

# Consumer Comment

MAR—APR 2007

## From the President

Thank you to all who have donated their time and energy to CAWA over the last months and welcome to our new members.



With the ongoing “boom” in WA, consumers are finding it increasingly difficult to get good service and in our increasingly frantic lifestyles, where time can be easily converted to cash and free time is precious, extra minutes waiting for buses, at checkouts, on hold on the phone, in hospital emergency departments etc add up to an expensive and frustrating loss to consumers. As we demand and expect efficient and professional service, we are hearing about low teacher and police numbers. Other public sector areas are struggling to recruit suitable staff. So while many are enjoying the effects of the “boom”, profits do not seem to be filtering into increased wages in the service industries we rely on. Patrons of the hospitality industry are noticing decreasing standards and if you’ve tried to find a tradesperson recently, you’ve probably had a little angst along the way.

With our submission in the last couple of weeks to the Painters Registration Act Review, we have completed our input to this round of building oriented submissions and look forward to watching the progression of that legislation while we concentrate on other issues.

Several of our members have been appointed to DOCEP’s Holiday Accommodation Managers Dispute Resolution Panel and they are undergoing induction.

There is currently a problem for patrons walking from the gate of the Pinnaroo Valley Memorial Park to the Crematorium.

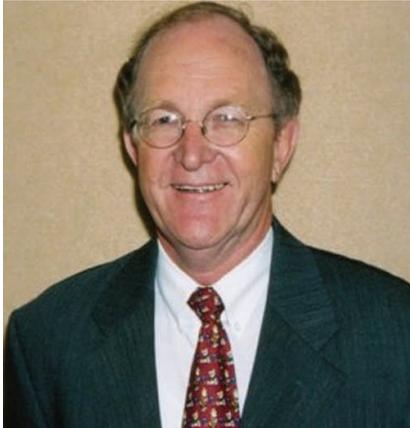
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## Member profile - Jim Dalton



Jim is a “baby boomer” and was born and raised in Sydney. He went to School in Goulburn in Southern New South Wales.

After completing the Leaving Certificate he worked in retail Bookselling in Sydney with companies like Dymocks and Grahames and with a number of book publishers. He has been an avid reader ever since. In the mid sixties he moved to Canberra and worked in bookshops.

In the early seventies he joined the Commonwealth Public Service and commenced a Law Degree as a mature age student at the Australian National University. The 70s and 80s was a very busy period for Jim. He married Ann, they had three children – Adam, Matthew and Kate. He worked for the Australian Customs Service in a number of high profile jobs, and after eight years of part-time study obtained his Law degree. He worked as a Departmental advocate for the Customs Service in appeals before the Commonwealth Administrative Appeals Tribunal. He left the Public Service in the mid eighties and worked for two years as a industry consultant on Customs matters. He rejoined the Public Service in 1986 with the Department of Veterans’ Affairs.

He was in the Department of Veterans’ Affairs for over 15 years and for nearly six years was the Deputy Commissioner for Veterans’ Affairs in Western Australia. His experience is extensive including a period when he was seconded as the Chief of Staff for a former Minister for Veterans’ Affairs. He is very proud of his involvement with the “*Australia Remembers*” program in 1995 and with the establishing of the Flame of remembrance in Kings Park. He left the Department in May 2000 because he wanted to remain in the West – and the Department wanted him to return to Canberra.

After leaving Veterans’ Affairs he was employed in the Residential Aged Care sector – with the RSL War Veterans’ Homes – so he understands first hand the issues facing our frail aged veterans. He left the War Veterans’ Homes in October of 2001 so that he could stand as an independent candidate in for the Senate in the Federal Elections. He stood with his daughter Kate and they were the highest polling independents in WA. He is currently the Disputes Manager with the Building Disputes Tribunal.

Jim is well known and highly regarded in the ex-service community both locally and nationally. The time and effort that he devotes to the ex-service community has been recognised with Honorary Membership of the Returned and Services League of Australia, Australian Special Air Service Association of WA, Perth Legacy and the WA Branch of the Vietnam Veterans' Association of Australia. He is the Chief

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Patron of the Korean and South East Asian Veterans' Association of WA, and Patron of the Ex-Prisoners of War Association of WA, and of the Australian War Veteran's Extreme Disabled Adjustment Society of WA. He is also a Board Member of the Army Museum of WA and of the HMAS Sydney Foundation Trust.

He is a self-confessed sports "nut". He played Rugby in his early days and has had a lifelong passion for both the Rugby codes and for the AFL and is a one eyed supporter of the Canberra Raiders, the Western Force and the Fremantle Dockers. He is also a dedicated golf "hacker". He is divorced and lives quietly in Leederville and is a doting grandfather to his two granddaughters.

### **From the President continued . . .**

*(Continued from page 1)*

Pedestrians have no option but to walk on the road for a distance of 50-70 metres. We have written to the Metropolitan Cemeteries Board and obtained an undertaking from them to consider the provision of a footpath in the Board's budget for 2007-08.

The Retirement Villages Act Review Discussion Paper is still not available and I for one am looking forward to some changes in favour of elderly consumers. The current "Lease for Life" system leaves a lot to be desired with its bonds (currently up to \$500,000), sliding scales for refunds, maintenance fees, differing levels of care and ongoing support. Working out "the bottom line" requires a level of understanding beyond that of many consumers, let alone the targeted market. A lack of availability of suitable places and the requirement to visit and be interviewed at each prospective place, before being put on the waiting list and with no guarantee of availability is very trying. Prospective residents are also required to disclose personal and financial details when completing application forms. It is ridiculous that this information is requested prior to a place being offered.

CAWA have been invited to meet the Minister for Consumer Protection, Sheila McHale, and we are looking forward to the event, when we can perhaps bring her attention to some of our major concerns.

We didn't nominate for the Consumer Protection Awards this year. Too busy. Look out for us at the next awards though.

As the academic year progresses, the new Centre for Advanced Consumer Research

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## **From the President continued . . .**

*(Continued from page 3)*

should soon be able to demonstrate some performance and I look forward to providing an update in the near future.

The Consumer Advocacy Centre is still not a functioning entity, but soon, soon....

Christmas Trading Hours for 2007 are under consideration. Comments welcome.

A new system of licensing of Motor Vehicle Repairers was launched by DOCEP on the 19<sup>th</sup> March which should afford a higher level of protection to consumers.

We have been invited by DOCEP to join with them (and others) in a submission to the Australian Productivity Commission's Consumer Policy Review. We are considering whether we have the resources to also make our own submission. Information on the Review can be obtained by going to [www.pc.gov.au](http://www.pc.gov.au) and looking at current projects.

The Associations Incorporations Act is also undergoing a review with submissions closing on the 30<sup>th</sup> April. If you have a view on the need to change the regulation of not-for-profit organisations, more information is available from [www.docep.wa.gov.au/agb](http://www.docep.wa.gov.au/agb). DOCEP are also updating their associations database and would like to hear from members of both active and defunct associations to determine if they are still active. Go to [www.docep.wa.gov.au/associations/cleanup/](http://www.docep.wa.gov.au/associations/cleanup/) for a list of associations DOCEP believe to be inactive. This site includes a reply paid form.

### **Carpet Advertising**

We would like to see more consistency in measurements used in carpet advertising. Carpet is sold by the linear metre, but because the width of the product may differ this doesn't give consumers a clear indication of the area quoted. We feel all floor coverings, including carpet, vinyl, tiles and the plethora of wood products currently available, should be priced in square metres.

### **Transperth**

I have received several reports of problems with buses. Complaints range from services running early/late or not stopping for hailing passengers to services which don't correspond with the timetables proposed by Transperth's online journey planner. We are theoretically encouraged to use public transport and you know this isn't the first time I've mentioned it, but current standards do not inspire confidence. "The bus was late" still won't cut it with some employers but is fast becoming a legitimate excuse.

