

Proposal for the Establishment of a
Consumer Research and Advocacy Centre
in Western Australia

Discussion Paper

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Prepared by the Consumer Advisory Council of WA

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Proposal

1. That a consumer research and advocacy centre be established in Western Australia.
2. That the Consumer Advisory Council undertake a stakeholder consultation to further refine the proposal and advise the Minister upon the best model for such a centre.

Introduction

This proposal has been written for the Consumer Advisory Council of Western Australia in consideration of terms of reference number one:

To advise the Minister and Department on strategic approaches to building capacity in consumer groups so as to increase and improve consumer input in consumer affairs.

The proposal builds upon the deliberations and consultations of the Council members in looking at strategies to address increased consumer capacity. The Council has met with DOCEP staff, the Chair and Deputy Chair of the Economic Regulatory Authority and has held a consultation forum at the WACOSS state conference in June. A review of national consumer organizations was undertaken by the Council and presented in the paper *Models of Consumer Organisations*.

This paper puts forward a rationale for the proposal to establish an independent consumer research and advocacy centre and outlines possible models and functions. It is the opinion of the Council that formal consultations with key stakeholders, on specific models for such a center, is required to advance the proposal further.

The paper is divided into three parts:

Part one articulates the major arguments in favour of the establishment of a central consumer organisation as it relates to the Council's terms of reference.

Part two provides an outline of what a consumer research and advocacy centre might look like and how it could be established.

Part three recommends a consultation strategy to refine the proposal further.

PART ONE: Rationale

1.1 Building capacity, facilitating consumer participation and citizenship

Consumer participation is an integral part of citizenship. As outlined by the Premier, Dr Geoff Gallop, in his foreword to the WA Government's Citizenship Strategy, *A Voice for All: Strengthening Democracy*:

It is essential to a healthy and strong democracy that all people who care deeply about their community and environment have equal opportunity to participate effectively in the policy making process.

The Department of Consumer and Employment Protection is also committed to consumer involvement and has set support to non-government consumer services as one of its major themes in the Consumer Justice Strategy and identified the following desired outcome: *stronger non-government consumer advocacy programmes* (Consumer Justice Strategy Implementation Plan 2004:14).

Internationally, 'governments have increasingly recognised the link between strong, independent consumer organisations and accountable, transparent governance, efficient markets, poverty eradication and sustainable production and consumption' (Kanoute 2001:1). The United Nations' guidelines for consumer protection highlight, as a general principle, the need for consumers to have the freedom and opportunity to form consumer organisations and present their views in the decisionmaking processes that affect them (1999:3(f)). The OECD also acknowledges the need for effective tripartite partnerships between government, industry and consumer organisations in dealing effectively with market threats - particularly in an increasingly transnational context (OCED 2003).

The goal of increased citizen/consumer capacity to participate in public life requires the facilitation of all forms of participation including:

- localised consumer groups;
- specific issue based consumer groups;
- input from individual citizens;
- coordinated consumer input;
- effective use of consumer representatives; and
- the increased ability for consumers to self advocate in the marketplace.

Industry and government input into consumer affairs is generally resourced through the support of paid staff and collective decision making processes, whilst consumers are often required to speak from an individual perspective, in the absence of a consumer organisation to research and represent their interests. This affects consumers' equal opportunity to participate effectively and increases the power imbalance between the three key players of industry, government and consumers. Research conducted by the National Consumer Council in the U.K found that whilst there was an increased interest in encouraging consumers to become involved in local communities, tenants groups, citizen bodies and as consumer representatives on committees; consumers were unlikely to participate unless there were the appropriate mechanisms for involvement

and representation, proper information and feedback (NCC: 2001).

Capacity building is a concept drawn from work in international development and generally refers to the process of recognising and enhancing the strength and resilience of communities and groups, which, in turn, strengthens the society as a whole. Mitchell & Macfie (2004) summarise the five priority areas for action most frequently cited in the literature of capacity building as being:

- leadership development;
- policy research and advocacy;
- information access, use and dissemination;
- building alliances, coalitions, networks and partnerships; and
- financial sustainability.

