

Senate Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

2014 - 2015

Department/Agency: Australian Securities and Investment Commission

Question: BET 77

Topic: Centrelink

Reference: Hansard page no. 19 - 03 June 2015

Senator: Whish-Wilson, Peter

Question:

Senator WHISH-WILSON: You mentioned Centrelink, Mr Kell. Is it true that 80 per cent of users of these payday services are on Centrelink benefits? Are you working with Centrelink at all?

Mr Kell: I am not sure of the exact figure off the top of my head. I can take that on notice. The provision in the new payday lending requirements, which is designed to protect consumers who receive 50 per cent or more of their income through Centrelink, is a provision where there is a higher level of compliance. It is interesting that that particular provision seems to be working well.

Do we engage with Centrelink and the department on issues impacting low-income consumers? Yes, we do, very closely. We have recently been working with them on the whole issue around consumer leases because we want to make sure that if there are firms we take action against, because they have been lending inappropriately or engaging in misconduct, they can be taken off the Centrepay system. Those sorts of issues are part of our dialogue with that agency.

Answer:

- ASIC does not have any overall figures on the number or percentage of customers of payday lenders who are on Centrelink benefits.
- ASIC recently reviewed the practices of the payday lending industry and released a public report on the outcome in March 2015 – REP426: *Payday lenders and the new small amount lending provisions*. Observations from the review include:
 - all of the loans ASIC reviewed where the consumer received more than 50% of their income from Centrelink (approximately a quarter of the 288 loans reviewed) had repayments that were less than 20% of the consumer's income, as required by the law;
 - six of the 13 payday lenders in our review advised us that they had ceased offering small amount loans to consumers who receive the majority of their income from Centrelink.
- ASIC is aware that some lenders target financially vulnerable consumers in their advertising, so a substantial proportion of their loan book may be made up of customers who are on Centrelink benefits.
- The Regulatory Impact Statement for the Bill that became the Enhancements Act, released in June 2011, identified that between 46 and 50% of short term credit customers were in receipt of government benefits [see p15

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<http://ris.finance.gov.au/files/2011/09/RIS-Short-term-small-amount-finance.pdf>

- ASIC works closely with Centrelink and the Department of Human Services (DHS) more generally, to ensure financially vulnerable consumers are not being exploited by Australian Credit licensees. A large focus of our work with DHS is on the leasing of household goods (regulated under the National Credit Act) and Centrepay, which is a system operated by DHS to help their customers to budget and pay for their rent and utilities.
 - In March 2015, ASIC in partnership with DHS, launched a calculator on ASIC's MoneySmart website which allows consumers to compare the cost of entering into a consumer lease with the cost of purchasing the product outright. It is early days, but we understand that over 9,000 people have visited the calculator, since its launch. ASIC is now working with DHS to promote the calculator.
 - ASIC will continue to work closely with Centrelink and DHS to ensure payday lenders and consumer lessors are not taking advantage of financially vulnerable consumers.
- ASIC has taken public action against a number of consumer lessors. A summary of ASIC's previous public action is below:
 - **Amazing Rentals Pty Ltd** (June 2015) - ASIC entered into an Enforceable Undertaking (EU) following an ASIC investigation into concerns about its compliance with the credit legislation, including responsible lending obligations. The EU requires
 - closure of the Darwin store for at least one year,
 - consumer refunds,
 - donations to the North Australian Aboriginal Justice Agency and the Top End Women's Legal Service and
 - the appointment of an independent external compliance expert to conduct an assessment of, and report to ASIC on Amazing Rentals' policies and procedures to ensure compliance with the credit legislation in relation to its responsible lending and documentation obligations, and make any recommendations about required changes.
 - **Make It Mine Pty Ltd** (April 2015) - the Federal Court found that this consumer lease provider had breached disclosure and responsible lending obligations under the Credit Act. The decision in the Federal Court followed ASIC launching civil action against the company in November 2014, and Make it Mine voluntarily issuing its own proceedings before the Court. A hearing on penalty will begin later this year.

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- **Rent the Roo Pty Ltd** (November 2013) - ASIC issued an infringement notice and entered into an EU after finding deficiencies in this consumer lease provider's operating and compliance practices. The EU required an independent compliance consultant to be appointed to review Rent the Roo's policies and make recommendations to increase their compliance with the Credit Act. The consultant's recommendations included recommendations around the need to verify third party income where used to assess suitability and that Rent the Roo have flexibility in its hardship / dispute resolution procedures to address financial hardship due to the change in a consumer's financial circumstances.
- **Ray Rentals Pty Ltd** (November 2013) - An ASIC investigation which found that Ray Rentals was providing regulated credit without an Australian credit licence and was promoting this activity on its website. Ray Rentals was found to be largely targeting consumers living in remote indigenous communities. ASIC banned this unlicensed Victorian-based lessor and its sole director from offering credit for four years.
- **Zaam Rentals Pty Ltd and Mobile Rentals Pty Ltd** (February 2013) - ASIC banned the directors of two licensed lessors, Zaam Rentals and Mobile Rentals and cancelled both lessors' credit licences for failing to comply with responsible lending obligations. Mobile Rentals was found to be targeting vulnerable consumers in Victoria, while Zaam Rentals was targeting vulnerable people in remote Aboriginal communities in Mildura, Victoria and surrounding areas in NSW. ASIC subsequently also took action against Zaam Rentals franchisees for failing to meet their responsible obligations.

Mr Rental Australia Pty Ltd (February 2013) - ASIC entered into an EU with Mr Rental, under which it was required to provide refunds to approximately 1,560 consumers (anticipated to be in excess of \$300,000), and amend the standard form rental contract used by the 52 franchisees operating under the Mr Rental banner. This followed an ASIC investigation into Mr Rental's standard form rental agreement which gave rise to concerns that the inclusion of a term allowing Mr Rental to charge a 'calculation period adjustment' (that is, an additional fee charged to consumers who terminated their rental agreements early), was an unfair contract term under the Australian Securities and Investments Commission Act 2001 and the Australian Consumer Law.