

Consumer Comment

OCT—DEC 2010

From the President

The last couple of months have seen me tramping the Pilbara doing a flora survey followed by moving house, business and years of accumulated storage to our new place where the orchids are flowering and the new chooks are settling in. Heh, we might now be a one stop shop - like the Building Commission. So apologies for the lateness of this issue of Consumer Comment – I have been totally distracted.



House moving has provided me with opportunities to experience some of the frustrations consumers encounter during the relocation process. Mostly it was just the usual back breaking but uneventful slog, but there were a couple of exceptions: Telstra whom I'll vent about later in the newsletter and Watercorp who advised that our scheme water may not meet drinking water standards in relation to its aesthetic, microbiological and/or chemical qualities. We also had to change banks – so much paper. Other consumer events like organising the gas heater conversion from natural gas to LPG are yet to be undertaken.

On 15th June, several CAWA members met with Anne Driscoll and senior Consumer Protection staff to discuss the impact of the New Australian Consumer Law and a few of our other pertinent questions. You'll find more on the meeting later in Consumer Comment. All parties committed to maintaining closer contact after the meeting.

In 2006, The Department of Consumer and Employment Protection in Western Australia publication "Consumer Representation on Boards and Committees A GUIDE FOR CONSUMERS" maintained that Consumer Protection kept a register of people interested in becoming consumer representatives on boards and committees or willing to participate in consultation processes with regard to consumer protection policy and other initiatives. It was called the "Consumer Protection Panel". I've been trying to establish

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Profile - Colleen Wann

I grew up in Perth in the 1950's a time when there were no traffic lights or the Narrows Bridge.

At 15, I was given an Education Bursary and at 17, indentured to train as a Nurse at Royal Perth Hospital. I worked out my six month indenture at Collie Hospital before marrying and moving to live on a farm in Kojonup. There two of my three children were born. Times were difficult financially and after four years we moved back to Perth where I was able to continue nursing, work full-time at King Edward Memorial Hospital from 1970 because of the innovative and successful Creche which had been opened there. I came from a family with strong role models of working women.

In all I was involved in nursing for 29 years during which time I also worked at Hillcrest, the Salvation Army Home in North Fremantle and at Hollywood Repatriation Hospital in palliative Care.

Over the years I have been involved with the Health Consumers' Council, EXIT International, Asbestos Disease Society and National Seniors. I am especially interested in consumer health aged care issues because of my personal health history. In 1975, I underwent a medical procedure that went badly wrong. It took 19 years to confirm my diagnosis by which time the statute of limitations had expired. I put in a submission to Government regarding retrospectivity for cases of past medical negligence, in a similar manner to the asbestos class action, when legislation was being prepared for the Limitations Act, 2005 (WA). Unfortunately, in my case retrospectivity was not granted. However, my case history helped to bring about change. Under the present legislation consumers now have three years to bring a claim once their medical condition is confirmed.

Currently, I live in a multi storied Retirement Village and am in a position to document life in such a village and the difficulties which can arise in having problems dealt with satisfactorily. In my current situation there have been constant changes in the administrative staff. In the six years I have lived in the complex, with been eight changes in the administration, there has been no continuity and accountability. I am deeply concerned about the powerlessness of aged female residents in dealing with administrative problems such as mine.

However, despite the problems I have had in my life, I believe there are still many ways to grow if you are prepared to get out of your 'rut', reach out and seek new experiences.

Colleen Wann



(Continued from page 1)

whether such a register still exists so I've trawled the websites of the Department of Commerce and the Department of Premier and Cabinet without much success. Searching for "consumer" and "consultation" only takes me back to the 2004 "Proposal for the Establishment of a Consumer Research and Advocacy Centre in Western Australia" prepared by the (now disbanded) Consumer Advisory Council of WA. The Trading Hours report (the only tangible outcome of the whole process) was effectively complete some months ago but still no sign of it. With the exception of Health Consumers, the idea of consumer consultation seems to have languished in WA.

The Economic Audit Committee's final report – "Putting the Public First: Partnering with the Community and Business to Deliver Outcomes" – was released in October 2009. More information later in Consumer Comment but a newsletter can be reached via the DPC website. I'll remain optimistic but so far CAWA has not been informed of any developments let alone consulted about any partnerships.

The new Boards reform legislation envisages the establishment of a new Consumer Advisory Council. We will be interested to see how that goes too.

In my web search I also found www.complaints.wa.gov.au, the Western Australian Government's Complaints Information Site which explains how to complain about WA Government agencies and services. It defines a complaint as "any expression of dissatisfaction made to an organisation, related to its products, services, or the complaints handling process itself, where a response or resolution is explicitly or implicitly expected". It suggests contacting the government agency involved or the Ombudsman. No mention of Consumer Protection. General comments about the Government can be made to wa-government@dpc.wa.gov.au

It wouldn't be a President's report without some mention of the same old thorny issues like fresh food safety and unit pricing, GM, Nanotech, aged care etc so I've mentioned them. If anyone wants to mention anything to me please email me at info@consumers.asn.au

Genette Keating

Putting the Public First - Economic Audit Committee

I found the following at <http://www.dpc.wa.gov.au/Publications/EconomicAuditReport/Pages/PolicyCapacityandCollaboration.aspx>

The Economic Audit Committee was established in October 2008 in fulfilment of an election commitment of the Liberal-National Government. The purpose of the Economic Audit Committee was to conduct a wide-ranging review of the operational and financial performance of the Western Australian public sector.

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Putting the Public First - Economic Audit Committee continued ...

(Continued from page 3)

The Economic Audit Committee was a six-member panel of senior economic and public sector management specialists that brought together an exceptional mix of experience in financial management and government administration. The Economic Audit Committee was comprised of the following members:

- ◇ Mr Timothy Marney (Administrative Chair) – Under Treasurer of the Department of Treasury and Finance
- ◇ Professor Peter Shergold AC – Macquarie Group Foundation Chair, Centre for Social Impact
- ◇ Mr John Langoulant – Chief Executive of Australian Capital Equity
- ◇ Ms Catherine Nance – Partner and Actuary of Pricewaterhousecoopers
- ◇ Mr Peter Conran - Director-General of the Department of the Premier and Cabinet
- ◇ Mr Mal Wauchope – Public Sector Commissioner

The Economic Audit Committee was supported by the Economic Audit Secretariat, which sat within the Department of Treasury and Finance.

The Committee's final report – *Putting the Public First: Partnering with the Community and Business to Deliver Outcomes* – was released in October 2009. This report contains 43 recommendations directed toward achieving the vision of a more collaborative and innovative public sector. More specifically the Committee envisaged that in five to ten years:

- ◇ the Government will be supported by frank and well-informed advice;
- ◇ collaboration will be a standard approach;
- ◇ community and public sector organisations will be genuine partners in the delivery of human services;
- ◇ people will have greater opportunities to exercise choice and control over how services are designed and delivered; and above all, outcomes achieved for all Western Australians will be among the best in the nation and will continually improve.

The final report contained five main chapters:

- ◇ Delivering on priorities
- ◇ Services to meet citizen's needs
- ◇ Maximising value through planning, competition and innovation
- ◇ Realising Western Australia's economic potential
- ◇ Modernising public sector management.

The Government supports the broad direction of the final report of the Economic Audit Committee and will be progressively considering recommendations throughout 2010.

Genette Keating

Like me, I am sure you marvel at the benefits of unit pricing every time you do your supermarket shopping. For those who don't know (is there anyone?) unit pricing helps us compare prices and work out the best value by providing a cost for a specific weight (cost per kilogram) or volume (cost per litre). No longer do we need to stand in front of products doing visual comparisons on package sizes and mental maths on prices and weights—at a glance we know which is the cheaper. It has the potential to help consumers make substantial savings on their grocery bills.

Thanks must go to retired economist, Ian Jarratt from the Queensland Consumers' Association who has spearheaded the campaign for unit pricing. Ian's long term endeavours were acknowledged when he was the inaugural winner of the CHOICE Consumer Action Award.

The following information is taken from the CHOICE awards.

'The arrival of a national mandatory unit pricing scheme (UP) for pre-packaged groceries at the end of 2009 was due to Ian's drive, zeal and eye for detail. As a researcher and campaigner with the volunteer Queensland Consumer Association, Ian wanted Australia to enjoy the benefits of a world class system of UP.

The pricing mechanism allows consumers to compare value easily across brands and different sized packages, and has been in use in Europe and some parts of North America for up to 25 years.

But Ian knew that there could be many pitfalls in any scheme without consumer advocates focusing forensic attention on the small print of the code retailers might follow.

To prove his point and to get accurate and detailed information on how UP works overseas, Ian was a worthy recipient of a Churchill Fellowship and visited the US and four European nations over seven weeks in 2007.

Ian followed this with many detailed submissions to politicians, governments and their agencies, as well as the 2008 ACCC grocery inquiry. He then helped CHOICE participate in widespread consultations over the then proposed plan.

We now have unit pricing but Ian is not resting on his laurels. He is concerned that the system is not best practice and is fighting for improvements in its legibility, prominence and consumer education about the UP scheme.

For his selfless devotion to a cause that benefits consumers, Ian Jarratt has demonstrated himself a worthy recipient of the CHOICE Consumer Action Award.'

As the award information attests, Ian is continuing to advocate for best practice UP. In July he identified the following products as possible being non-compliant with the legislation.

Grocery unit prices continued ...

(Continued from page 5)

POSSIBLE SYSTEMIC UP PROBLEMS

COLES

Products unit priced per 100g not per kg.

- ◇ Frozen meat products eg hamburger patties, fish fingers, chicken nuggets. (NOTE: meals, pizzas, etc should be per 100g)
- ◇ Frozen fruit and vegetables
- ◇ GF flour etc (normally in health food area)
- ◇ Grated Parmesan cheese (normally in pasta/cooking area)

Other incorrect unit pricing (per kg when should be per 100g)

- ◇ Bread mixes

Non provision of UP

- ◇ For some multibuy (Note: only required if single size)
- ◇ For some single sell offers on multibuy labels

WOOLWORTHS

Products unit priced per 100g not per kg.

- ◇ Packaged cheese blocks, slices, etc (in main chillers and speciality cheese chillers)
- ◇ Frozen meat products eg hamburger patties, fish fingers, chicken nuggets. (NOTE: meals, pizzas, etc should be per 100g)
- ◇ Frozen fruit and vegetables
- ◇ Corn flour, rice flour,
- ◇ GF flour etc (normally in healthfood area)
- ◇ Grated Parmesan cheese (normally in pasta/cooking area)
- ◇ Nuts and dried fruit (mainly in cooking, shelf nuts and snacks areas)
- ◇ Packaged olives, sun dried tomatoes, etc
- ◇ Frozen potato products eg chips

Other incorrect unit pricing (per kg when should be per 100g)

- ◇ Packaged rice
- ◇ Bread mixes
- ◇ Chilled pet food

Non provision of UP

- ◇ For some multibuy (Note: only required if single size)
- ◇ For some single sell offers on multibuy labels

In the *A Current Affair* program on Thurs 28 Oct 2010 which you can see at: <http://aca.ninemsn.com.au/money/8114598/unit-price-confusion> Ian identified three continued areas of concern:

- ◇ Unit pricing per 100 g rather than per kg to make the products seem cheaper
- ◇ Unit pricing that is illegible because it is too small. In the US for example, the UP is the same size at the price of goods.
- ◇ Unit pricing not placed uniformly on labels so consumers became confused. In the US UP is always to the left of the product price.

The situation in Perth

In the last three months CAWA members visited their local supermarkets and sent feedback to Ian Jarratt. One member, Joan Milne found:

COLES

Products unit priced per 100g not per kg.

- ◇ Frozen protein products—(NOTE: meals, pizzas, etc should be per 100g) some were unit priced per 100g but most were per kg.
- ◇ Frozen fruit and vegetables were predominantly per kg
- ◇ Grated Parmesan cheese (normally in pasta/cooking area) was per 100g

WOOLWORTHS

Products unit priced per 100g not per kg.

- ◇ Frozen protein products—Like Coles, there was a mix but predominantly unit pricing was per kg.
- ◇ Frozen fruit and vegetables. Frozen potatoes and those fruit and veg marked shelf reduced or specials were marked as per 100g but other varieties were per kg.
- ◇ Packaged olives, sun dried tomatoes, etc. Those in jars tended to be per 100g.
- ◇ Frozen potato products eg chips were per 100g.