### **Australia Post**

*(Continued on page 5)*

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We are still hearing of problems with Australia Post and particularly when coupled with online shopping. TV ads tell us that AP will deliver to your door, which we think irresponsible, particularly for valuable items when no one is home. If an item is stolen from your door step and the parcel wasn't registered or tracked, it is unlikely that a consumer could prove it was ever posted. The consumer can't know who is responsible for the non arrival of purchases, the seller or AP. We suggest all items bought online should be sent by registered post with this additional expense taken into account when determining the final cost of goods. A bargain is not a bargain if it never arrives.

Whilst on online shopping, pay attention to terms and conditions for refunds, even for purchases within Australia. Although we are covered by the Trade Practices Act, obtaining a refund from Queensland can be time consuming and tricky if the retailer won't cooperate.

### **Daylight Saving**

As for saving daylight, I must have lost an hour setting and resetting timepieces: watch, alarm clock, mobile phone, set top recorder, wall clock, car, computer etc.

Did anyone feel shopping hours should be extended to accommodate the daylight available? Me cynical? At least my family are now eating at dinner time again, instead of at a time they felt was the middle of the night, when I decided it was cool and dark enough to leave the garden and light the stove.

### **Mattresses**

The advertising of mattresses with names involving 'paedic', 'chiro', 'ortho' and so on has been brought to our attention. We can see no reason to pay any regard to a label which suggests a mattress may have some physical benefit to the user, couched in whatever terms. Because all spines differ, the only real way to assess a mattress is to use it over an extended period, if the bed retailer has no objection to you moving in for a while. Otherwise, as with other major purchases, particularly where models frequently change (or are renamed), consumers must rely on the recommendations of sales staff. Apparently some retailers accept returns of mattresses which are found to be unsuitable for purpose (a comfortable night's sleep) but we wonder what happens to the mattress then. Can and should it be resold?

### **Op Shops**

I've been doing a lot of "op shopping" and I highly recommend the therapeutic value of the experience. Op shops offer an array of quality goods, which often can't be found elsewhere, at extremely reasonable prices. Consumers can take advantage of recycling

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## ***From the President continued . . .***

opportunities whilst supporting worthwhile charities. I must also add that generally the service is fantastic.

### ***Fish***

Bought fresh fish recently? One leading supermarket's labels have only a "purchased on" date, which effectively tells us nothing we didn't know. Another has a "date packed" and a "use by" date. Sounds better but isn't necessarily. I have one label for "Fresh WA Blue Spot Emperor Fillets (baby snapper)" with a use by of 12 March 07 and a date packed of 12 December 06. Longest lasting fish I've ever heard of. Clearly consumers need to know "date caught" when determining fish freshness.

### ***Payment for meeting preparation and attendance***

A general thank you goes to those agencies (including DOCEP) that having been demonstrating their respect for consumer representation for years by paying Board and Committee members for their efforts before and during meetings. Many organisations, particularly Government agencies, seek and value consumer input but have little or no arrangement in place to pay for it.

After many years of consumer representation on the Keep Australia Beautiful Council, our members still can't be reimbursed for expenses, let alone paid sitting fees. Because sitting fees are specifically considered in the Litter Act there is apparently nothing that can be done without changing the Act.

When we are invited to contribute on behalf of consumers as members of Boards and Committees, we usually do it anyway in support of a good cause but it raises our hackles when other attendees are remunerated either directly by the board or by the organisation they are representing and the poor consumer rep has to go through the hoops of establishing employment contracts or issuing tax invoices and begging for expenses. Our time and vast experience is worth at least as much as that of any other person advocating for their cause or industry.

Genette Keating

***Thanks to all the people who have contributed to this  
Newsletter: Jim Dalton, Genette Keating, Verity Cripps,  
Joan Milne and John Robertson.***

**Below are some excerpts from the Report, identified by Verity Cripps, as clarifying the roles and direction of the ACCC. Further information can be found on the ACCC website <http://www.accc.gov.au/content/index.phtml/itemId/142>**

## **What we do**

The Australian Competition and Consumer Commission is an independent statutory authority, set up in 1995 as part of the national competition policy reform program. It is the only national agency dealing with competition matters.

The primary responsibility of the ACCC is to ensure that individuals and businesses comply with competition, fair trading and consumer protection laws, in particular the Trade Practices Act.

The ACCC applies these laws without fear or favour, helping to make sure that competition in the market place is efficient and fair.

As an integral part of its work the ACCC:

- ◇ promotes effective competition and informed markets
- ◇ encourages fair trading and protects consumers
- ◇ regulates infrastructure service markets and other markets where competition is restricted

## **promoting effective competition and informed markets**

prevent price fixing, market sharing, bid rigging and boycotts

prevent the misuse of market power, anti-competitive exclusive dealing and resale price maintenance

assess mergers, asset sales and joint ventures

authorise anti-competitive conduct in the public interest

assess export agreements

ensure compliance by the professions

assess certification trade marks

improve compliance through education and information

maintain public and confidential information registers

## **encouraging fair trading and protect consumers**

prevent misleading and deceptive conduct and misrepresentation

ensure products comply with mandatory safety standards; advise government on product recalls, bans and warning notices

improve business and consumers' understanding of their rights and obligations

support the ability of small business to trade with larger firms in a fair environment

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### **regulating infrastructure service markets and other markets where competition is restricted**

#### ***promote competition in the network industries: energy markets, communications, aviation and airports, waterfront and shipping***

- ◇ energy markets (current and future roles)
  - monitoring compliance and investigating and prosecuting breaches by registered participants and other persons with the National Electricity Law (NEL), National Electricity Rules (NER) and the regulations
  - monitoring the wholesale electricity market
  - economic regulation of electricity transmission and distribution (except in Western Australia and the Northern Territory)
  - economic regulation of gas transmission and distribution (except in Western Australia)
- ◇ communications (telecommunications carriage services and the content and applications delivered by them)
  - examine the competition implications of converging technologies
  - maintain competitive and consumer safeguards across the industry
  - determine which services should be subject to access regulation
  - consider access undertakings and arbitrate disputes between industry members
- ◇ aviation and airports
  - assess proposals for price increases for air traffic control services by Airservices Australia
  - monitor prices, quality of service and administer financial reporting requirements for major private airports
- ◇ waterfront and shipping
  - monitor stevedoring prices and administer liner cargo shipping arrangements
- ◇ rail
  - ensure access to interstate rail track
  - cap freight rail prices
- ◇ post
  - approve changes to charges of postal services operated exclusively by Australia Post
- ◇ petrol prices
  - monitor the prices of petrol, diesel and liquefied petroleum gas
- ◇ insurance
  - check costs and premiums in the public liability and professional indemnity sectors of the insurance market, monitor medical indemnity premiums and bank fees and charges

**Consultation and liaison**

The ACCC convenes several committees with external stakeholders. As well as being successful and inclusive forums for policy development and industry discussion, these groups also provide accountability and transparency to the ACCC's decision making. The **ACCC Consultative Committee** is an overarching committee that brings together business, consumer groups, unions and peak industry bodies to discuss the activities of the ACCC. The other external committees to meet during 2005–06 were the Consumer Consultative Committee, Small Business Advisory Group, Franchising Consultative Panel, the Infrastructure Consultative Committee, the Energy Consultative Committee and the Utility Regulators Forum.

**What we don't do**

The ACCC deals with competition and consumer protection matters of national and international significance and therefore does not:

- ◇ pursue issues such as the pricing of particular goods or services, warranties and refunds that are more effectively dealt with at local or state level
- ◇ mediate disputes between individuals and the suppliers of goods and services
- ◇ advise whether a company or individual is honest
- ◇ approve individual business conduct
- ◇ disclose the number or nature of complaints received about a company or individual
- ◇ give legal advice
- ◇ settle employment disputes [www.recalls.gov.au](http://www.recalls.gov.au), which provides consumers and state and territory regulators with up-to-date access to information on all Australian safety-related recalls. In 2005–06, 746 recalls were notified; 188 general consumer product recalls were monitored and assessed; and nine consumer product recalls audits were conducted.
- ◇ register business names

The ACCC also does not handle complaints about misleading or deceptive conduct in financial transactions. The Australian Securities and Investments Commission (ASIC) has this responsibility.

