



Supplementary Submission to the Review of the Small Amount Credit Contract Laws and Consumer Leases

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RE: Supplementary Submission of the Review of the Small Amount Credit Contract Laws and Consumer Leases

Dear Ms. Danielle Press, Chair,

Thank you for giving us the opportunity to review the Interim Report December 2015 and to make supplementary submissions to the Panel.

Introduction

We note the observations made in the interim report with interest. Of paramount importance and a statement I truly believe should reflect the equitable nature and outcome of the panel review is the creation of a fair and accessible financial industry whereby the legislation and the market approach to financial services is inclusive and not exclusionary in nature.

Make It Mine has undergone a substantial transition and reform in respect of its approach to credit contracts and the dealing with its unique customer base. Whilst the outcome of the Federal Court matter still echoes, Make It Mine has invested substantial resources into its compliance structure and implementation to ensure compliance with the NCCP Act.

Towards this end, Make It Mine has developed a number of systems and checkpoints to assess responsible lending and affordability of its customer base in order to ensure compliance as well as fairness.

It is for this reason that we operate a 12 month lease and have not opted for a lengthier lease term which would deliver a higher return but could be more onerous on customers.

We acknowledge the need for consumer protection and believe that any business in our industry who acts contrary to that view is engaging in a very short-sighted vision. However, we also ask the Panel to respect that Make It Mine is a business that must be viable in order to remain operational in the long-run and accordingly, we urge the Panel to open their mind to the concerns expressed by the industry in relation to running costs of the business, and not paint the industry with the same brush as SACC providers because our business models are significantly different.

We further ask the Panel not to paint the leasing industry with the same brush as consumer advocates do, due to minority rogues. Consumer advocates commonly deal with exceptional cases, such as consumers who experience hardship. With respect to their operation, consumer advocates are fundamentally against the consumer leasing industry because of the high costs associated with consumer leasing. Make It Mine acknowledges the relatively high costs of a lease compared to an outright purchase, but rejects any unsubstantiated accusation by consumer advocates that consumer leasing operators are out to take advantage of vulnerable consumers. It is very easy to paint a negative picture by taking an exception and making it the rule.

We also urge the Panel to consider the freedom of choice that consumers have. Consumers receiving a Centrelink benefit are not devoid of decision making capacity. They may have limited access to financial resources but they can make up their own minds.

90% of the applications we receive are submitted to Make It Mine online. Most leasing business operators have an online presence. Consumers have all the information they need at their fingertips, with the ability to easily compare the offerings from various leasing operators.

Whilst we respect the role of Governments in consumer protection, it is ultimately market competition that drives pricing, and not regulations.

Initial Observations and Comments

We would like to provide three comments as preliminary observations in relation to the Interim Report.

1. Consumer Lease and Credit Contracts

It is of paramount importance also for Make It Mine to convey to the Panel the substantial risk in the market if the proposed regulations of consumer leases create an environment that is not viable for businesses to continue to function.

There is a great concern that the Panel is underestimating the differences between a consumer lease and a credit contract, and such underestimation is leading the Panel to a hasty conclusion that a 48% cap on all credit contracts is the right way to go forward.

Out of all the Panel's observations and proposed resolution; the arbitrary and incorrect assessment of the consumer leasing industry and the imposition of a 48 % cap, coupled with

a term restriction, is the most critical one of them all and the recommendation that will cause the industry the greatest and irreparable harm.

We cannot stress enough that if the Panel recommends and the Government adopts a simple approach of a 48% Annual Percentage Rate (APR) cap, the consumer leasing industry will not survive, thus (a) injuring hundreds of businesses and business owners, (b) resulting in substantial loss of jobs and most importantly, (c) substantially reducing the competition in the market and assisting the largest players to monopolise the market and create a distortion in the ability of smaller players to compete.

A sustainable financial system must be inclusive but also a system that enables competition to thrive and business owners to be able to run profitable businesses.

