

Submission to The Treasury: Review of the Small Amount Credit Contract Laws

Roger McKenna, Alan Carroll and Philip Hague
Rent The Roo Pty Ltd
1 Jannah Court, Mornington TAS 7018
roger@renttheroo.com
Tel: (03) 6244 6069
Fax: (03) 6244 4735
www.renttheroo.com.au

Sophie Gerber and Alicia Pevely
Sophie Grace Pty Ltd
Level 22
85 Castlereagh Street, Sydney NSW 2000
sophie@sophiegrace.com.au
Tel: (02) 8960 7242
Fax: (02) 8960 7240
www.sophiegrace.com.au

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SACC Review Secretariat
Financial System and Services Division
Markets Group
The Treasury
Langton Crescent
Parkes ACT 2600

(via email: consumercredit@treasury.gov.au)

Introduction

In order to address the questions raised in the Treasury Consultation Paper: *Review of Small Amount Credit Contract Laws* of September 2015 a summary of the business operations of Rent The Roo Pty Ltd (“**Rent The Roo**”) and its franchisees is set out in the introduction.

The submission then addresses four (4) questions from the Consultation Paper which Rent The Roo believes are pertinent to their business as a provider of consumer leases and franchisor of fifty-five (55) business who also provide consumer leases.

Holders of an Australian Credit Licence (“**ACL**”) issued by the Australian Securities and Investments Commission (“**ASIC**”) have a range of responsibilities under the legislation which include ensuring consumers are not disadvantaged by the consumer lease. These include responsible lending guidelines which require the lease provider to undertake certain inquiries to ensure the lease is not unsuitable for the consumer. The current legislation and regulation operates to protect consumers and places obligations on the ACL holder to put in place certain procedures to meet the requirements of the law.

Rent The Roo

Rent The Roo is a third generation family business and has been operational since 1976 and obtained their ACL in 2010 (the first year ASIC took over regulating credit providers and issuing ACLs). Rent The Roo has franchisee agreements with fifty-five (55) franchisee entities. Rent The Roo and these franchisee entities provide consumer leases to a variety of clients across Australia. Many of these franchisees are small businesses, whom Rent The Roo have assisted to commence operations under Rent The Roo’s ACL 387405. After some time under Rent The Roo’s umbrella, they go on to obtain their own ACL from ASIC.

Rent The Roo employs a total of eighteen (18) people through the franchisor entity and also engages a range of external service providers, including media consultants, IT consultants, graphic designers, legal and accounting service providers, printers and business consultants. In addition, the fifty-five (55) franchisee entities employ in excess of seventy (70) people across Australia. These franchisee entities are small businesses,

employing people from the local community and contributing to the growth and development of small businesses in Australia. Each Rent The Roo franchisee also requires vehicles in order to transport leased goods to the consumer. As a result, Rent The Roo has lease agreements with various car companies and engages sign writers and mechanics to provide additional services in relation to these vehicles. The business operations of Rent The Roo contribute significantly to the economic development of Australia.

Rent The Roo has franchisees in every state and territory in Australia and services a wide cross section of Australian society. Many clients are located in remote regional areas, many are low income earners and many are single parent families. Often clients fall into at least two of these categories. Rent The Roo offers their clients the ability to lease new consumer goods such as furniture, technology and home and kitchen appliances, providing them access to these essential household items, which they otherwise would not have. If provision of these basic household items cannot remain within the regulatory regime there is no doubt it will move to the black market serviced by unscrupulous lenders.

Rent The Roo deal with many customers who are located in remote locations of Australia, some over 200kms from the local Rent The Roo franchisee office. Rent The Roo service these remote locations as there are no local retail stores and the majority of people in these small towns do not have internet access. Rent The Roo provide their clients with access to essential household items by way of free delivery. In addition to providing quick and simple access to these items, Rent The Roo also offer ongoing support and servicing for the duration of the lease agreement.

Rent The Roo provide consumer leases to those in Australian society who cannot afford to obtain credit from a mainstream lender and cannot obtain a credit card from a bank due to their poor credit history, low income and reliance on Centrelink benefits. Rent The Roo consider their services an important aspect of addressing the inequities many Australians face as a result of low income levels. In addition to providing flexible rental agreements, Rent The Roo typically transfer the rented goods to a third party at the completion of the rental contract. For instance, a single mother may have made all payments under the rental agreement and the agreement has come to an end. Rent The Roo will liaise with the consumer to arrange for the rented goods to be given away to the daughter of the consumer under Rent The Roo's Give-A-Way offer. This process ensures that the rented goods stay with the person who needs them the most – the consumer. As the title to the rented goods remains the property of Rent The Roo during the rental term, at the end of the term, Rent The Roo has the option to give the goods away to a third party as nominated by the customer or donate the goods to charity.

Rent The Roo's customer base includes many individuals and families who suffer financial hardship. Customers who are single parents with multiple dependents and those who may have suffered from domestic violence are particularly prevalent in their customer base. The provision of household items to these families in a timely and affordable way is important and part of the services Rent The Roo seek to provide. Rent The Roo's customers include people who receive Centrelink benefits and Rent The Roo have a close working relationship with Centrepay to ensure their customers can make their rental payments easily and on time.

