

VERIFIED TRANSCRIPT

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Inquiry into budget estimates 2007–08

Melbourne — 30 May 2007

Members

Mr G. Barber	Mr G. Rich-Phillips
Mr R. Dalla-Riva	Mr R. Scott
Ms J. Graley	Mr B. Stensholt
Ms J. Munt	Dr W. Sykes
Mr M. Pakula	Mr K. Wells

Chair: Mr B. Stensholt
Deputy Chair: Mr K. Wells

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Business Support Officer: Ms J. Nathan

Witnesses

Mr D. Andrews, Minister for Consumer Affairs;
Ms P. Armytage, secretary; and
Dr D. Cousins, executive director, Consumer Affairs Victoria, Department of Justice.

The CHAIR — I declare open the Public Accounts and Estimates Committee hearing on the 2007–08 budget estimates for the portfolios of Consumer Affairs and Gaming. On behalf of the committee I welcome Mr Daniel Andrews, Minister for Consumer Affairs; Penny Armytage, Secretary of the Department of Justice, and David Cousins, executive director, Consumer Affairs Victoria. Departmental officers, members of the public and the media are also welcome.

In accordance with the guidelines for public hearings, I remind members of the public that they cannot participate in the committee's proceedings. Only officers of the PAEC secretariat are to approach PAEC members. Departmental officers, as requested by the minister or his chief of staff, can approach the table during the hearing. Members of the media are also requested to observe the guidelines for filming or recording proceedings in the Legislative Council committee room, and I would appreciate it if the camera focused on the speakers only, please. All evidence taken by this committee is taken under the provisions of the Parliamentary Committees Act and is protected from judicial review. There is no need for evidence to be sworn. However, any comments made outside the precincts of the hearing are not protected by parliamentary privilege. All evidence given today is being recorded. Witnesses will be provided with proof versions of the transcript. The committee requests that verifications be forwarded to the committee no later than the close of business on Friday. In accordance with past practice, the transcripts and PowerPoint presentations will then be placed on the committee's website.

Following the presentation by the minister, committee members will ask questions relating to the budget estimates. Generally the procedure followed will be that relating to questions in the Legislative Assembly. I ask that all mobile telephones be turned off. I now invite the minister to give a brief presentation of no more than 5 minutes on the more complex financial and performance information relating to the budget estimates for the portfolio of consumer affairs.

Overheads shown.

Mr ANDREWS — Thank you, Chair, and I thank the committee for the opportunity to present to you on the Consumer Affairs portfolio. To begin, in relation to those goals that drive us: obviously we are concerned with empowering consumers and traders right across Victoria, both in metropolitan and rural and regional communities, and obviously that is all about delivering a competitive, fair and safe environment for both consumers and also those offering goods and services. We are also committed to protecting vulnerable and disadvantaged members of our Victorian community in their capacity as Victorian consumers.

In terms of the framework of protections, as we see on the slide there is a generalist framework under a number of acts of Parliament, and there are also some other acts that deal with specific issues to do with particular goods and services. Increasingly we have to move across, formally and informally, towards some of the more general protection frameworks, and that is something that is not experienced just in this jurisdiction but indeed in terms of consumer protection measures right across Australian states and territories.

Turning to the output framework, this year's budget delivers \$80.9 million in total CAV output cost estimates, which represents 2.6 per cent of the total DOJ allocation of some \$3.15 billion. Those appropriations are split into two categories.— Firstly, 46 per cent or \$37.2 million is from budget appropriations, and the balance, which is \$43.7 million or 54 per cent of the total outputs, comes from trust funds. In terms of those trust funds and sources of funds, they are the trust funds that we draw down on, as listed there, giving the approximate amounts that we anticipate drawing down on in the coming year. It is important to note, I think, that the acts that establish each of those trust funds clearly define the purposes for which grants can be used, and it is on that basis that we proceed each year.

If I can turn now to financial counselling, which is an area that I know is important to many committee members and indeed to the Victorian community at large. We have 44 agencies across the state that provide financial counselling and support some 36 000 low-income and vulnerable Victorians. The total budget or total spend in relation to the 06–07 year was some \$5.1 million. As the committee would know, 2.2 — I think 2.24, to be precise — came from the Community Support Fund. That funding lapses at the end of this financial year, and through the budget process we secured a rollover of that for 12 months — not from the Community Support Fund but from the budget — and that will see a maintenance of those particular services. They are important and relevant, particularly in terms of the high levels of personal indebtedness that we are experiencing right across communities. Those services are run both in rural and regional communities but also in metropolitan Melbourne.