2. Creating a rule out of the exception

We note in the report that the Panel used examples of consumers who were charged exuberant amounts for consumer goods. For example, \$3,120 for a \$500 TV or a consumer who spent \$16,000 on consumer leases as a pensioner, with such an amount representing more than that pensioner will ever save during his life time.

It is important to recognise that these are the exceptions and not the rule. By and large the consumer leasing industry consist of honest and reasonable business operators who are small to medium family owned and run businesses.

There are some rogues out there who taint the industry with a negative view, but these are the minority and the exception, and the industry as a whole will gladly work with ASIC and the Government to excise them from the industry.

It is important to understand that these customers are not the rule in the industry. We are concerned that misunderstanding that notion may result in a knee jerk reaction with regulations, which will be a blunt instrument to curtail the market but which will inevitably injure many decent and honest operators in the market.

It is important for the Panel to consider the long term impact of the proposed regulation on the industry as well as on consumers in order to ensure sustainability and continuity of service to consumers.

3. Price discrimination

Price discrimination of any description and any method is repugnant and should be disallowed. Businesses who advertise one price and implement another, engage in misleading and deceptive conduct which ASIC under the ASIC Act has ample power and jurisdiction to deal with.

Operators of consumer leases must advertise the cost of the lease on a weekly or fortnightly so that the consumer is able to understand with ease the total costs of the lease.

We will endorse any recommendation of the Panel that will arrest the practice of price discrimination.

Specific Comments in relation to Observations

Further information on the following is requested:

- All other products regulated by the Credit Act are subject to a cap on costs. Is there any reason why users of consumer leases for low-value household or electronic goods should not have the benefit of this protection?

There is no reason per se that low value household goods should not enjoy the same level of protection, but the main question is not necessarily the protection but the conclusion to the debate whether consumer leases and SACCs are the same so that a single form of protection can apply to all.

In our view and submission, consumer leases are distinct to pure credit contract pursuant to which the credit provider advances credit (cash) to the consumer whether on a short term or long term.

The reasons as explained before are;

- a. under consumer leases, the lessor must acquire the goods and pay for these goods on a cash on delivery basis;
- b. the lessor has its return on investment over the term of the lease which may be 12, 24 or 36 months;
- c. consumer warranty commonly is for 12 months. Repairs after that period are charged to the consumer but under consumer lease, the lessor must repair the goods for the duration of the lease. We acknowledge consumer protection law that require the product to be of merchantable quality but the reality is that most consumer household goods are sold with a 12 months limited manufacturer warranty. The lessor must provide additional warranty for the life of the lease;
- d. depreciation is a helpful tool but it does not compensate for the cash flow issues that a leasing business experiences due to the demand of outlaying the capital upfront and receiving the return on investment over the term of the lease;
- e. recovery action is impossible. It is not economically viable to commence recovery action under a consumer lease. The costs of litigation by far outweighs any benefit of recovery. Therefore delinquency often goes unpunished as consumers and consumer advocacy groups are well aware of;
- f. External Dispute Resolution is impossible as the costs for running and resolving a dispute using an ASIC registered EDR is prohibitive, so much so that the average leasing business will forfeit the goods rather than attend to the EDR process.

- g. the view that the consumer can return the goods to the lessor thus enabling the lessor to commercially utilise these goods is erroneous. It is the lessor who commonly pays for freight costs in order to recover the goods. Freight is cost prohibitive when it comes to recovering goods that have no determined value. By the time one accounts for freight costs and the cost of servicing the second-hand goods so that they can be sold to the market, the proposition is not viable. At the hand of the consumer a leased good post term of the lease has value; but, as a second-hand consumer good that is returned to the lessor, our experience is that it is often commercially useless. It is very difficult to release these items. Their value is low and if maintenance/service is required to the goods before releasing them then the cost becomes prohibitive.

It is fundamentally different to a credit provider that advance cash to the borrower and is expecting cash in return plus interest.

