MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
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2018 Desk-based study of Lenders

An overview of the New Zealand lender landscape and lender advertising and disclosure practices

New Zealand Government

Contents

1. Background

1. Consumer credit contracts are a broad range of financial products that allow individuals to borrow to meet their needs. The *Credit Contracts and Consumer Finance Act 2003* (**'CCCFA'**) helps protect consumers when they are borrowing money. It applies to credit contracts, consumer leases, and buy-back transactions of land.

2. The Credit Contracts and Financial Services Law Reform Bill introduced a range of reforms to the legislation governing consumer credit contracts. The changes took effect on 6 June 2015 (**'2015 reforms'**). The main reforms included:

    2.1. the introduction of the lender responsibilities

    2.2. new requirements for repossessions, including licensing of repossession agents

    2.3. changes to disclosure requirements

    2.4. greater penalties.

3. A baseline of lender behaviour was established before the amended CCCFA came into force (the 2015 desk-based study of lenders). It was intended that the legislative changes would be evaluated in future years, and that comparison with the baseline would allow any behavioural changes to be identified.

4. Similar studies were conducted in 2011 and 2006.

    4.1. The 2011 desk-based study of lenders focused on finance companies and other lenders. The research examined the size and characteristics of finance companies and other lenders, and their advertising in print media and on the internet. It also looked at changes and emergent trends since the 2006 study.

    4.2. The 2006 study examined "fringe lenders". These were defined primarily by the fact that they weren't mainstream lenders (like banks, credit unions, or some finance companies). They acknowledged a range of characteristics that fringe lenders generally shared, including that they were small, specialised in personal cash loans, had high interest rates, had few credit checks and limited documentation, and targeted specific communities. The size, nature, and location of fringe lenders were examined, alongside common advertising themes, and methods of contact.

2. Objectives

5. Following a repeat of the 2015 methodology, this report provides data on the lender landscape and common advertising and disclosure practices in 2017/18. It also aims to highlight any changes in lender behaviour or the lender landscape that have occurred since the 2015 reforms came into force. Together, these contribute to understanding the effectiveness of the 2015 reforms and highlight areas that are remain an issue.

6. The purpose of this research was to support policy development, particularly in relation to the review of the CCCFA. This differs from the Commerce Commission's recent Lender Website Review[1], which was tailored towards monitoring and enforcement objectives.

7. This research aimed to answer questions around changes in the following areas:

    7.1. How clear and responsible is lender advertising?

    7.2. What are lenders' fees and interest rates, as disclosed on their websites?

    7.3. What kinds of content and themes are present in lender advertising?

    7.4. What is the number (and turnover) of lenders since 2015?

    7.5. What proportion of lenders are complying with registration and disputes resolution registration requirements?

8. This report does not attempt to prove causality, i.e. its analysis does not demonstrate that the 2015 reforms resulted in any of the changes observed.

9. MBIE is currently reviewing the 2015 reforms to assess their effectiveness and identify further improvements required to reduce irresponsible and predatory lending and resulting consumer harm. The results of this desk-based study of lenders have been considered in the writing of the discussion paper "Review of Consumer Credit Regulation". You can find the discussion paper at http://www.mbie.govt.nz/info-services/consumer-protection/review-of-the-credit-contracts-and-consumer-finance-act.

Legislative compliance

10. Some sections of this report measure compliance with legal requirements (e.g.section 5.2, which notes how many lenders comply with registration requirements).

11. However, it is important to note that the some of this research – particularly section 5.4 (advertising practices) – measures compliance with the Responsible Lending Code. The Responsible Lending Code is not binding. Its purpose is to offer guidance on how the responsible lending principles in the section 9C of the CCCFA should be met, but recognises that lenders might be able to comply with their legal responsibilities in other ways. Whilst compliance with the Responsible Lending Code is not deemed to be

[1] In May 2018, the Commerce Commission released its Lender Website Review. The purpose of this review was to "better understand the potential scale of lender non-compliance with the requirement to publish standard form contract terms and costs of borrowing, and to better understand the representations that lenders make about borrowers' rights to cancel their loans." Like this study, they also gathered information on interest rates and fees, but this was to ""contribute to more informed prioritisation of the Commission's credit portfolio." The report stated that they would use "the information and analysis along with other relevant information to help identify lenders who may not be complying with the fee provisions or making false or misleading representations about consumer rights under the Fair Trading Act." (p.3, Lender Website Review 2017/2018)

compliance with the lender responsibility principles in the CCCFA, lenders who comply with the Responsible Lending Code are considered to be more likely to be responsible lenders. Evidence of a lender's compliance with provisions of the Responsible Lending Code is treated as evidence towards compliance with the lender responsibility principles (see CCCFA, Part 1A, s9E(3)).

3. Methodology

12. In order to allow data collected and analysed in 2018 to be compared to the baseline data collected in 2015, the methodology replicates the methodology used in the 2015 lender study. It is very similar to methodologies used for lender studies in 2011 and 2006.

13. Table 1 sets out the information considered in this study.

Table 1: Scope of study

Areas examined	In scope	Out of scope
Advertising mediums	National, community and ethnic newspapers were reviewed as print media.	Advertising in other mediums such as billboards, radio, television, newsletters, magazines, and Google advertising. Social media platforms were also not fully analysed in the study. These were not examined because of resourcing and time constraints, and to maintain comparability with the 2015 study.
Disclosure	Lender websites.	Contractual documents, as these were not examined in the 2015 study. They were examined in the Commerce Commission's Lender Website Review.
Lenders	All providers of consumer credit.	Market actors who don't provide consumer credit. This included investment banks, providers of business credit, and savings-only banks. These were not examined because the CCCFA does not apply to them.
Market	Lenders offering services to New Zealand consumers.	Lenders based in New Zealand which serve overseas borrowers. These were not examined because the CCCFA does not apply to them.