Many Rent The Roo clients make multiple applications with Rent The Roo for additional products. Rent The Roo estimates that approximately 60% of customers return to Rent The Roo to lease additional products. This shows the satisfaction with the customer service provided by Rent The Roo franchisees, the leased goods and the rental contracts offered by Rent The Roo.

Since January 2014, there have been five (5) complaints to the Credit and Investments Ombudsman (“**CIO**”) across the entire Rent The Roo franchisee network. Three (3) of these disputes were referred back to the franchisee for the complaint to be processed through their internal dispute resolution process. One (1) was dismissed by the CIO and one (1) remains current. These figures show no systemic issues in relation to Rent The Roo’s provision of consumer leases. In 2013-14, CIO figures show that 5.7% of complaints received were in relation to consumer retail finance (this classification offers loans, leases and or rental agreements for household goods). This totaled 257 complaints of 4513 complaints received by CIO.

Summary of Submission

Consumer leases provide a variety of consumers across Australia with access to essential household items and serve to alleviate potential hardships faced by financially vulnerable Australians. Under a Rent The Roo consumer lease (and most other leases issued by similar providers), the goods are gifted to a third party, nominated by the consumer, at the end of the lease.¹ The consumer enjoys continued use and benefit of the leased goods at no additional cost. The benefit for the consumer is clear, they are provided with the goods that they have leased for the term of the agreement and are able to keep the goods indefinitely and use them for the purpose as stated in the original application.

Many of Rent The Roo clients do not have access to alternative options to purchase household furniture or appliances. A large proportion of Rent The Roo’s clients receive Centrelink payments and are therefore not able to obtain credit cards or ordinary credit from other lenders. This places these clients in a very difficult position with consumer leases being one of the few options open to them.

Rent The Roo does not consider consumer leases are comparable to Small Amount Credit Contracts (“**SACC**”) as the two products are different in their structure and nature under the NCCP Act and Regulations and in their practical operation. Rent The Roo believe SACCs and consumer leases should distinguish between these two products in relation to the obligations applied to credit providers who issue these products.

Any changes to the regulations regarding consumer leases would have a significant impact, not only on the clients to which these leases are provided, but also the small businesses who provide consumer leasing services. The cost of operating a consumer lease business includes a number of additional costs, not applicable to SACCs. Changes to the regulation or the implementation of new regulation would cause some providers to be forced out of the market as they are unable to absorb the cost of compliance.

¹ ASIC Report 447: Cost of consumer leases for household goods, Australian Securities and Investments p.4 Commission <<http://download.asic.gov.au/media/3350956/rep-447-published-11-september-2015.pdf>>

Question 9: Protection for Centrelink Customers

Do any additional groups of consumers need to be subject to specific protection in relation to SACCs?

The rationale behind Regulation 28S of the National Consumer Credit Protection (“NCCP”) Regulations 2010 was to “mitigate the risk of consumers who are dependent on Centrelink payments becoming trapped in a debt cycle.”² Where consumers are party to a SACC, they are making payments towards the principal and interest for a loan with which they can use towards any number of things. SACC providers are required make reasonable inquiries into the consumer’s circumstances in order to determine that the SACC is not unsuitable for a client and to understand whether the credit contract which is offered will meet the consumer’s requirements.³ Whether the consumer actually uses the credit for the purpose described to the lender is not something the lender can take into consideration at the point of making a final determination in relation to suitability. Once the credit is received, the consumer may decide to use the credit for another purpose, for instance anti-social purposes such as gambling, drinking and drugs or purchasing non-essential household items or for other recreational activities.

Rent The Roo understand, from direct discussions with the National Credit Providers Association that less than 10% of funds obtained from SACCs are actually used for their intended purpose. The cap on the repayment amount under Regulation 28S has the effect of limiting the adverse effects of credit provided to consumers under SACCs and therefore limits the adverse effects where consumers who use credit for anti-social purposes or repayment of existing debts.

In relation to consumer leases, the consumer is being provided with a household product that cannot be used for any other purpose. In relation to the majority of Rent The Roo’s open contracts, the consumer required the household product for their everyday needs. Access to the consumer lease has had the purpose of alleviating hardship by providing immediate access to the leased good and enabling the client to maintain at least a basic standard of living which Australia prides itself on affording all its citizens. For example, in 2015, Rent The Roo provided fridge and washing machine to a customer whose partner had left the family home with most of the furniture. The consumer applied for a lease for the fridge and washing machine and Rent The Roo provided them with a discount, to ensure the lease was affordable over a two year term. The leased goods were provided to the consumer the next day to ensure that these essential household items could be utilised by the consumer as soon as possible. Rent The Roo deal with many customers in similar situations. In circumstances like these, there is little to no risk that this consumer will use the product for any purpose other than what is intended at the time the lease application is completed.

