

# CORRECTED VERSION

## PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

### Inquiry into 2003–04 budget estimates

Melbourne—15 May 2003

#### Members

Ms C. M. Campbell

Mr R. W. Clark

Mr L. A. Donnellan

Mr B. Forwood

Ms D. L. Green

Mr J. Merlino

Mr G. K. Rich-Phillips

Ms G. D. Romanes

Chair: Ms C. M. Campbell

Deputy Chair: Mr B. Forwood

#### Staff

Executive Officer: Ms M. Cornwell

#### Witnesses

Mr J. Lenders, Minister for Consumer Affairs;

Ms P. Armytage, Secretary, Department of Justice; and

Mr D. Cousins, Director, Consumer Affairs Victoria.

**The CHAIR** — Welcome everybody to this afternoon's session. I declare open the Public Accounts and Estimates Committee hearings on the 2003–4 budget estimates for the consumer affairs and the finance portfolios. I welcome the Honourable John Lenders, Minister for Consumer Affairs and Minister for Finance; Ms Penny \*Armytage, Secretary of the Department of Justice; Dr David Cousins, director of Consumer Affairs Victoria; departmental officers; members of the public and the media.

All evidence taken by this committee is taken under the provisions of the Parliamentary Committees Act and is protected from judicial review. However, any comments made outside the precincts of the hearing are not protected by parliamentary privilege.

All evidence given today is being recorded, and we thank Hansard for their attendance. Witnesses will be provided with proof versions of the transcript early next week.

Before I call on the minister to give a brief presentation of the more complex financial and performance information that relates to the budget estimates for consumer affairs I ask that all mobiles be turned off now, and that anyone who has a pager put it to silent.

Minister, over to you. You have 10 minutes for your presentation, and I will give you a timely warning just before that 10 minutes expires.

**Mr LENDERS** — Thank you, Chair and committee members. I am delighted to be here making this presentation on both portfolios, starting with consumer affairs. We have some slides, a Powerpoint presentation that will go up, and I believe committee members have a copy of the slides in front of them. Some of them are on the broad picture of consumer affairs, and obviously I will take questions for the rest of the time allocated.

**Overheads shown.**

**Mr LENDERS** — The aim of consumer protection in Victoria is to ensure confident consumers and protected consumers. As I have said in the Parliament, it is to empower consumers and to protect them — and particularly vulnerable consumers. That overrides everything we do within the consumer affairs portfolio and what Consumer Affairs Victoria does. We protect and promote the interests of consumers and we ensure markets work in the interests of consumers and the broader community. It is all about improving access to consumer protection services, particularly for vulnerable groups.

Consumer affairs works towards this vision and those objectives through a wide range of activities — a very wide range. As you can see from the slide the agencies functions vary from the provision of information, advice and dispute resolution services to enforcement, registration and licensing administration of residential bonds, and the development of policy and legislation. As you will see a bit later on, it is a very varied portfolio.

The legislation assigned to the Minister for Consumer Affairs is on the slide before us now. I am responsible for administering nearly 50 statutes, some of which are featured on this slide. They can be classified into two broad groups: general protective frameworks, which on the left side of your screen include the Fair Trading Act, the Credit Act, the Business Names Act and the Goods Act; and then regulations of particular industries or occupations in trade measurement, such as the estate agents, motor car traders and domestic building. On the right side of your screen there are statute transfers to consumer affairs following last year's election. They are liquor control, retirement villages, utility meters, subdivisions and trade measurement.

During 2001–02 Consumer Affairs Victoria conducted almost 3.3 million customer contacts across a range of services that I highlighted earlier. Those included nearly 340 000 calls to the consumer and tenancy helpline; just over 1000 investigations; 18 000 business licensing transactions; 28 000 participants in responsible serving of alcohol training — that is, 28 000 people who participated in that; and 6000 trade measurement inspections.

The chart you see now is of key consumer services. The triangle starts at inquiries. If we go back to the information on the previous slide, we clearly have 340 000 calls. Then we go to the next level up, which is dispute resolution, which is usually a conciliation service; then we have investigations; and finally enforcement action. Given the brief amount of time, Chair, I will probably skip on to the other slides and perhaps refer back to this during questions or, perhaps if there is time, later on.

In investigations, as you see, the percentage of insurance, finance and investments investigations is probably a smaller percentage than of inquiries. Some of them vary where we work, and we have not broken down the enforcement action into those various areas. But the chart gives a general sense that the really big areas are

household and personal goods and residential tenancies — by far the largest areas that consumer affairs deals with. Then again, there are some new and emerging ones in there as well. The main thing, however, is that if you sit in on a call centre — as I have done — and listen to the complaints as they come in, you go to those main ones — residential tenancies, and household and personal goods, are the main ones that will come in.

We move along now to something of interest to the committee given that we keep on monitoring budget performance — tracking these achievements of objectives. I gave some considerable thought to whether this slide should go in or not because it will probably take a bit of time to explain. What it shows is that we are endeavouring to monitor how effective our services are to consumers. Ironically one of the most effective ways of monitoring, aiming for vulnerable consumers in particular, is the amount of calls you can measure coming from areas where people are at a greater disadvantage or are more vulnerable. One of the indices we can use for that in Victoria is clearly postcode areas. There are some areas we know, whether that be Heidelberg West, for which there is a foreword or an attachment, or somewhere like Kooyong, that obviously there are differing levels of disadvantage between the two areas.