14. First, we identified all lenders from the 2015 data set that were still active. A search was then conducted for 'new' lenders using the same search terms as the 2015 study (e.g. "cash advance NZ", "payday loan NZ"). Further detail of this process can be found in **Appendix 5**. The aim was to identify lenders that were currently active in the New Zealand consumer credit market. This method identified most – but not all – of the lenders in the market (as described in section four below). Statistics in this report are based only on the lenders identified using this methodology (not all lenders in New Zealand).

15. The types of lenders examined included:

15.1. **Registered banks:** Only banks that provided lending services to New Zealand consumers were included in this study. Savings banks and banks offering services exclusively to businesses were not included.

15.2. **Credit unions:** Financial institutions owned by their members. The list of credit unions and building societies from the 2015 study was again used in this study. Only those that offered lending services to New Zealand consumers were included in this study.

15.3. **Finance companies and other lenders:** A catch-all category of all other types of lenders, including non-bank deposit takers (other than credit unions and building societies), finance companies, high-cost short term lenders[2] (‘**HCST**’) and peer-to-peer lending providers. This category also includes retailers or their partners that offer credit contracts for their products. Finance companies and other lenders range in size from having a national presence to being single outlets run by an individual, and from having traditional brick-and-mortar offices, to mobile trucks, to online-only presences[3]. In this report, this category always excludes pawnbrokers and brokers unless they are specifically stated as being included.

15.3.1. To reflect the Responsible Lending Code requirements, **high-cost agreements** were also individually examined as a subset of this group. This includes lenders whose annualised interest rate is over 50%. It includes short term, high-cost lenders but may also include other lenders with high interest rates and medium or long loan terms. This group was checked for compliance with Code guidance that are specific to high-cost agreements (e.g. use of risk warnings). This group was not originally examined in the 2015 study, so we analysed the 2015 data to provide comparative information about this group.

15.4. **Pawnbrokers:** These are secondhand dealers who lend money on the security of goods, which they take possession over. If pawnbrokers also provided consumer credit contracts, they were included in this study. In 2015, this group was included in the catch all “other lenders” category. However, as their obligations under the CCCFA are different to other providers of consumer credit, they were excluded from the finance companies and other lenders category except where it explicitly mentions that they were included.

[2] HCST loans were defined as loans that would be fully repaid in a few weeks (often the next pay day) and which incurred a high level of interest (at least 50% per annum). Lenders generally advertised these on their websites as “pay day loans”. Not all high cost lenders (as specified in the Responsible Lending Code) are necessarily also short term lenders.

[3] By comparison, the 2011 study defined finance companies and other lenders as “all financial service providers providing personal (non-mortgage) credit to consumers directly, other than: registered banks; building societies; credit unions; brokers who do not directly provide credit; mortgage providers which do not provide other forms of consumer credit; entities which exclusively provide finance to business; and retailers offering credit sales…Finance companies and other lenders include finance companies, payday lenders and money lenders.”

15.5. **Brokers:** In 2015, brokers were included in the catch all "other lenders" category. However, as they do not have obligations under the CCCFA like other providers of consumer credit, they were excluded from the finance companies and other lenders category in this report. We did not include brokers in the 2015 data when providing comparative information in this 2018 report. Brokers were only examined in the non-English language newspaper sample in this study.

Table 2: Sample size and structure, 2018 and 2015

	Sample size and structure	
	2018	**2015**
Websites	One website from each of the following: • 12 banks • 12 credit unions and building societies • 12 pawnbrokers • 148 finance companies and other lenders	One website from each of the following: • 12 banks • 24 credit unions and building societies • 260 other lenders (including pawnbrokers and finance companies and other lenders)
Newspapers	125 advertisements found in the following sample across 116 newspapers: • 106 community newspapers • 8 national newspapers • 2 non-English language newspapers	371 advertisements found in the following sample across 147 newspapers: • 136 community newspapers • 8 national newspapers • 3 non-English language newspapers

16. Table 2 shows the sample size and structure. Data was collected on:

16.1. the size and shape of the lending industry (number and turnover of lenders, services offered, and compliance with registration requirements)

16.2. content and themes of newspaper advertising and lender websites (online storefronts). **Appendix 2** describes the types of content and themes examined

16.3. online disclosure practices (publication of costs of borrowing)

16.4. interest rates and fees. **Appendix 4** explains what data was collected on interest rates and fees.

17. **Appendix 1** has more information on the data collected and recorded in this study.

18. The study initially identified 196 finance companies and other lenders. However, due to resourcing constraints, 148 of these 196 finance companies and other lenders were randomly selected and examined in the study. Hence Table 2 notes that 148 finance companies and other lenders were examined.

19. These results were then compared to the 2015 baseline data (the 2015 desk-based study of lenders), as well as the 2011 and 2006 lender studies where possible. The

proportions of different lender types in the overall sample is different to the propotions in 2015. However, this is understood to be a reflection of the changing nature of the consumer credit industry. Therefore, using samples with different proportions of lender types remains valid.

20. Inter-rater reliability was a key concern within the study. One researcher analysed the newspapers, while an additional researcher joined to analyse the websites. For consistency between researchers, the criteria for each parameter were defined before data was collected. Cross-checking was carried out at regular intervals. MBIE's internal research and evaluation team was also consulted on the methodology and approach.

4. Limitations

21. The methodological focus on Google search terms (listed in **Appendix 5**) meant that finance companies that were particularly small or only had brick and mortar presences were not included in the study. The researchers are aware that the Commerce Commission's Lender Website Review identified considerably more players in the lending idustry, presumably for this reason. As we wanted to ensure that the study was comparable with previous desk-based lender studies conducted by MBIE, we did not examine lenders that could not be identified through the methodology used in previous years.

22. To maintain comparability to the 2015 study, information on the types of loans that lenders provided was only accessed through their websites. Future studies could contact lenders to get more information around the types of services they provide.