In relation to a consumer lease, even where the payments are being made by the consumer’s Centrelink income, they are being made towards an essential household item. Whilst the payments may be more than the maximum amount payable under a SACC, the consumer has received a tangible product by entering into the lease. It is

² Treasury Review of the Small Amount Credit Contract Laws September 2013, p. 28 <http://consumercredit.treasury.gov.au/content/downloads/Review-of-SACC-laws/Review_of_SACC_laws_CP.pdf>

³ ASIC Regulatory Guide 209.34 <<http://download.asic.gov.au/media/2243019/rg209-published-5-november-2014.pdf>>

likely that for most consumers, the need for the leased goods (or funds to purchase the leased good) is not removed. In the example above, with the fridge, the consumer would not be able to buy and keep food, they would inevitably need to obtain a fridge from a retail outlet or enter into a credit contract to obtain the funds to purchase a fridge.

Rent The Roo deal with many clients who receive Centrelink payments as they do not have other forms of income. Rent The Roo has a close working relationship with Centrepay to ensure the rental payments are made on time and the consumer is not subject to further fees. Centrepay has their own terms and conditions to which the consumer must agree, prior to payments being authorised in respect of a consumer lease. In addition, the customer has the right to cancel or vary Centrepay payments at anytime. Rent The Roo considers that in the majority of cases where rental payments are made through Centrepay, Rent The Roo has helped to alleviate the hardship faced by the client. Consumers who receive Centrelink payments as their only form of income are not eligible for a credit card and may not be eligible for other forms of personal loans. Consumer leases close this gap in the market and provide these consumers with much needed access to everyday household items.

ASIC's Report 447: Cost of consumer leases for household goods states that Centrelink customers may chose to receive a proportion of their payments in a lump sum as an alternative to entering a consumer lease.⁴ The result of receiving a lump sum payment from Centrelink is that the customer's Centrelink payments for a fixed period of time (up to six months) will be smaller. The amount that a customer can receive as an advance is capped at \$1091.98 for the 2015-16 financial year.⁵

Whilst some Centrelink customers may have the capacity to receive smaller payments for a fixed period of time, many would not. This offer is only available to those customers who would not suffer additional financial hardship. Further, the cap on the payment is low, considering the cost of many household items on their own is greater than \$1,091 and does not account for circumstances where the consumer may require more than one product. In addition, a recent RMIT University report states that "on a fortnightly basis, rental costs are often more affordable than repayments of a six-month Centrelink advance or short-term small loan to purchase the same item."⁶

The application of the cap on repayment amounts for consumer leases would be erroneous as it would prevent consumers who are financially vulnerable from accessing essential household items quickly without entering into a credit contract. Consumer leases serve to alleviate hardship for those consumers who receive Centrelink payments by providing them immediate access to essential household items. The consumer lease allows the client to pay for the item, whilst having it in their possession and, under Rent The Roo's Give-A-Way offer, the goods are gifted to a third party which enables the consumer to access the goods at the end of the term of the lease if they choose. Rent The Roo is aware from *ASIC Report 447: Cost of consumer leases for household goods* that most other providers of consumer leases operate similar arrangements in relation to

⁴ ASIC Report 447: Cost of consumer leases for household goods p.29

<<http://download.asic.gov.au/media/3350956/rep-447-published-11-september-2015.pdf>>

⁵ <<http://www.humanservices.gov.au/customer/enablers/advance-payment>> viewed 9 October 2015

⁶ Banks, M, de Silva, A, Russell, R, 2015 "Trends In the Australian Small Loan Market" RMIT University, School of Economics, Finance and Marketing, 29.

the giving away of the product at the end of the term of the agreement.⁷

Question 14: Comparable Consumer Leases

Which leases could be considered comparable with SACCs?

Consumer leases are not comparable to SACCs. The two products are different in their structure and nature under the NCCP Act and Regulations and in their practical operation.

SACCs function to provide cash to the consumer of less than \$2000 in value. The consumer then has the ability to do with the cash what they choose. The provider of the SACC is required to conduct inquiries into the circumstances of the consumer in order to determine whether the credit contract is suitable for the consumer, during which time the provider will learn the purpose of the loan. After this time, the provider of the SACC has no control over how the consumer uses the cash provided. As discussed previously, this may be for any purpose, including purposes detrimental to the consumer and the community they live in.

In contrast, consumer leases provide tangible household furniture and appliances to the consumer. The leased goods can inherently only be used for the purpose for which they were designed and they are difficult to misappropriate. The provider of a consumer lease can be reasonably confident that the goods are being used by the consumer and their family for the purpose they were designed.

Under section 5 of the NCCP Act 2009, the term of an SACC is between 16 days and 1 year, whereas the term of a consumer lease is greater than 4 months. The structuring of the agreement between the SACC provider and consumer also differs substantially depending on the product.

Under their consumer lease agreements, Rent The Roo does not charge any of the following fees commonly associated with SACCs:

- establishment fees;
- maintenance fees;
- service costs; or
- interest.

The costs of a consumer lease with Rent The Roo are limited to the total lease cost as disclosed to the client in the lease agreement. Additional costs only apply where the client does not fulfill their obligations under the lease agreement. Rent The Roo understand, based on competitors' terms and conditions booklets, that their competitors in the consumer lease industry operate in substantially the same way.