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“The ACCC's enforcement activities, including litigation, remain the cornerstone of the agency. This financial year, we reinforced the seriousness of price fixing, market sharing and resale price maintenance commencing litigation in relation to each of these forms of anti-competitive conduct.”

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“Internationally based companies who attempt to mislead Australian consumers are not immune from prosecution under the Trade Practices Act.”

### **Page 5 ...**

“The ACCC has been giving more serious consideration to criminal prosecutions for breaches of the consumer protection provisions. This is particularly where [they] can see consumers have been deliberately defrauded, and where [they] believe that it is appropriate to elevate the level of prosecution. The choice to prosecute criminally affects the process of investigation undertaken, in terms of admissibility of evidence, and involves collaboration with the Commonwealth Director of Public Prosecutions (CDPP). In close collaboration at the most senior levels of the CDPP, [they] have established protocols for working well to ensure the efficiency of taking matters through to the criminal prosecution stage. The advantage of criminal prosecutions is twofold. First they create a criminal record for the offending business. Second, they enable us to secure fines, which are not available under the civil prosecution process for the consumer protection provisions.”

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#### **Product safety**

“The ACCC has continued to be active in the area of product safety. This past year has seen action in areas as diverse as basketball hoops, tobacco labelling, ladder safety and hot water bottles.

A new mandatory safety standard for basketball rings and backboards was introduced. This requires that a warning notice and symbol be displayed at the time of sale and be permanently fixed to the backboard. The standard and an associated consumer safety education campaign follow three deaths and numerous injuries caused by structures supporting basketball rings collapsing.

Amendments were made to the Trade Practices (Consumer Product Information Standards) (Tobacco) Regulations which include new graphic warnings for tobacco products. A revised mandatory standard for children’s cots was also introduced.

Reviews of the mandatory safety standards for bean bags, trolley jacks, vehicle support stands, bicycle helmets, flotation toys and swimming aids began. The supply of ‘No Holes Tongue Studs’, and similar products, are the subject of an unsafe goods notice issued in February 2006, which will run for 18 months.

The ACCC continued to deliver and maintain the product safety recalls website, [www.recalls.gov.au](http://www.recalls.gov.au). which provides consumers and state and territory regulators

with up-to-date access to information on all Australian safety-related recalls. In 2005–06, 746 recalls were notified; 188 general consumer product recalls were monitored and assessed; and nine consumer product recalls audits were conducted.

The Productivity Commission's Review of the Australian Consumer Product Safety System was finalised and will be important in shaping the future legislative framework

## **Seminar - You are what you eat - a critical look at food in WA**

***Last year, on November 16 , Rhonda Algaba represented CAWA at the 'You are what you eat' Seminar organised by National Council of Women of Western Australia at the Esperance Yacht Club. She wrote the report that follows.***

Some 20 or more women journeyed to Esperance, last November, for a most interesting Seminar which focused on food available in Western Australia and the best way to purchase, store and use food to foster a healthy lifestyle.

The evening prior we all met together for a wonderful dinner and get to know you session. The seminar began with a welcome by Judith Parker AM, Chairperson for the Seminar and President of the Council of Women in WA. Judith is also the Vice-President of the International Council of Women. Dawn Butterworth gave a Welcome to the Land and Beverley Stewart, Deputy Shire President, welcomed delegates on behalf of the Esperance Shire Council.

Roger O'Dwyer, Executive Director, Industry and Rural Services, Department of Agriculture and Food, WA gave the opening address.

'What's in the food and where is it from?' was the keynote address delivered by Elaine Attwood, Board member, Food Standards Australia and New Zealand.

Elaine was very well received, having travelled from South Australia to attend. She spoke of her role in representing consumers on the board of FSANZ and her particular focus on food, health and safety issues. The Australia New Zealand Food Regulation Ministers' Council sets policies for food in Australia and FSANZ uses these policies as a framework to develop food standards. The standards are published in the FSANZ Food standards Code and anyone can apply for a new standard or change an existing one.

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## **Seminar - You are what you eat - a critical look at food in WA continued ...**

The States and Territories through Health or Human Services Departments, Local Government and Australian Quarantine and Inspection Services enforce the Standards (AQIS). These bodies also survey and test the food we eat. Recent standards development issues are the mandatory fortification of folic acid, and iodine. Information relating to nutritional benefits, health and related claims can be accessed on the FSANZ website at: <http://www.foodstandards.gov.au/srcfiles/FAR295%20Attachs16%20.pdf>

An interesting point from Elaine related to Nanotechnology and just how are consumers, workers protected. There is no labelling of the many products in use now.

Elaine Attwood also announced the launch of NCWWA, 'Eating for Living' project to encourage healthy eating and exercise patterns for children in WA. Groups of children will be asked to develop lunch menus, design an exercise programme or describe the preparation and participation in a meal shared by the group. First prize is \$400 for the winning group in each category and \$100 for the runners up. Winners will be announced during WA Week October 2007.

Robyn Bromley, Executive Officer, WA School Canteens' Association, presented a paper titled, 'What do we eat at school?' Christine Simpson, Fresh Finesse Food Promotion, spoke on, 'Buy fresh, keep fresh, eat fresh, the consumer link in the fresh food chain' and Margaret Sullivan JP, past President CWA talked about the "Country Women's Association's Eat Fresh Theme in 2006.

The panel discussion was chaired by Arlene Quinn.

- o David Cann, an 11-year-old boy, gave a lively presentation called, 'Do you want fries with that?' He argued the point of how children are bombarded with advertising of fatty, unnecessary fast foods. He has a great future.
  - o Rhonda Algaba, from CAWA, spoke of the work we have done representing the consumers' views on food issues, and the need CAWA has for young up coming representatives.
  - o Rhonda Clifton from Esperance High School said she wanted to inspire students to work with issues relating to healthy eating and will generate a program in her classes.
- Paddy Firstenberg, OAM, MBE, NCWWA Adviser for Health, spoke of the changes in food patterns, cooking and dieting with regard to the elderly.

**After discussion at our February meeting, Verity Cripps sent the following letter to**

7<sup>TH</sup> February, 2007

Manager,  
Retail & Services Industries Branch,  
Department of Consumer Protection,.  
Locked Box 14,  
CLOISTERS SQUARE WA 6850

Dear Sir,

Attention Mr Bruce Hawkins

It has come to our notice that there is a tendency for Carpet companies to have different pricing for carpets, “linear” metre or “square” metre, which results in confusion for consumers costing carpets for their homes. On being given a price in “square” metres consumers think the total cost will be much less than that previously quoted elsewhere to them at “linear” metres.

On enquiry as to why the difference in measurements quoted, some companies answered because “others” do it, however they would like a standard for pricing.

1. Is it possible to set a standard measure for quoting on carpets so consumers can compare prices more effectively?
2. Some time ago a Code of Practice for Carpet Laying was established, is this still in place? It is understood that one of our members, Mrs Rhonda Algaba, was involved in the Code of Practice.
3. Do companies display a notice that they abide by the Code of Practice for Carpet Laying?

With so many new homes being built or renovated there is considerable interest in the purchasing of carpets so it would seem advisable to have some uniformity in the manner in which firms quote measurements. Your comments on the above would be appreciated.

Yours sincerely,

HON. SECRETARY

# **2007 Western Australian Consumer Protection Awards**

## **1. Background**

The Western Australian Consumer Protection Awards recognise and reward the positive contributions of individuals and non-government organisations in advancing consumer protection in Western Australia.

By 'consumer protection' we refer to the expectation that we as consumers have the right to receive a reasonable product or level of service in return for our money, and if we don't there is something that we can do about it under the law.

Consumer Protection, a division of the Department of Consumer and Employment Protection, is the Government agency charged with helping people understand their consumer rights and creating a trading environment that protects consumers.

Many individuals and non-government organisations are also involved in ensuring that their communities have a better understanding of, and better access to, consumer protection in everyday situations. This can take many different forms, including direct service delivery, advocacy in championing the cause of vulnerable consumers, mediation, research, and contribution to policy formulation on consumer protection issues.