23. Some sample sizes were very small. For example, only 12 banks were examined. Where percentages are included in tables, they should be treated with caution.

24. To maintain comparability, the types of loans examined were the same as those examined in the 2011 and 2015 studies. As the types of loans offered have changed over time, and new loan types have emerged, these categories may no longer be the most relevant ones. For example, HCST loans were a relatively new category in the 2006 lender study and so were not recorded, but are now much more widespread.

25. Analysis of advertising was limited to newspaper advertisements. Screenshots were also taken of Google advertisements and Facebook pages to enable future comparisons. This study did not include advertising on radio, television, YouTube, billboards, shop fronts. This was primarily due to resource constraints.

26. To maintain comparability to the 2015 report (and due to resource constraints), analysis of social media was limited to a count of which lenders had New Zealand operated Facebook pages. We acknowledge that this is a relatively limited examination of this medium. Overlaps between social media as an advertising platform and its use as a website (online shop) were also not examined in this study.

27. The desk-based medium of this study means that MBIE cannot know whether lenders had disclosed all (mandatory and optional) fees on their websites and advertisements. However, identifying this type of non-compliance with the CCCFA is the role of the Commerce Commission (as the regulator).

28. Not all disclosure requirements were measured. However, the Commerce Commission's Lender Website Review provides insights into some areas not examined in this study.

29. The 2018 study replicated the 2015 lender study as far as possible to maintain comparability of results.However, the 2006 study used a different definition of finance companies and other lenders to other studies and called them "fringe lenders". This limited comparability with the 2006 findings.

5. Results

5.1 Shape and size of the lending industry

30. The study identified 232 lenders who provide credit to consumers[4]. This was comprised of 12 banks, 12 credit unions and building societies, 12 pawnbrokers and 196 finance companies and other lenders. Compared to the 2015 baseline[5], by 2018 there was a 50% decrease in the number of credit unions and building societies, a 5% decrease in finance companies and other lenders and pawnbrokers, and no change in the number of banks.

31. Although this research suggests that the number of lenders operating has decreased since 2015, other surveys suggest that the dollar figure size of the lending industry (i.e. the volume of lending) has grown. The KPMG Non-banks Financial Institutions Survey for the year ended September 2017 highlighted 10% growth in net profit after tax across the non-banking sector. It does not identify industry-wide reasons behind the growth. The KPMG Financial Institutions Survey (for banks) notes that the five largest banks in NZ all increased their loan books by between one and eight per cent in 2017. However, it is important to note that these studies defined "lenders" differently to this desk-based study of lenders by only looking at the biggest lending institutions.

32. There was also a high level of turnover amongst finance companies and other lenders, as shown in table 3 below. There are limitations to this analysis in that the specific companies and directors most commonly exiting and entering the market were not within scope of the data collected, so phoenix companies and name changes cannot be controlled for. Nonetheless, this high – and increasing – turnover rate strongly contrasts with the banking sector (for which there was no turnnover between 2015 and 2018).

[4] Another study was conducted at a similar point in time, but used a different methodology to identify lenders. It found 340 lenders in total.

[5] The 2015 Study identified a total of 12 banks, 24 credit unions and building societies, and 206 finance companies and other lenders and pawnbrokers (260 including brokers).

Table 3: Churn (rate of company turnover) amongst finance companies and other lenders, 2006 to 2018

Time period	Turnover amongst finance companies and other lenders (%)	Period of time in which turnover occurred
2006 - 2011	44%	5 years
2011 - 2015	46%	4 years
2015 - 2017	35%	2 years

Lending services offered

33. Table 4 lists the types of loans offered by lenders in 2018. The most common types of loans offered by banks are home loans, followed by cash or personal loans and debt consolidation loans. By contrast, other lenders most commonly provide cash or personal loans.

34. Loans were categorized based on the uses described on the lender's website. For example, if it was advertised or described as a "vehicle loan", it was included in that category, whereas a cash loan that could technically be used to buy a car would not be included in the 'vehicle loan' category.

Table 4: Lending services offered by lenders, 2018

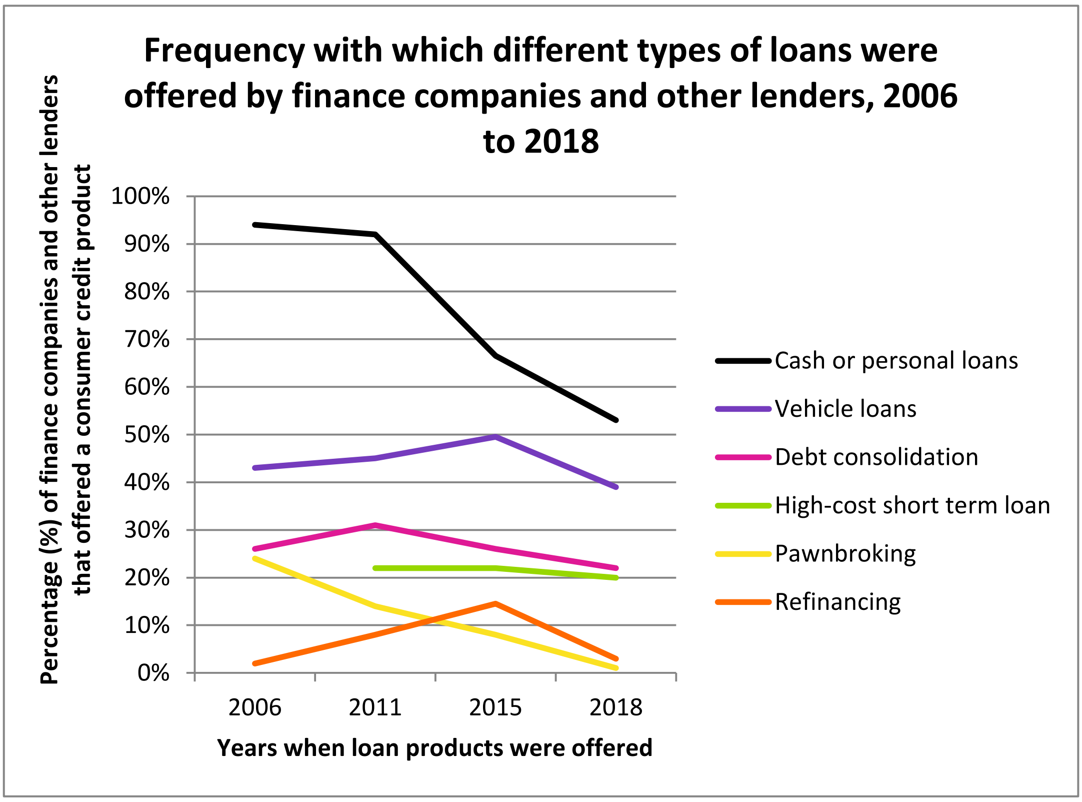
Lending services	Registered banks (n=12)	Credit unions and building societies (n=12)	Finance companies and other lenders (n=148)
Cash or personal loans	9 (75%)	12 (100%)	79 (53%)
Vehicle loans	5 (42%)	8 (67%)	58 (39%)
Debt consolidation	7 (58%)	8 (67%)	32 (22%)
High-cost short term loan	0	0	29 (20%)
Pawn broking	0	0	2 (1%)
Refinancing	0	0	4 (3%)
Home loans	11 (92%)	10 (83%)	20 (14%)

