

 	<p><b>Law Week South Australia Justice Oration</b></p> <p><b><i>Financial stress and vulnerability: the perfect recipe for scams</i></b></p> <p><b>Peter Kell, Deputy Chairman 21 May 2009, Adelaide</b></p>
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## **Introduction**

Add two cups of a global financial crisis, stir in three table spoons of job uncertainty, 10 mls of mortgage stress and a pinch of panic and you may have found the perfect recipe for scams.

The current financial crisis has provided scammers with greater opportunities to take advantage of Australians at their most vulnerable.

Australian Bureau of Statistics figures suggest that around 1 in 20 Australians fall victim to some sort of consumer scam each year, with a direct cost to the community of about \$1 billion.

At the Australian Competition and Consumer Commission we have seen a significant increase of more than 60% in scams reported in 2008 compared to 2007, and this accelerated towards the latter part of last year.

Evidence from the ACCC's Infocentre suggests that scam activity continues to grow in 2009. In the first three months of this year Australians reported to the ACCC that they had lost \$30 million to scams. This is a significant increase over the same time last year and is certainly a worrying figure for a three month period.

## **Consumer Scams**

Consumer scams and fraud are as old as consumer markets. But technological developments have facilitated the growth and sophistication of these criminal activities. In particular, the growth in online communication and online commerce has opened up wonderful opportunities for consumers, but it has also opened up many new avenues for consumer scams.

The internet has proven to be a remarkable device for spreading information and knowledge. However, this has also allowed scammers to change their offerings with alarming speed and efficiency – bushfire scams, swine flu scams, employment and rental scams... think of a type of financial exchange and there's likely to be scam activity in there somewhere.

And of course, as with many other areas of life, the internet has not replaced previous vehicles for scammers such as the telephone and 'snail mail', but rather has added to the overall level of scams.

In addition to these technological factors, economic developments have also helped create opportunities for scams and frauds. For example, we have access to a much wider range of financial products and investments than previous generations – a fact that more sophisticated scam operators seek to exploit. And in a period of economic downturn, when confidence in the mainstream markets has declined, there are those who seek to take advantage of uncertainty and financial instability.

Having said this, my aim tonight is not to scare you into abandoning the internet or disconnecting the telephone. Tonight I will highlight some common scams that are targeting Australians, but I will also provide you with some tips on scam prevention and awareness.

I'll then update you on the work that the ACCC and other Commonwealth and state agencies are undertaking to fight scammers, including through the Australasian Consumer Fraud Taskforce. It's important to understand the challenges that law enforcement agencies face in combating scams, and how you may be able to help us take on these criminals.

I'll finish off by examining the relationships the ACCC has developed with international consumer protection agencies in disrupting scams.

## **Scams and Australian consumers**

Let me start off tonight with a question, do you love puppies?

### *Puppy/pet scams*

A dog brings so much love and joy to Australian families.

And this adorable Golden Retriever puppy will only cost you \$300, and this would seem a bargain. Some people may seriously consider this offer for man's best friend as most puppies, particularly purebred, cost at least three times as much. Let me read you the advertisement, it all sounds pretty convincing:

*He is registered and vaccinated. We regret selling him but we have no other choice due to plans to travel. He is very adorable and brings lots of smiles and joy. Get him to your family and you will not regret it.*

However unfortunately this dog's bite will be long lasting as he simply does not exist.

The ACCC has received more than 150 complaints over the past two years from consumers regarding pet scams. Losses can range from hundreds to a couple of thousand dollars.

The aim of the scam is to try to persuade consumers to pay to have the puppy transported to their address. Other transportable pets, such as birds and cats, can also be used. Recently macaws seem to be a particular favourite!

Payment is to be made via money transfer, but the puppy is never delivered and the scammer pockets the money.

Typically the seller has a story about having to unexpectedly move interstate or overseas – the scammer will always come up with an excuse as to why you can't go and see the puppy or pick it up. The puppy on screen moved to three different states during the course of the scam to ensure the purchaser couldn't pick him up.

So if you're considering responding to similar advertisements, just think about the following:

- Remember - it is impossible to import a dog from overseas into Australia in a few weeks as quarantine procedures need to be followed, some animals such as rare birds cannot be imported at all;
- Avoid any arrangement that asks for upfront payment via money order, wire transfer or money gram;
- Do an internet search using the exact wording in the ad – many well known scams can be found this way; and
- Get advice regarding the animal's details provided in the ad from someone in the industry such as a breeders' association, a vet or your local pet shop.

I've used the 'puppy scam' not because it's the most damaging or widespread consumer fraud currently around. Rather, it clearly illustrates that, thanks to the internet, scammers now routinely operate in territory that we simply would not have anticipated until recently. Another example is scam genealogical websites offering information on your family history for a fee – who would have thought that the hobby of researching the family tree would provide grounds for illegally separating people from their money!