## **2. The Award Categories**

*The Rona Okely Award* acknowledges an individual Western Australian who has influenced and inspired the advancement, development and promotion of consumer protection in the community and who has given selflessly of their time, energy and experience for the betterment of others. *The 2006 winner was Verity Cripps.*

*The Richard (Dick) Fletcher Award* acknowledges a non-government organisation or group of individuals operating in Western Australia, which has, through their particular field of endeavour, made a significant and enduring contribution to the advancement of consumer protection in their community. It effectively delivers a service or carries out projects or initiatives, which raise community understanding and awareness of consumer protection issues. *The 2006 winner was the Geraldton Resource Centre Incorporated (GRC).*

## **3. The Judging Process**

The Director General of the Department of Consumer and Employment Protection coordinated an independent assessment process to review each nomination. Judges for the Awards Panel are chosen for their expertise, knowledge and experience in

consumer protection issues. The judging process was merit based using given selection criteria.

The judges on the Awards Panel were:

Brian Bradley (Chair), Director General of the Department of Consumer and Employment Protection (DOCEP)

Chris Field, Ombudsman (newly appointed); former Board Member of the Economic Regulatory Authority; and adjunct professor of law, University of Western Australia

Barbara MacNish, Executive Director, Portfolio Coordination of the Department of Culture and the Arts.

#### **4. *The Finalists and Winners for The Rona Okely Award***

##### ***Julie Eady (Winner)***

Julie Eady is the author of *Additive Alert, Your Guide To Safer Shopping*. With a family history of allergies and asthma, Julie began researching the dietary links to such illness to improve her children's chances of avoiding these conditions. Julie established Additive Alert Pty Ltd in 2004 to promote better consumer awareness of food additives and their effects on health, and to advocate for better labeling of Australian foods.



##### ***Ian Macdonald***

Ian is a solicitor employed by the Financial Counsellors Resources Project to provide legal support to financial counsellors across the State. He began practising law in 1973. During the course of his work, Ian has produced many written resources to assist financial counsellors with their work. Ian has written informative booklets on "bookup", repossession and pawn broking in consultation with the Department of Consumer and Employment Protection.



## **2007 Western Australian Consumer Protection Awards continued ...**

### ***Ellen Walker***

Ellen became an advocate for improved aged care services and the raising of awareness for carers' rights after her parents required her care full time. Ellen is Vice Chair of the Board For Carers WA and the Deputy Chair of the Carers' Advisory Council. She also runs carer-planning workshops to enable carers to take charge of their lives.



### **5. The Finalists and Winners for The Richard (Dick Fletcher Award**

#### ***Tenants Advice Service (Winner)***

The Tenants Advice Service, well known as TAS, opened in 1979 and is the oldest specialist community legal centre in Western Australia, specialising in residential tenancy. TAS has a history of being the only community based, not-for-profit residential tenants' organisation in WA. TAS targets the disadvantaged in the community, including people on low incomes and other groups. TAS plays a critical role in informing and advising tenants on their rights and responsibilities, empowering them to handle dispute resolution by themselves in the future.



#### ***The Youth Media Society of WA (special mention)***

The Youth Media Society of W.A owns and operates Groove FM as a community radio station broadcasting from studios in Victoria Park to Perth's youth and student communities in the metropolitan area. The Society has been selected for a special mention for their outstanding work in their production of the Groove FM radio series entitled the *Real Deal: A Young Consumers Guide to Protecting Your Rights*. This innovative radio program was produced in consultation with the Department of Consumer and Employment Protection.



### ***Consumer Credit Legal Service WA***

The Consumer Credit Legal Service, well known as CCLS was established in response to demand by community advocates and the report of the Joint Parliamentary Taskforce on Consumer Credit. The goal of the CCLS is to help Western Australian consumers to achieve just and fair relationships with banks and other financial institutions. The CCLS acts as a specialist resource to organisations that assist consumers, financial counsellors and community legal centres and plays a vital role in assisting and empowering consumers through the provision of advice, casework and representation in courts, tribunals and dispute resolution schemes.



### ***Jacaranda Community Centre***

The Jacaranda Community Centre's Indigenous Financial Well Being Program was originally funded to run for a year. Due to the success and popularity of the program and continued referrals by satisfied consumers, Jacaranda staff have continued to provide voluntary staffing hours for the program. The philosophy behind the program is to provide advice, support and guidance to Indigenous consumers on a number of issues including, but not limited to, housing and utility issues.



### ***Kidsafe WA***

Kidsafe WA is a non-government, not-for-profit organisation dedicated to the prevention of unintentional childhood injuries. Promoting product safety is a key factor in preventing childhood injuries and is a major component of the day-to-day operations and activities of Kidsafe WA. Kidsafe WA has an active role in contributing to the development of product safety policy and regulation in WA.



## **2007 Western Australian Consumer Protection Awards continued ...**

### ***No Interest Loans Network Inc***

WA No Interest Loans Network provides low-income consumers with access to credit, without the burden of high interest rates and fees. The loans generate much needed economic activity in rural and remote communities. The scheme empowers low-income consumers to negotiate with retailers, regardless of their situation or cultural background, while retailers enjoy the benefits of increased sales.



### ***Ellen Walker - her story ...***

***After the Consumer Protection Awards, Ellen kindly agreed to share her personal story with others to raise awareness of the need for Carers' WA. Thank you, Ellen.***

Just over thirteen years ago, my life changed forever when, as a result of a nasty boating accident, my Mum lay in intensive care, unconscious, hooked to tubes to sustain life with only parts of her bruised and broken body protruding from beneath an aluminium heat retention blanket. Over the next 6 months, she courageously battled with lots of encouragement until she was able to return home to Dad, albeit needing 24 hour care. So, began my family's direct caring role.

Carers can do their best work when they understand what needs to be done; when they can get help or advice on related matters; when they get adequate practical support and when they take care of themselves.

Carers are people who have taken on a caring role in addition to being a wife, husband, like my Dad, a Mum, Dad, child, sibling or good friend. They are essential to the health and well being of tens of thousands of people in Western Australia who may have a disability, be frail or have a chronic or mental illness. Carers assist people with things like cooking and eating their meals, showering, going to the toilet, getting dressed, socialising, paying bills, organising doctors appointments, providing transport, being the emotional rock and so on. I'm sure you won't have to look far to find friends or relatives in one of these categories.

My name is Ellen Walker and, with my husband and young daughter, I was a carer for my parents and discovered the challenges that faced me in wanting to do the best job I could. My Dad cared for Mum at home for six years before he had a major stroke

which left him unable to walk and with little verbal expression which, as he had been such a bubbly gregarious man, was particularly difficult to come to terms with. We cared for Mum and Dad in their home until the fatigue and emotional strains combined with minimal practical support saw them move into a nursing home. After several years of lobbying, they now have their own double bed in their own room. Our caring role continues in the social, financial and advocacy fields.

Carers are often too tired to speak out or too frightened of losing services to ask for changes in what they receive. Carers are consumers, in their own right, of services to help maintain their caring role. They can be integral to the effective support of people with care needs and yet it is reported carers are at times invisible to service providers and health professionals despite treatment regimes being dependent on them.

The State Government has enacted the Carer Recognition Act 2004. The accompanying charter states carers must be treated with respect and dignity; the role of carers must be recognised by including carers in the assessment, planning, delivery and review of services that impact on them and the role of carers; that the views and needs of carers must be taken into account, along with the views, needs and best interests of people receiving care when decisions are made that impact on carers and the role of carers; and complaints made by carers in relation to services that impact on them and the role of carers must be given due attention and consideration.

The Health Department and the Disability Services Commission must report on their compliance with the act each year.

Through my work as Deputy Chair of the Carers Advisory Council which reports to the Minister on the compliance of the Carer Recognition Act 2004 and as a Vice Chair of the Board of Carers WA which is the peak body in WA to support carers and whose vision is that 'Caring is a shared community responsibility', I am able to put my voice forward to advocate for the recognition of carers and to bring to the notice of community and government the valuable role they provide and the assistance they need to carry on.