Note: Percentages (in brackets) are the percentage of the total number of lenders in that market sector which provided each loan type. For example, 79 of 148 finance companies and other lenders - which represent 53% of finance companies and other lenders in the sample - offered cash or personal loans.

35. Finance companies and other lenders (excluding pawnbrokers and brokers) provide the widest array of loan types. This may be reflective of the diversity of this catch-all category, or of the fact that products like HCST loans are not generally acquired by mainstream banking customers (because of their access to credit cards).

36. The mix of products offered by lenders over the past decade has changed. Figure 1 illustrates this change. The graph shows the percentage of the market that offered each type of loan[6]. It reveals that even though cash loans continue to be the most common loan type offered, their ubiquity has decreased since 2006. Questions remain around whether this is due to finance companies and other lenders providing greater volumes of more targeted services (e.g. a rise in lenders who only provide vehicle loans), if potential customers are now preferring alternative products to cash loans (e.g. MSD loans, bank credit cards, or black market credit sources), causing lenders to drop cash loans from their product offerings, or for other reasons.

Figure 1: Types of loans offered by finance companies and other lenders (excluding pawnbrokers and brokers), 2006 to 2018



Interest rates and fees charged by lenders

37. This section describes the interest rates and fees charged by lenders. A description of the disclosure of those charges can be found in section 5.3.

38. Interest rates (both the ‘borrowing’ interest rate and the default interest rate) and fees charged by different lenders vary widely. Figure 2 shows the range of annualised interest rates charged across the lending industry.

[6] The total percentage of loans offered in each year is greater than 100 because some lenders provide multiple types of loans (meaning they were counted multiple times).

39. The interest rate varied widely between different types of lenders, with the highest interest rates being offered by finance companies and other lenders, and the lowest being offered by banks.

39.1. Bank interest rates range from 4% to 30% per annum. The majority of interest rates are between 5.6% and 14%. The median interest rate is 6.5%. The lower interest rates are generally offered for home loans, and the higher rates are for unsecured personal loans (such as credit cards).

39.2. Credit unions and building societies offer relatively similar rates. Interest rates range from 4.5% to 30% per annum, with most interst rates sitting between 5.8% and 14%. The median interest rate is higher than the banks, sitting at 9.5%.

39.3. Other lenders charge between 0% and 803% in annualised interest rates. The majority of interest rates are between 13% and 45%, with a median interest rate of 26%. This suggests that most finance companies and other lenders have interest rates below 50%, and only comparatively few players charge significantly more than this.

40. The range of fees charged to consumers varied considerably. Table 5 shows the range and median of fees that borrowers might incur for a loan. Common fees charged include establishment fees, credit checking, registration fees, processing fees, and management fees.

Table 5: Range and average of normal fees applied, 2018

Fees applied	**Total fees (excluding default fees)**	
	Range	Median
Banks	\$0 - \$673	\$148
Credit unions and building societies	\$0 - \$2,000	\$50
Finance companies and other lenders	\$0 - \$3,500	\$272

41. A number of lenders displayed additional interest and fee charges that would be applied if borrowers defaulted on loans. As with general fees, as the number of default fees displayed increased, the total value of those fees also generally increased.

42. Table 6 shows the range and median of individual mandatory fees a borrower would be required to pay if they defaulted, as well as default interest rates. It shows that, on average, finance companies and other lenders charge higher default interest rates *and* higher default fees than other types of lenders (i.e. there are more severe penalties for defaulting on loans from finance companies and other lenders).

Table 6: Range and average of default charges applied, 2018

Default charges applied	Default interest		Default fees	
	Range	Median	Range	Median
Banks	0% - 22.5%	0%	$0 - $895	$35
Credit unions and building societies	0% - 24%	0%	$0 - $100	$25
Finance companies and other lenders	0% - 537%	5%	$1 - $4,750	$45

43. In some instances, it was unclear how the default interest was applied to the defaulted loan balance.

44. This data was not collected during the establishment of the baseline in 2015, so the rates cannot be compared over time.

Figure 2: Interest rates across the lending industry

Online and digital lending

45. All banks had active websites, as do the vast majority of credit unions, building societies and finance companies and other lenders. Online applications and Facebook pages were utilised by credit unions and building societies significantly less than other categories of lenders.

