How to plan an effective campaign

Gerard Brody,
Director-Policy & Campaigns
and
Katia Sanderson, Solicitor
NACLC Conference 2012, Adelaide
What we’ll cover:

- Campaigning: what is it?
- Campaign planning – steps and strategy
- Campaigning and casework: some tensions
- Campaigning examples
- Developing your own campaign!
- References
Campaigning: what is it?

- Any coherent and planned series of actions, designed to achieve an overall aim and objectives

- *Most law reform/justice policy work undertaken by CLCs is not part of a campaign*
Campaigning planning

- Requires *strategic* thinking
  - Identifying a goal
  - Understanding the environment
  - Creativity in developing effective actions
  - Identifying links between strategies

- Advantage of CLC/FC campaigns – casework integration
The campaign cycle

The planning cycle runs over the life of the campaign
Campaign steps

1. Information gathering
   - Research
   - Scan environment
   - Identify resources

2. Set the goal

3. Identify strategies
   - Political action/lobbying
   - Using the media

4. Act, reflect, evaluate, modify
Casework and campaigning

1. Policy and campaigns plan
   - Whole of organisation input
2. Case intake
   - Criteria; policy input; emerging issues
3. Conduct of files
   - Issuing in court, EDR; media; complaints to regulators
4. File closure
Casework and campaigning

- Case intake
  - Case intake policy
    - vulnerability of consumer
    - merit of case
    - our areas of expertise
    - current capacity
    - potential public interest impact.

- Input by legal and policy teams
Casework and campaigning

- Conduct of files
  - Communicating with the other side
  - Choosing dispute resolution forum
    - Court or tribunal
    - External dispute resolution ("EDR")
  - Complaints to regulators
  - Collaboration with other agencies
  - Case studies and media
Casework and campaigning

- Tensions
  - The best interests of the client and the public interest
  - To settle or not to settle?
    - Stress of litigation
    - Costs risks
    - Temptation of certain payment
    - Non-disparagement and confidentiality
  - Vulnerable clients and the media
Fair fees campaign

- Campaign against bank penalty fees - charged when consumers don’t have enough money to cover a direct debit or cheque payment, go over their credit card limit or make a late payment.
- Fees up to $50 each
Fair fees campaign (2)

- Information gathering
  - Research: Consumer Law Centre Vic (prior to CALC) had undertaken research report arguing these fees were a penalty at law
  - Scan: Analyse fee levels charged by banks and credit unions
  - Gap: No data about overall level of fees charged by banks
Fair fees campaign (3)

- Setting the goal
  - Legal finding that penalty fees unlawful
  - For banks to stop charging penalty fees
  - For improved legislative protection – unfair contract term laws
  - For banks to stop charging penalty fees particularly for “basic bank accounts” (designed for low income earners)
Fair fees campaign (4)

- Strategies
  - Writing to the banks
  - Providing information to consumers (website)
  - Getting consumers to complain
  - Political lobbying
  - Pursue regulatory reviews
  - Media
  - Test case litigation
Fair fees campaign (5)

- Evaluation and learning
  - Led by NAB, most banks removed or significantly reduced penalty fees by 2009
  - Penalty fee income (as measured from RBA) reduced by half from $1.2b in 2008 to $600m in 2010
  - National unfair contract term laws from 1 January 2011
  - Test case taken up by Maurice Blackburn – this required significantly more resources than we could offer
Motor Finance Wizard

Say NO to the Wizard
Say NO to the Wizard campaign

- High numbers of complaints led to campaign
  - Targeted at low income/excluded consumers
  - Inflated values of vehicles
  - Avoidance of consumer credit laws
  - Poor quality of vehicles and lack of repairs
  - High pressure – forcing people to wait
Say NO to the Wizard (2)

- Consumer Action had advised many clients and made complaints to regulators
  - But no action
  - Complaints still rolled in
- Strategic analysis identified need for “direct action” campaign
Say NO to the Wizard (3)

- Tactics included:
  - Providing free RACV mechanical checks to consumers
  - Attending car yard to provide consumer advice to potential purchasers
  - Active engagement with media
  - “National Day of Action”
  - Maintain targeted casework
Say NO to the Wizard (4) (link)
MEDIA RELEASE
Friday, 27 June 2008
CONSUMERS LAUNCH NATIONAL DAY
OF ACTION AGAINST MOTOR FINANCE
WIZARD

Consumer Action Law Centre is leading a campaign against unfair practices of motor car traders. Almost a quarter of all Consumer Action’s complaints about motor car traders and related finance over the last 12 months relate to one business – Motor Finance Wizard. Motor Finance Wizard, and its related finance company, Kwik Finance operate from two locations in Melbourne – Dandenong and Maidstone, but also in Sydney and Brisbane.
Say NO to the Wizard (5)

Campaign began with casework, and was important ongoing part of campaign

- casework outcome took time
- Tribunal finding in May 2011
- contract unjust
- misleading & deceptive conduct
- unconscionable conduct
- “leasing process flawed”
Say NO to Wizard (6)

- Campaign again modified with new credit licensing laws – introduced in 2010/11
  - Focus shifts to ASIC

MEDIA RELEASE
Friday, 22 July 2011
ASIC GRANTS LICENCE TO ‘MISLEADING, DECEPTIVE AND UNCONSCIONABLE’ TRADER

In a move that has disappointed the Consumer Action Law Centre, ASIC has granted a consumer credit licence to a company whose conduct has been found to be misleading, deceptive and unconscionable.

