

**ANNUAL REPORT OF
THE COMMISSIONER
OF CONSUMER AFFAIRS
2005/2006**



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CONSUMER AND BUSINESS AFFAIRS

OUTPUT STATEMENT

Provision of a regulatory framework where the community is informed on consumer rights and responsibilities and responsible business conduct is promoted.

PROGRAMS

Promote and regulate responsible business and industry association conduct through administration of a regulatory system that protects community interests.

Inform consumers of their rights whilst assisting conflict situations through dispute resolution processes.

These programs are delivered by the following four operational units of Consumer and Business Affairs.

- Consumer Affairs
- Business Affairs
- Trade Measurement
- Property Agents Licensing

LEGISLATIVE RESPONSIBILITIES

Accommodation Providers Act

Agents Licensing Act

Associations Act

Auctioneers Act

Business Names Act

Business Tenancies (Fair Dealings) Act

Commercial and Private Agents Licensing Act

Companies (Trustees and Personal Representatives) Act (part)

Consumer Affairs and Fair Trading Act

Consumer Credit Act

Co-operatives Act

Price Exploitation Prevention Act

Registration of Interests in Motor Vehicle & Other Goods Act

Residential Tenancies Act

Retirement Villages Act

Sale of Goods Act

Trade Measurement Act

Trade Measurement Administration Act

Uncollected Goods Act

Unit Titles Act (Body Corporate queries/disputes)

Warehousemen's Liens Act

HIGHLIGHTS AND MATTERS OF SIGNIFICANCE

MONEYSTUFF: Money Stuff is a program to improve financial and consumer literacy and is being trialled in a number of Territory high schools as a joint initiative between Consumer Affairs and the Department of Education, Employment and Training. Moneystuff includes a web based education tool and teacher resource. It is designed to equip students in the middle school years with modern day 'financial survival' skills i.e. knowledge of interest rates, consumer rights, car & mobile phone purchase plans etc.

BOOK UP: The Minister for Justice and Attorney-General, Dr Peter Toyne, launched a Book Up Discussion Paper at a Bankers Forum in Alice Springs on 17 November 2005.

Following widespread consultation and consideration of views expressed on book up, a Mandatory Code of Practice to regulate and modify book up practices is under preparation.

NATIONAL INDIGENOUS CONSUMER STRATEGY: The Territory lead the development of a National Indigenous Consumer Strategy – Taking Action, Gaining Trust (Action Plan 2005-2010) launched in Canberra in September 2005. The Strategy was accompanied by a Statement of Commitment from all Territory, State and Commonwealth Ministers to implementation of the Strategy. Annual reporting on progress is underway.

INDIGENOUS LOAN WRITEOFFS: Twenty five (25) broker initiated loans to Indigenous NT consumers, through the Commonwealth Bank, were written off following joint investigation by Consumer Affairs NT and SA and the Australian Securities & Investment Commission. These loans (total value in NT, SA and Qld - \$3.5m), were instigated by brokers providing incorrect information to the Commonwealth Bank and resulted in consumers being overcommitted financially.

RESIDENTIAL TENANCY DISPUTES: There was a significant increase (39%) in tenancy disputes lodged for resolution, either through conciliation or Inquiry. A total of 1,112 applications to resolve disputes were lodged.

REGISTER OF ENCUMBERED VEHICLES (REV'S): Northern Territory and New South Wales Ministers signed a new agreement providing ongoing protection for Territory consumers and traders purchasing second hand vehicles. Consumers are able to check that the vehicle they intend purchasing is not encumbered to a bank or finance company for an outstanding debt.

HIRE CAR COMPLAINTS: Consumer Affairs is maintaining a close watch over the activities of some hire car companies, particularly where monies are withdrawn from consumers credit card accounts for alleged vehicle damage.

ASSOCIATIONS LODGEMENT OF UPDATED CONSTITUTIONS: Under the *Associations Act* all Incorporated Associations have been required to lodge new constitutions by May 2006, in order to meet minimum governance and accountability standards. Up to 900 new constitutions with revised association objects and purposes were lodged in 05/06, with many using the Model Constitution provided as a guide.

BUSINESS NAMES: Charges for the registration of Business Names were announced in early 2006, with commencement on July 2006. Advance notice to industry elicited little adverse response with most comment supportive as it would enable better protection for legitimate business (and prevent 'name squatting'). The fees are \$60 for the registration of a Business Name and \$50 for renewal triennially. This is significantly lower than fees interstate.

NORTHERN TERRITORY AS CHAIR OF MINISTERIAL COUNCIL ON CONSUMER AFFAIRS (MCCA): The Northern Territory Minister for Justice and Attorney-General was Chair of MCCA from 1 September 2005 (until 1 September 2006). The Commissioner was Chair of the Standing Committee of Officials of Consumer Affairs during the same period. MCCA was convened in Alice Springs on 16-17 May 2006 and significant issues addressed included:

- The Do Not Call Register
- Unfair Contract Terms
- Regulation of Property Investment Advisors
- Reform of Product Safety and Trade Measurement

FUEL WATCH: Retail fuel price monitoring is undertaken throughout the 5 major urban centres in the Territory (Darwin, Katherine, Alice Springs, Tennant Creek and Nhulunbuy) and published on the Consumer and Business Affairs website under "NT Fuel Watch". Regular and verifiable monitoring of prices was a recommendation of the Parry Inquiry Into Fuel Prices in the Northern Territory.