### Scamming your personal details

Scammers are renowned for their ability to target Australians at their most weakest and stressed. This is especially so when it comes to finance, on which I'll now elaborate.

To combat the effects of the global financial crisis, the Australian Government announced various initiatives including stimulus payments to many citizens.

These payments were distributed to eligible 2007-08 taxpayers either directly or through tax agents that people had used to file their tax returns.

The ACCC published an alert on our ScamWatch website in February warning Australians to watch out for unsolicited requests seeking verification of personal details.

The ACCC was concerned that scammers would target those Australians who unwittingly handed over their details, worried they would not receive the stimulus payments. The information sought included date of birth, address and bank details. In other words, this was a scammer's smorgasbord.

As we've learnt from experiences in America, scammers are quick to capitalise on major events, such as setting up scams soon after key government announcements or even natural disasters.

If there is one thing you remember from today's speech, I hope it is this:

- Any reputable organisation that you have been conducting business with such as a bank, government agency or even phone company, would not need to contact you to verify your details via email. This includes the Australian Tax Office, Centrelink and other government agencies.

So if you receive such an email, letter or phone call, simply delete it, trash it or hang up. If you're still worried, contact the relevant organisation but not by using the contact details provided by the unsolicited correspondence. Use contact details from independent sources such as the phone book or from the last regular statement or bill you received.

It is important that you do not divulge your personal details to questionable sources.

### Holiday scams

As we're aware as things become tighter financially, one of the first things to go is discretionary spending. This means that taking a holiday usually gets pushed down the list.

But maybe there is a way you can take that holiday - you've just been informed that you're the winner of a free holiday. Your luck seems to have changed or has it?

Typically, a pre-recorded voice message instructs the 'so-called winner' to dial either one or nine, to claim the 'prize'. If a consumer complies, he or she is connected to a 'travel consultant' who will then ask you to provide some details before claiming the prize.

In order to claim the holiday, you will be charged about \$600 or a similar figure for associated taxes and other fees. The consultant will then ask you to pay with a credit card.

Consumers have found with some of these schemes that the holidays simply don't exist – they are scams where any money paid is lost.

The ACCC has received many complaints from consumers who have been contacted by overseas-based holiday telemarketing schemes.

More recently telemarketing scammers posing as travel agents have been using the lure of bonus big money prizes as a way to get upfront fees to collect the winnings. One such scam is even being peddled through unsolicited mailouts from overseas of large, glossy brochures featuring scratch cards. All of course, are winning cards and again all that is required is that upfront fee.

In other cases, a holiday offer may exist but it comes with a range of undisclosed fees and conditions, including the requirement to attend lengthy high pressure sales presentations for expensive vacation ownership plans.

Unfortunately there's no such thing as a free lunch as the same applies to holidays. So if you are told you've won a free holiday, the ACCC would advise you to do the following:

- hang up if you receive telemarketing calls about 'free' holidays, gifts or prizes;
- be wary of any offer that sounds too good to be true;
- avoid the temptation to dial on to get more details - the marketers are trained to hook people in;
- if you do talk to sales staff resist pressure to sign up;
- be very careful when providing personal details, including credit card details to anyone over the telephone or online. You should not provide any information to people you don't know and trust;
- If you have sent money, contact the bank straight away and cancel the card or request a chargeback.

Arranging a holiday through reputable travel agents or holiday operators with a presence in Australia, rather than someone who cold-calls you 'out of the blue', will provide better options for redress if something goes wrong.

### *Work from home scams - money laundering*

Earning some extra cash by working at home is something that would appeal to many of us, especially during economically challenging times. Some additional income would help in paying the bills and saving up for big ticket items.

So if there's an email in your inbox with a job offer it may be tempting to think of replying. It's a job offer where you as the money transfer manager or special business partner will be asked to use your bank account to receive and pass on payments for a foreign company. Some even represent themselves a 'secret shopper' positions.

These 'job offers' promise that you will receive a percentage commission for each payment you pass on. And the best thing is that you do not need to have any professional qualifications, all you need is a bank account.

Well this does sound like a dream job doesn't it? Work from home and all you have to do is click a few buttons per day. However offers that involve transferring money or cheques for someone you don't know are nearly always a scam.

Sometimes, scammers are just after your bank account details so they can clear out your funds.

They could also be money laundering which is illegal. Money laundering is when somebody tries to 'launder' money they have earned from a crime to make it look like it came from a legal source. They do this by putting the money through a series of bank accounts to hide its original source.

If you agree to transfer money in this way you may find that you are being used to cover someone else's criminal activities. If the authorities follow the money trail from a crime that the person scamming you was involved in, it could lead straight to your bank account.

