



REVIEW OF CONSUMER CREDIT REGULATION
Discussion paper June 2018
NZCCSS comments to
Ministry of Business, Innovation and Employment
31st July 2018

1. Introduction

NZCCSS works for a just and compassionate society in Aotearoa New Zealand. We see this as a continuation of the mission of Jesus Christ. In seeking to fulfil this mission, we are committed to: (a) giving priority to the poor and vulnerable members of our; society and (b) Te Tiriti O Waitangi.

The New Zealand Council of Christian Social Services (NZCCSS) has six foundation members; the Anglican Care Network, Baptist Churches of New Zealand, Catholic Social Services, Presbyterian Support and the Methodist and Salvation Army Churches.

Nationally the range and scope of our six member networks is extensive and comprises 213 separate provider sites, delivering a range of 37 types of services via 1024 specific programmes, located in 55 towns and cities throughout New Zealand. Further details on NZCCSS can be found on our website www.nzccss.org.nz

NZCCSS members have a long-standing history of working alongside people experiencing problems with high-cost debt, through organisations provide budgeting advice services as well as offering advocacy and support for people on low incomes through foodbanks, counselling and other social work.

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2. Summary

- 2.1 NZCCSS strongly supports further strengthening of consumer credit regulation. The current rules do not provide sufficient protection for people who are in vulnerable and difficult situations. Our member agencies report ongoing issues with predatory lending practices and the changes made to the responsible lending code in 2015 have not been effective enough in reducing this.
- 2.2 **High-Cost Lending:** NZCCSS supports setting an interest rate cap to eliminate high-cost lending. That maximum interest rate should be no more than 50% per annum.
- 2.3 **Irresponsiible Lending:** NZCCSS supports licensing of lenders, stronger powers to enforce responsible lending principles, and stronger rules around advertising and affordability testing.
- 2.4 **Controlling mobile traders:** NZCCSS supports changes to clearly include mobile traders under the CCCF Act
- 2.5 **Unreasonable fees** NZCCSS supports clearer rules defining what reasonable fees are including specifying maximum limits in regulations.

2.6 Irresponsible Debt Collection Practices: NZCCSS recommends action be taken to improve debt collection practices across all the five areas covered in the discussion document.

2.7 Alternative Lending Options: NZCCSS recommends active Government support for alternative, low-cost credit for people who cannot access mainstream lending. Existing options such as that provided by no-interest loan provider Ngatangata Microfinance are effective but the need for such services is large. We believe such services should be provided by community-based and not-for-profit organisations that are unlikely to be motivated to exploit the clients they are working with.

3. High-Cost Lenders

High-cost lenders who lend small amounts, unsecured, on a short-term basis (sometimes a few days or weeks, or up to a year) frequently charge interest rates that are several hundred percent per year.

Easy access to high-cost credit is a social problem in itself. Our consumer society today has been built on a philosophy of loosening access to credit and encouraging people to go into debt. The consequences of this have been an enormous increase in the general indebtedness in New Zealand over the past 30 years. The combination of low incomes, high living costs and easy access to credit are driving people into unmanageable debt¹. Action is needed to turn around this exploitative spiral of debt creation.

There can be no reasonable justification for interest rates that are in effect several hundred percent annually and it is an abrogation of responsibility by Government that allows such practices to be legal.

NZCCSS along with many others has previously called for a maximum interest rate of no more than 50% per annum² (e.g.). We strongly support Option C that sets a maximum cap between 30% – 50% with the aim of effectively eliminating all high-cost lending.

4. Irresponsible lending practices

NZCCSS shares the concerns of others working with people in the community that there are lenders who are not following responsible lending principles. The discussion document echoes concerns and issues raised by our member agencies from their work with people on low incomes or in vulnerable situations. We believe such practices are widespread.

The Responsible Lending Code currently lacks teeth, and it is proving difficult to enforce better practice. Responsible lenders themselves complain of unfair practices by other lenders who do not follow the code.

¹ *New Zealand's Debt Society and Child Poverty*, CPAG 2014

<https://www.cpag.org.nz/assets/Backgrounders/140225%20CPAG%20Debt%20Backgrounder%20Feb2014%20FINAL.pdf>

² NZCCSS (December 2014) comments on the 2014 draft responsible lending code <http://nzccss.org.nz/news/library/nzccss-comment-responsible-lending-code-aug-2014-doc/>

NZCCSS supports action across all of the areas proposed in the discussion document: stronger licensing requirements for lenders, increased enforcement powers relating to breaches of the lending principles, and more prescriptive requirements around affordability testing and advertising.