46. Table 7 summarises the use of websites, Facebook and online applications by all lenders. Compared to 2015, credit unions have significantly increased their online presence. All credit unions in the sample have a working website, and the majority have online application functions. One fewer bank is offering online applications compared to 2015.

47. Some websites only worked on a mobile device and could not be accessed by desktop computer (e.g. there was a mobile app where loan applications were completed).

Table 7: Online presence of lenders, 2018

	Registered banks (n=12)	Credit unions and building societies (n=12)	Finance companies and other lenders (n=148)
Working websites	12 (100%)	12 (100%)	117 (79%)
Online application[7]	7 (58%)	7 (58%)	100 (67%)
New Zealand Facebook page	9 (75%)	3 (25%)	57 (39%)

Note: Percentages provided in brackets are out of the number of total lenders in each category

5.2 What proportion of finance companies and other lenders are complying with registration and disputes resolution registration requirements?

48. Creditors offering consumer credit must be a registered as a Financial Service Provider. Under section 48 of the Financial Service Providers (Registration and Dispute Resolution) Act 2008, they must also be a member of a Disputes Resolution Scheme.

49. Compliance with registration requirements in our sample was high. In 2018, all banks, credit unions and building societies were registered correctly on the Financial Services Provider Register (FSPR) and Companies Office. Table 8 shows that only a few finance companies and other lenders were not correctly registered, and that this is a significant improvement from previous years.

50. A small number of finance companies and other lenders had been deregistered from the Financial Service Providers Register but appeared to still be lending (e.g. advertisements in newspapers or active websites). They may explain the non-registered portion of finance companies and other lenders (either because they were registered under a new name, or because they were lending whilst deregistered).

[7] A lender was counted as having an online application facility when at least one of their products could be applied for online. When websites had statements like “click here to start your application” or “easy online application”, the lender was assumed to accept online applications. However, they may not have offered online applications for all of their products, and the process may not have been entirely online (e.g. phone conversations may have been part of the process). Online inquiry forms and forms to print and take to a branch were not considered to be online applications.

Table 8: Registration of finance companies and other lenders on the FSPR, 2011 to 2018

	2018: % of registered finance companies and other lenders	2015: % of registered finance companies and other lenders
Financial Services Provider Register (FSPR)	88% (130 lenders)	67% (179 lenders)
Dispute Resolution Scheme	90% (133 lenders)	67% (177 lenders)
Companies Office Register	94% (139 lenders)	86% (232 lenders)

5.3 Disclosure: Are lenders providing information on fees and interest rates on their websites and in newspaper advertisements?

51. The CCCFA (section 17) requires that lenders ensure that consumers receive key information relating to the loan, prior to entering into the contract. The CCCFA lender responsibilities (section 9C(3)(b)(i)) further requires that lenders assist borrowers in making an informed decision by making them aware of key facts about the loan.

52. The following sections measure the level to which the Responsible Lending Code guidance is being adhered to by lenders, as an indicator of how reponsible lender advertising currently is. The Responsible Lending Code suggests how advertising could be responsible. It recommends:

    52.1. using clear, easily understood language

    52.2. avoiding misleading or untrue statements

    52.3. giving an accurate portrayal of the total cost of borrowing, including by stating: the annual percentage interest rate if an interest rate is mentioned; any ascertainable fees; and the total amount repayable if an amount of regular repayments is mentioned

    52.4. stating the period for which any discount applies

    52.5. including a risk warning for high-cost credit agreements.

53. Table 9 shows the frequency of disclosure on websites and in newspaper advertisements. Data was collected on whether lenders disclosed key elements about the loan like interest rates and fees.

Table 9: Disclosure practices of banks, and finance companies and other lenders (excluding pawnbrokers and brokers), 2015 and 2018

	Finance companies and other lenders				Banks			
Where used	Websites (%)		Newspapers (%)		Websites (%)		Newspapers (%)	
When used	2018 (n=119)	2015 (n=186)	2018 (n=116)	2015 (n=364)	2018 (n=12)	2015 (n=12)	2018 (n=6)	2015 (n=9)

Interest rate disclosed	80%	36%	23%	13%	100%	92%	50%	56%
Fees disclosed	87%	29%	13%	19%	83%	75%	33%	40%

54. As Table 9 shows, disclosure has significantly improved since the 2015 amendments for most disclosure requirements examined in this study. In particular, finance companies and other lenders have improved their disclosure practices. From 2015 to 2018, disclosure of interest rates on finance companies and other lender websites more than doubled (from 36% to 80%), whilst their disclosure of fees almost tripled (from 29% to 87%). The majority of interest rates advertised were displayed as a range.

55. The study shows that banks had higher levels of disclosure than other types of lenders. Whilst they are more likely to provide interest rates and fees in newspaper adverts, this gap is closing in the online space. In 2015, 36% of finance companies and other lenders disclosed their interest rates on their websites, compared to 92% of banks. In 2018, 80% of finance companies and other lenders and 100% of banks disclosed their interest rates online.

56. There is better disclosure on websites than in newspaper advertisements. Websites are far more likely than newspaper advertisements to have the interest rates and fees noted. Whilst this can be partially attributed to the type of medium (where adverts are much shorter in form than websites), this lack of disclosure in advertising remains problematic for consumers.

57. Lenders often charged multiple fees[8], or presented fees as a range of possible charges instead of a single figure. These could be categorised into three areas: establishment fees; general fees; and default fees. Lenders used a number of different titles for different types of fees; up to 36 different fees were disclosed that could be charged to a loan. The median number of fees potentially charged by lenders was between two and three.

5.4 Advertising practices: how clear and responsible is lender advertising?

58. The CCCFA lender responsibilities (section 9C(3)(b)(i)) require that advertising is not misleading, deceptive, or confusing to borrowers. This is part of the requirement that lenders assist borrowers in making an informed decision by making them aware of key facts about the loan. This section measures compliance with this lender responsibility.

