



9 January 2013

Ms Ismene Kongos  
Assistant Director, Education & Engagement  
Australian Competition and Consumer Commission  
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360 Elizabeth Street  
MELBOURNE VIC 3000

Emailed to: [ismene.kongos@accc.gov.au](mailto:ismene.kongos@accc.gov.au)

Dear Ms Kongos

### **Re: Debt Collection Guideline for Collectors and Creditors 2005**

Thank you for the opportunity to comment on the Australian Competition and Consumer Commission (ACCC)'s review of the *Debt Collection Guideline for Collectors and Creditors 2005*.

The Energy and Water Ombudsman (Victoria) (EWOV) is an industry-based external dispute resolution scheme that helps Victorian energy and water consumers by receiving, investigating and facilitating the resolution of their complaints. EWOV's interest in responding is based on our extensive experience in handling customer complaints.

The ACCC contacted EWOV for some insight about the experiences of Victorian consumers who have been subject to debt collection arising from a water or energy account. We have provided in this response some historical EWOV case numbers about debt collection, some commentary about the debt collection activities that customers appear to be more commonly experiencing, and some customer case stories.

### **EWOV debt collection cases**

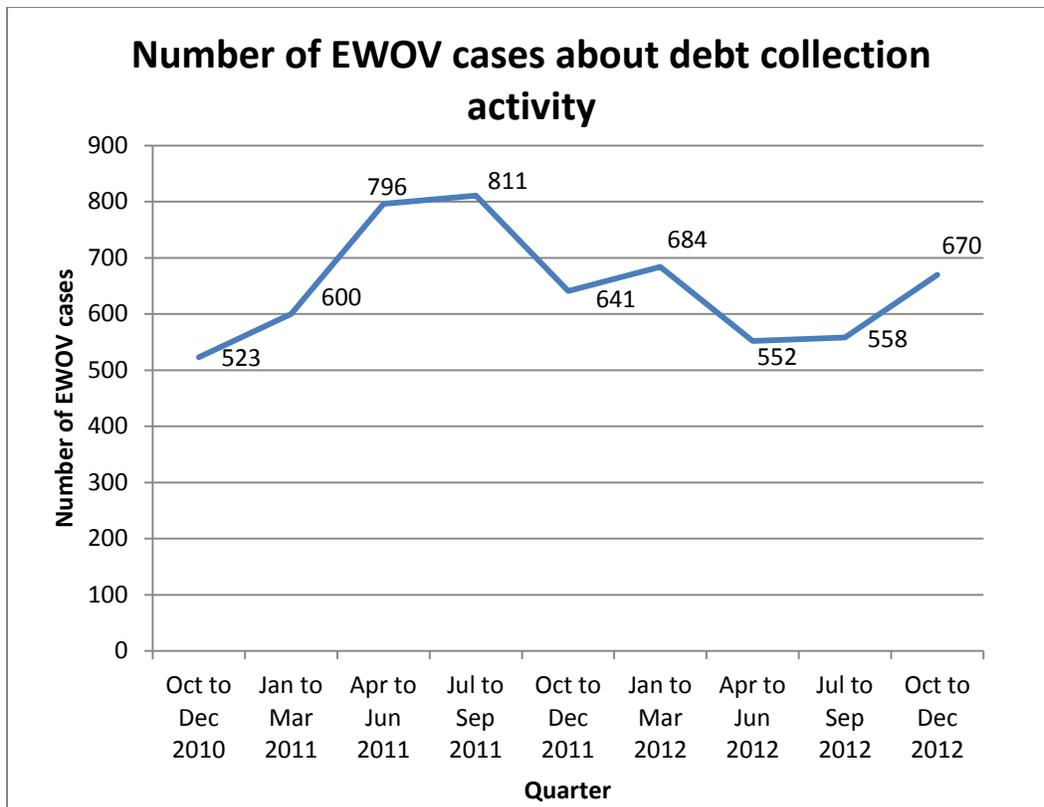
The graph below shows the number of EWOV cases received each quarter since 1 October 2010, from customers who were concerned about debt collection activity<sup>1</sup>.

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This graph shows a decline since September 2011 in the number of cases EWOV received about debt collection, with the exception of a marked increase in the October 2012 to December 2012 quarter - a 20% increase cases on the previous quarter.

#### Common debt collection issues

When EWOV receives a case from a customer, we categorise it with a main issue type and often an associated issue or issues. The issue we assign to a case involving debt collection does not go further than 'debt collection agency'. Therefore, in analysing customer concerns about debt collection, we are unable to refine our case data to the particular type of collection issue.