IGA

Interestingly, pricing at the IGA was most consistent. The store examined has recently been refitted and all items had an LCD type pricing display unit. In this case all food items were quoted per kg but items on special with a larger paper tag were all expressed per 100g.

ACCC News release—Unit pricing

Unit pricing report card: Online and smaller supermarkets must do better

After 12 months of operation, unit pricing has had good take-up by major supermarkets, but online traders, and those small and independent supermarkets subject to the code have more to do to comply.

"A recent independent survey commissioned by the Australian Competition and Consumer Commission found that major supermarkets around the country have, on the whole, achieved a 98 per cent level of compliance," ACCC chairman Graeme Samuel said today. "But online traders rated only 35 per cent compliance with the code."

Unit pricing is a labelling system that helps consumers to compare prices and value at the supermarket. The code requires online and larger supermarkets to display a unit price on price tags and in advertising next to the selling price of an item. By using standard units — for example, cost per litre or per kilogram — consumers can easily compare the price of products, regardless of different sizes or brands. Smaller supermarkets can opt-in to the code.

The ACCC commissioned a national survey of 383 supermarkets in metropolitan, regional and rural areas and 17 online grocery traders regulated by the code. The survey covered in-store unit pricing as well as print and online advertising.

"The survey revealed that the level of compliance among small and independent supermarkets subject to the code and online traders was well below expectations one year on from the code becoming enforceable. Retailers have had 12 months to get unit pricing right. There is no excuse for no or low compliance."

"If consumers don't have confidence in the accuracy of the unit pricing information provided, or they can't see it, then it really undermines the integrity of the system," Mr Samuel said.

"With the marking of the one-year anniversary of the code being enforceable, the ACCC is sending a strong message that it expects retailers and in particular the small and independent supermarkets subject to the code and online retailers, to ensure their legal obligations under the unit pricing code are being met.

"Where the ACCC has identified code breaches, it has taken prompt action to require retailers remedy the situation. "And for those retailers that engage in blatant or recurring conduct in breach of the code, the ACCC will use its powers under the Trade Practices Act to take swift action."

Further information about unit pricing is available at <http://www.accc.gov.au/unitpricing> or by phoning the ACCC Unit Pricing Hotline on 1300 746 245. The national survey is available at <http://www.accc.gov.au/content/index.phtml/itemId/957083>

The code came into effect on 1 July 2009 and requires grocery retailers bound by the code to display unit pricing information on their grocery price labels and in their print and web advertising. The code became enforceable on 1 December 2009.

Unit pricing means displaying the price of a grocery item as a standard unit of measurement alongside its selling price. The code sets out the units of measurement that must be used for each grocery item.

Unit pricing is mandatory for:

Retailers:

- ◇ whose retail premises are used primarily for the sale of food-based grocery items, and
- ◇ have floor space greater than 1000 square metre dedicated to the display of grocery items, and
- ◇ sell the minimum range of food based grocery items (the code sets out a list of these basic grocery items).

Online retailers that sell the minimum range of food-based grocery items.

Other retailers may also voluntarily opt to use unit pricing. Retailers that sell the minimum range of food-based groceries, but have a floor space of 1000 square metres or less, can opt into unit pricing in accordance with the code.

General inquiries

Infocentre: 1300 302 502

NR 256/10

1 December

Thanks to all the people who have contributed to this Newsletter:

Eileen Webb, Genette Keating, Rhonda Algaba, Sue and John

Robertson and Verity Cripps.

***As always, a special thanks must go to Joan Milne for her work in
proof reading the Newsletter.***

Review of Food Labelling Law and Policy

Beyond unit pricing, it is timely to re-examine the current information on food labels, given that the final report into the review of Food Labelling Law and Policy will be released early in 2011. The following info outlines the review process and is taken from <http://www.foodlabellingreview.gov.au/internet/foodlabelling/publishing.nsf/content/home>

The Council of Australian Governments (COAG) and the Australia and New Zealand Food Regulation Ministerial Council (Ministerial Council) have agreed to undertake a comprehensive review of food labelling law and policy.

The Ministerial Council on 23 October 2009 announced that former Australian Health Minister, Dr Neal Blewett AC, will head up the Panel which will undertake a comprehensive examination of food labelling law and policy. Dr Blewett was a pioneer of Australia's universal Medicare health system and is a strong advocate for the rights of consumers.

Dr Blewett is joined on the panel by public health law academic Dr Chris Reynolds, economic and consumer behaviour expert Professor Simone Pettigrew, food and nutrition policy academic Associate Professor Heather Yeatman, and food industry communications, marketing and corporate affairs professional Nick Goddard.

The Review Panel has completed two rounds of public consultation. On 26 October 2009, interested stakeholders were invited to provide brief submissions on food labelling issues within the Terms of Reference, to be considered as part of the Review. This consultation round closed on 20 November 2009, and the Panel received more than 6000 submissions.

The issues raised by stakeholders during the initial round of consultation, as well as issues in the literature and media in recent years, formed the basis of the Panel's *Issues Consultation Paper*, which was released on 5 March 2010 to launch the second round of public consultation. The Panel called for written submissions in response to the questions posed in the *Issues Consultation Paper*, and also held a series of public consultation forums in Australia and New Zealand. The second phase of consultation, and the opportunity to provide written submissions, closed on 14 May 2010. The Panel received more than 550 written submissions, and more than 550 people attended the public consultation forums.

The Review Panel is now considering stakeholders' perspectives provided in the written submissions and other information gathered during the course of the Review process to inform the development of its recommendations. During this time the Panel is directly approaching individuals and organisations for further information regarding any of the written submissions that it has received.

The Review Panel will make a presentation to the Australia and New Zealand Food Regulation Ministerial Council in December 2010 and will present the Final Report to COAG in early 2011.

Below is explanatory information about current labelling that has been taken from Food Standards Australia New Zealand (FSANZ) website. All the examples given relate to info that would be found on a container of yoghurt. This info can be viewed at:

<http://www.foodstandards.gov.au/consumerinformation/labellingoffood/interactivelabelpost3614.cfm>

Labels must tell the truth.

Suppliers must label food products with accurate weights and measures information. Weights and measures declarations are regulated by Australian State and Territory and New Zealand Government fair trading agencies.

Fair trading laws and food laws in Australia and New Zealand require that labels do not misinform through false, misleading or deceptive representations. For example, a food with a picture of strawberries on the label must contain strawberries.

Legibility requirements.

Any labelling requirement legally required in the Food Standards Code must be legible, prominent, and distinct from the background and in English. The size of the type in warning statements must be at least 3mm high, except on very small packages

Country of origin.

Australia and New Zealand have different country of origin labelling requirements. In Australia, packaged, and some unpackaged, foods must state the country where the food was made or produced. This could just be identifying the country where the food was packaged for retail sale and, if any of the ingredients do not originate from that country, a statement that the food is made from imported or local and imported ingredients. Australian legislation also lays down rules about 'Product of Australia', which means it must be made in Australia from Australian ingredients, and 'Made in Australia', which means it is made in Australia with significant imported ingredients.

In New Zealand, country of origin requirements only apply to wines.

Name or description of the food.

Foods must be labelled with an accurate name or description, for example fruit yoghurt must contain fruit. If it were to contain fruit flavouring rather than real fruit, the label would need to say 'fruit flavoured yoghurt'.

Food labelling continued ...

(Continued from page 9)

Ingredient list.

You will usually find the ingredient list on the back of the product. Ingredients must be listed in descending order (by ingoing weight). This means that when the food was manufactured the first ingredient listed contributed the largest amount and the last ingredient listed contributed the least, compared to the other ingredients. So, if fat, sugar or salt are listed near the start of the list the product contains a greater proportion of these ingredients.

If the product contains water, it must also be listed in the ingredients according to its ingoing weight, making an allowance for any water lost in processing, for example by evaporation. The only exception is when added water makes up less the 5% of the finished product.

When reading labels, watch out for other words in the ingredient list, which can mean that fat, sugar or salt/sodium are present.

Fat: animal oil, beef fat, butter fat, cophia, lard, milk solids, palm oil, shortening, tallow, vegetable oil

Sugar: sucrose, brown sugar, dextrose, fructose, glucose, golden syrup, honey, lactose, malt, maltose, maple syrup, molasses, raw sugar

Salt/Sodium: baking soda, celery salt, garlic slat, monosodium glutamate (MSG or additive number 621), rock salt, sea salt, sodium bicarbonate.

Sometimes compound ingredients are used to make a food. A compound ingredient is a food itself which is made up of two or more ingredients. An example of a compound ingredient is spaghetti, which is made up of flour, egg and water. All the ingredients that make up a compound ingredient must be declared on the ingredient list, except where a compound ingredient is used in amounts of less than 5% of the final food. An example of a compound ingredient which could be less then 5% is the tomato sauce (consisting tomatoes, capsicum, onions, water and herbs) listed in the ingredients on a frozen pizza.

Nutrition information panel.

Most packaged foods must have a nutrition information panel. The information must be presented in a standard format which shows the amount per serve and per 100g (or 100ml if liquid) of the food. Examples of a nutrition information panel and the nutrients that have to be listed in the nutrition information have been outlined below.

There are a few exceptions to requiring a nutrition information panel such as:

- ◇ very small packages which are about the size of a larger chewing gum packet
- ◇ foods with no significant nutritional value (such as a single herb or spice), tea, and coffee
- ◇ foods sold unpackaged (unless a nutrition claim is made)
- ◇ foods made and packaged at the point of sale, for example bread made in a local bakery.

Food additives.

Food additives play an important part in our food supply ensuring that our food is safe and meets the needs of consumers. Many food additives have long complex names. Sometimes these are abbreviated, sometimes not. Some have more than one name and a few include letters from the Greek alphabet! The food additives list can be confusing so, to help reduce this confusion, each food additive is given a short code number. Many people like to know what these food additive codes stand for and some people may choose to avoid certain food additives.

If you want to know more about a particular food additive look at the ingredient list on the food label where you will find the food additive's name, function and number, for example, acidity regulator (260). You can use this information to gain a better understanding of what is in the food you eat. For example, acidity regulators help maintain a constant acid level in foods. This can help prevent foods from spoiling, keep them safe, as well as change the flavour of the food.

Food additives are used in processed foods in relatively small quantities. Many substances used as food additives also occur naturally, such as vitamin C or ascorbic acid (300) in fruit or lecithin (322) in egg yolks, soya beans, peanuts and maize.

A full list of numbers and additives can be obtained from the FSANZ website.
<http://www.foodstandards.gov.au/consumerinformation/additives.cfm>

NUTRITION INFORMATION		
Servings per package: 3		
Serving Size: 150g		
	Quantity per 100g	Quantity per Serving
Energy	608kJ	405kJ
Protein	4.2g	2.8g
Fat, total	7.4g	4.9g
– Saturated	4.5g	3.0g
Carbohydrate, total	18.6g	12.4g
– Sugars	18.6g	12.4g
Sodium	90mg	60mg
*Percentage of recommended dietary intake		
Ingredients: Whole milk, concentrated skim milk, sugar, banana (8%), strawberry (6%), grape (4%), peach (2%), pineapple (2%), gelatine, culture, thickener (1442). All quantities above are averages		

Percentage labelling.

Packaged foods have to carry labels which show the percentage of the key or characterising ingredients or components in the food product. This will enable you to compare similar products. The characterising ingredient for this fruit salad yoghurt is fruit and you can see from the ingredient list that it is banana 8%, strawberry 8%, grape %, peach 2%, and pineapple 2%. An example of a percentage of a characterising component would be the amount of cocoa solids in chocolate. Some foods, such as 'white bread' or 'cheese', have no characterising ingredients.

Food labelling continued ...

(Continued from page 11)

Directions for use and storage.

Where specific storage conditions are required in order for a product to keep until its 'best before' or 'use by' date, manufacturers must include this information on the label. For example, 'This yoghurt should be kept refrigerated at or below 4°C'.

Food recall information.