LEGISLATIVE CHANGES: The Justices Legislation Amendment Bill containing amendments to the *Agents Licensing Act*, *Associations Act* and *Co-operatives Act* was passed by Parliament in March 2006.

The *Antisocial Behaviour (Miscellaneous Amendments) Act*, which amended the *Residential Tenancies Act*, was passed allowing the landlords or "interested persons" to make application to terminate a tenancy if a premises repeatedly caused nuisance or interference with reasonable peace and privacy of a nearby resident.

Amendments to the *Consumer Affairs and Fair Trading Act* were introduced into Parliament in June 2006 to:

- Give clear power to the Commissioner to make public warnings and to name business, products or people.
- Clarify that door to door trading provisions of the Act also applies to telemarketers

NATIONAL MEETINGS

During the reporting year, officers of Consumer and Business Affairs attended national forums, including the:

- Ministerial Council on Consumer Affairs (MCCA);
- Standing Committee of Officials of Consumer Affairs (SCOCA);
- Fair Trading Officers Advisory Committee (FTOAC);
- Consumer Product Advisory Committee (CPAC);
- Trade Measurement Advisory Committee (TMAC);
- Uniform Consumers Credit Code Management Committee (UCCCMC);
- Associations and Business Names Conference; and the
- Society of Consumer Affairs Professionals (SOCAP) Annual Conference.

EDUCATION AND PROMOTION

Displays were held at shopping centres, markets and community events promoting consumer rights and responsibilities, scams, door to door trading, warranties and safe toys for kids. Tenancy issues were focused on in a number of displays and included advice on 'Changes to the NT *Residential Tenancies Act*'; 'Thinking of breaking your tenancy lease'; 'Are you a tenant?'; 'Is your rental home liveable? - covering repairs and maintenance issues.

An intensive Christmas campaign on safe toys was conducted in November and December 2005. The campaign included a ministerial media conference and interactive displays at shopping centres, Palmerston Information Booth and the Berrimah Toyworld store.

A full colour promotional newsletter was produced titled 'Play safe this Christmas - Keep unsafe toys out of Santa's sack'. The newsletter promoted toy safety, buying toys appropriate to age recommendations and tips for the prevention of playground injuries. This publication was available at display stands and was widely distributed to pre-schools, childcare centres, playgroups, libraries and health centres.

This product safety campaign also included editorial content in a number of community and school newsletters. A notice board has been installed in the Royal Darwin Hospital emergency area advising on purchasing and safe use of toys.

Promotional material is displayed at various libraries and community centres throughout the Territory. The material is regularly updated and focuses on topical and emerging issues, such as credit, mobile phones and tenancy information.

Displays, in conjunction with other areas of the Department of Justice, were held at the 4 regional Territory shows, with the focus on 'Know Your Rights'.

The web site has been enhanced for better user-friendly access, and fact sheets and forms updated.

The Indigenous Consumer Justice campaign involving former AFL star Michael Long continued with reprints of the range of posters. The posters and videos are distributed to urban, rural and remote areas throughout the Northern Territory.

Business Affairs conducted educational and training courses for incorporated associations in locations throughout the Territory.

MEDIA

Sixteen media releases were issued during the reporting year and resulted in interviews with radio, TV and print media covering a broad range of consumer related issues and warnings against scams, suspect goods/services, rent increases by Territory landlords and unsafe products.

NEWSLETTER

During the year, in conjunction with the Consumer Affairs Council, three 'The Consumer' newsletters were produced. The newsletter is the medium used to communicate with Territory consumers in urban, rural and remote areas, and keep them informed of emerging consumer and trader issues in the market place. Circulation of the newsletter is 5,000 copies per edition. The newsletter is also available electronically and is on the CABA web site.

CABA WEBSITE (www.caba.nt.gov.au)

Increasingly the website is being used as a source of information on consumer issues, occupational licence requirements and governance standards for incorporated associations.

2005/06 Visitor Analysis

Total Visits	50,467
Total Pages Viewed	169,145
Average Visits per day (365 days)	138
Average Length of Visit	9 minutes, 54 seconds

High usage rates have been attributed to incorporated association enquiries over requirements for lodgement of updated constitutions and a high demand for tenancy information.

CONSUMER AFFAIRS

FAIR TRADING OVERVIEW

Fair Trading Officers handle enquiries through a five (5) day a week enquiry line. Most enquiries are for information on consumer rights and are generally prompted by some form of grievance or real/perceived injustice. Where a matter requires redress between consumer and trader, a detailed record, including all follow up action is recorded on a Client Enquiry Record System (CERS). Serious complaints where trader behaviour appears unconscionable, unlawful or in breach of licence conditions, generally result in the consumer completing a 'Complaint Form' which prompts formal investigation of the complaint and attempts to resolve the dispute.