It is best to stay clear from any job offers requiring you to transfer money from your bank account. Some of these offers even turn up in newspapers.

Also apply some commonsense, why would a foreign company choose me out of millions of people to work for them especially as I've never heard of them?

### *Sport arbitrage schemes*

Australians love sport, and we also seem to love a bet. Would it surprise you to hear that some scammers have taken advantage of this combination through so-called 'sports arbitrage' schemes?

These schemes are currently in the top 10 complaint categories for the ACCC and Australian consumer protection agencies. It's estimated that Australian consumers have lost tens of millions to these schemes in recent times.

Operators have gone at great lengths to hide the true nature of these schemes by calling them by other names such as sports trading, sports wagering or sports betting.

But it doesn't really matter what these schemes are called, they will cost you.

Sports arbitrage is a form of sports betting which usually involves gambling on sporting events with two teams. It is promoted on the basis that bookmakers will either differ on which team will win or 'make a mistake'. These schemes also claim to capitalise on world time differences or overseas bookmakers' lack of understanding of local sporting events.

Essentially it's claimed that bets are placed on both teams, playing to get the best odds. The promoters claim they can spot 'opportunities' and take the best odds on offer by different bookies so that money is won supposedly regardless of the outcome.

No matter how much it sounds like the real deal, ignore the glossy prospectus as invariably the only people making any money are the operators who rake in millions of dollars in joining fees. Don't be enticed by reports of past performance or graphs showing high returns. These results can be manipulated or fabricated. Once people have paid their money, they are often unable to contact the company they dealt with.

These schemes are gambling at best and in some cases they may be an outright scam. The operator's aim is to part you from your money.

Here are some tips to protect you from these schemes:

- Participate in these schemes at your own peril. Many sports arbitrage schemes are fraudulent and you will lose your money;
- Just because a company is registered with the Australian Securities and Investment Commission (ASIC) doesn't mean it's legitimate. Registering a company is cheap and easy to do;
- Sports arbitrage is NOT a form of investment, nor is it risk free. It is gambling and should be viewed in light of the many risks associated with gambling schemes. Remember, once you hand over your money, you lose control of it.

Ask yourself – if making money this way is so straightforward, why are the operators not doing it themselves rather than trying to sell the scheme to you?

### **Consumer protection agencies working together to fight scams**

Those are just some of the common scams that have been targeting Australians.

I'm now going to discuss what the Commonwealth and state consumer protection agencies are doing in targeting scams followed by the ACCC's cooperation with international agencies in disrupting and alerting consumers to scams.

The ACCC chairs the Australasian Consumer Fraud Taskforce, a body made up of 19 federal and state government regulatory agencies and departments, as well as New Zealand, that have a responsibility for protecting consumers from frauds and scams.

South Australia's Office of Consumer and Business Affairs is a taskforce member.

The purpose of the Taskforce is to work together to:

- enhance the Australian and New Zealand Governments' enforcement activity against frauds and scams;
- to share information and generate greater interest in research on consumer fraud and scams; and
- create a yearly co-ordinated information campaign for consumers timed to coincide with International Consumer Protection Enforcement Network Global Consumer Fraud Prevention Month.

The work of the Taskforce is supported by a growing number of government, business and community group partners.

This year's Taskforce campaign, *National Consumer Fraud Week* held in March, sought to increase public awareness of scams and educate consumers about the steps they can take to recognise and protect themselves from scammers.

The campaign highlighted the significant costs to consumers and businesses that arise from scammers, and the need for a broad-based approach to combating these activities. The Taskforce strongly believes that education and awareness are key tools in protecting consumers from scams and consumer fraud.

Education is vital because scammers are often very difficult to combat through conventional law enforcement. Many are based overseas. Many move money quickly to countries that have less rigorous consumer protection rules or banking regulations, and do not have well resourced law enforcement agencies.

Each State and Territory also has its own processes in place to deal with scam activity. This can include specific legislation such as provisions to deal with dealing with door-to-door selling and public warning powers. There are also Commonwealth agencies that have a role in dealing with scams or fraudulent activity.

As part of its role in working with these State, Territory and Commonwealth agencies, the ACCC may also be involved in investigations and information sharing. The ultimate aim is to *disrupt* scam activity at every opportunity. It will often be impossible to catch the scam operators, but a focus on disrupting their activities through, for example, shutting down sites or targeted education will often achieve the best outcome – protecting consumers.

Of course Law Week is a great example of this cooperation at a more local level.

For example, the ACCC ran information booths in some of Adelaide's major shopping centres with the goal of educating South Australians about their consumer rights and how to enforce them. We also worked with the Office of Consumer and Business Affairs in providing tips to high school students about becoming 'smart consumers' as well as ways to identify scams.

### International cooperation

At an international level, the ACCC will be representing Australia as the next President of the International Consumer Protection Enforcement Network from the middle of the year.

