



11 December 2013

Mrs Agata Evans
Small Business Partnership & Education
Australian Competition & Consumer Commission
Level 24, 400 George Street
BRISBANE QUEENSLAND 4000

By email: Agata.Evans@acc.gov.au

Dear Mrs Evans,

Re: Australian Competition & Consumer Commission (ACCC) and Australian Securities and Investments Commission (ASIC) Debt Collection Guideline: For Collectors and Creditors and the Dealing with Debt Booklet

Thank you for the opportunity to provide comment on the Australian Competition & Consumer Commission (ACCC) and Australian Securities and Investments Commission (ASIC) Debt Collection Guideline: For Collectors and Creditors and the Dealing with Debt Booklet.

As an industry-based external dispute resolution scheme, the Energy and Water Ombudsman (Victoria) (EWOV) provides alternative dispute resolution services to Victorian energy and water consumers by receiving, investigating and facilitating the resolution of complaints. The following comments are based on our extensive experience in handling customer complaints about debt collection that arise from a water or energy account.

The Guideline

EWOV welcomes the ACCC & ASIC's Debt Collection Guideline (the Guideline). Once finalised, we foresee it being a useful tool for financial counsellors' and debtors' advisors.

In terms of the usefulness for EWOV, the Guideline will be valuable in providing our staff with guidance when investigating the acceptable conduct of both creditors and debt collection representatives when acting on behalf of energy or water companies when recovering debt.

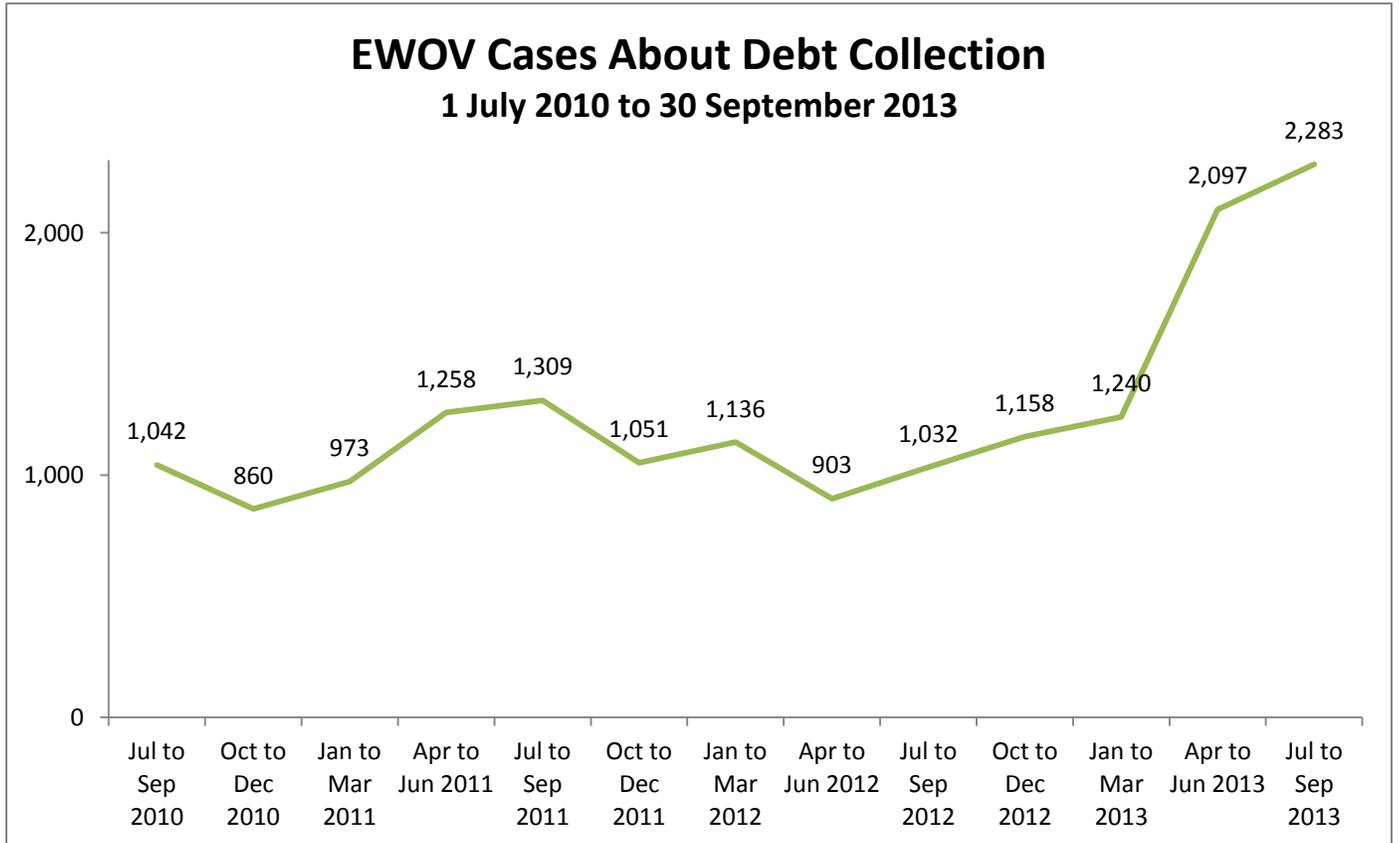
**Energy and Water Ombudsman
(Victoria) Limited**
ABN 57 070 516 175
GPO Box 469
Melbourne VIC 3001

