

# Submission on discussion document: Consumer Credit Regulation Review

## Your name and organisation

Name	Neil Roberts
Organisation	Harmony Corp Limited

## Responses to discussion document questions

### Regarding the excessive cost of some consumer credit agreements

1	<p>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?</p>
	<p><i>No submission made.</i></p>
2	<p>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?</p>
	<p><i>We do not support the extensions of Cap Option A, on the basis that we support Cap Option C.</i></p>
3	<p>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?</p>
	<p><i>No submission made.</i></p>
4	<p>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?</p>
	<p><i>Harmony supports the introduction of a cap on interest rates across consumer credit lending to eliminate high-cost lending (Cap Option C), together with a prohibition on charging unconscionable fees.</i></p> <p><i>Further, Harmony advocates that lenders be required to disclose to potential borrowers the annual percentage rate (APR), i.e. the percentage that represents the actual yearly cost of the borrowed funds over the term of the loan. The APR would include interest charges and other fees that are ascertainable at the time the APR is disclosed. Likely fees and charges that would be included in an APR would be: application fees, regular administration or account keeping fees, discharge of security fees (if fixed), PPS charges. Default fees, late payment fees, and dishonour fees would not be included in the APR as it cannot be ascertained whether</i></p>

*any particular loan will go into default at the time of disclosure.*

*Every advertisement for a consumer credit product should be required to disclose the APR. Formal requirement should be prescribed for the APR required to be disclosed, so that the disclosed APR provides a combination of the loan amount and the loan term which most closely represents the typical amount of credit and loan term provided by the relevant credit provider.*

*The requirement to disclose an APR will assist consumers to identify the true cost of credit and allow borrowers to more easily compare interest rates across credit providers. Providing an overall cap on interest rates will ensure that fewer borrowers would enter into unmanageable loans.*

*This proposal will require credit providers to more clearly disclose the cost of credit for their product. This will heighten competition in the consumer credit market and will allow consumers greater choice.*

*Harmony does not support a cap on fees. The types of fees that are charged by credit providers will vary greatly, particularly as different providers have different business delivery models (e.g. physical offices versus online). To establish a restricted set of fees that can be charges and the maximum amount of those fees favours the incumbent institutions and is a barrier to innovation. Harmony supports a requirement that fees charged are not unconscionable. In this way, competition and innovation are made possible, which allows providers to offer options that are well priced and to provide different products for different borrower groups.*

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.

*As per Q4 above, Harmony supports Cap Option C.*

## 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?

*No submission made*

7

If there are to be more prescriptive requirements for conducting affordability assessments, what types of lenders or loans should these apply to?

*Harmony supports existing requirements for conducting affordability assessments as currently set out in the Responsible Lending Code. The principles-based approach of the Code provides scope for innovation by providers in the way they meet the Code. Further examples would provide greater clarity to providers on the ways in which they can meet their obligations.*

*Harmony does not support more prescriptive requirements, as these would reduce the scope for innovation by providers, e.g. technological advances will increase the ways in which lenders can meet the requirements of the Code.*

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?
	<i>No.</i>
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?
	<i>Yes, refer to Q4 above. Harmony supports the introduction of a requirement that all credit advertisements must include disclosure of the APR for the advertised product.</i>
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?
	<i>Agree.</i>
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?
	<i>Harmony supports Registration Option C, a comprehensive creditor licensing system, with a principles-based approach to licensing based around good conduct. New Zealand now has an established conduct-based regulator in the Financial Markets Authority (FMA), and there would be efficiencies in having a single licensing regime.</i>
	<i>By introducing a licensing regime, New Zealand would align itself with both Australia and United Kingdom, both of whom have a centralised regulator across financial service providers. A licensing regime using a principles-based approach empowers its regulator with various tools to manage its regulated community. At the outset, the regulator will assess whether applicants meet threshold conditions for licensing. Once licensed, the regulator has the power to determine the best approach to work with licensees where issues arise – this can range from working with the licensee to resolve issues, up to suspension or withdrawal of licence. This approach allows flexibility, rather than a fixed approach being to threaten or conduct legal action.</i>
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.
	<i>No submission made</i>

## 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?
	<i>No submission made</i>

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?
	<i>No submission made</i>
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.
	<i>No submission made</i>

## 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?
	<i>Harmony does not agree that prescribed fee caps should be introduced, as discussed in the response to Q4.</i>
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?
	<i>Harmony does not agree with the assessment of the costs and benefits of the options.</i> <i>Fee Option A: require lenders to substantiate reasonableness of fees. The costs to lenders in substantiating the reasonableness of fees under the Sportszone/MTF methodology results in a material increase in compliance costs for lenders. The application of the methodology is complex and requires considerable internal resource to document the reasonableness of the fee-setting processes. Further, the Sportszone judgment was based on motor vehicle financing delivered through motor vehicle dealers and application of those principles to other forms of credit are challenging, particularly where credit is delivered to borrowers in a different way (e.g. online).</i>
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?
	<i>Harmony supports a prohibition on credit providers charging unconscionable fees. Please refer to Q4 above.</i>
19	Which options for changes to fees regulation would you support? Which would you not support? Please explain how you made your assessment.
	<i>Harmony supports Option C: return to disclosure and advertising based on 'equivalent interest rate'. As noted in Q4 above, Harmony supports a requirement that credit providers disclose an APR, to improve consumers' ability to compare credit offerings.</i> <i>Harmony has previously provided MBIE with information regarding effective interest rates (by letter dated 10 November 2016) and would be happy to provide this information again on request.</i>
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?

*No submission made.*

## 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?

*No submission made*

22 What information should be provided to borrowers by debt collectors? When and how should this information be provided?

*No submission made*

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?

*No submission made*

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.

*No submission made*

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.

*No submission made*

## 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?

*No.*

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.

*Harmoney believes that small businesses should be afforded consumer protection. The experience in Australia and other jurisdictions has shown that small, family-owned businesses can be vulnerable borrowers and accordingly should have the benefit of consumer levels of protection.*

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?

*No submission made.*

## **Any other comments**

We welcome any other comments that you may have.

*Thank you for the opportunity to provide a submission. Please contact Caroline Dunlop, General Counsel (via ) should you wish to discuss any of the points we have raised. Harmony would be willing to present its submission in person to MBIE.*