The office regulates and licences the following:

- 4 categories of Travel Agent
- Motor Vehicle Dealer
- Dealer Manager
- Pawnbroker
- Second Hand Dealer
- Pawnbroker/Second Hand Dealer (combined)
- Bailiffs
- Inquiry Agents
- Process Servers
- Commercial Agents

Enquiry Service and Dispute Resolution

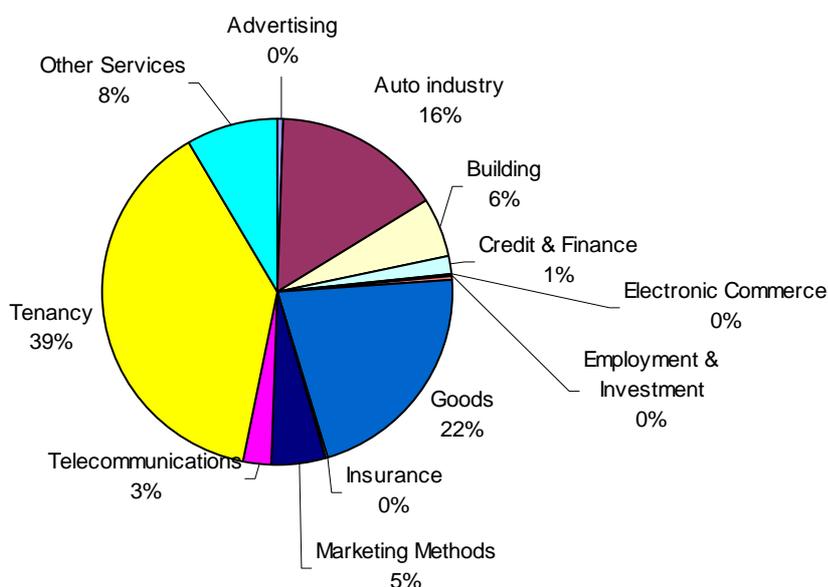
During the reporting period, Fair Trading Officers received a total of 13,149 telephone calls and counter enquiries, and investigated 137 formal written complaints, of which 45% were resolved with full or partial redress for the consumer.

Enquiries

Of the total number of telephone calls and counter enquiries, 2,622 were recorded on the CERS database. A categorised breakdown of these can be seen in the table below. The major enquiries were related to tenancy (38%), goods (21%), and automotive (16%).

Advertising	11
Auto Industry	415
Building	145
Credit & Finance	38
Electronic Commerce	11
Employment & Investment	6
Goods	563
Insurance	8
Marketing Methods	128
Telecommunications	68
Tenancy	1,007
Other Services	222
Total	2,622

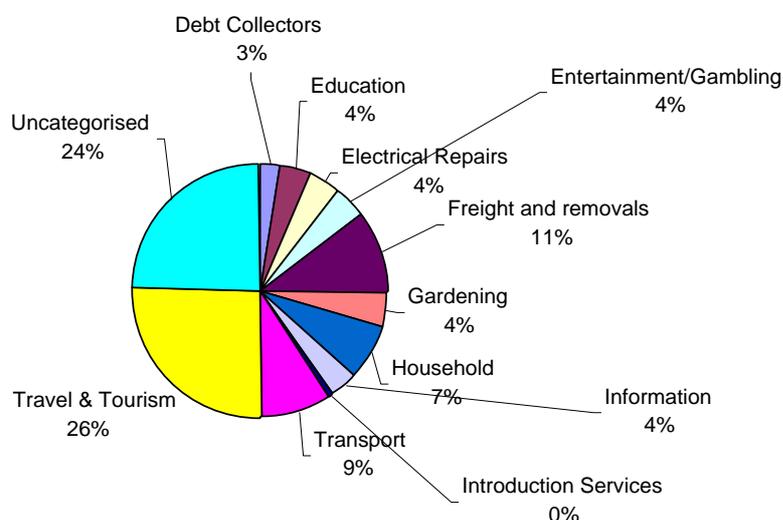
Consumer Affairs Enquiries Financial Year 2005-2006



The category 'Other Services' can be further broken down as shown below:

Debt Collectors	6
Education	8
Electrical Repairs	9
Entertainment/Gambling	9
Freight and Removals	24
Gardening	8
Household	16
Information	8
Introduction Services	1
Transport	19
Travel & Tourism	57
Uncategorised	53
Total	218

Consumer Affairs Enquiries - Breakdown of "Other Services" 2005-2006



The relatively high number of calls relating to Freight and Removals and Travel and Tourism reflects the highly mobile nature of the Territory population and the significance of tourism.

ENQUIRY TRENDS

During the reporting period the number of telephone enquiries declined 14% (from 15,256 in 2004/05 to 13,149 in 2005/06). This is in part attributable to awareness and usage of the website as a source of information.