If properly resourced, a central consumer organisation can help build consumer capacity across these five areas through a number of means. For example, support can be given to consumer representatives and small local or issues based consumer groups. This role can be seen in the Victorian Consumer Utility Advocacy Centre, who have the ability to provide small financial grants to consumer groups in the community and the Health Consumers Council of WA, who have run successful consumer representative support programmes. A central organisation can assist in the development of networks and linking different groups and individuals as well as providing a forum for coordinated consumer input.

Consumer organisations are often where strong consumer advocates are formed and developed to provide leadership to the consumer movement. Leadership development is also promoted through support to consumer representatives on boards and committees and providing assistance to individual consumers to enhance self-advocacy. The cross fertilisation which can occur when consumers and consumer groups link together and exchange experiences can be a powerful force in building leadership and capacity.

A consumer organisation can build capacity in and through its membership base, which in turn, builds the capacity of the organisation as a whole to provide leadership. Members bring an organisation in touch with a broader consumer constituency and a central resource organisation can assist the development and support of its members. The relationship between membership, organisation and consumer capacity becomes plaited – each reinforcing the other.

The credibility of consumer organisations depends on the quality of the ideas they put forward and on their ability to establish themselves as representatives of the consumer interest. A sizable and diverse membership can help to establish legitimacy.

Herrmann, R.O. (1991:129)

This proposal argues that consumers need a structure and vehicle for participation in civic affairs in the same way that government and industry does. Whilst not a panacea for equal opportunity in participation, it is only through facilitated organisation that consumers can develop independent and collective voices. To reiterate Mitchell and Macie, building capacity requires leadership, information, networks, alliances, research, advocacy and resources.

1.2 Consumer research, advocacy and policy development

Within a policy framework that values citizen participation as producing sounder solutions, there is currently little ongoing, independent research and policy development from a consumer's perspective. The only generic consumer organisation in WA operates on voluntary services. The ability of consumers to provide organised, researched and considered input has been hindered not only by the lack of an organising mechanism and few resources, but also by the increased complexity of the issues consumers are being asked to give input into such as market deregulation, financial services, licensing and new technologies. The importance of the formation of independent and informed consumer perspectives was highlighted at the 2004 Ruby Hutchinson Memorial Lecture in an address by Deirdre Hutton, Chair of the UK National Consumer Council:

The pattern seems to be that consumer representation operates on an increasingly specialist basis, and we need to develop the technical skills to hold our own in such forums. The outcome devoutly to be avoided is to demand the right to be consulted but then not have anything meaningful to say.

In Victoria, consumers are resourced through both a generalist consumer body (Consumer Law Centre) and specialist consumer body (Consumer Utility Advocacy Centre). Both agencies provide independent research and policy input from a consumer perspective and have the ability to advocate on behalf of consumers. The agencies establish legitimacy to represent the voices of consumers through their membership, casework and networks.

By 'filtering up' issues from local workers and case studies, consumer organisations can act as a clearing house and assist government and industry in identifying systemic problems in the market place. It is often from consumers that failure in the market place's normal checks and balances is first highlighted. Triebickock (2003:69, as cited by CAV 2004:25) reiterates:

the special importance of devising early warning systems to alert policy-makers to potential problems in their incipiency so that pre-emptive action is facilitated. Timeliness is prerequisite of effective government action. Markets are likely to solve most information problems, given time, although many consumers may be prejudiced in the meantime. A central issue thus whether government can abridge these market lags.

A consumer research and advocacy centre could undertake research into specific consumer issues so as to provide an informed base for consumer participation in legislative reviews and policy initiatives. In doing this, the centre may be able to establish working partnerships with organisations such as university law schools, research foundations and research funding bodies.

1.3 Assisting individual consumers

The Joint Review of Community Legal Centres (Cth/WA: 2003) found that the ability of state wide specialist services, such as the one proposed in this paper, to provide extensive assistance to individual clients is constrained by resources and balanced against competing demands. Specialist, state wide centres make maximum use of resources by limiting their role in assisting individual cases and providing advice lines, developing self-advocacy resources, providing support to local workers and representatives, conducting community education, undertaking research and providing systemic policy input and advocacy. Such could provide workers on the ground with an agency that they can refer complicated cases to, where further assistance can no longer be provided by the originating service

The WA Tenancy Network, funded by the Residential Tenancy Fund, is a good example of assistance to individual consumers operating within a coordinated framework. The network is made up of tenant advocacy workers employed in local agencies and a centralised resource centre (Tenants Advice Service) that provides specialist back up assistance to the local network workers and coordinates information and training.