We agree that a consumer lease is a credit contract but the costs base and the manner in which a credit business is run is substantially different between a pure credit provider and a lessor under a consumer leasing business. The costs base for running a consumer leasing business are substantially larger than that of a pure cash credit provider.

Therefore, there is no reason why consumer leasing should not have protection but if the conclusion is that the consumer leasing industry is the same as the SACCs industry, such a conclusion is erroneous and will lead to an inappropriate protection being applied.

Any proposed protection must take into account the unique characteristics of the consumer leasing industry which do not exist in the usual credit industry.

Further information on the following is requested:

- If a cap on the cost of leases were to be introduced, is there a reason for lessors not to be subject to the 48 per cent cap that applies to credit contracts in general?
- Should there be a limit on the maximum term of a consumer lease?

In addition to the information provided above in relation to the distinction between the credit (cash) industry and consumer leasing industry, in our view and based on a number of business models we have created, the consumer leasing industry will not be able to function and survive if a 48% cap is imposed on consumer leases.

Firstly we did not see in the Interim Report any discussion in relation to whether the proposed cap is a general flat cap (total costs) or is it a per annum cap on costs (APR) of the lease (excluding delivery charges).

Our understanding of the restrictions imposed under 31A of the Credit Code is that the 48% is an annualised costs cap and not a total cost cap for the life of the contract.

Yet the discussion in the Interim Report raises the 48% cap as a flat total costs cap on consumer leases.

We cannot stress enough that Make It Mine will not be able to sustain a viable business if the cap on consumer leases is a 48% flat cap.

In addition to the differences stated above with regards a consumer lease compared to a SACC, it is worthwhile demonstrating how the 48% cap benefits the SACC industry and ensures its sustainability, whilst doing the exact opposite to the leasing industry.

SACC Operation

An average a SACC contract is between 1 – 3 months. Working on that basis, a SACC operator can charge 20% of the credit lent by way of establishment costs and 4% per month. On a 3 months basis, a SACC operator will receive 32% return on investment.

If the SACC operator rolls the SACC contract and manages to lend funds on the same basis four times a year, the SACC operator will benefit from 128% annualised return on investment.

Thus a \$1,000 SACC loan will generate a \$320 return over 3 months and \$1,280 per annum. If the SACC operator lends \$1,000 for 2 months generating a 28% return, the SACC operator can generate 168% return over the year. If you reduce the SACC loan to 1 month at a 20% establishment cost and 4% interest totaling 24% return, on an annualised basis the SACC provider will generate a 288% return!

Lease Operator

A consumer lease operator with a \$1,000 cash price product and a 48% contract cap will generate \$267.17 return on a 12 month contract (*see page 30 of the interim report if the interest is charged on a diminishing value*). If that cap is applied, it will matter not how long the lease can be, the return to justify a viable business is not there. On a 12 months lease, the return will not cover overheads and costs of funds. A business on a 12 months lease will be insolvent within the expiry of the first term of the lease.

For this reason, Make It Mine urges the Panel to set a simple multiplier and not adopt the APR. For example, 2.5 times the RRP so that the lessor in a \$1,000 RRP product lease, for the duration of the lease, cannot recover in excess of \$2,500. Or the multiplier can be a per annum multiplier.

Make It Mine is of the view that whatever solution the Panel proposes, the solution should not result in leasing operators opting for longer term leases. As per a recent independent customer survey commissioned by Make It Mine in July 2015, the majority of customers showed they would prefer a 12-month lease.

The Panel can see from the example above that the 48% cap on the SACC industry created a sustainable business model whereas to the leasing industry, the 48% total costs on a diminishing value does not work.

We understand that the financial industry is different from the retail industry but by way of example, if a retailer sells a \$1,000 product for a 48% return, generating \$1480 then the margin for that retailer is 32.43% ($\$480/\1480×100). This sort of margin is widely accepted to be inadequate to ensure a sustainable retail business.

Equally in the financial industry (and specifically in the leasing industry) because the capital investment is up front and the return is over the term of the lease (and considering an average 30% overheads costs calculation) the margin that will be generated from a 48% cap will be inadequate to sustain a business.