[8] Behavioural economics theory emphasizes that this type of pricing strategy can have a negative effect on consumers' abilities to make informed decisions. Unlike with single figure prices, consumers use simplifying strategies, or heuristics, to understand prices with multiple components. They heavily rely on the headline price in their decision-making process (such as the interest rate), and incompletely factor in other costs. As a result, consumers underestimate the overall price.

Table 10: Disclosure practices of banks and finance companies and other lenders (excluding pawnbrokers and brokers), 2015 and 2018

	Finance companies and other lenders				Banks			
Where used	Websites (%)		Newspapers (%)		Websites (%)		Newspapers (%)	
When used	2018 (n=119)	2015 (n=186)	2018 (n=116)	2015 (n=364)	2018 (n=12)	2015 (n=12)	2018 (n=6)	2015 (n=9)
Weekly repayments advertised[9]	48%	45%	4%	32%	25%	58%	17%	11%
Relevance of circumstances noted[10]	72%	75%	49%	24%	100%	25%	50%	0%
Legible fine print	100%	83%	90%	32%	100%	50%	100%	33%

59. Table 10 summarizes key indicators of compliance with responsible advertising practices recommended in the Responsible Lending Code (as opposed to the legislative compliance of lenders).

59.1. It is encouraging to note that – within the sample – websites for all banks, bank newspaper ads, and websites for finance companies and other lenders used legible fine print. When advertising in newspapers, finance companies and other lenders used legible fine print in 90% of the sample. This is a significant improvement from 2015, the majority of newspaper advertisements had illegible fine print, and only 50% of bank websites and 83% of finance companies' and other lenders' websites had legible fine print.

59.2. When disclosing the relevance of individual circumstances, banks have improved in their disclosures, (25% in 2015 to 100% in 2018). This has remained static on finance companies' and other lenders' websites, with 72% noting this in 2018, compared to 75% in 2015.

59.3. Disclosure of weekly repayment amounts has decreased in finance companies' and other lenders' newspaper advertisments and bank websites. Advertising of weekly repayments in newspaper advertisements of finance companies and other lenders dropped from 32% in 2015 to 4% in 2018. Use on bank websites dropped from 58% in 2015 to 25% in 2018. However, websites of finance companies and other lenders continue to disclose weekly repayments at about the same rate (48% in 2018 compared to 45% in 2015).

[9] The Responsible Lending Code recommends that weekly repayments only be used alongside the total amount payable under the agreement. Where the total amount payable under the loan is not ascertainable or other specific circumstances apply, additional information regarding interest rates and fees should be provided alongside it.

[10] That is, the advertisement or website makes clear that borrowers will be assessed based on their individual financial situation, and that this will affect their eligibility for the advertised loan.

60. Risk warnings are still used relatively infrequently in advertisements for high-cost agreements[11]. In 2018, they were used in only 35% of high cost lenders' websites.

Newspapers

61. 106 community newspapers, 8 national newspapers, and 2 non-English language newspapers were examined. They contained 125 advertisements by lenders. The advertisments were spread across 52 community papers (49% of community newspapers examined), 4 national papers (50% of national newspapers examined), and 2 non-English language newspapers (100% of non-English language newspapers examined).

    61.1. Of the 125 advertisements found in the 2018 newspaper sample, the following lenders were responsible for placing newspaper ads:

        61.1.1. Finance companies and other lenders – 119 adverts

        61.1.2. Credit unions and building societies – 0 adverts

        61.1.3. Banks – 6 adverts

        61.1.4. Brokers – 20 adverts (not included in the analysis below)

62. Finance companies and other lenders placed far more advertisements in community newspapers and non-English language newspapers than other types of lenders. The majority of newspaper advertisements were subsequently for finance companies and other lenders.

63. Some lenders use print advertising far more than others; just 23% of all finance companies and other lenders in this study (34 lenders)were responsible for all of the newspaper advertisements by finance companies and other lenders. One lender was solely responsible for 19 advertisements in the sample.

64. Whilst the total number of newspaper advertisements is lower than previous years, this may be due to newspapers generally becoming a less ubiquitous advertising medium. The decrease in the use of newspaper advertising is unlikely to be related to the 2015 CCCFA amendments.

Non-English language newspapers

65. Six advertisements by finance companies and other lenders, and two bank advertisements in non-English newspapers, were examined in 2018. Only newspapers that were examined in 2015 were included in the initial sample, for comparability purposes. However, as one of the non-English language newspapers from 2015 no longer existed, only 2 newspapers were examined in total.

[11] The Responsible Lending Code states that only providers of high-cost credit agreements should include risk warnings. These should explain to consumers that the loans are not for long-term borrowing or regular use.

66. None of the advertisements in our sample fulfilled voluntary disclosure requirements. There were no interest rates or fees listed and no risk warnings.

5.6 What kinds of content and themes are present in lender advertising?

67. Lender websites and newspaper advertisements reflected the use of a range of different themes. To maintain comparability with the 2015 study, the following content and themes were examined:

   67.1. **Aspiration:** where the advertising targets the wants or desires of consumers to promote credit products.

   67.2. **Flexibility:** where it is stressed that the range of amounts that can be borrowed or where a wide variety of reasons for taking out a loan are listed.

   67.3. **Incentives:** where rewards or discounts are offered for taking out credit or referring others to a lender.

   67.4. **Normality:** where the idea is portrayed that lots of people use these services and it is common to do so.

   67.5. **Speed and ease:** where it is communicated that it is easy to borrow from the lender and that credit can be obtained quickly.

Case study (A) – a bank advert that emphasizes incentives to borrow

The advertisement emphasizes that borrowers will receive an island holiday if they take out a home loan. It aims to incentivise borrowers.

