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Children's Tumour Foundation

15 October 2015

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

Email: consumercredit@treasury.gov.au

Dear Ms Press

Review of the small amount credit contract laws
Consultation on the regulation of small amount credit contracts and comparable consumer leases

Please see **attached** submission from Thorn Group Limited on the Consultation Paper on the regulation of small amount credit contracts and comparable consumer leases.

Please contact me for any questions or further information on Thorn Group Limited's submission.

Yours faithfully

James Marshall
Managing Director
Thorn Group Limited

Encl

Index to Thorn's Submission

Part 1

Thorn Corporate Details

Thorn Group Limited ABN 54 072 507 147 [ASX:TGA] (**Thorn**) is an ASX300 listed company.

Thorn's wholly owned subsidiary Thorn Australia Pty Ltd ABN 63 008 454 439 trades as Radio Rentals and as RR – Rentlo Reinvented in South Australia.

Thorn Australia Pty Ltd holds Australian Credit Licence 383003.

Thorn Australia Pty Ltd is a member of the Credit and Investments Ombudsman (**CIO**) External Dispute Resolution Scheme.

Thorn Business Overview

From origins in 1937, Thorn has become one of Australia's leading financial service providers, offering a broad range of financial solutions to meet a growing demand of niche consumer and commercial markets.

Thorn's foundation business, Radio Rentals (and RR – Rentlo Reinvented in South Australia) remains a leader in consumer leasing with 90 outlets nationally and a unique 'RentTry$1Buy®' offering.

Thorn's business strategy is to extend a range of financial services to a wide demographic.

As a business, Thorn competes with many service providers and, while banks dominate large parts of the market, they have left gaps, especially in meeting the needs of consumers and small to medium sized businesses. For these groups, Thorn is well placed to offer a broad range of viable alternatives, as it helps households gain access to the goods and services people need and assists businesses which require equipment and cash flow solutions to grow and keep their own customers satisfied.

As a service provider, Thorn's principal purpose is to give consumers and SMEs a 'fair go' in accessing goods and financial services. Many of Thorn's retail and business customers find they are excluded from mainstream finance sources. Some do not have a credit rating or credit card, banks are not able to meet their needs and some financing alternatives are just too expensive. In these markets, Thorn exists to give people and businesses access to credit and goods while also exercising its responsible lending policy. Based on this policy, Thorn has an Australian Credit Licence and was one of the first to be licensed in Australia when the National Consumer Credit Protection Act 2009 was introduced. Placing its customers as a priority, Thorn tracks retention, satisfaction and feedback through independent research as well as our own customer surveys and in achieving high ratings in all these categories. Thorn gains reinforcement for the way it is meeting the needs of a large demographic nationally.[1]

As an employer, Thorn recognises the importance of instilling a culture among its people which is focused on treating customers, in consumer and commercial markets, responsibly and fairly. The culture applies to those on the front line having face-to-face contact with customers and also to those who deal with customers online and help to manage their accounts. Some customers experience hardship, some like innovative and sympathetic solutions when they need guidance about products or business needs and all of them appreciate a personal touch when they are making financial decisions.

Consumer Leasing

Radio Rentals and RR – Rentlo Reinvented in South Australia, provide an extensive range of essential household living and home office needs through consumer leasing products, principally under the RentTry$1Buy® banner. Radio Rentals operates over 90 outlets nationally and has been a market leader since 1937.

RentTry$1Buy® enables customers to enjoy the benefits and flexibility of rental along with the potential to obtain ownership. In line with Thorn's responsible rental policy, Radio Rentals ensures all customers are provided with products that suit their needs and budget and are not over committed. This aligns

[1] Roy Morgan Customer Survey of 1,154 customers 25 May-1 June 2015 (see Attachment 4)

with Thorn's credit decisions which are based on customers' capacity to pay, rather than their credit history. The outcome of this enables more Australians to gain access to everyday living essentials.

Thorn's market research among customers continues to show high levels of satisfaction and repeat business with nearly half of Radio Rentals customers on completion of a contract signing up to take out a new contract for another product. Further to this, the launch in November 2014 of 48 month consumer lease agreements has been welcomed by consumers, with more customers now choosing longer term contracts that provide more affordable weekly payments for larger products and whole room packages.

Consumer Lending

Thorn's consumer finance business provides consumers with access to a broad range of personal loans through Thorn Money, which offers unsecured loans up to $15,000 and secured loans up to $25,000; and Cashfirst, which provides unsecured loans of between $500 and $5,000.

Thorn trialled and discontinued a SACC loan product over an 18 month period and the data from that trial is referred to in various parts of our submission.

The consumer finance business aims to provide niche credit products to consumer markets overlooked by major lenders.

Addressing Financial Exclusion

Thorn received its Australian Credit Licence in 2010. A key element of Thorn gaining its license was having a responsible lending policy under which Thorn seeks to ensure customers are treated fairly and provided access to goods and services that meet their needs and budget. Within Thorn's policy are hardship provisions which are intended to help customers cope with unforeseen circumstances.

Approximately half of Thorn's consumer customer base comprises Australians who are excluded from the financial mainstream and it has become increasingly apparent that this is a substantial group:

- 16.9 per cent of the adult Australian population, or just over 3 million people, are either fully or severely financially excluded;
- 42.9 per cent of the adult Australian population, or 7.7 million people, are marginally financially excluded;
- 56.7 per cent of the adult Australian population, or over 10 million people, do not have a credit card[2].

Thorn's hardship policy enables customers to extend the balance of their contract at a lower payment without any charges or penalties. This was recently used for one of our long standing customers in Victoria who was not only battling health issues but had also lost her home due to a fire. Under the hardship policy, Radio Rentals cleared her account, replaced the items she had lost and ensured she would no longer have to make any payments.

Some of Thorn's customers, who receive income from the government benefits, are eligible to meet their commitments through Centrepay, an automated method of payment managed by the Federal Government to enable people to pay regular living expenses form their Centrelink payments. [3]

Using this system is a choice by customers and because it is free to them, it avoids costs associated with bank direct debit systems.

Thorn is aware that consumer rental is an important financing alternative for those Australians excluded from the financial mainstream. Thorn's customer research indicates that consumer rental is a service many people need at a time when they do not have alternatives and Thorn is proud to have this sentiment underlining its work.

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[2] Connolly C, Measuring Financial Exclusion in Australia, Centre for Social Impact (CSI) – University of New South Wales, 2014, for National Australia Bank.
[3] Buduls A, Report of the Independent Review of Centrepay, June 2013

Thorn is also aware of the importance for consumers to have a choice and flexibility and addresses this by offering various end of term options (and early termination options) in its consumer lease.

Consultation Process

As a provider of consumer leasing and consumer lending products Thorn is uniquely placed to comment on the similarities and points of difference on the customer base for both products as well as the features and benefits of the product offerings.