Considering the number of foods available, recalls of unsafe or unsuitable foods are uncommon. Food labels must have the name and business address in Australia or New Zealand of the manufacturer or importer, as well as the lot identification of the food (or date coding). This makes food recalls, on the rare occasion that they are necessary, more efficient and effective. In Australia each year there are about 70 food recalls, most of which are precautionary and due to the food manufacturer identifying a problem from their own testing.

Details of Australian recalls are on the Food Standards Australia New Zealand website at www.foodstandards.gov.au. New Zealand recalls are on the New Zealand Food Safety Authority website www.nzfsa.govt.nz.

Information for allergy sufferers.

Some foods, food ingredients or components of an ingredient can cause severe allergic reactions in some people – this is known as anaphylaxis. Foods such as peanuts, tree nuts (e.g. cashews, almonds, walnuts), shellfish, finned fish, milk, eggs, sesame and soybeans and their products, when present in food, may cause severe allergic reactions and must be declared on the label however small the amount. Gluten is also included in this list but the caution is more for those with Coeliac Disease rather than allergy. Those who are wheat allergic must stay away from all wheat including gluten.

In addition, foods containing sulphite preservatives must be labelled as containing sulphites if they have 10 milligrams per kilogram or more of added sulphites. This is the level that may trigger asthma attacks in some asthmatics. For more information on food allergies see the Anaphylaxis Australia website www.allergyfacts.org.au or Allergy New Zealand www.allergy.org.nz.

A food must have a warning statement where people may be unaware of a serious health risk posed by an allergen in a food. The only current warning statement in relation to food containing the bee product: royal jelly which has been reported to cause severe allergic reactions and in rare cases fatalities, especially in asthma and allergy sufferers.

'May contain'

You will notice some labels say 'may contain' certain allergens, for example 'may contain nuts'. This is put on by the manufacturer who may be concerned that, while nuts aren't added to the food. Traces may be present due, for example, the product having been made on the same equipment as products containing nuts. Allergy consumer groups are working with the food industry to make these labels more helpful to allergy sufferers.

Date marking.

Date marking that is having either a 'best before' or a 'use by' date gives you a guide about the length of time a food should be kept before it begins to deteriorate.

There are two types of date markings. Foods that must be eaten before a certain time for safety reasons are date marked with a 'use by' date and foods should not be sold or eaten after this date, for example, infant formula or chilled smoked fish.

Other foods will be date marked with a 'best before' date, for example, a muesli bar. You can still eat foods for a short time after the best before date as that should be safe but they may have lost some of nutrition and quality. The majority of foods will be date marked with a 'best before' date. Foods with a shelf life of less than two years must have a 'best before' date.

Foods that have a 'best before' date can continue to be sold after that date provided the food is fit for human consumption. Foods that have a 'use by' date are prohibited by law from being sold after this date because the food may pose a safety risk. The manufacturer of the food is responsible for placing a 'best before' or 'use by date', as applicable on food.

The only food that can have a different date marking on it is bread, which can be labelled with a 'baked on' or 'baked for' date if its shelf life is less than seven days. Foods that have a shelf life of two years or longer, for example, canned food, do not need to be labelled with a 'best before' date. This is because it is difficult to give the consumer an accurate guide as to how long these foods will keep, as they will retain their quality for many years and are likely to be consumed well before they spoil.

Nutrition Panel Calculator

Have you ever wondered how manufacturers and wholesalers come up with the nutritional info that goes onto labels? If so, you should check out the Nutrition Panel Calculator on the FSANZ website. The calculator has been provided to assist food manufacturers calculate the average nutrient content of their food products and to prepare a nutrition information panel (NIP). (Standard 1.2.8 - Nutrition Information Requirements, of the Australia New Zealand Food Standards Code (the Code) sets out the legal requirements concerning the provision of NIPs and other nutrition information for food that is required to be labelled under the Code.) While the Standards are set by FSANZ, they are enforced by State Governments.

More info can be found at:

<http://www.foodstandards.gov.au/foodstandards/nutritionpanelcalculator/>

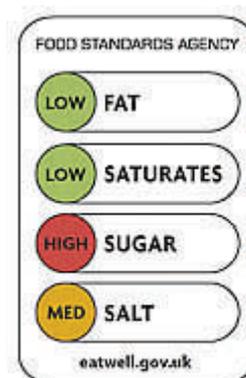
Food labelling issues

The following food labelling issues have emerged, most of which are associated with recent advances in food technology.

- ◇ The type and amount of **nutrition information** is complex and can be confusing and difficult to understand. In order to interpret the info consumers need to understand how nutrients are used in the body and be aware that nutritional requirements vary depending on age and sex, level of physical activity and whether women may be pregnant or breastfeeding. It can be difficult to choose healthy food and plan nutritious meals to meet individual needs.

Britain uses a traffic light system and discussion for its adoption in Australia can be found at:

- ⇒ Medical Journal of Australia website
http://www.mja.com.au/public/issues/186_01_010107/bea10962_letter_fm.html
- ⇒ Salt matters website
<http://www.saltmatters.org/site/uploads/PDFs/TRAFFIC%20LIGHTS-web.pdf>



The multiple traffic light

- ◇ Although there are 'use by' and 'best before' dates on food, consumers generally have no idea about how **fresh** the **food** they are actually buying is. On 1 December, a newspaper article, titled, 'Why fresh can be year old', in *The Adelaide Advertiser* (page 34) discussed the difficulties in discerning freshness highlighted in a recent Choice investigation. 'Technological advances meant producers could potentially store lamb up to 112 days and chilled beef mince up to 44 days.' 'Tricks to extend life include chilling quickly after harvest, controlled atmosphere storage and packaging to slow deterioration and a chemical that blocks apple-ripening receptors.' The investigation claims that shoppers are 'robbed of fruit and vegetable taste and vitamins because of extended storage.' The article recommends buying seasonal food from suppliers that source local products.
- ◇ Consumers who are concerned about consuming **GM foods** cannot identify them if they are part of the food production process. The following info is taken from the FSANZ website:
'It is a mandatory requirement under Standard 1.5.2 Food Produced using Gene Technology for GM foods to be labelled. These requirements came into effect in Australia and New Zealand in December 2001 and are intended to provide information to consumers to facilitate choice, assisting consumers to purchase or avoid GM foods depending on their own views and beliefs.'

The standard requires that food (including ingredients, food additives and processing aids) be labelled with the words 'genetically modified', if novel DNA

and/or novel protein from an approved GM variety is present in the final food. Therefore the general labelling requirements are based on the presence of novel DNA and/or protein at detectable levels in the food itself rather than on the process used. There are also additional labelling requirements where GM foods have altered characteristics compared to their conventional counterpart. For example, if a GM food has an increased level of a particular nutrient (e.g. vitamin), or has to be cooked or prepared in a different way compared to the conventional food, then this also needs to be indicated on the label. These additional labelling requirements also apply where the GM food raises significant ethical, cultural and religious concerns with respect to genetic modification.

FSANZ determines whether an additional labelling requirement is warranted through the standard development/variation process. For example, FSANZ has assessed two GM foods that have been found to have altered characteristics. These were high oleic acid soybeans and high lysine corn. In the case of high oleic soybeans, the label must include a statement that the food has been genetically modified to contain high levels of oleic acid. For high lysine corn, the label must include a statement that the food has been genetically modified to contain increased levels of lysine. The only exception to this is where the protein content has been removed as part of a refining process.

Where can I find this information on the label?

The statement 'genetically modified' must be used in conjunction with the name of the food or in association with the specific ingredient in the ingredient list. For example, for a single ingredient food such as soy flour, the label would appear as follows:

Soy Flour

Genetically Modified

Or

Soy Flour

From genetically modified soya beans

Or in the case of a food containing multiple ingredients, the ingredient list may look something like the following:

Ingredients: Soy Protein Isolate (genetically modified); Maltodextrin; Vegetable Oil; Food Acid (332); Emulsifier (371); Vegetable Gum (407); Water Added.

However, this labelling cannot guarantee that Australians can make informed choices about eating GM foods. They may well be unwittingly eating imported GM foods in takeaway and restaurant meals, and be consuming fresh produce that have been produced overseas using GM technology—for example imported pork that has fed GM grains.

It is important to note that:

- ⇒ FSANZ does not do any testing of food products
- ⇒ Data is supplied by the GM seed manufacturers. There is no review of raw GM data, rather FSANZ makes judgements on the summary information supplied.

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Food labelling issues continued ...

The following information about Bisphenol A can be found on the FSANZ website at:

<http://www.foodstandards.gov.au/consumerinformation/bisphenolabpaandfood>

<http://www.foodstandards.gov.au/consumerinformation/newfoodsandtechnolog>

- ◇ **Packaging**—there is concern about **Bisphenol A (BPA)** used in food packaging. BPA is an industrial chemical commonly used in the lining of food and beverage packaging to protect the food from coming in contact with metal. Food packaging ensures foods are not contaminated and extends the shelf life of products. BPA may be found in items or containers that come into contact with food such as drinking vessels, polycarbonate plastic baby bottles, plastic tableware and the internal coating on tins for tinned food. In some circumstances, chemicals in food packaging can migrate into the food depending on the nature of the packaging and the food.

Has a safe level of BPA been established? Yes. The internationally established safe level called the Tolerable Daily Intake (TDI) for BPA is 0.05 mg per kilogram of body weight per day. The TDI is an estimate of the amount of a substance in food that can be ingested daily over a lifetime without appreciable health risk. The TDI is based on animal studies and incorporates a safety factor which allows calculation of a safe level of consumption for humans to be undertaken.

Are very low levels of BPA in food of a concern?

FSANZ has evaluated the safety of BPA in food, including that consumed by infants and concluded that levels of intake of BPA are very low and do not pose a significant human health risk for any age group. For example, to reach the safe level (TDI) for BPA:

- ⇒ a 9 month old baby weighing 9 kg would have to eat more than 1 kg of canned baby custard containing BPA every day, assuming that the custard contained the highest level of BPA found.

On 30 September 2010, the European Food Safety Authority updated its opinion on BPA based on recent scientific literature, including several studies which have claimed to indicate that low levels of exposure to BPA could produce adverse health effects. They concluded that no new study could be identified which would call for a revision of the current TDI and commented that the current TDI can be considered to be a conservative value based on all the information currently known on BPA toxicokinetics [1].

An international panel of experts established by the World Health Organisation and the Food and Agricultural Organisation of the United Nations was also recently able to model circulating levels of BPA in the human body, which are very low, indicating that BPA is not accumulated in the body and is rapidly eliminated through urine.

Haven't some studies suggested health effects from BPA?

BPA belongs to a group of substances that can act in a similar way to some hormones and, as such, are sometimes called 'endocrine disruptors'. Some studies in laboratory animals have suggested that low levels of BPA may have an effect on the reproductive system while other studies indicate no effect. However, similar consequences in consumers at these low concentrations are considered unlikely because BPA is rapidly inactivated and then excreted in the urine in humans.

BPA does not cause cancer.

But hasn't BPA been banned in some overseas countries because of health effects?

Yes. On 17 October 2008, the Canadian Government announced it would prohibit the importation, sale and advertising of polycarbonate baby bottles. This decision was based on applying the principle of ALARA (as low as reasonably achievable) in order to facilitate continuing efforts on limiting BPA exposure from food packaging applications for newborns and infants.

The decision was taken even though the Canadian Government agreed with Health Canada's risk assessment that levels of BPA were safe in infant foods. Health Canada remains of the opinion that the health risk for BPA is very low at levels of exposure it has found in polycarbonate plastic baby bottles and in infant formula. In particular, Health Canada reported on its research which has shown that very low levels of BPA are found in cans of liquid infant formula, but no BPA is present in powdered infant formula.

The decision by the Canadian Government to respond to consumer concerns in this way has been mirrored by a small number of other countries. For example, some states, and counties in the USA and two European Union member states have also moved to ban BPA.

More recently, on 23 September 2010 Canada listed BPA as a toxic substance under the Canadian Environmental Protection Act, 1999. An assessment by Canada of the impact of human and environmental exposure to BPA has determined that BPA constitutes or may constitute a danger to human health and the environment as per criteria set out in the Act.

Governments around the world have also been working closely with industry to address consumer concerns.

What are Australia and New Zealand doing to reduce levels of BPA in food?

