



Submission in response to:

"Australian Consumers and Money"

A Discussion Paper

By

**The Consumer and Financial Literacy Taskforce
June 2004**

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and the Consumer Law Centre of the ACT

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About Care:

Care Inc has been the main provider of financial counselling and related services to low income and vulnerable consumers in the ACT, since 1983. Care's core service activities include the provision of information, counselling and advocacy to low income and vulnerable consumers experiencing problems with credit and debt. Care also has a Community Development, Education and Research program, makes policy and law reform comment on issues of importance to its client group and has operated the ACT's only No Interest Loans Scheme since 1997.

In late 2002, Care was selected as the host agency for the Consumer Law Centre of the ACT. The CLC was officially opened in January 2003 and offers a range of legal services including representation and litigation in relation to consumer law issues. The service employs a full-time practicing solicitor.

Care receives funding from a variety of contributors, and specifically acknowledges the funding that it receives from:

- ACT Government, from the Department of Disability, Housing and Community Services and the Department of Justice and Community Safety,
- The NSW Financial Counselling Trust Fund administered by the Office of Fair Trading
- The Commonwealth Financial Counselling Program, administered by the Department of Family and Community Services.

In the 2003-2004 financial year, Care responded to over 2200 new requests for assistance¹. During the same period, Care presented educational information to approximately 950 participants in person and many more through the circulation of literature, media comment and so on.

Summary and Recommendation:

Increasing financial literacy is a worthy goal. Educating consumers is however only one part of ensuring safe, fair markets. Low income and disadvantaged consumers in particular require a more coordinated approach than that envisaged in the Discussion Paper.

Recommendation (outlined in more detail in the responses to questions 3.2 and 4.1 to follow):

Australia should develop a facility similar to the National Consumer Council in the United Kingdom:

- **to coordinate consumer issues and input at a national level and across markets,**
- **to ensure that access and fairness issues for low income and disadvantaged consumers receive priority and**
- **to balance the relationship and policy consideration between competition, and consumer and consumer protection issues.**

General Observations:

For several years consumer education initiatives, particularly financial education, have taken central stage in policy discussions at the Commonwealth level. The Australian Securities and Investments Commission has played a key role in drawing attention to the need for clear, accurate, timely and appropriate consumer information. One of the projects ASIC undertook in this respect, was the release of the Educating Financial Services Consumers Discussion Paper in July 2000.

In several submissions to the ASIC Discussion Paper, whilst supporting the importance of education initiatives, Care expressed the need for caution. Specifically we noted that:

- the needs of low income and disadvantaged consumers should be made a priority, given the inherent imbalance in their market power and the disproportionate impacts on them when things go wrong,
- consumers must be engaged to ensure that materials are actually responding to real, rather than perceived needs and (the big one)
- education is just a sub-set of the larger responsibility to deliver safe, fair consumer markets for all consumers, regardless of means.

To quote directly from our first written submission to the Educating Financial Services Consumers Discussion Paper:

“...the existence of educational material does not attest to its effectiveness or appropriateness. Caution should be exercised to avoid creating false expectations for vulnerable and disadvantaged consumers that regulatory awareness of issues, automatically translates to consumer protection.”ⁱⁱⁱ

The language has changed a little since the ASIC paper of July 2000, with the current buzzword title being “financial literacy”. In spite of the evolution in terminology, the central theme of what the Taskforce is considering remains consistent with the education push. Our call for caution also remains the same. After several years of watching the dual juggernauts of self regulation and competition dominate Australia’s regulatory landscape, however, we believe the requirement for a more detailed and considered approach is immediate.

As noted in our recommendation and in more detail in our responses to Questions 3.2 and 4.1 to follow, we believe Australia needs a National Consumer Council, similar to that in operation in the United Kingdom. Financial literacy should be one issue such a body considers, but one issue only, as part of a coordinated, non-market specific consumer focal point. Failure to act in a coordinated way, recognising the vital importance of consumer interests at a national level, will ensure that Australia slips further behind international best practice. For the clients of services like Care, not expanding discussion from the relatively narrow focus of education and literacy, ignores the exclusion and unfairness that is often at the heart of their consumer experiences.

We also believe we should make mention of the accessibility of the Discussion Paper and the nature and timing of the consultation. Both in our view have been poorly handled. Community and consumer groups have noted

problems in accessing large and complicated documents online in communications with the Consumer Affairs Division of the Commonwealth Treasury over a number of years. Calls for simple, text only versions of electronic documents continue to be ignored. In addition, requests for hard copies of consultation documents rarely receive response until well after the public release of material.