Thorn looks forward to working with the review panel and endorses the approach of the panel to ensuring the regulatory framework for consumer leases strikes the right balance between providing adequate protection to consumers, and reducing regulatory compliance costs whilst taking into account fairness, competition and innovation.

Thorn has addressed the questions raised in the Consultation Paper at a high level to give an overview of Thorn's response on the issues raised in the Consultation Paper. Given the short timeframe to make a submission, Thorn undertakes to provide additional supporting detailed data to assist the Panel with their review. Thorn would also like to meet directly with the Panel to take the Panel through the submission and Thorn's business model and experience with the range of customers who choose consumer leases and address any questions or comments that the Panel has regarding Thorn's submission.

Thorn Executive Summary

Thorn considers the Review to be a timely opportunity to examine the laws in place for consumer leases.

Thorn welcomes the opportunity to highlight the importance of consumer lease offerings in the market and, in particular, as a viable source of finance for credit constrained and/or cash constrained consumers.

As one of Australia's largest providers of consumer leases with a customer base which includes consumers who may be excluded from mainstream sources of finance, Thorn is well placed to provide industry insight to the review panel.

In summary, Thorn's position on the issues and questions in section 3 of the Consultation Paper is:

1. Question 14 – Comparable consumer leases

1.1 Consumer leases and SACCs should not be considered as comparable products. Consumer leases and SACCs are different financial products and meet different consumer needs.

1.2 The current regulatory customer assessment and disclosure requirements adequately protect and service the needs of consumers entering into consumer leases. Trying to impose SACC provisions on consumer leases is not appropriate.

1.3 The consumer bases for SACCs and consumer leases are different. Consumers take up consumer leases to acquire products with flexibility and service benefits whereas SACCs are typically used to pay household utility bills and manage cashflow shortfalls.

1.4 Consumer leases and SACCs do not have similar economic outcomes. A SACC has no variables or points of difference between SACC providers. A SACC is a fixed loan repayable over an agreed prescribed term. There are no additional features or benefits available under a SACC. Conversely and importantly, consumer leases provide flexible terms and rental payment amounts with the customer having the choice to take up a variety of end of term options. Further features and benefits of a consumer lease include:

(a) an ability to upgrade or change products to suite in circumstances or lifestyle;

(b) affordable low weekly payments;

(c) additional services such as delivery, installation, instruction, in-home servicing (including services not covered by manufacturer's warranty or statutory requirements under the Australian Consumer Law) and product replacement.

1.5 Introducing new regulatory requirements for consumer leases will likely have a detrimental effect on the availability of consumer leases to consumers who may already be excluded from access to mainstream finance or do not satisfy the requirements for a SACC.

1.6 Consumer lessors and SACC providers service different consumer needs. Consumer lessors use consumer leases because that is the appropriate way to provide lessees with access to leased goods. Consumer leases are not used as a means of circumventing SACC regulation or the consumer lending requirements generally. Thorn does not agree that providers of SACCs are operating in a market that is not competitively neutral. Thorn does not agree the difference in regulation between consumer leases and SACCs (or loans generally) results in regulatory arbitrage to the detriment of SACC providers or lenders generally.

1.7 Thorn considers that there is sufficient information in the market about the variety of methods by which consumers can acquire products. Thorn is agreeable to and supportive of measures which increase the information available to consumers, such as the introduction of a "key consumer lease fact sheet".

1.8 Thorn's dealings with its customers shows that customers want to know whether or not they can buy the leased goods. To meet this customer demand Thorn would be supportive of extending the end of lease statement as a term in the consumer lease to provide the consumer a right to purchase the rented goods at an indicative price. If such a term was able to be included in the consumer lease, Thorn recommends that consumer leases still remain regulated pursuant to the provisions of Part 11 of the Credit Code and that the effect of inclusion of such a term should not convert the contract to a sale of goods by instalments.

Thorn's Recommendations

- Consumer leases and SACC's should not be considered as comparable products.
- The Credit Act and Credit Code should continue to recognise the difference between consumer leases and SACCs.
- Section 169 of the Credit Code be amended to give the consumer a right to purchase the rented goods and to have the indicative purchase price inserted into the consumer lease.
- The amendment to section 169 of the Credit Code should not convert the consumer lease into a section 9 sale of goods by instalments.
- Section 9 of the Credit Code should continue to regulate consumer leases where the consumer has an obligation to purchase the rented goods.
- Section 174 of the Credit Code be amended to include the disclosure of an indicative purchase price for the rented goods at the expiry of the lease term.
- A key fact sheet for consumer leases be considered in consultation with industry.

2. Question 15 – Applying SACC provisions to comparable consumer leases

2.1 Consumer lessors market to different consumer needs and are providing a functionally different financial product to a SACC. Therefore, SACCs and consumer leases should not be regulated in the same way.

2.2 Introducing disclosure of cost of credit or imposing caps on costs under consumer leases is not warranted or relevant and would be problematic given the range of rental terms and various business models used across the consumer industry.

2.3 The concept of using the Credit Code definition of cash price to determine a "cost of credit" for a consumer lease is not relevant due to the lessor providing additional services such as delivery, installation, instruction in-home servicing (outside warranty), repair or replacement services, relocation services, flexibility, etc. The cost of providing these services must be taken into account when determining the cost of the overall benefit to the consumer in taking out a consumer lease.

Thorn's Recommendations

- Consumer leases and SACCs should not be considered as comparable products.
- The additional disclosures referred to in Question 15 are not warranted for consumer leases.

3. Question 16 – Cap on costs for consumer leases

3.1 Introducing a cap on consumer lease payments is not viable or appropriate, primarily due to the different pricing structure and features of a consumer lease in comparison to a SACC.

3.2 The proposition in the Consultation Paper that capping on costs should equally apply to both a SACC and a comparable consumer lease ignores the fundamental differences in the offerings.

3.3 A SACC provider has no ongoing obligations to the customer once the funds are deposited in the customer's account.

3.4 There are additional statutory, contractual and non-contractual services and features available under consumer leases which are not available or required under a SACC. For example, a consumer using a SACC to buy goods from a retailer would need to pay additional amounts for delivery, installation, instruction on use, servicing and repair. Whilst some of these aspects may be covered by manufacturer warranty, the borrower needs to continue repayment of the SACC irrespective of whether or not the goods work.

3.5 By contrast, under a consumer lease, there are no costs which are in addition to the rental payments. Furthermore, under Thorn's model, the consumer benefits from having replacement goods for the time of the rented goods being repaired.

3.6 The sale by instalments approach for determining cash price makes no provision for the services that are provided as part of the consumer lease. The Credit Code does not deal with how to determine the value of the benefit of the additional services.

3.7 If a cap on consumer leases were to be introduced, the cost of the additional services would need to be excluded from that cap. However, across the range of consumer lessors there may be different approaches taken to the value of the additional services or what is included within the additional services.