Thirty six metropolitan LGAs are covered and 52 rural and regional LGAs. It is an important program and one that is very well administered.

In terms of locations from where we deliver services right across the state, this is the real success story of the way CAV has operated in recent years. On 1 July 2005, seven regional offices, five principal shopfronts and two sub-offices opened following a trial of the Wangaratta office — a pilot, if you like — I think in the preceding 6 or 12-month period. The orange dots on the screen indicate where those offices are in fact located and also the Victorian Consumer and Business Centre at the bottom of the Southern Cross building in the city. The blue dots on the slide indicate where the outreach services are run from those principal shopfronts. So not only is there a permanent, five-day-a-week presence in those larger towns, including the two sub-offices in Mildura and Warrnambool, but there is also that assertive outreach program visiting many, many communities right across the state, delivering not only advice, support and advocacy for consumers but also education campaigns in terms of traders as well. It works well. It is a very important part of our performance in recent years and again across the 07–08 year.

In terms of compliance and enforcement, this is an important part of our role. We have a range of different tools that are at our disposal. Obviously the key aims in relation to compliance and enforcement are to stop unlawful conduct, to ensure that consumers get outcomes and there is redress in terms of the negative outcomes that may have been experienced by them. But also we are very focused on trying to prevent future breaches of the law and also taking appropriate action to punish those who have on a repeated or blatant basis broken Victorian consumer protection laws. Again, the slide gives you some sense of the different exercises we plan in the 07–08 year and also some of the tools that we have in terms of achieving those outcomes.

In terms of key priorities or initiatives that will dominate our work in the 07–08 year, in terms of reducing the regulatory burden as part of the whole-of-government policy, Consumer Affairs Victoria leads that project within DOJ, and that is an important project. We have some detailed targets. A three-year review plan for reducing the regulatory burden was approved in March this year and CAV drives that program from a whole-of-Department of Justice point of view.

In terms of credit many of you will be aware that my now ministerial colleague James Merlino led the consumer credit review last year, reported I think in March last year. The government committed at the election to deliver, pursuant to the government's response to that review, each of the items in the credit review. That will be an important part of our work as we move forward this year. On lemon laws, similarly we made commitments in the election campaign to introduce a series of lemon laws to enhance consumer protection for motor vehicle purchases and other large or high-cost goods if you like. There will be a process leading into the early part of 2008 for industry and community consultation on that.

In terms of residential accommodation, we made some commitments at the election to appropriately look at and provide additional protections to residents of mobile homes and caravan parks, and also rooming houses and student accommodation was another matter we dealt with. Again I will issue very soon in the next few weeks the first of a series of issues papers to deal with those commitments and a whole range of other issues to do with residential tenancy matters.

In terms of product safety, it is fair to say that we have what is broadly recognised as the leading product safety and consumer protection framework of any of the states and territories. Continuing our national lead and the work we do in Victoria to benefit Victorian consumers will be another important part of our work as we go forward with the 07–08 year, and also implementing changes to a number of different acts, both in terms of reviewing and updating the current legislative framework but also bringing a number of new acts online — owners, corporation, conveyancing, retirement and also funerals which, whilst they have passed the Parliament, there are regs to be made and other matters to be dealt with as we approach the operative dates for each of those. So that is an overview of our performance, some of the highlights of the budget or our ongoing work and also some of our key challenges as we move forward to the 07–08 year.

The CHAIR — Thank you very much, Minister. I thank the department for its response to the departmental questionnaire which we sent out. I have asked all the other ministers the same question: what do you see is the impact on productivity of your portfolio spend, and particularly any new budget initiatives you might have in your portfolio?

Mr ANDREWS — Can I seek some clarification? You wanted me to do consumer affairs and gaming, or come back to that at a later point?

The CHAIR — I am happy to do both.

Mr ANDREWS — No worries, that is fine. In terms of productivity and efficiency, we are obviously focused on driving better outcomes in terms of the budget allocations that we have, but also ensuring that Victorian consumers and Victorians in a broader sense, from a gaming point of view — particularly problem gambling — get the best possible outcomes from the programs that we run. To go through productivity and efficiency for Consumer Affairs first, in terms of an expansion of our face-to-face services I will just direct you to the slide. That is an important part of our work. I spoke about the regional office network and those five principal offices and the two sub-offices, expanding those, as well as the outreach work as an important part of delivering better and improved outcomes to Victorian consumers.

