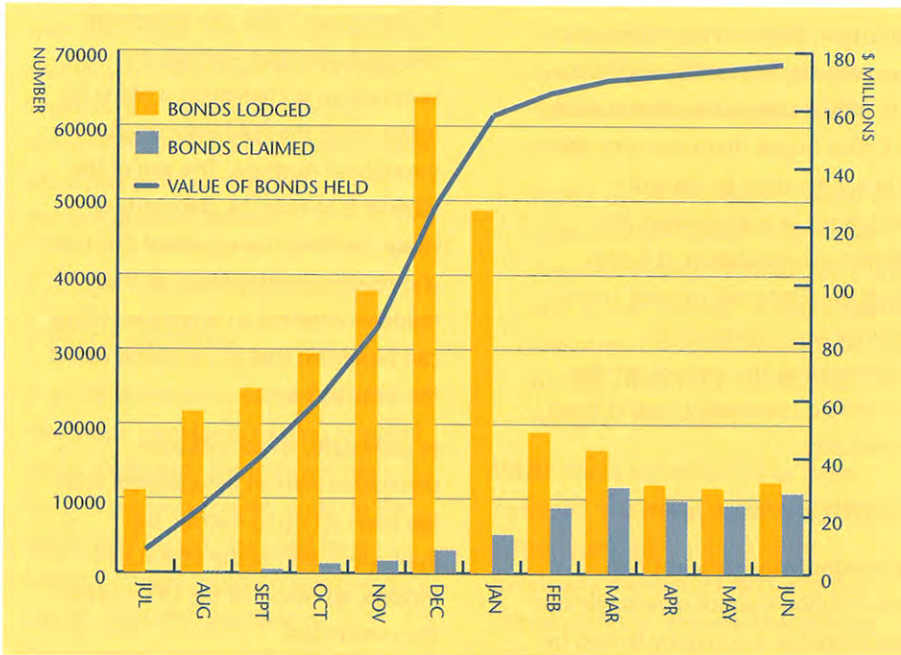
The introduction of the RTBA was undertaken in consultation with the Real Estate Institute of Victoria Ltd, the Tenants Union of Victoria and the Office of Housing. It is expected this consultation will continue with regard to its ongoing management.

The RTBA conducts an inquiry service in regard to bond lodgement and repayments on (03) 9627 6143. General tenancy inquiries can be directed to the Residential Tenancy Inquiry service on (03) 9627 6222.

Self-regulation, codes and industry standards

There has been a continued strategy to provide advice to industry associations about self-regulation and voluntary codes of practice. Advice has been provided to the Master

Figure 12: Residential Tenancies Bonds lodged, claimed and value



Plumbers and Mechanical Services Association of Australia, the Hairdressing and Beauty Industries Association, and the Direct Selling Association of Australia. Land Victoria was advised regarding the reform of land surveying in this state.

A review by the Office of its policy framework relating to self-regulation has also begun.

Domestic appliance service industry

During the reporting year, the Office's main initiative in the self-regulatory area was the development and release of the Domestic Appliance Service

Industry Code of Practice. For many years, the Office has received complaints about the advertising, quality and price of appliance repairs. While the majority of firms provide good service at a fair price, the office believes industry and consumers would benefit from information as to what was considered good service standards for the industry.

The Domestic Appliance Service Industry Code of Practice was based on similar codes that operate in New South Wales. In addition, during the development of the Code, input was sought from both industry participants and consumer organisations.

The Code sets fair trading guidelines in matters such as advertising and promotion, field service, diagnosis and charging, warranties and spare parts. While compliance is voluntary, the Office hopes that over time the Code will be used by industry associations as a framework for effective self-regulation. It is also hoped the Code will provide useful guidance for consumers in understanding the level of service they should reasonably expect from the industry.

Weight management

The Weight Management Code Administration Council of Australia was incorporated as a company limited by guarantee on 3 June 1997, and is responsible for the administration of the Weight Management Code of Practice.

The Council comprises:

- an independent chair;
- industry representatives;
- a representative from the Australian Nutrition Foundation;
- a representative from the Consumers Federation of Australia; and,
- Government observers - currently the Office.

The main challenge faced by the Council during the year was attracting new signatories to the Code. During the year, three new signatories joined the Council.

Retirement villages

In September 1996, the Retirement Villages Association Australia Inc launched an accreditation scheme for members of the state associations throughout Australia. The aim of the scheme is to raise the standards of village facilities, management practices and resident participation, so those residents entering an accredited village can be certain that its standards reflect the industry's best.

In each state, an accreditation committee with an independent chair has been set up to oversee the implementation of the scheme. In Victoria, an official of the Office chairs the committee.

At the time of writing, 35 Victorian retirement villages had been accredited, with several more villages having lodged applications for accreditation.

Furniture removers

The Office-endorsed Code of Conduct of the Victorian Furniture Removers Association (VFRA) has several consumer friendly features. These include requirements for members to use the Standards Australia contract for household removals or its equivalent and to provide certain advice regarding insurance. There is an independent complaints committee to handle disputes between VFRA members and clients.

The Code has an in-built provision for three-yearly reviews in conjunction with the Office. The first such review was largely completed in 1997/98. The Office is looking to develop a more effective code in particular areas identified in its earlier post-implementation review.

Other developments

Petrol pricing

The Office continues to receive numerous complaints relating to petrol prices particularly the relatively high price of petrol in country areas. In the last Annual Report, the need for a national reform approach was noted. On 20 July 1998, the Federal Government announced a reform package for the petroleum industry designed to benefit consumers, in particular country consumers who have suffered from a lack of competition in the retail market.

The package has the following key aspects:

- the removal of prices surveillance of petrol and automotive distillate and the setting of a maximum endorsed wholesale price from 1 August 1998;
- commitments from major oil companies to allow open access to their oil terminals to customers for bulk fuel supply and greater price transparency;
- a commitment from major oil companies to support an independent price monitoring system for regional Victoria which will be monitored by the RACV; and,
- repeal of the *Petroleum Marketing Sites Act 1980* and the *Petroleum Retail Marketing Franchise Act 1980* and a new Oilcode (the petroleum industry's Code of Conduct) timed to take effect from the date of repeal of these Acts.

While prices surveillance has been removed, the major aspects of the reform package – repeal of the previously mentioned Acts and the introduction of the new mandatory Oilcode – have not occurred.

Other

The Office contributed to the Government's Positive Ageing Plan that was prepared by the Department of Human Services in response to the Family and Community Development Committee Inquiry into Planning for Positive Ageing.