3.8 A SACC cost of credit is simply the monthly charge applicable to the amount of credit. There is no room for inconsistency across SACC providers on disclosure of the cost of credit, nor confusion for consumers about how the monthly charge under a SACC is calculated. Conversely, the cost of credit for consumer leases and, therefore any potential cap on costs, could vary significantly between lessors, meaning there would be no uniformity in the approach which would create confusion for consumers.

Thorn's Recommendations

- A cap on consumer leases should not be introduced.

4. Thorn's overall position

4.1 Thorn believes for the reasons summarised above and examined in more detail in the submission, that the current regulatory framework for consumer leases provides proper and adequate disclosure to and protection of consumer lessees.

4.2 The disclosure of the periodic rental payment and total rental payable over the term is the clearest and most relevant disclosure for consumers under a consumer lease.

4.3 Due to the significant differences identified between consumer leases and SACCs (and loans generally) imposing SACC provisions into the consumer lease framework is inappropriate and would provide no real benefit to consumers and potentially limit the access to some consumers to consumer leases.

4.4 If the view of the panel is that there is to be change to the regulatory framework for consumer leases, Thorn wishes to be involved in that process and work with the review panel to provide an outcome which is beneficial to consumers and realistic within the commercial operations of a consumer leasing business.

Part 2

Thorn's comments on Section 3: Consumer leases as alternatives to small amount credit contracts

The Consultation Paper at p.34 states *"the regulatory requirements that apply to Part 11 consumer leases* *are less onerous* *than the requirements for credit contracts…"*.(emphasis added)

Thorn rejects the proposition that the regulatory requirements for Part 11 consumer leases are *"less onerous than the requirements for credit contracts."* The regulatory requirements for Part 11 are entirely suitable for the nature of the product being made available to consumers.

Similarly, Thorn rejects the proposition that *"disclosure requirements for comparable consumer leases* *are more limited* *than the requirements for SACCs."* (emphasis added).

Consumer lessors and consumer lenders are both required to disclose the periodic rental payment or periodic loan repayment over the contract term.

Credit providers must disclose the amount of credit plus total interest charges but are not required to disclose the total amount repayable by the borrower.

The most important information for a consumer lessee to know is how much rent they must pay each week/fortnight/month and how much rent they will pay in total over the rental term. Section 174(1) of the Credit Code has these specific disclosure requirements.

The disclosure of the *"total amount of rental payable"* (section 174(1)(f)) provides a more accurate and relevant disclosure to the consumer of their overall payment obligation under a consumer lease than the *"cost of credit"* which SACC providers must disclose.

Thorn notes that the focus of the Consultation Paper relates to customers who may be excluded from mainstream forms of finance or payment for goods, or who may self-exclude. As set out in the business overview in Part 1, Thorn has decades of experience assisting consumers who may be excluded from mainstream finance. Through its dealings with this category of customers Thorn believes that the flexibility provided by rental term options and the ability to offer new or refurbished goods enables the consumer to manage their essential household expenditure and requirements.

Thorn notes the Consultation Paper considers whether there are similar economic outcomes for comparable consumer leases and a SACC in instances where the consumer has the benefit of owning the goods at the end of the lease.

A SACC economic outcome will be known at the beginning of the SACC agreement. This is because the only "outcome" is that the borrower has to repay the loan amount and interest by the end of the term.

Conversely, the economic outcome for each individual consumer lease can only be determined by knowing which end of term option a consumer will choose and this will vary depending on the choice made by each customer during or at the end of the consumer lease term.

Throughout Thorn's submissions Thorn identifies the variety of end of lease term options available for the consumer to choose. For Thorn's consumer leases it is not known by Thorn at the commencement of the consumer lease contract which end of term option (or right to early termination) the consumer will choose.

As it is unknown at the start of the consumer lease contract which option will be selected by the consumer it is incorrect to group consumer leases and SACCs together and describe them as having similar economic outcomes.

Thorn's comments on ASIC Report 447 – Cost of Consumer Leases for household goods

Thorn has considered and reviewed the ASIC Report 447. Outlined below is a summary of Thorn's comments on the Report.

Thorn question the relevance of a number of steps taken by ASIC in preparing the report. These include:

1. Doing a direct comparison between a consumer lease and cash loans given the nature and flexibility of leasing versus the fixed nature of a SACC. A cash loan used to purchase a good is a "fixed" product which provides no flexibility in the outcome for the consumer. A consumer lease is a "flexible" product which allows the consumer to use the leased good and has flexibility for how long they lease, whether they want to upgrade or return or take up ownership benefits. The consumer lease also provides repair, replace, service and upgrade or downgrade options.

   Clearly there is significant difference in the nature of these products.

   The majority of Thorn's leased goods are essential household living items. Thorn's SACC data (contained in Table 1) indicates that not one of Thorn's 945 customers who took out a SACC had the purchase of goods as the purpose of the loan.

2. Comparison of cost of leases for Centrelink recipients against "advertised prices" in RMIT's survey. The comparison should be the cost of leases for Centrelink recipients against cost of leases for the same products for customers not receiving Centrelink payments.

3. ASIC used the RMIT market survey data on a sample on the total costs charged by nine lessors across 20 categories of common household goods in April 2015 and the targeted review of two lessors of 69 leases between March 2014 and February 2015 with consumers in receipt of Centrelink payments.

   In regard to the sample size of the RMIT market survey, the fact that the pricing was determined only by reference to online retailers and of two consumer lessors who operate primarily in regional Australia in providing leases to low-income consumers receiving Centrelink payments and without a shop front is not reflective of the Australia wide consumer leasing market. On Thorn's analysis, the two consumer lessors represent less than 1% of the Australian consumer leasing market which has in excess of 300 operators (Centrepay Report – Anna Buduls – 2012).

   By way of comparison ASIC Report 426 into small amount credit contracts obtained data from 13 small amount credit providers who made up 75% of the small amount credit lending market.

   The sample size for the RMIT market survey is insufficient to determine industry wide pricing. In Thorn's case advertised prices are commonly discounted due to various offers.

4. RMIT excluded all additional fees and charges (such as dishonour fees, credit card payment surcharges, early termination fees and insurance). Thorn questions the validity of the comparison if the cost of purchasing the products, including the cost of delivery, installation, instruction, service outside of warranty etc, are not also included in the analysis and believes that the analysis does not fully evaluate the reasons why consumers chose consumer leases to obtain household goods.

5. The Report considers the cost of the total rental as the basis of affordability rather than the periodic rental payments. In many instances, customers use leasing as a budget tool in managing their weekly expenditure and still obtain access to the goods they need. For cash or credit constrained customers, affordability is determined by how a payment can be met under the weekly budget requirement rather than what it will cost over the term. There appears to be no data in the Report which gives a consumer's determination of what is affordable. The Report also compares leases of similar periodic payment frequency and term without considering the different value of rented goods.

6. Thorn does not discriminate between Centrelink recipients and non-Centrelink recipients on rental payments charged for the same product and term.

