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Review of the small amount credit contract laws
Interim report
December 2015

Dear Panel Members

We thank the Panel for the work done thus far in examining the issues raised in submissions originally presented in response to the *Review of the small amount credit contract laws* including Care Inc. (Care) and the Consumer Law Centre of the ACT's submission.

The Observations (1-8) on page 3 of the Interim report reflect many of the concerns expressed in our submission as well as in other submissions and we regard them as being a positive framework from within which the Panel can proceed to a final position.

In arguing for the changes we put forward in our original submission, we drew on considerable experience of working with clients whose disadvantage has been exacerbated by debt spirals resulting from Small Amount Credit Contracts (SACCs) and those whose finances have been depleted by ongoing consumer lease payments far exceeding the cash price of goods. This situation arises because they are a low income member of our community; *this is neither fair nor equitable.*

We note that the Panel seeks the **costs and benefits** of the possible policy options presented. Given the short time frame for responses to the Interim report, our response will be brief. Since our work is with vulnerable, disadvantaged and low income consumers, we focus here briefly, on the costs and benefits to this group.

Responsible lending

The costs to low income consumers who access SACC loans is measurable in both financial distress (including being caught in debt spirals where increasing amounts of their income is taken to pay loans) and also in the levels of psychological distress that clients report to financial counsellors on a regular basis. There is a growing body of evidence that being in debt and experiencing financial hardship impacts on the well-being of clients[1]. The costs of not ensuring adequate protection and enforcement of responsible lending practices (by the Australian Securities and Investments Commission) will likely mean that generational disadvantage will be perpetuated as vulnerable groups within the community remain entrenched in financial exclusion. The benefits include minimization of debt spirals and associated financial hardship, along with the potential for higher levels of wellbeing for low income consumers.

Repeat borrowing

Combating repeat borrowing, or repeat *lending*, is of the utmost importance. Along with regulatory change such as the introduction of a 'bright line' test restricting the number of SACC loans a consumer can access in a twelve month period, alternative forms of credit such as No Interest Loans ('NILS') should be promoted for low income consumers. NILS are the safest and fairest way for low income households to have access to basic credit to purchase household goods.

We see no benefits to repeat borrowing at high cost for low income consumers. On the other hand, there are many benefits that accrue to low income consumers in accessing NILS loans including financial literacy and skills development and a strong sense of achievement. Feedback from Care's NILS clients details a growing sense of being in control of their finances and an increasing feeling of connectedness to their community as they acquire household goods and pay off their loans. Satisfaction with the NILS program is evidenced by clients referring family and friends, people referring their neighbours and the fact that at any given time we can be providing loans to more than one person in a street or housing complex.

On the one hand government should look to strengthen regulation for a section of the finance industry that takes advantage of low income consumers and at the same time provide ongoing and expanded support for NILS programs around the country.

SACCs default fees

Default fees and charges that accrue on SACCs serve no other purpose than to gift extra money to the provider at the expense of consumers that can least afford it. The Interim report draws attention to the effect of default fees in being a contributor to debt spirals and repeat borrowing. Minimising their effects and ensuring they reflect the actual costs incurred in recovery should be a priority. The obvious benefit is the prevention of an ongoing unhealthy dependency by vulnerable consumers on high cost credit providers and the freeing up of income for other expenses.

Regulated consumer leases

Both SACCs and Comparable Consumer Leases (CCLs) target low income consumers, many of whom are reliant on Centrelink incomes. There is no

[1] http://www.rcpsych.ac.uk/healthadvice/problemsdisorders/debtandmentalhealth.aspx

justifiable reason to continue to allow CCLs to operate without a cap on costs or for these leases not to have a transparent statement of all associated fees and charges. Not providing these obscures the true costs to consumers and locks them into lengthy contracts that deplete their meagre resources.

There is also no reason to allow access to the Centrepay system for any CCL company for goods rentals. Centrepay was set up to assist low income households manage bills and finances. It is a service that fits with people paying essential household bills and also NILS loans and *it should not be available for any type of goods rental*.

We also reiterate our position that the National Credit Code should no longer distinguish between consumer leases and credit contracts based on whether they provide a right or an obligation to purchase.

Finally, we strongly recommend a general anti-avoidance provision to ensure SACC lenders do not engage in regulatory avoidance strategies, the sole aim of which is to make more money from disadvantaged consumers.

Thank you for the opportunity to provide these comments, we wish the Panel well in arriving at their final recommendations.

Carmel Franklin

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Liisa Wallace

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