

CONSUMER LAW CENTRE VICTORIA

e-bulletin no. 37, February 2006

EDITORIAL

The first months of 2006 have been a busy time for the Centre, during which projects were finalised and others commenced, research released, new staff welcomed and others farewelled. Both policy and casework activity remained very strong, with little of the traditional January 'quiet' time.

In the last e-bulletin, I wrote of our campaign against payday lending and the application by Cash Converters to the Australian Competition and Consumer Commissions (ACCC). The ACCC ultimately determined to allow the application by Cash Converters, but not before confirming that it was not allowing conduct which was in breach of the new NSW Fair Trading Act amendment which incorporates fees into the 48% interest rate cap on finance offered in that State. Cash Converters provided the required assurance it had curtailed its lending practices so as not to infringe that new measure.

While we were disappointed that Cash Converters would be able to offer high-cost finance in other states, the decision demonstrated the effectiveness of the new formulation of the cap. However, in recent days, we have become aware of a more insidious manifestation of that effectiveness. At least one NSW-based finance company has indicated it plans a major expansion to Victoria and Queensland to avoid the impact of the NSW cap on its business. Such regulatory arbitrage is clearly undesirable and likely to be enormously detrimental to Victorian and Queensland consumers.

Next month, I will address the Standing Committee of Officials of Consumer Affairs (SCOCA) meeting, and will raise this issue as well as more general concerns about the delays in nationally-consistent finance broker regulation. It was concerning to see no reference to the latter initiative in the most recent Communiqué from the Ministerial Council on Consumer Affairs. Caseworkers continue to report problems arising out of insufficient consumer protection and industry peak bodies are equally keen to see the legislation implemented to provide certainty and promote better practice in that sector.

In Victoria, we await the release of the State Government's Credit Review Report, and CLCV will be preparing a response to its recommendations. I welcome input and collaboration from other organisations and individuals once we see the recommendations.

In other news, the Centre released its report *Electricity Reform in Victoria: Outcomes for Consumers* on Monday 13 February. Conducted and launched in conjunction with Monash University's Centre for the Study of Privatisation and Public Accountability, the report examined whether electricity market reform has delivered the promised improvements in services, access, accountability and price. It discovered that benefits have been unevenly distributed, with low-income and rural consumers deriving little advantage from the reforms.

The report also underscores the value of existing regulatory frameworks to ensure ongoing investment in the network, improved accountability mechanisms and protection for vulnerable consumers from wrongful disconnection. The importance of retaining and strengthening these frameworks has become particularly relevant in light of the move to a national electricity market.

It was great to see so many people at the launch and for those who weren't able to attend but would like a copy, it is available from our website at www.clcv.net.au or by contacting Gerard Brody at gerard@clcv.net.au or on (03) 9629 6300.

Finally, the Centre bid a (temporary) farewell to Principal Solicitor Eliza Collier who has taken maternity leave, and a more permanent farewell to Ebony Gallacher, our Office Administrator. Xan Colman is Acting Principal Solicitor in Eliza's absence and Ebony's role will be filled by Melanie Keenan. We also welcome new solicitor Joel Townsend to the practice.

For further information on the Centre's activities, please contact us on (03) 9629 6300 or at the relevant email address, and I hope to see some of you at the CAV Consumer Congress in March in Melbourne.

Catherine Wolthuizen
Executive Director

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1. What are we doing?

1.1 Capacity building for the community sector in the National Electricity Market (NEM)

On 14 February 2006 the National Electricity Consumers Advocacy Panel (the **Advocacy Panel**) agreed to fund, for a further 6 months until the end of July 2006, the Centre's project to build the capacity of the community sector to participate in NEM policy and regulatory debates (the **Project**). The NEM Network, formed as a result of the Project, is made up of advocates based in community organisations representing environment, social welfare and consumer interests

In its third year, the Project, in collaboration with the Consumer Utilities Advocacy Centre, will host two consumer roundtables to enable advocates to meet face-to-face to discuss energy market reform and its impacts on the interests of small-end consumers. Previous consumer roundtables have proved extremely valuable to boost the NEM Network, encourage and enhance information sharing and formulate common (as well as some jurisdictionally different) interests.

