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Committee Secretary
Senate Standing Committees on Economics
PO Box 6100
Parliament House
CANBERRA ACT 2600

By email: economics.sen@aph.gov.au

An inquiry into consumer protection in the banking, insurance and financial sector

Community Legal Centres across Australia welcomes the opportunity to provide a submission to the Economics Reference Committee (**Committee**) inquiry into consumer protection in the banking, insurance and financial sector (**Inquiry**).

This is a joint submission from Community Legal Centres Queensland, Community Legal Centres New South Wales, South Australian Council of Council of Community Legal Services, The Federation of Community Legal Centres (Vic), Community Legal Centres Tasmania and Community Legal Centres Association (WA). A brief summary of these organisations is outlined in **Appendix A** to this submission.

Community legal centres in Australia

Community legal centres are not-for-profit, community based legal services that provide free and accessible legal and related services. Almost 200 community legal centres are located across Australia and provide services to geographic communities (generalist community legal centres) and communities of interest (specialist community legal centres).

Community legal centres help almost 217,000 people every year, but turn away almost 160,000 people each year, largely due to a lack of resources.

Community legal centres assist consumers who seek legal assistance as a result of their experience of the banking, insurance and financial sector. Many community legal centre clients are on low incomes generally with incomes less than \$26,000 per year.

In 2015-16, community legal centres provided 22,437 pieces of information about credit and debt matters, offered 28,111 pieces of legal advice, and opened 3,919 new cases to provide ongoing support and representation to consumers. Complaints about banks, insurance and financial services (particularly complaints to ombudsmen and similar services) may be recorded as 'consumer and complaints' matters on our database, which comprised 8,299 information activities, 15,928 legal advices, and 1,599 cases in 2015-16.

Community legal centres have specialist legal expertise in the area of consumer credit law, with specialist community legal centres in Australian Capital Territory, New South Wales, South Australia, Victoria and Western Australia. Community legal centres across Australia also provide legal assistance to consumers of financial services as part of generalist services and specialist units, however, there are significant disparities between States and Territories in legal services available.

Consumer protection in banking, insurance and financial sector = Increase in demand for legal help

A number of community legal centre across Australia have also provided submissions to this Inquiry and we endorse those submissions. This submission will confine its comments to the availability and adequacy of legal advice and representation for consumers and victims of misconduct, including their standing in the conduct of bankruptcy and insolvency processes (Term of Reference e(ii)).

Community legal centres target their free legal and support services to those that are most vulnerable in the Australian community – people like David:

David

David is 56 years old and is a full time carer for his wife, who has stage 3 cancer. Both David and his wife have a mild intellectual disability. David earns a low income at the local market each weekend. David and his wife live financially week-to-week and struggle to make ends meet.

David recently purchased a second-hand motor vehicle from a used car dealer on finance. The vehicle came with a 12-month warranty. The vehicle has been unreliable and has required continual repairs, which has caused further financial difficulty. Recently the vehicle developed an issue with the gearbox. David took the vehicle to a mechanic for an assessment and the mechanic indicated that the repairs to the gearbox may not be covered under the warranty.

David is concerned that he will be unable to afford to pay for the repairs to the gearbox if the repairs are not covered under the warranty. If the vehicle is not repaired, then David will have no transport to attend at the local market to earn income and consequently will be unable to make the weekly repayments in accordance with the terms of the finance contract. David is concerned that if David fails to make the required repayments and breaches the terms of the finance contract, then the finance company will repossess the vehicle and sue David for any loss, which is likely to be substantial given the poor condition of the vehicle.

David needs legal advice to understand his legal position. David contacted legal aid but was unable to obtain legal advice due to the nature of David's legal issue. David cannot afford to obtain advice from a private lawyer. David's only option is to obtain legal advice is from a community legal centre.

In 2011, legal needs research indicated that legal service provision only met 19% of demand for legal services in the area of consumer credit.¹ The Australian Investments and Securities Commission has concluded that there are significant levels of unmet legal need and while information services can assist, it is not an effective substitute for "intensive advice, assistance and casework services, especially for vulnerable and disadvantaged consumers."² Since this research was conducted there has been no significant investment in legal services for consumer credit, and community legal centres report that demand has not reduced.

Community legal centres tell us that there is an increase in complaints about fringe financiers, such as pay day lender and lease providers, which is a growing area of personal finance. There is also a risk that if interest rates increase, many Australians will find themselves in mortgage stress and demand for legal assistance will increase.

¹ ASIC (undated) *Consumer credit legal services in Australia* (draft) p5

² ASIC (undated) *Consumer credit legal services in Australia* (draft) p9

Ruth and Mark

Ruth and Mark are a couple with 2 children. They fell behind in their rent and approached a finance provider for a loan to pay the rent. The loan was secured by their car. As a result of unscrupulous practices from the lender Ruth and Mark were struggling to meet the exorbitant repayments.

Mark lost his job and couldn't get Centrelink immediately which exacerbated their difficulties in paying the rent. The prospect of having the car repossessed meant that it would be more difficult for Mark to get work. After falling behind in the rent again by prioritising the loan repayment the family broke their lease on their home and ended up with a further debt of \$3,000. The family had to stay with family members as they had nowhere else to go.

Ruth and Mark needed legal advice and representation about their finance contract. They could not afford private legal help and legal aid was not available. The only option for Ruth and Mark was to get help from a community legal centre.