Although our experience in receiving the material was not great, it was apparently far better than many of our colleagues in the sector. We are aware of a number of organisations still chasing copies of the Discussion Paper with the closing date for submissions imminent. In addition, we have supplied, or assisted in the supply of the paper to several consumer groups with which Care has contact.

As well as problems with the documentation of the Taskforce's work, information about and access to the public forums has been difficult. For us, there was no forum in Canberra and information about the Sydney meeting arrived a few days before the meeting was being held.

For an exercise that is supposed to be of national significance, this approach to consultation, particularly for those responding to the needs of low income and disadvantaged consumers, is not good enough. It fundamentally undermines the quality of the information gathered.

Responses to questions in the Discussion Paper:

Chapter 2 - The Consumer

Question 2.1:

Economic forces and government intervention can both improve and constrict a consumer's ability to understand and act on information. As such, information providers must make assessments about the extent to which information alone can change consumer behaviour.

Are economic and government factors sufficiently understood in information provision to consumers?

Read in the context of the material contained in the Discussion Paper, we believe the statement preceding the question requires challenge. For example, the paper makes the following assertions on pages 16 and 17:

"The recent introduction of the Financial Services Reform Act 2001 (FSRA) has established a harmonised licensing, conduct and disclosure regime for all financial product providers with the aim to improve the level and quality of information that is available to consumers. The information that is provided is required by the legislation to be 'clear, concise and effective'.....

Consumers now have more information than ever to comprehend and the need for a coordinated and consistent approach to disseminating information, particularly from government, has never been so strong."

We would have hoped the Discussion Paper might present a more independent appraisal than the foregoing suggests. Yes there is more information produced and circulated under FSRA. Linking that to an apparent conclusion that we now have harmonised licensing, conduct and disclosure is not the current experience of agencies like Care and the Consumer Law Centre of the ACT. In fact the opposite is often the reality.

For example, the exclusion of credit from the FSRA regime has left large areas of service delivery uncovered by the licensing regime. The mortgage market, although ferociously competitive and replete with information of widely varying quality, is a minefield for consumers. Brokers and credit providers not covered by FSRA can pick or chose to take part in the lame versions of self regulation that exist, without fear of real consequence if they chose not to take part or to participate in a token way only.ⁱⁱⁱ

How does one educate consumers about dysfunctional, evolving or unsafe markets? In our view, it is a responsibility of government to not only investigate failures and provide appropriate warnings, but to act to fix fixable problems.

The current Parliamentary Secretary to the Commonwealth Treasurer, in his role of overseeing consumer protection, supports a low-key view of government responsibility. In a speech to a consumer conference on World Consumer Rights Day, 15 March 2004, Minister Cameron noted:

“Frankly I am a defender of the reluctance by this Government to be too prescriptive, to assume that there is a regulatory cure for every human ailment, for every failure in the flow of information and for every evidence of human frailty and duplicity.....

My starting point, my first reference, is that the person with the greatest capacity to protect the interests and manage the risks of the Australian Consumer is, in fact, the Australian consumer.”^{iv}

We accept that consumers have responsibilities. Those responsibilities should not however extend to fixing market failure and unfairness. In our view the current Federal Government’s confidence in self regulation and competition has been misplaced. We would hope that the work of the Taskforce will not be interpreted or utilised as further justification for Government not acting to provide appropriate levels of consumer protection.

We also note how little attention has been devoted to critically analysing the varying motivations of the different providers of information to consumers. It is not possible to approach the question without some recognition of how disparate those motivations are. In the Discussion Paper the subject is not broached until section 3 and then in an indirect manner. Providers of information are broken into 3 sub groups: formal, informal and intermediaries. The lists cover all the main sources of information but the objectives or motivations of each, referred to on page 52 of the paper, are euphemistic. For example:

“industry associations aim to increase consumer understanding about the benefits and protections of their industry” and

“individual businesses often try to encourage understanding for take-up of particular products or services”

We understand that the Taskforce wishes to maintain a cooperative spirit in the way different sectoral interests and motivations are presented. The bland descriptions provided are however unhelpful. We would expect that even industry participants and commentators engaged with this process, would have no problem acknowledging that they try and sell things and maximise profit.

Our submission is that the question and supporting material do not recognise that an objective assessment of the relative economic and government factors are not only part of determining what information might be useful or necessary, but whether information alone is appropriate in response to a situation of market failure, or of insufficient regulatory tools.