As discussed in the previous edition of *e-bulletin* (edition 36, December 2005), the Ministerial Council on Energy (**MCE**) last year released an Options Paper, prepared by NERA Economic Consulting and Gilbert + Tobin, that set out a proposal for a nationally legislated framework for distribution and retail energy regulation. As part of the Project, the Centre prepared a detailed response, arguing that the MCE's proposal reduces the imposition of regulation on energy retailers and distributors at the expense of existing consumer protections. The Centre argued that consumer protection and benefit should underpin energy regulation. A copy of our response is available at:

<http://www.clcv.net.au/index.aspx?id=191&newsid=55>.

Persons or organisations interested in participating in the NEM Network or in the Centre's work on energy should contact Gerard Brody on (03) 9629 6300 or gerard@clcv.net.au.

1.2 Creating access to justice for low-income regional and rural Victorians

As part of the Centre's commitment to creating access to justice for low-income regional and rural Victorians, the Centre provides outreach and education activities to regional and rural and indigenous Victorians. The outreach project has been funded by the Collie Foundation and the William Buckland Foundation, both administered by ANZ Trustees' Charitable Services. We are extremely grateful to both the Collie Foundation and the William Buckland Foundation for their generous support.

Currently outreach lawyers undertake regular visits to Warrnambool and Morwell. A recent outreach visit to Warrnambool provided an opportunity for local financial counsellors and community legal centre lawyers to discuss changes to the Infringements System. A Centre lawyer delivered an oral presentation on the changes to the system, including the fee waiver initiative which began on 1 February 2006. Fees in relation to the enforcement of fines, including public transport fines, will be waived if the original penalty and courtesy letter fee is paid before 31 May 2006 or a payment plan is entered. On 1 July 2006, the PERIN Court will be renamed the Infringements Court. The other changes include: the establishment of a formal warning system, a procedure for internal review, payment plans which can be established at any time after the fine is imposed and stronger enforcement mechanisms.

A recent visit to Morwell provided an opportunity for financial counsellors to discuss the State Government's Consumer Credit Review. A Centre lawyer gave a presentation on the Centre's detailed submission to the Consumer Credit Review, and led a discussion on key issues and concerns in the area of consumer credit. With the Government's Report on the Review due imminently, the Centre looks forward to consulting with community organisations on its recommendations, and responding to these in detail.

For further information about the Centre's outreach activities please contact Xan Colman at xan@clcv.net.au. For further information on the new Infringements System, please contact Lauren Walker at lauren@clcv.net.au.

1.3 Credit and Debt Workshops in Rural and Regional Victoria

The Centre is currently presenting a series of half-day workshops on credit and debt jointly with the Public Interest Law Clearing House, the Consumer Credit Legal Service (Vic) and the Financial and Consumer Rights Council.

Following the success of similar workshops in 2004 and early 2005, the workshops have been generously funded by the Victorian Consumer Credit Fund. They cover a range of topics including an introduction to credit and debt; debts to energy and water businesses; PERIN court fines and infringement notice debts and social security debts and overpayments. The workshops are aimed at financial counsellors, community workers, homelessness workers, community lawyers and pro bono lawyers and assist participants to advocate for financially and socially disadvantaged people in credit and debt matters to ensure that their rights are protected.

The next workshops will be at Geelong on Monday 6 March 2006 from 10am to 2pm (Geelong Conference Centre) and Warrnambool Tuesday 7 March 2006 from 12pm to 4pm (Community Connections, Warrnambool). To register, please contact Lauren Walker on (03)

9629 6300 or lauren@clcv.net.au. Upcoming workshops will be in Morwell and Bairnsdale in late March, Bendigo in April and Mildura in May.

1.4 Regulation of Victoria's water industry

As part of the Centre's ongoing priority objective to ensure that all Victorians continue to have access to affordable water services, the Centre has been successful in its application to the Consumer Utilities Advocacy Centre for funding to undertake a project investigating the impact on consumers of the independent regulation of Victoria's water industry.