68. **Appendix 2** contains more detailed definitions of the advertising themes examined in this section of the report. There are also a number of case studies throughout this section, which highlight how these themes are used by lenders.

69. Whilst none of the themes are inherently compliant or non-compliant with the CCCFA lender responsiblities or the Responsible Lending Code, they provide important context to the way in which loans are advertised. For example, an advertisement that

emphasizes the speed and ease with which a loan can be acquired is not necessarily an irresponsible loan. However, if the lender also emphasizes that no credit checks are undertaken or there are similarly few enquiries into the affordability of the loan, it is more likely that the theme is being used in the context of irresponsible lending.

Table 11: Use of Advertising characteristics of banks and finance companies and other lenders, 2015 and 2018

	Finance companies and other lenders				Banks			
Where used	Websites (%)		Newspapers (%)		Websites (%)		Newspapers (%)	
When used	2018 (n=119)	2015 (n=186)	2018 (n=116)	2015 (n=364)	2018 (n=12)	2015 (n=12)	2018 (n=6)	2015 (n=9)
Aspiration	16%	26%	3%	22%	8%	33%	0%	11%
Flexibility	48%	67%	23%	73%	58%	92%	0%	78%
Incentives	17%	14%	22%	16%	0%	50%	60%	33%
Normality	55%	41%	3%	7%	25%	42%	0%	11%
Speed and ease	73%	63%	37%	46%	25%	50%	0%	33%

70. Table 11 shows that there were significant differences in the themes used by lenders across different mediums. Different audiences were also targeted using different messaging. For example, websites for finance companies and other lenders strongly featured speed and ease and normality, whereas banking websites emphasized flexibility of loans or services offered.

71. Half of the banking advertisments in the sample used incentives. Case study A is an example of this. The use of incentives by banks was high compared to the use of incentives by finance companies and other lenders. By contrast, they didn’t use the range of other themes that have previously been seen in newspaper banking advertisements.

72. As in 2015, the websites of credit unions and building societies in 2018 placed an emphasis on normality. They regularly highlighted that they were owned by their members, and sponsored community initiatives.

73. Finance companies and other lenders emphasized speed and ease strongly on their websites. Case study B exemplifies this. This may be attributed to the increasing use of online applications. There was considerably less use of flexibility or aspiration compared to the 2015 study.

74. Normality was achieved through testimonials, images of staff and an emphasis on being a local company. Others had smiling children on their home pages to suggest that they were an everyday, family-first company.

Targeting

Case study (B) – same day loans

A central theme in both of these advertisements is the speed and/or ease with which loans are approved. Both say that loans are approved the same day they are applied for.

75. Targeting is a technique that is used to attract a particular group of people.

76. The majority of finance companies and other lenders’ websites did not overtly target any specific group of consumers. When targeting was used, it was most often aimed at families, vulnerable consumers (low income earners, those with little or no savings, migrant groups, and young people), and groups like trades people and first home buyers.

77. By comparison, more newspaper advertisements by finance companies and other lenders engaged in targeting. A number of newspaper advertisements targeted vulnerable consumers.

Case study (C) – Advertisement in a Samoan language newspaper

This advertisement targets Samoan consumers with its reference to fa’alavelave (contributing money to family in Samoa).

The advert says:

“if you need help for:

- Making mortgage repayments
- Mechanical repairs for your car
- Emergency assistance, or
- Money to send over to Samoa…”

78. As in 2015, in 2018 almost all adverts in the Samoan language paper were very targeted in their cultural references. For example, advertisements mentioned societal

and cultural obligations the credit could be used for (see case study C). The fact that they were in a non-English language paper also made them more targeted than other adverts.

6. Conclusion

79. This report has noted that lender advertising and disclosure practices are generally improving compared to the 2015 baseline. It is encouraging to note that some lenders are increasingly complying with guidance in the Responsible Lending Code.

80. However, like the Commerce Commission's Lender Website Review, it identifies that a significant level of irresponsible or otherwise concerning behaviour continues to occur across the industry.

81. The key findings from this study are:

    81.1. There is a high turnover of lenders across the industry, and this rate of turnover appears to be increasing.

    81.2. Some finance companies and other lenders have very high interest rates and fees.

    81.3. Online lending is increasingly common.

    81.4. Adherence with the Responsible Lending Code is generally increasing, and some lenders' compliance is very high. However, this is inconsistent across the industry.

Future directions

82. The results of this study have been considered in the writing of a discussion paper on the CCCFA. You can find out more details of this at http://www.mbie.govt.nz/info-services/consumer-protection/review-of-the-credit-contracts-and-consumer-finance-act.

83. The results of this study will also be considered during any future updates to the Responsible Lending Code.

84. The data used in this study will be shared with the Commerce Commission for monitoring and enforcement purposes.

7. Appendices

Appendix 1: Information collected and recorded in this study

Appendix 2: Definitions of advertising themes

Appendix 3: Definitions of other advertising practices

Appendix 4: Definitions of key terms related to interest rates and fees

Appendix 5: Detailed description of methodology

Appendix 1: Information collected and recorded in this study

85. A range of information was collected during the data collection phase of this study. To maintain comparability, the same information was collected in this 2018 study as in the 2015 study.

86. Publicly available data was collected from active lenders with an online (website) presence.

87. Advertising data was also collected from national newspapers, community newspapers, and non-English language newspapers. Newspapers published in October and November 2017 were randomly selected for inclusion in the study. Non-English language newspapers were included and examined based on our ability to find and translate them within the project time frame.

88. Information collected about lenders' websites included:

    88.1. **Business details:** name; number of outlets; region; website URL; Facebook URL; company registration; Financial Service Providers registration; Companies Office registration.

    88.2. **Services provided:** online application; cash or personal loans; vehicle loans; debt consolidation; refinancing; retailer providing lending services; credit card; mortgages; other (e.g. insurance, marine loans).

