

# Submission on Buy Now Pay Later: Draft Credit Contracts and Consumer Finance Amendment Regulations 2022

## Your name and organisation

<b>Name</b>	Heather Lange
<b>Organisation (if applicable)</b>	Family Finances Service Trust – Upper Hutt

## Responses

1	Do you have any comments on the definition of BNPL? Are there contracts that should be caught, but are not? Are there contracts that shouldn't be caught, but are?
	<i>I believe contracts with Telecommunications companies where a person agrees to pay off a phone over a period of time should be included in this legislation. I am continually frustrated to see people having effectively taken a loan for a phone, spending far more than they can afford, and having no recourse on their behalf where there the lending was always going to be unaffordable.</i>
2	Do you have any comment on the proposed threshold of \$600? Should the threshold be higher than \$600? Lower? Why?
	<i>I believe \$600 is far too high. A better level would be a percentage of a person's income, or a percentage of a person's income minus their housing costs. I believe there needs to be some sort of affordability assessment at every level of contract.</i>
3	What do you consider the financial impact of a \$600 threshold would be?
	<i>This is more than double the weekly income of someone on a basic benefit. So for some, this is the difference between having anything left after bills for food, and having no ability to pay for what we consider the essentials of life. If we look at the 'need' for BNPL, people mostly use it because they cannot afford to buy. I imagine that someone who came up with the figure of \$600 cannot imagine not having enough left for a \$20 repayment for four weeks. A \$600 threshold represents a \$150 weekly repayment – which is so high it offers no protection.</i>
4	Aside from the dollar amount, do you have any comments on how the threshold is drafted in regulations 18I(1) and 18I(2), or the exemption condition requiring comprehensive credit reporting is drafted in regulations 18I(3)(a) and 18I(3)(b)?
	<i>I cannot see what happens if a client uses multiple BNPL providers. A \$600 threshold at an unlimited number of providers would have almost no effect.</i>
5	Should regulations 4AC–4AN apply to BNPL? Why, or why not?

	<i>Yes they should. I don't see any reason why any of the protections offered by other lending would not apply. Debt is a very problematic tool for solving someone's financial issues, and needs firm boundaries – whatever the shape of that lending.</i>
6	What would the impact be of applying regulations 4AC–4AN on BNPL lenders and consumers?
	<i>The impact would (hopefully) be that people would have a chance to pause and consider if this is in their best interests. I had a client recently who said that if she had to provide evidence or sign forms etc – she would not use Afterpay. She has come to see us as she has a debt collector chasing her for an old Q card debt. I believe her inability to pay that debt is a sign that she cannot afford more debt, and she agrees, but keeps using Afterpay for non-essentials</i>
7	If regulations 4AC–4AN do not apply to BNPL, what guidance (if any) should be given to BNPL lenders through the Responsible Lending Code about compliance with section 9C(3)(a)(ii) of the CCCFA?
	<i>NA – the regulations should apply, as the cost of lending to people who cannot afford it is the same regardless of the type of lending.</i>
8	Do you have any comments on the drafting of regulations 18I(3)(c)?
	<i>I don't see why there would be exceptions. I believe there should be an assessment at every transaction. If we look at why someone uses BNPL for small transactions, it is hard to see how we could convince ourselves the debt should be more easily accessed.</i>
9	Are there other CCCFA requirements that should be adjusted or exempted for BNPL? If so, what would the impact be of applying current CCCFA requirements? What would the benefits be of adjusting or exempting from them?
	<i>One issue with BNPL is that it is almost impossible for financial mentors to engage with them. As they are app-based, it is very hard to find a person to speak to. I would like to see regulation around hardship processes, and the need to work collaboratively with a person's representative (especially Financial Mentors).</i>
10	Do you have any other comments or suggestions for the drafting of the regulations?
	<i>I think any threshold should be weighted against income, and I believe we have a duty to protect those who are not working, and are already in deprivation. The use of BNPL means that people can avoid WINZ as their first point of call for unaffordable essentials. This is not a good outcome.  I am also concerned about BNPL being open to fraud and abuse. With no assessment at point-of-sale there is no check to see that the debt belongs to the account holder. At best this can lead to people using BNPL on friends' and relatives' accounts and at worst is opening people up to financial manipulation.</i>
11	Do you have any comments on when the regulations should commence? Please provide reasons for your answer.
	<i>I think any tightening of the regulations can't come soon enough, as there are increasing numbers of people getting into financial trouble with these products that offer no support.</i>

## Other comments

*When we look at why BNPL exists – it seems like it can never be a good thing. It creates a way to circumnavigate good money management, and uses slick advertising to encourage people to buy more. I am frustrated by systems which make it easier to make poor financial decisions than good ones. I think it encourages us all to 'keep up with the Joneses' and hides (or delays) the true cost of poverty. I think it would be better for us all if it was hard to borrow for things we can't afford.*