Expansion of online services is something we have been very focused on in recent years, and we have seen very substantial growth. The number of visitor sessions to our CAV website and other associated linked websites have grown by 25 per cent each year since 2003. That is easy and convenient for Victorian consumers but is also of relevance in terms of making best use of our staffing time and staffing budget. It saves time and delivers high-quality outcomes. I think that probably relates to the next point on the slide in relation to increased use of the website. We are getting many more visitors to the website, and staff have been able to use that as a more interactive tool in a more efficient way.

In terms of our case management system for a whole range of other complaints and matters that are brought to our attention, we have rolled that out and some IT to support that. That is driving some productivity and other gains that benefit consumers and also benefit us in applying the resources we have to each of those important consumer protection tasks.

Part of the efficiency, the dividend that it has paid to us if you like, is in terms of expending some of our legislative roles. As I said, there are four acts that have passed the Parliament that are yet to hit their operative dates. We have been able to service those — for instance, the funerals act — because we have more efficiently used the resources provided to us by the government, and also we have been able to expand the role we play in terms of ensuring that traders and others across the community comply with relevant consumer protection law through the efficiencies that we have also maintained and also been able to achieve over time. So productivity and efficiency, best use of the resources we have got to drive better outcomes — it is no good having efficiency for its own sake; it has got to be about outcomes for Victorian consumers — that very much dominates our thinking and the way in which we approach the task we have.

Just bear with me while I find information in relation to gaming. This may be a bit more concise in the context of the presentation I will make. The budget this year, the 07–08 allocations, builds on past investments and achievements we have made across the gaming portfolio, particularly in relation to problem gambling services. As you know, Chair, in October last year we launched Australia's most comprehensive response to problem gambling — the \$132.3 million *Taking Action on Problem Gambling* statement, a fully funded 5-year plan that takes us through to the 2010–11 year. As part of that, we have improved systems in terms of delivering support and assistance and care to problem gamblers across the Victorian community. As part of *Taking Action on Problem Gambling*, that budget allocation delivers \$4.3 million over five years to allow a centralised booking system and the IT case management functionality that sits underneath that. The practical impact of that is that when a caller rings up the gamblers helpline, they will be able to make a direct appointment at that point. That is obviously about efficiency — getting a quicker response, if you like — so that those who are in crisis or need urgent care and need that sort of support quickly can get that. Again, it is about making the best use of an amount of money that is actually growing, but it is also about meeting some of those demand pressures we face.

On from that, across both consumer affairs and gaming, there is a unique opportunity given that I hold both those ministries and both run, either generalist financial counselling, which I spoken about, but through gamblers help and our record spend there, there is a problem gambling financial counselling program also. Some of the clients are common to both those services. Certainly many of the agencies that actually deliver that service on the ground are common, and they have lines of funding from both of those programs. We have identified, building on some work done a little while ago, that there is an opportunity to have more efficient program delivery, not only to benefit clients but to benefit those NGOs that run both those services.

The important thing there is that I think that is a platform not just to deliver better services in CAV generalist financial counselling and problem gambling financial counselling but, once we get that right and see some improvements there, to deliver what I think might be an effective platform for some other Department of Justice services — victims of crime, for instance, and a range of others. It would be my hope and expectation that, once we had built on that model, that in turn would be a platform to perhaps reach out to the Department of Human Services, whether it be drug and alcohol clients, mental health clients or a whole range of others. That again is about delivering efficiencies within government that can directly benefit consumers, many of whom are common to agencies that are multi-funded or actually need the services that are provided across those different lines. I think that gives you a summary of gaming.

One further point I will make is that, again as part of *Taking Action on Problem Gambling*, in July this year the centre for excellence in problem gambling research and treatment will start. More than \$4 million has been committed to that joint venture between Monash University and the University of Melbourne in terms of driving better research and other efficiencies in terms of treatment services. That is a broad suite of different initiatives as we identify them to try and drive productivity.

The CHAIR — That is good. I assume you will talk to your colleagues in Department of Human Services and Department for Victorian Communities to try to get some further gains in regard to those sorts of programs of non-government organisations.

Mr DALLA-RIVA — Minister, I refer you to budget paper 3, page 169, which is ‘Protecting consumers, promoting and protecting consumer interests’. It relates to the performance measures. I note that if you compare the 05–06 actuals to the 07–08 target, in fact every single performance measure is going backwards.

