

ADDITIONAL COMMENTS BY LIBERAL SENATORS

1.1 Liberal senators do not agree with the majority report's conclusions regarding the creditor's petition threshold, the increase in the stay period, or the increase in the eligibility threshold for debt agreements.

The creditor's petition threshold

1.2 Liberal senators acknowledge that the 1996 threshold for a creditor's petition is no longer realistic. However, the evidence received by the committee, including from the Department, did not clearly substantiate the need for a five-fold increase in the threshold. In particular, Liberal senators note that CPI changes would have increased the 1996 amount of \$2,000 to \$2,770 in 2009 dollars.¹ This is consistent with the change in the real value of money since 1996. It is also consistent with the concerns of small business whose position should not be unfairly prejudiced by this Bill. For these and other reasons, Liberal senators accept the evidence that a threshold of \$5,000 would be more balanced, and therefore appropriate. This sum is also broadly in line with indexation.

Recommendation 1

1.3 Liberal senators recommend that items 1 to 3 of Part 1 of Schedule 4 of the Bill be amended to reflect a threshold amount of \$5,000.

Increase in the stay period

1.4 In respect of the stay period, Liberal senators agree with the evidence stating that a 28-day stay period is too long. Liberal senators are of the view that a 14-day stay period would grant debtors sufficient opportunity to consult with financial advisors and reorganise their affairs, without unduly prejudicing the rights and interests of creditors.

Recommendation 2

1.5 Liberal senators recommend that item 5 of Part 2 of Schedule 4 of the Bill be amended to include a stay period of 14 days.

Increase in the eligibility threshold for debt agreements

1.6 Submitters and witnesses, such as the Consumer Action Law Centre, the Financial and Consumer Rights Council and the Consumer Credit Legal Centre

1 AGD, Answer to Question on Notice, 29 January 2010 (8 February 2010), p. 1.

(NSW),² persuasively argued that the Bill should not seek to increase the eligibility threshold for debt agreements until the findings of past and future reviews of the debt agreement regime have been taken into account. In particular, reference was made to a departmental review to be undertaken in mid to late 2010. Liberal senators agree that it would be prudent to await the outcomes of the pending review of the debt agreement regime rather than attempting to address issues in a piecemeal, and perhaps counterproductive, fashion. To this end, Liberal senators do not support the Bill's current proposal to increase the eligibility threshold for debt agreements.

Recommendation 3

1.7 Liberal senators recommend that item 11 of Part 2 of Schedule 4 of the Bill be removed, pending the outcomes of the 2010 departmental review of the debt agreement regime.

Recommendation 4

1.8 Subject to the above recommendations, Liberal senators recommend that the Senate pass the Bill.

Senator Guy Barnett
Deputy Chair

Senator Mary Jo Fisher

2 Consumer Action Law Centre, *Submission 3*, p. 7; Financial and Consumer Rights Council, *Submission 5*, p. 8; and Consumer Credit Legal Centre (NSW), *Submission 11*, p. 10.