7. Thorn disagrees that there is little difference in the minimum and maximum fortnightly rental payments charged to Centrelink recipients between leases with a one-year term and a two-year term. Thorn's analysis of its consumer leasing portfolio indicates that there is a 30% differential in the fortnightly rental payments between the two terms.

8. Thorn notes at paragraph 68 of Report 447 that ASIC did not examine the reasons why consumers enter into leases. Thorn considers that failing to take into account consumers' reasons is a major flaw in the Report. Thorn's customer data and the information obtained from consumers to determine whether or not the proposed credit consumer lease is not unsuitable show that a consumers' requirements for a lease with Thorn covers flexibility of rental terms, the affordability of rental payments as part of the consumers' household expenditure and their need for specific household items.

9. Thorn had an independent survey of its customer base conducted by ACA Research. The survey involved 486 Thorn customers and was conducted between 2-14 September 2015. The survey asked the reasons for first starting to rent.

10. The responses given were:

- Reduced upfront costs – 84%;
- Could buy the equipment for $1 at the end of the rental – 55%;
- Low weekly payment – 33%;
- Free maintenance and product demonstration – 29%;
- Previous financial history did not matter – 27%;
- Could obtain quality (well-known) brands – 21%;
- Referred by a friend – 8%;
- Was in a temporary living situation (eg student, working away from home) – 2%;
- Fulfilled a temporary need – 2%;
- Other – 4%.

11. Thorn believes the findings from its independent survey (conducted prior to the release of Report 447) provides a far more accurate and balanced view of consumer behaviour than ASIC's unsubstantiated statements about lessor and consumer behaviour in paragraphs 69-72 of the Report.

Part 3

Thorn's Submissions on Question 14

The Credit Act applies different obligations to transactions according to whether or not the product is structured as a credit contract or a consumer lease.

The Consultation Paper correctly identifies the parameters of a Part 11 consumer lease and, in particular, the definition contained in section 169 of the Credit Code:

> "A consumer lease is a contract for the hire of goods by a natural person or strata corporation under which that person or corporation does not have a right or obligation to purchase the goods."

If a consumer lease is drafted on the basis that the customer "has a right or obligation to purchase the goods" then the consumer lease is converted into a sale of goods by instalments pursuant to section 9 of the Credit Code with the following consequential effects:

(a) it becomes a credit contract;

(b) ownership of the goods passes to the consumer on inception of the contract;

(c) the disclosure and/or contractual requirements contained in section 17 of the Credit Code apply to the contract including, for example, the disclosure of an annual percentage rate;

(d) a statutory form of mortgage is granted by the consumer to the lessor as security for the consumer's contractual obligations to the lessor under the contract.

To Thorn's knowledge we are unaware of any consumer lessor knowingly including a right or obligation for the consumer to purchase the rented goods under a Part 11 consumer lease.

Further, Thorn is unaware of any lessor/credit provider which offers a product to consumers which matches a "section 9 contract".

As noted in pages 35 and 36 of the Consultation Paper consumer lessors have been particularly innovative to provide some form of ownership proposition to consumers within the confines of a Part 11 consumer lease. Thorn has adopted this approach with 'RentTryBuy', now 'RentTry$1Buy' which gives the consumer the ability to purchase a similar good to the rented good at the expiry of particular rental terms.

The reason for the innovative approaches is a combination of many factors including:

(a) compliance with Part 11 of the Credit Code;

(b) the consumer lease not becoming a section 9 contract with title passing to the consumer on inception of the contract; and

(c) the consumer wanting the ability to choose whether they want to own the goods they are renting.

Which leases could be considered comparable with SACCs?

The Consultation Paper suggests that a 12 month lease for a $500 fridge is likely to be comparable to a SACC.

The Consultation Paper also states that other features of a comparable lease in general terms are leases of relatively low value goods (for example, less than $2,000) and are predominately used by consumers who are excluded from mainstream forms of finance or payment for those goods (or who self-exclude). However, while the value of the good under a comparable lease is prima facie likely to be similar to that of a SACC, the term of a comparable lease may be longer than that of a SACC, and will usually extend beyond one year, with the most popular rental term being up to three years or more.

Thorn does not offer leases which could be considered comparable with SACCs.

Table 1 summarises the key features of the Thorn consumer leases and a SACC which demonstrates significant differences between the two products. Table 1 also contains information regarding the SACC loan which Thorn trialled over an 18 month period.

Table 1

Feature	SACC	Thorn Consumer Leases
Term	16 days to 12 months	Consumer Lease Term Options: 18 months, 24 months, 36 months, 48 months Initial terms are all greater than 12 months (Average. 24.2 months) Most popular initial term = 48 months (affordability)
Value	< $2,000 amount financed Average Thorn SACC Loan = $689	Thorn's average rental rate of $45 per month over a 48 month consumer lease = $2,160. The $2,160 includes cost of delivery, installation, in-home service (outside of warranty), repair or replacement, flexibility to upgrade/change products.
Maximum Costs	Maximum allowable charge; • 20% Establishment fee • 4% per month Both are applied to the adjusted amount of credit For a 12 month SACC, this equates to a **minimum** 68% APR equivalent	The total rental payable over the term, but there is no theoretical maximum given customers can **choose** to rent their item beyond expiry of the initial term to receive lifetime in-home service and support.
Product	N/A – unsecured cash only	New and refurbished essential household living items.
Additional considerations	SACCs prohibited where Centrelink income is > 50% and payment more than 20% of Centrelink income (potentially limits welfare recipients spending cash on non-essential items including addictions)	Thorn suggests discriminating against social welfare recipients having access to essential household living items with full in home service and support is NOT in their best interests.
Additional ongoing contractual obligations	Nil	Service and repair (see below section on Service and Repair for full details)
Centrelink Recipients		50% of Thorn's consumer lease customers are Centrelink recipients (which includes many who are employed but use Centrepay through family benefit payments). Payment type elected by the consumer (can choose direct debit or Centrepay). Centrepay is "Fee Free" for the customer. Thorn pays in excess of $800,000 per annum to Centrepay so customers have access to a fee free billing service. Customers can cancel Centrepay at any time Thorn receives in excess of 90,000 Centrepay cancellations per annum.

