Submission on discussion document: Consumer Credit Regulation Review

Your name and organisation

Name	Andrew Henderson / Charlotte Whitaker
Organisation	Dunedin Budget Advisory Service

Responses to discussion document questions

Regarding the excessive cost of some consumer credit agreements

1	Do you agree that the problems identified with high-cost lending (even where it is compliant with the CCCFA) are significant? Do you have any information or data that sheds light on their frequency and severity?
	Yes absolutely agree there are problems with high cost lending. We sadly see evidence of this on a daily basis through our clients (new and existing) we work with, and it is also highlighted that these clients have the same lenders in common. We also know, by asking a few questions of our clients and completing a budget that most of them cannot afford the repayments so it is an essential need (food, power, rent, doctor) that is not being provided for in order for the client to continue the line of credit with the high cost lender
2	Do you support any of the extensions of Cap Option A? What would be the impact of these extensions on borrowers, lenders and the credit markets? Do you have any information or data that would support an assessment of the impact of these extensions?
	We support all extensions of Cap A. A borrower never paying back more than 100% of the loan will be easier for the creditor to explain to the borrower and the borrower will actually be able to know the highest true cost of the loan up front. How ironic it is that a person is charged more money for not being able to afford the repayment of a loan they couldn't afford at the time of applying! We would be interested to see the definition of high cost lenders. *The prohibition of a person getting another high cost loan who has defaulted on an existing loan is beneficial to the person as it allows the person to accept responsibility to pay the existing loan while not committing themselves financially to another they cannot afford and having a cooling off period in which they could look at cheaper alternatives. This would also benefit the lenders as there wouldn't be so many defaults, insolvencies etc.* *We see many clients who have had a 'top up' or have been 'refinanced' through their high cost lender due to the inability to afford the repayments, some only a few weeks after the initial loan has been approved. This would also be hugely beneficial to the lenders as there would have to be a data base for the lenders to share to know whether the borrower has an existing loan somewhere else which would also require the lender to make more extensive enquiries as to affordability and appropriateness of the new loan.*

3	Do you agree with our assessment of the costs and benefits of the options for capping interest and fees? Are any costs or benefits missing? Do you have any information or data that would help us to assess the degree or estimate the size of these costs and benefits?
	Absolutely agree! This would also assist in squeezing out the predatory lenders
4	Do you have any suggestions for the design of options for capping interest and fees? If so, what would be the impact of your proposed design on borrowers, lenders and the credit markets?
	We support Cap A and B. The total amount a person pays back (including fees, interest, defaults etc) to a lender needs to be capped for the transparency benefit to the client and for competition within the market, but these lenders need to be eliminated from the market altogether. This would also be of benefit to consumer's credit rating (getting power, rental etc in their name) and reduce insolvencies.
5	Which interest rate cap options, if any, would you prefer? Which interest rate options would you not support? Please explain how you made your assessment.
	Ideally we would like to see a mix of all options, with the goal of high cost lenders to then just be lenders and not the predators they are at present, but realise that the accumulation of fees and interest is probably the easiest of the options

Regarding continued irresponsible lending and other non-compliance

6	If directors have duties to take reasonable steps to ensure that the creditor complies with its' CCCFA obligations, should any duties apply to senior managers?
	We think this should be extended to all staff who have a hand in the loan application and that they should be required to have a licence proving they know the obligations of a responsible lender. If this was to happen, many of our clients will not be in the dire financial situation they find themselves in now as any member of staff would have had to prove affordability etc. It would also ensure the staff know they are responsible for the person's loan and as such, would have to look at the implications or have consequences for themselves personally / professionally.
7	If there are to be more prescriptive requirements for conducting affordability assessments, what types of lenders or loans should these apply to?
	These requirements need to be applied to all high cost lenders, car finance companies, banks, telecommunication providers (signing up for a phone doesn't currently fall under the CCCFA), online 'layby' companies, mobile shopping trucks and TV shops. *The borrowers circumstances need to be fully explored e.g. the size of the family can dramatically affect their financial commitments (Food, power, clothing) but these questions are not asked.* *We would even extend this to contacts where the consumer agrees to make on-going payments for a period of time such as phone contracts, internet and pay TV which often trap*