Under a consumer lease, the client has the right to return the goods at any time subject to certain penalties, depending on the terms of the provider's rental contract. In the experience of Rent The Roo, a consumer who returns the goods normally does so where they cannot afford the rental payments. In these circumstances the consumer

⁷ ASIC Report 447: Cost of consumer leases for household goods p.4
<<http://download.asic.gov.au/media/3350956/rep-447-published-11-september-2015.pdf>>

cannot afford the penalty either. Rent The Roo understand that customers in these circumstances are suffering financial hardship and do not pursue aggressive debt recovery action. Under a SACC the client is required to pay the various fees, interest rates and charges associated with the loan and are subject to very high penalties if repayments are not made in the required timeframes.

The two products are fundamentally different, in their structure under the legislation and in relation to the purposes for which clients seek these credit products. SACCs and consumer leases should not be treated as comparable as they have different characteristics and the legislation should distinguish between these two products in relation to the obligations applied to credit providers who issue these products.

Should there be greater consistency in the regulatory requirements that apply to SACCs and comparable consumer leases?

a) Please consider the similarities between the consumer bases for SACCs and comparable consumer leases

As discussed in the preceding section, SACCs and consumer leases are fundamentally different and are not comparable simply because they are offered to consumers who may have similar socio-economic characteristics.

The products offered under SACCs and consumer leases are structurally different – SACCs provide the consumer with cash whereas consumer leases provide the consumer with a tangible product (i.e.: a household appliance). Whilst similar customer types of people may apply for SACCs and consumer leases, there is limited substitutability to SACCs⁸ and the similarities in the consumer base do not warrant treating these two products as comparable under the legislation. Specific obligations should be devised for both products to ensure a fair and economically viable outcome is achieved for consumers and businesses.

The intended purpose of a consumer lease is different to that of a SACC. The consumer lease is intended to provide consumers with household products that they require and an assessment of the suitability must take into account the client's need for the product. As discussed above, whilst a provider of a SACC must take into account the client's need for credit, the purpose for which the cash will be used once provided to the client is unable to be ascertained by the provider at the time of determining suitability.

b) Please consider the similar economic outcomes of SACCs and comparable consumer leases

The economic outcome of a SACC is unclear. Cash is provided to the consumer, however there is no obligation on the consumer to purchase or use the money for the intended purpose stated in the credit application. Rent The Roo understand, from direct discussions with the National Credit Providers Association that less than 10% of funds obtained from SACCs are actually used for their intended purpose.

⁸ Banks, M, de Silva, A, Russell, R, 2015 "Trends In the Australian Small Loan Market" RMIT University, School of Economics, Finance and Marketing, 29.

Under a Rent The Roo consumer lease (and most other leases issued by similar providers), the goods are gifted to a third party, nominated by the consumer, at the end of the lease.⁹ The consumer enjoys continued use and benefit of the leased goods at no additional cost. The benefit for the consumer is clear - they are provided with the goods that they have leased for the term of the agreement and are able to keep the goods indefinitely and use them for the purpose as stated in the original application.

The risks associated with consumer leases are mitigated as a result of this, as the goods are received by the client and utilised in the household, to the benefit of all who reside there. In this way, consumer leases work to alleviate hardship, rather than exacerbate it. The same cannot be said of SACCs where there is the risk that the funds provided to the client may be used in a detrimental manner and not for the purpose disclosed in the credit application, with the subsequent required repayments on the SACC creating or exacerbating a state of hardship.

- c) Please consider ASIC evidence which suggests that the effective interest rate for some consumer leases is substantially greater than the maximum allowed for SACCs under the caps

The calculation of an “interest rate” in relation to consumer leases is a method used by ASIC to compare SACCs with consumer leases. As discussed in the preceding sections, these two credit products are fundamentally different in their structure and service offerings and therefore the application of an “interest rate” to consumer leases is not determinative.

The payments made by consumers in relation to consumer leases are towards the cost of the leased goods. Where these payments amount to more than the purchase price or Recommended Retail Price (“RRP”) of the goods, this is due to the associated costs incurred by the credit provider in providing the leased goods. Rent The Roo incur substantial costs in providing consumer leases to their clients. As part of their standard rental contract, Rent The Roo offers delivery of the leased goods, regular maintenance of the goods and servicing the goods in the event that they do not work as promised. In addition, Rent The Roo stores a range of goods which can be leased in order that they can be promptly delivered to consumers who enter into a lease agreement. All of these services contribute to the ongoing costs of Rent The Roo, costs which are not applicable to providers of SACCs. *ASIC Report 447: Cost of consumer leases for household goods* does not deal with these types of costs in their assessment of the cost of consumer leases. These costs, which can be very high have conspicuously been left out of ASIC’s report, however they are relevant costs which impact the ability of Rent The Roo to provide their services and the price of their rental contracts.

Rent The Roo has reviewed their average cost of consumer leases provided to consumers. Please refer to Table 1 below which outlines the total cost to Rent The Roo to provide consumer leases to clients within 10kms of the local franchisee office, within 200kms of the local franchisee office and over 200kms from the local franchisee office.