There has been a 4% increase in inquiries and complaints about 'Goods' recorded on the CERS database from the previous year, a 2% increase in building-related matters and a 2% decrease in credit and finance matters. The increase in the 'Goods' category reflects increased consumer purchase levels of electrical and white goods and resultant warranty issues.

COMPLAINTS

Lodgement of a Complaint Form results in staff assessment of the complaint and generally involves in preliminary investigation and negotiation/conciliation between the parties, usually consumer and trader.

A total of 137 complaints underwent preliminary investigation, of which 127 were resolved within the reporting period. A small number of serious breaches of the law were referred to the Compliance Unit for further action and this is reported on under Compliance below.

A cooperative agreement is in place between the Commissioner and the Motor Trades Association NT Inc (MTA) which enables the MTA to assist consumers to conciliate motor

vehicle related issues where the consumer is satisfied with this referral. Consumer Affairs referred 56 consumers to the MTA for conciliation, 22% down on the previous year's figures, indicating an improvement in the performance of MTA members in dealing effectively with consumer complaints themselves.

TRADER VISITS

Fair Trading Officers visited 83 retail and business premises to provide information and to discuss consumer matters, in particular refunds and warranties. This is a significant reduction on previous years (329 trader visits in 2004/05) due to reduced staff levels. These visits provide an opportunity for officers to establish contacts at business premises which are used to help speedily resolve consumer/trader disputes. Visits were made in the course of dispute resolution as face to face contact for conciliation purposes is found to be most effective.

LICENSING DATA

As at 30 June 2006, the following licences were current:

Motor Vehicle Dealers	101
Dealer Managers	98
Travel Agents	73
Secondhand Dealers	22
Pawnbrokers/Secondhand Dealers	11
Commercial and Private Agents*	107

*(combined Commercial Agents, Inquiry Agents, Process Servers and Private Bailiffs)

INDIGENOUS CONSUMER PROTECTION

Initiatives in pursuing greater Indigenous awareness of consumer rights and improved consumer protection included:

- Membership of the National Indigenous Consumer Strategy (NICS) Reference Group, responsible for reporting to Territory/State/Commonwealth Ministers and heads of consumer protection agencies and for implementation of the NICS.
- Book Up
 - Advertisements placed in Territory newspapers inviting comment on the Book Up Discussion Paper.
 - Public consultation sessions in Darwin, Alice Springs, Tennant Creek, Katherine and Nhulunbuy as well as a number of outlying communities.
 - Production of a modified version of the Discussion Paper produced and distributed to Indigenous communities.
- Information provided and feedback sought via the Top End Bush Broadcasting Service "Law Spot", community education program and the Aboriginal Resource and Development Services (ARDS) AM Yolngu broadcast service on Indigenous consumer matters.

- Presentations and fair trading workshops to local groups and the Money Business Forum in Darwin as part of the federal Money Business Project.
- Provision of a point of contact to assist Indigenous consumers with disputes and provide advice about fair trading.
- Fair trading presentations to school groups and Indigenous organisations.

RESIDENTIAL TENANCIES AND BUSINESS TENANCIES

The Commissioner of Consumer Affairs is also the Commissioner of Tenancies and Commissioner of Business Tenancies.

RESIDENTIAL TENANCIES

A total of 1,112 applications to resolve residential tenancy disputes were lodged during the reporting year. This is an increase of 39% over the number of applications received in the previous year and continues the trend of a significant increase in the use of the services provided by the Commissioner of Tenancies.

During the reporting year a total of 1,093 disputes were resolved. Of these, 56 (5%) were resolved after pre-conciliation, 9 (1%) after a Conciliation Conference was conducted and 572(52%) required an Inquiry. 456 (42%) of applications were withdrawn and the majority of these were for orders for possession. Withdrawal of these applications is the result of the landlord and tenant coming to an agreement prior to the Commissioner taking action or due to the notice issued by the landlord terminating the tenancy being completed incorrectly.

Of the 572 Inquiries conducted, 404 were the result of possession applications which cannot be conciliated. Excluding possession matters, the Tenancy Unit resolved 39% of disputes by either pre-conciliation or conciliation.

Orders from the 572 Inquiries were appealed (through the Magistrates Court) in 3 instances, representing 0.5% of total Orders made.

BUSINESS TENANCIES

The *Business Tenancies (Fair Dealings) Act* (commenced 1 July 2004) only applies to retail shop leases entered into after this date and therefore it will take some time before a large percentage of these leases are subject to the provisions of the Act.

Of the 53 enquiries received, the majority related to tenancies entered into prior to the commencement date of the new legislation. The balance have generally been from parties about to enter into a new commercial lease and relate to advice regarding what type of commercial tenancy is covered by the Act and the minimum five year term prescribed.

During the reporting year only 3 retail tenancy disputes were received by the Commissioner; one could not be dealt with under the provisions of the Act, one was successfully resolved by preliminary conciliation and one remains outstanding.