In quantity, you are carrying out fewer inspections and compliance activities. You are registering and licensing fewer businesses, and you are offering less advice. The quality of services has declined from that measurement as well, and you are taking longer to deliver them, with timeliness down from 94.3 to an expected target of 90. The only thing that has gone up is the total output cost, which has grown from \$64.4 million in 05–06 to now a target of the forward estimates of 80.9, a \$16.5 million increase in two years. Minister, why has this budget increased so significantly when, despite your overhead of productivity and efficiency which spoke about a lot of these performance measures, you are delivering fewer services of a lower quality and taking longer to do so? Are the consumers of Victoria getting good value for their money?

Mr ANDREWS — I would argue that Victorian consumers are getting good value for their money, and they are receiving first-class services from Consumer Affairs Victoria. We take the portfolio and the responsibilities we have very seriously.

If I can take you through each of the variances, if you like, to deal with those matters. In terms of total outputs and the variance in terms of that bottom-line number that you referred to, I might get Dr Cousins to augment my answer a bit in terms of monies from trust funds — I think that accounts for a fair bit of it. But if we go through the first in terms of the variance between the 05–06 actual and the 06-07 target on inspections, compliance, monitoring and enforcement activities, it is 20 per cent above target in 05-06 which is mostly attributed to CAVs Commonwealth Games consumer protection strategy, which I think is broadly acknowledged in the community as having worked well. That involved a very dedicated focus in relation to trader education in terms of promoting compliance with consumer protection law. We were able to do that very effectively given that it was an intensive campaign over a short period of time, and it was concentrated activity within the CBD mainly. That increased trader activity and education is less complex, if you like, than some of the other matters we deal with, so we were able to do that very well and there was obviously a very direct need, given the Commonwealth Games, the number of visitors and some of the issues that presented over that. So that is what underlies that difference.

In relation to the variance between the 05-06 actuals and the target for 06-07 in terms of registration and licensing transactions, those measures include registration and licensing transactions in a broad sense; 5.9 per cent over target in 05-06. It is obviously a demand-driven measure and the major components of that relate to occupational and liquor licensing, the registration of business names and also a range of residential tenancy bond transactions. Therefore, a property market, a buoyant and/or tight property market has an impact on that. At 5.9 per cent I think that is broadly within acceptable limits of plus or minus 5 per cent.

In terms of written advice provided, the variance between the 05-06 actual and the 06-07 target, it measures written advice provided, that includes emails, predominantly from our inquiries branch in relation to consumer and residential tenancy issues in a broad sense — and it does include emails, I can confirm that. The Commonwealth Games consumer protection strategy involved increased awareness raising for consumers, as I said, and traders, and the number of written advice provided, using the language from the budget papers, was a logical by-product of that campaign, and the intensive effort we had over those months in the lead-up to and during the Commonwealth Games. That measure also includes written advice from the dispute resolution branch within CAV regarding residential tenancy issues; issues in relation to estate agents and the resolution service we run for them; Building Advice and Conciliation Victoria, and again the position of the property market has a direct bearing on that as well; that is effectively what underpins the variance there.

On the bottom-line variance between the actuals and the 06-07 target, trust funds, as you know, are expended via an application process based on strict criteria, and it can be difficult to predict what the outcome is with any certainty in relation to the applications that might come forward. The total amount of applications were less than we had expected for the Victorian Property Fund in that period — that is, \$4.8 million of underutilisation of funding from the VPF. In terms of other matters included under that line item, there was also underspending in Residential Tenancies Fund, domestic building fund and the Motor Car Traders' Guarantee Fund, or less spending. I might ask Dr Cousins to supplement that with any additional information.

Dr COUSINS — The only point perhaps in relation to the outputs, I would just point out that our anticipation is that the expected outcomes over 2006-07 will be significantly higher I think in all indicators here but for perhaps the telephone services. These expected outcome figures were estimated in February, so with further data we think that those outcomes will be significantly higher. I think the minister has explained the key difference in terms of the funding, the output cost line. We were significantly under expenditure in 05-06 on the trust funds, and that is related to grant applications. The additional amount expended in 06-07 over the target really related to additional funds that were made available to us through the Department of Justice for a range of matters including work on best practice regulation and alternative dispute resolution — major projects that the department has going.

Mr DALLA-RIVA — In terms of the expected outcomes, I know we are an estimates committee and we do not like to look backwards — we are told — but can we get those updated figures? Obviously you have more up-to-date figures. Perhaps we can put that on notice?

The CHAIR — I assume they will be available at the end of June.