The Office also contributed to the NSW Fair Trading Advisory Council's Inquiry into the Retail Supply of Personal Computers, Peripheral Devices and Software.

Consultative

Bodies

Victorian Consumer Affairs Committee

The Victorian Consumer Affairs Committee (VCAC) is a source of policy advice to the Minister for Fair Trading, and is made up of members from consumer, community and industry groups. Suzanne Russell, Associate Professor of Consumer Science, chairs its monthly meetings at the RMIT University.

As part of its research and consultation, the VCAC organises an annual seminar on consumer issues, bringing together relevant stakeholders.

With the imminent introduction of the *Fair Trading Act 1999*, the Committee undertook a major project to:

- determine priorities in consumer issues over the next three to five years;
- encourage the development of co-operative strategies for action;
- encourage community organisations to work collaboratively in order to share resources and avoid duplication; and,
- highlight a new era in consumer affairs.

The six major issues that emerged were:

- changing role of Government and citizen boundaries, including a retreat from the concept of 'social contract' and the challenges posed by a more corporatist government approach;
- new technologies, such as Internet purchasing and electronic commerce, with the resulting equity, privacy, dispute resolution and enforcement issues;
- deregulation of utilities and the basis for provision of services to consumers;
- codes of conduct and the effects of self-regulation and co-regulation;
- perennial/traditional consumer problems which still exist such as pyramid and door-to-door selling; and,
- access to justice including low-cost and accessible dispute resolution.

The Committee's report outlined these and other issues that it considered needed to be addressed as part of legislative reform, as well as trader and consumer education programs.

VCAC has continued to provide advice to staff and the Minister on new and amended legislation that impacts on consumers. It has also taken a particular interest in the need for legislative protection for consumers when using electronic purchasing and payment systems, particularly the purchase of goods and services over the Internet.

VCAC liaises on a regular basis with the senior managers of the Office and regards these discussions as an important aspect of its role in considering the services provided and policies developed by the Office.

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:

- Victorian Employers Chamber of Commerce and Industry;
- Master Builders Association of Victoria;
- Real Estate Institute of Victoria Ltd;
- Victorian Automobile Chamber of Commerce;
- Australian Retailers Association - Victoria;
- Coles-Myer Limited;
- Australian Chamber of Manufactures;
- Small Business Victoria;
- Australian Competition and Consumer Commission; and,
- Trustee Corporations Association of Australia.

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.

Major topics discussed during 1998/99 included the implications of a GST, electronic commerce and the new fair trading legislation.

Prostitution Control Act Ministerial Advisory Committee

The Prostitution Control Act Ministerial Advisory Committee is established under the *Prostitution Control Act 1994* to advise the Minister for Fair Trading on issues related to the regulation and control of the prostitution industry in Victoria.

The Committee, which meets monthly, is comprised of 11 members representing Government, industry and community interests and is chaired by Ms Judy Dixon, Director of the Victims Referral and Assistance Service. The Office provides research and secretarial support to the Committee.

The Committee investigated and reported to the Minister for Fair Trading on the issue of advertising for ancillary staff. The Committee also continued its investigations into live sexually explicit entertainment, billboard advertising by brothels and other providers of sexually explicit entertainment, and the level of knowledge about the Act among exempt prostitution service providers.

The Committee was also asked by the Minister to begin an investigation into the incidence of illegal brothels in Victoria, evaluate the level of unsafe sexual practices occurring in illegal brothels and make recommendations about how these practices can be reduced. It was also asked to make recommendations on preventing the growth of illegal brothels.

Director's quarterly forums

Each quarter, the Director meets with representatives from the Consumer and Tenant Support Programs funded by the Office. Discussion on particular issues took place with the community sector presenting papers on the repair industry (cars and household goods) and issues in the housing industry that had not been resolved by the introduction of the residential tenancies legislation.

The Director provided updates on the progress of the fair trading legislation, publicity campaigns and Office issues emerging on staffing and budget matters.

The forums are a valuable opportunity for two-way discussion at a policy development level, with the community sector providing its view of the practical experience of the legislation. In turn, the community sector is kept informed of the action taken by the Office to address fair trading issues.

Helpful Information

Publications available from the Office 1998/99:

- A Career in Real Estate
- Applying for an Estate Agent's Licence
- Associations: Information Booklet
- Building and Renovating Magazine
- Business Name Information/Application Form
- Buying a Computer
- Car Deals: Your guide to buying a new and used car
- Caravan Parks: Statement of rights and duties
- Co-operatives: Directors Obligations under the *Co-operatives Act 1996*
- Consumer Power 2 (CP2)
- Customer Service Guidelines: How happier customers can lead to healthier business
- Domestic Appliance Service Industry Code of Practice
- Draft Co-operative Rules (various types)
- Fax Back Sheets covering consumer issues (including lay-bys, the Internet, safety, introduction agents) and tenancy issues
- Get A Life
- Guide to forming and running a Co-operative
- Keeping Baby Safe
- Kidsafe Furniture: A safety guide
- LPG: A guide about LPG conversion
- Model Rules for Incorporated Associations
- Renting a Place to Live (a factsheet available in 25 languages)
- Renting: Statement of rights and duties (available in nine languages)
- Rooming House: Statement of rights and duties
- Safe Toys for Kids
- Senior Power
- Small Claims in the Civil Claims List of VCAT: A guide for users
- So you want to be a Travel Agent
- Straight Answers to your Questions (for second-hand dealers and pawnbrokers)
- The New Consumer Credit Code - Business
- The New Consumer Credit Code - Consumer
- The New Consumer Credit Code - Business Checklist
- The Victorian Good Business Guide

Dealing with complaints

The Office of Fair Trading and Business Affairs (OFTBA)

Write to or visit the Office at:

Office of Fair Trading and Business Affairs
GPO Box 123A

Melbourne 3001

Website: www.justice.vic.gov.au/OFTBA
(as at 30 June 1999)

Website: www.fairtrading.vic.gov.au
(from early 2000)

Email: oftba@justice.vic.gov.au

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

Telephone the Office on:

Residential tenancies inquiries on (03) 9627 6222 or 1800 136 716.

Residential tenancies bond inquiries on (03) 9627 6143.

Motor vehicle inquiries on (03) 9627 6001 or 1800 678 328.

Household goods/services inquiries on (03) 9627 6111 or 1800 634 389.

Building inquiries on (03) 9627 6100 or 1800 067 320.

TTY/TDD number (for hearing impaired) on (03) 9627 6020.

Operators are available between 9.00am and 4.00pm Monday to Friday.