On 30 June 2010, the Australian Government announced the phase out by major Australian retailers of polycarbonate plastic baby bottles containing BPA. The voluntary phase out from 1 July 2010 is consistent with approaches taken by governments and industry in a number of other countries that have responded to consumer concerns about BPA.

(Continued on page 20)

Food labelling issues continued ...

(Continued from page 19)

The Australian Food and Grocery Council and the New Zealand Food & Grocery Council members are voluntarily phasing out the use of BPA in polycarbonate plastic baby bottles over the coming months and many companies currently have BPA-free options available. This is in response to consumer preference and demand and not an issue about product safety.

What research is still being done on BPA?

The US Food and Drug Administration (USFDA) announced in January 2010 that it would undertake further studies to address the safety of BPA. Some previous studies have employed non-oral routes of exposure to BPA (e.g. intravenous). The results of these studies have limited applicability to consideration of the exposure to BPA via food or beverages. Additional oral studies are being conducted in the USA, but before their completion the USFDA is not removing products from the market or recommending that families change the use of infant formula or foods, as the benefit of a stable source of good nutrition outweighs the potential risk from BPA exposure.

Given the continuing national and international interest in BPA, FSANZ is working with other regulators and the food industry to ensure we have access to the latest information.

Is there ongoing monitoring of BPA levels in foods?

In early 2010, the ACCC completed a study which shows no detectable amounts of BPA migrate from typical infant feeding bottles, infant sip cups and two leading brands of infant formula supplied in Australia. In terms of potential infant exposure to BPA, there is no noticeable difference in safety between the use of glass, non-polycarbonate plastic and polycarbonate plastic infant feeding vessels. BPA is also not detectable in Melbourne tap water.

In 2010, FSANZ conducted a targeted analytical survey of the levels of BPA in food and drinks available in Australia, including infant foods. Samples selected for the BPA survey included foods packaged in polycarbonate plastics, steel cans with epoxy lining and some glass jars with metal lids.

Results from this survey show that only a small number of samples had levels of BPA. Like the ACCC study, this survey found no detectable BPA in infant formula prepared in several typical infant feeding bottles. Estimated exposure to BPA from the diet shows that very large amounts of food and drinks would have to be eaten to reach the international safety levels. This survey provides reassurance that levels of BPA from the diet for the Australian population are low.

FSANZ will conduct further studies on levels of BPA in food in the future.

Is there anything I can do as a consumer?

When using baby bottles, always follow the instructions on the infant formula for preparation and use. The following advice applies to all baby bottles or cups, whatever type of plastic they are made from:

- ⇒ Discard any scratched bottles or feeding cups as they may harbour germs
- ⇒ Do not put boiling or very hot water, infant formula, or other liquids into bottles while preparing them for your child
- ⇒ Before mixing water with powdered infant formula, boil the water and cool it to lukewarm
- ⇒ Always remember: do not heat baby bottles of any kind in the microwave – the liquid may heat unevenly and burn your baby
- ⇒ Sterilize and clean bottles according to instructions on infant formula labels and they should be left to cool to room temperature before adding infant formula.

Who is responsible for regulating BPA?

In Australia, the regulation of chemicals in plastic articles for food use, including baby bottles, is a shared responsibility of several Australian Government regulatory agencies; Food Standards Australia New Zealand (FSANZ) for the food sold in plastic containers; the National Industrial Chemicals Notification and Assessment Scheme (NICNAS) for the safety of the industrial chemicals used; and the Australian Competition and Consumer Commission (ACCC) for the safety of the plastic articles themselves.

In New Zealand chemicals in plastics are regulated by Environmental Risk Management Authority (ERMA) and plastic consumer products by the New Zealand Ministry of Consumer Affairs. The New Zealand Food Safety Authority (NZFSA) also undertakes its own dietary surveys, safety assessments, management and enforcement of chemicals in domestic and imported food.

Nanotechnology

- ◇ Foods created using **nanotechnology** can be described as 'engineering on a very small scale' generally with structures being less than 100 nanometres in size. The term nanometre is not used very often and so to get a sense of the size it is best to imagine that about five hundred 100 nanometre structures could fit side-by-side onto the width of a strand of human hair.

Nanotechnology can be used in many different applications such as food, medicine, electronics, materials science and solar energy. It is important to realise that many naturally occurring nanoparticles are not new. Food and drinking water naturally comprises particles in the nanometre range, so humans ingest many millions of

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Food labelling issues continued ...

(Continued from page 21)

nanoparticles every day. For example, traditional processing of milk such as pasteurisation and homogenisation produce an emulsion of fine fat droplets of nanoscale proportions.

FSANZ recognises that very small particles can sometimes behave differently from larger particles of the same material and that it is wise to be cautious about their safety when used in food. When FSANZ assesses the safety of foods or food ingredients, it examines a wide range of scientific evidence, including information about the presence of any newly produced nanoparticles, to establish whether they are safe to consume. FSANZ requires anyone applying for a food standard to declare any nano-sized particle in their application.

FSANZ has not yet received any applications to approve any new type of nanoparticles in foods. However food manufacturers expect that advances in science and food technology mean they will soon be able to use nanoparticles to develop novel foods or improved food packaging. The detailed information on food labels it is often difficult to read because the print is so small.

- ◇ And finally, because I am part of the over 50 population with fading eyesight, the size of print on food labels needs to be questioned. What is the point of having comprehensive info on food labels if it is illegible? I'm not sure what the solution is here—on one hand we want more info but fitting it on food labels but this may mean we cannot read it!

Valdene Buckley

You can direct credit your membership fees into the CAWA account. Full membership is \$20 and concessional membership is \$15.

The details you need are:

BSB: 306 050

Account No: 4158656

If you have any problems contact the Treasurer through the CAWA website.

Alternatively, the money can be mailed to the treasurer, at:

**The Treasurer
Consumers' Association of WA (Inc)
Locked Bag 14
Cloisters Square WA 6850**

In response to a CAWA member's concerns re take away food, the following letter was sent to Choice .

10th December, 2010

Chief Executive Officer
CHOICE
57 Carrington Road
MARRICKVILLE, NSW 2204

Dear Sir,

Re: GM content and nutritional value in "takeaway" foods.

While there are strictly enforced regulations for food labelling in supermarkets, food sold in "takeaway" outlets is exempt from mandatory labelling. We know that "takeaway" food can form a significant part of Australian diets, particularly for young Australians, and that health issues such as obesity and diabetes are on the rise. Our Association is concerned about the lack of information on two counts:

- ◇ GM products – we are concerned at the content of imported products, eg sauces used by fast food companies for "takeaway" meals. It is understood the content of these sauces manufactured overseas is not checked on coming into Australia. The FSANZ website states, with regard to foods intended for immediate consumption that are prepared and sold from food premises, "If a consumer wants to know whether the ingredients used are from a GM source, the onus is on the vendor to provide information about the product, which is not misleading or untruthful". In other words the consumer needs to enquire, and the fast food outlet then needs to make this information available to the consumer.
- ◇ Nutritional value – while the fast food industry does carry out some self regulation, and there has been a move to market 'healthier' meals, Australian consumers still have no information re nutrition and the quality of food at the point of sale to assist in making healthy food choices.

Therefore, it is suggested Choice may like to undertake a check on the imported ingredients used by fast food companies, particularly with regard to their GM and nutritional content.

We would also be interested in Choice exploring information that could be provided at the point of sale re nutritional content.

Another suggestion, is an extra tax on fast foods could be implemented which would help in the campaign constantly being waged against obesity.

Take away foods continued ...

An investigation into Hungry Jack's and McDonald's online info reveals:

- ◇ Online, Hungry Jacks has a comprehensive breakdown of the nutrient content of each on its products and information re allergies to certain foods. However, the information given is not related to the total nutrient intake required per day.
- ◇ McDonalds online had much more information. Not only does the site have a breakdown re the nutritional content of each product, there is also an ingredient list, allergy info and a link to the Heart Foundation, showing meals and foods approved by and given the Heart Foundation Tick of approval.
- ◇ Red Rooster gave menus and a breakdown of nutrients for each product sold. However there was no attempt to collate the info for meals that are ordered. Menus are given but there is no breakdown in terms of ingredients or nutritional content. Consumers would need to do some simple calculations to assess how these foods relate to the Australian dietary guidelines.

Emails were sent to the first two companies—McDonalds and Hungry Jacks. Both sent an automated response and McDonalds followed up with the email below. CAWA is still waiting to hear from Hungry Jacks.

Dear Valdene

Thank you for your email. Please be assured that McDonald's Australia complies with all Australian government legislation in relation to the use of GM products. We currently have no ingredients or products that are derived from genetically modified sources.

At this stage there are no plans to change any ingredients in the products. We hope that this helps with your inquiry.

Regards
Kerrie Meyer
McDonald's Customer Service

VISIT TO WATER CORPORATION

CUSTOMER CENTRE BALCATTA.

WEDNESDAY 21st July 2010

The Customer Centre was established in 1998 and employs 230 staff over 7 sections.

- ◇ Account Services.
- ◇ Customer Relationship Management
- ◇ Call Centre.
- ◇ Customer Strategy and Development.
- ◇ Metering Services
- ◇ Receivables and Business Services
- ◇ Systems Management.

The Customer Centre receives over 600,000 Telephone calls a year and responds to more than 20,000 items of written correspondence ie mail and email.

Members of the Customer Advisory Council met at 1.30pm and after a welcome to the Customer Centre by Riley Nelson, the Manager we were able to sit in on calls coming in to the Call Centre with 55 seats arranged for Customer Service Representatives ready at the phones.

This was of great interest to actually see how calls are handled and information given to customers on a range of matters from account issues, extending dates for payments, conveyancing issues, change of addresses, applications for pension benefits, and also info re the position of tanks, pipes, meters etc. Always, the representatives answering the phones were polite and of the utmost assistance to callers and had full information on the computer screen of the caller's name, address and details for confirmation. At any time they can see a screen informing them of how many calls are awaiting and how many representatives are available.

During the first week of July when the yearly accounts were sent out the Call Centre had an understandable increase in calls on the first particular day and this was monitored to show how calls were addressed and the number of 'drop outs' when a caller was unable to wait. Within a day the calls were already reduced.

Extra staff are brought in to handle this influx at this time of the year. They are required to answer calls within 30 seconds and were at 84% of that target which we could read on a monitor. These calls are not for faults, as these are taken at the Leederville office of the Water Corporation.

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Water Corporation Customer Centre continued ...

(Continued from page 25)

During the visit we met with various section managers to hear of Customer Surveys that are carried out on Customer Satisfaction. Many hundreds of emails are received and answered by a dedicated section and Water Corp. is encouraging customers to pay online by Bpay or Bpay View as shown on the reverse of the Account.

Metering Services was one section of interest where we had a talk from Mr Allan Wood regarding the problems encountered by meter readers for the Water Corporation and the need for householders to recognise their responsibility in keeping the meter clear of obstructions, eg trees, plants etc. We were shown some shocking examples of what a meter reader can encounter such as a very prickly Bougainvillea plant, locked gates, dogs and where the metre is barely visible to read having been enclosed by paving, walls or grown over by trees. This is a big problem. At times the Water Corp needs to replace the metre and full access is required to ensure a safe result as electrical cables are sometimes 'earthed' to the piping. The Customer Advisory Council discussed the best methods of encouraging home owners to care for their meters and if needed pay for changes to the areas involved. Currently, owners are sent a card informing them that their meter cannot not be read and asking them to clear any obstructions within 14 days.

Queries can be answered by calling 1313 85 or emailing:
mrs@watercorporation.com.au

All in all this was a most interesting visit to an important service for water customers in Western Australia.

Rhonda Algaba

Funding cuts to schools

In 2009 , as part of the 3% cost cuts, the Education Department made significant changes to staffing for supervisors of Year 11 and 12 students studying in District High Schools (DHS) and began charging schools who access programs with the School of Isolated and Distance Education (SIDE). Both these decisions seemed to contradict students' basic consumer rights set by the United Nations—the right to choose and to be able to select from a range of products and services; and the right to satisfaction of basic needs including education. CAWA wrote to the Minister for Education advocating against these changes.

At the same time the DHS decision was investigated by the Standing Committee on Estimates and Financial Operations in the Legislative Council. Their recommendations are on page 32.

