



16 December 2021

Buy-Now, Pay-Later Project Team
Ministry of Business, Innovation & Employment

By email: buynowpaylater@mbie.govt.nz

Kia ora

Thank you for the opportunity to provide input into the review of the Buy-Now, Pay-Later (BNPL) sector.

CUBS NZ (CUBS) represents the interests of not-for-profit financial co-operatives and charities comprising over 100,000 member/customers and holding c\$2b in Assets.

I submit on behalf of

Credit Union Auckland Inc

Fisher & Paykel Credit Union Inc

Steelsands Credit Union Inc

Unity Credit Union Inc

NZ Firefighters Credit Union Inc

Nelson Building Society

Heretaunga Building Society

Wairarapa Building Society

Christian Savings Limited

At a very high level, CUBS views BNPL as another form of debt, similar to a credit card, loan or overdraft to make a purchase (generally a short-term facility with no interest or upfront customer fees) and as such it should be regulated in a similar manner. These distinguishing features of BNPL products do not, in our view, justify a separate or lighter form of regulation.

We respond below to specific questions raised in the discussion document.

Submission on Buy-Now, Pay-Later: Understanding the triggers of financial hardship and possible options to address them

Your name and organisation

Name	Rob Collins
Organisation (if applicable)	CUBS NZ

Responses

Economic regulation	
1	<p>Do you agree with our assessment of what the benefits are from BNPL?</p> <p>No</p> <p>Are there others? Please provide details.</p>
	<p>BNPL allows consumers unchecked access to credit without the protection of existing Credit Consumer legislation. Even the most sophisticated credit users can potentially be caught with a number of concurrently running BNPL payments beyond their ability to pay. With the proliferation of BNPL providers and the uptake by many retailers (even for small dollar value purchases), it is likely only skilled consumers with good financial literacy can manage numerous concurrent payments. Those on low/limited income will have greater difficulty.</p> <p>Rather than being used to purchase one-off items on an isolated basis, we are seeing BNPL being used more frequently to finance day-to-day living expenses, and the discussion document notes that people are using credit cards to repay BNPL lending. Whilst not always the case, there is increasing evidence that vulnerable customers are using this product in an unsustainable way to meet day-to-day living expenses.</p> <p>As they are offered at the point of sale, there is a risk that people are being influenced to live beyond their means and enter into unsustainable financial commitments by spending more on a product or service than they can actually afford.</p>
2	<p>As a consumer (or consumer representative), please outline what are the benefits of BNPL?</p>
3	<p>As a business accepting BNPL to pay for goods and services, please outline the benefits of BNPL? If you are a small business, are there any additional benefits from accepting BNPL?</p>
4	<p>Do you agree with our assessment of how BNPL will evolve in New Zealand? If not, please provide details.</p>

5	How do you think emerging BNPL business models eg partnerships with credit cards, banks etc. will impact consumers? Please provide details
	Without the sector being included in the CCCFA and Responsible Lending Code requirements, consumer harm will escalate. Consumers are being encouraged to take credit they can't afford and when they default on payment(s), their long-term future will be impacted by an apparent poor credit history. This will go with them and impact future prospects of home ownership, access to essential facilities such as power, mobile phone plans, etc and could generally hinder their financial and general wellbeing.
6	Do you agree or disagree with our summary of the types of financial hardship that could occur from BNPL? Please provide details
	Agree with the overall general characterisation of the types of financial hardship that could occur from BNPL, but it should also be acknowledged that when these events happen, they do not occur in isolation. At the time, there may well be non-financial repercussions such as relationship issues, family stress and/or inappropriate actions taken to find money from elsewhere to cover the instalments. In addition, once experiencing financial hardship, this tends to compound to other debts that also get into arrears and even after the issues have been resolved, the consequences of a poor repayment history will be evident to future credit/utility providers and may impact their access to those services.
7	<p>As a consumer (or consumer representative), have you faced financial hardship from BNPL? Yes / No / Prefer not to answer</p> <p>If yes, under what circumstances have you faced financial hardship from BNPL? Please select all that apply and provide details, if possible:</p> <ul style="list-style-type: none"> • You had multiple BNPL accounts • Your credit limits were increased beyond what you could afford • Because of the timing of your BNPL instalments and other expenses • Because as a household, you were unable to afford the BNPL instalments • You focused on the first payment rather than the total cost of the product or service • You responded to BNPL marketing and as a result purchased more than you could afford • You missed an instalment and faced missed fees (default fees) • Your circumstances changed (e.g. change in employment) and you were no longer able to afford the instalments • Other
8	<p>Do you live in a household with multiple BNPL accounts? Yes / No / Prefer not to answer (If Yes), has your household experienced financial hardship because as a household you could not afford the full cost of the good or service? Yes / No / Not sure</p>