COMPLIANCE

GENERAL TRADING ACTIVITY

Compliance Visits	50
Investigations Commenced	32
Investigations Finalised	15
Investigations Carried Forward from 2004/05	20
Pending	37
Court Action	1

PRODUCT SAFETY

Enquiries	35
Trader Visits	15
Showbags Inspected	179
Investigations Commenced	20
Investigations Finalised	15
Investigations Pending	5
Goods Recalled (Voluntary)	3
Product Bans	1

ACHIEVEMENTS

- Extensive work in developing the framework for the implementation of infringement notices for a range of industries under the *Consumer Affairs and Fair Trading Act*. This strengthens enforcement powers including the ability for authorised officers, other than police officers, to issue infringement notices for minor offences.
- National scanning and bait advertising audits in conjunction with the Fair Trading Officers Advisory Committee.
- Joint inter-agency motor vehicle dealer compliance activities, where appropriate, to enforce regulatory and tax requirements;
- Supreme Court appeal - lack of conviction in regard to the following Magistrates Court decision:

Neal Richard Adams t/as Metro Motors at Darwin CSJ on 26 May 2005 before Loadman SM.

Offences: Deal from unlicensed premises (s. 129(1)(a) of *Consumer Affairs and Fair Trading Act* ('CAFTA')); Make false or misleading statements to Commissioner in annual return (s. 141(6) of CAFTA); Fail to maintain dealings register (s. 157(1) of CAFTA); Fail to use prescribed contracts of Sale (s. 160(1) of CAFTA); and Fail to include LMVD number in advertisement (s. 175 of CAFTA).

Result: Pleaded guilty, offence proven without conviction, fined \$1500 with victim's levies of \$200.

The appeal, heard by Justice Steve Southwood was successful and on 30 December 2005 Mr Adams was convicted on five counts of contravention of the Act while trading as Metro Used Cars.

- Successful outcomes in 3 separate investigations that resulted in unsafe products being recalled nationally and receiving media coverage.

SUMMARY OF ACTIVITIES

- Regular Marketplace audits and surveys
- On-going investigations into allegations of unlicensed dealings in central and remote Northern Territory through the data entry of advertised vehicles into a vehicle matrix;
- Investigative assistance to interstate fair trading agency's on cross-border matters.
- Compliance monitoring of licenced motor vehicle dealers in the Northern Territory;
- Investigation of Scam e-mails relevant to the Northern Territory;
- Investigation of complaints against Commercial and Private Agents;
- Christmas Product Safety Survey of NT Stores and Consumer education campaign at major shopping centres;
- Implemented a national voluntary recall of a Snap On Battery Charger;
- Implemented a national voluntary recall of a plush toy - Bendy Bendables following a choking incident in the NT;
- Implemented a voluntary recall of Child candy that posed a choking hazard;
- Banned a potentially dangerous product by the name of 'the no holes tongue stud';
- Inspections, pro active education for stall holders, consumers and media.
- Participated in Kidsafe Committee meetings on childrens products /equipment on the market.

MONEYSTUFF

Moneystuff is an educational tool being trialled for integration into the Territory school curriculum for students in the middle school years. The program provides teacher resource material and a website which can be used independently by students and provides real life situations. Materials include quizzes, puzzles, lesson plans, video footage, etc.

Moneystuff is an integral element of the Consumer Affairs financial literacy focus and is intended as a critical tool for teaching financial and consumer skills in a school setting. It is a joint initiative of Consumer Affairs and the Department of Employment, Education and Training.

RETIREMENT VILLAGES

No complaints were lodged with the Commissioner under the *Retirement Villages Act*. Currently there is only one (1) registered retirement village operating in the Northern Territory.

TOW TRUCK OPERATORS CODE OF PRACTICE ADMINISTERING AUTHORITY

The Consumer Affairs and Fair Trading (Tow Truck Operators Code of Practice) Regulations establish an Administering Authority to provide a roster system and service at Police controlled accident scenes.

ADMINISTERING AUTHORITY

The Authority comprises:

- Commissioner of Consumer Affairs – Chairperson
- Motor Trades Association
- Northern Territory Police
- Chair of Consumer Affairs Council
- Insurance Council of Australia
- Automobile Association of the NT

During the year under report, no complaints were received from consumers, tow operators or police, and the roster system appears to be working fairly and effectively.

To be on the roster an operator must apply to the Administering Authority and have the tow truck undergo an inspection report, including meeting requirements of NT Worksafe.

TOW ROSTER STATISTICS

Chubb Security maintains the database and sequential telephone roster. The Motor Trades Association of the Northern Territory oversees Chubb's performance and receives a weekly statement of all callouts which is passed on to all roster participants.

<u>Roster</u>	<u>Vehicles</u>	<u>Call Outs</u>
Darwin (1)	27 vehicles	470
Darwin (heavy duty)	4 vehicles	N/A
Alice Springs	5 vehicles	65
Total	33 vehicles	535

(1) During the reporting year 3 trucks were added to the roster.

CONSUMER AFFAIRS COUNCIL

The Consumer Affairs Council comprises between six and ten community representatives appointed by the Minister to represent the interest of Northern Territory consumers and advise him on matters effecting Territory consumers.