Fax the Office on:

Residential tenancies inquiries on (03) 9627 6223.

Consumer inquiries on (03) 9627 6006.

Industry Complaint Handling Processes

Traders who are members of an industry association often have dispute resolution mechanisms available through their association. Generally this is a free service and one which should be explored by consumers if a resolution cannot be achieved via the member trader.

Victorian Civil and Administrative Tribunal (VCAT)

VCAT includes the Civil Claims List (formerly the Small Claims Tribunal), and the Residential Tenancies List (formerly the Residential Tenancies Tribunal). It adjudicates disputes between consumers and traders, tenants and landlords, and traders against traders.

Determinations are legally binding and enforceable.

VCAT can be contacted on (03) 9628 9700

Community Groups

There are many groups within the community that provide advice, information and advocacy services for consumer and tenancy issues. See Appendix 5.3 for contact details.

Appendices

5.1 Fair Trading Acts of Parliament

The following pieces of legislation were assigned to the Minister for Fair Trading as at 30 June 1999.

- *Associations Incorporation Act 1981*
- *Auction Sales Act 1958*
- *Business Investigations Act 1958*
- *Business Licensing Authority Act 1998* (effective 1 July 1998)
- *Business Names Act 1962*
- *Carriers and Innkeepers Act 1958*
- *Chattel Securities Act 1987* excluding Part 3 (this part administered by the Minister for Roads and Ports)
- *Collusive Practices Act 1965*
- *Companies (Administration) Act 1981*
- *Consumer Affairs Act 1972* (repealed 1 September 1999)
- *Consumer Credit (Victoria) Act 1995*
- *Co-operatives Act 1996*
- *Corporations (Victoria) Act 1990*
- *Credit Act 1984*
- *Credit (Administration) Act 1984*
- *Credit Reporting Act 1978*
- *Defence Reserves Re-employment Act 1995*
- *Discharged Servicemen's Preference Act 1943*
- *Disposal of Uncollected Goods Act 1961*
- *Domestic Building Contracts Act 1995* (Except Part 5 - which is administered by the Attorney-General)
- *Estate Agents Act 1980*
- *Fair Trading Act 1999* (proclaimed 1 September 1999)
- *Financial Institutions (Victoria) Act 1992*
- *Friendly Societies (Victoria) Act 1996*
- *Frustrated Contracts Act 1959*
- *Fuel Prices Regulation Act 1998*
- *Fundraising Appeals Act 1998*
- *Funerals (Pre-Paid Money) Act 1993*
- *Goods Act 1958*
- *Hire-Purchase Act 1959* (repealed 1 April 1998, in respect of future hire-purchase agreements; except for sections 24 and 25, applicable to hire purchase agreements for farm machinery until 1 April 2000)
- *House Contracts Guarantee Act 1987*
- *Introduction Agents Act 1997*
- *Landlord and Tenant Act 1958*
- *Market Court Act 1978* (repealed 1 September 1999)

- *Marketable Securities Act 1970*
- *Ministry of Consumer Affairs Act 1973* (repealed 1 September 1999)
- *Motor Car Traders Act 1986*
- *Partnership Act 1958*
- *Patriotic Funds Act 1958*
- *Petroleum Retail Selling Sites Act 1981*
- *Prostitution Control Act 1994*
- *Residential Tenancies Act 1997* (ss.24, 25, 27, 32, 33, 45-48, 74-77, 82, 90, 91, 102, 103, 104(1), 104(4), 104(5), 105(2), 105(3), 124, 128, 130-134, 141-212, 214, 215, 230, 232-234, 241, 277, 291-333, 335-341, 343-366, 373-376, 385, 388, 390, 395-398, 400-439, 474(2), 483, 486-504, 506-511;
- s.66 (1) jointly with the Minister for Housing; the Act is otherwise administered by the Attorney-General, the Minister for Housing and the Minister for Planning and Local Government
- *Retirement Villages Act 1986*
- *Sale of Goods (Vienna Convention) Act 1987*
- *Sale of Land Act 1962*
- *Sea Carriage Documents Act 1998*
- *Second-hand Dealers and Pawnbrokers Act 1989*
- *Travel Agents Act 1986*
- *Trustee Act 1958*
- *Trustee Companies Act 1984*, jointly with the Treasurer

5.2 Regulations made or revoked in 1998/99

Regulations made	Date made
<i>Associations Incorporations Regulations 1998</i>	24 July 1998
<i>Discharged Servicemen's Preference (Amendment) Regulations 1999</i>	23 March 1999
<i>Friendly Societies (Amendment) Regulations 1999</i>	16 June 1999
<i>Fundraising Appeals Regulations 1999</i>	29 June 1999
<i>House Contracts Guarantee Regulations 1999</i>	20 April 1999
<i>Motor Car Traders (Amendment) Regulations 1998</i>	8 Sept 1998
<i>Patriotic Funds (Travelling Expenses) Regulations 1998</i>	14 July 1998
Regulations revoked	
<i>House Contracts Guarantee Regulations 1988.</i>	

5.3 Community funding programs

An account of recent developments in these programs is provided at pages 44-45. This appendix records grants made in 1998/99.

Consumer Support Program from 1 July 1998 to 30 June 1999

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

Regional services

Anglicare Gippsland

65 Church Street

MORWELL 3840

\$57,510

Provides services in the Central Gippsland Region.

Bendigo Community Health Services Inc

Seymour Street

EAGLEHAWK 3556

\$68,354

Provides services in the Loddon Campaspe Region.

Brimbank Community Centre Inc

822 Ballarat Road

DEER PARK 3023

\$60,285

Provides services in the Western Region.

Dianella Community Health Inc

35 Johnstone Street

BROADMEADOWS 3048

\$44,986

Provides services in the North West Region.

Child and Family Services Ballarat Inc

115 Lydiard Street North

BALLARAT 3350

\$65,985

Provides services in the Central Highlands Region.

Community Connections (Victoria) Ltd

26 Fairy Street

WARRNAMBOOL 3280 and

63 Percy Street

PORTLAND 3305 and

Currawong Family Services

92 Thompson Street

HAMILTON 3300

\$50,166

Provides services in the Glenelg Region.

Consumer and Tenancy Advice

Service Inc

110 Hume Street¹

WODONGA 3690

and

32 Ford Street

WANGARATTA 3677

\$51,484

Provides services in the Upper Murray Region.

Consumer and Tenancy Advice
Service Inc
162 Maude Street
SHEPPARTON 3630
\$60,189
Provides services in the Goulburn
Region.