9	<p>As a BNPL consumer (or consumer representative) (select one only)</p> <p>A) Do you value having a hard credit check being conducted OR</p> <p>B) Would you prefer a soft credit check that doesn't leave a 'footprint' on your credit score?</p> <p>C) Please explain the reasons for your answer</p>
10	<p>What are the advantages and disadvantages (including costs) from credit checks being used to determine approval for BNPL?</p>
	<p>Credit Checks (especially where credit providers adopt positive credit reporting) are a useful tool in assessing potential risk and statistically reliable predictor of default. There are no disadvantages given that identification of potential default is in the best interests of both credit provider and consumer. If the consumer experiences a decline in credit rating due to multiple enquiries, this is further evidence of financial stress and some desperation.</p>
11	<p>What other/additional steps could BNPL providers take to assess affordability for consumers?</p> <p>What are the disadvantages (including costs) of these steps?</p> <p>What are the benefits of these steps?</p>
	<p>BNPL providers should be brought into the full jurisdiction of the CCCFA and Responsible Lending Code to ensure that users are provided credit in a responsible manner and not over-burdened with instalments which they may potentially default.</p>
12	<p>How might affordability assessments be conducted when BNPL credit limits are increased?</p>
	<p>Increased credit limits should not be extended to consumers unless they are specifically requested by the consumer, at which time a full affordability assessment should be undertaken. The unsolicited extension of credit limits has historically proven to be detrimental to consumers as most consumers will eventually use that extended limit whether they wanted it in the first place or not. In addition, without an affordability assessment being made, the BNPL provider does not know what other BNPL services the consumer has signed up for. The research shows that an increasing number of consumers have multiple BNPL facilities. The research also shows that many BNPL consumers also have credit cards. This means that BNPL has not become a payment substitute but a payment addition with the increased credit limit applying.</p>
13	<p>What are the costs and benefits of conducting affordability assessments when BNPL credit limits are increased?</p>
14	<p>Are there any other ways to ensure BNPL credit limits are increased responsibly?</p>
15	<p>Are there any other issues with consumers having multiple BNPL accounts that we have not identified?</p>

16	<p>How effective and practical would it be to share information with other BNPL providers of consumer accounts which have been frozen?</p> <p>Very effective</p> <p>Very practical</p> <p>Please provide details.</p>
	<p>This could be in the same form as currently exists to allow credit providers to lodge details of collections/default instances on a consumer's credit file.</p>
17	<p>How could information about consumers having multiple BNPL accounts be appropriately shared across the BNPL sector?</p>
18	<p>What are the costs (including disadvantages) of the approaches you describe in Question 17?</p> <p>What are the benefits of the approaches you describe in Question 17?</p>
19	<p>What tools and processes could be introduced for the timing of BNPL instalments to be better aligned to income and other expenses?</p>
20	<p>What are the costs (including disadvantages) of such tools and processes?</p> <p>What are the benefits of such tools and processes?</p>
21	<p>When making BNPL transactions, how could consumers be made more aware of the total costs of their purchases?</p> <p>What are the costs of these tools?</p> <p>What are the benefits of these tools?</p>
22	<p>As a consumer (or consumer representative), what has been your experience of receiving help from BNPL provider/s if you missed an instalment and/or faced financial hardship?</p>
23	<p>How could BNPL providers be more responsive to consumers relying on BNPL to pay for essential goods and services?</p> <p>What are the costs of these tools?</p> <p>What are the benefits of these tools?</p>
	<p>BNPL facilities can be used in many places where essential goods and services are sold and for very small amounts. Consumers using BNPL for these purchases are not facing the true cost of living. Because the BNPL purchase does not immediately impact cashflow, many</p>