⁹ ASIC Report 447: Cost of consumer leases for household goods, Australian Securities and Investments p.4 Commission <<http://download.asic.gov.au/media/3350956/rep-447-published-11-september-2015.pdf>>

Table 1:

Cost to Rent The Roo	Consumer located within 10 kms of franchisee office	Consumer located within 200 kms of franchisee office	Consumer located over 200kms of franchisee office	Assumptions
Telephone Enquiry	\$5.00	\$5.00	\$7.50	\$0.38 per minute (calculated using \$23.05/hour rate of wages)
Travel to customer	\$45.00	\$58.05	\$174.15	Based \$23.05/hour rate for drivers wage (minimum) plus \$35/hour fuel cost
Complete Form of Assessment	\$23.05	\$23.05	\$23.05	Based on \$23.05/hour rate for drivers wage (minimum)
Verify Income/Expenses	\$15.00	\$15.00	\$15.00	Based on \$23.05/hour rate for drivers wage plus same rate for admin hourly rate
Source goods	\$23.05	\$23.05	\$23.05	Based on \$23.05/hour rate for drivers wage. (Approximately 1 hour to source goods)
Arrange delivery	\$10.00	\$120.00	\$310.00	Based on time cost with driver plus in-store delivery costs (the further away the more expensive and this ranges between stores)
Travel to customer	\$45.00	\$58.05	\$174.15	Based \$23.05/hour rate for drivers wage (minimum) plus \$35/hour fuel cost
Complete Rental Agreement	\$23.05	\$23.05	\$23.05	Based on \$23.05/hour rate for drivers wage (minimum)

Cost of Finance	\$1,260.00	\$1,260.00	\$1,260.00	Based on Interest charged, approximately \$70/customer/month over 18 months.
Cost of maintenance	\$300.00	\$300.00	\$300.00	Minimum average per customer
Cost of Servicing customer	\$30.00	\$30.00	\$30.00	Based on wages for driver and administration staff hourly rates
Cost of Field visits for arrears	\$42.34	\$61.55	\$107.65	Late and visit fees charged \$38.50 plus \$23.05 drivers wage per hour - Per visit
Cost of letters etc/administration	\$10.00	\$10.00	\$10.00	\$0.38 per minute (worked out using wages \$23.05/hour rate)
Cost of Repossession Notice	\$50.00	\$50.00	\$50.00	\$0.38 per minute (worked out using wages \$23.05/hour rate) plus storage costs of item
Travel to Repossess	\$45.00	\$58.05	\$174.15	Based \$23.05/hour rate for drivers wage (minimum) plus \$35/hour fuel cost
Cost of any additional contacts				
Total:	\$1,926.49	\$2,094.85	\$2,681.75	

Rent The Roo service a range of clients, some from remote areas of Australia. In some cases, Rent The Roo employees are required to deliver goods to consumers who can be many hours drive from their Rent The Roo franchisee office, usually with little opportunity to achieve economies of scale by delivering to multiple clients in the same trip. Prompt delivery is an important part of Rent The Roo's service, and in order to maintain the resources to provide this service, it is not practically feasible for the cost of the consumer lease to be Rent the Roo's wholesale cost or purchase price of the goods.

The payments made under a consumer lease are not a repayment of principal and interest for a loan, as in the case of a SACC. The rental payments are payments towards the goods being provided, delivered and maintained.

d) Please consider the effect of introducing new regulatory requirements on the viability of the consumer leasing market and the availability of consumer leases

ASIC Report 451: Book up in Indigenous communities in Australia: A national overview highlights the need for the provision of credit in remote communities. Book up is used predominately in indigenous communities for the purchase of items like groceries and household goods. ASIC reports that their investigation shows "where book up is provided, it can be deeply entrenched within a community economy."¹⁰ The estimates provided to ASIC "were consistent with a range of between 40-60% of the community uses book up."¹¹ This report shows the need of these communities to have access to everyday household products and the subsequent debt cycle and control of their finances by the book-up provider. Consumer leases provide a more stable option for many of these people as they are provided with terms and conditions and a clear term for repayment of the lease. Consumers who use book up commonly enter into a verbal agreement only and there is very little documentation involved. Consumers are also commonly required to leave their debit card and PIN number at the store where the book up is taking place, which provides the consumer very little protection.¹²

Many of these clients do not have access to retail stores in order to purchase household furniture or appliances and do not have readily available access to the internet to purchase goods online. A large proportion of Rent The Roo's clients receive Centrelink payments and are not able to obtain credit cards or ordinary credit from other lenders. This places these clients in a very difficult position with consumer leases being one of the few options open to them. Rent The Roo recently provided two single beds, two single mattresses and two tallboys to a client who receives Centrelink payments. This client had been through a very difficult time following the death of a family member. Rent The Roo processed the application and delivered the goods the same day. Payments are deducted through Centrepay and the consumer received same day access to the lease goods to ensure her family's needs were met.

Changes to the regulatory requirements for consumer leases would have a significant impact on these clients. An increase in the regulatory obligations of consumer lease providers would potentially exclude some clients from accessing consumer leases.