Consumer and Tenant Resource
Centre Outer East Inc
Suite 11, 5-7 Chandler Road
BORONIA 3155
\$64,671
Provides services in the Outer East
Region.

Financial Counselling and Consumer
Information Service Inc
18 Aberdeen Street
GEELONG WEST 3218
\$56,053
Provides services in the Barwon Region.

Kilmany Family Care
113 Cunningham Street
SALE 3850
and
49 McCulloch Street
BAIRNSDALE 3875
\$54,511

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
\$57,591
Provides services in the Mallee Region.

North East Consumer Support
Service C/- Berry Street Community
Resource Centre
165 Burgundy Street
HEIDELBERG 3084
\$57,844
Provides services in the North East
Region.

Peninsula Community Legal Centre Inc
Chatsworth House
Suite 2-4, 431 Nepean Highway
FRANKSTON 3199
\$57,446
Provides services in the Westernport
Region LGA's of Mornington
Peninsula, Frankston, Kingston, Casey
and Cardinia.

Springvale Community Aid & Advice
Bureau Inc
5 Osborne Avenue
SPRINGVALE 3171
\$55,684
Provides services in the Westernport
Region LGA of Greater Dandenong.

Wimmera Community Care
185 Baillie Street
HORSHAM 3400
\$49,086
Provides services in the Wimmera
Region.

Specialist services

Consumer Credit Legal Service

1st Floor, Bank House

11-19 Bank Place

MELBOURNE 3000

\$181,989

Purpose of Grant:

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

Financial and Consumer Rights

Council Inc

2nd Floor, 247 Flinders Lane

MELBOURNE 3000

\$65,489

Purpose of Grant:

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

Tenant Support Program from 1 July 1998 to 30 June 1999

The Tenant Support Program provides funding to regional community-based agencies to provide information and education to landlords and tenants. The program also provides dispute resolution and advocacy services to

tenants throughout Victoria, especially disadvantaged members of the community. Funding is also provided to specialist and statewide services for various tenancy-related activities.

Anglicare Gippsland

65 Church Street

MORWELL 3840

\$82,284

Provides services in the Central Gippsland Region.

Bendigo Community Health Service Inc

Seymoure Street

EAGLEHAWK 3556

\$113,170

Provides services in the Loddon Campaspe Region.

Brimbank Community Centre Inc

822 Ballarat Road

DEER PARK 3023

\$76,731

Provides services in the Western Region.

Broadmeadows Tenants Information Service Inc

100 Longford Crescent

COOLAROO 3048

\$98,799

Provides services in the North West Region.

Child and Family Services Ballarat Inc

115 Lydiard Street North

BALLARAT 3350

\$74,805

Provides services in the Central Highlands Region.

Community Connections (Victoria) Ltd
26 Fairy Street
WARRNAMBOOL 3280
and
63 Percy Street
PORTLAND 3305
and
Currawong Family Services
92 Thompson Street
HAMILTON 3300
\$105,158
Provides services in the Glenelg
Region.

Consumer and Tenancy Advice
Service Inc
110 Hume Street
WODONGA 3690
and
32 Ford Street
WANGARATTA 3677
\$100,035
Provides services in the Upper
Murray Region.

Consumer and Tenancy Advice
Service Inc
162 Maude Street
SHEPPARTON 3630
\$111,381
Provides services in the Goulburn
Region.

Consumer and Tenant Resource
Centre Outer East Inc
Suite 11, 5-7 Chandler Road
BORONIA 3155
\$72,763
Provides services in the Outer East
Region.

Family Access Network Inc
1030 Whitehorse Road
BOX HILL 3128
\$82,873
Provides services in the Inner East
Region.

Financial Counselling and Consumer
Information Service Inc
18 Aberdeen Street
GEELONG WEST 3218
\$138,164
Provides services in the Barwon Region.

Kilmany Family Care
113 Cunningham Street
SALE 3850
and
49 McCulloch Street
BAIRNSDALE 3875
\$71,940
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
\$139,231
Provides services in the Mallee Region.

Peninsula Community Legal Centre Inc
Chatsworth House

Suite 2-4, 431 Nepean Highway
FRANKSTON 3199

\$165,712

Provides services in the Westernport
Region LGA's of Mornington
Peninsula, Frankston, Kingston, Casey
and Cardinia.

Springvale Community Aid and
Advice Bureau Inc

5 Osborne Avenue
SPRINGVALE 3171

\$106,913

Provides services in the Westernport
Region LGA of Greater Dandenong.

Tenants Union of Victoria Ltd

55 Johnston Street
FITZROY 3065

and

Rear 161 Chapel Street
ST KILDA 3182

and

2/207 Barkly Street
FOOTSCRAY 3011

and

251 High Street
PRESTON 3072

\$363,467

Provides a regional tenants advice
service in the Inner Urban and North
East Regions and the Footscray area.

Wimmera Community Care

185 Baillie Street
HORSHAM 3400

\$54,756

Provides services in the Wimmera
Region.

Specialist services

Housing for the Aged Action Group Inc
2nd Floor, Ross House

247-251 Flinders Lane

MELBOURNE 3000

\$66,095

Purpose of grant: Provision of a
community education,
information/advice and advocacy and
support service on tenancy issues for
the aged as a statewide project.

Tenants Union of Victoria Ltd

55 Johnston Street

FITZROY 3065

\$93,073

Purpose of grant: Undertaking of
statewide resourcing, and supporting
of regional tenancy advice services,
research, policy and community
education work.

Tenants Union of Victoria Ltd

Rooming House Service

55 Johnston Street

FITZROY 3065

\$127,045

Purpose of grant: Provision of
rooming house resident
information/advice, complaint
resolution and advocacy services.
Contribution to policy development
and legislative change on rooming
house issues.

5.4 Grants made from the Consumer Credit Fund

Australian Romanian Community Welfare

\$10,000 Effect of credit in the Romanian community.

Ballarat East Community House

\$1300 Consumer education workshop.

Financial and Consumer Rights Council Inc

\$31,100 Consumer Credit Information Bank.

\$24,389 Consumer Credit Bulletin.

\$30,606 Attitudes to Credit and Debt - Stage 2 Research.

\$5450 Improving access for people from NESB.

Good Shepherd Youth and Family Services Inc

\$17,000 New Pawnbroking Laws: promoting awareness and tracking the impact.

Headway Gippsland Inc

\$3060 Financial planning and management - training for people with disabilities.

Mallee Family Care Inc

\$15,472 The Aboriginal community and consumer credit.

Mildura & District Educational Council (MADEC)

\$4750 "Managing the Change - How to survive when you get a job".