9th June 2010

[Hon. Dr Elizabeth Constable](#) MLA

Minister for Education; Tourism
19th Floor
Governor Stirling Tower
197 St Georges Terrace
Perth WA 6000

Email: Minister.Constable@dpc.wa.gov.au

Re: Loss of year 11 and 12 programs in District High Schools in country regions of WA

And

Department of Education's move to charge schools who access programs with the School of Isolated and Distance Education (SIDE)

Dear Minister

I would like to begin our submission by giving you some background into our organisation before proceeding to discuss two education issues that are related, in that both deal with limiting students' educational choices within the government school system.

The Consumers' Association of Western Australia Inc. (CAWA) was established in 1974 to provide consumer representation to business and government. Our main objectives are to:

- ◇ represent the views of consumers in Western Australia
- ◇ investigate and act on issues of concern to consumers
- ◇ provide a forum for the discussion of matters of common interest to consumers
- ◇ encourage consumer education.

As a consumer advocacy organisation we promote the **United Nations 8 Basic Consumer Rights which include:**

2. The right to be informed - To be given facts needed to make an informed choice;
3. The right to choose - To be able to select from a range of products and services;
5. The right to satisfaction of basic needs - To have access to basic essential goods and services, adequate food, clothing, shelter, health care, **education** and sanitation.

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Funding cuts to schools continued ...

(Continued from page 27)

Information about the **first issue: Loss of year 11 and 12 programs in District High Schools in country regions of WA** was taken from a news broadcast at: <http://www.abc.net.au/news/audio/2010/03/16/2847020.htm> (posted March 16, 2010 and accessed June 2, 2010). In this program you clearly state that this decision has been made to give students better educational outcomes because the current scenario where a school provides programs for fewer than ten students has limited opportunities. You then go on to outline the three future options students will have:

1. travel by bus to the nearest senior high school;
2. a boarding arrangement at one of the nine regional hostels or the City Beach hostel in the metropolitan area (noting that the Barnett Government cut funding to Swanleigh Residential College in December 2009, and the College currently only has a commitment to remain open until the end of 2010);
3. staying on at the District High School, but enrolling with the Schools of Isolated and Distance Education (SIDE), with some support from the DHS.

Opposing the first option, the Nationals MP Grant Woodham has said 'this is not always reasonable' since some students would be travelling 'over 200 kilometres a day'. His comments can be found at: http://www.optuszoo.com.au/regional_news/113420/wheatbelt/district-high-schools-lose-senior-year-courses.html (posted 16 Mar, 2010 accessed 3 June, 2010).

This view is also supported by the article in the *Kimberley Echo* on the 15 April 2010, which reported that the option one scenario, transporting students from Wyndham to Kununurra in 2009 by bus has not been successful, and the bus, at a tax payer cost of \$511,000 over two years, is at times empty because the 1000 km a week trip is too onerous for students. The article indicates that the Wyndham students of senior school age are currently not attending school. The article, '1000km too much for remote student', featured in *The West Australian* on June 7, 2010, page 11 further supports this opinion, relating the experience of one Wyndham based year 12 student who has quit school after six months of tiring travel.

Both options 1 and 2 have a social cost to small rural communities. They will diminish teaching expertise and resources in local schools. It follows that the programs that can be offered to lower school years are also reduced. Given DHS are hubs within their communities, there is a flow on effect that will diminish entire districts already at risk from reduced infrastructure in health, banking etc. The second option, removing young people from their communities is also likely to exacerbate the general exodus of young people and further contribute to the depletion of WA's rural population. The *October 1998, Summary report of consultations undertaken for the Rural and Remote Education Advisory Council*

(RREAC), prepared by Dr Anne Butorac AAAJ Consulting Group cites the single most important issue raised by respondents was that of staffing – approximately 33.3% of the discussion involved staffing matters but also of major importance were the issues of students having to move away from their communities.

Regarding the third choice, CAWA has received information indicating that the last option is the one that in fact has currently been operating within many of these DHS. It seems that these schools have been delivering curriculum in a partnership arrangement with SIDE since the school leaving age was raised in 2006. Perusal of the electronic handbook on the SIDE website indicates that there are a wide range of courses available, including both vocational and WACE subjects. However CAWA has also been informed that far from promoting the third option, the Department of Education has taken steps to actively discourage it as a viable choice. We understand the supervision support for students in most DHS is being progressively reduced in 2010 meaning duty of care, student safety and education opportunities such as internet use have been compromised, making it difficult for DHS to offer SIDE courses to students. We understand that funds for supervision support and curriculum access will not be provided at all in 2011.

Currently, there is another cohort of year 8-12 students who are enrolled at remote community schools and small primary schools, studying through distance learning. It is CAWA's understanding that a similar partnership agreement exists with SIDE and that the educational future of these students may also be under scrutiny by the Department of Education (DoE). It would seem that all the issues also apply to these schools and students.

It must also be noted that the alternative of students remaining in their communities and enrolling with SIDE as home based students would disadvantage some students significantly – particularly those who do not have access to telephones, facsimile machines and computers and whose parents are unable to actively support their children's learning as supervisors. Many indigenous students fall into this category.

From web based searches, there appears to be very little information in the public arena about these changes or the policy which has been implemented very quietly, without community consultation. The WA Labor Party has condemned the policy as a cost cutting exercise, and it is difficult to visualise it as anything else, given the lack of information and open debate.

It would seem that the third option – a staffed and resourced DHS, working in tandem with SIDE would give the best educational outcomes for students. This thinking is borne out by DoE research. The *Review of the Operations of District High Schools in Western Australia* produced by Dr K W Evans (2004) states:

- ◇ 'District high schools are very important institutions in declining rural communities'.
- ◇ 'More deliberate use could be made of SIDE. Experience shows that SIDE material is most effectively used in schools in dual-mode delivery, that is, where

(Continued on page 30)

Funding cuts to schools continued ...

- ◇ there is a teacher (though not necessarily a teacher of that subject) present with the student at all times for motivation, discipline, organisational assistance and to help with general questions’.

‘Resource allocation has to be on the basis of what is necessary to enable the educational program to be taught successfully rather than on a strict application of a formula, even if this appears to be over-resourcing’.

CAWA urges the Minister to rethink the current DoE policy. Funding decisions should be made in the best interests of educational outcomes for students. It is a matter of equity that at risk WA country students should be given the option of remaining in their school of choice and be provided with appropriate subject choices and assistance so that they are able to realise their career goals. Surely we should honour the fact that the wealth in our buoyant economy comes from our rural mining and agricultural industries by committing to an infrastructure to support the country people who provide it.

The second issue: The Department of Education’s move to charge schools who access programs with the School of Isolated and Distance Education (SIDE) surfaced as CAWA was considering the former issue and it seems that there are similar equity issues. From the newspaper article, ‘\$1000 school fee hits students’, The West Australian, 27 May, 2010 and information posted on the ALP website at <http://www.wa.alp.org.au/news/0510/27-07.php> (posted 27 May, 2010 accessed 3 June, 2010), it appears that both country and city senior high schools are now to be charged by DoE, approximately \$1000 per enrolled student accessing SIDE courses because these students are regarded as being funded twice – once at their local school and then through SIDE. One country high school, Northam Senior High School was sent a bill for \$35,456.40.

Michelle Roberts MLA, Shadow Minister for Education stated, ‘the new charge for SIDE courses will put a disproportionate burden on country schools and schools in lower socio economic areas’.

The implication for 2011 and beyond is that schools will no longer use SIDE as the loss of funds currently used for supervising students undertaking SIDE courses and the provision of the necessary technological resources will no longer be available. The subject choices of WA government school students, particularly country students, will become further restricted, resulting in an increasing disparity in education between large and small schools; and country and city schools.

The report into Funding And Secondary School Choice In Australia: A Historical Consideration, Rosemary Cahill (Department of Education, Western Australia) and Jan Gray (Edith Cowan University) (published February 2010, accessed on 2 June 2010) <http://ajte.education.ecu.edu.au/issues/PDF/351/Cahill.pdf> deals primarily with choices between government and non-government schools, however the following concluding quote seems to apply:

'Research shows, however, that the extent to which choices are available to parents is unevenly distributed (Cahill, 2009). Parents with limited means have limited choices while those with significant means have far more choice (Cannold, 2007; DES, 2001; Kelley & Evans, 2004; Mukherjee, 1999). It follows that some children get a lot more of what their parents want for them, while other children are left to make the most of what their parents can get.'

CAWA urges the Minister to rescind the DoE decision to charge schools who access SIDE's programs on the basis of the following quote, taken from SIDE's website http://www.side.wa.edu.au/side_story.html (accessed 6 June 2010):

'The physical size and vastness of Western Australia, and the relatively small population with its concentration around the coast, creates some problems of economies of scale for the delivery of education and training to remote areas. Access and equity for all students has in recent years formed part of the state educational agenda designed to meet the needs of a small number of Australians who, either by choice or because of necessity, must live in very isolated conditions.'

It is CAWA's view that the same funding formulas cannot be applied to all situations if West Australian's want an equitable education system that gives all students' choices and good educational outcomes.

Finally it should be noted that the State Government strategy to improve attendance in public schools, launched on 31 May, 2010 <http://wa.gov.au/whatsnew/> (accessed 5 June 2010) is more likely to be successful if students have access to relevant curriculum choices.

Thank you for considering our submission.

Genette Keating

President

Cc: Hon. Giz Watson MLC, Chair

Legislative Council Estimates and Financial Operations Committee Inquiry into the Removal of Senior School Allocation Funding for Year 11 and 12 Courses at District High Schools

Funding cuts to schools continued ...

1 July 2010—Media release

Re-instate funding for years 11 and 12 at District High Schools: Committee

The Standing Committee on Estimates and Financial Operations today recommended that the Minister for Education immediately re-instate the senior school allocation funding to years 11 and 12 at 21 District High Schools.

The Majority of the Committee found that:

- ◇ The cost savings to the Department are minimal and far less than the costs that will be imposed on other departments to provide bus services and subsidise children living away from home.
- ◇ The Department undertook no consultation with schools and their communities prior to making the decision to remove the funding.
- ◇ The Department poorly communicated its decision to the affected district high schools and communities resulting in confusion amongst principals, parents and the community about what the decision meant and what options were available.
- ◇ The broader economic and social consequences of removing the senior school allocation, especially when relating to particular circumstances of some families located in regional towns, had not been considered.

The Hon Liz Behjat MLC presented a minority report which whilst supporting a limited re-instatement of the funds also sought a complete review into the delivery of year 11 and 12 programs at all district high schools.

For more information contact Hon Giz Watson, Chair, Standing Committee on Estimates and Financial Operations on 0414 837 753.

While CAWA received a full report from the Standing Committee on Estimates and Financial Operations, it has not heard from the Minister of Education re the letter that was sent.

CAWA recently sent another letter, reproduced on the following page, requesting the Minister tell us of action the Education Department has taken in response to the Legislative Council Report.

10TH December, 2010

Hon. Dr. Elizabeth Constable MLA
Minister for Education, Tourism
18th Floor, Governor Stirling Tower
197 St. Georges Terrace,
PERTH WA 6000

Dear Minister

RE: Department of Education Action on Report 27 Standing Committee on Estimates and Financial Operations into the Removal of Senior School allocation funding for Year 11 and 12 Courses at 21 District High Schools.

On the 9th June this year the Consumers' Association of WA (CAWA) made a submission to the Standing Committee on Estimates and Financial Operations that was forwarded to you initially by email and then by post. CAWA's submission urged the Department of Education to rethink funding cuts to District High Schools in line with the recommendations in the Committee's Report issued on 1st July.

- 1: The Committee recommends that the Minister for Education immediately reinstate the Senior School Allocation funding to the 21 district high schools from which it was removed.
- 2: The Committee recommends that the Department of Education when considering funding changes to schools in rural and regional areas take into consideration:
 - a. whether there is actually any savings to the overall State Budget;
 - b. The broader economic and social consequences of the decision; and
 - c. Whether access to, and equity and excellence in, education for all students will be upheld.

The Department of Education has had almost five months to consider the Committee's recommendations and CAWA is writing to request information re the Department's decision on the funding position of District High Schools in 2011. We would like to take this opportunity to once again reiterate our view that the same funding formulas cannot be applied to all situations if West Australian's want an equitable education system that gives all students' choices and good educational outcomes.

