

Dear Senators Brockman, Gallacher, Bragg; McAllister; McDonald and Patrick

My understanding is that the Senate Economics Legislation Committee (the Committee) is reviewing the National Consumer Credit Protection Amendment (Supporting Economic Recovery) Bill 2020 (the Bill) and that the public has been invited to forward submissions to the Committee by 3rd February so that the Committee can submit its final report on 12 March.

I have reviewed the Bill and Hansard and have a number of concerns that I would like the government to address.

Firstly, the government has not made any case for this legislation in a way that clearly and directly states in Plain English either

- i) How the proposed Bill will alter the existing legislative provisions.

For instance, there is no table summarising what the current legislation says and what the proposed changes are. The density of the existing text of the explanatory memorandum essentially buries key meanings in details and therefore denies busy citizens easy access to critical information under a mountain of verbosity.

This fails to meet community expectations and is contrary to government policy about transparency and accountability in government. It discourages effective dialogue and voter participation.

OR

- ii) How the proposed Bill will benefit ordinary voters. On the other hand, it is entirely clear to me how the Bill will benefit banks and similar lenders by reducing red-tape intended to protect consumers and therefore public confidence in the financial system. It would be better if the Bill
 - a. proposed improved protections for consumers and therefore worked to improve public confidence in the financial system,
 - and
 - b. identified exactly what is “unnecessary” about current provisions.

OR

- iii) Exactly how either the proposed Bill or other legislation will effectively protect vulnerable people, (such as elderly asset-rich, cash-poor people and people on low incomes) from banks who choose to engage in predatory practices. The 2008 Global Financial Crisis hit many people very hard, but it also led to a massive transfer of wealth, often in the form of confiscated property, to predatory lending institutions and to cash rich individuals. It also left many millions in debt-bondage and poverty.

Exactly how will the proposed Bill protect ordinary Australians from this type of threat? It seems to me that the Bill will leave consumer interests subject to:

- a) the good will of banks and bank-like financial institutions that have a track-record of criminal and near criminal conduct, that have endured no real penalty for this conduct and that have done very little to rebuild consumer confidence

- b) the competence and independence of the same under-funded government regulatory institutions that the Banking Commission demonstrated had failed the Australian people and
- c) the integrity of whichever politician happens to have ministerial oversight of the sector – an oversight that so clearly failed in the recent past and which is likely to fail again unless prudent systemic action is taken and maintained.

Secondly the Bill effectively turns responsible lending standards into a toothless tiger in three ways.

- i) It reduces legal protections for consumers by removing consumers' rights to take legal action for compensation for banks breaching responsible lending standards.

The fact that the Bill states that consumers can pursue complaints to the Australian Financial Complaints Authority (AFCA) does not provide equivalent protection and this appears to me to be more about appearing to equalise consumer power with those of financial institutions rather than with actually providing equality. For instance, if AFCA is as underfunded as the Australian Securities and Investment Commission (ASIC), it will probably be as ineffective. The government and the banking sector have to do far, far more to rebuild voter confidence and trust.

- ii) It removes many criminal and civil penalties for banks breaching lending standards.
- iii) It weakens the credit assessment process.

Taken together these changes are only likely to encourage predatory lending practices and associated abuses of vulnerable consumers.

There is nothing substantive in the Bill about how the proposed law will protect Australia from a financial crisis such as that experienced in 2008 when banks were either allowed to engage in or, at least, not effectively prevented from engaging in, predatory practices and indeed, there is much in the Bill that opens the way for increased predation.

From what I can see there is reference to 'small amount credit contracts' being exempt from the proposed law and from the explanatory memorandum, this seems to essentially cover pay-day loans of up to \$2000. In the modern socio-economic context this is an exceptionally low threshold. Many very vulnerable people would have debts of higher amounts that would also need to be exempt should this Bill progress into law.

In any case, there is no sense in enforcing high standards for small amount credit loans and not enforcing them for loans of higher amounts, except in terms of how this benefits banks and their easy access to the assets of asset rich / cash poor voters such as elderly pensioners – a group that is exceptionally vulnerable to homelessness.

It seems to me that this pro-bank Bill undermines the stated intent of the Banking Royal Commission to inquire into and report on misconduct in the banking, superannuation and financial services industry and, on this basis, to recommend reforms to protect consumers and to restore confidence in Australia's financial system.

There is no clear justification for the Bill; no public interest case has been presented and it is simply setting up the banks to engage in another feeding frenzy at the expense of ordinary, cash-poor voters.

As a result the Bill should be rejected and instead the government should be required to do meet three criteria:

- a) to demonstrate how any proposed legislation addressing the financial system aligns to the recommendations of the Banking Royal Commission
- b) to identify and undertake action that will address those issues within the financial system that the Banking Royal Commission did not fully and comprehensively address, and
- c) to ensure that any proposal affecting the financial situation of ordinary Australians does not worsen the negative economic impacts of COVID-19 on them and drive our society into a C21st version of the Great Depression.

Many millions suffered and died during the Great Depression but anyone who has studied history knows that many bankers also made themselves billionaires at this time due to similarly irresponsible laissez-faire government policies in the early days of that terrible era.

The governments of the early 1930's could plead ignorance. Today's government has no such excuse.

Thank you for considering my submission, I will be following this matter closely and encouraging my friends to do the same. It will affect my voting decisions.

Yours faithfully,

Catherine Brown

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