¹⁰ ASIC Report 451: Book up in Indigenous communities in Australia: A national overview, p.16 <<http://download.asic.gov.au/media/3374112/rep451-published-13-october-2015.pdf>>

¹¹ ASIC Report 451: Book up in Indigenous communities in Australia: A national overview, p.16 <<http://download.asic.gov.au/media/3374112/rep451-published-13-october-2015.pdf>>

¹² ASIC Report 451: Book up in Indigenous communities in Australia: A national overview, p.9 <<http://download.asic.gov.au/media/3374112/rep451-published-13-october-2015.pdf>>

For example, where a client receives more than 50% of their income from Centrelink and new regulations were imposed to cap the repayments of a consumer lease to a certain percentage of the consumer's gross income, this will inevitably prevent some consumers from accessing consumer leases. In these circumstances, these same consumers are unlikely to be able to obtain a credit card, a SACC or other forms of credit. If the consumer cannot access any form of credit and cannot apply for a consumer lease, there is no other means by which they can obtain credit or the required household product.

If the consumer required the credit to purchase a fridge for their family home, the only method by which they could do this is saving the required funds to purchase the fridge. This is not appropriate when the consumer's need for the fridge is immediate. A recent Rent The Roo client entered into a lease for a washing machine as her existing machine had broken down and she needed immediate access to a new one. The client has two children and could not wait for the new machine to be provided. The application was processed by Rent The Roo and the leased goods were delivered to the consumer the next day.

Consumer leases provide clients with immediate access to the goods they require and in most cases, the goods are gifted to a third party, nominated by the consumer, at the end of the lease agreement. In this way, consumer leases fulfill a gap in the industry, particularly in relation to consumers with low incomes or on Centrelink benefits and work to alleviate hardship for these types of clients.

In addition to the impact on consumers, changes to the regulatory requirements for consumer leases would have a significant impact on credit providers. The cost of compliance with new regulations is increasingly expensive, and providers would likely be required to appoint additional staff to ensure compliance. Depending on the nature of the regulatory changes, additional insurance and training may also be required.

A recent address to Australian Chamber of Commerce and Industry by The Hon Kelly O'Dwyer MP, Minister for Small Business discusses a range of factors impacting small business, including taxation, regulation and disruptive technology. Ms O'Dwyer makes specific reference to the cost of regulation on small business:

“ACCI (Australian Chamber of Commerce and Industry) and many others have expressed concerns that regulation has grown rapidly over recent decades and is creating substantial costs, risks and complexity. It's also throwing up barriers to innovation and agility.

Small business feel especially burdened by regulation because they usually lack the dedicated resources needed to comply. In ACCI's 2015 survey, you found that one in four businesses spent more than 10 hours a week on red tape. This is unprecedented.”

Ms O'Dwyer's comments and the results of ACCI's 2015 survey¹³ show that increased regulation in relation to consumer leases will cost the industry significantly, in both time and money. The ACCI Survey had 709 responding businesses and also noted that

¹³ ACCI 2015 National Red Tape Survey <https://www.acci.asn.au/sites/default/files/uploaded-content/field_f_content_file/acci-2015-national-red-tape-survey_final.pdf>

almost 50% of businesses put the cost of compliance at over \$10,000 per year.¹⁴ Whilst some of this cost can be passed on to consumers, 55% of respondents stated that the business had to absorb the cost of regulation.¹⁵

Additional regulation in the area of consumer leases would impact the industry significantly. There are a number of smaller providers who would simply not be able to absorb the additional costs required to ensure compliance. To introduce additional regulation that causes small businesses to be forced out of the industry is in stark contrast to the government's stated objective to "create conductions for start-ups and small businesses to thrive."¹⁶

- e) Please consider the impact of the distinction based on whether or not the consumer has a right or obligation to purchase the leased goods

Rent The Roo gifts the leased goods to a related third party at the end of the lease agreement and therefore no nominal fee is charged. For providers who give the consumer the right to purchase the goods for a nominal amount at the end of the lease, this nominal fee should be regulated and a maximum set to ensure consistency across all providers.

Please provide data, such as evidence as to the effect of any cap on the viability of businesses currently providing comparable consumer leases or evidence of where the absence of any cap is causing financial hardship to consumers.

Rent The Roo have considered in the viability of a cap on consumer leases using an example of a lease for an 8KG Top Load Washing Machine.

¹⁴ ACCI 2015 National Red Tape Survey p.8 <https://www.acci.asn.au/sites/default/files/uploaded-content/field_f_content_file/acci-2015-national-red-tape-survey_final.pdf>

¹⁵ ACCI 2015 National Red Tape Survey p.10 <https://www.acci.asn.au/sites/default/files/uploaded-content/field_f_content_file/acci-2015-national-red-tape-survey_final.pdf>

¹⁶ Address to Australian Chamber of Commerce and Industry, The Hon Kelly O'Dwyer MP, Minister for Small Business Assistant Treasurer <<http://kmo.ministers.treasury.gov.au/speech/009-2015/>> viewed 9 October 2015.

Table 2:

	Percentage	Consumer Lease	Comparable SACC where cap applies
Revenue	100%	\$2,486.80	\$1,641.00
Cost of Goods Sold: purchase, finance, delivery, installation, warranty, insurance	46%	\$1,143.93	\$1,143.93
Marketing: Website, personnel, Advertising, referrals	15%	\$373.02	\$373.02
Operating costs: Staffing, administration, legal, compliance	35%	\$870.38	\$870.38
Profit Margin	14%	\$348.15	-\$746.33

As demonstrated by the example above, the profit margins for SACCs are considerably less than for a consumer lease. SACCs make up for this loss by charging interest and fees on top of the repayment of the principal of the loan. Consumer lease providers do not charge these types of fees - the cost of a consumer lease is the full amount paid by the consumer. Businesses providing consumer leases are entitled to make a profit. As small businesses make up the majority of all businesses in Australia¹⁷, it is important that the regulatory framework in place allows these businesses to operate successfully and profitably. A cap on consumer leases is not viable as it does not allow providers to operate profitably and restricts the industry as a whole from operating efficiently.