MEMBERS AS AT 30 JUNE 2006 WERE:

Graeme Bevis (Chair)
Frederica Gaskell *
Alastair King *
Phillip Maynard
Jacqueline Nicholls *
Rosemary Redgen *
Desmond Rogers *
Leigh Shacklady
Rajeev Sharma
Michael Uibo

During the reporting year 4 members retired (Kezia Purick, Francis Procter, Sue Shearer, Earl Johnson) and 5 new members (*) were appointed.

The majority of the reporting year was focused on meeting and consulting with young people, youth groups, and service providers dealing with young people, indigenous people and multicultural groups. Feedback from surveys conducted in urban, rural and remote areas of the Territory was also utilised. The results of the consultation proved that although consumer issues affecting young people covered a broad spectrum, it was monetary issues and a lack of financial literacy education which were the most common concerns.

The inaugural recipient of the Consumer Affairs Council's award for the best Charles Darwin University Marketing Major Student, for work on consumer behaviour, was Shaun Dungey.

COMMENTS AND ISSUES ADDRESSED TO MINISTER:

Support for the National Strategy for Consumer Financial Literacy;
Support for the continued development of the "*Moneystuff*" program in Territory schools;
Support for a Consumer Affairs Indigenous Officer to be based in Alice Springs;
Support for a Tenancy Advocacy Service;
Comment on Book Up Discussion Paper;
Costs of converting power meters to pre-paid power meters;
Commercial Passenger Vehicle Board - Taxi Fare Surcharge;
Unfunded bank loans to Indigenous Territorians.

REVIEW

The Commissioner of Consumer Affairs at the Minister's request commenced a review of the role of the Consumer Affairs Council.

BUSINESS AFFAIRS

ROLE

Business Affairs administers and regulates Incorporated Associations, Co-operatives and Business Names. The *Associations Act* provides for the proper governance of clubs/associations, including reporting requirements, proper maintenance of records, election of office bearers and transparency in dealings. Business Names registration provides a legal trading name able to be identified by consumers and the name also protects the trader through an exclusive right to a business name.

As at 30 June 2006 there were:

- 1,658 Incorporated Associations
- 3 Co-operatives
- 19,568 Registered Business Names

During the year:

- approximately 8,000 enquiries, largely telephone, were received. Main topics of enquiry related to association constitution issues and changes, with a significant number also related to governance.
- 3 investigations and preliminary investigations into associations were undertaken.
- many clubs/associations were monitored or under intensive oversight for governance issues during the year.

ASSOCIATION TRAINING

The introduction of the new *Associations Act* in May 2004 was accompanied by extensive training programs for association management committees and members. Since the commencement of these training programs, Business Affairs has run approximately 150 workshops covering issues such as an overview of legislation, constitutions, finance and budgeting, minutes and meeting procedure. Approximately 2,000 people from across the Territory have availed themselves of these training opportunities.

Management Committees are gaining a better understanding of their roles and responsibilities and governance and accountability issues are becoming better understood. The increased knowledge and awareness has resulted in an increase in enquiries to Business Affairs in relation to association matters, including dealing with the requirement of all clubs and associations to have new constitutions lodged by May 2006, (however a number have been granted extensions for the provision of new constitutions).

ASSOCIATION EXEMPTIONS

The *Associations Act* (Section 5) makes provision for a range of exemptions to be granted by the Commissioner in relation to statutory time limits, lodgement of documents, prescribed times and other statutory action. Exemptions provided have included compliance with the timing of meetings (particularly Annual General Meetings), audit and auditor qualification requirements.

Exemptions issued under the *Associations Act* for 2005-2006

Associations Act Reference	Matter	Number of exemptions issued
Section 21(1) (g&h)	Constitution	12
Section 36	Annual General Meetings	11
Section 37	Special Resolutions	1
Section 42 (1) (a)	Annual Statement of Accounts	2*
Section 43	Presentation of Statements at AGM	2
Section 47 (2) (c)	Audit of Tier 2 Associations	1
Total Exemptions Issued		29

* Excluding associations being wound up.

ASSOCIATION INVESTIGATION AND COMPLIANCE ACTIVITY

Throughout the year Business Affairs has continued to monitor a range of associations and carry out investigations as considered appropriate.

Preliminary investigation into the affairs of Gumatj Incorporated (Gumatj).

The Commissioner requested that a preliminary investigation be carried out in order to form an opinion as to whether a formal investigation under section 93 of the *Associations Act* was necessary. The preliminary investigation was conducted by a senior officer of the Department of Justice into the transparency, accountability and governance procedures of Gumatj, and followed audit qualification of the past four (4) years financial accounts regarding clan disbursements. In co-operation with Territory Police it was determined that there were no grounds for investigation of fraud or misappropriation.

A decision was taken not to proceed with formal investigation but to monitor Gumatj over the implementation of a range of recommendations made in the preliminary investigation report to the Commissioner.

Preliminary investigation into Papunya Community Council Incorporated (Papunya).

