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Speech by Adam Graycar:

"Rights to information, education and freedom of choice: the vulnerable consumer"

presented at the National Forum on Consumer Rights of the Aged, Canberra, 22nd February 1990

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NATIONAL FORUM ON CONSUMER RIGHTS OF THE AGED

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CANBERRA

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RIGHTS TO INFORMATION, EDUCATION AND FREEDOM OF CHOICETHE VULNERABLE CONSUMER

I am sure that all of us, for as long as we can remember - whether we are twenty one or eighty one - have always been told that we live in rapidly changing times - in eras characterised by dramatic, significant and monumental change. And, of course, that is true. Technological change has put a sharp focus on consumerism and consumer rights. When we combine technological change with greater longevity we find a different combination of factors to anything we've ever had before.

First of all, most people today survive to the age of 80. Of all the girls born in 1909, 60% are still alive today, as are 40% of all the boys born in that year. When we think of traditional retirement age, 87% of women survive to age 65 as do 77% of men. We thus are in an era of major demographic and technological change.

Technological change has certainly brought enormous benefits and many irritants. It takes less and less time to get from one side of the world to the other, but more and more time to get from one side of a modern city to the other. The time we spend in aeroplanes getting to our destinations keeps diminishing, but the time it takes to get to the airport, the time it takes to check in, and the time spent just hanging around waiting keeps increasing.

We have all seen technological changes of astounding, stunning and overwhelming consequence. We can find technical solutions to many of our problems. We can think the unthinkable and do the undoable - yet are we a lot better off? We can do magic on our computers, land a person on the moon, analyse the gases surrounding Jupiter. We have learned brilliantly the means of

accomplishing scientific and technical advance. Yet we're faced with inconsistent paradoxes. We can send people to the moon, yet we can't find jobs for all our young people; we can build in our big cities, gleaming skyscrapers with computer controlled talking elevators, yet we can't make traffic flow; we can keep people alive for twenty to twenty five years beyond retirement yet we can't always ensure that they can live those years in dignity, and live as well informed consumers..

In the past, living longer meant living better. Our task is to make sure that is so in today's world.

Callers to our Office usually want one thing - information. Of some 3,000 calls last year, over half were requests for information - information on just about everything: nursing homes, guardianship, podiatry, house cleaning, transport, funeral expenses, investment, domiciliary care, health insurance, home equity, retirement villages, house and contents insurance, hostels, dental care, interest rates for pensioners, drug abuse, power of attorney, multicultural services, respite care, making out a will, car insurance, fees to nursing homes, nursing benefits, taxation, pensions, concessions and so on.

And they were just the general calls. Our Nursing Homes and Hostels Enquiry Service received a further 544 calls from November 1988 to June 1989, 197 of which were requests for pre-admission information.

How can we get a handle on this broad spectrum of consumer requests? First we must recognise the vulnerabilities of elderly people, and second we have to work out responses that are sensible and effective, thoughtful and efficient, caring and workable. The most important thing to remember is that most old people are not poor, or isolated or dispossessed, but there are many who are, and their dependencies make them vulnerable and poor consumers.

## VULNERABILITIES

Why are elderly consumers vulnerable? In general they are:

- \* information starved
- \* discriminated against
- \* compelled to make forced choices

### Information starved

Elderly people ring us because they are information starved and this makes them poor consumers.

Elderly people are more likely than others to be frail, living alone, socially isolated. Special consideration has to be given to these characteristics when thinking about getting information to them. For example, a glossy carefully worded brochure is often not the answer. Many older people crave human, face to face contact. Word of mouth, contact with clubs and associations, talkback radio and television chat shows have proved more successful ways of disseminating information.

### Discrimination

Older people may be denied goods and services simply on the basis of age. Clearly, this has a serious effect on their freedom of choice.

During the recent consultations and research into age discrimination in South Australia, evidence of discrimination was found in employment, retirement practices, the provision of goods and services, accommodation and education.

Forced choice

Force of circumstances makes for forced choice.

If you or I were buying a domestic appliance or a computer, we would, I hope, behave like good consumers. We would look for information on what's available, take a stroll to several shops, see what CHOICE and other magazines had to say, ask our friends, make comparisons, seek out opinions and recommendations, perhaps try it out. We would weigh up all the pros and cons, make the trade-offs and buy that which suits best.