Feature	SACC	Thorn Consumer Leases
		Thorn's customer research highlights customers receive benefit in Centrepay to assist with household budgeting and avoiding unnecessary discretionary expenditure. Across all Thorn consumer leases products there is no discriminatory pricing between Centrelink customers and non-Centrelink customers.
Shopfronts	Mainly online (web based)	Thorn has a national network of over 90 stores and distribution centres
Security	Unsecured	Lessor retains title of the asset until end of lease options are made available to the consumer. This enables lessors to provide access to consumers who may otherwise not qualify for cash loans to independently acquire the products.
Purpose	Bills, Car, Holidays, Repairs, Debt Consolidation Thorn's experience during an 18 month pilot of SACC loans resulted in 945 loans being financed – with the following loan purpose split: Bills 454 48.04% Car 114 12.06% Holiday 109 11.53% Other 112 11.85% (Note: none for purchase of household assets) Renovations 42 4.44% Repairs 114 12.06% Total 945 100.00% None of the 945 SACCs entered into by borrowers with Thorn were for the purpose of acquiring household goods	Essential Household Goods
Enforcement Expenses	Court costs	Reasonable costs
Products	N/A – Cash only	Thorn has more than 250 different products currently on rent with customers which include whitegoods, furniture, PC's, TVs , audio, telecommunication, etc.
Default Fees	Up to 200% of amount of credit	A late payment fee if the rental payment is not paid on time

Feature	**SACC**	**Thorn Consumer Leases**
Early Termination Fee	Not Applicable	Where the Lease Period is 18 months – Early Termination Fee: (a) the lesser of 95% of the outstanding balance of the Total Rental Amount or: (i) six months Rental Amount if the Contract is for brand new Goods or New Condition goods; (ii) three months Rental Amount for Contracts for all other categories of Goods; and our reasonable expenses in attempting to recover the Goods. Where the Lease Period is 24, 36, 48 months: (a) the lesser of 95% of the outstanding balance of the Total Rental Amount or twelve months Rental Amount; and our reasonable expenses in attempting to recover the Goods. In practice the early termination fee is rarely charged or recovered and is credited back to the customer's account.
End of Lease/Loan	Repay the loan in full (up to $3,360 for a $2,000 SACC loan taken out for a 12 month term)	No right or obligation to purchase rented goods. Return the goods with no further obligation. Customer can make an offer to purchase rented goods. Only 67% go to term and make offer to purchase their goods (on 36 month contracts). Offer to purchase similar goods. Continue to rent or reach agreement for a new lease period. 4% of customers choose to continue to rent rather than purchase after expiry to receive ongoing in-home service benefits.
Deposit	N/A	No deposit
Delivery Fees	Excluded. Customer would need to pay for this separately.	Included in cost of rental
Installation Fees	Excluded. Customer would need to pay for this separately.	Full installation and demonstration/instruction included in cost of rental
Flexibility	Nil	As part of our business practice, lessees have the ability to upgrade/downgrade and change product category if circumstances change (eg have a baby and need a bigger washing machine or fridge). Thorn performs approximately 14,000 change of products per annum with no charge to the customer to end the current lease and enter into the new lease.

Feature	SACC	Thorn Consumer Leases
Service and Repair	Nothing provided by SACC lender. SACC lender has no ongoing obligation. Manufacturer's warranty from supplier of goods.	Full in-home service for life of contract – includes service NOT covered by manufacturer's warranty or statutory requirements under the Australian Consumer Law – for example: (a) replacing remote batteries; (b) cleaning lint filters in washing machines and dryers; (c) defrosting freezers; (d) retuning TV's; (e) connecting ancillary devices to AV equipment; (f) moving furniture & heavy items free of charge if customers move house; (g) reformatting laptops and PC's; (h) reformatting smartphones and tablets; (i) replacing cables and ancillary parts from 'wear and tear'; (j) providing a "loan unit" if customers item requires workshop repair; (k) Courtesy house calls; (l) Payment collection calls where customers have limited transport.

The critical differences between a consumer lease, including one which provides for the consumer to offer to purchase the rented goods or have the option to purchase a similar item, and a sale of goods by instalments or a SACC are:

(a) rental payments are a fee for usage of the goods, not a repayment of a loan (including interest and/or fees);

(b) the ability of the consumer to make a decision on whether to offer to purchase the rented goods or similar item;

(c) the ability for the consumer to return the goods at term end and not make the purchase decision;

(d) the ability for the consumer to return the goods prior to the expiry of the rental term;

(e) ownership of the goods stays with the lessor until such time as the lessor exercises the ability to accept the consumer's offer and payment of the agreed amount is made by the consumer;

(f) there is no need for the consumer to grant a mortgage over the goods as security for performance of contractual obligations;

(g) the contractual benefits available to the consumer during the rental term which include:

 (i) service and maintenance;

 (ii) repair;

(h) Thorn's practice of allowing the customer to upgrade or downgrade their leased goods and/or vary the rental term and rental payments to meet the customers' change in circumstances;

(i) the ability to negotiate the rental term provides flexibility and affordability for the consumer to meet their household budget. For example a periodic rental payment for a consumer lease with a term of 18 months will be greater than for a term of 24 or 36 months. Depending on the term of the consumer lease the total amount of rent paid may be greater than the repayments under a SACC but that is a function of the term of the lease rather than an actual or implied interest rate under a loan or sale of goods by instalments.

By reference to the critical differences listed above the parameters of a consumer lease are materially different to a SACC.

Whilst the average cost of the underlying goods the subject of a SACC or consumer lease may be similar, that is the extent of the similarity.

By reference to ASIC Report 426, a SACC is, in effect, a "payday loan".

A consumer lease is in no way comparable to a pay day loan.

A SACC is for a period of 16 days to 12 months with a maximum amount of credit of $2,000 and very rarely used for purchasing household goods. A consumer lease is always used to obtain the use of a household good.

Accordingly, it is Thorn's strong view that consumer leases <u>are not</u> "comparable" with SACCs.

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

The regulatory requirements for consumer leases are clearly stated in Part 11 of the NCC.

Part 11 of the Credit Code mirrors the equivalent requirement of Part 10 of the previous Uniform Consumer Credit Code (**UCCC**).

Lessees have it clearly disclosed in the consumer lease contract:

(a) the good(s) they are renting (s174(1)(a) of Credit Code);

(b) the amount of each rental payment (s174(1)(e) of Credit Code);

(c) how often they pay rental payments (s174(1)(e) of Credit Code);

(d) the number of rental payments to be made (s174(1)(f) of Credit Code);

(e) the total rent payable over the rental term (s174(1)(f) of Credit Code);

(f) what to do if they want to return the good(s) before the end of the rental term (s174(1)(g) of Credit Code).

The responsible conduct requirements for lessors are clearly prescribed in Part 3-4 of the Credit Act.

Thorn considers the existing regulatory requirements under the Credit Act and Credit Code that apply to consumer lessors adequately and properly provide protection to consumers and are suitable and satisfactory in their present form.

In coming to its response Thorn has considered and makes comment on:

- **The similarities between the consumer bases for SACCs and comparable consumer leases**

  The Consultation Paper confuses the legal requirements with the practical outcome. A credit contract is a loan of money with which a consumer may use the money for a variety of purposes, one of which may be to purchase goods.

  With a credit contract where the customer purchases the goods, the customer takes ownership of the goods on payment of the purchase price.

  Under a section 9 sale of goods by instalments there is also a transfer of ownership of the goods on inception of the contract.

  Under a consumer lease or a consumer lease with an option to purchase (if section 9 were not operative) the customer pays a rental which is a fee for usage of the goods. For a standard consumer lease, the consumer returns the goods at the end of the term or may make a non-contractual offer to purchase the goods.