	consumers will make other non-essential purchases in the belief they are spending “discretionary” income when, in fact, they are using funds that should be available for the repayment of essential goods/services purchases. The implementation of a minimum amount (say, \$250) that could be accessed by BNPL could restrict this negative behaviour.
24	Do you have any comments on the diagrams above summarising the triggers of financial hardship, how they occur, and the features which could mitigate financial hardship?
25	Do you agree with our view that the lack of affordability assessments is likely to be a key reason why some consumers using BNPL face financial hardship?
	Multiple BNPL accounts/purchases is the principal reason for financial hardship. Affordability assessments will alleviate this and reduce the incidence of harm.
26	Do you have views on the overall objective of the BNPL sector?
	The BNPL sector is a strictly “for profit” industry who have faced little or no oversight in their history. Consequently, considerable profits have been generated with little regard for the consequences to individual consumers and their families. Fees are not governed by any jurisdictional control and with most internal BNPL process automated, it is difficult to reconcile the actual cost of the processes to the Fees charged.
27	Do you have any views on how the interests of consumers could be protected?
	Consumers must be protected from the current “wild west” approach of the BNPL sector. They have leveraged off a slow and reluctant regulatory regime which has allowed their business model to grow unchecked on the mantra that they are a “payments channel” rather than a credit provider. There is no doubt that BNPL is a provision of credit – namely, the consumer is allowed full access to the product or service being purchased without paying for it at the time of purchase but by periodic instalment – credit has been advanced. BNPL must be brought into the CCFA/Responsible Lending Code regime and subject to all the regulatory controls and oversights of every other credit provider. They should also be subject to the proposed Conduct of Institutions Bill to ensure their ongoing behaviour is fair and reasonable and does not subject consumers to burdensome obligations.
28	Do you have any views on the criteria used to assess how to achieve an effective BNPL sector?
	We believe that additional criteria of regulatory and competitive neutrality should also be an assessment criteria.
29	Do you have any comments on the discussion of Option One: status quo? Please provide evidence if available.
	Status quo cannot be allowed to continue. There is too much evidence of the harm the sector is doing and without regulatory oversight being introduced, this would only increase as general economic pressures build in the next few years.
30	What are the costs and benefits of Option One for any relevant parties eg consumers, BNPL providers, businesses accepting BNPL as a payment option, competitors to BNPL? Please provide evidence if available.

31	Do you have any comments on the discussion of Option Two: Government establishes appropriate incentives for BNPL providers to have an industry code which addresses the triggers of financial hardship? Please provide evidence if available.
	There is no industry (other than the co-operative non-for-profit sectors) where a voluntary code of conduct has succeeded in protecting consumers. In fact, the current trend is for these voluntary codes to be made mandatory and independently overseen. Where the industry itself is prosecutor, judge and jury, the outcomes for consumers are poor.
32	What are the costs and benefits of Option Two to any relevant parties eg consumers, BNPL providers, businesses accepting BNPL as a payment option, competitors to BNPL providers? Please provide evidence if available.
33	How could Option Three be designed (including the timing of requirements) to ensure the BNPL delivers long-term benefits to consumers? Please provide evidence if available.
	We fully support Option Three. As well as requiring BNPL providers to adhere to the CCCFA and RLC, they should also be required to register under the Financial Service Providers (Registration and Dispute Resolution) Act.
34	What are the costs and benefits of Option Three and how it is designed to any relevant parties eg consumers, BNPL providers, businesses accepting BNPL as a payment option, competitors to BNPL providers? Please provide evidence if available.
35	Do you have any suggestions on how we could measure and track progress against whether BNPL is delivering long-term benefits to consumers? Please provide evidence if available
36	Do you have any suggestions on how we could measure and track progress against whether BNPL is delivering long-term benefits to consumers? Please provide evidence if available.

Other comments

In summary, we submit that there are specific areas of risk associated with BNPL products which require action by the regulators.

1. If a CCCFA regulated lender lends money to a person, they rely on other lenders to have been satisfied that the customer can afford to repay that existing loan before agreeing to a new advance. However, a BNPL provider operating under the condition conditions does not need to make such an assessment. This in turn increases the credit risk associated with that additional loan (i.e. it is more likely that the initial loan will end up in a hardship situation). Further, our Members have seen situations where they have consolidated unsustainable

BNPL products into a personal loan and the customer has then re-activated their BNPL products, thus increasing their overall indebtedness.

2. Rather than being used to purchase one-off items on an isolated basis, Members are seeing BNPL being used to finance day-to-day living expenses, and as the discussion document notes, consumers are also using credit cards to repay BNPL lending. Whilst not always the case, there is increasing evidence that vulnerable customers are using this product in an unsustainable way to meet day-to-day living expenses.

3. As BNPL products are offered at the point of sale, there is a risk that consumers are being influenced to live beyond their means and enter into unsustainable financial commitments by spending more on a product or service than they can actually afford.