

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

## Your name and organisation

<b>Name</b>	Callum Hartstonge (on behalf of the Lending Matters Network)
<b>Organisation (if applicable)</b>	Lending Matters Network Dunedin

## Responses

1	<p>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?</p> <p>We have concerns that the definition of BNPL only encompasses 3<sup>rd</sup> party lending. It still allows for big retailers to offer their own style BNPL to consumers directly. Broadening the definition will ensure that these evolving practices can be done in a way that is safe for consumers.</p> <p>No interest phone contracts must also be considered under the BNPL scheme.</p>
2	<p>Do you have any comment on the proposed threshold of \$600? Should the threshold be higher than \$600? Lower? Why?</p> <p>\$600 is too high. This figure will still require customers to pay up to \$150 per fortnight before needing to undergo an affordability assessment. This issue multiplied across the various BNPL lenders still threatens to put users in unaffordable debt. We recommend that BNPL mirrors the same requirements as any lending like overdrafts and personal loans.</p>
3	<p>What do you consider the financial impact of a \$600 threshold would be?</p> <p>The \$600 threshold is not sufficient enough to effectively reduce the harm caused by BNPL. Many of our vulnerable community members are on benefits that would not allow them disposable income up to \$100 per week to cover the costs of these BNPL schemes. As the ASIC data shows, 20% of BNPL users are reducing or forgoing essential items to cover these costs as to not incur further fees with these providers. The potential for debt spiral in taking out other loans to cover these costs is immense, which 15% of users have reported doing.</p> <p>If customers are unable to get the good they wish with one service, the temptation to open an account with another BNPL to keep the threshold under \$600 is also something to consider.</p> <p>BNPL strongly negatively affects future credit opportunities. People are unable to get rental properties, power and other credit due to their previous BNPL defaulting and ending up at debt collectors.</p>

4	<p>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)?</p>
	<p>The varying information between Credit Reporting Agencies eg Centrix &amp; Veda (Veda having a lot more detail around late payments with their new level of reporting). In some cases failing to log payment information on credit files. One reporting system would make it less likely for consumers to fall through the cracks and not be picked up by the reporting systems.</p>
5	<p>Should regulations 4AC–4AN apply to BNPL? Why, or why not?</p>
	<p>All creditors also need to be obliged to positively report so this becomes an incentive for the consumer and shows a clearer picture than what is shown currently.</p> <p>Full affordability assessments would ensure that users of BNPL will not be economically harmed by the use of these services.</p>
6	<p>What would the impact be of applying regulations 4AC–4AN on BNPL lenders and consumers?</p>
	<p>Users of BNPL services would be more clearly able to identify when they are making a purchase with credit. BNPL would have a clear pathway for disputes resolution and more user-friendly avenues to request support for hardship or missed payments. Each BNPL has their own hardship statement on their website but there is no real responsibilities for these businesses to follow through. Regulations 4AC-4AN will give customers the rights to this support. The result of this is customers would be empowered and the relationship between BNPL and customer will be more equitable.</p>
7	<p>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?</p>
	<p>Regulations for BNPL require some level of enforceable action. The Lending Code does not offer this.</p>
8	<p>Do you have any comments on the drafting of regulations 18I(3)(c)?</p>
	<p>BNPL users need to know their rights and obligations. BNPL services should be required to disclose payment amounts, due dates, and fee structures. As well as policy and procedure for hardship, complaints, or disputes resolution.</p>
9	<p>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?</p>
	<p>BNPL users are focused on the available credit to them, not the debt owed by them. This is not supporting them to build financial capacity.</p> <p>Afterpay, for example doesn't clearly show a client on their online app, how much is owing, but shows plenty of advertising based on the clients' previous spending habits. The user is required to go through their "MyAfterPay" section on AfterPay to see their current balances. This is not responsible or ethical.</p> <p>BNPL apps are full of advertising for retailers that are based on their previous purchases. This practice offers a high level of temptation to consumers and can clickbait them into making unaffordable, impulse purchases.</p>

10	Do you have any other comments or suggestions for the drafting of the regulations?
	<p>There has been a noticeable rise in people using BNPL for essential items like food. This should not be something our communities see as a necessary step for essentials. There should be some provisions to ensure people are not getting into BNPL debts to cover their cost of living.</p> <p>Many BNPL users have access to multiple providers/accounts. This means their access to unaffordable credit multiplies substantially, creating a far bigger problem than if they were only in debt with one.</p> <p>BNPL services have been known to increase people's spending limits without consultation or checking the affordability of the new credit limit. This should be addressed to ensure users are able to cover the newly given credit costs.</p>
11	Do you have any comments on when the regulations should commence? Please provide reasons for your answer.
	As soon as possible. The economic harm caused to vulnerable people in our communities by these buy now, pay later contracts needs to be minimized immediately.

## Other comments

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