If consumer affairs is to be more than, to put it bluntly, middle class activists ringing in because it empowers them, and if it is to help people who are disadvantaged to take advantage of our services then we need some way to measure this, so this chart is the way we do that. It puts the ABS indexes in place on factors such as the income, occupation, qualifications and labour force status of the people living in the various areas.

In this analysis there are 114 postcode areas that are most homogenous and advantaged. I mentioned before Kooyong and Southbank, not mixed areas like South Melbourne or South Yarra, which have been taken out of this. There are 57 disadvantaged postcode areas, such as Broadmeadows, Springvale, Heidelberg West and Lake Tyers. In the disadvantaged areas we are looking at a population of 463 000 and in the advantaged areas we are looking at a population of over 900 000, so it is a reasonably large group of people for us to look at.

We monitor the number of inquiries per 1000 population, and the number of written complaints per 10 000 population. That is a ratio we try to use. Our target is to grow the access rate for disadvantaged areas. That will be a measure of people utilising the services of Consumer Affairs Victoria. Obviously the long-term objective is that no-one ever rings in because there are no consumer complaints, but that clearly is a long-term objective that the Chair, as the previous minister in this portfolio, knows we all dream of having. I move past that, but a lot of data is included and it is a measurement rather than being anecdotal or anything like that so we can measure how successful consumer affairs has been.

For the current financial year the six main priorities for action have been identified for Consumer Affairs Victoria. This slide shows a selection by my department of achievements during the year against these priorities. To elaborate on just some of them, the Fair Trading Act is a cornerstone of consumer protection in Victoria and has been revised to ensure it is up to date with emerging consumer protection issues. The revised act will enhance the enforcement powers of consumer affairs and tighten regulation on door-to-door selling. The bill has been introduced into the Assembly, and the intention is to have it passed by the end of this settings.

In the state budget the government committed \$3.7 million over four years to strengthen alternate dispute resolution, or ADR. Part of this initiative was an online ADR project designed to heighten community awareness of ADR and increase access to existing services. The initial phase of the project, which will be completed before June, is to develop an information web site providing consumers with self-help information on ADR processes, techniques and problem-based advice and to conduct research into existing models of online ADR with the aim of making recommendations as to the suitability of a model for Victoria. As members of the committee would have seen, there was a *Herald Sun* report of this some weeks ago and we are going through a number of phases to get this in place. If online ADR is to work then we have to systematically go through this, and we are confident that is one of the ways into the future.

We are also introducing into Victoria on 1 May the mandatory labelling of ethanol under the fair trading product information standards regulations. The aim of the regulations is to ensure that consumers are equipped to make more informed purchasing decisions, following the discovery that more than 10 per cent ethanol can cause damage to car engines. That of course is not something that I am making up but something that the manufacturers are now applying to their warranties.

Moving through on achievements, the establishment of Building Advice and Conciliation Victoria (BACV), as we see in our slides, is clearly an achievement. It commenced operation in July 2002 as part of the government's commitment to make dispute resolution services more accessible. It is offered jointly by Consumers Affairs

Victoria and the Building Commission. The BACV offers advice, conciliation, site inspections, investigations, disciplinary action and prosecutions. It also monitors trends in the market to help promote better domestic building industry practice. Clients of the service can be provided with application forms, advice, information such as consumer affairs, successful homebuyers or renters magazines, or directed to other sources of useful information such as Consumer Affairs Victoria or the Building Commission web site.

**The CHAIR** — I mention that you are running out of time. Thankfully we have this information on paper so perhaps you may want to run through just the highlights of those last few slides.

**Mr LENDERS** — Okay, I will certainly do that. Again under the heading of achievements we come to product bans and warnings. A number are there, and they are visually graphic. There is lead in candles, folding chairs which can take off people's fingers, and toy guns and a tragedy in New South Wales. So we have put a number of banning orders in place and will continue to monitor show bags and the like. Put simply, part of the role of consumer affairs is that if there is a clearly dangerous product we take action. We will monitor what is happening internationally as well as what consumer affairs inspectors will find when they go out into Victoria.

Going to key enforcement achievements, a total of 64 prosecutions have been finalised since July 2002. Obviously the largest case there concerned the ANZ Bank on credit. It was a protracted case that was in the court for a number of years. Part of the settlement money has gone into the consumer trust fund, which has been not an uncommon outcome over the years. That was a very large and long case.

On access for vulnerable consumers, again a lot of this is providing information. I had the pleasure yesterday in the suburb of Glen Waverley at a Greek senior citizens club of presenting a booklet entitled *Older and Wiser*, and again this is one with which the Chair is very familiar. It is a great way of empowering consumers. It is part of an empowering device rather than a protection device, and people can make informed decisions themselves and take action. *New Country, New Home* is one which deals with the newly arrived migrants. We have bilingual tenancy workers in place, and we now have an indigenous consumers protection strategy.

Going through to some of the conferences that we are putting together, we had one on credit and debt, which was the first one of a serious size in probably a decade. It was held in Melbourne and was to get all the stakeholders together for what is a growing area. As we know, in the state of Victoria over \$6 billion a year is put on people's individual credit cards. It is a growing area and consumer debt is a serious problem, so this is a way of us dealing with it.

Flying through, there is new funding this year. Part of that is for trade measurement, the consumer facilities advocacy centre and for licensing online. We have gone from four outputs to one, but I am sure we will get questions on that a bit further on. Again we have a slide showing where money comes into consumer affairs — either from the consolidated fund or from the seven trust funds that are administered by the portfolio.