While Ombudsman services assist some financial consumers get access to justice, community legal centres tell us that more vulnerable people still need legal assistance and/or representation to make a complaint to the ombudsman where access is only on-line or over the phone. Community legal centres also provide ombudsman with invaluable feedback about accessibility and systemic issues.

While the demand for legal assistance for consumers is apparent and not fully met, no additional resources have been available to community legal centres to provide this legal assistance at a time when Australian community legal centres are facing significant cuts to Commonwealth funding.

Community legal centres' funding crisis

Community legal centres are experiencing a funding crisis, with community legal centres facing a funding cliff of a 30% reduction in Commonwealth funding nationally from 1 July 2017.

Under the *National Partnership Agreement on Legal Assistance Services*, nationally community legal centres will receive \$142.9 million over 2015-2020 years, which equates to \$40 million in 2015-2016, \$42.2 million in 2016-2017, dropping to \$30.1 million in 2017-2018, then \$30.6 million in 2018-2019 and \$31million in 2019 -2020.

Unresolved legal problems such as consumer credit problems generate a range of costly flow-on effects to government and the broader community. Access to legal help can prevent or reduce the escalation of legal problems and reduce costs to the justice system and to other social systems such as health and housing. In the context of disputes with banks, legal help prevents houses being repossessed, avoiding families being evicted into homelessness. Legal help assists people who have lost their home in floods and fires to rebuild, through advocating for people with insurance providers, meaning these families are less reliant on government support. Legal help reduces stress caused by payday lending, and reduces resultant costs to the health system.

The short-term funding crisis requires the Commonwealth Government to reverse the \$12.1 million (30%) funding cut to community legal centres nationally in 2017-2018, the \$11.6 million (27%) cut in 2018-2019 and the \$11.13 million cut (26%) cut in 2019-2020 (amounting to \$34.83 million cut) in the National Partnership Agreement on Legal Assistance Services.

Given the scale of the unmet legal demand for help in Australia, reversing the funding cuts will not be sufficient.

The Productivity Commission's *Access to Justice Arrangement Inquiry* recommended an immediate injection of \$200 million, with 60% to be funded by the Commonwealth and 40% by State and Territory governments. This would mean that the Commonwealth would need to immediately inject \$120 million per year additional funding into the legal assistance sector, including a minimum additional \$14.4million per year to community legal centres.

The Committee's Inquiry into the availability of legal assistance for consumer protection in the banking, insurance and financial sector provides an invaluable opportunity to better understand the impact of government policy and practice on essential community services, such as community legal centres. While future changes to government policy and practice may have unintended consequences, a strong and well-funded community legal sector can ensure that future changes do not result in unfair treatment of vulnerable people in the community.

Recommendation: This Committee should recommend that Commonwealth funding cuts to community legal centres be reversed and an additional \$14 million per annum be invested in community legal centres to meet unmet demand for legal help in Australia.

We welcome the opportunity to assist the Committee further in this Inquiry and look forward to hearing the outcomes. If you have any queries, please contact Rosslyn Monro on or at .

Yours sincerely,

Community Legal Centres Queensland

Community Legal Centres New South Wales

South Australian Council of Council of Community Legal Services

Federation of Community Legal Centres (Vic)

Community Legal Centres Tasmania

Community Legal Centres Association (WA)

Appendix A

Community Legal Centres Queensland

Community Legal Centres Queensland provides support and advocacy for 33 independent, community-led community legal centres operating across Queensland.

Community Legal Centres in Queensland help almost 60,000 people every year with everyday legal problems - people who can't afford a lawyers and are not eligible for legal aid.

Community Legal Centres Queensland works to achieve sustainable and adequate policy and funding decision to ensure that Queensland are able to get the legal help they need and to ensure they get access to justice.

Community Legal Centres New South Wales

Community Legal Centres NSW Inc. is the peak body for community legal centres in NSW.

Community Legal Centres NSW has 40 member organisations including generalist and specialist community legal centres.

Community Legal Centres Queensland NSW leads and supports Community Legal Centres to deliver access to quality legal services and champion social justice.

Community Legal Centres Association of Western Australia

Community Legal Centres Association of Western Australia is the peak organisation representing and supporting 28 Community Legal Centres (community legal centres) operating in Western Australia. Located throughout the state, community legal centres are independent, non-profit organisations which provide legal service to disadvantaged and vulnerable people or those on low incomes who are ineligible for legal aid. In addition to generalist community legal centres located in metropolitan and regional areas across WA, there are also specialist centres providing a service to clients with particular needs (such as tenancy, consumer credit) or from particular client groups (such as young people, recently arrived immigrants or those with mental health issues).

The Federation of Community Legal Centres (Vic)

The Federation of Community Legal Centres (Vic) Inc. is the peak body for 49 community legal centres across Victoria.

The Federation leads and supports excellence in the community legal sector, promotes the purpose and value of community legal centres, and advances social justice and a fair legal system.

South Australian Council of Community Legal Services

South Australian Council of Community Legal Services is the peak body for 22 community legal centres across South Australia.

There are a number of legal centres located throughout Metropolitan and Rural South Australia. Most centres serve people who live or work in their geographical area.

Community Legal Centres Tasmania

Community Legal Centres Tasmania is the peak body representing the interests of nine community legal centres (community legal centres) located throughout Tasmania. We are a member-based, independent, not-for-profit and incorporated organisation that advocates for law reform on a range of public interest matters aimed at improving access to justice, reducing discrimination and protecting and promoting human rights.