A consumer research and advocacy body could provide limited services to individual consumers, whilst resourcing 'grass roots' workers and collaborating with government and industry to enhance education and dispute resolution services.

1.4 Joined-up solutions

Citizen engagement in developing and implementing policy is one way to reconcile competing values and perspectives to produce a 'joined-up' solution.

Curtain, R. (2003)

A consumer research and advocacy centre could be the 'consumer link' in assisting the achievement of 'joined-up solutions' i.e. whole of government and inter sector (government, public and private) approaches and initiatives. This is of particular relevance to:

a. The role, operation, interaction and placement of existing consumer services.

There already exists a range of services 'on the ground' that can provide some assistance to individual consumers. These include financial counsellors and community legal centres (funded from a range of government and non-government sources), government information and advice services and industry based dispute resolution services. A central consumer organisation has the potential to play a pivotal role in assisting these services interact with each other in terms of consumer issues and ensuring there is not duplication in their efforts.

b. Linking workers on the ground.

Financial counsellors, community legal centres (some of whom employ financial counsellors) and other community agencies all play a part in providing consumers with information and assistance. However, from a general consumer perspective, there can be little coordination between these local consumer services. A central consumer organisation can act as a specialist referral point for such services as well as provide

professional training in consumer protection and resources for practice. This is similar to the model presently funded by the Residential Tenancy Fund, where a central, specialist agency supports localised housing workers to assist tenants.

c. Linking consumer issues across government.

Consumer issues are not neatly packaged to fit within the domain of any one government department. Whilst DOCEP is the central agency for consumer protection, the importance of consumer participation in ensuring balanced input and proper consideration of the public interest is equally of concern to other government agencies and regulators e.g. Economic Regulatory Authority, Office of Energy. A central consumer organisation could represent consumers in a range of portfolios presently without sufficient representatives, such as utilities, infrastructure and consumer protection as well as link with other portfolio specific consumer organisations like the Health Council of WA to streamline the development of consumer representative training. Whilst the role of peaks such as WACOSS is to provide coordinated policy development, the organisation does not have the expertise to provide leadership on consumer issues and technically represents non-government service providers rather than consumers.

1.5 Assisting the marketplace

It has long been argued that effective competition in the marketplace is good for consumers in terms of supply, prices and choice. It can also be argued that effective consumers are good for competition (Sylvan 2004).

Consumers not only benefit from competition, they activate it and one of the purposes of consumer protection law is to ensure that they are in a position to do so. (R. Bannerman, TPC Annual Report 1984 as quoted by Sylvan 2004)

Consumers, both in terms of their individual market behaviour, and as an aggregated group, are critical to the successful operation of competition. Consumer organisations can act to identify systemic issues requiring redress and seek to represent consumers in the formal and informal resolution of these issues.

Consumer organisations often have the ability to act as the 'canary of the marketplace' - providing government and industry with timely notice of possible market failure. This, in turn, can assist government and industry in risk management and early responses. As pointed out by Wood (2000:42) 'it will be wise governments that assist consumers and their organisations to voice their concerns, views, ideas and experience'. In working with government and industry in the identification, review and resolution of marketplace problems, consumer participation assists the economy as a whole.

PART TWO: Establishing a centre

The following sections provide a picture of what a consumer research and advocacy centre could look like in terms of structure, objectives and functions. It also provides a broad costing of the proposal and an analysis of issues to be considered.

2.1 Legal Structure

An independent centre could be established as:

- a. a constituted not-for-profit organisation either as a company limited by guarantee or incorporated association; or
- b. a centre within an existing independent organisation.

If set up as an incorporated body, the centre would be governed by a board of directors or management committee. The objectives, structure and membership of the centre would be determined by the constitution. Members could include consumer groups, organisations or individuals. The constitution could prescribe the management committee as having representatives from major partners such as DOCEP, Treasury or certain peak bodies.

If the centre is established under an existing entity, e.g. a university, governance would rest with the parent body whilst objectives, structure and functions could be articulated in an operational agreement or constitution. A centre specific board could be established to provide direction and management, with representatives from major partners.