Mr ANDREWS — At the end of the financial year I will be happy to make that available when we have real data at that point.

The CHAIR — I am sure we will take it up in our outcomes process.

Mr DALLA-RIVA — The doctor has already said they are going to be higher, so there must already be some data there.

Mr ANDREWS — Mr Dalla-Riva, I will take advice on whether we can furnish you with updates before the end of the financial year.

Mr DALLA-RIVA — I know this is estimates and we cannot talk about the past in this committee.

Mr PAKULA — Minister, if we can stay on the same page — page 169 — and the output 'Inspections, compliance monitoring enforcement activities', which is the heading. I am interested in this issue of underquoting on the auctioning of houses. It has been pretty topical lately, so I would appreciate some advice about what Consumer Affairs Victoria has been doing to regulate this practice, and how those practices will be regulated in 07-08.

Mr ANDREWS — Thank you, Mr Pakula. It is a topical issue and an important one. That is why in 2004 the government made changes to the Estate Agents Act to deal with the issue of underquoting. We created a specific offence in relation to this matter. It is a serious issue and I will be able to report to you about some of the compliance and other enforcement exercises we have been undertaking in recent times. It is important to note, though, that a property cannot be advertised for less than the estimated selling price on the exclusive authority of sale document, where the agent signs an authority with the vendor and provides an estimate based on his or her

expertise in like property sales in that given area. But effectively the test is that the agent must satisfy him or herself that the price is a fair and reasonable one based on their expertise in that field, and it is about what a willing, but not anxious, buyer would pay for that particular property.

We have a very tight property market at the moment in terms of auction clearance rates — in the order of 85, 86 or 87 per cent. So particularly in inner Melbourne — within a 10 or 15-kilometre radius — we have had a situation where those clearance rates are very high, and again, auction campaigns have been very busy and we have been seeing very substantial prices achieved. It is important to note, though, that just because a house sells for more than it was advertised at does not mean that it was necessarily underquoted; it was not necessarily a breach of the specific provisions of the Estate Agents Act. The only way that you can effectively determine whether a property has been underquoted is to look at the figure that is on the exclusive authority, and then compare that with the figures quoted during what is usually a four-week auction campaign. To that end CAV inspectors have, over the last couple of weekends, run what you might call a blitz, if you like, and 73 property auctions have been visited by Consumer Affairs Victoria officers, mainly in inner Melbourne but there have been some, I think — —

The CHAIR — In my electorate I think, Minister.

Mr ANDREWS — I think the Chair notes correctly; some of them were in the Burwood area. It is not just about inner Melbourne. These offences can occur in other parts of the community. There have been some in the outer suburbs, and some of our compliance activity was in fact in rural and regional communities last weekend, in Bendigo and Elmore. Those CAV officers did not just monitor underquoting; they were looking at dummy bidding and a range of other issues to make sure that the Estate Agents Act and the Fair Trading Act were being appropriately followed. As a result of those 73 auctions, there are currently three estate agents where it can be alleged underquoting has in fact occurred. They are being appropriately investigated by Consumer Affairs Victoria, and appropriate action will be taken against them provided the appropriate evidence can be dealt with. It is important to note as well, Mr Pakula, that the penalties for an estate agent who breaches the specific underquoting provisions of the act are very, very substantial. The fines are up to \$21 000. On that compliance exercise, there are three under investigation at the moment. Over time — since 2004 — we have had a situation where 29 agents have been formally warned, in terms of there was not enough evidence to proceed to any further action but they have been formally warned — —

Mr BARBER — Sorry, what was that figure?

Mr ANDREWS — Twenty-nine agents have been formally warned since these changes became operative in 2004. A further five agents are currently being investigated, not as a result of this blitz over the last couple of weekends but as a result of other compliance work over time. I think one or two of those are not yet on foot in a court sense but are not a long way away from that, and officers of Consumer Affairs Victoria are pursuing that with some vigour. That is where we have got to in terms of the overall compliance and enforcement measures. It is also important to note that at my first meeting with the Estates Agents Council on 24 April I raised with it this issue. It has a watching brief on these issues. It is one of a number of different projects that the previous minister gave it, and I was keen to reinforce the importance of looking at this. I have since written to it and specifically asked it to provide me with some detailed advice on whether the current framework adequately protects Victorian property buyers and also ways in which we can better educate the sector on how to actually comply with the provisions of the Estate Agents Act and any other changes that they might view, other ways in which we can improve the operation of that section of the Estate Agents Act.