Outlets Co-operative

Limited/Neighbourhood House

\$6425 Stop the credit crisis before it starts.

Upper Hume Community Health Service

\$575 Financial Good Health - workshops.

Victorian Commercial Teachers Assoc. (VCTA)

\$8500 "Don't get rung out" - Mobile phones and school students education project.

Wingate Avenue Community Centre

\$4385 Community education workshops on credit and finance.

5.5 Grants considered by the Estate Agents Council and the Office of Fair Trading and Business Affairs and approved by the Minister for Fair Trading during 1998/99

Name of Applicant	Principal of Applicant Organisation	Grant Approved	Description of funded program
Land Victoria, Department of Natural Resources and Environment	Ms E O'Keefe, Exec Director	\$1,200,000	To improve the accessibility and quality of land valuation data. To enable greater ease of access to information about land in Victoria.
Real Estate Institute of Victoria Ltd	Mr N. Huon C.E.O.	\$438,330	Delivery and ongoing development by REIV Ltd of professional education programs.
		\$67,280	Conduct of a Training Needs Analysis of Estate Agents and their representatives.
Credit Helpline Victoria Ltd	Russell Mitchell, Chairperson	\$56,000	Support for the provision of a telephone inquiry service relating to educating members of the public about credit and bankruptcy aspects of the sale and purchase of real estate or businesses.
Office of Housing, Department of Human Services	Mr H Ronaldson, Director of Housing	\$50,100	Support to Group Self-Build and Shared Equity programs.
Total Grants		\$1,811,710	

5.6 Residential Tenancies: inspections and other services

	1996/97	1997/98	1998/99
Goods left behind	2609	2665	2897
Repairs	1711	1649	1305
Rent Assessments	304	308	627
Other request for assistance	633	460	483
Total	5257	5082	5312

5.7 Prosecutions 1998/99

Prosecutions 1998/99

DATE OF HEARING	DEFENDANT	ACT	SECT	BREACH SUMMARY	NUMBER OF OFFENCES	FINES \$	COSTS \$	OTHER ORDERS
1-Jul-98	Leo Nitz of Melbourne	FTA BNA	12(i) 5(1)	False representations arising in advertised offers to obtain personal loans. Conducting business under an unregistered business name.	6 1	1000	485	Conviction
1-Jul-98	Fikret Aldogan of Keysborough	MCTA	38(4)	In the course of selling a motor car, falsely representing the odometer reading of the vehicle.	1	1500	835	Conviction
6-Jul-98	Mehmet Hasan Bulli of Roxburgh Park	DBCTA BA	11 29 31(1) 136(2)	An unregistered builder who entered into building contracts which did not provide adequate disclosure, accepted excessive deposits and who failed to take out insurance on building work.	4 3 6 3	5000	534	Conviction
14-Jul-98	G A Lord & Associates Pty Ltd of Sydney (ACN 002 222 684)	HCGA BA	24(2) 16(1)	A company carrying out domestic building work without a permit and which failed to serve on an approved guarantor notice of entry into a contract to perform work.	1 1	1000		Conviction
14-Jul-98	Gavin Andrew Lord of Albury	HCGA BA	24(2) 16(1)	A director of G A Lord & Associates Pty Ltd charged with the same offences as the company.	1 1	750	803	Conviction
17-Jul-98	Mauro Demaria of North Coburg	HCGA	5 20 23	An unregistered builder who received an excessive deposit and did not provide a guarantee on domestic building work.	1 1 1	750	633	
22-Jul-98	Colgray Motors Pty Ltd of Seaford (ACN 004 907 206)	MCTA	42 A	A motor car trader which failed to provide current certificates of roadworthiness when selling motor cars.	6	600	585	
22-Jul-98	John Runciman of Kialla	MCTA	38(4)	A person who falsely represented the odometer reading of a motor car.	1	400	659	

Prosecutions 1998/99

DATE OF HEARING	DEFENDANT	ACT	SECT	BREACH SUMMARY	NUMBER OF OFFENCES	FINES \$	COSTS \$	OTHER ORDERS
4-Aug-98	Aart Veenvliet of Clifton Springs	DBCTA BA	11(1)(b) 29 136(2)	A person who performed domestic building work whilst not a registered builder, demanded and accepted an excessive deposit and failed to secure the required insurance for the work.	1 1 1	1000	415	
19-Aug-98	Beamish Motors Pty Ltd of Melbourne (ACN 007 149 457)	CC(V)CODE MCTA MCTA MCTA	144(1) 35(2) 41(1)(a) 52(6)	A motor car trader which, for the purpose of obtaining finance for the purchaser, falsely stated the selling price of motor cars.	4 1 2 1	7500	1000	
1-Sep-98	Rajah Alvis of Melbourne	RHA	47	Failing to comply with an Order of the Residential Tenancies Tribunal.	1		550	6 months good behaviour bond
11-Sep-98	Tony Chen of Bundoora	RHA	6 7 14(2) 15(5) 16(1)(a) 43 47	Unlawfully forcing resident to vacate. Requiring more than one week's rent in advance. Failing to provide condition reports. Failing to return bond within 7 days. Failing to provide bond and rent receipts. Entering a room unlawfully. Failing to comply with a Determination of the Residential Tenancies Tribunal.	1 1 1 2 1 1	1700	1604	Conviction
1-Oct-98	Garry Ignatz Maschler of Dingley	EAA	Reg 11(a)	Officer in effective control of an estate agent corporation purchasing real estate which the corporation had been commissioned to sell.	1		1360	Estate Agents licence suspended for 6 months
1-Oct-98	Garry Maschler First National Pty Ltd of Springvale (ACN 052 107 007)	EAA	Reg 11(a)	Estate agent corporation indirectly concerned in the purchase by an employee of real estate which the corporation had been commissioned to sell.	1	2000		