Many of the choices made by elderly people about the things they phone our Office about, accommodation, age care, and health in particular are made in a crisis or near crisis situation. They have little opportunity to play the model consumer. Things are grim - a quick decision is needed, and the decision can sometimes be overwhelming and monumental - of such significance to alter the course of one's life. Quite a different ball game to buying an electric can opener!

Say you were a frail, elderly person in a public hospital bed with no prospect of going back home, and the registrar comes to tell you that you will have to vacate the bed the day after tomorrow. You have precisely that long to "choose" the right nursing home, the place that may turn out to be your home for the rest of your life. Many major decisions in the health and accommodation arenas are made only after a crisis hits.

## RESPONSES

How do we improve the chances of the vulnerable consumer? To be a good consumer, an elderly person needs:

5.

- \* information and/or advice to make the right choice;
- \* users' rights;
- \* community and industry awareness of special vulnerabilities

This is how we have tackled it so far:

1) Information services for elderly people and their carers

In the last 15 months the Office of the Commissioner for the Ageing has established two new stand alone information services.

- \* The Age Line
- \* The Nursing Home and Hostel Enquiries Service

These have been well publicised and have a strong commitment to users' rights and residents' rights. The Office has also been involved in the development of charters of rights, and has been involved in the development of outcome standards.

2) Informing/educating the community and industry

The Office has used a variety of information strategies to create greater awareness in the community of special needs, particular vulnerabilities, and basic rights. The Commissioner for the Ageing Act, 1984, covers a range of activities to ensure that older people are full participating members of the community (copy attached). My particular activities to achieve these include:

- \* Age Pages
- \* Talk back radio
- \* Speaking engagements
- \* Crime Prevention Tips
- \* Consumer information forums
- \* Professional information forums
- \* Preparation of statistical reports
- \* Wide dissemination of annual reports
- \* Planning and design guidelines for housing
- \* Contribution to scientific and academic literature

3) Advising the Government on legislative change

The Office is involved in legislative review, designing codes of practice, convening government task forces (with appropriate consumer and provider input), writing guidelines. Key substantive areas here include:

- \* Licensing of Supported Residential Facilities
- \* Retirement Villages legislation
- \* Age Discrimination legislation
- \* Access and Equity

We believe that we have made considerable headway in enhancing the lives of elderly people, particularly those who might be deemed vulnerable consumers. There are three major consumer issues that are presently the focus of our attention.

- \* retirement villages
- \* investment advice.
- \* home equity conversion schemes



RETIREMENT VILLAGES

Retirement villages were a growth phenomenon of the 1980s and will continue as such in the 1990s. To many prospective purchasers they are an attractive comfortable communal alternative to their present accommodation. They also pose a number of consumer problems, in the following areas:

- \* Contracts - cumbersome convoluted and confusing contracts befuddle residents, test solicitors to the hilt, denude our forests and wear our our xerox machines.
- \* Promises not kept - what the salesperson tells the consumer and what the consumer gets are occasionally distinctly different. Promises of maintenance have not always been kept.
- \* Management style sometimes leaves a lot to be desired. Residents are treated like children or prisoners (and many are financial prisoners) rather than consumers.
- \* Care not delivered - people think they are buying aged care, but in reality lease on unfavourable terms, a bit of real estate.
- \* Termination/departure/refunds opens up an unstructured quasi tribal situation where, as in the law of the jungle, the strong win and the weak lose.

We are well aware of the issues and concerns and are working towards a long term solution.

INVESTMENT ADVICE

Why do elderly people deserve special consideration as vulnerable consumers when it comes to investment advice?

In my recent consultation with financial counselling services and other government bodies, attention was drawn to problems with the current practices of some investment advisers.

Many of the incidents cited revealed bad client service practices or insensitive management. And these failings would mean trouble for the client regardless of his or her age. For example, there is confusion about the role of advisers, whether they are paid by commission or fee, there have been suggestions of conflict of interests.

It is the lack of knowledge about the particular needs of the elderly consumer that needs to be addressed. Insensitive judgement has led to some tragic investment choices.

There was the case of an adviser who invested his 75 year old client's savings in some very profitable bonds. The snag was they were only redeemable after 10 years.

There was the case of an adviser who promised a dying man that he would ensure that the man's savings were invested to provide for his wife. The adviser recommended one holding of shares for their growth and very high income. The shares were not issued subject to a registered prospectus, were never listed and the company collapsed. The woman got nothing back.