It is a serious issue. It has got a lot of press in recent times, but we have got some history on this. We took the steps necessary in 2004 and will continue to deal with this appropriately to drive a properly transparent auction sector, noting that it is a very tight property market, as I said, with clearance rates at 86 to 87 per cent on any given weekend. The key point here, if I could conclude on this point: what I want to see happen is auction results in May directly affecting the estimates that the agents makes in terms of what a willing but not anxious buyer would pay. The auction results in May start to influence very clearly what the authority figures are for June, July and August. Some would argue that that is not happening. That is why we are getting the Estates Agents Council, which has history with these matters, to have a look at it in some detail and provide us with some detailed advice soon.

The CHAIR — Thank you, Minister, I would appreciate that of course because I raised this in Parliament only a couple of weeks ago. I had a meeting with Adrian Jones at the Estate Agents Council just the other day urging some further work to be done in cooperation with yourself and Consumer Affairs Victoria.

Mr BARBER — I guess this is a follow up to Mr Pakula's question. If you had a blitz last weekend and covered 73 auctions — —

Mr WELLS — The last two weekends.

Mr BARBER — The last two weekends — how many auctions would you have covered since the 2004 laws came in and at how many events did that occur? You have said how many warnings were issued: why do you think there has only been two prosecutions, and what is your forward program for this coming year in terms of enforcement?

Mr ANDREWS — Thank you, Mr Barber. I will need to rely on Dr Cousins in terms of enforcement activity that pre-dates my time in the portfolio. It is an important question, and if we have got that information at hand, we will give it to you. If not, we can agree to come back to you on notice in terms of some of the detail on compliance that we have done over time.

The CHAIR — Particularly focusing on the work that we are doing on the budget.

Mr ANDREWS — I think it is important to note that in recent times we have had a blitz, as you noted, over the last weekend and the weekend before that. We put in place these particular laws back in 2004, and we have a fundamental interest in making sure that those right across the estate agents sector effectively adhere to them. At the end of the day you have to have an enforcement regime in order to make sure that that happens.

I am not sure of the exact detail of how many auctions have been visited over that time, but I can give you and other members of the Public Accounts and Estimates Committee a pretty firm undertaking that I will ensure that appropriate enforcement action is taken and that this will be a priority for us going forward. Obviously I do not want to pre-empt the advice that I will get from the Estate Agents Council. I have asked it to deal with the issue of compliance as well, and it will provide us with some detailed advice, I would think, in the next six to eight weeks, and then we will look at that in some detail and take whatever is appropriate action from that point. Dr Cousins, you might want to supplement that?

Dr COUSINS — Yes, I can say that since these legislative changes came into place in 2004 we have regularly in fact conducted compliance work in this area. We have had a number of blitzes in terms of inspectors going out en masse to supervise auctions, whereas the minister said they have covered not just issues of underquoting but also dummy bidding and so on. As a routine we conduct compliance inspection visits, and we have been doing this in both the metropolitan area and regional Victoria. For example, late last year we had a visit to the Geelong area, where a focus of that particular compliance action was in fact to look at the issue of underquoting in real estate. This is an activity that — we do not clearly need to rely entirely on auctions because whether a property was underquoted, it may have been sold at auction or it may have been sold without auction. So what we do is obtain details, if you like, of the authority to sell, we obtain and regularly monitor sale prices and we obtain information on advertised prices. This is ongoing activity.

Mr BARBER — Can you give me some figures on that? You said 'regularly' and you said 'en masse'.

The CHAIR — We can take that on notice, I think.

Mr ANDREWS — We have indicated there was a Geelong compliance exercise in the estate agent sector in the broader sense, and one of the key parts of that was underquoting, but we will come back to you, if you like, with some detailed figures on it.

Mr BARBER — Have you got a forward-looking program in relation to the estimates in the next 12 months?

Mr ANDREWS — I would hope that I have made myself clear that the blitz in the last couple of weekends is something that — I will not say 'pushed' — I certainly have been keen to see that compliance and enforcement activity occur, and I will continue to make that a particular priority. Notwithstanding the fact that I have asked the Estate Agents Council to come back with some detailed advice, and I do not pre-empt that, we will continue to visit and check auctions and ensure that the law as we put it in place in 2004 is being effectively followed by estate agents, not just in inner and urban Melbourne but right across the state.