Question 2.2:

Where we come from and our social-economic status in life are key determinants in how we access and use information. As such, it is important for information providers to recognise the particular disadvantages that some consumers face in both accessing and acting on information.

Are socio-economic factors that important? How should they be factored into what information providers produce?

We welcome the recognition by the Taskforce that different consumers will have different capacities and needs, influenced by their backgrounds and other socio-economic factors. What we are less clear about is how the Taskforce contemplates the interaction of information with factors that point to disadvantage. In Care’s view, information alone, or even as the primary focus of policy efforts, will never be an appropriate response to disadvantage. Without a commitment to understand and respond to the factors that deliver or entrench disadvantage, tailoring information to suit the “poor” will have limited impact.

Returning to the suggestion that consumers carry primary responsibility for their own well-being, we note also that low income and disadvantaged consumers often have no, or no fair choices available to them. If we view education as the main response tool we deliver no outcomes for those consumers. Instead it may create another opportunity to blame the victim, rather than understand and fix the problem.

Question 2.3:

Understanding the different personal characteristics that lead to consumer problems helps information providers decide whether they need to target behaviour rather than product knowledge in any information campaign.

Is a broader understanding of human behaviour useful in addressing consumer and financial literacy? How do we best discern the different personal characteristics of people in the community?

We agree there are benefits in understanding more about human behaviour in a consumer context. The preceding comments in response to questions 2.1 and 2.2 are equally applicable in this context and specifically:

- decent trader/service provider behaviour is also critically important and failure or refusal to behave properly requires intervention, not just consumer information,
- a more detailed analysis of the motivations of the various types of information providers is necessary and
- we question the basis for seeking to change the behaviours of disadvantaged consumers without connecting such work with activities aimed at responding to and alleviating their disadvantage.

Question 2.4:

Understanding and appreciating the differences between consumer wants and aspirations helps information providers better prioritise information while recognising that many consumers take an aspirational outlook to issues that face them.

Is an appreciation of needs and aspirations useful?

Needs and wants are interchanged between the statement and the question. In our experience, they act as quite different drivers for our client group. More and more frequently we are asked to provide support and assistance to consumers who simply have insufficient income to survive with a basic level of dignity. Improving the financial literacy of these consumers will do nothing to alleviate their exclusion from any or safe interactions with the financial services market.

There are some bright spots. Improvements in the characteristics and accessibility of affordable basic bank accounts continue. We do not agree that these improvements have been brought about by competition in the normal sense. They have however been by-products of a greater understanding of and commitment to concepts of social responsibility being embraced by the banking sector. Arguably those improvements could have been delivered sooner and in a more consistent manner had there been some government leadership on the issue.

The example of the basic bank account is a useful one in emphasising the usefulness but also the limitations of education and information. Low income consumers can benefit from information about what basic accounts exist and how to access them. Information and education did not deliver appropriate, affordable accounts, or increase their availability or consistency of quality.

Question 2.5:

Understanding the life event triggers behind the big decisions that consumers make, assists information providers in targeting information at the times and places in people's lives when they most need it.

Does this help? How can the Taskforce's understanding of life events be enhanced?

The life events approach may have some potential benefits, but only in so far as the events are predictable, genuinely allow for information exchange and produce reliable outcomes. For example, periods of crisis might be expected over a life-time, but the form, timing, duration and impact of such crises are as many and individual as there are consumers. How does one prepare for crisis? By "saving for a rainy day" perhaps. How does a single parent consumer, working part-time, receiving family payment to supplement her income and raising 2 children save for that rainy day? What if our single working mum gets sick, has to leave work, cannot pay basic bills like rent and utilities, let alone the credit card and car loan? In this situation making sure people understand their rights to request hardship relief under the Consumer Credit Code might be a start. That information will be of no use if credit providers refuse to grant the relief, or as is frequently the case, ignore the right set out in the legislation.^v

We also note that the life plan outline on pages 32 and 33 of the Discussion Paper appears to –

- a) write in the timing of certain events, based on current experience but without commenting on their desirability, whilst
- b) accepting others as given when their prevalence may actually be decreasing, with a variety of consumer consequences.