I was both honoured and humbled to be announced a finalist in this year's Rona Okely Award through the Department of Consumer and Employment Protection. I will continue to work to advance the interests of carers in our community.

If you have a caring role or know someone that does, you can find out more information from the Carers Advisory Council 6217 8518 or [carersac@dcd.wa.gov.au](mailto:carersac@dcd.wa.gov.au) and from Carers WA 1300 227 377 or [www.carerswa.asn.au](http://www.carerswa.asn.au)

## ***Your rights when shopping***

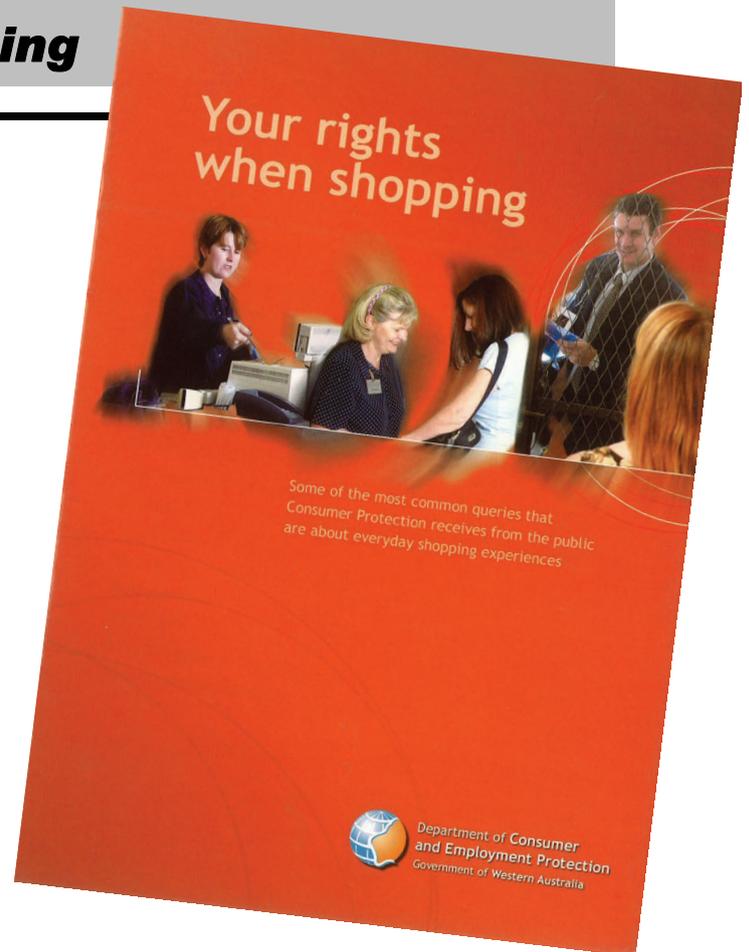
Last year DOCEP released a very useful booklet for consumers titled, *Your rights when shopping*. The beginning pages contain a list of 'Essential tips for shoppers'.

The section on 'Returning goods' clearly explains when consumers' have the right to legally return goods - if it is not suitable for it's intended purpose, if the product is faulty, or if it is not the same product as described by sales staff or in advertising.

The 'Warranty' information explains statutory, manufacturers' (express) and extended warranties.

There are further sections on bag inspections, check out scanners, lay-by, door-to-door sales, but probably the most useful information is to be found in the 'sensible precautions' recommended for 'Buying online'. This is rapidly growing shopping option, especially for younger consumers because it offers convenient 24 hour shopping from home, with access to world wide markets.

The booklet can be downloaded and printed from <http://www.docep.wa.gov.au/> Go to Consumer Protection, then click on Publications. Alternatively, a hard copy can be obtained by telephoning the Publications Officer on 9327 8721.



## ***Annual subscriptions***

***CAWA would like to thank all those members  
who have paid their subscription for 2006-7  
and give a gentle reminder to those  
who still have money outstanding.***

**Joan Milne sits on the Customer Advisory Council at the Water Corporation and she obtained permission for CAWA to reproduce the following information in the Newsletter.**

## ***New Water Corporation Initiative***

Rain water is a precious natural resource in increasingly short supply. Through its policy of "Security through diversity" the Water Corporation is working to develop alternative water supply solutions. Current projects include the provision of new water sources (dams and desalination), increased water recycling, the introduction of demand management strategies and increasing water supplies through water trading schemes in irrigated areas.

A recent new initiative has been the trial of a 'third pipe scheme' which provides for the use of non-drinking water in urban developments. To promote this initiative the water corporation has produced a series of fact sheets. The introduction to these is printed below with the permission of the Water Corporation.

## ***Use of non-drinking water in Urban Developments – Fact Sheets***

The impacts of a drying climate have created the need for alternative water supply solutions in new urban developments.

The Water Corporation has worked closely with industry experts to guide innovative and sustainable methods to meet the community's water needs.

A series of Fact Sheets have been designed to assist developers to deliver cost effective ways of minimising the use of drinking water outside the house, while taking into account environmental and social factors.

Focussing on providing strategic methods to incorporate non drinking water solutions in new developments, this information ensures any potential risks to public health and the environment are understood and carefully managed.

Based on the best available knowledge, these fact sheets are to be used in conjunction with current regulations and policy, to guide decision making and investigation in the early stage of scheme design.

*(Continued on page 22)*

## **Water Corporation Fact Sheets continued ...**

The 11 Fact Sheets guide developers on how to provide non-drinking water as an urban water resource and cover the following topics:

- ◇ Use of non-drinking water in urban developments
- ◇ Ongoing management of non-drinking water schemes
- ◇ Potential sources and uses for non-drinking water
- ◇ Scoping and developing a conceptual non-drinking water scheme design
- ◇ Risks and impacts on public health
- ◇ Environmental impacts
- ◇ Community support
- ◇ Shallow groundwater
- ◇ Rainwater
- ◇ Stormwater
- ◇ Treated domestic greywater and treated wastewater.

To access the Fact Sheets please visit the Water Corporation's website - [www.watercorporation.com.au](http://www.watercorporation.com.au)

## **The consumer and the gyprocker**

The school holidays arrived, late 2006, and it was finally a chance to replace two old plaster-glass ceilings that has been peeling in the front of my Federation home for the last ten years.

With the building boom and inflated home prices, it was difficult to obtain quotes, but eventually I managed to get one from one tradesperson who had been recommended by a cupboard installer. He had recently sold his business because of a marital break-up and said he was now working for himself, a couple of days a week, indicating he was happy to put in false ceilings, estimating the job would take two days. To check his work, I asked him to provide a couple referees and when I phoned they gave good reports about his work and reliability.

Eventually, the agreed start day came and I enlisted my son and his mate to help me clear out the rooms at 6.30 in the morning, and had the electrician arrive very early to disconnect the power. We were all prepared, but the gyprocker didn't arrive til the following day, and when he came one ceiling rose was smaller than agreed and the other was the wrong design. I renegotiated what was originally decided. On the first

day the job went much slower than anticipated, stretching the work to three days. On the following days there were a few more 'hiccups'.

Day two, the gyprocker simply turned up his three year old son, much to my dismay. My son and I spent the day trying to entertain the child and keep him away from the rooms which were not safe. Then, when I slipped out briefly to get milk, the ceiling in the second room was dropped. In answer to my query, I was told the ceiling was uneven and could not take the battens. Twenty years of dust spread throughout the house, a large part settling on my library of books. (Later that week I spent several hours dusting and wiping them over and cleaning out the bookcase.)

On day three, which was my husband's fifty fifth birthday, the gyprocker arrived late, but childless (after being asked the previous day not to bring his son). The three men worked diligently, but were still trying to finish as darkness fell at 8.30pm. They were keen to complete the job because they were supposed to be somewhere else the following day. My husband, naturally, was anxious to leave for the restaurant where we were to celebrate his birthday. I was left trying to placate everyone, but ended up pleasing no-one.