  A consumer lease with an option to purchase operates in the same way because the consumer may exercise the option or continue to rent.

Critically, it is the consumer's choice as to what they will do with the leased goods and this choice can be formed at any time during or at the expiry of the consumer lease.

The premise for the assertion in the Consultation Paper that there are "similar consumer bases" for SACCs and comparable consumer leases is based on evidence that "comparable consumer leases" are taken out by consumers that are excluded from mainstream sources of finance.

Thorn's customer base is also made up equally of consumers who have access to mainstream sources of finance and comprises home owners and renters. This demonstrates how consumer leases cater for consumers situational needs as well as their financial circumstances.

As outlined in Table 1, SACCs and consumer leases have significantly different features and offerings and meet different consumer needs.

A consumer lease enables the consumer to have access to and use the leased goods, in return for payment for rental.

The data from Thorn's SACC product show that there was no loan purpose which corresponded with the acquisition or use of goods.

Accordingly, from Thorn's customer experience, this does not make the two products comparable.

- **The similar economic outcomes of SACCs and comparable consumer leases**

The premise for the assertion in the Consultation Paper that there are "similar economic outcomes" is based on the comment that "comparable consumer leases" are often structured so that the consumer has the benefit of owning the good at the end of the lease without having a legal "right or obligation to purchase the good" and in instances where the consumer has the benefit of owning the good at the end of the lease, the "economic outcome of a comparable consumer lease and a SACC is the same".

The economic outcome for a SACC is that the borrower borrows the amount of credit for the loan purpose and repays the loan over the loan term. Thorn notes from the information in Table 1 regarding its SACC product, that there was no loan purpose attributable to acquisition of goods.

As outlined in Table 1, the consumer lease offers a range of early termination and end of lease options for the consumer in respect of the leased goods. The option to make an offer to purchase the goods is one of many options offered under the consumer lease and the consumer is not obliged to choose this option. Further, the consumer does not need to commit to any of the options at the commencement of the consumer lease and thus retains the flexibility to deal with the leased good in such manner as it chooses. As stated in Thorn's comments in part 2 of the submission, the economic outcome for each individual consumer lease will not be known until the consumer makes their decision during the lease term or at the end of the lease term.

In regard to decisions made by consumers about the leased goods, Thorn's data shows:

(i) 67% of consumers made an offer to purchase the rented good at the expiry of the rental term which was accepted by Thorn;

(ii) 29% of rental goods were returned prior to the expiry of the rental term;

(iii) 4% of consumers continue to rent the good beyond the expiry of the rental term.

This data illustrates the mix of options taken up by consumers during or at the expiry of the rental term.

From a legal perspective, the economic outcomes generated by a SACC and a consumer lease, are not the same. Further, as shown in Table 1, from a legal and contractual perspective, the ongoing obligations for a lessor (service and repair) and a SACC provider (nil) are completely different.

From a practical perspective, if the consumer makes an offer to purchase the goods, then the consumer may end up with possession or ownership of the goods.

The critical issue is that the consumer has the choice to rent the goods and return them at any time during the term of the consumer lease and has the many identified benefits provided by Thorn as a consumer lessor.

For these reasons, Thorn rejects the proposition that there are 'similar economic outcomes' of SACCs and 'comparable' consumer leases.

- **ASIC evidence (ASIC Report 447, Cost of consumer leases September 2015) which suggests that the effective interest rate for some consumer leases is substantially greater than the maximum allowed for SACCs under the caps**

In the Report, ASIC's finding is that the amounts charged by different lessors for the same goods vary significantly:

(i) in dollar terms, the difference ranged from $228 to $1,094; and

(ii) when expressed for identical goods were 25.88% and 85.33%.

These findings are based on the RMIT market survey data of advertised consumer lease prices that compared the costs charged by:

(i) different lessors for the same goods (where there was only a small difference in the retail price); and

(ii) lessors for different goods with a similar retail price.

Thorn questions the relevance of the comparison of the lessors for different goods with a similar retail price due to the significant service cost differentials between products.

For example, delivery costs of a $1,000 lounge suite versus delivery cost of a $1,000 laptop, or ongoing maintenance costs of a $500 washing machine versus a $500 fridge.

ASIC's findings also included that there was no consistency in total amounts charged for different goods with a similar retail price. Assuming a retail price of $500, the total cost of these two leases, expressed as an interest rate is 17.30% and 231.94% respectively.

Thorn submits that this review does not correspond with Thorn's products as Thorn does not offer 12 month lease terms. Thorn discloses the full cost of the contract to consumers (ie. the total rental payable) before entering into lease agreement and this reflects standard market practice and compliance with Part 11 of the Credit Code.

In Finding 4 ASIC found that Centrelink recipients were charged:

(i) in 20 out of 39 leases with a two-year term, more than five times the retail price of the leased goods – the equivalent of an interest rate of over 248%; and

(ii) in one case, a cost equivalent to an interest rate of 884%.

Thorn's average pricing across its entire portfolio equates to a multiple of 2.6 x recommended retail price as set by the manufacturer. This includes all costs associated with providing ancillary services as well as the Radio Rentals infrastructure of shopfronts that consumers can engage with the business.

Report 447 contains a finding (Finding 4) that the same lessor charge significantly different amounts for the same goods, in particular, Centrelink recipients were charged more than the advertised costs and more than the amounts charged to lessors under the RMIT market survey.

Thorn has no price discrimination or price differentiation between consumer lease customers who are Centrelink recipients and non-Centrelink recipients.

Thorn does not charge any consumer more than the advertised rental price and will in many instances discount their rental price below the advertised rental price.

Thorn is concerned to learn that some consumer lessors may be adopting price discrimination and/or price differentiation for consumers who are Centrelink recipients and do not condone this approach.

Thorn notes the comment in paragraph 62 of Report 447 that the Centrepay system can remove the lessor's credit risk for consumers who opt to pay the rental payments via Centrepay. However, it needs to be stressed that Centrepay is not a "guarantee" of payment for a consumer lease. Under the Centrepay arrangements, consumers can cancel their Centrepay method of payment at any time and without notice to the lessor. As set out in Table 1, Thorn receives in excess of 90,000 Centrepay cancellations each year. Thorn's experience is that consumers voluntarily elect to use Centrepay as a method of payment because it supports the management of their household budget and is one of the only "fee free" methods of payment available to them.

Thorn notes from the Appendix to Report 447 that ASIC has the requisite regulatory powers to take action against lessors who breach the terms of their Australian Credit Licence or the Credit Code.

Thorn do not believe the examples cited by ASIC in the Report are reflective of the overall consumer leasing market and in no way represent the practice of the mainstream, major consumer lessors.

- **The effect of introducing new regulatory requirements on the viability of the consumer leasing market and the availability of consumer leases**

Thorn rejects the proposition that further responsible conduct regulatory requirements are required under the Credit Act for consumer lessors.