Additionally, and whilst not necessarily relevant to the 48% discussion, the consumer leasing industry is faced with high delinquency rate. We believe that a 10%-15% delinquency rate is not out of the ordinary. We have argued previously the prohibitive costs of enforcement and EDR.

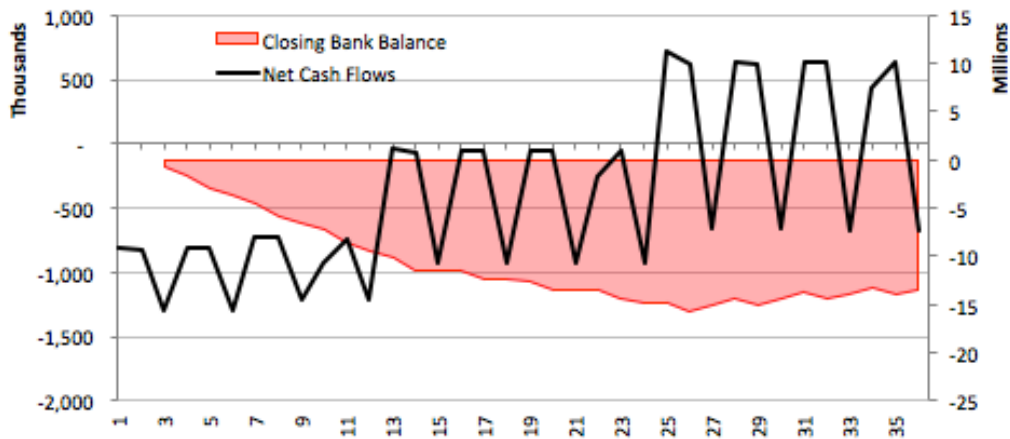
Any economic model for the leasing industry must take into account these factors and allow a degree of flexibility. Failing that, the economic model will be a blunt tool that will fail the sustainability test.

We refer the Panel to paragraph 16.1 of our earlier submission and the discussion in relation to Total Interest Charges vs. Annualized Interest Rate.

48% and its impact on Make It Mine

We have modeled what a 48% APR would do to our profitability and business sustainability. In the attached graph, with the numbers on the x-axis as months, we modeled our cash flow of a 3-year lease at 48%. We included a bit of a margin as well between cash price and our purchase price of 5%.

The overall results are that we would have a negative bank balance of approx. \$15,000,000 before we start to recoup cash.



Based on this model, we feel that Make It Mine would not be able to continue our business. We would highly likely be forced to look at a different model entirely, or close our doors with the loss of 60 staff.

Our Concerns on 112% APR

We are basing the 112% APR off the ASIC report submitted for the SACC review and have modelled below what it would do to our business in Table 1.1.

Table 1.1

	Description	12 Month Rental @112% APR	24 Month Rental @ 112% APR	Current Make It Mine Model
Term (Months)	<i>Length of lease agreement</i>	12	24	12
APR	<i>Annual Percentage Rate</i>	112%	112%	148%
Cash Price (\$)	<i>Price of goods purchased</i>	\$700	\$700	\$700
Weekly Payment (\$)	<i>Amount paid by the consumer each week</i>	\$23	\$17	\$26
Total Cost (\$)	<i>Total cost the consumer will pay under the lease</i>	\$1196	\$1768	\$1352
Total Interest Paid (\$)	<i>Total interest paid during the term of the lease agreement</i>	\$496	\$1068	\$652
Interest Percent	<i>Interest as accrued during the term of the lease agreement as a percent</i>	71%	153%	93%

The graph shows that whilst a 112% APR may cap the costs, what it actually does is make our current 12-month rental unsustainable for the business. The difference between the 12-month capped, and our current 12 month rental is essentially our profit margin.