From 1 July 2004, the Essential Services Commission (the **ESC**) became responsible for the independent regulation of the Victorian water sector (previously, the ESC had had limited responsibility in relation to the metropolitan water sector only). The ESC's regulatory responsibilities include the approval and/or setting of water prices and customer service standards.

The project, to be undertaken over the next 9 months, will assist Victorian consumers by analysing the impact and effect of the ESC's regulation of the Victorian water sector and will thereby improve consumer advocacy with respect to the future regulatory activities of the ESC.

For information on the project, or the Centre's work in relation to water, please contact Gerard Brody on 03 9629 6300 or at gerard@clcv.net.au.

1.5 Launch of *Electricity Reform in Victoria: Outcomes for Consumers*

As mentioned in the editorial, on 13 February 2006 the Centre launched its report *Electricity Reform in Victoria: Outcomes for Consumers* in conjunction with Monash University's Centre for the Study of Privatisation and Public Accountability. Funded by the Consumer Utilities Advocacy Centre, the report examined consumer outcomes from electricity market reform.

The report found that benefits associated with reforms to the Victorian electricity reform, including the introduction of full retail competition, have not been equally distributed across all consumer groups. For example, in the area of price benefits, domestic consumers have experienced only a slight decrease compared to industrial customers. Further, consumers' capacity to exercise choice and access market contracts was more difficult for low-volume users and rural and regional Victorians. The report recommends that further work needs to be done to enhance the role of stakeholder consultation within the regulatory decision-making process.

The Centre will continue to lobby for the need for robust consumer protection frameworks in the energy industry and ensure that future energy market developments benefit all consumers, including the most vulnerable and disadvantaged.

If you would like further information about the report, please contact Gerard Brody at gerard@clcv.net.au or (03) 9629 6300.

2. Representing the consumer interest in the development of product and service standards

The Centre's Consumer Representatives on Standards Australia Committees Project places and supports consumer representatives on Standards Australia technical committees on behalf

of the Consumers' Federation of Australia. Through this project consumers can provide direct input to the development of key standards in the interests of Australian consumers.

We are currently seeking consumer representatives for the following committees:

- Inspection of Buildings;
- Protective Helmets for Vehicle Users (All-terrain vehicles);
- Power Quality;
- Four Wheel Drive Accessories;
- Furniture;
- Reduced Fire Risk Cigarettes;
- Nanotechnologies;
- Sports Equipment – Portable Soccer Goals; and
- Energy performance and labelling of televisions.

Consumer representatives attending Standards Australia committee meetings are entitled to have their travel expenses reimbursed through this project.

The following draft standards are available for public comment.

- Power consumption of audio, video and related equipment - Part 2 (**DR 06093**). Comments by 4 May 2006.
- Food safety management systems - Guidance on the application of AS ISO 22000 (**DR 06089**). Comments by 5 April 2006.
- Down and/or feather filling materials and filled products (**DR 06083**) and Feather and Down Test Methods (**DR 06084**). Comments by 3 April 2006.
- Methods for sampling and analysing timber preservatives – Parts 1–4 (**DR 06079 – DR 06082**). Comments by 3 April 2006.
- IT Security techniques Parts 1–4 (**DR 06034 – DR 06038**). Comments by 6 March 2006.

Draft standards may be viewed at www.standards.org.au, via the 'Standards Development' link.

If you would like to make comment on any of the above draft standards, would like to join a committee, or simply require further information, please contact the Standards Co-ordinator, Angela Russell, on (03) 9629 6300 Tuesdays and Thursdays, or angela@clcv.net.au

3. Next Edition: April 2006

Our *e-bulletin* is designed to keep our stakeholders up to date on the work of the Centre. We welcome your comments on the *e-bulletin*. If you would like to be added to the Centre *e-bulletin* mailing list, please contact Melanie Keenan at info@clcv.net.au or on (03) 9629 6300.