We did eventually get to the restaurant and everyone relaxed after a delicious meal. However, the next day, the gyprocker's assistant failed to arrive in the morning to help clean up because his car had broken down on the freeway. By the time he actually turned up, my son and I had washed nearly all the walls and floors.

Day five, I cleaned the books for five hours, then exhausted, sat down in the floor in the lounge room with a cup of coffee, to admire the new ceiling. It was that I noticed the rose seemed to be off centre when lined up with the fire place and the windows. Hoping I was wrong, I climbed the ladder and measured across the room, and sure enough the rose was 12 cm closer to the doorway than it should have been. Wanting to be certain, I asked my son to check, and he confirmed it was off centre. I immediately phoned the gyprocker and told him the bad news. He agreed, that if it was indeed off centre, to fix it. However, by this time, Christmas was only five days away so I negotiated for the work to be remedied late in January when some plastering was scheduled. I couldn't face another mess!

During January, we survived without power and I phoned the week before to confirm the remedy. The gyprocker returned, and then denied the rose was in fact off centre, but then conceded to 9 cm when I asked him to measure it. At that stage, he said the work could not be remedied successfully and offered me \$100. He smooth talked me, saying that it was lucky that from the door it optically appeared to be okay. I quietly phoned a builder friend to confirm that the job could be fixed then indicated that I

*(Continued on page 24)*

## ***The consumer and the gyprocker continued ...***

would need at least \$500 if he wasn't prepared to do the work. At that stage he capitulated, agreeing to do the job the following week. I raced home from work on the agreed day, but he did not show. At this stage, I was very angry but realised that getting cross was not going to get the rose fixed. We had already had one altercation, when I told him that I was expecting a refund of \$500. I renegotiated another day the following week and again raced home from work, only to find no tradesperson. When I phoned his mobile, there was no answer. At that stage, I contemplated contacting the Building Disputes Tribunal, but fortunately, he phoned to apologise, saying he had been delayed in Kalumunda, out of mobile phone range. Once again, we negotiated another day, this time for two of his workers who had been with him a month to attend. I was quick to ask if they were experienced and he reassured me that they would be okay because he had explained the job to them.

Two days later, I once again left work early, without much confidence that anyone would actually 'show', and if they did, that they would know what to do. Despite my misgivings, the men arrived on time, remedied the job quickly and cleanly, and then apologised for all the inconvenience caused. I was very relieved!

The next week we had the power put back on and began to use the room again. It still has to be painted but I'm sure this will be simple compared to the problems with the gyprock!

I guess the moral to the story is to be sceptical and thoroughly investigate tradespeople before letting them loose on your home; know your rights as a consumer and don't allow yourself to be swayed by smooth talking rhetoric.

Valdene Buckley

***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  
[buckley4@bigpond.net.au](mailto:buckley4@bigpond.net.au)***

## **Current Situation**

In 2006, DOCEP undertook a review of all building legislation and sought feedback to Discussion Papers pertaining to the *Builders' Registration Act (BRA)*, the *Home Building Contracts Act (HBC)* and the *Painters' Registration Act (PRA)*. Whilst most feedback is still being compiled, in late 2006, the then Minister for Consumer Protection Hon

Michelle Roberts MLA advised of changes to the monetary thresholds and limits contained within the *Home Building Contracts Act 1991 (HBC)*. It was originally proposed that the amendments would come into effect from 27 February 2007, but this date has recently been extended to 2 July to allow the home building industry to develop implementation strategies.

The revised amounts will apply to all 'home building work contracts' and 'residential building work contracts' signed on or after 2 July 2007.

## **Threshold and limit changes**

Section 3 (1) The prescribed 'threshold amount' to which the *HBC Act* applies will be increased from \$6,000 to \$7,500 to correspond with the upper limit of the Magistrates' Court. The threshold will be increased again in January 2009 when the Court increases its limit to \$10,000.

Section 3 (1) The prescribed amount of the 'upper limit' of the HBC Act will increase from \$200,000 to \$500,000.

Section 25A The prescribed 'minimum amount' for requiring Home Indemnity Insurance will be increased from \$12,000 to \$20,000.

Section 25 D (1) (a) (i) The prescribed 'limit' under the Home Indemnity Insurance policy for loss of deposit will be increased from \$13,000 to \$20,000 or to 6.5% of the contract value if less than that amount.

## **What does this mean for consumers?**

Section 3 (1) Changes to the prescribed 'threshold amount' clarifies the jurisdiction for hearing small contractual issues. Amounts less than \$7,500 will be dealt with in the Magistrates' Court, while contractual disputes greater than \$7,500 will be heard in the Building Disputes Tribunal. The Building Disputes Tribunal has the jurisdiction to deal

## **Amendments to the Home Building Contracts Act continued ...**

with all workmanship issues.

*(Continued on page 27)*

Section 3 (1) Increasing the prescribed 'upper limit' to \$500,000 means that the Building Disputes Tribunal will have the jurisdiction to hear many more disputes about home building contracts. Previously consumers with building contracts greater than \$200,000 could have workmanship issues decided in the Building Disputes Tribunal, but contractual issues were heard in another jurisdiction.

Section 25A Changes mean that builders entering into contracts of less than \$20,000 will not be legally required to take out Home Indemnity Insurance to cover bankruptcy or other factors that might prevent the completion of the work. CAWA believes this change will not benefit consumers.

Section 25 D (1) (a) (i) Increasing the prescribed 'limit' means that consumers who enter into a building contract and pay the deposit to a builder who subsequently goes bankrupt will be entitled to compensation up to \$20,000 or to 6.5% of the

## **Review of Painters' Registration Act**

***As part of the review of all building legislation in 2006, CAWA members, Genette Keating, John Robertson, Joan Milne and Valdene Buckley compiled a submission for the Review of the Painters' Registration Act. Fortunately this Discussion Paper was much smaller than the previous ones.***

***Responses to some of the more topical questions have been reproduced on the following pages. A full copy of the submission can be obtained from any of the above committee.***

### ***Question 2***

***Should the existing system of regulation of painters in Western Australia be continued (with any improvements that may be identified as a result of the current review process)?***

Yes. Unlike electrical and plumbing work painting work does not have the same potentially life threatening issues but it is usually extensive and can be very expensive. Consumers find obtaining a consistent level of quality of work from trades is an issue. In particular with painting jobs, there is potential for major remedial expenses where plaster/painting complaints are in issue. The painter blames the plasterer and the plasterer the painter. Consumers need assistance to avoid these

problems through being able to select reputable and qualified tradespeople. There also needs to be a means of recourse for poor workmanship when it occurs.

### **Question 7**

***Should painters be regulated under a separate tier of the BR Act, possibly alongside certain other building trades that are currently unregulated?***

Yes. Currently, the Builders Registration Board exists along with the Building Disputes Tribunal to look after the interests of builders and consumers. The PRB provides similar but not as extensive services to painters and consumers. As painting is definitely part of building work it seems logical to combine the bodies and work towards having the same operating system/provision of service. This would also provide the framework for the registration of other currently unregistered trades in the future.

### **Question 8**

***Are the objectives of the PR Act appropriate to present day requirements? If not, please provide details?***

Whilst CAWA thought the intent behind the objectives was appropriate to the future functions of the Painters' Registration Board, it would like to note that the wording and terminology of the objectives makes them seem outdated.

Furthermore, it appears that some objectives, for example – maintain standards within the industry by ensuring those that are professionally engaged in the industry are competent may not be being addressed by the Board at present. There does not seem to be any further monitoring of competence for registered members once registration has been achieved and there does not appear to be any on-going education program promoted by the Board to ensure painters up skill with new products and technology.

In future the last objective of the board, 'provide basic protection to consumers by providing a means of recourse if painting work is found to be faulty' may be achieved by delegation to the BDT.

### **Question 9**

***If regulation of painters is to continue under the PR Act, should the application of the Act be extended throughout the State of WA?***

Yes. In the review of the Builders' Registration Board CAWA advocated that the regulation of builders should be extended to cover all of WA. Likewise it advocates that the regulation of painters should cover all of WA.