The priorities for the coming year are to address current and emerging marketplace issues, to ensure that existing interventions in the marketplace are efficient and effective, and to target issues of concern. I was in Horsham with the community cabinet last week. By dealing with Wimmera Uniting Care — a very strong group of professionals — we are constantly at the interface with the consumers and the people assisting them. We as a department find in these areas that we are constantly talking to our stakeholders.

Finally, I go to delivering on election commitments — a very important thing for all members of the government. One of them was to restructure consumer affairs to make it far more focused on those issues of empowering and protecting consumers, issues of delivering consumer justice, access to basic goods and services, tenancy protection, improving building industry regulations, and obviously estate agent industry improvements.

The presentation contains a whole range of things. It is an incredibly exciting portfolio with a lot of new responsibilities following administrative arrangements. Obviously it will vary from tenancy protection to buildings, from dealing with prostitution to liquor licensing, from weights and measures to estate agents — you name it, it is a varied portfolio. We are at the absolute interface. We are talking about empowering consumers and protecting consumers, particularly vulnerable consumers. This is a portfolio for us to work through, and I will be delighted to take any questions from the committee.

**The CHAIR** — With the vast array of work that consumer affairs does I note that during 2003–04 you will reduce from four outputs to one. How will these changes impact on public accountability, which is very much what the Public Accounts and Estimates Committee is interested in?

**Mr LENDERS** — That is a very fair question. I think part of the historical reason for the four outputs was that some of the areas had moved in from other departments. Clearly trade measurement and liquor licensing come out of different areas, and there were two outputs previously in the core consumer affairs area.

The important thing for accountability is the performance measures and the fact that they are trailable and auditable, so the merger of four outputs in fact improves public accountability. There are many similarities in a lot of the areas; they are all ultimately dealing with empowering and protecting consumers. Given that the performance measures are there, the fact that the outputs have gone from four to one removes a lot of the clutter and makes it clear that it is all about looking after consumers, so I think it actually enhances rather than in any way detracts from accountability.

**Mr FORWOOD** — Welcome, Minister. You would be aware of the controversy over the Estate Agents Guarantee Fund and various trust funds that are run by the department. Could you indicate the amount of funds currently held in the trust funds up to say the end of March this year? I suspect there is about \$200-odd million in the residential tenancies bond fund. If you have those figures that would be useful to start with. Do you want me to go on or do you want to give the committee the figures?

**Mr LENDERS** — The figures you said until 31 March — there are seven funds. The residential tenancies fund you mentioned, there is \$15 million in that fund, and the residential bond was I think the second one — —

**Mr FORWOOD** — And the Estate Agents Guarantee Fund. So there is \$15 million in the residential tenancy fund?

**Mr LENDERS** — Yes. The Estate Agents Guarantee Fund has \$170 million in it.

**Mr FORWOOD** — The bond fund?

**Mr LENDERS** — The residential bonds investment income account has \$3 million, the bond fund itself has approximately \$260 million.

**Mr FORWOOD** — In the Auditor-General's report of June 2001 he made a recommendation that in order to improve the level of accountability over trust fund moneys separate financial reports should be produced for each of the major trust funds. I am not aware that that has actually happened.

**Mr LENDERS** — In the consumer affairs annual report from last year — the director is finding the exact reference — a response to the Auditor-General was certainly reported. The key question obviously is the accountability of these funds. All seven trust funds are obviously audited by the Auditor-General. All seven trust funds are administered by the department and a minister, and in some cases by governing bodies according to the requirements of their own legislation. The macro that you ask is addressed by that; the specific, whether you are saying there should be seven separate reports or they should be incorporated in the one consumer affairs report, is something on which I will seek advice.

**Mr FORWOOD** — The issue really is that we have about \$440 million in these trust funds. In light of the round robin scheme that did not ultimately take place when there was an attempt to circumvent the rules to get funds out of there, this committee would be looking for some assurance that the government is not planning to raid the \$440 million in these funds, and that in fact they are safe from funny-money schemes.

**The CHAIR** — That is a claim.

**Mr FORWOOD** — The minister has the copy of the Ombudsman's report, as do I.

**Mr LENDERS** — I think there are two things. Firstly, on disclosure on what comes out of them, the annual report from page 102 onwards outlines every single payment out of the funds. As far as accountability and transparency goes, that is all on the public record in the annual report. The more material one, and not that I particularly want to debate the Ombudsman's report, but the findings of the Ombudsman are absolutely clear. There was nothing inappropriate in the findings he made in his report as to the administration of these funds. But certainly, Mr Forwood, you and I can both take our respective highlighted sections, but there are conclusions.

**Mr FORWOOD** — The Ombudsman said that:

The 'projectising' of the survey function was little more than a scheme to panel-beat an existing statutory function into a different shape so as to meet the section 76 criteria.

That is a funny-money scheme.

**Mr LENDERS** — I draw your attention to the conclusions where it states:

... it is entirely proper that CBAV should seek to maximise the effectiveness of the fund by identifying, encouraging and assisting applicants for funding under section 76.

**Mr FORWOOD** — Sure, we would not dispute that.

**The CHAIR** — Rather than going backwards and forwards on highlighted sections, on which we could be thoroughly entertained all afternoon, we will take your advice in relation to those trust funds and move on to the next question.