Under Registration Options, Option C of introducing a comprehensive creditor licensing system would be most effective in reducing irresponsible practice. While the compliance costs under this approach would be highest, it would provide the most protection for vulnerable consumers. The likelihood of lenders operating 'underground' to avoid these requirements needs to be counteracted by attention to providing consumers with a wider set of affordable alternative lending options (see our paragraph 8 below).

Enforcement Options A – E all contain ideas for improving the ability to enforce good practice and NZCCSS does not view them as alternatives. To be effective it is likely action will be needed across all these areas. The ability to award substantial fines, damages and court orders would certainly give more weight to the regulations. NZCCSS particularly supports Option E that would require creditors to work with consumer's advocates if asked.

Responsibility Options A -C: Action is needed across all three area covered in these options. It is important that the rules are clearer about how lenders conduct affordability assessments and how they advertise, as well as ensuring that all disclosures are made in the same language.

5. Controlling mobile traders

Truck shops and door-to-door selling at prices well above the cash price are a real problem in poorer communities. People use these sellers because they allow payment in installments and it appears these sellers may not be covered by the CCCF Act and the responsible lending principles.

NZCCSS supports changes that make it clear that such traders are covered by the CCCF Act. It is important that all traders who are effectively selling on credit, including the new types of credit-based online sellers mentioned in the Discussion Paper, are covered by the Act.

It is unclear from the information provided in the Discussion Paper whether it is possible to combine the two options presented but NZCCSS supports changes to the Act that re-define a consumer credit contract to include one where default fees are charged as well as prohibiting the price sold on credit from exceeding the cash price.

6. Unreasonable fees

The current Act includes vague rules to test what "reasonable" fees and charges are that make it difficult to enforce. Administration fees and other such charges are often used to increase the debt owed. There are various options proposed to deal with this but NZCCSS has previously supported setting clear limits on the amounts for different types of fees and setting these out in regulations. This means we support Fees Option B that would set out fees caps through regulation. Other options involving substantiating

the reasonableness of fees or increasing disclosure requirements do not help vulnerable consumers nearly so well and would also be more difficult to enforce.

7. Irresponsible debt collection practices

Member organisations and advocates regularly tell us about debt collection practices that amount to harassment, include misleading claims, extra fees and unfair payment demands. The Discussion Paper sets out five options for changes around disclosure of key information at the start of the debt collection process, requiring debt collectors to offer affordable repayment plans, control over the amount of contact the collector is allowed with the borrower, making the debt collector subject to the Act, and limiting the fees that can be imposed by debt collectors.

NZCCSS supports taking action across all of these options. The current situation is poorly controlled and regulated and there is an urgent need to crack down on some highly exploitative practices.

8. Alternative low or no-interest loan schemes

NZCCSS is one of the organisations that helped establish no-interest loan provider Ngā Tangata Microfinance (NTM) in 2011. NTM has partnered with budgeting services providers to identify people who would benefit from help to manage their finances and avoid the trap high-interest loans. A review of the first 5 years of NTM operations to the end of 2016 showed that the just over \$400,000 loaned had helped save more than \$800,000 in interest payments³ and reduced the stress and financial pressures on the loan clients. Other schemes such as those run through the Good Shepherd Sisters and The Salvation Army are also providing an effective alternative affordable source of credit for low income households to meet essential purchases such as house appliances.

NTM has more recently developed a debt-relief loan product which is proving an effective tool for people who have already accumulated too much debt. The need for such debt relief far exceeds the current capacity of NTM and it is important that a rapid and well-managed approach is taken to expanding access to such products and services. We believe such services should be provided by community-based and not-for-profit organisations that are unlikely to be motivated to exploit the clients they are working with.

³ *External Evaluation 2016: a pathway to financial inclusion and improved wellbeing*, M Dale & E. Sbai, University of Auckland, September 2017 https://docs.wixstatic.com/ugd/fc4ada_21120f83701b4c61b3b4ddf779553a45.pdf