	vulnerable consumers.
8	Should there be any change to the requirement that lenders can rely on information provided by the borrower unless the lender has reasonable grounds to believe the information is not reliable? What would be the impact of such a change on borrowers, lenders and the credit markets?
	Information should just not come from the borrower. Bank statements help but don't show what the cash transactions are used for (gambling etc.) Borrowers should be requiring pay slips or benefit breakdown, a completed budget from a financial mentor, bank statements, evidence of other debt and evidence of essential costs (rent, power bill, car costs etc) and they need to be guided by the annual University of Otago Food Cost Survey per person in the household. This would be beneficial to the borrower as it would then prove affordability and the lender would be confident in receiving repayments. This due-diligence would no doubt cost the lender more in the short term, but would be the only responsible option which would be better for the community and country as a whole. *Lenders should be relying on hard evidence and not their own generic assessments of a persons living costs – every borrower's situation is different.* *Evidence of costs is necessary because the borrowers attracted to high cost loans are often desperate and may withhold information in order to gain credit.*
9	Do you consider there should be any changes to the current advertising requirements in the Responsible Lending Code? If so, what would be the impact of those changes on borrowers, lenders and the credit markets?
	As many people don't actually read the fine print on tv ads or online, or others are illiterate, these disclosures need to be spoken as well as CLEARLY stated on all advertising material. The true cost of credit needs to be in plain language and this needs to be the case for ALL lenders and all borrowers should be asked to complete a basic literacy test as assurance to the lender the borrower understands the content/language. *We are concerned with targeted advertising that offers free super market vouchers and store cards. Clients are willing to sign up for goods on credit in the knowledge that there are cheaper options because they want the free add-ons.* *Unsolicited targeted advertising for high cost credit should not be permitted in high deprivation areas.* *A borrowers personal details should be deleted from the lenders database when the credit contract is completed to prevent unsolicited targeted advertising. This would also mean the creditor has to start from scratch and recheck affordability and circumstances when new borrowing occurs.*
10	Do you agree with our assessment of the costs and benefits of the options to reduce irresponsible lending and other non-compliance? Are any costs or benefits missing? Do you have any information or data that would help us to assess the degree or estimate the size of these costs and benefits?
	We do not altogether agree with "lenders not meeting requirements may operate underground where conduct is much harder to monitor" as we are sadly confident that financial mentors will still see these lenders impacts through our clients and they can then be reported on.

11	Do you have any suggestions for the design of options for reducing irresponsible lending and other non-compliance? If so, what would be the impact of your proposed options on borrowers, lenders and the credit markets?
	[Insert response here]
12	Which options for reducing irresponsible lending and other non-compliance would you support? Which would you not support? Please explain how you made your assessment.
	We would like to see registration options A,B and C. Enforcement options A,B,C,D,E. For option B we would also like to see all individual members of lending companies staff to be accountable, not just the director. In the case of option D, we would welcome the Commerce Commission to have greater power in enforcement. Responsibility options A,B and C

Regarding continued predatory behaviour by mobile traders

13	Do you agree with our assessment of the costs and benefits of the options for covering additional credit contracts under the CCCFA? Are any costs or benefits missing? Do you have any information or data that would help us to assess the degree or estimate the size of these costs and benefits?
14	Do you have any suggestions for the design of options for covering additional credit contracts under the CCCFA? If so, what would be the impact of your proposed options on borrowers, lenders and the credit markets?
	To also capture the telecommunications companies who provide clients with phones etc, who then pay them off but they are not under the CCCFA as it stands now. As these companies do not have to prove affordability on the clients' behalf customers are left to make payments that are unsustainable. *To also capture the online 'layby' companies along with 'leased' goods. These credit providers are sometimes the most dangerous since they fall outside of the CCCFA and so the borrower has no rights through the CCCFA* *Some lenders currently also sell 'flexi-lease' , 'flexi-buy' or rent-to-own products as an alternative to a standard credit contract – is this a loop hole?*
15	Which options for changes to cover additional credit contracts would you support? Which would you not support? Please explain how you made your assessment.
	To have all lenders – any company which the borrower makes payments to for goods to be covered as this would not only be beneficial to the borrower, but also for the creditors as all parties would know the borrower could afford it