Under either option, the Council recommends a model whereby the centre sets up broad based reference groups to look at specific issues as required, thus increasing membership and network involvement and building specialist expertise and leadership.

2.2 Objectives

The specific objectives of any consumer research and advocacy centre would primarily be articulated in the organisation's constitution. However, the broad objectives of establishing such a centre, in terms of capacity building and consumer participation would be:

Leadership: to provide a voice for Western Australian consumers, particularly low income and disadvantaged consumers; offer a forum for discussion on issues affecting consumers; and build the capacity of consumers to influence policy debates.

Policy, research and advocacy: to monitor and research issues of concern to consumers; act as a clearing house for emerging issues; provide input into the development of policy frameworks supportive of consumer choice and sustainable development; and advocate for the benefit of consumers.

Information access, use and dissemination: to ensure that consumer participation is based upon accurate information and that the consumer perspective is heard within decisionmaking processes.

Building alliances, partnerships and networks: to act as a focal point for coordinating consumer participation; link consumer representatives, individual activists and consumer groups; and work with government and industry in the formation of partnerships.

Financial sustainability: to promote open and sustainable markets for consumer goods and services by developing and promoting appropriate regulatory and self-regulatory frameworks; and to create a consumers' organisation that is build upon a realistically resourced base.

2.3 Functions

A recent review conducted by the Council of consumer organisations showed a range of possible functions such groups undertake in order to achieve their objectives. These include:

- policy development;
- research;
- consumer advocacy;
- product testing;
- case work advocacy /individual complaints;
- test cases;
- telephone and web-based advice;
- community education;
- linking consumer networks and partnerships;
- consumer representation for boards and committees;
- consumer representation training and support;
- support to consumer groups;
- negotiations with government and industry; and
- law reform.

The organisations reviewed undertook different combinations of these functions with the most common core functions being policy development and research, consumer advocacy, community education and consumer representation. Most organisations have a particular focus on the needs of 'vulnerable and disadvantaged' consumers, undertaking specific projects in areas like credit monitoring, youth education and rural outreach.

As there already exists a product testing consumer agency in Australia, it is not proposed that the WA centre undertake product testing, although research into specific service areas e.g. utilities, financial services and pricing, may form part of the centre's overall policy and research brief. It is envisaged that the primary functions of the proposed consumer research and advocacy centre would be:

1. Research and policy development;
2. Developing networks and linkages;
3. Consumer advocacy;
4. Consumer education;
5. Facilitating capacity in local consumer groups; and
6. Assisting consumer representatives.

2.4 Specific strategic directions

Within the broad and primary functions outlined in 2.3, the centre would need to determine priority areas in both issues of focus and types of activities.

The Council recommends consultation with stakeholders and parties of expertise as a means of further refining the centre's specific functions and focus. Upon establishment, the centre would undertake its own cycles of review, priority setting and planning within the context of the centre's Board and reference groups.

2.5 Relationship with other stakeholders, partners and agencies

The objective of the centre would be to provide a coordinating thread to the articulation of consumer issues in WA, from a consumer's perspective and to 'fill the gap' in critical areas that are presently without any organised and resourced consumer perspective.

The scope of issues addressed by the centre would focus on household consumer matters, without duplicating the specific work carried out by other organisations such as DOCEP, the ERA, the Consumer Credit Law Service in the area of consumer credit or the Tenants Advice Service in the area of residential tenancy.

In operating, the centre should aim to work with key partners and stakeholders in the coordination of collaborative initiatives rather than 'silo-ed' ones. Collaborations could include:

- working with DOCEP in areas such as community education, services to regional areas, research and policy development;
- working with groups such as the Consumers Association of WA and the Health Consumers Council on assistance for consumer representatives on boards and committees;
- providing government and industry with consumer information;
- joint research projects; and
- coordinating with existing peaks (e.g. WACOSS, Council on Ageing, Youth Affairs Council, Financial Counsellors Association) and consumer groups to provide joint input into consumer affairs.

Whether established independently or within a parent body, the Council sees advantages in a centre that has an ongoing partnership with a state university in terms of research and/or clinical practice. Such models exist with Murdoch University and the Southern Communities Advocacy and Legal Education Service (SCALES).