As examples of both, we offer the following:

- a) The suggestion that consumers enter their first mobile telephone contracts whilst still in secondary school is disturbing. It is certainly the case that more young people have mobile telephones. If the signing of young people under 18 to mobile telephone contracts is increasing, that should be a matter of concern. If, as is more likely and accords with our service delivery experience, there are more young people having the use of mobile telephones with financial implications for their parents or other adults responsible for the resultant debts, there are broader implications than accepting the phenomenon and producing information and education. We are encouraged that some work is finally being undertaken on the question of very large telephone bills, to provide early appropriate early warnings or prevent them occurring in the first place.
- b) The timelines for home purchase are shifting, as is the capacity of first home purchasers to enter the market at all. The lack of coordinated policy response is creating real problems that are likely to produce dramatic future consequences. Along with other consumer groups, Care has been critical of recent market ploys to mainstream guarantee products as a way of leveraging first home purchasers into an increasingly unaffordable market. The worst offering in our view, is that

produced by the Commonwealth Bank of Australia, in its Family Equity suite of options. All share the common failing of finding ways to make the unaffordable affordable, by placing those who receive no material advantage from the transaction at financial risk. We have just spent a generation encouraging Australians to save more for their retirement. A lack of any real policy action or lateral initiatives in response to increasing property prices has resulted in some in the market creating their own “policy” response. It is an unsafe and unfair response in our opinion, potentially placing the most important single retirement security, the family home, at direct risk.

Question 2.6:

Learning consumer and financial skills is all about building our capacity to make better decisions throughout our lives.

What skills are important to consumers? Do the consumer and financial skills presented in this section capture all relevant skills? How can we benchmark these skills over time?

In our interactions with our clients, the relationship between skills and capacity is inseparable. In our view, building or enhancing both must be seen as a joint commitment.

Figure 2.8, seeking to distinguish between “good” and “bad” debt is a perfect example of how disconnected much of the Discussion Paper is from the basic needs of low income and disadvantaged consumers. An example of good debt provided is:

“Money borrowed at a competitive rate of interest to invest in a quality asset.”

No doubt a quality asset includes an investment property, to be rented out to those who cannot afford to buy a home of their own and taking advantage of the skewed taxation relief that has fuelled an overpriced home market. An example of bad debt provided:

“The use of credit to purchase furniture or household items.”

So while it is good to borrow to purchase a home you do not intend to live in to receive the negative gearing advantage that follows, it is not good to have to borrow so your family can have household items, to enjoy a basic standard of living. Would this implied criticism include the use of community based no interest loans to purchase essential white-goods?

In the lead-up to figure 2.8 the Discussion Paper concludes that:

“Competent consumers need to be able to see past the emotions we have about debt to make good decisions.”

We agree that credit and debt is a poor and often unfair substitute for reliable, appropriate income levels. For many of our clients, borrowing is how they struggle to make ends meet.

Question 2.7:

Understanding consumers' preferences for information allows information providers to properly target their message and maximise their reach.

What information sources do consumers trust? Are consumers confused by different information on the same issue? Is information tailored to the learning style of the target audience?

How important are intermediaries such as financial advisors in delivering outcomes for consumers?

We refer again to our comments in response to Question 2.1, in relation to the need for greater analysis of the motivations of different information providers. There appears to be no shortage of resources or technical expertise brought to bear to encourage consumers to buy specific types of products, or to shop with particular providers. Whether the taskforce considers this information to be educative is not clear from the Discussion Paper.

In relation to the questions in the order they appear, we offer the following brief responses:

- Independence is valued highly. So too is the importance of the roles that financial counsellors and consumer advocates play in serving the consumer need, along with attendant responsibilities to maintain confidentiality and so on.
- Yes. They are certainly confused by messages they receive about their consumer rights when access to those rights is so frequently denied by errant or ill-informed providers.
- Our experience from over 20 years of service provision to low income and disadvantaged consumers is that although there might be frequent claims made to designing information supposedly for their benefit, few engage those consumers about their needs and in the design of material to meet those needs.
- Financial advisors are of practically no benefit to Care's client group. It is disappointing that neither this question, nor the material that supports it, make any reference to the critical importance of the work of financial counsellors and other consumer advocates.

Chapter 3 The Information Provider

Question 3.1:

The extent to which Australians' needs are met by the currently available consumer and financial education programs needs to take account of a number of factors including the following:

- **The availability of information – Are there some topic areas where there is insufficient information?**

- **Awareness of the available information and information sources – Do consumers (or teachers and other intermediaries) know what is available?**
- **Access to the available information – Do consumers know how to access information?**
- **The quality of the information provided – Is the available information clear and consistent?**
- **Efficient allocation of resources – Is consumer information delivered efficiently?**

We were not able to access and did not receive a copy of Annexure 1 to the Discussion Paper. That has limited our ability to respond to this question. Our brief responses are as follows:

- o Including and developing financial concepts into the mainstream educational system could have enormous benefits. That integration should not be underpinned by industry resourcing, unless it is clear that any material produced is absolutely independent and objective.
- o Consistency of certain core information is beneficial. Less helpful is a one size fits all mentality. For example, and as noted in our response to the previous question, our experience is that low income and disadvantaged consumers are rarely engaged about what they need and how such information might be presented to be useful and accessible to them.