The second case of course would be dreadful for anyone. But the woman may well have been making one of those crisis choices with which the elderly are often faced.

Both cases illustrate the sort of handicaps our vulnerable consumer is likely to be carrying:

- \* Their income level is static. They have no growth from earnings.
- \* Security may often be a more important consideration than rate of growth or rate of interest.
- \* They are more likely to be interested in short term investments or recurrent income.
- \* If so, they are unlikely to want to lock up their money in bonds for 10 years.

We have had further discussions with the industry and have agreed to design a Code of Practice for investment advisers.

#### HOME EQUITY CONVERSION SCHEMES

Schemes offering equity conversion, or reverse mortgages, are full of pitfalls and they don't need to be restated here. Housing Ministers have funded a comprehensive national research study as a precursor to developing policies to protect consumers.

#### CONCLUSION

The challenges ahead of us are quite formidable.

First we must work from a thoughtful and substantial knowledge base of our older population - its demography, socio-economic conditions, vulnerabilities, frailties and the range of hopes, needs and aspirations.

Second we must build working partnerships between those who have an interest in specific consumer matters - consumers, governments, and the providers of goods and services but must not forget the information purveyors.

Third, recognising that in today's society to be information poor is a genuine form of exclusion, governments and consumer groups must work together to develop information services as a matter of right.

Fourth, in those areas where knowledge and information are insufficient for optimal consumer activity, governments must take the lead in developing statutory requirements and codes of practice.

Fifth, governments need not only to have the power, but to use the power to regulate innovatively and bring recalcitrant operators into line.

Policy issues in the ageing arena involve structuring an environment which responds effectively, efficiently and compassionately to a demographically changing elderly population. We all have a responsibility, organisationally and collectively to set the structures and processes to achieve excellent outcomes, and if we do this everybody will win especially elderly people who will feel valued and respected, and in turn our whole society will benefit and be enriched.

DIVISION II—OBJECTIVES AND FUNCTIONS OF THE COMMISSIONER

6. The objectives of the Commissioner are:

- a. to achieve proper integration of the ageing within the total community thus ensuring that skills and experience of the ageing are not lost to the community through social alienation;
- b. to create social structures in which the ageing are able to realise their full potential as individuals and as members of the community;
- c. to create a social ethos in which the ageing are accorded the dignity, appreciation and respect that properly belong to them;
- d. to ensure that the multicultural nature of the community is reflected in the planning and implementation of programmes and services for the ageing or affecting the ageing;
- e. to achieve a proper understanding within the community of the problems of the ageing and to ameliorate those problems so far as it is practicable to do so by modification of social structures and attitudes.

7. (1) The functions of the Commissioner are:

- a. to advise upon the development and implementation of programmes and services for the ageing and to actively foster and seek the involvement of the ageing, wherever practicable, in the development and implementation of programmes or services that are intended for their benefit or that will have a special effect upon them;
- b. to monitor the effect upon the ageing of:
  - (i) practices of the Governments of the State and Commonwealth and local government;
  - and
  - (ii) Commonwealth and State law (including local government by-laws),and to make appropriate representations in the interests of the ageing;
- c. to ensure as far as practicable that the interests of the ageing are considered when programmes or services that may affect them are being developed or implemented;
- d. to undertake or commission research into matters affecting the ageing;
- e. to compile data relating to the ageing;
- f. to disseminate information for the assistance of the ageing;
- g. to ensure as far as practicable that financial and investment advice is available to the group;
- h. to keep social attitudes towards the ageing under review and to promote a better understanding of the ageing within the community;
- i. to assess the incidence of discrimination against the ageing in employment and to promote action to overcome such discrimination;
- j. to keep under review the special needs of individual groups of the ageing (including those who suffer from physical or mental disabilities and those who are economically disadvantaged), and to promote various methods by which those needs may be satisfied;
- k. to consult and co-operate with other bodies and persons that assist the ageing;
- l. to assist in the co-ordination of programmes and services that may assist the ageing;
- m. to consult with the ageing in relation to the means of promoting their interests and, as the Commissioner considers appropriate, to represent the views of the Ageing to the Minister;
- n. to report to the Minister on any matter relating to the ageing referred to the Commissioner by the Minister.

(2) The Commissioner may establish Committees to advise him on any matter related to the performance of his functions under this Act.