Prosecutions 1998/99

DATE OF HEARING	DEFENDANT	ACT	SECT	BREACH SUMMARY	NUMBER OF OFFENCES	FINES \$	COSTS \$	OTHER ORDERS
12-Oct-98	Helen Williamson of Brighton	RTA	122(3)	Re-letting rented residential premises within six months of obtaining vacant possession in the absence of Tribunal permission.	1	300	294	Conviction
16-Oct-98	Emad Aziz Farag of Patterson Lakes	BA	137B(2)(b) 137B(2)(c) 137B(2)(d)	A vendor builder who failed to take out the required insurance cover; failed to give the purchaser a certificate of the insurance; and failed to set out the warranties in the contract of sale.	3	2000	443	
19-Oct-98	Guiseppe Bonaddio of Reservoir	RTA	122(3)	Re-letting rented residential premises within six months of obtaining vacant possession in the absence of Tribunal permission.	1	120	350	
21-Oct-98	The Professional Group Pty Ltd of Hampton Park (ACN 076 578 393)	DBCTA BA	11 29 31 136(2)	An unregistered builder entering into building contracts which did not provide adequate disclosure, accepted excessive deposits and failed to take out insurance on building work.	1 1 3 1	800	700	Conviction
4-Nov-98	Sagor Bricklayers Pty Ltd of Werribee (ACN 062 160 623)	DBCA BA	29 31 136(2)	Failing to have at least one director as a registered builder. Failing to comply with contractual requirements Failing to cover major domestic building work with insurance.	1 2 1	2500	242.50	Conviction
4-Nov-98	Andrew Sagor of Werribee	DBCA BA	29 31 136(2)	A director of Sagor Bricklayers Pty Ltd charged with the same offences as the company.	1 2 1	2500	242.50	Conviction
10-Nov-98	Houghtons Raine and Horne Pty Ltd of Ivanhoe (ACN 053 827 062)	EAA	16(4)	Employing estate agent representatives without sighting a Police Certificate.	3	1500	669.50	

Prosecutions 1998/99

DATE OF HEARING	DEFENDANT	ACT	SECT	BREACH SUMMARY	NUMBER OF OFFENCES	FINES \$	COSTS \$	OTHER ORDERS
10-Nov-98	Chris Dzanovski of Ivanhoe	EAA	16(4)	A director of Houghtons Raine and Horne Pty Ltd charged with the same offences as the company.	3	1500	669.50	
10-Nov-98	Leeambra Pty Ltd of Geelong (ACN 007 276 557)	DBCA BA	9 29 136	Unregistered and unlicensed builder carrying out building work.	1 1 1	2000	200	Conviction
10-Nov-98	Iliya Dzindzeski of Thomastown	DBCA BA	9 29 136	A director of Leeambra Pty Ltd charged with the same offences as the company.	1 1 1	1000	200	Conviction
11-Nov-98	Graeme Winfield of Horsham	RTA CAA	40 67(1)(a) 76(2) 77(2) 64(2)	Failing to comply with Residential Tenancies Tribunal Order. Failing to pay security deposit into approved account. Failing to state security deposit account. Failing to return security deposit to tenant. Failing to reply to the reasonable request of an inspector.	1 1 1 1 1	1100	398	Conviction
11-Nov-98	Jennifer Armistead of Frankston North	RTA	40	Failing to comply with an Order of the Residential Tenancies Tribunal.	1	175	350	Conviction
25-Nov-98	Allen Desmond MacFayden of Geelong	MCTA	35(2)(a) 38(1)(a) 41(2)(a)	Failing to make entries in the Dealings Book. Odometer tampering. Failing to enter odometer reading in Agreement for Sale.	2 1 1	4030	2269	Conviction (on appeal from the Magistrates' Court 15/6/98)
26-Nov-98	Gary John Ryan of Warrnambool	MCTA	7(1)	Unlicensed motor car trading.	1	2600	400	Conviction
1-Dec-98	K & P Smyth Pty Ltd of Collingwood (ACN 005 105 251)	RTA	122(3)	Re-letting rented residential premises within six months of obtaining vacant possession in the absence of Tribunal permission.	1	250	543	
9-Dec-98	Brendan William Foley of Brunswick East	MCTA BNA	7(1) 5(1)	Unlicensed motor car trading. Unregistered business name.	1 1	500	510	

Prosecutions 1998/99

DATE OF HEARING	DEFENDANT	ACT	SECT	BREACH SUMMARY	NUMBER OF OFFENCES	FINES \$	COSTS \$	OTHER ORDERS
17-Dec-98	Madgwick Law Offices Proprietary of Sydney (SC0005102)	BNA	5	Unregistered business name	1	100	410	
5-Jan-99	Violet Barker of Thornbury	RHA	6(1)(b) 47	Taking possession of a room not in accordance with the Act. Failing to comply with a Determination of the Tribunal.	1 2	1400	632	Conviction
12-Jan-99	Skidders Enterprises Pty Ltd of Maryborough (ACN 071 480 450)	MCTA	38(4)	Falsely representing the odometer reading of a motor car.	1			Charge proven, company discharged
12-Jan-99	Tony Scot Skinner of Eaglehawk	MCTA	38(4)	A director of Skidders Enterprises Pty Ltd charged with the same offences as the company.	1	300	944	
27-Jan-99	Zlatko Mar (aka Zak Potocnik) of Mt Waverley	DBCA FTA	11 29 31 12(e)	An unregistered builder who entered into a contract to perform domestic building work. The contract did not contain all the required information and the builder received a deposit greater than that allowed. Falsely representing membership of the Master Builders Association and the Housing Guarantee Fund Ltd.	1 1 3 2	17500	932	Conviction
2-Feb-99	Lou Moutidis of Richmond	RHA	47	Failing to comply with a Determination of the Residential Tenancies Tribunal.	2	1000	250	Conviction
2-Feb-99	Sophie Moutidis of Richmond	RHA	47	Failing to comply with a Determination of the Residential Tenancies Tribunal.	2	1000	250	Conviction
10-Feb-99	Alfred Pedley of Noble Park	MCTA	7(1)	Unlicensed motor car trading.	1		300	3 year good behaviour bond

Prosecutions 1998/99

DATE OF HEARING	DEFENDANT	ACT	SECT	BREACH SUMMARY	NUMBER OF OFFENCES	FINES \$	COSTS \$	OTHER ORDERS
24-Feb-99	Peter Donald McLean of Montrose	MCTA	7(1)	Unlicensed motor car trading.	1		416	2 year good behaviour bond
26-Feb-99	Robert Nuri of Brunswick East	RTA	40 61(2)(a) 76(2)(d)	Failing to comply with an Order of the Tribunal. Failing to identify rented premises on rent receipts. Failing to provide name of approved institution on a security deposit receipt.	1 1 1	400	425.60	Conviction
11-Mar-99	Raymond Christie of Kilsyth	MCTA	7	Unlicensed motor car trading.	1	600	200	Conviction
12-Mar-99	SOS Motors Pty Ltd of Fairfield (ACN 006 445 389)	MCTA	35(2) 36(2) 52(1)	Failing to enter records into Dealings Book. Selling a motor car on consignment. Failing to complete details on forms attached to cars displayed for sale.	9 1 4		750	Pay \$6000 into Court Fund 12 month good behaviour bond
12-Mar-99	Srecko Lorbeck of Keilor Downs	MCTA	35(2) 36(2) 52(1)	A director of SOS Motors Pty Ltd charged with the same offences as the company.	9 1 4		750	Pay \$3000 into Court Fund 12 month good behaviour bond
15-Mar-99	George Athanasiadis of Dandenong	DBCA BA	11 29 31(1)(a) 136(2)	An unregistered builder who entered into building contracts which did not provide adequate disclosure, accepted excessive deposits and who failed to take out insurance on building work.	1 1 1 1	1250	412	Conviction
15-Mar-99	Yiota Athanasiadis of Dandenong	DBCA BA	11 29 31(1)(a) 136(2)	An unregistered builder who entered into building contracts which did not provide adequate disclosure, accepted excessive deposits and who failed to take out insurance on building work.	1 1 1 1	850		