2.5.1 Regional services

The best model for providing service to regional areas is seen by the Council to be an important part of further consultation. *How* services are best provided is dependent upon *what* service will be offered e.g. direct client assistance, education only, professional development for local workers. Present options for services in the regions include local worker networks (such as the residential tenancy network), statewide telephone advice lines; resourcing local workers, publications and visitations.

The Victorian Consumer Utility Centre has recently worked with other agencies in creating a rural regional network of workers from a range of services. Such a model could be further explored.

2.6 Budget estimates

2.6.1 Ongoing costs

The cost of establishing a consumer research and advocacy centre in WA is dependent upon what is identified as the primary, core functions of the centre and priority objectives. For instance, the centre may be resourced to provide assistance to consumer groups similarly to the Victorian Consumer Utility Advocacy Centre and/or may have special programmes to train and support consumer representatives. The aim to provide a statewide service in a state the size of WA is also a consideration.

A detailed costing cannot be determined until the proposal is refined further, but it is estimated that the ongoing operating costs of a moderately staffed centre (6 FTE's) would range from \$500 000 to \$700 000 per year, dependent upon the level of regional services. Establishment costs or special projects would also need to be considered.

2.6.2 Sources of funding

This proposal recommends the State Government of Western Australia or proceeds from civil penalties, as the primary funding sources in establishing a consumer research and advocacy centre. In accordance with government policy¹, a grant rather than public tender process is recommended. It is deemed by the Council to be appropriate for government to fund a consumer organisation from public funds, as consumers, unlike industry, cannot usually generate profit from which to resource a consumer centre. The statement of commitment from Consumer International's 17th World Congress in 2003 urged governments to 'facilitate public financing of consumer organisations where appropriate, without compromising their independence.'

If the centre is established within an existing entity, the parent body may also be a significant provider of financial or in-kind resources.

Whilst public funds via government grant or penalty fines are proposed to be the *core* funding source of the centre, it is unlikely to be the centre's only source of future funding.

¹ *Funding and Purchasing Community Services* Dept. of Premier and State Supply Commission Oct. 2002

Although limited, non-government organizations have the ability to access assistance from funding sources that government departments and private enterprises are excluded from e.g. foundations, the Lotterywset. NGO's are generally funded from a range of government and non-government sources and may receive funds from more than one government agency on a recurrent or one off basis.

The existing Consumer Advisory Council is an initiative to advise the Minister of strategies to increase consumer capacity and participation. It is not an ongoing advisory committee and expires in December 2005. If the proposed centre was to be established in replacement of the Council, the existing cost of the Council (about \$150 000 per annum, including on-costs) could off set final grants costs.

PART THREE Consultation Strategy

To date, the proposal for a consumer research and advocacy centre has only been discussed within the Consumer Advisory Council membership and any further recommendations regarding models, focus and direction require broader based discussion and feasibility explorations. The Council proposes to use this paper as a discussion paper for the purposes of consultation and seek feedback, either individually or through a group discussion, from the following groups:

- Consumers Association of WA;
- Community Legal Centres including Consumer Credit Legal Service and Tenants Advice Service;
- Financial Counsellors Association of WA;
- Legal Aid WA;
- University law schools and TAFEs;
- Child research centres;
- Western Australian Council of Social Services;
- Aboriginal Legal Service;
- Aboriginal medical centres;
- Ethnic Communities Council;
- Council on the Aging;
- People with Disabilities;
- Health Consumers Council; and
- Government departments.

The following questions are designed to assist refining the proposal and to form the basis for consultation feedback.

- 1 To what extent do you agree/disagree that a consumer research and advocacy centre would be an effective strategy for increasing the capacity for consumers to participate in consumer affairs? Why? What are the alternatives?
- 2 a) What is the best model for a consumer research and advocacy centre? What should the specific focus of issues and methodology be?
 b) What would be the minimal resourcing levels required for a centre to be sustainable, below which the proposal becomes unviable?
- 3 How would the centre ensure regional representation? How would effective links, networks and consumer representation work?
- 4 How should the centre be established? What are the funding options?
- 5 What areas of the proposal require further development?
- 6 What else needs to be considered?

After conducting a consultation process, the Council would develop a final proposal and submit it to the Minister for his consideration.

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