**Ms GREEN** — What resources will be allocated to ensure that the ban on dummy bidding and underquoting is enforced?

**Mr LENDERS** — Firstly, we have the legislation now which is before the Parliament, and I am anticipating that will proceed through the houses in these sittings. In the interests of transparency for consumers we are legislating against dummy bidding and also regulating underquoting and overquoting, so again it is all in the interests of protecting consumers by having transparency in the auction process.

Consumer Affairs Victoria (CAV) already has eight investigators who specifically go out and about to deal with real estate investigations. On a given Saturday there will be people out there discretely at auctions monitoring what is going on. Obviously they do not cover every auction but they will be out there monitoring. Part of this is to ensure that with any auctions they are monitoring things are going as they should, but also to make it totally clear to the community and to the industry that these things are being monitored.

There is also the capacity in consumer affairs, and ultimately these are at the call of the director given the resources of consumer affairs, to put 30 more people out there if there is a need for a blitz, or for whatever reason there is some anxiety that the number of inspectors is not sufficient. The government's absolute policy priority is that it supports a strong auction process and welcomes a strong auction process, but in the interests of consumers we want transparency so that when a person bids they know they are bidding against a person rather than a passing cat, tram, or stationary tree, or whatever else there may be that people sometimes bid against. If for the excitement and vitality of an auction it is necessary for the auctioneer to have a bit of light, colour and movement, they can do that, but they need to say, 'Vendor bid', again for that transparency for consumers. There will be more resources in a sense available, but there are already CAV inspectors out there checking on auctions.

**Mr FORWOOD** — I have a quick supplementary. Can you indicate how many complaints were received by the department, say last year, in relation to auctions, dummy auctions, that sort of stuff?

**Mr LENDERS** — It is not highlighted in the annual report but certainly the annual report tends to quantify complaints that are there. I will take on notice how many consumers affairs got. I guess everybody around this table has at some stage been involved in an auction as a buyer, seller or through having a significant other or someone near to them who has been to an auction. I do not think it there would be any surprise for members of Parliament to hear frequently from constituents that the issue of transparency in auctions is of concern to them, but certainly we will take on notice the exact number of complaints CAV got last year.

**Mr RICH-PHILLIPS** — Minister, you said there were eight investigators currently. Can you give the committee an idea of how many auctions typically they would attend in a week so we know the penetration into the auction market?

**Mr LENDERS** — I will take advice from Dr Cousins. I think we are dealing with about 800 auctions a weekend in Melbourne. I think that would be right. Again, a person can presumably cover a number of those auctions in a particular morning. I am speculating here but presumably they can cover four or five. I know the Australian Tax Office (ATO) actually audits 2 per cent of returns in a year, and that is the figure it uses to have a compliance level where enough of the community are aware that there are inspectors.

**The CHAIR** — Don't tell the community that. Everyone thinks it is 99 per cent.

**Mr LENDERS** — But you also have to keep your records for seven years, so that means there is a one-in-seven chance of your records being done, and the penalties are quite high. Part of this, as I mentioned earlier, Mr Rich-Phillips, is about instilling in consumers a confidence that inspectors are out there looking after



their interests, instilling in the industry the fact that the government is present and the advocates for the consumers are present in monitoring and watching; and as the ATO operates on that principle there is probably a much higher penetration into the market from inspectors from CAV than there is even from the ATO.

Without wishing to anticipate what the houses of Parliament may do in the next few weeks, assuming this comes into law it will add a great deal of confidence to consumers to know there are inspectors out there protecting their interests at auctions.

**Mr RICH-PHILLIPS** — Do you think you have better than 2 per cent penetration with the current eight?

**Mr LENDERS** — I will ask Dr Cousins to take that.

**Dr COUSINS** — In terms of inspections and so on, one has to realise it is not just consumer affairs inspectors who are monitoring the situation. As in any areas that we are covering, a lot of the monitoring is also done by other people who happen to be at auctions, and indeed often other real estate agents will attend particular auctions. The advice, if you like, is often reported to us from the industry itself, or from attendees at auctions. So one of our enforcement strategies is to run spot inspections, but not to necessarily announce that we are coming. That is part of the enforcement strategy.

**Mr RICH-PHILLIPS** — That would be a fairly good idea.

**The CHAIR** — Next auction you will have your eyes and ears open, Mr Rich-Phillips!

**Mr CLARK** — My question relates to the performance measures on pages 235 and 236 of budget paper 3, obviously in relation to consumer protection. On my arithmetic something like 10 out of 14 of those performance measures set, the targets for 2003-04, are lower than what was achieved in 2001-02. These include measures of consumer satisfaction, tenancy satisfaction, liquor licensing client satisfaction and timeliness in provision of business licensing and consumer and tenancy services. Why is it that the targets that you are setting for the forthcoming year are on so many measures lower than what the department has been achieving in the past?

**Mr LENDERS** — That is a very fair question and one that goes to the heart of what targets are. Clearly I would be more concerned if we set a lower target than what we aimed for in a previous year for any of these areas. I am just flicking through them to make sure we have not done that. I am confident we have not set a lower target. The very fact that in some years — —

**Mr RICH-PHILLIPS** — It appears you have, Minister, with business licensing and registration.

**Mr LENDERS** — Part of this one is the specific one. Now we have an interactive voice response measure on calls that we receive. Previously we counted in our targets the number of messages that were left on answering machines; now because we have an interactive voice response to some of those we have taken them out of the target. People dealing with people is our target rather than people interacting with technology. That is the reason why that particular one has been reviewed.