Question 3.2:

What elements from overseas approaches should the Taskforce recommend in the context of the current Australian environment?

The outline of some overseas models was helpful. We were however surprised to see that the National Consumer Council (the NCC) of the United Kingdom did not rate a mention. It is our understanding that the NCC works across markets to ensure consumer issues are identified and addressed.

The NCC has been in operation since 1975. It is an institution of national significance, funded by Government, but independent of it. On its web-site^{vi}, the NCC describes its roles as follows:

“The NCC has two roles. First we carry out research to find the consumer issues of the future. Second, where change is needed, we develop policy solutions and campaign and work with providers of goods and services to ensure that these policy solutions work.”

In its work-plan for 2004-2007 the NCC has identified and committed to pursuing four strategic objectives:

“1. Public services

Aim: to orient public services towards user needs”

“2. Open markets

Aim: to promote open markets for consumer goods and services”

“3. Poor pay more

Aim: to achieve a better deal for disadvantaged and vulnerable consumers”

“4. Sustainability

Aim: to achieve a policy framework supportive of sustainable consumer choice, in line with the social environmental and economic dimensions of sustainable development”

Australia has no equivalent to the NCC and in our view it desperately needs one. We have trusted to competition and increasing self regulation to deliver all consumer outcomes. That reliance has not only not worked, it has increased the burdens carried by the least resourced and able.

Chapter 4 An integrated solution:

Question 4.1:

The Taskforce is proposing that a coordinating body be established to promote and facilitate a coordinated and targeted approach to consumer and financial information in Australia.

The body would aim to achieve this through the development of the Consumer Behaviour Model into a tool that can be used by service providers. The body would also be given a number of other functions to do with consumer and financial literacy that are currently not implemented in a comprehensive and coordinated manner. These include: research, a clearinghouse, an accreditation service to enable consumer and financial literacy to be incorporated into the school curriculum, an ongoing awareness campaign, a capacity-building grants program and a partnerships program.

Is a coordinating body necessary? Should it be Government or industry funded? What functions should it perform?

We prefer to respond to this question by raising no objection to the concept of a national focal point, but presenting a very clear idea of what that focal point should be. In our view a stand alone financial literacy coordinating body, albeit at a national level, will only ever be part of the equation. Its work would be stymied by a lack of consideration of other critically important consumer issues, like:

- how the regulatory landscape is really working,
- examples of failure and unfairness and
- how the market is really impacting on the vulnerable and disadvantaged.

We have explained elsewhere in this submission why we believe that education and information may not be the full, or even an appropriate response in all circumstances.

Funding of an NCC should remain a responsibility of government. Given that the delivery of fair trading and consumer protection functions is divided between the Commonwealth and the States and Territories, it would seem appropriate that all contribute to its formation and ongoing support. We note

also that the framework for coordinating competition policy involves all Australian jurisdictions.

Our support for an NCC type model in Australia is underpinned by the need for coordinated consumer responses, at a national level. It is the ability to act in a coordinated way that increases the likelihood of successful intervention.

July 2004.

Endnotes:

ⁱ A copy of Care's general client intake data from 1 January to 30 June 2004 is annexed to this submission. This data does not include statistics from Queanbeyan service delivery, the Consumer Law Centre or the ACT No Interest Loans Scheme.

ⁱⁱ Care Inc Financial Counselling Service, written submission to ASIC, 19 September 2000, p1

ⁱⁱⁱ We note our comments in relation to the Mortgage Industry and the Credit Ombudsman in a presentation entitled "Policy Statement 139 – Ensuring quality and reliability in the EDR landscape", presented in Melbourne on 16 June 2004.

^{iv} Ross Cameron MP, Parliamentary Secretary to the Federal Treasurer, Keynote address: "A vision for consumers in Australia", 15 March 2004, Transcription p2.

^v We refer specifically to the Hardship Relief process set out in sections 68 to 69 of the Consumer Credit Code.

^{vi} The NCC's website address is www.ncc.org.uk