ICPEN comprises members from 40 international consumer enforcement agencies and is an international forum to share information and foster cross-border cooperation to prevent fraudulent and deceptive conduct.

Each year, the ACCC also participates in ICPEN's Internet Sweep Day. Consumer protection agencies across the world undertake a coordinated review of websites that may be giving consumers false and misleading information and messages.

Each website is then inspected and suspicious sites are flagged for further investigation and follow-up action. This may include websites being modified or being taken down – putting the pressure on dodgy sites and also those countries where the sites might find a home.

The information from the sweep also assists the ACCC and other agencies to provide education and information to consumers about safer online shopping.

Given our active participation in ICPEN activities, the ACCC presidency of the international network will undoubtedly enhance and strengthen our ability in dealing with scams both locally and internationally.

Also important will be the ACCC membership of Special Interest Group on the FBI's Law Enforcement Online (LEO) database. LEO is a secure, internet-based communications portal for law enforcement, first responders, criminal justice professionals, and anti-terrorism and intelligence agencies around the globe.

Another significant development occurred in February this year when the ACCC was participated in Mass Marketing Fraud Coordination Group in Washington DC.

The Mass Marketing Fraud Group is a significant multi-jurisdictional initiative to help combat Mass Marketing Fraud. The ACCC understands the value in participating in this initiative as it influences the manner in which we can effectively disrupt Mass Marketing Fraud networks that target Australia.

In summary, building networks with both domestic and international agencies as well as private sector participants contributes to the ACCC's ongoing scam

disruptive activities. Working with other agencies also provides an insight into the successes as well as the ongoing or newly emerging problem areas. This is an important aspect of the development of our compliance/enforcement measures to protect consumers and businesses in Australia.

An example of international cooperation through information sharing was the ACCC's action against a misleading website, Designer Brand Outlet, selling high fashion. Information and assistance received from the US Federal Trade Commission resulted in a successful investigation resulting in a positive outcome for consumers.

### *Disrupting Scams – the Role of Consumers*

Finally, one of the interesting challenges for agencies such as the ACCC in combating these criminals is the reluctance on the part of many consumers who have actually fallen for scams to come forward or tell their story. There is an embarrassment factor at work for many people – 'how could I have been so silly, why didn't I see this coming, it's all my own fault.' This a really damaging aspect of consumer scams that goes beyond any immediate economic detriment – the loss of confidence and control that victims often feel.

In my experience, the sophistication of many scams these days means these emotions are not justified. It is very easy to fall for scams that are difficult to detect. Furthermore, many scammers are experts at targeting our emotional vulnerabilities and emotional decision making. Even the puppies fall into this category! So please, if you or someone you know has fallen for a scam please let us know at the ACCC. It will help us understand what scams are out there, how the scams are working, and what we might do to warn others.

## **Conclusion**

I am constantly surprised at the ingenuity and sophistication of scam operators. However, I find that often in interviews with media or in talking to consumers in the wider community, there is still the view that all scam operators are dodgy looking guys in dirty jackets, 'amateurish' and easy to spot, or else the authors of the world's worst emails. In this light, too many consumers believe that the only people who fall for scams are gullible or careless.

Scams can hit anyone, from any walk of life, any age and any educational attainment. New technologies and ways of doing business have given scam operators greater scope to create a strong impression of legitimacy and trust around their offerings. Scam operators are in many cases part of highly organised criminal networks.

As I've noted the ABS found that around 1 in 20 adult Australians will be hit by some sort of consumer scam each year. This figure is broadly consistent with findings from overseas. For example the UK Office of Fair Trading found that

around 1 in 15 people had responded to a scam. The US Federal Trade Commission found that more than 10% of the adult population had lost money to a scam in a single year. Anyone can and does fall.

This of course does not mean that we should stop engaging in online commerce or ignore the phone when it rings. Rather, it's a signal to that a vital step in avoiding scams is to recognise that it could happen to you.

Don't be served up on a platter by scammers. Be alert and follow these simple golden rules to reduce the chance of being scammed:

- If it sounds too good to be true, it is;
- Never respond to out of the blue requests for personal details;
- Get independent advice if the offer involves money, time or commitment;
- Independently obtain contact details- never click onto email links;
- If you feel under pressure, don't respond – it is best you carefully consider the consequences of your actions as scammers are preying on your emotions;
- Destroy old bills, records and expired cards- don't just bin them;
- Check your bank statements regularly.

To learn more about scam that commonly target Australians and how to spot them, visit the SCAMwatch website on [www.scamwatch.gov.au](http://www.scamwatch.gov.au). This website provides you with a feast of information and is the home of the *Little Black Book of Scams*, which is a must read guide to detecting and protecting yourself against scams.

Thank you.