The introduction of an equivalent provision of Part 3-2C of the Credit Act for licensees that are lessors under consumer leases would not provide any greater level of consumer protection and would add to regulatory compliance costs for consumer lessors.

Part 11 of the Credit Code and the responsible conduct provisions of Part 3-4 of the Credit Act are suitable and satisfactory for the regulation of consumer lessors and provide proper and adequate disclosure of information to and protection for lessees.

The Consultation Paper refers to a risk that providers of SACCs may be operating in a market that is not competitively neutral "given that SACCs and comparable consumer leases have similar markets and economic outcomes". Thorn rejects this view and the purported risk to SACC providers. Consumer lessors and SACC providers operate in different markets and service different consumer needs and have different upfront and ongoing contractual and statutory obligations.

Thorn does not agree that a conclusion can be formed that SACCs and comparable consumer leases have similar markets and economic outcomes. Further, Thorn considers that it operates in a different market to providers of SACCs and that the different regulation for these different markets under the Credit Act and Credit Code should be maintained.

In continuing with the regulation of SACCs and consumer leases in their current form Thorn considers that consumer protection is maintained, no regulatory compliance costs are added and fairness, competition and innovation can be maintained.

- **The impact of the distinction based on whether or not the consumer has a right or obligation to purchase the leased goods**

The Credit Code has prescribed the manner in which leases are to be regulated, dependent on whether or not there is a right or obligation to purchase the leased goods.

If a credit provider wished to offer a goods lease with an option to purchase then Section 9 of the Credit Code deals with how such a product is regulated and what information is to be disclosed to the consumer. However, Thorn is unaware of any credit provider/consumer lessor knowingly offering such a product in the market.

As identified in the Consultation Paper, lessors provide a variety of means by which a consumer can ultimately acquire the leased good as an end of rental term option, where the consumer has no right or obligation to purchase the leased good.

It is Thorn's view that these various methods have been introduced by lessors so that the lessor can meet customer demand for this feature, whilst remaining compliant with Part 11 of the Credit Code (and previously the UCCC).

Thorn notes that the introduction in 2013 of the "end of lease statement" (see section 175H of the Credit Code) has given the lessee a degree of clarity around what may happen at the end of the rental term.

The effect of section 175H and corresponding regulation 105C of the Credit Act Regulations is that the lessor is required to provide a statement to the lessee under a consumer lease, no later than 90 days before the end of the fixed term of the consumer lease, containing information including:

(a) as to whether the lessor is prepared to negotiate the sale of the goods; and

(b) if the lessor is prepared to negotiate the sale of the goods:

    (i) an estimate of the sale price of the goods; and

    (ii) contact details for the person through whom the sale of goods may be negotiated.

Clearly and critically, without amending the definition of a consumer lease in section 169 of the Credit Code, the regulators have introduced a regime where the negotiation of the sale of the rented goods can take place under a consumer lease.

Importantly, the end of lease statement may be given at any time provided it is no later than 90 days before the end of the fixed term. This means that a lessor could form its intention at inception of the consumer lease and provide the customer with the contract document, effectively notifying the customer of the intention of the lessor to negotiate the sale of the goods and also advising the estimate of the sale price.

The introduction of the end of lease statements would appear to go part of the way to satisfying consumers requirements about wanting to know whether they can own the goods they are renting and creates greater transparency of what may occur at the end of the rental term.

In Thorn's opinion, it is a logical next step to amend section 169 to provide the customer with a right or option to purchase the rented goods and to have the estimate of that price inserted in the contract document.

However, such a consumer lease with a right or option to purchase should not convert the consumer lease into a section 9 sale of goods by instalments and therefore a credit contract.

The effect of such an amendment to section 169 would mean that this section deals with options to purchase the rented goods and that section 9 would continue to apply to leases where the consumer has the obligation to purchase the rented goods.

The reason a distinction between section 169 and section 9 would still be relevant is that the option to purchase is still only one of the many end of lease term options available to the consumer.

The ancillary benefits of amending the consumer lease provisions to grant the consumer an option to purchase the rented goods would be to do away with all of the innovative alternatives outlined in the Consultation Paper and identified in the submission.

Thorn has been consistent in its approach to this point and has been and continues to be an advocate for consumer leases to include an option to purchase the product at an indicative price, whilst still being regulated under the Part 11 provision. See Thorn's 3 December 2013 submission to Treasury at Attachment 3 [**Confidential**].

Thorn's position is that the ability to disclose an indicative purchase price for the leased goods at the expiry of the rental term would give greater clarity to the lessee around their end of rental term options.

Thorn would be agreeable to an amendment to section 174 of the Credit Act for the lessor to include a disclosure about an indicative purchase price at which the lessee can offer to buy the leased goods at the expiry of the rental term as one of the end of term options.

This concept is already in motion by the introduction of the end of lease statement and could be formalised in legislation by making it a disclosure requirement under section 174(1) of the Credit Code in terms saying:

> "if the lessor permits such an option in its contract the indicative price at which the lessee can offer to purchase the goods hired under the lease at the expiry of the fixed term of the lease period".

By having the disclosure of the indicative purchase price drafted in these terms it would mean a lease with an obligation to purchase would continue to be regulated under section 9 of the Credit Code and a consumer lease with a right or option to purchase would continue to be regulated under Part 11 of the Credit Code.

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.

As stated in this submission, Thorn does not provide consumer leases which are comparable to SACCs.

However, Thorn has not had any hardship complaints from customers where the absence of any cap on the total amount payable under a rental agreement has caused financial hardship to customers.

In Thorn's assessment, a low level of hardship complaints means that consumers are not being put in a situation where they cannot meet their monthly rental payments. Thorn's unsuitability assessment process which focuses on affordability and capacity is designed to work in conjunction with the consumers' household budget needs.

Further, Thorn's standard practice is to work with its customers to provide the right goods at a price they can afford. The flexibility in this approach is specific to leasing by virtue of lessors having a variety of rental terms and product choices.

Thorn's experience with customer payments shows, at present, 96.4% of customers are not behind in their rental payments.

Part 4

Thorn's Submission on Question 15

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

In its response to Question 14 Thorn has rejected the notion in the Consultation Paper that SACC and "comparable" consumer lease providers market to a similar consumer base.

Thorn does not agree that SACC provisions should be applied to consumer leases.

As an example, the current requirement to disclose the cost of credit as an interest rate for a SACC would not benefit the consumer nor would it assist the consumer to understand the total amount payable under the consumer lease.

To determine a uniform "cost of credit" across lessors is unrealistic. The cost of credit would also need to reflect that consumer leases provide the additional services outlined in 1.4 of the Executive Summary and Table 1.

In addressing the various provisions referred to in the Consultation Paper that apply to SACCs but do not apply to comparable consumer leases, Thorn submits:

- the caps on establishment fees and monthly fees;

  Thorn charges a nominal account establishment fee when a customer takes out their first consumer lease with Thorn. Thorn does not charge an establishment fee for each subsequent consumer lease.