The Commissioner commissioned independent and preliminary investigations into Papunya to help determine whether a formal investigation pursuant to section 93 of the *Associations Act* was required. The preliminary investigation was undertaken in co-operation with the Federal Department of Finance and Administration (Office of Evaluation and Audit), who were investigating the use and proper administration of federal funds, largely through CDEP programs.

Following advice that measures were in place to improve governance, the Commissioner determined not to proceed to formal investigation. Additionally, government was considering the appropriateness of organisations performing local government activities being incorporated under the *Associations Act*.

Investigation into Blonks Motorcycle Club Incorporated (Blonks).

The Commissioner advised the Blonks that, based on information to hand, the Blonks had not conducted Annual General Meetings or provided audited financial statements as required under the *Associations Act*. On the basis that this indicated the Blonks were inactive or dysfunctional, the Commissioner commenced dissolution procedures (a notice to this effect was gazetted on 12 July 2006).

BUSINESS NAMES

Business Name activity in the Northern Territory continued to be disproportionately high, due largely to this being the only jurisdiction in Australia not charging for the application for and renewal of Business Names. (The re-introduction of charges for the application and renewal of Business Names commenced on 1 July 2006.)

TRADE MEASUREMENT

Trade Measurement ensures accuracy of measurement in trade through an inspection and compliance program of measuring instruments and monitoring trade transactions throughout the Northern Territory.

This work is complemented by the operation of certifiers licenced under the *Trade Measurement Act*. Trade measurement Inspectors conduct audits of the instruments that certifiers have placed into service at trade premises. Compliance by traders is at a high level.

METROLOGY LABORATORY

The trade measurement operation also includes a measurement laboratory that undertakes testing of physical measurement standards e.g. weights, volumetric measures, rigid and flexible length measures.

The laboratory is accredited as a Verifying Authority under the *Commonwealth National Measurement Act 1960*. The laboratory was subject to National Association of Testing Authorities re-assessment in March 2006.

ENVIRONMENTAL FUEL TESTING

The Unit continued with the fuel sampling program of testing fuel for contaminants and to ensure adherence to environmental standards. This program is in accordance with a Service Level Agreement between the Department of Justice and the Commonwealth Department of Environment and Heritage.

19 samples were taken across 4 products, unleaded, premium unleaded, Opal and diesel. All samples taken complied with the Australian Fuel Standards.

FUEL WATCH

Trade Measurement also continued with a program of fuel price monitoring. Fuel prices in Darwin, Katherine, Tennant Creek, and Alice Springs are noted by physical visits and Nhulunbuy by phone. Prices are uploaded on Friday's to the Consumer and Business Affairs website at NT Fuelwatch.

TRADE MEASUREMENT STATISTICS

	01-02	02-03	03-04	03-04	05-06
Measuring Instruments Tested	1973	1906	1389	1744	1421
Measuring Instruments Inspected	2750	2656	1995	2577	1530
Premises Visited	601	879	1548	1496	1462
Pre-Packed Articles Checked	3844	1367	950	1350	920

Note:

The declining numbers of pre-packed articles checked is attributable to a change of emphasis by the unit to compliance checks in the bulk commodity industries and also audit of licensed certifiers.

PROPERTY AGENTS LICENSING

ROLE

Property Agents Licensing is responsible for the licensing and regulation of the real estate, business broking and conveyancing industries and the licensing of auctioneers. It does so through the Agent's Licensing Boards (Real Estate and Conveyancing) and the office of the Registrar. Legislation administered is the *Agents Licensing Act* and the *Auctioneers Act*.

ACTIVITIES

Officers handled 2,244 enquiries. Seven (7) complaints were lodged but did not proceed to investigation or Inquiry. Three (3) applications for disciplinary action were lodged.

Audits of Agents' Trust Accounts were received, with a number investigated or clarification obtained, as appropriate.

The execution of new Agreements with banks and the TIO under section 50 of the Act were finalised.

Improved education grant acquittal procedures were developed in conjunction with the Real Estate Institute of the Northern Territory Inc (REINT).

The 2005 Australasian Real Property Regulators Conference was held in Hobart in October 2005 and was attended by 3 Board members and the Manager, Property Agents Licensing.

The Manager, Property Agents Licensing attended a national 'Strata and Community Title in the 21st Century' Conference on the Gold Coast, in September 2005 and the '2006 National Community Titles Institute Congress' in Glenelg in April 2006.

A 5 year lease extension in respect of Unit 3, 6 Lindsay Street was executed in November 2006 between REINT and the Agents Licensing Fidelity Guarantee Fund (Fidelity Fund).

A meeting was held with TafeSA in December 2005 to discuss the customisation of conveyancing courses/units of competency specific to the Northern Territory, the delivery of education locally and the subsidisation of course costs of NT students.

A review of the *Agents Licensing Act* has commenced with costs of the review and stakeholder consultation being met from the Fidelity Fund.