## **Review of Painters' Registration Act continued ...**

### **Question 10**

***If the PR Act is amended to cover the whole of the State, should exemptions be allowed by Rules/Regulation, if the local government authority can satisfy the Minister that there are reasonable grounds as to why the Act should not apply in that area?***

Yes, but there should be a mechanism in place requiring a review of the exemptions within a set time frame – for example every five years – at which time the original reasons should be revisited. The review should take into account the current availability of registered painters in the locality.

### **Question 11**

***If exemption to the jurisdiction of the PR Act is to be allowed, should conditions be imposed on those exemptions? For example, a requirement that those persons carrying out painting work in exempted areas notify the PRB of appropriate details?***

Yes, for the purpose of reviewing decisions this would be desirable, however CAWA notes that in practice this would be very difficult to implement and monitor.

### **Question 12**

***If regulation of painters is to continue under the PR Act, should the definition of 'painting' be amended to better reflect current industry practices? If so, are there any specific activities that should be included or excluded?***

CAWA believes that the definition of 'painting' should not be limited. It should be sufficiently broad to encompass 'fashion trends' within the painting industry.

CAWA also wishes to note that the exclusion clause (c) should not eliminate the surface finishes to tilt up concrete which is becoming increasingly important in the building industry. Nor should it eliminate applied floor finishes.

Many paints and finishes can contain highly toxic materials. CAWA is keen for trades-people who handle these chemicals to be properly qualified. Definition of 'painting' that encompasses all highly toxic materials and is linked to registration may help towards safety in the painting industry.

**Question 13**

***Should the prescribed upper limit for unregistered painting be increased from \$200 and, if so, to what amount?***

CAWA would like to keep the prescribed upper limit as low as possible because it believes elderly and vulnerable consumers are particularly at risk from unqualified trades people. Its first preference would be to see the upper limit remain at \$200. However, if the limit is to be increased it would like the upper limit to be no more than \$500.

**Question 14**

***Should the prescribed monetary limit for unregistered painting be reviewed every three or five years in line with CPI? If so, what time period should apply?***

Yes, CAWA believes the upper limit should be reviewed every five years in line with CPI but believes that the limit should not automatically be increased. The best interests of elderly and vulnerable consumers should be factored into decisions.

**Question 15**

***Should individual supervisors that work under the nominated supervisor be required to be registered/licensed painters? If so, should they also be required to be nominated and approved by the PRB?***

Yes, painting work needs 'on the job' supervision by a registered painter. This does not appear to be compulsory under the current licensing system.

**Question 16**

***Should the PRB be entitled to require all applicants under mutual recognition legislation to provide evidence that they are of good character?***

Yes, it is important that 'partnerships' and 'companies' are of good character, not just individual applicants. Since one member of the partnership or company is still required to be registered then there are independent checks on the character of that principal which may preclude quantifying the "character" of the corporate body.

**Question 17**

***Should the existing requirements for the erection of signs be removed?***

No, signage informs home-owners and neighbours whom to approach should they have issues with the work being undertaken. It becomes a form of advertising for reputable painters.

## **Review of Painters' Registration Act continued ...**

### **Question 19**

***If the current system of regulation of painters is to continue, should the PRB's funding base be widened? If so, what additional avenues for funding should be considered?***

No. A levy on building licences would not 'pick up' painters who operate outside of the need for building licences, and it would be an unfair financial burden on consumers who choose to do their own painting outside of the building licence.

The need for additional funding would be mitigated by the following changes:

- ◇ If contractual and workmanship issues re painting were heard entirely by the BDT, consumers would pay a fee of \$28 when lodging their complaint.
- ◇ Any formal testing and assessment for registration is met by the applicants not the Board. CAWA believes the costs incurred in validating information presented by applicants should continue to be met by the Board.

### **Question 20**

***Should the details contained in the register of painters be expanded to include additional information? If yes, what additional information should be required or, if no, why not?***

The information held by the PRB should be sufficient for contact to be readily made by the Board or Tribunal should workmanship or contractual issues arise.

However, consumers need not have access to all information held by the Board. CAWA believes that the register to which consumers have access should contain information such as business phone numbers, the business email address, the registered trading name and the ABN number.

## **Next CAWA Meeting**

***The next meeting of the Consumers' Association will be held on 18 April at 1 pm in the Rona Okely meeting room, level 6, DOCEP, 219 St Georges' Terrace, Perth. Interested consumers are most welcome.***

***Last year, Rhonda Algaba was at the Mirrabooka Shopping Centre when she chanced on a shopkeeper who was misleading customers about the extent of sale items in her shop window. When challenged about the signage, she complained to DOCEP. The letter below is CAWA's response to correspondence received from Patrick Walker re the issue.***

03 November 2006

Patrick Walker  
Commissioner and Executive Director  
Department of Consumer and Employment Protection  
Locked Bag 14 Cloisters Square WA 6850

Your ref: 5518/2006

Dear Mr Walker

### **COMPLAINT RECEIVED FROM 'ABSOLUTELY' - MIRRABOOKA**

Thank you for your letter of 26 September, regarding a complaint from Ms Kerry Boekeman and for giving the Consumers' Association of WA (Inc) an opportunity to clarify our position in the matter. Labelling issues are a high priority for CAWA. To be informed is one of the 8 basic consumer rights – to be given the facts needed to make an informed choice and to be protected against dishonest or misleading advertising and labelling.

On this occasion a consumer wasted valuable time considering a purchase without all the facts. She may have considered the appearance of the item, its quality and likely performance, whether it was likely to match other items she owned, the price of the item, the effect of the expenditure on her budget and perhaps tried on the item.

Having justified the purchase and presented the item to the cashier, to be told that the price had apparently increased put her in the embarrassing position of having to pay the unexpected amount or reconsider the factors affecting her purchase. By this stage the customer would be envisioning the item as her own, was put at a disadvantage and justified in feeling confused and angry. The customer on this occasion took the right action and walked away.

Ms Algaba, Vice President of CAWA has had many years experience fighting for the rights of consumers through her associations with consumer organisations and committees and chose to pursue the matter for the benefit of all consumers. We support her right to do so. Her behaviour and demeanour were appropriate and have not been questioned.

## **Misleading advertising continued . . .**

Consumers may like to give the impression that money is no object but our sense of fairness is jolted when we are misled. Particularly with luxury items, consumers are often not thinking clearly whilst trying to justify head (can I afford and do I need it?) and heart (I want it now!). CAWA consider that the situation reported to us amounts to false and misleading advertising. Why not just display “all stock free” across the front of the shop. Supermarkets could label all their shelves \$0.00. It is only a matter of degrees.

To protect consumers and allow an informed choice, where items are for display purposes only, they should be clearly marked as such, or a general disclaimer should be clearly displayed. CAWA believes that it is one of the roles of DOCEP to inform traders of their responsibilities to consumers thus minimising the incidence of situations such as arose at ‘Absolutely’.

CAWA considers our role as that of watchdog over the services of DOCEP and it is unlikely that any of our members would claim CAWA to be part of that organisation. We feel that Ms Algaba was unfairly disadvantaged when DOCEP denied any knowledge of our existence on enquiry from ‘Absolutely’ in Mirrabooka. We are bemused that after such a long and mutually beneficial relationship with DOCEP that Department staff are unable to provide information about our organisation when enquiries are received.

CAWA has been requested to make submissions to DOCEP and its predecessors on countless occasions. We have represented consumers at the Department’s request on numerous Boards and Committees. DOCEP recently awarded our Secretary with the Rona Okely award, acknowledging *an individual Western Australian who has influenced and inspired the advancement, development and promotion of consumer protection in their community and who has given selflessly of their time, energy and experience for the betterment of others*. We have a long standing Agreement with DOCEP that they will support CAWA in terms of meeting and clerical space, printing, postage and IT. This has led to a certain similarity in our postal addresses, an issue which may be confusing.