To answer Mr Clark's point, in the end where a department exceeds its own targets that is very good. In particular environments we are sometimes very pleased when we exceed. It is a fairly severe measure when you keep on upping the target every single time because often you succeed when there happens to be some greater availability of resources, and there is a range of reasons for that. But when we are constantly reviewing and constantly reprioritising and dealing with productivity dividends in a range of other areas, to maintain the targets is a great achievement, and when we consistently exceed the target that would be the time we would review whether the target is set high enough. You want to achieve it for a few years before you keep on upping it every year.

**Mr CLARK** — Business licensing and registration services delivered within in lapsed time standards is also being reduced from 90 per cent to 85 per cent. Is there an explanation for that. It is the second-last one on page 236.

**Mr LENDERS** — The target had been 85 to 90 per cent, so now we have a reasonably achievable target.

**Mr DONNELLAN** — Page 189 of budget paper 3 for 2002-03 states that a vigorous campaign will target those traders who act to flout the law and take advantage of consumers who may be unaware of their rights to ensure that those traders subsequently comply with the law and act responsibly. Can you tell us what progress the office has made towards this?

**Mr LENDERS** — Consumer affairs has been very proactive rather than reactive about its enforcement and compliance measures as we have gone forward. This goes back to the issue of auctions, in a sense. If you are being reactive people ring in and say there is a problem. If you are being proactive you go out there and look at the issues. For example you might have an issue concerning motor car traders. People are required to be licensed as motor car traders if they sell a certain number of vehicles in a particular year. On that issue you can be proactive by having a targeted reading of ads in the *Age*, for example, to see if there is an instance of a person selling a lot of cars who does not have licensed motor car trader number. By that proactive measure you might be able to target those traders who flout the law and increase the effectiveness of compliance measures. You would be catching people rather than just reacting to complaints.

Consumer affairs is constantly looking at more effective ways of going out there to, as in this case, protect consumers rather than necessarily empower them. It is a management issue of how you most effectively use your time. We are being proactive. As examples of that, you get greater compliance being proactive rather than reactive. That is probably the answer to the question. Some examples of that would be visits to all 16 car auction houses. That was proactive. Some 380 e-commerce web sites were accessed — again, that was being proactive. There have been visits to shopping centres to make sure traders and retailers were supplied with lay-by and refund signs. There were 222 inspections of licensed motor car traders. All of those areas answer the question.

**Mr RICH-PHILLIPS** — I would like to ask you about the Estate Agents Guarantee Fund and the residential tenancies bond account. Recently in Parliament, in a response to a question from Mr Olexander, you indicated or suggested reviews were under way with respect to one or both of those funds. Could you tell the committee what the objectives of those reviews are and what their current status is in terms of completion; and, if they are complete, what were the findings were?

**Mr LENDERS** — For any government worth its salt, and particularly one that is constantly evaluating at every stage, the activities of a portfolio like consumer affairs are geared to empowering consumers and protecting those who are vulnerable. If that is your objective you will constantly within government be asking whether an existing measure is the most effective way of carrying out your operations. If you are looking in that environment from time to time it will depend on the definition of ‘review’.

As a minister in this government I am acutely sensitive to opposition criticisms that we are reviewing too often and that we never stop having reviews. We are asked why we do not get on and do things. I am very sensitive to there being too many reviews, but that does not mean that within government you would not be looking at the most efficient ways of carrying things out. Within the department there has been an Ombudsman’s report on the Estate Agents Guarantee Fund. Does the fact that I have looked at the report and read it mean that I have reviewed it? That is probably not what you would call a review.

We will be looking at these funds constantly in an effective budgetary and administration process. One questioner — was it Mr Forwood?— asked whether the Auditor-General is going to look at each of this individual things. By definition that means I will go back to the department and talk to Dr Cousins and other people in the department and ask, ‘Are we actually doing what we were meant to do?’. So you have asked if reviews are going on in a formal sense. We will always be looking at the administration of these funds — they are large amounts of money — and the best way of empowering and protecting consumers. So yes, we do look at them, but in a formal sense there is certainly nothing I will be reporting on at this stage.

**Mr MERLINO** — Could you inform the committee as to what scams have been recently uncovered by Consumer Affairs Victoria, what preventive action CAV has taken to protect consumers against those scams and whether anyone has been prosecuted as a result?

**Mr LENDERS** — In a sense, scams are one of the low lights of the consumer affairs portfolio because they are constantly on and it is probably one of the less desirable things about human nature. Who wants to go out looking for them? This morning my email contained one of those Nigerian cons. I probably average about three or four of these emails a week. I imagine that those of us around this table, being members of Parliament, are probably more highly targeted. I do not know whether people think we are gullible! I am not sure.

**Mr FORWOOD** — They must think we have more money in the bank.

**Mr LENDERS** — That’s right! Certainly there is the example the Nigerian con and all the ones that go with it. We have all heard about Dr Mabuto’s niece and various other undesirable people’s spouses and the others



out there in a terrible state because no-one will look after their tens of millions in illegal money. We get those. Those sorts of cons are common, and we try and deal where those.