AGENTS LICENSING BOARD

The Agents Licensing Board is a body corporate established under sections 6 & 7 of the *Agents Licensing Act*. The Board is comprised of the following members:

Member	Alternate
Mr Tom Berkley (Chairperson)	Mr Ian Morris
Mr Robert Bradshaw	Mrs Karen Christopher
Mr Donald Hudson	Mr George Dunne
Ms Denise Meeking	Mr Morgan Shearer
Mr Michael Bongiorno	Mr Andrew Doyle
Mr Trevor Tschirpigg	Vacant
Mrs Trish McIntyre	Mr Nicholas Thomas

The Board is responsible for considering applications for the grant of licenses and registrations as an agent's representative and for the conduct of Inquiries into applications for disciplinary action against a licensed agent or agent's representative.

The Board held four (4) meetings during the year and convened eleven (11) Inquiries during the year.

Outcomes:

- Licences granted, five (5);
- Licences refused, one (1);
- Inquiry adjourned, two (2);
- Discipline Inquiry in progress, one (1);
- Discipline Inquiry withdrawn, one (1);
- Discipline Inquiry held, one (1); and

concluded as follows:

Mr and Mrs Paul Godden vs NKN Pty Ltd trading as Ray White Darwin re breach of section 65(1) (a) of the *Agents' Licensing Act*.

Outcome – Found guilty and reprimanded.

EDUCATION FUNDING

The Agents Licensing Board continued its support for the delivery of educational courses to qualify persons for licensing and registration in the real estate industry and granted base funding in the amount of \$151,250 (GST inclusive) from the Fidelity Fund to the REINT.

The grant was formalised through the execution of a 4 year Funding Agreement on 27 February 2006.

Additional funds in the amount of \$13,859 were granted in April 2006 to cover CPI increase and part share of the 2005 REINT operating deficit.

In July 2005, Mr Iain Summers was appointed as a consultant to develop improved funds acquittal procedures and to establish performance criteria for the education and training grants. A reporting format, including performance analysis information and links to the REINT Education Strategic Action Plan 2005-2009 was developed and implemented and funding guidelines for REINT applications for the next 4 years were developed.

AGENTS LICENSING FIDELITY GUARANTEE FUND (FIDELITY FUND)

The Fidelity Fund is a body corporate established under section 94 of the Act. The function of the Fund is to maintain and operate the moneys of the Fidelity Fund comprised of contributions, levies, licence and registration fees, fines and interest payments.

The Fidelity Fund consists of the Registrar, the Chairman of the Agents Licensing Board and a member appointed by the Minister who has expertise and experience in finance and investment. John Montague has held this appointment since October 1997.

Details of Fund assets follow:

Assets	as at 30 June 2006	as at 30 June 2005
Colonial First State Wholesale Funds	\$11,024,744.79	\$9,736,684.46
WBC – Cash Management Account	\$1,063,118.64	\$321,839.38
Property- 3/6 Lindsay St	\$360,000.00	\$360,000.00
TOTAL	\$12,447,863.43	\$10,418,523.84

There were no claims against the Fidelity Fund during the reporting period.

The Fidelity Fund continues to monitor the Wholesale Funds performance and meet with representatives of Colonial First State to discuss statements and asset allocations.

The 2006 audit of the Fidelity Fund is being conducted by Deloitte.

LEGISLATION AND POLICY REVIEW

On 1 July 2005, sections 9 and 29 of the *Agents Licensing Amendment Act 2002*, relating to professional indemnity insurance, were commenced.

During the year the Act was amended to permit the payment of monies from the Fidelity Fund to industry bodies (the REINT and Australian Institute of Conveyancing NT Division (AIC)), for the improvement of regulatory compliance and improvement of the quality of services provided by persons regulated under the Act.

The *Residential Tenancies Act* was also amended to provide for costs of a tenants advisory service to be met from the Fidelity Fund and the Minister approved an annual grant of \$250,000 for three years. Ministerial approval was also given for funding towards the administration costs of the Residential Tenancy Unit of up to \$120,000 annually.

During the year the Board determined a policy in relation to licence re-applications. Under the policy, a person who lodges an application for the grant of a licence, within 3 years of the expiry of the former licence is entitled to the grant of a new licence on the basis of the educational qualifications that applied, and were held, at the time of the grant of the former licence and subject to satisfying all other eligibility criteria under section 22 of the *Agents Licensing Act*.

Work on a standard Contract of Sale continued in consultation with the Law Society Northern Territory, the AIC and the REINT.

A review of the *Agents Licensing Act* commenced in June 2006 and work on amended Regulations continued.

LICENCE AND REGISTRATION STATISTICS

Following are details of licences and registrations **held** as at 30 June:

LICENCE/REGISTRATION TYPE	2005	2006
Real Estate and Business Agent	234	247
Real Estate and Business Agent's Representative	423	420
Conveyancing Agent	36	47
Auctioneer	156	129

Statistics relating to the **grant** of new licences and registrations:

LICENCE/REGISTRATION TYPE	2005	2006
Real Estate and Business Agent	28	36
Real Estate and Business Agent's Representative	122	82
Conveyancing Agent	3	12
Auctioneer	40	25