Question 15: Applying SACC provisions to comparable consumer leases

As SACC and comparable consumer lease providers market to a similar consumer base, should the same provisions apply?

As discussed previously, SACCs and consumer leases are two different products. To apply the same legislative and regulatory provisions to these products based on the similarity of the consumer base would result in a decrease in the availability of consumer lease products to those consumers in Australia who cannot access other forms of credit due to financial difficulties. As we have discussed in previous sections, consumer leases make available essential household items to a range of consumers in Australia, including those who cannot apply for credit cards (due to their financial circumstances) and do not have access to personal loan products.

¹⁷ Address to Australian Chamber of Commerce and Industry, The Hon Kelly O'Dwyer MP, Minister for Small Business Assistant Treasurer <<http://kmo.ministers.treasury.gov.au/speech/009-2015/>> viewed 9 October 2015.

Should there be additional disclosure requirements for comparable consumer leases, such as a requirement to disclose:

a) the purchase or cash price of the leased good;

To require a consumer lease provider to disclose the purchase price of the leased good does not promote fair and equal business practices across the industry. Retail outlets are not required to disclose the purchase price of items to consumers and it is commonly known that retail outlets mark up their prices significantly from the purchase price. A consumer lease provider should be entitled to mark up the purchase price of a leased good just like a retail outlet. The price mark-up on leased goods is based on a range of factors including:

- the costs of leasing goods (delivery, servicing, replacement);
- the expenses of operating the business (including staffing costs, rent, travel costs, regulatory fees and insurances); and
- other expenses incurred by the provider in the course of operating their business and maintaining their ACL.

A better option would be to require consumer lease providers to advertise the RRP of leased goods to the consumer, as this is the reality of the consumer's choice. The consumer is unlikely to be able to access the leased good at the purchase price through any outlet. Typically the consumer has two choices, to purchase the product from a retail outlet at the RRP or apply for a consumer lease to obtain the product.

In the event the consumer purchases the product from a retail outlet, they would be required to pay the full amount upfront, which may not be possible for some consumers as they may not have access to the funds, or the consumer may chose to enter a lay-by arrangement, which prevents the consumer having access to the goods immediately. A recent consumer lease which was entered into by a Rent The Roo client provided a bed and mattress, television and washing machine to the client. The client was an existing client and their partner had stolen and broken some of the items she was currently leasing from Rent The Roo. In this situation, the franchisee decided to allow the client to make the remainder of the rental payments at stock price only, which amounted to a very small total cost to the client. The additional items rented were provided to the client the next day to ensure the client and their child was not faced with unnecessary delays. In circumstances such as these, a lay-by arrangement saving for these goods is not an appropriate option.

In their *ASIC Report 447: Cost of consumer leases for household goods*, ASIC suggest the No Interest Loan Scheme (“**NILS**”) run by Good Shepherd Microfinance as a suitable alternative to consumer leases.¹⁸ Whilst this may be a viable alternative for some consumers, the limit of the majority of NILS loans is \$1200. In the example above, the consumer required multiple household items, with the total RRP of these items being well over \$1200. Another limitation of the NILS is that the consumer must have resided in their current premises for more than three (3) months.¹⁹ The reality for many of Rent The Roo's clients is that they regularly move from one residence to another, due to their

¹⁸ ASIC Report 447: Cost of consumer leases for household goods p.28

<<http://download.asic.gov.au/media/3350956/rep-447-published-11-september-2015.pdf>>

¹⁹ <<http://goodshepherdmicrofinance.org.au/services/no-interest-loan-scheme-nils>> viewed 9 October 2015.

financial circumstances. The application process for NILS loans “is a five-step process that typically takes at least three (3) days to a number of weeks”.²⁰ As previously discussed, many consumers require household items very quickly, if not immediately, which makes a NILS loan an unsuitable alternative.

A consumer lease is a viable substitute for consumers who cannot purchase the item from a retail outlet. The consumer lease enables the client to have access to the leased goods immediately and does not require that full payment is made upfront. In addition, the goods are delivered to the client and the lease provider may offer servicing of the goods for the duration of the lease. This is an added service which may have cost the consumer significant amounts of money if the product was purchased from a retail outlet.

b) the amount the consumer will pay in excess of the purchase or cash price;

As discussed above, the RRP is the more appropriate price to be disclosed to the consumer and to be used in comparisons of costs of credit.

c) the cost of credit in dollar terms;

Rent The Roo disclose the full cost of the lease agreement in their rental contract. A requirement that all lease providers do the same would not negatively impact Rent The Roo and would ensure the information contained in rental contracts is consistent across all providers.

d) the cost of credit as an interest rate

As discussed in the preceding sections, there is no applicable interest rate to consumer leases and any payments made by the consumer are made towards the tangible leased good, to which the consumer has immediate access. Therefore, the application of an “interest rate” to consumer leases is not a measure by which consumers can accurately compare the cost of a consumer lease with a SACC. The up-front interest rate also cannot factor in the maintenance costs which cannot be determined and may significantly lower the actual rate of interest paid by the customer. Given the formula contained in section 32B of the *National Credit Code* used to calculate the “interest rate” by ASIC in their *Report 447: Cost of consumer leases for household goods* is complex, it is unlikely consumers will have the ability to understand how the formula serves to assist them in comparing SACCs and consumer leases.

e) the cost of other services financed through the rental payments (apart from the cost of hiring the goods, such as a warranty or delivery)?