Yours sincerely.

Genette Keating PRESIDENT

Cc: Hon. Giz Watson MLC, Chair, Legislative Council Estimates and Financial Operations Committee

Cc: Hon. Michelle Roberts MLA, Shadow Minister for Education

Update on Consumer Issues

Representatives of CAWA met with Consumer Protection Commissioner Anne Driscoll and senior staff from Consumer Protection on 15 June 2010 to discuss a range of current issues in the Consumer Protection portfolio. Here is a short summary of the issues discussed kindly supplied by Gary Newcombe, Director Strategic Policy and Development Consumer Protection in the Department of Commerce.

Boards Reform

Anne was able to advise that the new Minister for Commerce, the Hon Bill Marmion MLA, has confirmed his intention to proceed with reforms to licensing boards in the Consumer Protection portfolio that were announced earlier in the year by the former Minister, Troy Buswell.

These reforms will see the following licensing boards being abolished:

- ◇ Land Valuers Licensing Board;
- ◇ Motor Vehicle Industry Board;
- ◇ Real Estate and Business Agents Supervisory Board; and
- ◇ Settlement Agents Supervisory Board.

The licensing functions of these boards will be transferred to the Commissioner for Consumer Protection and the employment and financial affairs of the boards will be given to the Director General of the Department of Commerce.

Legislation to implement these changes is currently being drafted and is currently intended to be enacted this year, with the commencement date for the new arrangements being 1 July 2011.

To assist the Minister and the Department in the administration of the licensing functions under the new arrangements, the legislation will also establish two industry advisory committees:

- ◇ a Motor Vehicle Advisory Committee; and
- ◇ a Property Advisory Committee.

Very importantly, the legislation will create a Consumer Advisory Council to provide advice to the Commissioner and Minister on all of the consumer issues dealt with by the Department, not just licensing issues.

There is a range of other reforms under way that will affect boards and committees in the Consumer Protection portfolio.

Legislation to abolish the Hairdressers Registration Board is currently before the State Parliament. The Retail Shops Advisory Committee is expected to be abolished as part of the changes being made to retail trading hours and the Consumer Products Safety Committee will be abolished as part of changes to product safety laws resulting from the introduction of the Australian Consumer law next year.

Although not in the Consumer Protection portfolio anymore, the Government is also proceeding with legislation to create the Building Commission, which will bring changes to the administration of licensing for builders, painters and plumbers in WA.

COAG Reforms

Reforms being driven by the Council of Australian Governments "Seamless National Economy Reform Agenda" are having a big impact on Consumer Protection in WA.

Since the meeting with the Commissioner, State legislation to transfer the regulation of consumer credit and finance brokers to the Commonwealth Government has been enacted. As from 1 July 2010, the regulation of consumer credit and finance brokers, including licensing, is the responsibility of the Australian Securities and Investments Commission.

Also taking effect from 1 July 2010, the regulation of trade measurement has been taken over by the Commonwealth and is now the responsibility of the National Measurement Institute.

Making 1 July 2010 a very important date for consumers, the Commonwealth Government commenced its unfair contract terms legislation – part of the Australian Consumer Law reforms – also commenced on 1 July 2010.

The Commonwealth legislation will apply to standard form, take it or leave it, contracts used by corporations. The full Australian Consumer Law, including State unfair contract terms legislation that will apply to standard form, take it or leave it, contracts used by individual traders, is scheduled to commence around Australia by 1 January 2011. These reforms will make unfair terms in these types of contracts void.

Legislation to introduce the Australian Consumer Law in WA is now being drafted for introduction into the State Parliament later this year.

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The Australian Consumer Law will replace the existing Fair Trading Act and the Consumer Affairs Act. In addition to unfair contract terms laws, the Australian Consumer Law will introduce a range of reforms, including:

- ◇ changes to product safety laws to improve uniformity around Australia by limiting the capacity to make permanent bans on goods to the Commonwealth;
- ◇ replacing statutory and implied warranties with consumer guarantees, which will have extended coverage of services;
- ◇ new provisions regulating unsolicited selling (ie door to door and telephone marketing);
- ◇ new requirements for lay by sales and issuing receipts.

The regulation of fundraising has also recently been added to the COAG agenda and all Australian States and Territories are expected to have harmonised laws in place to regulate charitable fundraising in Australia (rather than separate and different State and Territory laws).

The Centre for Consumer Research

The role and function of the Centre for Consumer Research at the University of Western Australia was also discussed.

Two of the Consumer Protection Directors sit on the Management Committee of the Centre. Both CAWA representatives and the Consumer Protection representatives expressed some concern about the Centre's progress. The biggest problem was identified as the failure of the recruitment processes undertaken to date to identify a suitable Director of Research for the Centre. Without a dedicated Director who could manage research and obtain grant funding, the role of the Centre has been limited.

The Consumer Protection representatives advised that these issues would be addressed at an upcoming meeting of the Management Committee and it was expected that some options for the Centre's future would be settled at that meeting.

Gary Newcombe

Moving house (about two kilometres) I spoke to Ming at Telstra on the 5th August to ask for my phone/ADSL connection to be transferred to my new address on Tuesday 10th August. After initially saying I would have to have a new number he said I could keep my current phone number. A technician would come out to connect me on the 10th. Ming put me through to Yin at BigPond who said the ADSL would be connected three business days after my landline. Yin in Melbourne put me through to Megan. I spoke to Ben in Queensland and Rod on the Gold Coast.

Colin came on the 10th, tested the line, said I'd get fantastic broadband speeds. I'm only 500m from the exchange. Colin said I should ring BigPond to get the ADSL connected. At least the phone was working.

I rang BigPond and was told Monday 16th would be the earliest. I was given an order no. By Tuesday 17th – nothing.

Tuesday 17th I rang BigPond. Michelle said my phone line needed to be fully activated – I thought Colin did that. Michelle put me through to Jackie who said the ADSL had to be disconnected from my old address and would be reconnected around 8 am – I spoke to Jackie for about an hour while she checked and changed things around slightly.

Half an hour later my phone was disconnected after working fine at the new address since Colin came. I spoke to Jenny who put me through to Cory in the connections area – he said it was his job to solve my problems. He said my lines had been reconnected at my old address and a technician would be out on Friday 20th. He apologised and (after consulting his supervisor) offered to refund my monthly land line charge of \$29.95 and asked if that would make me happy.

I said what would make me happy was to have access to incoming calls and access to the internet. I have a wireless modem but it has a low download limit and wouldn't cover even my email without costing me – could he arrange for my wireless download limit to be increased until the problem was resolved – no. Could he arrange for calls to my landline to be diverted to my mobile – yes. He put me through to Michael who arranged the diversion - it never happened but 24 hours later my landline was working.

I went to my local Telstra shop thinking a little face to face contact might sort this out. I was told it's about Telstra's new front of house interface or some such and they couldn't help unless I first rang and cancelled all the arrangements I had already made – he couldn't access my requests on his system or divert my calls - the primary issue at the time.

Nick rang to confirm the tech would come out between 10 and 2 on Friday 20th. On Friday Jeff the tech rang to ask why he was needed – my line was fine – he gave me a

Telstra continued . . .

number for special connections in Adelaide and an order number.

I spoke to Lucas in Adelaide who said the job was done and booked off and he would put me through to BigPond. After no sound on the line for some time I hung up and called BigPond and spoke to Eric (interrupted by Lucas calling back to find out why I hung up) who said there was no code on the line and I needed an activation consultant. He put me through to Gideon who said ADSL would be working either straight away or possibly Monday. Magically appeared Tuesday 24th.

Who do you suppose pays all these people? It must have taken at least four hours on the phone. \$29.95 you're kidding.

To cap this off Telstra ask you to hold the line for a couple of quality control questions after your call – usually there are no questions just dead air. Then they call weeks later and ask you to rate the first call on the day – they don't say which day or to whom you spoke – impossible after so many contacts. All the people I spoke to appeared to be friendly and knowledgeable about their product but because I never spoke to the same person it was impossible to review what had been done and my story just became longer with everyone I spoke to.

Imported garlic update

You may remember that John and Sue Robertson were most concerned when their imported garlic turned a blue/green colour when added to vinaigrette ie olive oil and vinegar mixture. They have since been purchasing the more expensive Australian produce. However, it seems that the garlic is in fact safe to eat. Genette Keating's husband contributed the following info.

Garlic Turning Blue or Green

Latest Findings:

Journal of Agricultural and Food Chemistry, Volume 54, Issue 3 (February 08, 2006), p. 843-847, Identification of Two Novel Pigment Precursors and a Reddish-Purple Pigment Involved in the Blue-Green Discoloration of Onion and Garlic, written by Shinsuke Imai, Kaori Akita, Muneaki Tomotake, and Hiroshi Sawada.

Abstract:

By using a model reaction system representing blue-green discoloration that occurs when purees of onion (*Allium cepa* L.) and garlic (*Allium sativum* L.) are mixed, we isolated two pigment precursors (PPs) and a reddish-purple pigment (PUR-1) and determined their chemical structures. PPs were isolated from a heat-treated solution containing colour developer (CD) and either L-valine or L-alanine, and their structures were determined as 2-(3,4-dimethylpyrrolyl)-3-

methylbutanoic acid (PP-Val), and 2-(3,4-dimethyl-1H-pyrrolyl) propanoic acid (PP-Ala), respectively. Next, PUR-1 was isolated from a heat-treated solution containing PP-Val and alliin, and its structure was determined as (1E)-1-(1-((1S)-1-carboxy-2-methylpropyl)-3,4-dimethyl-1H-pyrrol-2-yl)-prop-1-enylene-3-(1-((1S)-1-carboxy-2-methylpropyl)-3,4-dimethyl-1H-pyrrol-2-ylidene). The structure of PUR-1 suggested that PP molecules containing a 3,4-dimethyl pyrrole ring had been cross-linked by an allyl group of alliin to form conjugated pigments. While PUR-1 is a dipyrrole compound exhibiting a reddish-purple colour, a colour shift toward blue to green can be expected as the cross-linking reaction continues to form, for example, tri- or tetrapyrrole compounds.

What the above means:

The discoloration is due to pigments that form between sulphur compounds in garlic and amino acids. When the garlic tissue is disrupted, as happens in processing, an enzyme is liberated and reacts with it to form thiosulfinate compounds that then react with the natural amino acids in the garlic to form blue pigments. The age of garlic determines how much isoalliin there is in the first place, and the nature of the processing determines how much enzyme is liberated.

Original thoughts and ideas:

Garlic is known to contain sulphur compounds which can react with minute traces of copper to form copper sulphate, a blue or blue-green compound. The amount of copper needed for this reaction is very small and is frequently found in normal water supplies. Raw garlic contains an enzyme that if not inactivated by heating reacts with sulphur (in the garlic) and copper (from water or utensils) to form blue copper sulphate. The garlic is still safe to eat.

- ◇ If fresh garlic is picked before it is fully mature and hasn't been properly dried, it can turn and iridescent blue or green colour when in the presence of an acid. It may be caused by an allinin derivative.
- ◇ A reaction between garlic's natural sulphur content and any copper in your water supply, or in the cooking utensils you are using (such as cast iron, tin, or aluminium) can sometimes change the colour of garlic.
- ◇ The other sources of copper might be butter, lemon juice, or vinegar.
- ◇ Garlic will also turn green (develop chlorophyll) if exposed to an temperature change or is exposed to sunlight. Some people say it can be stored for 32 days at or above 70 - 80° F to prevent greening (but I'm not yet sure that is true).
- ◇ Are you using table salt instead of kosher or canning salt? That can cause the garlic to turn blue or green. Table salt contains iodine, which discolours whatever you're pickling. Use kosher or pickling salt.
- ◇ Different varieties or growing conditions can actually produce garlic with an excess natural bluish/green pigmentation (anthocyanins*) made more visible after pickling.
- ◇ Any of various water-soluble pigments that impart to flowers and other plant parts colours ranging from violet and blue to most shades of red. This pigment is produced after chlorophyll is destroyed due to environmental

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Building legislation

The following information about the new building legislation, currently before the WA Parliament is in part provided by Peter Gow, Executive Director of the Building Commission, with the remainder taken from the WA parliamentary website.