The decision to grant DGTV1 Pty Ltd (which trades as Motor Finance Wizard) a credit licence raises a number of questions about the licensing process, and raises the question “what does a lender have to do to be denied a licence?”
End the Debt Trap campaign

- Payday lending (small amount high cost loans less than 3 months length) exploding
  - Cash Converters
  - Money3
  - Aussie Cash
  - The Cash Store
  - The Cash Doctor
  - And others!!!
End the Debt Trap campaign (2)

- Most effort spent on “information gathering” and “setting the goal”
  - 300 page research report into industry and its growth
  - Research report also considered international developments and regulatory options
End the Debt Trap campaign (3)

- **Goal** – comprehensive interest cap on consumer credit nationally

- **Context**
  - cap exists in NSW/ACT/Qld
  - national consumer credit law reforms

- **Target**
  - Federal Minister: key decision maker
  - Treasury: not key focus
  - Other key MPs: cross benchers; ALP caucus
End the Debt Trap campaign (4)

- Casework integration

New credit laws put to the test

Matthew Drummond

A fresh front has opened in the battle over high-interest, short-term loans: Cash Converters is being sued by one of its former customers for lending him money.

Ronald Hayes, a disability support pensioner, alleged the company failed to comply with new laws that obliged it to ensure its products were suitable for his circumstances.

Over three years Mr Hayes took out a series of 64 loans from Cash Converters, each repayable after 30 days. All up he borrowed $15,430 and paid $3407 in fees.

KEY POINTS

- Cash Converters is being sued by one of its customers.
- The case is a test of how consumer credit laws apply to payday lenders.
- The Gillard government is seeking to cap the fees such lenders charge.

The case, filed in the Victorian Magistrates Court, is believed to be the first legal test of how new consumer credit laws should apply to payday lenders. The laws came into force in mid-2010 and require credit providers to ensure they do not provide loans to people who will struggle to pay them back.

“The court is being asked to consider whether the Cash Converters companies made an appropriate assessment of Mr Hayes’ ability to repay the loans without hardship,” said Tom Wilcox, the acting director of legal practice at the Consumer Action Law Centre, which launched the lawsuit on Mr Hayes’ behalf.

Cash Converters spokesman Glenn Doughty said claims of predatory or unfair conduct would be vigorously defended.

The court case comes as the Gillard government seeks to cap the fees payday lenders charge.

Legislation introduced in Parliament last month would impose an annual interest rate cap of 48 per cent for loans of more than $2000 and, for smaller loans, an upfront fee cap of 10 per cent of the loan and 2 per cent interest a month.

The proposed laws would force lending fees down to $12 for every $100 borrowed, which is well below the $35 for every $100 charged by Cash Converters.

The laws are under review and submissions are due at the end of this week.
End the Debt Trap campaign (5)

Direct action (link)

High-interest credit keeping ‘people in the debt cycle’

Payday loans protest

MANDY SQUIRES
FAMILY

STRUGGLING families are being driven to the wall by payday lenders such as Cash Converters, financial counsellors said at a Geelong protest rally yesterday.

About 50 financial counsellors walked out of the annual Financial and Consumer Rights Council (FCRC) conference at the Four Points by Sheraton, on Geelong’s waterfront, to march through the streets and call for greater regulation of payday lenders.

Speaking from outside Geelong’s Cash Converters store in Ryrie St, spokesman for the Consumer Action Law Centre, Gary Rothman, said payday lenders were “making profits on the back of people who are getting caught in the cycle of payday lending.”
End the Debt Trap campaign (6)

- Need to monitor and modify goals
- *Parliamentary inquiry*
  - “need a balance between consumer protection and industry viability”
  - Interest rate cap won by industry
- Focus changed to repeat borrowing
  - If we’re to have payday lending, then it should be for emergency financial problems, not long term use
Planning your own campaign

- Small groups
- Identify campaign plan
  - Door-to-door selling
  - Debt collection
  - Consumer rentals
  - Others?
- What are some key steps and tools?
Concluding remarks

- Strategic thinking from outset
- Integrate casework – key advantage of CLCs/financial counsellors
- Framing debate and strategies/tactics
- Don’t be afraid of media
- Act, reflect, evaluate, modify
References

Public Interest Law Initiative, *Pursuing the public interest* (www.pilnet.org)
Contact

Gerard Brody
Director Policy & Campaigns
gerard@consumeraction.org.au

Katia Sanderson
Solicitor
katia@consumeraction.org.au