Administration
Melbourne VIC 3000
Telephone 03 8672 4460
Facsimile 03 8672 4461

Enquiries and Complaints
Freecall 1800 500 509
Freefax 1800 500 549
TIS 131 450
NRS 133 677
Email ewovinfo@ewov.com.au
Web www.ewov.com.au

EWOV debt collection cases

The graph below shows the number of EWOV cases received from customers who were concerned about debt collection activity since July 2010¹. It highlights that issues about debt collection continue to impact Victorian consumers and are a growing complaint area to EWOV.



The Dealing with Debt Booklet (the Booklet)

EWOV also believes that the Booklet will be a helpful resource for consumers when dealing with debt and debt collectors. Outlined below are some suggestions to assist in making the Booklet as user-friendly as possible.

¹ 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.

Are you responsible for someone else's debt?

Page five of the Booklet explains the consequences of being a co-borrower or guarantor. EWOV believes that further clarity in this section would assist consumers to understand the term co-borrower better - in particular, that it can also include 'co-debtors' of utility accounts. By including this detail, readers will understand that consumers can be liable for another person's energy or water debt if they are joint account holders, and that they may be pursued for these debts via joint or several liability.

When, where and why you can be contacted about debt?

EWOV notes that the allowable times for debt collector contact, as outlined on page eight in the Booklet, are not consistent with the Guideline². The Booklet states contact can occur by:

- phone between 7.30am and 9pm on weekdays and 9am to 9pm on weekends
- face-to-face from 9am to 9pm on weekdays and weekends.

However, the Guideline advises that both phone and face-to-face contact can only occur:

- on Monday to Friday between 8am and 8pm
- on Saturday between 9am and 6pm
- Not on public holidays or Sundays
- at a work place between 9am and 5pm during weekdays.

The drafting error will require attention before finalising the Guideline and the Booklet.

Financial Counselling Australia

On page 27 and 28 of the Booklet, the Australian Financial Counselling and Credit Reform Association (AFCCRA) is listed as a resource for consumers to find their credit report (as detailed below) and obtain financial counselling services. However, this organisation has been rebranded to Financial Counselling Australia - <http://www.financialcounselingaustralia.org.au/Corporate/Home>.

The drafting error will require attention before finalising the Guideline and the Booklet.

Getting a copy of your credit report?

A good initiative in the Booklet is the information about how consumers can obtain a copy of their credit file, advising that this is possible by visiting the AFCCRA or the Money Smart website. The Booklet also includes a hyperlink to these sites (for downloaded Booklets) and the web address (for the printed Booklets). From these websites, consumers can find links to the

² As outlined on page 16 of the Guideline.

credit file request forms for several debt collection agencies including Veda³ and Dunn & Bradstreet⁴.

EWOV believes that, in addition to providing links to the websites that have this information, it would also be of benefit to consumers to provide direct links to the credit file request forms⁵, so that consumers don't have to search the websites to find this information.

Sample Letters

EWOV notes that the Booklet provides several sample letters for consumers dealing with debt collectors e.g. the 'making a complaint about a debt collector' letter⁶. To assist consumers contacting debt collectors using the sample letters, it may be beneficial to include a hyperlink and/or webpage addresses in the Booklet so that consumers can download the letters, rather than re-typing the information.

We trust the above comments are helpful. Should you require further information or have any queries, please contact Belinda Sandilands, Senior Research and Communications Advisor, on (03) 9672 4460 or at Belinda.Sandilands@ewov.com.au.

Yours sincerely



Cynthia Gebert
Energy and Water Ombudsman (Victoria)

³ http://www.veda.com.au/sites/default/files/docs/veda_free_credit_file_application_form_oct-13.pdf

⁴ <https://www.checkyourcredit.com.au/Resources/Forms/ApplicationForConsumerCreditReportAU.pdf>

⁵ http://www.veda.com.au/sites/default/files/docs/veda_free_credit_file_application_form_oct-13.pdf and <https://www.checkyourcredit.com.au/Resources/Forms/ApplicationForConsumerCreditReportAU.pdf>

⁶ https://www.moneysmart.gov.au/media/267034/sample-letter_complaint-about-debtor-harassment.doc