Prosecutions 1998/99

DATE OF HEARING	DEFENDANT	ACT	SECT	BREACH SUMMARY	NUMBER OF OFFENCES	FINES \$	COSTS \$	OTHER ORDERS
15-Mar-99	Lorimer Park Pty Ltd of Bundoora (ACN 007 388 114)	RTA	122(3)	Re-letting rented residential premises within six months of obtaining vacant possession in the absence of Tribunal permission.	1	180	300	
17-Mar-99	John Watson Limmer of Richmond	MCTA	7(1)	Unlicensed motor car trading.	1	150	350	
19-Mar-99	Donald Ferris of Mildura	DBCA	11(1) 29 31(1) BA 136 BNA 5(1)	An unregistered builder who entered into building contracts which did not provide adequate disclosure, accepted excessive deposits, failed to take out insurance on building work and traded under an unregistered business name.	1 1 1 1	5000	200	Conviction
23-Mar-99	Stockbury Pty Ltd of Brighton (ACN 006 378 712)	MCTA	52(1)	Failing to attach a form to motor cars displayed for sale.	23		600	Pay \$750 into Court Fund 12 month good behaviour bond
25-Mar-99	Javos Pty Ltd of Cheltenham (ACN 057 715 027)	MCTA	36(2)(a)	A motor car trader which sold a motor car on consignment.	1	800	366	
25-Mar-99	James Henry Vos of Moorabbin	MCTA	36(2)(a)	A director of Javos Pty Ltd charged with the same offences as the company.	1		366	Adjourned until 1/3/2000
7-Apr-99	Peter Harold Holmes of Merine	DBCA	29 31 32 BA 136	Entering into a contract, which was defective, to build a house without the required registration or insurance.	1 1 1 1	1000	200	Conviction
7-Apr-99	Kathleen Angela Holmes of Merine	DBCA	29 31 32 BA 136	Entering into a contract, which was defective, to build a house without the required registration or insurance.	1 1 1 1	1000	200	Conviction

Prosecutions 1998/99

DATE OF HEARING	DEFENDANT	ACT	SECT	BREACH SUMMARY	NUMBER OF OFFENCES	FINES \$	COSTS \$	OTHER ORDERS
12-Apr-99	Mohamed Hoblos of Altona North	MCTA	52(1)	Failing to complete and attach forms to motor cars displayed for sale.	8			Pay \$500 into Court Fund 2 year good behaviour bond
13-Apr-99	John James Murray of Blackburn North	MCTA	35(2) 52(1)	Failing to enter particulars into records and failing to attach notices to cars displayed for sale.		1200	625	
15-Apr-99	Anthony Magro of Altona Meadows	DBCA BA	29 31 136	An unregistered builder who entered into a building contract which had inadequate disclosure and who failed to insure the work.	1 4 1	2000	350	Conviction
20-Apr-99	Cornelius Henry Kersley of East Malvern	MCTA FTA	7(1) 12(a)	An unlicensed motor car trader who misrepresented the distance travelled by motor cars.	2 16	30,000	1905	Conviction
22-Apr-99	Immacolata Caruso of Glenroy	RTA	122(3)	Re-letting rented residential premises within six months of obtaining vacant possession in the absence of Tribunal permission.	1		553	Pay \$100 into Court Fund 12 month good behaviour bond
23-Apr-99	Goldnet International Pty Ltd of South Yarra (ACN 076 707 741)	FTA	19	Referral selling.	6	30,000	528	Conviction Order to pay \$16,120 in restitution
23-Apr-99	Dragan Jockovic of Seaford	FTA	19	A director of Goldnet International Pty Ltd charged with the same offences as the company.	6	12,000	528	Conviction Jointly responsible with the company to pay \$16,120 in restitution

Prosecutions 1998/99

DATE OF HEARING	DEFENDANT	ACT	SECT	BREACH SUMMARY	NUMBER OF OFFENCES	FINES \$	COSTS \$	OTHER ORDERS
28-Apr-99	Carl Martinez of Noble Park	DBCA	11 29 31 BA 136(2)	An unregistered builder who entered into a building contract which did not provide adequate disclosure, accepted an excessive deposit and failed to take out insurance on building work.	1 1 1 1	1000	300	Conviction
3-May-99	John Murray Patience of Beaumaris	MCTA	7(1)	Unlicensed motor car trading.	1	250	383	
4-May-99	Amanda Christine Chantelle Shaw of British Columbia (formerly Bundoora)	FTA BNA	12(d) 12(e) 12(h) 12(i) 20(b) 42(2) 5(1) 12(8) 17 20(6)	A director of Temperest Holly Pty Ltd who made false, misleading or deceptive statements in relation to an introduction agency business. The company failed to register a business name, made false statements and failed to make business name returns.	3 4 1 108 12 1 10 1 3 1	55,000	2553	Conviction
7-May-99	Douglas Lyndsay Vietz of Rosanna	DBCA BA	31(1)(n) 31(1)(q) 136(2)	A builder who failed to provide a cooling-off notice, insurance and warranties.	1 1 1	400		Pay \$300 into Court Fund 12 month good behaviour bond
14-May-99	William Stevens of Pearcedale	EAA	16(2)	Employment of an ineligible estate agents' representative.	1			Charge proven, defendant discharged
19-May-99	Edward Cooper of Devon Meadows	EAA	16B	Employment of an ineligible estate agents' representative.	1			Charge proven, defendant discharged
4-Jun-99	Leroy Nominees Pty Ltd of Melbourne (ACN 007 265 063)	MCTA	52(1) 52(2)(b)	Failing to attach notices to motor cars displayed for sale and failing to complete all details where notices were attached.	2 12	1000	553	