Regarding unreasonable fees

16	If prescribed fee caps were introduced, who should they apply to, and what process and criteria should be used to set them?
	Fee caps should encircle all credit providers, banks and debt collectors (often debt collectors fees, commission, interest is overwhelming) *Caps could be set by surveying lenders who are low cost and responsible to gauge an idea of the true cost.*
17	Do you agree with our assessment of the costs and benefits of the options for capping interest and fees? Are any costs or benefits missing? Do you have any information or data that would help us to assess the degree or estimate the size of these costs and benefits?
	As previously stated, we consider it outrageous for a borrower to be financially penalised for not being able to afford the repayments. This also stands for bank dishonour fees
18	Do you have any suggestions for the design of options for reducing unreasonable fees? If so, what would be the impact of your proposed options on borrowers, lenders and the credit markets?
	Fees that are calculated as a flat % can often sky rocket with high debt balances. Fee structures should be on a sliding scale if they are calculated in this way – e.g. overdraft fees and debt collection fees.
19	Which options for changes to fees regulation would you support? Which would you not support? Please explain how you made your assessment.
	Options A,B and C for the fees option. This would promote borrowers to 'shop around' and creditors to be more competitive
20	Have you seen issues with excessive broker fees, or other unavoidable fees charged by third parties, being added to the loan? If so, are there any specific changes that should be made to the regulation of third-party fees? What would be the impact of these changes on lenders, borrowers and third parties?
	Debt collectors often charge a flat fee of 20% which can substantially add to the debt balance.

Regarding irresponsible debt collection practices

21	Is this an accurate picture of the problems for consumers experiencing debt collection? Do you have information that confirms or refutes these issues, or sheds light on how widespread or severe they are?
	Yes, sadly this is an accurate picture of some debt collecting practises in NZ. There is also one particular debt collection company who does not negotiate at all and once the borrower falls behind in the very high repayments, there is an attachment order on the borrowers' income set up by the debt collector. In most cases we see from the aggressive and bullying tactics of this company, the borrower goes insolvent just to get this one creditor gone. This then has a negative effect on the borrower and their other creditors, who may have been receiving repayments at a rate which the borrower could have afforded.

22	What information should be provided to borrowers by debt collectors? When and how should this information be provided?
	The original terms and the entire contract should be provided to the debt collector by the creditor. Often, when asked by us, the debt collector doesn't know when the debt was incurred. *It should be made very clear if the debt collector has purchased the debt, is collecting the debt or is acting on behalf of the creditor as this will affect their disclosure obligations, fees and the options of the defaulter.*
23	Do you agree with our assessment of the costs and benefits of the options for addressing irresponsible debt collection? Are any costs or benefits missing? Do you have any information or data that would help us to assess the degree or estimate the size of these costs and benefits?
	All options need to be enforced
24	Do you have any suggestions for the design of options for addressing irresponsible debt collection? In particular, what is an appropriate frequency of contact with debtors before (and then after) a payment arrangement is entered into? Please state the likely impact of your proposed options on borrowers, lenders and the credit market.
	Once a week would be appropriate for a debt collector to contact a borrower before an arrangement is in place and once every three months when an arrangement is up and running. The level of stress more frequent contacting causes results in higher amounts of insolvencies so no one gets their money.
25	Which options for changes to the regulation of debt collection would you support? Which would you not support? Please explain how you made your assessment.
	We support all the collection options proposed

Regarding other issues

26	Are you seeing harm from loans to small businesses, retail investors or family trusts as a result of them not being regulated under the CCCFA?
	[Insert response here]
27	Do you think small businesses, retail investors or family trusts should have the same or similar protections to consumers under the CCCFA? Please explain why/why not.
	[Insert response here]
28	Are there any other issues with the CCCFA or its impact on vulnerable people that are not addressed in this discussion paper? If so, what options should MBIE consider to address these issues?

As previously mentioned, telecommunications creditors, laybys, after pay and lease providers are not currently covered in the act.

We have seen zero evidence of extra checking being done for borrowers who may be or are vulnerable as defined in the Responsible Lending Code. We are very concerned about the current situation which sees many vulnerable borrows (intellectually disabled, blind, illiterate, etc.) who have easily accessed credit that they don't understand and cannot afford.

For consumers who have difficulty paying for goods / services and need to apply for a store card to pay. The credit limit for the purchase should only cover the original purchase and not make additional credit available to be spend elsewhere.

The amendments to the Responsible Lending Code should become binding on creditors and not just a set of guidelines.

Any other comments

We welcome any other comments that you may have.

Thank you for the opportunity to have our say based on what we see through our clients and our community and we welcome the enforcement!