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<sup>1</sup> The following qualifications need to be taken into account when reviewing EWOV case data:

- Customers sometimes lodge more than one case. For example, if a customer states that they have been contacted by a debt collector about arrears on both their electricity and gas accounts, then EWOV will register two distinct cases for the same customer – one for their electricity account and one for their gas account.
- Customers sometimes re-contact EWOV. For example, customers sometimes re-contact EWOV because their concerns remain unresolved after previously being referred back to their company. This can result in EWOV registering an additional case for further investigation.

When examining debt collection cases, we can make a number of observations, as set out below.

*Most cases are about the referral to debt collection*

Most customers who contact EWOV with concerns about debt collection, complain about their account being referred to a debt collector, rather than the behavior of the debt collector or the conduct of the debt collection process. EWOV often finds in these cases, that there is an existing billing-related dispute usually previously raised with the company, which is unresolved at the time of debt collection. For example, a customer who has left a property having paid what they believed to be their final electricity bill, later receiving a debt collection phone call for an amount which was not included in the final bill.

Although it is infrequent that customers complain solely about collection methods or behaviour, we identified that customers have used the following words in describing debt collection conduct:

- 'aggressive phone calls' (2012/47328)
- 'threatening phone call' (2012/9262)
- 'causing stress' (2012/47089)
- 'daily SMS texts and phone calls' (2012/24839)
- 'threatened legal action' (2012/57308)
- 'phone calls in the evening and at weekends' (2012/44053)
- 'a phone call at 5am' (2012/15990)
- 'unprofessional tone' (2012/1725)

*Most debt collection cases arise as an associated issue*

Customers seldom contact EWOV with debt collection conduct as their sole or primary concern. Rather, the majority of debt collection cases have debt collection as an associated issue in addition to their main concern, usually billing-related. The main problem generally lies with the billing matter, however as debt collection has been identified, EWOV will recognise this as an associated issue in the case.

### *Communication between companies and their debt collection agency*

In the complaints we investigate, EWOV commonly finds that there is a lack of communication and co-ordination between energy retailers and their debt collection agencies. This can result in the application of debt collection methods while a matter is in dispute, or prematurely before the retailer has fairly dealt with the customer's concerns itself.

### *Debt collection when customers are in financial hardship*

Sometimes, EWOV receives cases where an energy account has been referred to debt collection, despite indications that the customer is experiencing prolonged payment difficulties. For example, the customer may be a concession card holder with a fortnightly payment arrangement who discovers that their account has been referred to debt collection (2012/11832). A better approach would be for retailers to actively engage with customers and provide early support through their hardship programs.

### **Customer case stories**

#### *2012/11832 – a customer should have received payment assistance rather than debt collection*

The customer is a concession card holder who was on a payment plan of \$36 a fortnight for his gas account. However, this arrangement was automatically cancelled when he vacated his property in November 2011, and he received a final bill for \$850. He has since received several debt collection letters. He contacted his energy retailer to re-establish his payment arrangement, based on what he can afford to pay. He said that the energy retailer told him to arrange payment directly with its debt collectors. Unhappy with this advice, he contacted EWOV for assistance.

The energy retailer apologised and to recognise the inconvenience it had caused, applied a credit of \$234 to the customer's gas account. It agreed to a payment plan of \$22 a fortnight directly debited through the customer's Centrelink payments and ensured that he had received all of his concession entitlements. The energy retailer also recalled the customer's gas account from its debt collectors and advised that he had not been credit default listed. A direct contact was provided should the customer have any further concerns or difficulties.

*2012/35163 - premature debt collection*

A customer moved house and received a combined final electricity and gas bill for \$261.06 which was due on 8 August 2012. Two days later he received a 'threatening phone call' from a debt collection agency and felt pressured to enter into a payment arrangement for his account that he could not afford.

EWOV investigated the customer's concerns and found that the energy retailer attempted to contact him on 9 August 2012, and had left a phone message. That same day, it referred the customer's account to a debt collection agency, who contacted the customer on 10 August 2012. The energy retailer was aware that the customer was previously making fortnightly payments to his account which stopped in June 2012.

The energy retailer apologised for the inconvenience caused to the customer and to recognise this, it reduced his electricity and gas account balances to \$100 each. It also agreed to a payment plan of \$20 a fortnight for each account and provided a direct contact for its hardship team.

We trust that these comments are useful. Should you require further information or have any queries, please contact Justin Stokes, Senior Research and Communications Advisor on (03) 8672 4272.

Yours sincerely



**Cynthia Gebert**  
**Energy and Water Ombudsman (Victoria)**