In order for the business to make profit we would need to resort to offering a 24-month lease at 112%. Our cost base would increase which means our price would increase; and, overall, this would mean that the consumer is around \$400 worse off, because of the cap that was brought in to protect consumers. In our view, this would have the opposite effect and negate the protection reasons raised by the Panel in the Interim Report for introducing such a cap.

While ultimately recommendations from the Panel may be for a different APR other than has been illustrated, what we feel this displays is that APR doesn't work well for lease providers and customers who wish to only rent on a 12 month lease - which have a much lower total cost than 36 or 48 month leases. These longer term leases can be attributed to the high costs that many people see reported and was referenced in the ASIC report. This is why we urge the Panel to consider a simple multiple of cash price or RRP method. It makes it easier for the consumer to calculate, it means we can offer shorter term rentals, and it means the consumer is protected.

If a cap is introduced, then in our view the Panel should not look to limit the term of the lease. As stated above, the majority of the leasing industry opt for a 12-24 month lease, with some opting for 24-36 months and a small minority operating a 36-48 month lease. If a cap on costs was brought in under a multiple of the cash price or RRP as illustrated above, it would then in effect act as a term cap by making longer leases unattractive, as the maximum recovery for the lessor is capped. However, if the cap was APR based, it would actually force the industry to take out longer term leases to remain viable. This goes towards supporting a cap by using a simple multiplier and not an APR or term cap.

Competition in the market will dictate that a consumer who shops around will opt for a leasing company that offers a shorter term lease, rather than committing to a longer lease which would results in the lessee paying substantially more.

However, from the comments above, if a cap is considered, Make It Mine believes that a 48-month cap should be applied, however, Make It Mine strongly believes that market forces and competition will eventually drive consumers towards a more attractive and viable lease.

Further information on the following is requested:

- If a cap on the cost of leases were introduced, which types of leases should the cap apply to?

Make It Mine submitted in its initial submission to the Panel (*page 8 under type of Rental Market*) that the market of indefinite lease should be regulated under the NCCP Act.

The creation of an unregulated and indefinite lease market provides an open door for ACL holders who find the compliance regime onerous to move their business model to an indefinite lease thus avoid regulatory scrutiny.

We remain firm on the view that consumer leases should be regulated under the NCCP Act, irrespective of their nature or term thus creating a level playing field for competition in the market and uniformity for consumer protection.

Additionally, if this loop hole is not stopped and a cap is brought in, many lease providers have indicated that they may enter the indefinite lease space to escape a cap on costs.

Further information on the following is requested:

- How should the cash price for determining a cap on leases be determined?

The matter of 'what is a cash price' is quite a complex matter despite its relative simple appearance.

The NCCP Act, despite reasonable attempts to define what a cash price is, provided little helpful guidance.

What is the lowest price a person can acquire the goods for cash? Does it include factory outlets? Does it include online sellers that do not have brick and mortar shops? Does it include specials during special periods?

What about discontinued models? At times, the price fluctuations with regards discontinued models can be as much as 20-30% between retailers, online stores and direct importers.

Who will conduct the market research and when is the market research applicable? Every time a product is leased?

Must a lease provider conduct market research to ascertain the lowest price available in the market every day? Every week? In order to remain relevant and have constant data regarding cash price fluctuations. Let's take for example the sale that Dick Smith Electronics engaged in recent months in order to improve its cashflow. It is unreasonable to expect other retailers to be able to compete with such price reductions as seen in their "fire sale". Applying the cash price definition, Make It Mine would have to compete with the Dick Smith sale prices as it is the lowest cash price consumer can obtain the goods. The mechanism to constantly check and verify lowest cash pricing is onerous and costly.

What about remote communities? What about country towns where you would commonly expect to find goods at slightly elevated prices than in a major metropolitan area?

If the goods are not available for cash from the suppliers then the NCCP Act dictates that cash price means 'the market value'. All of the questions above in relation to cash price are also relevant to market value.

In our view, a cash price or market value should be the Recommended Retail Price (RRP) which is an acceptable benchmark set by the manufacturer and is not dependent on various factors as highlighted in the questions above. The RRP is not geographical or seasonal biased.