The other point is that compliance and enforcement activities are one important part of this, but consumers who have got a complaint should come forward. The advice I have is that in any given year we have around 130 000 auctions. In the last two financial years — 04–05 and 05–06 — we have received less than 100 complaints in respect to underquoting. But this year — between July last year and 31 March this year — we have received about 60 complaints. We will do the compliance and enforcement work, but a part of that as well is that consumers should feel confident and should come forward if they have got a complaint to make and we will make sure that that is dealt with.

The CHAIR — Thank you, Minister. I think the REIV has also issued some new guidelines, has it?

Mr ANDREWS — That is exactly right, Chair. The REIV has issued a range of guidelines on how to actually quote a house — what language should be used, in their view, and what language should not be used. They clearly understand, and agents across Victoria clearly understand, that unless the public feels confident about the way in which they conduct themselves, ultimately they could undermine consumer confidence in the services that they offer.

Mr SCOTT — Minister, I refer you also to page 169 of budget paper 3 and the output ‘Protecting consumers’. I note in your presentation for key initiatives for 2007–08 one of the key outputs was ‘Residential accommodation’, and I noted you also made reference to caravan parks, which is a particular interest in my electorate. Can you please advise through this output what initiatives will be forthcoming in that year in this important area?

Mr ANDREWS — I thank you, Mr Scott, for that question, and it is an important matter. I know your predecessor, Michael Leighton, as the member for Preston was a passionate advocate on behalf of residents at the Summerhill — I hesitate to say — ‘caravan park’; I think they are described as a residential park.

Mr SCOTT — That is their term for themselves, but they have been found by VCAT to be a caravan park.

Mr ANDREWS — Yes, which has a direct bearing on which consumer protection framework covers them.

The CHAIR — Let us keep to the general protocol, shall we?

Mr ANDREWS — As I said in the presentation, we made some commitments at the election last year to take action in this area. In the presentation I also noted that one of our key focuses is on vulnerable and disadvantaged members of communities right across our state. I will issue very soon, in the next few weeks, the first of a series of detailed issue papers not only for people from the tenancy sector but the community more broadly, to provide written submissions to us in terms of delivering on those election commitments. The first paper will deal with issues of rooming houses, caravan parks, mobile homes and some other important tenancy matters. At the end of the day I think security as a tenant is no less important than security in terms of your place of employment. We have heard a lot about that in recent times. It is a debate that is happening at the national level. These are fundamentally important issues: it is about how you define yourself; and it is about your sense of where you are going in terms of the ongoing sort of security that underpins the decisions that you make. These are vulnerable and disadvantaged members of the Victorian community, or many of them are, and we will deliver in full on the election commitment we made to fully examine these issues.

The paper that will go out in the next couple of weeks will be an interesting test of different views. There are tipping points, if you like, and we have to balance out the ongoing availability of some of these particular forms with the rights and other obligations that not only those who provide the services have but also those who use them have under various consumer protection frameworks. But we will deal with this in a robust way. These are important matters. We made commitments on them in the election last year. That first paper will be issued. As I said, it will be one of a series, because there are many issues that can be dealt with as part of this, and I am sure that those residents at the Summerhill caravan park or residential park — whatever the owner decides to call it — will have no less passionate an advocate in you, Mr Scott, than they did in the former member. I think the government will be able to deliver improvements for them in terms of the consumer protection framework that ultimately governs the residential tenancy that they enjoy.

Mr RICH-PHILLIPS — Minister, I would like to ask you about the inspection, compliance monitoring and enforcement activities of CAV. Your last annual report — the 05–06 annual report — indicated there were roughly 18 500 written matters dealt with by CAV and that that had been rising for the last three years. However, against that increasing number of complaints the department is only targeting 7750 compliance and enforcement activities, and that has been consistent at that target level for the last several years.

Likewise, according to the annual report, there were only 47 actual prosecutions undertaken for the last couple of years. So we have got a rising number of complains but a static target level of enforcement activities and prosecutions. Why are we not seeing a commensurate increase in the target level of enforcement, given the rising number of complaints?

Mr ANDREWS — To deal with the second part of your question first, Mr Rich-Phillips, there is a range of different enforcement tools, and I think we went to some of those in the presentation. We have enforceable undertakings, and we have a whole range of other measures. We do not necessarily need to go to court and have a successful prosecution against someone who has breached the law in order to derive a better outcome for affected consumers and other consumers who might be affected by those issues over time. I just point you to the fact that there is a broad arsenal, if you like, or a number of different tools or weapons that we can use against those who have little or no regard for the interests of consumers.

