Submission on discussion document: Consumer Credit Regulation Review

Your name and organisation

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Organisation	The New Zealand Federation of Business and Professional Women (BPW NZ) Inc.

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. Our Federation is concerned that poverty levels have risen and that this is a gendered issue. Many women on low incomes or on benefits have little option but to borrow for household expenses from non-mainstream sources with high lending costs. Vulnerable people are spiralling into debt when taking out loans with third-tier lenders. Rates of over 500% per annum are common for pay day lenders and these rates are disguised by only providing a daily rate on contracts (usually 1.5% per day). Many struggling borrowers do not understand the contracts they are signing.
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?
	Yes. Budgeting services report that borrowers are often offered further loans they cannot afford. This would offer some protection. To work effectively across all lenders there would need to be a register of such loans that lenders were required to check to ensure no loan was outstanding before offering another high-cost 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?
	The examples given provide a fair picture of the current market and the likely costs and benefits from the various capping options.
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?
	No suggestions on this.
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.
	Preference in order is C, B, A. *Option C needs to operate in an environment where no or low interest loans are available through microfinance trusts. This is happening now but to a very limited extent. Government incentives for major banks and financial institutions to support this sector are needed.*

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?
	Yes.
7	If there are to be more prescriptive requirements for conducting affordability assessments, what types of lenders or loans should these apply to?
	Particular attention needs to be paid to ALL secured loans and all loans with an interest rate above 40% per annum.
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?
	A change is needed here as often the borrower provides incorrect or incomplete information to the lender and lenders do not ask enough questions to establish a complete picture. Using consumer advocates such as Financial Mentors (working through the Financial Capability Trust) to confirm affordability assessments would ensure that the assessment is accurate. *Currently this method of working is required by microfinance trusts.* *The impact on borrowers would be to discourage borrowing, it would markedly decrease the number of loans that were unaffordable but would require additional funding of financial mentors by MSD who contract out this work.*
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?
	Current codes are adequate. They need policing with penalties attached. This would decrease the number of unaffordable loans.

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?
	Agree with these costs and benefits.
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?
	Removing the Family Tax Credit as part of assessable income would protect this payment from being used for loan payments and keep it for the purpose it was intended for the basic well-being of children (roof over the head, food and clothes). This would reduce the borrowing capacity of many borrowers but if fees and charges were fair and reasonable the effect on capacity may not be huge and it would stop a spiral into poverty. For lenders it would provide a mandatory step towards responsibility and would reduce the amount of unaffordable loans being issued by high-cost lenders.
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.
	Support all the options provided. Would give priority to the registration and enforcement options over the responsibility ones as more likely to be cost effective and have more direct effect on stopping predatory lending. Enforcement option D is needed to regulate the industry and have an initial barrier to backyard start-ups. Enforcement option E is important for consumer protection.

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?
	Agree.
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?

	No suggestions on design of options. *Note that some predatory mobile traders target people with head injuries or limited capacity. I know of one person found with many unused clothing items in their room as unable to say "No". Heavy penalties should apply in these cases.*
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.
	Support both option A and B.

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?
	All lenders. Delegated to the Commerce Commission and subject to statutory criteria.
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?
	Agree.
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?
	No further suggestions
19	Which options for changes to fees regulation would you support? Which would you not support? Please explain how you made your assessment.
	Prefer Option B as it is straightforward and easy to administer.]
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 information on this.

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?
	It is an accurate picture. Often phone calls and texts come to a borrower's place of work and are so intense and disruptive that the borrower's job is put at risk. (Making a bad situation worse and ironically decreasing the ability of the borrower to pay back the loan). *Harassment by text or phone of vulnerable borrowers with emotional issues or mental health issues often results in paralysis, panic attacks and an inability to seek work. The process is detrimental to the aim of collecting debt. It also has major flow-on effects on health and relationships.* *Unaffordable repayment schedules are also common and often the borrower is not listened to. Moving to a reasonable and fair repayment rate often requires the intervention of a consumer advocate (usually a budgeter or a financial mentor) and this wastes valuable time.*
22	What information should be provided to borrowers by debt collectors? When and how should this information be provided?
	Support the information provided in Option A. Particularly important at the point when the debt is moved to debt collectors.
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?
	Agree.
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 suggestions.
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.
	Would support all five options presented and believe the best result may be a meshing of these different options. Option E is definitely needed as increasingly debts are going to third parties and there is no protection for the high collection charges they issue.

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 information to provide on this.
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.
	No information to provide on this.
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?

a) *Our Federation requests that a gender impact analysis of any proposed legislation arising from this review be undertaken to provide a full understanding of those affected. This is in line with CEDAW article 2 and article 13 which New Zealand has ratified.*

> ***CEDAW Article 13***
> *States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:*
> *(a) The right to family benefits;*
> *(b) The right to bank loans, mortgages and other forms of financial credit;*
> *(c) The right to participate in recreational activities, sports and all aspects of cultural life.*

It is important to consider the differential impact on women and men of the consumer credit and finance framework in New Zealand. The application of gender analysis to this issue may highlight the lack of access to fair credit for a large proportion of women thus reducing their opportunities and inclusion in civil, social and cultural life for them and their families.

b) *BPW NZ advocates for increased promotion of financial literacy as an <u>added</u> long-term protection for consumers.*

- *i. Education will provide some protection when dealing with lenders who take advantage of consumers' vulnerability, such as a lack of knowledge of credit options (financial literacy), the urgent need for credit to make non-discretionary payments, and English being their second language.*
- *ii Providing consumers with the tools to avoid unmanageable debt increases consumer confidence and works for healthier communities. The Ministry of Social Development is to be congratulated on the Building Financial Capability (BFC) work it is driving and further funding is required for this. There is considerable work required within schools to build the financial capability and*

resilience of school leavers.

c) *Some commercial banks support charitable trusts running micro-finance operations (eg Nga Tangata Microfinance) offering no or very low interest for debt relief or small loans. These operations make a huge difference and it could be that some tax incentives should be given to the major banks to be further involved with consumer microfinance.*

Any other comments

We welcome any other comments that you may have.

Business and Professional Women NZ's interest in this Bill is because we are committed to advocating for the well-being and empowerment of women and their families. We work for economic independence for women.

Current credit contracts do not protect the most vulnerable consumers and at heart the main issue is the lack of fair and equitable finance for all. Too many New Zealanders are not included financially in the economic life of the country and this weakens us all.

The New Zealand Government agreed to implement the Sustainable Development Goals (SDGs) as signed at the Commission of the Status of Women (CSW), United Nations, New York, March 2015. Prioritising financial inclusion helps create the conditions that may well bring the SDGs within reach:

SDG 1 *– A lack of access to basic financial services makes it difficult for the poor to take control of their economic lives. When people are included in the financial system, they are better able to climb out of poverty by investing in business or education.*

SDG 5 *– Financial services help women assert their economic power, which is key to promoting gender equality. Financial inclusion of women can create gender equality by giving them greater control over their finances.*

SDG 8 *– When poor people are excluded from the formal financial system, the foundations of shared economic growth are weak – effective financial systems can mobilize savings to finance productive economic ventures and improve the probability of successful innovations*

SDG 9 *– Access to financial services, particularly credit, is likely to allow more businesses to be started and allow existing firms to expand their services by enabling greater investment in inventory, labour, and other means of production*

SDG 10 *– By providing a foundation for equitable growth and improving the lives of the poor, financial inclusion helps reduce inequality and the likelihood of social turmoil.*