We had a few fax-back scams earlier this year, again where people were dialling back on faxes to 1900 numbers and obviously there were difficulties for consumers on those. We also have ones like Deceased Estates Pty Ltd, which writes to people and says, 'We have this bequest for you, give us some account numbers'. We have been dealing with those. Also Vanity Publishers — it makes you wonder who responds to those — says, 'Give us all this money and we will put your name in a glossy book'. All of those go on. A while ago we had a fortune and happiness thing that you sent money to. Fortunately we had cooperation and managed to get 824 letters out of a private mailbox and sent them back with a 'scam alert' sticker on them. We are constantly getting those sorts of scams, where people are preying on vulnerable consumers. In that scam alert that I mentioned before \$42 000 was actually returned in those letters to people who went for those products. We certainly prosecute where we can. We had another one recently where a Hong Kong-based company of the notorious clairvoyant, Marie Duval, was receiving money from all sorts of people.

We will prosecute where we can on those. The overall thing for us is how to empower consumers to have the capacity to deal with it themselves, and how to protect them. Sometimes we protect them by banning things and sometimes by prosecuting the rogues. There is a range of things; often it is information, so we deal with them periodically. They are the sorts of actions we are taking to protect those consumers from scams. Hopefully all of us will find a way of screening our emails so we do not get the Nigerian con coming to us any more, or to consumers like us.

**Mr DONNELLAN** — Has the department come across one based in Canada, offering to sell old artefacts of Napoleon and you get a new bracelet, and things like that? Is that one which has come up consistently? Sadly they ring at night and target the old people.

**Mr LENDERS** — We had the director put out a press release some time ago outlining how Victorians actually helped catch some of these Canadians, so we actually assisted the Canadians in prosecuting in that case. That was a good outcome, and there was some information from Victoria. The cooperation between agencies can often be very powerful and effective — where an agency in one country cooperates with another one. A lot of these things that are cross-jurisdictional can be very hard to enforce, so there is a good outcome there.

**Mr FORWOOD** — I would like to go back to the Estate Agents Guarantee Fund. On 30 June 2000 it had \$100 million. On 30 June 2002 it had \$147 million. Dr Cousins has just told us that at 31 March it had \$170 million. Last year it gave grants of \$1.8 million. This fund is growing perhaps not exponentially but at a hell of a rate. What are we going to do with a fund that grows at this rate and makes grants of such small amounts? I think at some time or other the government will need to make some decision, otherwise we will find that next year and the year after there will be another \$20 million or \$25 million. What is the government's proposal in handling the Estate Agents Guarantee Fund into the future?

**Mr LENDERS** — I think there are six criteria under the act by which the fund can actually be disbursed — things it can be used for. I could find some of those and put them on the record. They are ones you would expect from a fund like that. There is a series of grants that are issued according to those criteria. Ultimately if the fund continues to grow like this, from the government's perspective we have no discretion other than to administer the fund as per the legislation. Clearly if this is an ongoing area the government will need to review that legislation. We certainly did not go into the election with any policy on dealing with that, but the government will obviously take on board any new and emerging issues during the life of the government. We will look at those, but — —

**Mr FORWOOD** — Are there no plans to rip \$100 million out or anything?

**Mr LENDERS** — There are no plans to rip \$100 million out of the fund, no. If you have any suggestions as to how that fund could be well expended according to the act — —

**Mr FORWOOD** — Let me tell you that the rumour is that \$180 million of the fund will go to fund the tunnel of the Eastern Freeway.

**Mr LENDERS** — Can I suggest, without pre-empting any government decision, just as the whole issue of consumer affairs generally is about empowering and protecting consumers, if the government were going to look at any changes to the Estate Agents Guarantee Fund it would be within terms of what the fund has been set up for. It would be inappropriate, in my view, to — —

**Mr FORWOOD** — As Minister for Finance?

**Mr LENDERS** — Again, this is hypothetical, but clearly this money has been collected regarding estate agents and the housing industry, and I find interesting, or far-fetched, that there would rumour that it would be expended on something like transport.

**Ms ROMANES** — The government recently introduced mandatory labelling at service stations of the content of ethanol-blended fuel. Can you tell the committee what activities have been undertaken by Consumer Affairs Victoria to enforce these regulations? Also, can you tell the committee what the current level of compliance is, what initiatives are planned for 2003–04 in relation to this area, and what level of funding has been allocated?

**Mr LENDERS** — Being a member of the Legislative Council, Ms Romanes would be aware that ethanol is an issue that I have some passion on. Firstly, the regulations have been in effect since 1 May. Consumer affairs is clearly out there monitoring and testing, as it should for something which is a critical issue regarding empowering consumers to make choices of their own. The government has no policy; it has no problem with ethanol if it believes it is safe. Our issue is enabling consumers to make choices. If consumers make choice to use high-ethanol blend fuel that is their prerogative. So by our labelling we wish to make sure that is the case, and obviously we wish to enforce that.

Inspectors have been out there sampling fuels. Those tests are being done, and we have been monitoring that very closely. It is a fairly rigorous testing process because we do not want to treat retailers unfairly. That is out there. The tests are being assessed, inspectors are out there, and we will certainly continue to do that during the year. We have the existing consumer affairs inspectors, and in addition with trade measurement now being part of the portfolio, there is a capacity for some trade measurement inspectors to go there if the need arises.

The solution would ultimately be one for national standards in this area. The commonwealth has made some positive signals that it intends to go down that path. It is very disappointing that it has to be dragged, kicking and screaming and that the Victorian government has had to act on its own here. But we will keep on monitoring it, and if we find significant variation, if we find people are breaching the standards, we will prosecute them.

