

14 October 2011

The Committee Secretary
Parliamentary Joint Committee on Corporations and Financial Services
By email: corporations.joint@aph.gov.au

Dear Secretary,

RE: Consumer Credit Reform

INTRODUCTION

I am preparing this submission because I believe that having been a micro lender for 11 years I have some real solutions to the current problems. I am not writing this to whinge about the Minister or Treasury decisions, although I do think the legislation put forward is not a full solution. I am also going to deliberately make it brief in the hope it will be read. My husband and I operate two shopfront, strictly Micro Lending offices, who very often payout the payday loans of customers who want to get rid of them. We have never ventured into the 'payday' market because we believe it is too difficult for customers to repay and we have the evidence to prove it.

The regulators have been given all the information we can muster through our associations, I am not going to repeat what has been provided regarding the low percentage of problems, our market statistics etc, simply some thought-through solutions that are the result of *coalface experience*. My motivation to provide this information is simply I do not want to see payday lenders setting up the equivalent of mobile ATMS in the near future. They have damaged my business with their practices and the credit ratings of borrowers.

SEPARATION OF THE MARKETS

One of the biggest problems in regulating the fringe lending market has been the non-separation of Payday and Micro lending. They are two distinctly different lending areas and need to be treated as such. This process of regulation over the past couple of years has taught us micro lenders that we need our own association, that we have been unable to successfully separate ourselves from the payday lenders. This has been extremely detrimental to micro lenders because firstly, payday lending has caused all the problems the advocates claim, has created the negative perceptions and media coverage and payday lending has caused regulators to 'sweep' us all into the same category.

PAY DAY LENDING INTENT

When payday lending first emerged, it was a loan of between \$50 and \$100 and was meant for true emergency situations. It was meant to provide ONE tyre for a person who needed to get to work for the rest of the week to get his pay. Not \$300 to buy four. The current average loan of Cash Converters at \$325 is appalling. I am first hand to say, no-one in the average market can afford to repay that in one or two weeks (which The Cash Store requires). Pay day lending has a place but generally the amounts borrowed are too high and the terms are too short.

MICRO LENDING INTENT

Micro loans are generally recognised as \$300 to \$2000 for terms of 25 to 52 weeks. Loan repayments start at \$24. There is a massive difference in the impact of the repayment compared to a payday loan repayment.

There needs to be precise and severe separators for these markets. Payday loans need to be brought back to a level that is a 'true' loan from one payday to the next. To date, regulators have focused on reducing fees and charges to curb payday lending. They are currently prescribed at a level that is honestly unsustainable and will force small business closure. This is undesirable because it will only leave the big players in the market – the likes of the Cash Store (who are a major problem) won't go away, but the small lenders, will. It will cause a return for customers to loan sharks. The outlaw bikie gangs are waiting in the wings. As a side issue, my husband and I spent the first two years in business paying out loan sharks (mainly bikies) and pawnbrokers. It got to a point where we were nervous that we would be confronted for taking their business. Not only were we cheaper, but customers felt better being able to deal legally from a registered shopfront business.

A SOLUTION (and overcoming objections) TO SEPARATE THE MARKETS

To date, the government has not been confident to create the divide between payday and micro lending because they fear an "X plus one day" loan term will be used to avoid applicable regulation. Going back to the original intent of each loan is what should happen, therefore:

- A payday loan should be 0-8 weeks and
- A micro loan should be 20 weeks plus

With my solution, loan amounts don't need to be set. In each of these categories, it remains that customers can payout early without penalty. All credit contracts between 57 and 139 days should be illegal and banned. Payday lenders will not write credit contracts over 140 days because it will make the repayment too low. Further, from my experience the majority of customers will only pay the 'required amount' they very, very rarely make an increased payment, they may payout early, but they maintain the payment as per the contract. Payday lenders cannot force the customer to pay a higher amount to end the contract in 2 or 4 weeks.

CONTROLLING THE PAYDAY MARKET

Payday loans are too high compared to income and terms too short. Currently payday lenders will lend any amount and debt spiral is a concern of the regulators. We fully support the idea of the maximum payable is 200%. My suggestions are with this parameter in mind.

I would propose legislation to be as follows: It adequately addresses all the problems put forward by the advocates including rollovers, debt spiral, and prohibitive repayment amounts.

I propose a payday customer can only borrow a maximum of 25% of their verifiable nett weekly income and has 4 **pay cycles** to repay it. (the word weekly is important, otherwise payday lenders will use a monthly amount or an annual amount to skirt the law). With this method a person earning any amount of money can borrow (Responsible Lending Provisions remain the over-arching

controller) and can afford to repay. The control is **not in what the lender charges**, it is in **the amount he can lend**.

Example 1:

- Customer A earns \$500 nett per week and is paid weekly.
- Maximum he can **ever** borrow is \$125.
- He borrows \$125.
- With current fees (\$30 in the \$100) he has to repay about \$140.
- He now has 4 pay cycles to repay so payments are \$35 per week (roughly).
- He may go on to make his 4 payments and clear the debt totally OR
- Lets assume he makes two payments equalling \$70 and after those 2 weeks wants to rollover (wants more money).
- His balance is \$70 (\$140 minus \$70) so he can only re-borrow \$60. He can never go higher than the \$125.
- Lets assume he makes one payment and defaults – he can never repay more than \$250, no matter how long it takes.

This addresses the problem of debt spiral, particularly for Centrelink recipients who the advocates and government are most worried about – the government knows how much they receive and therefore has total control over the 25%.

This method also puts the responsibility on the customer to address their financial situation. Certainly one thing that HAS NOT been mentioned during the regulation process is the responsibility the customer must take.

EXAMPLE 2:

- Customer B (is employed and earns well, but overspends) he earns \$1250 per week nett and is paid fortnightly.
- He can borrow \$312.50 and has 4 pay cycles to repay.
- He has roughly \$440 to repay over 8 weeks.
- His repayments are around \$110 per pay.
- Earning 1250 with a repayment of 110 – thats reasonable.
- Again the same applies – he can never borrow more than \$312.50 and he can never repay more than \$625. Even HE is protected.

ADI EXEMPTION

This is completely unfair. It's like racism. If you're black you can't lend, but if you're white you can.

We have been issued an Australian Credit License which we will do all things to uphold. A Desperate and Vulnerable person in an excessive credit contract is the same whether they borrowed from Westpac or from me. Now with The Cash Store supposedly being granted an ADI license – they can continue to lend at whatever charges they want because this legislation exempts them, but puts me out of business. This is the fear – the big international companies operating on- line and store front will thrive at the expense of Australian Small Business. The exemption must be removed to allow a level playing field for all credit licensees.

The Charity organisations argue they need the exemption included because they are funded by ANZ and NAB, but this should be unnecessary as they will never be at any risk of exceeding the interest rate caps, the rollover provisions, the 200% repayment ceiling or any other restriction. That is, assuming both the charities and the banks remain operating as they are today.

Thank you for taking the time to read my ideas and I hope some were fruitful.

Yours faithfully

Mrs L Pozzebon