Members of CAWA attended an information session re the Building Services (Complaint Resolution and Administration) Bill 2010 at the Building Disputes Tribunal in late September where they were disappointed to learn that the Bills that were still at that point, in draft form, would not be available for public comment. Rather they were to proceed directly to Parliament. We were advised to lobby our MPs if we wished see the legislation altered.

The Bills are currently before Parliament in the Legislative Assembly in the Second Reading and are due to be debated in the New Year.

Building Bill 2010

The purpose of this Bill is to provide for the following:

- ◇ permits for building work and demolition work;
- ◇ standards for the construction and demolition of buildings and incidental structures;
- ◇ the use and maintenance of, and requirements in relation to, existing buildings and incidental structures;
- ◇ work affecting land other than land on which the work is done;
- ◇ the amendment of the Local Government (Miscellaneous Provisions) Act 1960 and various other Acts;
- ◇ the repeal of the Building Regulations 1989 and the Local Government (Prohibition on Dealings in Land) Regulations 1973;
- ◇ related matters.

The Building Bill streamlines the building approval process. This Bill replaces Part XV of the *Local Government (Miscellaneous Provisions) Act* and does not create or continue any boards. Parts of this Bill still being drafted include those dealing with construction on boundaries, that will complement the *Dividing Fences Act*.

Building Services (Registration) Bill 2010

The purpose of this Bill is to provide for the following:

- ◇ the registration of certain building service providers;
- ◇ the approval of owner-builders;

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The Minister for Commerce, the Hon. Bill Marmion MLA has advised retail trading extensions that will apply in the Perth metropolitan area over the 2010 Christmas period. The approach taken -

- ◇ reflects the Government's general commitment to provide more choice to retailers and consumers as to metropolitan shopping hours;
- ◇ builds on the success of the extended trading hours made available during the 2010 Christmas period;
- ◇ will provide consumers with the option of shopping on Sundays during the period;
- ◇ enables consumers and retailers to participate in post-Christmas sales similar to those applied in other states; and
- ◇ as always, leaves the decision of whether to take advantage of the extended trading opportunities with the retailer and consumer.

The approved variations will apply to all metropolitan general retail shops, including those in the Perth and Fremantle Tourism Precincts, as follows:

Sunday, 5 th December	10.00am to 5pm
Monday 6 th , Tuesday 7 th , Wednesday 8 th December	
Thursday 9 th , Friday 10 th December	8.00am to 9.00pm
Saturday, 11 th December	8.00am to 5.00pm
Sunday, 12 th December	10.00am to 5.00pm
Monday 13 th , Tuesday 14 th , Wednesday 15 th ,	
Thursday 16 th , Friday 17 th December	8.00am to 9.00pm
Saturday 18 th December	8.00am to 5.00pm
Sunday 19 th December	10.00am to 5.00pm
Monday 20 th , Tuesday 21 st , Wednesday 22 nd ,	
Thursday, 23 rd December	8.00am to 9.00pm
Friday, 24 th December	8.00am to 6.00pm
Saturday 25 th December (PUBLIC HOLIDAY)	CLOSED
Sunday 26 th December (PUBLIC HOLIDAY)	10.00am to 5.00pm
Monday 27 th December (PUBLIC HOLIDAY)	8.00am to 5.00pm

Centre for Consumer Research (UWA) update

Eileen Webb , Associate Professor in Law at UWA has been serving as unofficial Director of the Centre for Consumer Research in the latter part of 2010. She has compiled this update on the activities of the Research Centre at UWA.

Administration

The Centre needs a new Director with the resignation of Ray Da Silva Rosa. Expressions of interest are invited from members of the Advisory Board. Also, if members have any suggestions for a representative from the Chamber of Commerce and Industry (CCI) or like organisation please submit some names. We have not had a business 'voice' on the Advisory Board for some time.

Teaching

The intensive unit, Current Issues in Consumer Law and Policy, was taught from September 28 – October 1. Dr Christine Reifa from Brunel University was our guest under the UWA Distinguished Visitor Program. Christine led two sessions, one on European Consumer Law, particularly the EU's 'harmonisation' process and another on consumers and the internet. The course enjoyed its highest enrolment to date and feedback was extremely positive. Thank you to Advisory Board members Sue Ash, Tracey Atkins, Michelle Burgermeister and Chris Field for their contributions.

Dr Christine Reifa has agreed to teach an intensive, elective unit 'European Consumer Law' if suitable arrangements can be made with the UWA Law School.

Although this will need to be the subject of discussion at Advisory Board and Faculty level, Eileen would also like to raise the possibility of introducing:

- ◇ a consumer 'clinical' unit into the undergraduate program. In summary, this would involve students being placed in consumer law related departments (for example Consumer Credit Legal Service WA) for one day per week. The students would work on 'real' matters and provide advice to clients under the supervision of departmental staff;
- ◇ a Masters/Graduate Certificate in Consumer Affairs being introduced into the law school's post-graduate program. Completion of the course would see a candidate awarded a post-graduate qualification being either a Graduate Certificate or a Masters Degree.
- ◇ a short (one day/half day) course for profession, government etc on the new consumer law.

Research

Boarders and lodgers Research:

The Centre will conduct research for the Working party on Boarders and Lodgers headed by TAS and Shelter WA. This research will inform the working party by providing background information on the legal and social issues facing boarders and lodgers in Western Australia. It will focus on the current legal frameworks that regulate the construction and licensing of lodging premises, the current consumer protection in place for boarders and lodgers in both WA and other States and a summary of issues and recommendations as listed in previous reports as written by various Western Australian agencies.

Articles:

Aviva Freilich and Eileen Webb have a number of articles about to be published or 'in the pipeline.'

E Webb, 'Considering unfairness in retail leases - A bridge too far or justifiable extension' (2010) 19 *Australian Property Law Journal* 58.

This article considers whether the unfair contract terms provisions of the Australian Consumer Law should be extended to small businesses.

Aviva Freilich and Eileen Webb 'Reforms to Australian Consumer and Credit Law' *American Bar Association E-News* November 2010

This article summarises the latest developments in Australian consumer and credit law.

Eileen Webb, 'Scammers target WA real estate transactions' (2010) 25 *Australian Property Law Bulletin* 186

This article provides an overview of the recent sale of a Perth investment property by a Nigerian scam.

Eileen Webb, 'The Silver Lining? Shopping hours confusion in WA may lead to a Small Business Ombudsman and a Lease Register, Accepted for publication *Australian Property Law Bulletin*

This article provides an overview of the shopping hours debate in WA.

Lynden Griggs and Eileen Webb '51AC Unconscionability – A Sauropod in Need of Life Support?' Accepted for publication *Alternative Law Journal*.

Lynden Griggs, Aviva Freilich and Eileen Webb 'Stalking the Amphisbaena – Mark 11' (sub nom – Who is the Consumer?) (in progress)

Conference Paper:

Alicia Snyders and Eileen Webb, Consumer Protection for Refugees and Humanitarian Migrants: overcoming misleading practices in the English - speaking marketplace, presented at the 5th Australasian Consumer Law Roundtable, Perth, 24 September 2010.

Continued on next page

Centre for Consumer Research (UWA) update continued ...

(Continued from previous page)

Book:

We are investigating whether an edited book of presentations from the Consumer Law Roundtable would be feasible.

Trading Hours Report

The Trading Hours Report is still not released. At this stage there is no foreseeable release date. The report will need to be updated again to consider the 'bulky goods' issue. In summary, this issue involves the content of an Issues Paper released by the Department of Commerce in October 2010. The Issues Paper is in response to the decision by the Government and Opposition to loosen the shackles on Sunday trading by allowing the sale of 'bulky goods'. Unfortunately, at present 'bulky goods' are not defined. The Issues Paper sets out some options to change the Retail Trading Hours Act to allow for possible Sunday sales of consumer durables such as whitegoods and household furnishings.

Grant applications/involvement

Edmund Rice – Refugees and telecommunications sales:

Alicia Snyders and Eileen Webb will record their interim findings in a report to be released upon distribution to the Management Committee and Advisory Boards. In this way we hope to get the issue 'on the radar.' We have had discussions with Lotteries on this issue but we would like to start getting some of the information we have gleaned 'out there'. We were also considering introducing basic contract/consumer law classes in Edmund Rice Centre life skills program for new arrivals. This program is taught in local TAFE colleges and involves classes in English as a second language and provides relevant information about living and working in Australia.

Lotteries:

The Council of the Ageing (WA) has submitted a grant application to Lotteries WA to investigate Seniors Housing. If successful, the Centre will undertake the research in conjunction with the Urban Design Centre (WA).

The project is titled:

Housing and Accommodation for Western Australian Seniors: realities, regulation and enhancement.

To date, there is no resource which enables ready access to information about seniors housing and accommodation in Western Australia. While there is census information available and a plentiful supply of relevant information and statistics on specific aspects of seniors' accommodation such information is not collated in a form which isolates, in one place, information recording the location, nature and tenure of these accommodation arrangements nor the ethnicity, marital status or income status of its occupants. This observation extends to information pertaining to housing arrangements for seniors disadvantaged through, for example, physical and/or intellectual disability, ethnicity, remoteness, loss of a partner and/or a low income.

Seniors accommodation in the following scenarios will be quantified and information regarding the age, income, ethnicity, marital status and number of persons in the household will be imparted:

Home ownership

- ◇ public housing tenancy
- ◇ private tenancy
- ◇ retirement villages
- ◇ home units under Strata Title
- ◇ residential parks accommodation
- ◇ nursing homes and residential aged care facilities
- ◇ other care facilities
- ◇ other collective dwellings
- ◇ Living with relatives
- ◇ boarding or lodging accommodation

Homelessness

The Centre for Consumer Research will use the profile of senior households and housing circumstances as the foundation for research identifying legal issues affecting WA seniors in relation to housing and accommodation. Although some accommodation issues are shared by all ages of the population, such issues may impact of seniors in a different or more onerous way. Some are distinct to seniors while others are distinct to WA. Particular focus will be directed at housing options for seniors with disabilities, CALD backgrounds and low-income, low asset seniors. The study would be state-wide with participation from seniors in rural and regional areas.

Continued on next page

Centre for Consumer Research (UWA) update continued ...

Continued from previous page)

The Urban Design Centre will use the information garnered in the first stage of the research to assess the housing environment for seniors in WA and use this information to plan for future development of communities. It is widely accepted that the key to good planning is in effective engagement. As such, this project proposes to conduct a comprehensive program of research into the housing aspirations of Western Australian seniors. The appropriateness of seniors accommodation involves a range of considerations from the accommodation itself; affordability, design and suitable features to the locality; proximity and accessibility to services, amenities and networks to safety and access to medical care.

Alliance for the prevention of elder abuse (APEA)

We have met with APEA and discussed the possibility of research into financial abuse of seniors.

World Universities Network

Eileen has become involved in the World Universities Network project on Global Social Initiative on Ageing which is based in Alberta. She will be undertaking the consumer law research relevant to the 'liveability' theme. At present details are sketchy but I will report further developments in future meetings.

Eileen is also involved in the WUN Global Health and the Humanities project. She will be presenting a paper at an invitation only workshop in March 2011. The workshop is co-sponsored by UWA and the Walter Chapin Simpson Center for the Humanities at the University of Washington, Seattle. My paper is titled:

Global ageing – legal and ethical issues.

The paper examines international approaches to elder law, particularly the prevention of various forms of elder abuse.

Australian Research Council

We will be speaking with interested parties regarding ARC Linkage and Discovery applications in 2011. Financial abuse is a focus at the moment but other suggestions are welcome.

Community

Submission:

Eileen Webb and Alicia Snyders made a submission to Australian Communications and Media Authority (ACMA) inquiry 'Connecting the Consumer'. The submission outlines the information obtained through the Edmund Rice Centre Research discussed above.

Media:

Eileen Webb and/or Alicia Snyders have been interviewed regarding the Refugees project on Radio National and 6PR.

Professional affiliations:

- ◇ The Centre organised and hosted the 5th Australasian Consumer Law Roundtable in September.
- ◇ Eileen Webb has been invited, and has accepted, a role on the Editorial Board of the Competition and Consumer Law Journal
- ◇ Eileen Webb is a member of the Working party examining the lack of legislative protection for boarders and lodgers in Western Australia.
- ◇ Aviva Freilich and Eileen Webb have again taken up roles on the Management Committee of the Consumer Credit Legal Service (WA).