Prosecutions 1998/99

DATE OF HEARING	DEFENDANT	ACT	SECT	BREACH SUMMARY	NUMBER OF OFFENCES	FINES \$	COSTS \$	OTHER ORDERS
18-Jun-99	Brett Wright of Mildura	FTA	12(i)	Falsely stating a deposit had been paid for the purchase of a motor car in order to obtain finance for the buyer.	14	3000	2500	
18-Jun-99	James Madigan of Mildura	FTA	12(i)	Falsely stating a deposit had been paid for the purchase of a motor car in order to obtain finance for the buyer.	42	5000	2500	
21-Jun-99	Peter Kolevski of Highton	MCTA	7(1)	Unlicensed motor car trading.	1	2500	2056	

Abbreviations:

- BA *Building Act 1993*
- F (PM) A *Funerals (Prepaid Money) Act 1993*
- BNA *Business Names Act 1962*
- FTA *Fair Trading Act 1985*
- CA *Credit Act 1984*
- HCGA *House Contracts Guarantee Act 1987*
- CAA *Consumer Affairs Act 1972*
- MCTA *Motor Car Traders Act 1986*
- DBCA *Domestic Building Contracts Act 1995*
- RHA *Rooming Houses Act 1990*
- DBCTA *Domestic Building Contracts & Tribunal Act 1995*
- RTA *Residential Tenancies Act 1980*
- EAA *Estate Agents Act 1980*
- TAA *Travel Agents Act 1986*
- FAA *Fundraising Appeals Act 1984*

5.8 1998 Victorian Fair Trading Award Winners

Metropolitan

1998 Victorian Fair Trader of the Year

1998 Metropolitan Fair Trader

New Oak Ford, Oakleigh

Metropolitan Motor Vehicle

Industry Award

New Oak Ford, Oakleigh

5-19 Employees Award

Arrabri Lodge, Warburton

20-50 Employees

Banlay Truck & Trailer Repairs,
Dandenong

More than 50 Employees

Coles Express, Melbourne

Individual Employee

John Westbury, Black Cabs
Combined, Oakleigh

Woman in Business

Norma Stack-Robinson, Banksia Park
Estate, Phillip Island

Government Department

Country Fire Authority, Victoria

Real Estate Industry

Philip Webb Pty Ltd, Doncaster

Not For Profit

Arbias Inc., Fitzroy

Seniors Card

Peter Smith Amcal Chemist, Burwood

Award of Merit

Leon Hain, Patterson Pharmacy,
Moorabbin

Certificate of Encouragement

Customs Commercial Advisory
Service, Victoria

Sheen Panel Service, Bayswater

Kelly Services (Australia) Ltd, Melbourne
City of Melbourne

Certificate of Continuing Excellence

Mike Maguire Personal Taxi Service,
Mentone

Certificate of Encouragement for Innovative Complaints Handling

The Gamekeeper's Secret - Country
Inn and Restaurant, Rockbank

Regional

1998 Regional Fair Trader of the Year

Nautilus Floating Dockside Restaurant,
Lakes Entrance

5-19 Employees

Nautilus Floating Dockside Restaurant,
Lakes Entrance

2-4 Employees

David Smith, Advanced Dental
Technician, Warrnambool

20-50 Employees

Lake Pavilion Restaurant, Ballarat

Individual Employee

Julie-Anne Valentine, First Place
Business Directions, Bendigo

Woman in Business

Suellen Tomamichel, Daisy's Country
Kitchen, Swan Hill

Government Department

Baw Baw Shire Council, Warragul

Seniors Card

Apparel of All Sorts, Kilmore



Mr Jim Ireland of New Oak Ford. As the Motor Vehicle Industry and 1998 Victorian Fair Trader of the Year Award winners, New Oak Ford was recognised for its ability to meet customer needs beyond expectation.

Award of Merit

Gordon Searle Haircare, Mildura
Paul Frusher, Western Group Training
Inc., Warrnambool
Rotary Club of Bendigo, Sandhurst

Certificate of Encouragement

Rug Rats Retreat, Geelong
Attunga Alpine Lodge, Falls Creek
Shepparton News, Classifieds,
Shepparton
United Panel Works, Mildura

Certificate of Continuing Excellence

Warragul Linen Service, Warragul

5.9 Trust Funds

The Office manages the following six trust funds established by Acts of Parliament:

Fund:	Balance at 30 June 1999:	Source of income:	Expenditure purposes:
Consumer Credit Fund <i>Credit (Administration) Act 1984</i>	\$696,467	<ul style="list-style-type: none"> • Credit provider contributions • Interest on investments 	<ul style="list-style-type: none"> • Grants as permitted by s.86AB of the Act • Administration of the Act
Domestic Building Fund <i>Domestic Building Contracts and Tribunal Act 1995</i>	\$1,895,407	<ul style="list-style-type: none"> • Building registration fees collected by the Building Control Commission • Income on investments • Tribunal fees • Fines 	<ul style="list-style-type: none"> • Administration of the Act • Tribunal costs • Grants as permitted by s.124(3)(d) of the Act
Estate Agents Guarantee Fund <i>Estate Agents Act 1980</i>	\$77,498,410	<ul style="list-style-type: none"> • Interest from estate agent trust accounts • Interest on investments • Licensing fees • Fines 	<ul style="list-style-type: none"> • Grants as permitted by s.76(3) of the Act • Operation of the Estate Agents Council • Administration of the Act • Tribunal costs • Guarantee claims

Fund:	Balance at 30 June 1999:	Source of income:	Expenditure purposes:
Motor Car Traders Guarantee Fund <i>Motor Car Traders Act 1986</i>	\$802,949	<ul style="list-style-type: none"> • Licensing fees • Fines • Interest on investments • Recovery of claims paid 	<ul style="list-style-type: none"> • Administration of the Act • Guarantee claims
Prostitution Control Board Fund <i>Prostitution Control Act 1994</i>	\$159,355	<ul style="list-style-type: none"> • Licensing fees • Fines 	<ul style="list-style-type: none"> • Administration of the Act
Residential Tenancies Fund <i>Residential Tenancies Act 1997</i>	\$21,381,208	<ul style="list-style-type: none"> • Transfers from the Residential Bonds Investment Income Account • Interest on investments • Tribunal fees • Interest on individual bond trust accounts 	<ul style="list-style-type: none"> • Tribunal costs • Payments for research and education as permitted by s.495 of the Act • Administration of the Act • Interest to tenants on bonds held (not yet activated)



Office of
Fair Trading &
Business Affairs
Department of Justice



10/11

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