Using the RRP will provide a uniform and constant benchmark that can be used by consumers, consumer advocacy groups and lessors as a guide without the need to invest such resources into investigating what is the lowest cash price which to the majority of businesses can be cost prohibitive.

The Panel commented on the lack of competition in the leasing market. We disagree with such an assessment and disagree with the conclusion that the ASIC report indicates that lack of competition on pricing results in higher costs to consumers. We expressed our view that it is the rogue minority in the industry that look to exploit extremely long-term leases in order to maximise returns or price discriminate.

The consumer leasing industry has a considerable number of participants who compete on price. In the Credit Suisse Australian ESG/SRI, Socially Responsible Investing, Risks in payday lending and goods rentals dated March 2015 the report specifies (*page 13*) that there are 300 service providers authorised to use Centrepay.

In our view, in today's competitive market, and noting the price competition that can erupt from time to time in relation to certain goods, the definition currently used in the NCCP Act is unhelpful and can lead to a number of variances. Using a benchmark like the RRP provides certainty and uniformity.

Further information on the following is requested:

- If a cap on the cost of leases was introduced, how should add on products be treated?
- Are there ways of measuring the value of add on products to the consumer (for example, data on the extent to which consumers utilise those products or make claims under them)?
- What are the consequences of including add on services within the cap? Does this pose a particular risk for certain add on features or parts of the market (such as remote areas)?

We understand the discussion in the Interim Report in relation to add-on-items and found it confusing.

For Make It Mine, an add-on is an item that relates to the leased good and to the interest of the lessee and the lessor under the lease.

Add-on items can be ancillary products such as a Blu-ray Player for when a customer leases a TV, or a set of wireless noise cancelling headphones when the customer leases a home entertainment system.

We understand that some providers in the market offer liability reduction products pursuant to which, in return for the set weekly payment to the lessor, the liability of the lessee is capped in the event the leased goods are damaged, lost or stolen. Without the liability reduction, we understand that the lessee could be held liable for the full value of the leased goods.

From our understanding of the report, we saw add-ons as non-tangible items such as additional support, warranties, delivery and similar services.

From our point of view, it is very hard for us to classify them as add-on services. They all form part of the general market perception of what is expected with a consumer lease. Breaking them down into a specific line item value is something Make It Mine would find very difficult to do. We understand the reasoning on why that would be something the review would want to see, as it wants to see some justification for the high costs of leases. The reality is they do make up a part of the costs, however running a leasing business is very expensive and overheads such as bad debts, compliance costs and credit control, collections and also cancellation costs would all not fall under add-on costs, but would also not be recovered in a 48% APR cap.

Whether the add-on is an accessory or a liability reduction, it is an add-on that relates to the benefit of the goods under the lease agreement and forms part of the total price of the lease. In other words, if a home entertainment system is priced at \$600 and the accessories are priced at \$150 then the total value of the goods to be leased is \$750.

It is for this reason that we do not consider freight to be an add-on, and sits outside of the cap consideration. You cannot have standard freight costs due to the extreme variations caused by different product types and delivery locations.

As add-on products form part of the lease cost, these must be disclosed to the lessee in the financial table of the lease agreement.

Accordingly, as we consider add-on products as part of the lease, the costs of the add-on must form part of the cap and the calculation of percentage costs recovery by the lessor.

If the add-on products are accessories then measuring them is not a difficult task as these goods carry a cash price or a RRP as the leased goods are. Where the add-on is intangible, such as liability reduction, it is harder to place a price on that add-on.

We do not agree that add-ons such as liability reduction is a benefit that is biased towards the lessor. If the goods are damaged, lost or stolen in circumstances where the lessee is at fault, without the liability reduction scheme, the lessee can be asked to pay for the full value of the goods. It is therefore arguably a benefit for the lessee.