Rent The Roo consider there are no issues in disclosing this information to consumers in their rental contracts.

Please consider the cost of complying with any such additional disclosure requirements against the benefit of providing additional information to consumers.

The costs of compliance of additional disclosure requirements would be extremely high for a company such as Rent The Roo. Rent The Roo has fifty-five (55) franchisees who

²⁰ Banks, M, de Silva, A, Russell, R, 2015 “Trends In the Australian Small Loan Market” RMIT University, School of Economics, Finance and Marketing, 29.

utilise the Terms and Conditions and rental contract of the franchisor. These rental contracts would need to be redrafted by Rent The Roo's legal counsel to ensure compliance and Rent The Roo would be required to conduct training with their franchisees and all employees who provide credit services to ensure the changes in the rental contracts were clearly understood.

In the event existing rental contracts were required to be amended, this would involve significant time and expenditure for all Rent The Roo franchisees. In all cases, to sign the rental contract, the consumer attends a Rent The Roo franchisee office, or the credit representative visits the consumer in their home. If existing contracts were required to be re-signed by the consumer, Rent The Roo franchisees would need to contact each existing client and arrange a time for the consumer to come to their office, or to visit the consumer in their home. Some Rent The Roo franchisees service a wide area in regional sections of Australia and this process could take a significant amount of time.

In addition to the initial changes made to documentation, Rent The Roo would also be required to maintain a register of RRP's and ensure these remain up to date across all their franchisee offices. There would also be a significant cost in updating the software which all Rent The Roo franchisees currently utilise.

If greater consistency between SACCs and comparable consumer leases is considered warranted, which SACC provisions should be extended to those leases?

As discussed previously, Rent The Roo does not consider a comparison between consumer leases and SACCs is appropriate.

- a) Would the SACC provision need to be modified when applied to consumer leases?

As discussed previously, Rent The Roo does not consider a comparison between consumer leases and SACCs is appropriate.

Question 16: Cap on costs for consumer leases

If a cap on consumer leases that are comparable to SACCs was introduced, how should the cap apply?

- a) The cash price of the good is used as the basis for applying the cap on costs. Should the approach for sales by instalment also be used as a basis for applying the cap to leases that are comparable to SACCs? If so, how should the cash price of the good be defined?

Rent The Roo consider that the cap should be determined as per the comments below.

- b) If not, what alternative approach could be used to determine a cap on costs for leases?

Rent The Roo consider that the RRP of the leased goods in addition to the associated costs for leasing the goods is a better approach to determine a cap on consumer leases. Associated costs may include wages paid to staff and travel costs such as delivery of the leased goods, maintenance and service calls where Rent The Roo attend the consumer's home. Please refer to Table 1 above for the average cost of Rent The

Roo's consumer leases. These costs are specific to consumer leases and are not costs associated with the provision of SACCs. The use of the RRP and associated leasing costs to determine the cap on costs for leases would provide a more accurate and fair method which allows consumer lease providers to continue to operate their business and ensures that the industry remains viable.

To determine the cap based on the method used for SACCs would lead to an erroneous outcome which does not take into consideration the additional services provided under consumer leases. This approach to determining the cap may also lead to detrimental effects for smaller providers, including their no longer being able to continue to operate due to the costs of running their business not being covered by the price of their leases.

It is important that the viability of the industry is protected by any regulatory changes which may take place. Currently there are a large number of providers in the consumer lease industry and this promotes competition and allows smaller businesses the opportunity to compete against larger providers. The application of any regulation which causes smaller providers to be priced out or otherwise unable to operate in the industry would be detrimental to consumers. A range of providers ensures price competitiveness and serves to ensure consumers have the ability to compare different consumer lease providers.

Conclusion

We recommend that any additional regulations imposed on consumer leases be the result of a proper assessment of the structure and features of consumer leases, rather than a comparison between consumer leases and SACCs. We also think it is imperative that any changes take into consideration the impact on the availability of key services and availability of credit to some of the lowest socio-economic groups in Australia who need the most assistance when other credit criteria by mainstream lenders continues to tighten as result of regulatory pressures. Rent The Roo consider any imposition of a cap on consumer leases should be determined based on the RRP of the leased goods in addition to associated costs of leasing the goods.

If you have any questions or would like to discuss this matter further, we would be pleased to hear from you.

Yours Sincerely

Roger McKenna, Alan Carroll, Philip Hague, Sophie Gerber and Alicia Pevely