

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

Your name and organisation

Name	Natalie Vincent
Organisation (if applicable)	Ngā Tāngata Microfinance Trust

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>
2	<p><i>We do not agree with the proposed definition of BNPL. Our concern is that the current wording captures community finance providers which it should not. Community finance such as ourselves, Good Shepherd NZ Good Loans and others provide zero interest, zero fee small loans which should not fall into consumer credit contracts. Our lending is charitable, not-for-profit, a social service, supported by working with clients to improve their long-term financial capability and well-being. At no time and under no circumstance would our loans incur fees or interest for the client, unlike BNPL services where despite initially being interest free – can incur a range of fees hence requiring protection for consumers. If this was not remedied in the definition, there is a great risk to community finance being unable to provide its services. Without this change any service that allows payments to be deferred for a period that do not occur any costs [fees, interest, debt collection], such as an arrangement someone might have with a veterinarian to pay for a pet's treatment in instalments, or a mechanic for car repairs. <u>We recommend</u> that the definition be amended and reworded to capture contracts that CAN incur costs to the consumer, in whatever form, thereby protecting consumers. Making this change would also provide protection for any future credit products that may be developed of a similar nature to BNPL.</i></p>
2	<p>Do you have any comment on the proposed threshold of \$600? Should the threshold be higher than \$600? Lower? Why?</p>
2	<p><i>We do not agree that is appropriate to have ANY threshold and that all BNPL lending must require affordability assessments. Every dollar that is lent to a consumer without affordability assessment is putting that client at risk, there is no safe threshold. We are seeing the result of unaffordable lending via BNPL everyday, and this is on the increase. Our clients have an average income of \$36,000, 80% of whom rely on a benefit. These consumers are the most financially vulnerable and are the people most likely to be using BNPL for small purchases, purchases for essential living costs. A threshold of \$600 will not protect these consumers, it will completely miss those who most require protection. We see consumers who have multiple debts to BNPL and often these are individually less than \$150. Collated the debt quickly spirals out of control and becomes unmanageable. More BNPL debt is being sent to</i></p>

	<i>collection companies which incurs additional costs. BNPL debt at collections is the third largest type of debt we see at collections. In December 2022 BNPL made up 19% of debt we repaid to collections, by February 2023 this had risen to 24%. <u>We recommend</u> that no threshold is put in place this will have a significant impact on avoiding hardship.</i>
3	What do you consider the financial impact of a \$600 threshold would be?
	<i>As mentioned above, the financial impact would be that those who are most financially vulnerable would continue to remain unprotected and at risk of continuing to access unsafe lending. The growth of BNPL usage has highlighted inequities in access to the basic needs of living – those on the lowest incomes, already in hardship, using the services to ‘pay off’ essential items. Consumers in those situations are taking on credit which quickly becomes unmanageable debt and causing more stress and problems, impacting their well-being. Whilst using BNPL in these circumstances might fix their immediate needs, this is from desperation and the longer-term consequence is harmful. This highlights that incomes for many are unliveable and that there are barriers to accessing safe and appropriate financial support for the costs of living. Support for essential costs of living should NOT be coming from BNPL services.</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>We DO NOT support a threshold.</i>
5	Should regulations 4AC–4AN apply to BNPL? Why, or why not?
	<i>Yes. We support all affordability assessment requirements as per these regulations. As stated above, this will provide protection for all consumers, preventing the most financially vulnerable from taking on unsuitable credit that can become unmanageable and destructive. It will remove the problem where people are regularly using BNPL and making payments with other credit products. We do not support a principles-based approach which has already proven to be unsatisfactory.</i>
6	What would the impact be of applying regulations 4AC–4AN on BNPL lenders and consumers?
	<i>The regulations would bring responsibility to BNPL services, make them accountable for their products and how/where/to who these are marketed, thereby protecting consumers. These regulations would bring about a shift in consumers perspectives on BNPL services, seeing them as a credit product, a debt they are taking on – not what is currently happening where people often do not understand the nature of the system and how it can spiral out of control.</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>We do not support this approach</i>
8	Do you have any comments on the drafting of regulations 18I(3)(c)?
	<i>We believe BNPL providers must be required to disclose all payment details for ALL purchases for the avoidance of any doubt with the consumer and to encourage understanding and planning by the consumer of the implications of the lending. Our clients are often caught out by making assumptions on purchase payment schedules and misunderstanding of fee</i>

	<i>obligations. As required with other lending disclosures must be clear for each loan. <u>We recommend this applies to all BNPL lending [purchases], not just on subscription to the service.</u></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>We do not believe there are any factors that should exempt BNPL services from the CCCFA regulations</i>
10	Do you have any other comments or suggestions for the drafting of the regulations?
11	Do you have any comments on when the regulations should commence? Please provide reasons for your answer.
	<i>As soon as possible. As stated above we are seeing an increasing and alarming trend of clients being harmed by using BNPL services. With the current economic climate and increased financial distress this needs to be acted on with haste to avoid further harm to consumers.</i>

Other comments

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