**Mr CLARK** — My question relates to builders warranty insurance, which of course is divided between your current portfolio of consumer affairs, your other portfolio of finance, and the portfolio of the Minister for Planning. Relating specifically to your consumer affairs portfolio, you referred earlier to the new consumer advisory service that was being established. You might want to take some aspects of my question on notice, but I am interested to know how many inquiries you are receiving at that new point and how those inquiries are flowing thereafter — in other words, what numbers are simply inquiries that go no further, what number are ones your service takes on board and resolves, what numbers then flow on to the Building Commission, VCAT or other sources, and how those various inquiries end up being resolved in one way or another.

**Mr LENDERS** — As you are well aware, Mr Clark, it is a complex area that, as you say, ranges over three portfolios. Most of the issue of a friendly place for consumers to ring in is obviously that the first port of call is Consumer Affairs Victoria. Some would obviously contact the Building Commission directly. The original policy framework was to have the Building Commission, I guess, being the hands-on body going out there and making sure the contract was carried out, and so those areas remain with the Building Commission. As far as the exact numbers, I certainly do not have those at my fingertips, but we have a regular reporting system. There is a lot of liaison going on between consumer affairs and the Building Commission, so I will certainly take that on notice for the actual details of the numbers, as you requested, who have actually utilised this new service.

**The CHAIR** — In relation to your prosecutions, you have been particularly successful, and congratulations on those. In a media release of 26 February this year, Dr Cousins stated that successful prosecutions against the unlawful traders jumped 50 per cent during 2001–02. It goes on to the point that was made earlier, I think, in terms of performance measures. How is it that there can be such a large increase in these prosecutions given you have the same level of resources? Is this just outstanding staff or good courts?

**Mr LENDERS** — I think it is a combination of outstanding staff and a former minister, Chair. It has been a targeting, and it does link to the question of Mr Donnellan before that a lot of this is the way CAV actually goes about its business of being proactive. Perhaps I should let Dr Cousins take some of his own thunder, but he is a modest man so I will not do that. It really goes to those things I was mentioning before — and ethanol is a classic example. We have been out testing for ethanol.

Now, without going into too many of the details, you want to make absolutely sure that it is right, and it can be a slow process, but it is far more effective for CAV to go out and test for ethanol in areas where either there has been a consumer complaint or the *Herald Sun* may have reported there was something, or if there is any reason to be suspicious, to go out and test among the other areas you will randomly test, than it is to wait for a complaint and then act in response to that complaint. It is that, I guess, as I said in my response to a previous question regarding motor car traders — specifically looking for who are likely to be people who are in breach and then acting rather than sitting back passively and reacting. I think it is that whole philosophy of CAV: if it is out there to protect consumers it needs to be proactive, it cannot be reactive. I think it is a change of emphasis, and in Dr Cousins's release he has listed in some of the areas here that you referred to, Chair, some of the prosecutions regarding builders, estate agents, motor car traders, finance brokers. That has been done by being proactive and being very selective in a targeted use of scarce taxpayer resources.

**Mr RICH-PHILLIPS** — The budget provides for the establishment of the Consumer Utilities Advocacy Centre, to which half a million dollars recurrent has been allocated over the next four years. Could you tell the committee what the breakdown of that half a million dollars is? Is there an allocation to physically establish a separate premises for the centre, or is it going to be part of CAV; and how is its role different from the existing role of CAV, because it sounds from the description in budget paper 2 that many of its functions are in fact duplicating what CAV already does, with the exception of the specific reference to input to utilities regulatory processes?

**Mr LENDERS** — Chair, in response to Mr Rich-Phillips, I had the pleasure of meeting with the management committee of the Consumer Utilities Advocacy Centre (CUAC), and obviously it is a very pertinent question: is this an appropriate way of dealing with protecting and empowering consumers, or is it better done through CAV itself?

Certainly the advocacy centre was established as a basis of the package by which the Essential Services Commission (ESC) was set up by the Bracks government. Part of that was asking how you actually protect and empower consumers. It is very uneven. David and Goliath sounds even compared to a consumer in your electorate, Mr Rich-Phillips, from Endeavour Hills or some other worthy suburb who would be actually standing up to a transnational utility. So part of the charter for establishing the centre was to try and empower users to have some capacity to have a more level playing field. Part of it, and part of function of the CUAC, is to provide grants — very modest and small grants. Part of its charter is to do a range of things to try and empower consumers.

A lot of those functions could be done within CAV, but certainly as part of the establishment of the ESC this was a commitment that the government made, and it also goes to the whole issue of how you engage your community in empowering itself. It is more than protection of consumers. It is also empowerment of consumers as part of our objectives. One of the ways you empower people is to give them capacity to work with other like-minded people, and this centre is one of them.

As to the details of the lease and how they operate, I know they are based in 172 Flinders Street. I would have to take on notice how much of their \$500000 goes into those front of house and back of house activities, and how much goes into grants and the like. But I think the key issue here is this is a critical area of empowering consumers. It is one of the two things that I have consistently been talking of today as part of the charter for Consumers Affairs Victoria, and to empower people you need to give them an option to look after themselves and work with like-minded people on common tasks rather than always using the other path, which is simply trying to protect. So it is an important role.

**Mr RICH-PHILLIPS** — If you can give us that detail on notice, that would be appreciated.

**Mr DONNELLAN** — Minister, going back to the prior budget, the 2002-03 state budget, paper 2, page 198, consumer affairs was allocated money to strengthen alternative dispute resolution. Can you tell us how this money is being expended or was expended this year?