  Thorn does not charge a monthly fee in addition to the periodical rental payment.

- the requirement to obtain and consider a consumer's bank account statements over the past 90 days;

  Thorn works with a customer to establish affordability of the monthly rental payment having regard to the customer's capacity and household budget.

  Thorn would not be averse to obtaining and considering a customer's bank statement over the past 90 days, but note that as Thorn operate predominantly in a retail store based market, this may not always be practical for the consumer.

- the requirement to display a warning statement on the alternatives available;

  The warning statement for SACCs (see schedule 7 of the Credit Code regulations) is specific to managing a consumer's bills and debts and specifically refers to "electricity, gas, phone or water providers". The statement also directs Centrelink recipients to ask about advance payments.

  ASIC's MoneySmart website already contains consumer lease information allowing a customer to make comparisons between loans and leases.

  Thorn already has a link to the ASIC MoneySmart website on the home page of the Radio Rental website www.radio-rentals.com.au and on the home page of the RR – Rentlo Reinvented website www.rr.com.au.

  To complement the disclosure to consumers on the alternatives available to consumer leasing, Thorn would be agreeable to additional wording in an information statement which is similar to paragraph 84 of Report 447, with words to the effect:

  > "Consumers can compare the cost of leasing versus buying and borrowing through ASIC's rent vs buy calculator."

However, to provide a balanced approach in disclosing the relevant information to a consumer, it would also be necessary to include additional wording saying:

> "Leasing can provide additional benefits such as delivery of the goods and repair of the goods which may not be available under a loan."

The assistance for consumers referred to in paragraph 86 of Report 447 could be contained in an amended Form 17 Information Statement as set out in Schedule 1 of the Credit Code Regulations.

In addition, Thorn would be prepared to be involved in the preparation of a key fact sheet for consumer leasing, similar to that currently in use for credit cards and home loans.

- the requirements that a consumer who defaults must not be charged an amount that exceeds twice the amount of the loan;

  A SACC can only have a monetary default, namely, the failure to pay the monthly charge and/or repay the amount of credit. A consumer lease can have both a monetary default, namely, failure to pay the rental payments owing under the consumer lease agreement, and also a non-monetary default such as damage to, loss of or failure to return the rented goods at the expiry of the term.

  Thorn can charge a late payment fee if a consumer fails to make a rental payment by its due date.

  If the consumer lease is terminated by reason of breach by the consumer, Thorn can charge as liquidated damages an early termination fee (as per the early termination fee specified in Table 1). This amount would never exceed the total rental payable.

- protection for specific groups of consumers such as those who receive 50% or more of their income from Centrelink.

  Thorn supports protection for vulnerable consumers but also recognises the need for these consumers to not be excluded from access to credit which is required to obtain the use of essential household items.

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

- **The purchase or cash price of the leased good**

  No.

  There is no shortage of advertising and marketing material from retailers of household items disclosing the purchase price for such goods if customers want to buy the goods outright or borrow money to purchase the good. It would be an additional cost burden on lessors to have to do their own research on comparable products to show the customer the purchase price which is available from retailers (noting Thorn has over 250 different products currently on rent).

  Thorn does not consider the inclusion of the purchase or cash price of the leased goods to add value to the consumer.

- **The amount the consumer will pay in excess of the purchase or cash price**

  No.

  The disclosure of the amount of each rental payment under s174(1)(e) and the total amount of rental payable under s174(1)(f) already adequately cover this point.

  In addition, there is no basis for uniformity in consideration of what is the amount in excess of the cash price due to the range and value of the services that consumer lessors provide which are in addition to the rent paid for the use of the goods.

  This would result in confusing outcomes for the consumer in trying to work out comparisons between consumer leases and SACCs.

- **The cost of credit in dollar terms**

  No, for the reasons above.

In addition, the cost to the consumer of the consumer lease is already adequately covered by the disclosure of the total rental payable under s174(1)(f).

- **The cost of credit as an interest rate**

No, for the reasons above.

It is more relevant to a lessee to understand how much they must pay over the rental term. Hence s174(1)(e) and (f) adequately meets this disclosure.

The representation of a cost of rent under a consumer lease as an interest rate would not accurately correlate with an interest rate under a SACC.

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

These costs can be significant and cover services such as installation, repair, replacement goods and, in Thorn's business model, the item set out in the Service and Repair section of Table 1.

Based on preliminary assessments conducted by Thorn, the average cost to Thorn for delivery, installation, service, repair and upgrade (outside of manufacturer warranty costs) and flexibility to change rental goods during the term is estimated to be $458 per leased good.

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

Whilst Thorn is of the view that SACCs and consumer leases are not comparable and that Thorn itself does not offer a lease product which is equivalent to a SACC, Thorn recommends that if the panel concludes that measures are to be introduced to create a comparable lease which is required to be regulated, then there would need to be significant changes to the current SACC Regulation.

In particular the rebuttable presumption provisions would have to be amended to allow for the fact that a consumer may have multiple SACCs and comparable consumer leases.

The protection for Centrelink recipients would also need to be revisited to consider an increase to the percentage of both total gross income (ie from 50%) and percentage of periodical payments (ie 20%).

In particular, the 20% of periodical payments would have to increase to allow for situations where a consumer who is on Centrelink benefits has both SACCs and comparable consumer leases.

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

Yes.

Applying the SACC provisions to consumer leases is not viable, practical or accurate given the numerous points of difference between the two products identified in the submission.

Part 5

Thorn's Submissions on Question 16

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

Thorn believes that the introduction of a cap on consumer leases that are comparable to SACCs would be inaccurate and inconsistent across the range of consumer lessors in the market and provide inconsistent outcomes for consumers.

- **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?**

  No.

  Such an approach ignores the difference in pricing models between consumer leases and SACCs, as well as the additional statutory, contractual and non-contractual features available to consumer leases that are not available under SACCs.

  The pricing issue which becomes apparent is that no two "caps" would be the same, because each consumer lessor has a different business model and may offer different features, benefits, rental terms, service and delivery options.

  The cash price of the good is only one component in determining costs.

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

  For the reasons specified in the submission, Thorn consider that coming up with an appropriate approach to determining a "cap on costs" for leases which gives consumers both protection and a comparison point with SACCs, is an extremely difficult and impractical proposition.

  If the panel is of the view that they wish to persist with considering a cap on costs, then there will need to be detailed industry analysis of what the costs are between lessors and what costs are to be included in the cap and which amounts are outside the cap.

  As stated in the submission, as a preliminary point, the costs attributed to the benefit derived by the consumer of the additional services available under a consumer lease would need to be excluded from that cap.

  By having a model which splits costs between what is in the cap and what is excluded from the cap, may not ultimately benefit the consumer in gaining access to goods under a consumer lease.