Information about organisations with relevant interests to Government Departments should be accessible on the Department’s website, as it has been on the Dept of Environment website for some time. DOCEP support our website ([www.consumers.asn.au](http://www.consumers.asn.au)) and staff should at least be able to provide this address when requested.

Yours Faithfully

President: Genette Keating

Secretary: Verity Cripps

# Associations Incorporations Bill 2006

***In November last year, DOCEP released a Consultation Guide seeking comments on the Draft Associations Incorporations Bill 2006. The Executive Summary that identifies all the major proposed legislative changes is reproduced below. The full Consultation Guide and the Draft legislation can be downloaded from the DOCEP website. Submissions must be in writing and reach DOCEP by 5.00 pm on Monday 30 April. Vice-president, John Robertson is currently compiling CAWA's submission.***

## 1. Executive Summary

### 1.1 Introduction

The Government of Western Australian supports the underlying function and philosophy of the *Associations Incorporation Act 1987* ("the Act"), which provides a framework of regulation for incorporated associations while leaving the internal management of associations largely to the members.

The Act applies to incorporated associations that have a lawful, non-commercial purpose and do not distribute profits to members. The essential purpose of the Act is to permit associations of individuals to incorporate and create a separate legal entity that can enter into contracts, hold property and sue or be sued when such circumstances arise.

A review of the Act has been undertaken following a long period of consultation with representatives from both incorporated and unincorporated associations, other key stakeholders and the general community. There is broad agreement that the Act has a number of deficiencies that need to be addressed to overcome legal uncertainties and administrative inefficiencies. The Associations Incorporation Bill 2006 ("the Green Bill") has been released for public comment so that the detail of proposed amendments can be openly discussed and considered by the people that it will affect the most.

The Government aims to introduce amendments to the Act that will realign it with contemporary legislation in other Australian jurisdictions. The proposed amendments aim to streamline the regulation of associations in order to promote efficiency and greater accountability, while minimising administration and compliance costs for associations.

### 1.2 Key Changes

The proposed amendments to the Act are designed to achieve a balance between the need for reasonable regulation and the desire for incorporated associations to be able to function autonomously and effectively. The key changes are summarised below.

#### 1.2.1 The incorporation process

The incorporation process will be streamlined and improved by:

- ◇ removing the specific eligibility criteria in relation to the purpose or objects of an association;
- ◇ no longer requiring that all applications for incorporation be advertised; and requiring that an application for incorporation show that the association concerned has at least six members who have full and equal voting rights.

### **1.2.2 Rules of associations**

The role and content of associations' rules will be clarified by:

- ◇ prescribing in the regulations a set of model rules that will automatically apply to all newly incorporated associations;
- ◇ making the rules of an association a contract between members and enforceable as such;
- ◇ requiring an internal dispute resolution process to be included in the rules;
- ◇ allowing members to refer unresolved disputes to the State Administrative Tribunal for determination;
- ◇ prescribing a limitation on the number of members that under the rules may call a general meeting; and
- ◇ requiring that the rules identify who is to receive surplus property on a winding up.

### **1.2.3 Management and accountability**

The management of associations will be improved by:

- ◇ obliging an association to appoint a member of its management committee to be its public officer to function as a point of contact with the Commissioner for Consumer Protection ("the Commissioner");
- ◇ providing a clearer definition of "special resolution";
- ◇ requiring associations to lodge an annual return with the Commissioner setting out their financial position;
- ◇ having audit requirements that will differ depending on the extent of the financial activities and property of an association – a three tiered system of financial accountability is proposed;
- ◇ permitting associations to require members seeking access to the member's register to demonstrate that such access is for association business only; and
- ◇ allowing associations to amalgamate.

### **1.2.4 Powers of the Commissioner for Consumer Protection**

The powers of the Commissioner will be broadened in relation to:

- ◇ the power to direct an association to call a general meeting of member where the members are in dispute;

*(Continued on page 35)*

- ◇ the power to change the name of an association if it is inappropriate;
- ◇ the appointment of a statutory manager to administer the affairs of an incorporated association in certain circumstances, so long as it is in the public interest to make such an appointment;
- ◇ the power to direct (or authorise) a large or complex association, or one that has ceased to be eligible for incorporation, to apply for incorporation under more appropriate legislation;
- ◇ the power to direct an association to transfer its undertaking to some other appropriate body corporate in certain circumstances;
- ◇ the appointment of a qualified person to carry out a special audit of an association's financial affairs; and the power necessary for the carrying out of investigations including the power to obtain a search warrant.

### **1.2.5 Voluntary winding up and cancellation of incorporation**

New procedures and controls will be enacted to enable:

- ◇ an association to be wound up voluntarily if it has surplus property to be distributed;
- ◇ local government authorities to be the recipient of surplus property;
- ◇ the incorporation of an association to be cancelled at its request if it has no liabilities and there is no surplus property to be distributed; and
- ◇ a requirement to document the specific day on which the Commissioner cancels the incorporation of an association.

### **1.2.6 Miscellaneous changes**

These include:

- ◇ provision that the legal principle known as 'the doctrine of constructive notice' does not apply to the documents of associations that are lodged with the Commissioner;
- ◇ extending of the period within which proceedings for an alleged offence against the Act may be commenced, from one year to three years;
- ◇ increasing the penalties for a breach or contravention of the Act to better protect the interests of members or associations; and
- ◇ the power to enforce obligations under the Act by the issue of infringement notices.

## **Choice Magazine - Vol 15 No 1 - Jan 1974**

**Following on from the last two newsletters, where we profiled the first two Choice Magazines, we are featuring a Choice Magazine from the mid 1970s.**

**The cover and information is reproduced with the permission of Choice Magazine.**

This issue of *Choice Magazine* focussed on 'Arranging a Funeral'. As well as giving information on costs, the article discussed whether to bury or cremate, autopsies, government subsidies and detailed the steps to follow when someone dies.

In 1974 66% of people in metropolitan areas were choosing cremations. One suspects that this percentage would be much higher today, and burials in country regions would also be in decline. Western Australians were allowed to claim the actual cost of the funeral against the Probate or Death Duty that was then paid by the estate when someone died.

In 1972 the Commonwealth Government spent \$1 565 305 on 53 105 grants of funeral expenses. A benefit of up to \$40 was payable to an eligible invalid or widow pensioner who was liable for the funeral costs of another person such as a deceased pensioner, a deceased child or a deceased spouse. A benefit of up to \$20 was payable to any other person liable for the funeral costs of a deceased age or invalid pensioner. The Repatriation Department granted similar benefits towards the funeral costs of ex-servicemen or women or their spouses or dependents. *Choice* observed, "Considering the existing cost of a funeral service, these can only be regarded as token benefits."

In 1974,

"There [was] nothing to stop anyone from deciding to set up shop as an undertaker. But there [was] an Undertakers' Association (Australian Funeral Directors' Association) with branches in all States which exhorted its members (80% of all undertakers applied to be members) to honest dealing, dignity, respect of confidences placed in them by families, and concern for employees' welfare. The association was not concerned with discussing funeral costs apart from its members agreeing "to refrain from using advertising or publicity which could or might foster misunderstandings by the public concerning the fair cost of funeral services." The industry in this way protected itself from a price cutting war while ensuring that the consumer had no real means, apart from footslogging at an inopportune time, of judging what a funeral should cost."

On a lighter note, there were also articles on, 'Men's Sleeveless Cotton Singlets',

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Single Lens Reflex Cameras and Electric Jug Elements. It is interesting to note that two of the three products are no longer even sold today.

*Choice* also advertised several books published by other consumer organisations, for sale between \$1.00 and \$2.75 - prices that seem ridiculous today.

## **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 were due in October 2006, and should be forwarded to the Treasurer.**

Once again, I am delighted with the contributions made by CAWA members to the first *Consumer Notes* newsletter for 2007.

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 typing time I would prefer to receive an emailed, electronic copy or be given the information on floppy disk. The material should be formatted as a word document.

Please keep up the contributions in the next three months for inclusion in the second 2007 - June/July issue of *Consumer Notes*.

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