Eileen Webb

Imported garlic update continued ...

Continued from page 39)

- ◇ changes. This is a variable phenomenon that is more pronounced for immature garlic but can differ among cloves within a single head of garlic. If you grow your own garlic, be sure to mature it at room temperature for a couple of weeks before using it.

Don't worry, greenish-blue colour changes aren't harmful and your garlic is still safe to eat (unless you see other signs of spoilage).

Sue and John Robertson

Australian Consumer Law and changes to WA legislation

On 2 December Anne Driscoll , Commissioner for Consumer Protection, Department of Commerce, sent this overview of the changes to WA consumer laws to interested stakeholders.

I am writing to you to inform you of two important pieces of legislation that passed through the Western Australian State Parliament on Thursday 25 November 2010 and that will have a fundamental impact on consumer protection laws and administration in Western Australia.

Fair Trading Bill 2010 (WA)

The first piece of legislation is the Fair Trading Bill 2010 (WA).

The Fair Trading Bill 2010 (WA) still needs to receive Royal Assent to become an Act and a proclamation is then required to bring this Act into operation, however, it is intended that these actions will be completed in time for the *Fair Trading Act 2010 (WA)* to come into operation in Western Australia on 1 January 2011.

The Commonwealth's Australian Consumer Law will also come into operation on 1 January 2011.

The Fair Trading Bill 2010 was amended during its passage through the Legislative Council and, therefore, the Bill is in some respects different to the Bill which the Government introduced into Parliament on 22 September 2010.

The *Fair Trading Act 2010 (WA)* will achieve the following three key outcomes:

- a) it will implement the new, nationally uniform Australian Consumer Law in Western Australia as the Australian Consumer Law (WA);
- b) it will replace the current *Consumer Affairs Act 1971 (WA)*, the *Door to Door Trading Act 1987 (WA)* and the *Fair Trading Act 1987 (WA)*; and
- c) it will continue the role of Commissioner for Consumer Protection, however it makes a number of changes to the powers of the Commissioner.

The Act provides that the Australian Consumer Law as set out in Schedule 2 to the Commonwealth's *Competition and Consumer Act 2010* (the re-named *Trade Practices Act 1974*) as in force when the Act commences, will apply as a law of Western Australia, to be known as the Australian Consumer Law (WA).

Future amendments to Schedule 2 to the Commonwealth's *Competition and Consumer Act 2010* made by the Commonwealth, will not apply in Western Australia unless and until separate amendments are made to the *Fair Trading Act 2010 (WA)* to apply those Commonwealth amendments as a law of Western Australia.

Regulations relevant to the Commonwealth's Australian Consumer Law will automatically apply in Western Australia but they will be subject to disallowance by the Western Australian Parliament as if they were regulations made in Western Australia.

The Australian Consumer Law (WA) effectively replaces the consumer protection laws currently contained in the *Fair Trading Act 1987 (WA)* and the *Door to Door Trading Act 1987 (WA)* and the product safety laws currently contained in both the *Consumer Affairs Act 1971 (WA)* and the *Fair Trading Act 1987 (WA)*. Much of the existing law is retained and will be familiar to those who are familiar with the current laws. However, there are a number of important new provisions in the Australian Consumer Law. These include:

- ◇ entirely new provisions relating to unfair contract terms;
- ◇ new provisions in relation to "consumer guarantees", which replace, with enhancements, existing provisions relating to implied conditions and statutory warranties;
- ◇ changes to the unconscionable conduct provisions;
- ◇ specific new provisions regulating false and misleading representations in relation to testimonials and statutory consumer guarantees;
- ◇ new obligations for those traders that offer rebates, gifts, prizes etc;
- ◇ new obligations for traders in relation to accepting payment in advance for goods and services;
- ◇ a new, express protection for consumers from any obligation to pay for unsolicited services;
- ◇ where goods have more than one displayed price, traders will be under a new obligation to sell the goods at the lowest price or withdraw the item from sale;
- ◇ new obligations for traders in relation to the advertising of goods or services to include a single price, including taxes and other charges;
- ◇ new requirements in relation to lay by agreements, including an obligation on traders to provide written lay by agreements;
- ◇ a new obligation on traders to provide consumers with receipts for purchases of goods or services over \$75 and a right for consumers to require a receipt (within a reasonable timeframe) for goods or services less than \$75;
- ◇ a new right for consumers to require traders to provide an itemised bill for any services; and

Australian Consumer Law and changes to WA legislation continued ...

- ◇ some documents required to be provided by traders to consumers will need to be "transparent", requiring them to be expressed in clear language, be legible and be presented clearly.

The existing door to door trading laws will be replaced by new laws covering "unsolicited consumer agreements", which include both door to door transactions and, in certain circumstances, telephone sales.

Product safety laws will remain essentially the same, however, the administration of product safety laws will be subject to some changes, including that only the Commonwealth Minister will be able to make safety standards for consumer goods or product related services and only the Commonwealth Minister will be able to impose a permanent ban on consumer goods or product related services.

Maximum penalties have been increased and there are a range of new remedies and enforcement actions provided for, including civil pecuniary penalties and substantiation notices.

The *Fair Trading Act 2010 (WA)* preserves the power to make State specific codes of practice, and continues on the existing codes of practice in place for the retirement village industry and the fitness industry. There are, however, some changes to the way in which such codes are made and enforced.

The *Fair Trading Act 2010 (WA)* continues the role of Commissioner for Consumer Protection, however it makes a number of changes to the powers of the Commissioner. The most important of these is that the Commissioner will have a new power to institute or defend legal proceedings on behalf of a business where a matter of public interest is involved.

Acts Amendment (Fair Trading) Bill 2010 (WA)

The second piece of legislation is the Acts Amendment (Fair Trading) Bill 2010 (WA).

This Bill contains a number of amendments that are consequential to the enactment of the Fair Trading Act 2010 (WA) but it also contains important changes to occupational licensing within the Consumer Protection portfolio.

The Acts Amendment (Fair Trading) Bill 2010 (WA) also still needs to receive Royal Assent to become an Act and a proclamation is then required to bring this Act into operation, however, it is intended that these actions will be completed in time for the provisions relevant to the *Fair Trading Act 2010 (WA)* to come into operation in Western Australia on 1 January 2011. Other provisions will come into operation later in 2011.

The most significant changes contained in this Bill are those that will transfer the functions of four statutory licensing boards to the Commissioner for Consumer Protection and the Department of Commerce.

The licensing boards affected are: the Land Valuers Licensing Board, the Motor Vehicle Industry Board, the Real Estate and Business Agents Supervisory Board and the Settlement Agents Supervisory Board.

The licensing functions of these boards will be vested in the Commissioner for Consumer Protection. The employing and financial responsibilities of these boards will be vested in the Director General of the Department of Commerce.

To preserve industry input into the licensing functions, the Bill will establish a Motor Vehicle Industry Advisory Committee and a Property Industry Advisory Committee. In addition, the Bill establishes a new Consumer Advisory Committee to provide general advice to the Minister and the Commissioner for Consumer Protection.

It is currently intended that the licensing boards affected by this Bill will be wound up on 30 June 2011. It is expected that the new advisory committees will come into operation in the first half of 2011.

The other significant change to licensing implemented by this Bill relates to motor vehicle dealing. The Bill inserts a new deeming provision into the Motor Vehicle Dealers Act 1973 (WA) that will provide a rebuttable statutory presumption that a person who sells or exchanges four or more motor vehicles in a 12 month period is carrying on the business of dealing in motor vehicles and, therefore, will be required to be a licensed motor vehicle dealer. A range of exemptions will be prescribed by regulations to avoid capturing persons such as legitimate collectors. It is expected that these new provisions will come into operation in the first half of 2011.

These two pieces of legislation represent fundamental changes to consumer laws and administration in Western Australia.

Stakeholders affected by these laws may need to seek separate advice on the implications of the changes on their activities.

The Department of Commerce and the relevant licensing boards will provide more information on the changes in the coming weeks and months.

In the meantime, further information on the Australian Consumer Law can be found at www.consumerlaw.gov.au

Building legislation continued ...

(Continued from page 40)

Building Services (Registration) Bill 2010 *continued*

- ◇ the repeal of the Builders' Registration Act 1939, the Painters' Registration Act 1961 and various regulations;
- ◇ related matters.

The Building Services (Registration) Bill 2010 repeals the *Builders Registration Act* and *Painters Registration Act* and replaces the boards with a new Building Services Board. This Board will register building occupations (initially builders, painters and building surveyors) and consists of an independent chair, two consumer/community members and two members with skills in each of the registered occupations (that is, two builders, two painters and two building surveyors). The registration framework under this Bill is quite flexible, so that occupations can cease to be registered under the Bill (for example, when they move to the proposed national licensing system) and new occupations can be brought in if there is a need to register them (for example, if there were a move to register more building trades).

The (former) Minister for Commerce, Troy Buswell elected to appoint new consumer representatives to the current Builders and Painters Registration Boards. Because of the change of Minister the Building Commission had to re-run the appointment process through Cabinet and the Executive Council and this has caused some delay in announcing the new members. These two boards now each have their full complement of consumer representatives. Evan Parker, representing the interests of consumers on the Painters' Registration Board and Jacqueline Stewart, represents the interests of consumers on the Builders' Registration Board.

COAG reforms will amalgamate building and plumbing standards in a new National Construction Code that will be adopted in WA through the new Building Bill. This is an attempt to get all the rules in one book and to remove overlap and inconsistency rather than a change in the standards. COAG has also agreed to national licensing of plumbing occupations to commence in mid 2012, building occupations to commence in mid 2013 and building surveyors at a time yet to be decided. The details of these national licensing requirements are not yet resolved. In the meantime, the new Building Services Bills are structured to allow an efficient move to national licensing over the next two to three years.

The Building Services (Complaint Resolution and Administration) Bill 2010

The purpose of this Bill is to provide for the following -

- ◇ a system for dealing with complaints about building services, home building work contract matters and disciplinary matters;
- ◇ a public officer with functions relating to building services and complaints;
- ◇ a levy in relation to certain authorisations for building services;
- ◇ a system for ensuring compliance with laws about building services;
- ◇ related matters.

The Building Services (Complaint Resolution and Administration) Bill 2010 establishes the role of Building Commissioner (similar to the Consumer Protection and Worksafe Commissioners) and a new complaint resolution process to replace the Building Disputes Tribunal. The Building Commissioner will manage the initial stages of a complaint, including inspections, conciliation and the issuing of remedy orders, and can pass complex or intractable matters to the State Administrative Tribunal for formal hearings when required.

Building Services Levy Bill 2010

The purpose of this Bill is to impose a levy in relation to certain authorisations for building services.

Valdene Buckley

Receive your Newsletter by email

People and organisations who currently receive *Consumer Comment* in the mail, and wish in future to receive an electronic PDF copy of the newsletter should email the Editor, Valdene Buckley on valdeneb@tpg.com.au

CAWA is interested in receiving articles from other WA consumer groups who would like material published in our Newsletter. Requests and articles should be forwarded to the Editor, Valdene Buckley by emailing: valdeneb@tpg.com.au

Membership and Fee Payment Form

CAWA was established in 1974 to provide consumer representation to business and government.

Our main objectives are to:

- ◇ represent the views of consumers in Western Australia
- ◇ investigate and act on issues of concern to consumers
- ◇ provide a forum for the discussion of matters of common interest to consumers
- ◇ encourage consumer education.

New Membership

Name _____

Address _____

Phone _____

Fax _____

E-mail _____

Areas of interest _____

A reminder that annual subscriptions are now overdue for 2010-11, and should be forwarded to the Treasurer.

Once again, I am delighted with the contributions made by CAWA members to the second *Consumer Comment* newsletter for 2010.

There are several ways in which you can make a contribution. You can bring a short keyed or hand written report to meetings, or mail your contribution to my home address. However, to save keying time I would prefer to receive an emailed, electronic copy or be given the information on CD. The material should be formatted as a word document.

Please keep up the contributions in the next three months for inclusion in the next issue of *Consumer Comment* in 2011.

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