Including add-ons within the cap does not change the essence of the arguments put forward in this supplementary submission and the preliminary submission; that any cap should be carefully considered in so far as its long-term adverse effect on the industry and its ability to sustain viable business operations.

We do not consider that adding the costs of add-ons to the lease costs and under the cap changes as the cap is likely to be a percentage of the total costs of the lease. Therefore, if the total costs of leased products including add-on products is \$1,500 then the cap will be calculated in accordance with that figure. Equally, the lessor will need to discharge its responsible lending obligations based on the total leased costs of \$1,500.

Further information on the following is requested:

- Are stakeholders able to provide information on whether there are broad or systemic problems with the way in which lessors comply with the responsible lending requirements in relation to low-income consumers and Centrelink recipients?

Responsible lending obligations are by far the most challenging compliance engagement lessors have to meet, particularly when it comes to recipients of Centrelink benefits.

Whilst we recognise and accept the logic behind responsible lending and we have invested considerable resources to ensure that Make It Mine is compliant with the requirements of the NCCP Act, we also recognise that the tougher the responsible lending obligations are, the greater the class of people who will be unable to access financial services.

In other words, the tougher responsible lending is, the greater the impact of exclusion of the NCCP Act - rather than inclusion.

In our experience, recipients of Centrelink benefits often have greater control of their finances than people on regular income. Recipients of Centrelink benefits know their income source is limited and they understand that they need to shuffle priorities in order to honor certain payments. On top of this, discretionary expenses pose a real issue in assessing affordability.

At times, recipients of Centrelink benefits will withdraw nearly their entire income the day after their benefit is paid in to their bank account. In these circumstances, where their expenses are then managed in cash - it becomes nearly impossible to assess their financial situation and affordability, unless the customer changes their behavior pattern.

It is therefore not the systemic problems lessors encounter with complying with the responsible lending but the lack of regulatory guidance and the absence of a safe harbor that can be applied.

Owing to the unique nature of the income and expenses pattern of recipients of Centrelink benefits, in our view, the creation of a safe harbor provisions which are clear and well defined can assist the industry tremendously. The caution is to create a safe harbor provisions that are both protective and inclusive at the same time.

Further information on the following is requested:

- Should a protected earnings amount be introduced for leases, similar to option 3 canvassed in relation to SACCs?
- If a cap restricting the amount of income that can be used to make lease repayments were introduced, what level would be affordable for consumers and lead to financial inclusion?
- Should a combined cap be introduced that covers both SACCs and consumer leases?
- Would there be any difficulties in determining a combined cap covering both leases and SACCs?

We refer the Panel to the response to question 9 on page 17 of our initial submission.

If a protected earning level is introduced it needs to be at a level that will not result in exclusion. What figure that is, will be an arbitrary test because the variances are too large to account for with a single formula.

Suffice it to say, that despite our opposition, if a cap on the amount of income that can be used for consumer leases is introduced, then we will endorse a 20% cap (on income received at the hand of the recipient – gross income less regular Centrepay deductions or tax) which will enable lessors to provide the services, enable lessees to receive the service and will leave sufficient residual income for the lessee to meet other day to day living expenses.

The Panel needs to consider the cumulative effect of caps. If there is a 48% contract cap and the term cap and an income cap, the cumulative effect of those caps will be to force leasing operators to extend the term of the contract to the maximum allowed in order to reduce the consumed income of the customer and at the same time, generate adequate return.

We do not believe that a combined cap for SACC and consumer leases should be introduced as we are of the view that despite both of these products being financial services, they are distinct in character. We have dealt with the main distinction between consumer leases and SACC above.

Because of the main distinctions primarily the requirement for the lessor to incur capital expenditure to acquire the goods and pay up front whilst recovering the investment over the term of the lease, the 2 financial products are incompatible for cap on income purposes.