In terms of written advice, I might ask the secretary or Dr Cousins to go further on that. I would take the opportunity to point out that, moving forward, we have recently instituted some changes. In the past the consumer who rang up our 1300 number to make a complaint on a given issue would need to write us a letter and move forward on that basis. We have trialled and now have online, I think, a system where you no longer need to actually do that. Complaints can be taken over the phone, and we can deal with those moving forward on that basis.

I would hope that was reflected in the figures and may account for the issue you have raised. I am not sure; I did not quite catch whether you were looking back or forward. But that is an important point to note as well in terms of greater access to the sort of supports and the other assistance we provide to consumers from right across the Victorian community. The secretary or Dr Cousins might like to add to that.

Ms ARMYTAGE — I will just make a general point about regulation, because I think this is a relative framework that we are operating in, in terms of where you get the balance between compliance and enforcement, and education of traders and others in these fields. This has been why consumer affairs has been very active, looking at better practice regulation and looking at our practices relative to other regulators across Victoria, nationally and more broadly.

I guess it has been a deliberate strategy on the part of consumer affairs to keep a balance between compliance and enforcement activities and education activities. I think that is going to be ongoing work that will be done to make sure that we use the right tools to try to encourage compliant and responsible conduct on behalf of traders and others, and that will remain an emphasis in this program into the future.

We will need to look at whether all of our performance measures adequately take account of that balance and make sure that prospectively we think we have that balance right. Compliance and enforcement activity will also always be a priority where people breach the law and regulations and where there is harm done to consumers. But it is, as I said, something about striking that right balance, and Dr Cousins might like to add specifically on that.

Dr COUSINS — I think the points have been made. There is clearly, if you like, a narrowing funnel here between complaints received, number of investigations conducted and then a range of actions that might take place, including, if you like, at the bottom end prosecutions. There has been a deliberate change over a period of time to emphasise more civil and administrative approaches to dealing with some of the problems that we deal with. In many cases prosecutions are not proportionate, if you like, to the matters at hand. We think that prosecutions are appropriate where there is deliberate and significant detriment associated with action. So we are emphasising a range of these other measures, such as anything from warning notices and infringements — court enforceable undertakings are a significant and growing part of our work — and also civil injunctions. Without going back over time to draw out all the nuances of your question, I do not believe there has been any diminution at all in our enforcement effort — in fact, quite the contrary, we are being very targeted and very active in our enforcement activities. Just to give you an example of that, we have something like 75 matters at the moment in the courts.

Mr RICH-PHILLIPS — Does the line item in the budget reflect the educative approach the secretary spoke of, if that is a mechanism CAV is using in approaching rogue traders, if I can use that term? Is that picked up in that line item of the 7750 target, or are they excluded?

Mr ANDREWS — No. It is compliance monitoring and enforcement. In terms of our overall objectives in terms of educating consumers, there are a whole range of different programs we run.

Mr RICH-PHILLIPS — Educating traders.

Mr ANDREWS — Educating traders: I spoke at some length in relation to the role that the regional office network plays, and that is an important platform to deliver those services. In terms of — —

Mr RICH-PHILLIPS — Perhaps you might be able to — —

The CHAIR — I think you are onto a good point here. It might be useful maybe in looking at the future in terms of your outputs perhaps for next year to actually put a new output in in terms of emphasising the education side of things.

Mr RICH-PHILLIPS — I guess it is a case of when you receive a complaint from a consumer and you then respond by some sort of educative process with your trader, how many of those are you doing on an annual basis is the type of measure we are talking about.

Mr ANDREWS — I think there is some merit to that in terms of obviously addressing the concerns that the consumer has brought to our attention, but also again as part of our overall approach in making markets work better. It is not just about empowering consumers; it is about raising the level of awareness in terms of consumer protection frameworks from those who provide goods and services. I am happy to take some advice on that and we might come back to you.

The CHAIR — That would be good. We might wrap up the consumer affairs portfolio here. It would be good if you could also take on notice and provide us with some more information on the financial counselling which you mentioned and how you are looking to assist low-income Victorians who experience this.

Mr ANDREWS — As I said, Chair, it is an ongoing project and we will be more than happy to keep the committee informed of some of that work in terms of the synergies between the different portfolios that I have responsibility for.

The CHAIR — Mr Barber has a number of questions for you which I will write to you about rather than read them out.

Mr ANDREWS — I look forward to that.

The CHAIR — I thank Dr David Cousins for his attendance.

Witnesses withdrew.