**Mr LENDERS** — I am delighted to take the question. ADR, or alternative dispute resolution (ADR), is something that goes beyond consumer affairs and is across the whole Department of Justice. And I am sure other Justice portfolio ministers, particularly the Attorney-General, will be delighted to talk on ADR, but as far as it goes to consumer affairs, one of the areas that I have been involved in in my short time as minister has been the issue of electronic ADR. It is something that is a pilot. It is an experimental one, but we are trying to focus on developing a web site that actually lets consumers deal with some of these areas in an interactive fashion.

Consumer Affairs Victoria does some fantastic work in the calls it receives from people, and then when the conciliation service is put in place in trying to resolve disputes before they need to go to the Victorian Civil and Administrative Tribunal (VCAT) or some other more arbitral process. By working on this and developing it we have a process up to 30 June where we are on the web site itself seeking advice from potential users as to how this site could work. We feel very strongly as a government about, and I guess one of the big issues of the Bracks government in a new style of leadership is empowering again constituents and consumers to assist. So here, rather than just us decide deep in the bowels of executive government that we have answers for everyone we are out there interactively seeking the views of consumers from across the state as to how this service could work.

Once we have collected that information — Dr Cousins will advise me if my date is wrong, but I think that will be about 30 June when we actually receive that information — we will work from the start of the next financial year with how we actually apply that so we can have an ADR system in place where, ideally I guess, some of the principles would apply where if a person actually seeks information in the first place some of the standard things that are currently available from the call centre at CAV, those sorts of advices could be made available electronically to people.

Some of them are common, such as if you have an issue with a panel beater, where is the conciliation or an arbitrary service? Some of those are fairly easy, but the further ones, as to how you could use an electronic system to deal with some of those conciliation ones, is something that we will be working on as we get feedback from the community on and start testing some of our existing systems on through this new medium. We are very excited by it. We are researching those options, and I guess anybody who wished to follow it further will find the link on [www.justice.vic.gov.au](http://www.justice.vic.gov.au). Mr Forwood, I am sure, will find the link, and we would value feedback from him and from other members of the community.

**Mr FORWOOD** — My recollection is that two years ago there was considerable concern in the community about pay day lending, particularly in relation to, I think it was Frankston — there were a number of areas. My recollection is that the government at that stage was proposing to introduce legislation to ban payday lending. My next recollection is that it never happened. Perhaps you could tell us: is there no longer a concern about payday lending?

**Mr LENDERS** — Certainly payday lending is something in my brief time in the portfolio that I have been aware of primarily because it is being pursued through an intergovernmental and national approach, where we have a body that is looking at it to try to deal with it on a more national approach. Ongoing work is being done by Consumer Affairs Victoria officials and officials from other jurisdictions as we try to come up with an approach to deal with what has been a problem and is something we will continue to work on.

**Mr FORWOOD** — Is there still significant concern in particular parts of the state about the practice? There were examples of people paying extraordinary rates of interest over very short periods of time — direct debits from their pay.

**Mr LENDERS** — Some of that practice has been cleaned up at this stage, but the fact is we are still concerned and we are still trying to work on a national solution to this. Sometimes when trouble spots flare up and die it down does not mean that the problem goes. We have to continue to have a systematic response to it.

**Mr MERLINO** — I refer you to the 2002–03 budget. In budget paper 3 at page 189 it states:

The consumer justice strategy ... will involve targeted education and information campaigns so that the most vulnerable consumers are aware of their rights and responsibilities and are assisted in asserting these rights.

Can you tell us what your office has done to achieve this?.

**Mr LENDERS** — Giving vulnerable consumers information on their rights — we deal with this in a number of ways. Before I referred to Glen Waverley, and yesterday Maxine Morand, the member for Glen Waverley, and I had the privilege of having lunch with the Greek senior citizens. We presented them with the Older and Wiser program and we took a number of questions from people. This was a very competent and empowered group of senior citizens, so it was a great group of people to be with. That was a great example of how the consumer justice strategy works. I would like to refer to a couple of specific areas. One is with senior Victorians, and Older and Wiser was certainly an example there. I guess the more significant one is the culturally and linguistically diverse groups, and if ever there are communities that are exploited it is those vulnerable consumers. There is a range of areas we are working on there.

CAV has developed a booklet called *Mind Your Money*, which is an education teaching resource delivered through adult migrant education programs, where about 70 per cent of culturally and linguistically diverse migrants to Victoria learn English. That is certainly where we are assisting, protecting and empowering vulnerable consumers. A lot of it is just the general translation into easy-to-read information booklets on practical advice, such as accessing the private rental market. They were distributed in 15 different languages to 15 different communities quite recently. Also, how we recruit some of our bilingual community workers is always a dilemma in the sense of: who do you recruit? It is quite easy, you can assess that on need. In a call centre at consumer affairs, clearly if there is an ongoing need for a certain language area that is an area that obviously will be factored into recruitment. Also we assist with some of the grants we do to some of the groups who actually assist CAV carry out consumer affairs programs, particularly in regional Victoria — how they work.

There is a range of areas that we deal with there — residential services; bilingual officers — that is a big one; and bilingual educators. There is a whole range of areas. We simply try to identify the culturally diverse groups that are vulnerable and provide resources accordingly. It is ongoing target area. A lot of it goes to the definition of who is a vulnerable consumer. When you see a need you try to your resources accordingly. That is the way we continue to operate.

**The CHAIR** — Thank you Minister, Dr Cousins and Ms Armytage for your attendance.

**Witnesses withdrew.**