The suggested 10% protected earnings would also have an unintended consequence of lease providers doing longer leases. This then would mean that they could sell more products, at a lower fortnightly rental cost to get under the 10% cap. It would however then

cause longer, costlier leases. Make It Mine, and the CHERPA code of conduct has set 20% as the protected earning threshold. We feel that 20% is an adequate measure. 70% of our leases applied for are under the 20% threshold. We currently reject 30% of applications because they are over the 20% threshold. We feel that lowering it further would cause more exclusions and a worse overall financial outcome.

Further information on the following is requested:

- What levels of discount on the outstanding lease repayments do lessors provide in their termination clauses?
- Do lessors provide different discounts on the amount attributable to future leases and the charges for future services?

Make It Mine opts an unpublished policy that it will not enforce the remainder of the contract on lessees if the lessee has to terminate the lease agreement early due to hardship.

That being said, we recognise that the NCCP Act allows Make It Mine to charge lessees a termination cost for an unauthorized early termination of a fixed term lease.

The debate on what discount is to apply to early termination is complex. An early termination payment must not be a penalty but by the same token, it cannot be so small and insignificant that it will not be a deterrent or a disincentive for breaching the fixed term of the lease.

The Panel needs to understand that the market for second hand goods is extremely low value. It is nearly impossible to release a TV set which was returned to us due to early termination. The costs of the goods is substantially reduced due to depreciation and wear and tear. The prohibitive costs of freight in Australia also makes dealing with returned goods economically unviable. Coupled that with the costs of maintenance to the second hand goods if they are to return to the market plus a warranty cost provided by the lessor (if the manufacturer's warranty expired) and the costs Vs profitability ratio is unsustainable.

It is also very difficult to release a second hand good which is showing signs of wear and tear.

In the past 2 years, Make It Mine has donated in excess of \$250,000 worth of returned products to charity because of the difficulties in disposing of these goods or releasing them.

However, if a reduced scale termination payment is to be introduced, the scale will need to be marginal during the first ½ of the lease and increasing in value in the second half of the lease.

Make It Mine is open to have a formula that will create a diminishing scale for termination costs depending on the lapsed terms of the lease agreement. This means that the

termination costs during the first half of the lease will be high and diminishing during the second half of the lease term and becoming marginal during the last quarter of the lease term.

Conclusion

As stated above, the most critical issue for the Panel to consider is the percentage cap on the costs of the lease. Setting the bar at the same level as the SACC industry will see the consumer leasing industry becoming unviable and many operators shutting their doors.

Whilst Make It Mine sees the benefit of introducing a cap, we have previously argued that;

- a. any cap must be a global total cap, not APR; and
- b. any cap cannot be the existing 48%.
- c. any cap should be 2.5x the cash price or RRP.

Make It Mine supports a regulatory framework that is inclusive and protective of consumer rights but it needs to be balanced with market forces and the ability of lessors to run a viable business.

The mere fact that a considerable percentage of the leasing industry customers are recipients of Centrelink benefits does not suggest or indicate that these people cannot make up their own mind in relation to products and or services they require. Make It Mine rejects the argument that by the time consumers come to learn of the costs of the lease they are emotionally invested to the point of no return.

Government must recognize the right of recipients of Centrelink benefits to make up their own mind and choose a financial product that will impact and change their spending patterns but not necessarily place them in hardship.

Our experience is that customers are market savvy. The bulk of our customers apply online which means they shop around and find out the options that suit them. If they are told of the costs of the lease before entering into the lease as disclosure now dictate, it is open for them to continue to search for better options.

Adequate disclosure, balanced and clear responsible lending guidelines with a safe harbor and a reasonable cap can see the industry continuing to service their loyal customer base whilst the average costs to the consumer being reduced.

We also firmly believe that competition in relation to pricing and services is what will be driving the market and changing lessor and lessee's behavior. The more competition, the more likely there will be price challenges between lessors and the more likely consumers will reap the rewards.

Thank you again for the opportunity to respond.

Sincerely

A handwritten signature in black ink, appearing to read "Andre Lang". The signature is fluid and cursive, with a long horizontal stroke at the end.

Andre Lang
CEO
Make It Mine