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MTA feedback on the Buy-Now, Pay-Later Discussion Document

Introduction

The Motor Trade Association (Inc) (MTA) was founded in 1917 and has maintained over 100 years of trust with the NZ motoring community. MTA currently represents over 3,800 businesses within the New Zealand automotive industry and its allied services. Members of our Association operate businesses including automotive repairers (both heavy and light vehicle), collision repair, service stations, vehicle importers and distributors and vehicle sales. The automotive industry employs approximately 60,000 New Zealanders and contributes around \$3.5 billion to the New Zealand economy.

General comment

It may be helpful for MTA to illustrate why we hold an interest in this consultation.

Our members predominantly deliver vehicles (dealers), vehicle repairs (general, specialists, and collision), and fuel (retail service stations).

In many instances, MTA dealer members are subject to the compliance requirements of the responsible lending rules and AML/CFT.¹ Meanwhile, service stations accept a range of payments from cash through debit and credit cards through to MTA Gift Vouchers or other specialist payment methods (fuel cards, etc).

However, in the repair sector, our MTA members are virtually all small businesses with expertise in their specialist vehicle repair function. They are relatively new to consumer finance and lending aspects of payment systems. Much like service stations, they have until now accepted cash or some form of card payment. In some cases, repairers will accept payment vouchers issued by the Ministry of Social Development and its related agencies.

¹ The former being part of the Credit Contracts and Consumer Finance Act 2003, and the latter being part of the Government's oversight of potential money laundering (anti money laundering and countering the financing of terrorism).

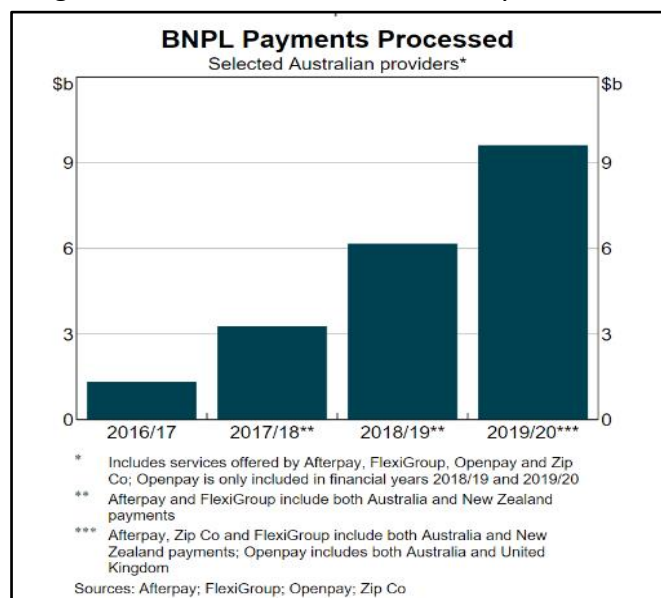
Repairers generally employ few staff and have few resources to allow them to research, review, and negotiate the myriad fees and charges facing them in operating their businesses.

The service provided by MTA repairer members is incredibly important to maintaining safe vehicles on New Zealand’s roads. Many of our members are authorised to conduct Warrant of Fitness inspections on vehicles (as regulated by Waka Kotahi NZTA) and they undertake repairs and maintenance tasks identified through those inspections, or during regular service checks, to keep vehicles operating safely.

While New Zealanders are generally aware of the need to have vehicle inspections performed, consumer research MTA commissioned has shown that almost 20 percent of people are concerned about the cost of that inspection and/or the subsequent repairs that might need to be made. We know that some people need help in paying for these repairs.² And this is happening more often as we have seen the first time failure rate of WoF inspections rise from 35 percent to 40 percent in a period of five years or so.

Thus, Buy-Now, Pay-Later (BNPL) schemes offer some benefits to the vehicle repair sector (and the safety of vehicles on the road) in that they can provide a means by which often costly but critical repairs can be funded. However, BNPL schemes also come with complications, including high fees to merchants and the risk of financial hardship for consumers. We discuss this in more detail in the section below.

The table highlights the growth seen in Australia in recent years.³



Afterpay, FlexiGroup, and Zip all conduct trade in Australia and New Zealand.

² Data obtained from MSD shows that, in 2018, 37,316 claims were approved for an average grant of \$581.24 for vehicle repair (\$21.7M total pay-out).

³ Developments in the Buy Now, Pay Later Market | Bulletin – March Quarter 2021 (<https://www.rba.gov.au/publications/bulletin/2021/mar/developments-in-the-buy-now-pay-later-market.html>)

Financial hardship and responsible lending laws

Under current settings, BNPL firms are not captured by the Credit Contracts and Consumer Finance Act 2003. As such, BNPL firms **are left largely unregulated and with no obligation to comply with responsible lending laws.**

A survey of MTA members found that many businesses are concerned about the financial hardship of their customers.

MTA members accepting BNPL as a payment option, on average, rated their experience with the service at 4.55 out of a scale of 5. Our members told us that accepting BNPL has generated more income for them and that they experienced less risk compared to other types of credit.

One member told us that they had to offer BNPL as a payment option to customers in order to compete with other businesses. Another told us:

“It suits some customers and means they can have their vehicle repaired or new tyres fitted now rather than potentially driving it in a dangerous condition”

MTA’s founding statement ‘safety first and always’ remains as relevant today as it was over 100 years ago. Fifty-two per cent of respondents to a survey commissioned by MTA felt they did not have access to suitable and convenient public transport and are therefore reliant on their personal vehicle. **BNPL ensures consumers are able to spread out the cost of expensive but essential vehicle repairs and purchases.** BNPL is a very useful tool, however consumers need to understand the full implications of making the transaction.

Most MTA members agree that the Government should intervene. As we have seen in the franchise sector, voluntary industry codes lack the teeth that legislation provides.⁴ If the Government wants to protect vulnerable consumers from financial hardship, BNPL providers must come under the scope of the CCCFA and comply with the lender responsibility principles.

MTA supports Option Three: Apply the CCCFA to regulate BNPL Providers.

Retail Payment System Bill

MTA touched on BNPL schemes in our submission on the Retail Payment System Bill to Economic Development, Science and Innovation Committee. We believe there is significant overlap in this area and BNPL schemes must be acknowledged in the Bill which aims to regulate retail payment systems.

⁴ Voluntary self-regulation by Franchise Association of New Zealand (FANZ) has proved to be insufficient to adequately regulate the problems arising in the franchise sector. The main issue is that FANZ’s Rules and Codes are only binding on its member organisations. Currently less than half of those operating within a franchise system in New Zealand are members of FANZ and the majority members are franchisors.

BNPL providers charge merchants a commission of 4 to 5 per cent of the transaction value, significantly higher than the 1.5 per cent charged to merchants who offer contactless debit and credit card transactions. Merchants are unable to pass on these fees due to a “no surcharge rule” written into contracts.

Prior to 2009, a no surcharge rule applied to credit cards, but the Commerce Commission found the rule to be anticompetitive, permitting merchants to charge credit card surcharges.

The BNPL sector is growing rapidly, the Reserve Bank of Australia (RBA) is currently reviewing the surcharge ban imposed on retailers as part of their Review of Retail Payments Regulation.

MTA strongly recommends BNPL service fees are decreased and regulated similarly to merchant service fees in the Retail Payment System Bill and the surcharge ban imposed on merchants is removed.

Thank you for the opportunity to provide comment on Buy-Now, Pay-Later schemes.

The contact person in respect of this submission is:

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Yours sincerely,



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