    88.3. **Information on fees and rates:** credit fees (dollar amount); default fees (dollar amount); interest rate (per annum).

89. Information collected about both lenders' websites and loan newspaper advertisements included:

    89.1. **Content and themes:** target groups; speed and ease; flexibility; normality; incentives; aspiration.

    89.2. **Advertising practices:** legible fine print; reference to interest rate (and annual interest rate, if provided); discount offered (and period of offer, if provided); repayments, and if they also provide total repayable under the loan; risk warnings; and celebrity endorsements.

Appendix 2: Definitions of advertising themes

For the sake of comparability, the research definitions are the same as those used in the 2015 study.

Term	Research definition	Examples
Aspiration	Where the advertising targets the wants or desires of consumers to promote credit products.	• images of luxury items such as boats, luxurious or expensive cars, holiday destinations • wording such as “make your dreams come true today”, “get that boat you have always wanted”
Flexibility	Where it is stressed that the range of amounts that can be borrowed or where a wide variety of reasons for taking out a loan are listed.	• “loans for any reason”, “loans from $50 to $5000”
Incentives	Where rewards or discounts are offered for taking out credit or referring others to a lender.	• “refer a friend and go into the draw to win big”, “‘like’ our Facebook page and go into the draw to win cash prizes” • “0% p.a. interest on credit card for 12 months”
Normality	Where the idea is portrayed that lots of people use these services and it is common to do so. This also includes where a ‘personal touch’ is used in advertisements.	• “Friendly team”, “be part of the family” • testimonials from customers and the use of staff pictures and details
Speed and ease	Where it is communicated that it is easy to borrow from the lender and that credit can be obtained quickly.	• “Quick and easy”, “Five minute loans”
Target groups	Where specific techniques are used to attract a particular demographic.	• images of Pacific peoples or young families (seen as targeting that demographic group)

Appendix 3: Definitions of other advertising practices

For the sake of comparability, the research definitions are the same as those used in the 2015 study.

Term	Research definition	Example	Relevant Responsible Lending Code provisions
Illegibility	This was determined by looking at the size and colour of the text and background on the website or advertisement.	• light grey fine print on a white background • fine print that cannot easily be read by the naked eye	3.2(b) A lender should make sure key information is legible, or audible, or both, and take care to disclose information in a level of detail that is commensurate with its importance
Reference to an interest rate	This refers to a particular numerical percentage value, start point or range. It is not simply reference to the words "interest rate".	• "interest rates 16.95–29%" • "Interest starts from 16.95%"	
Interest rate annual percentage	Where the interest rate for a whole year (annual) is given, rather than just a monthly fee/rate. It must clearly state that this is annual.	• "interest charged at 700% p.a.", "annual interest rate of 16.95%"	3.3(b) When referring to an interest rate or an amount of interest, a lender should: (i) display an annual percentage interest rate at least equally prominently as any other interest rate or amount of interest, and; (ii) note prominently if that rate is fixed, variable or capped.
Repayments	A reference to a numerical repayment amount. This could be in weekly, fortnightly or monthly instalments. It must be given in a numerical form, and not just state 'low repayments'.	• "repayments as low as $50" • "get $1,000 today and pay back just $100 a month"	3.3(c) When referring to the amount of regular repayments for a particular term loan: (i) include the total amount payable under the agreement if ascertainable (subject to certain circumstances); or (ii) where the total amount payable is not ascertainable…state how the total amount payable under the agreement will be calculated…

Term	Research definition	Example	Relevant Responsible Lending Code provisions
Total repayable under the loan	When the referred loan repayments also included the fees and interest rates, providing the total amount payable over the life of the loan.	• loan calculator which gives the total amount to be paid, including fees, and annual interest rate (not just instalment amounts)	3.3(c)(ii) where the total payable under the agreement is not ascertainable…state how the total amount payable will be calculated, which may be by including an annual percentage interest rate, and stating whether fees apply. If fees apply, provide details of the amount of any establishment fees and any other mandatory fees payable at the beginning of the agreement.
Circumstances relevant	Material states that a borrower's financial situation is relevant to obtaining a credit contract from a lender, or a borrower's current financial circumstances will influence their credit contract application or the fees they will be charged.	• lenders that state they will inquire into a borrower's personal financial situation, e.g. by checking credit history • criteria that borrowers must meet before they enter a credit contract, such as being employed or having to provide bank statements	3.4(b) A lender should not make claims that suggest the lender will not enquire into the borrower's circumstances in making a lending decision in advertisements. 3.5 A lender should not imply that the lender will not take into account a borrower's circumstances in making lending decisions, such as claims along the lines of "bankrupt – OK", "bad credit history – OK".
Discount period	If a discount on a credit contract is given, the timeframe for which the discount applies is also given.	• "50 days' interest free", "6 months' interest free if you spend over $250" • "Interest-free period" was not seen as providing the discount period	3.3(e) When including details of interest rates or fees that apply for an initial promotional period, state the period for which the discount applies, and: (i) where ascertainable, what the interest rate or fees will change to after that initial promotional period; or (ii) where subsequent interest rate is not ascertainable, the fact a higher interest rate may apply or how the subsequent interest rate will be calculated.

Appendix 4: Definitions of key terms related to interest rates and fees

For the sake of comparability, the research definitions are the same as those used in the 2015 study.

Terms	Research definition	Examples	CCCFA, section 5
Credit fees	Fees payable by the borrower under the credit contract.	• establishment fees • prepayment fees	Fees or charges payable by the debtor under a credit contract, or payable by the debtor to, or for the benefit of, the creditor in connection with a credit contract, and: (a) includes: (i) establishment fees; (ii) prepayment fees as defined in section 43(2); (iii) insurance premiums payable for credit-related insurance…; (iv) fees and charges payable as referred to in section 45 (b) does not include: (i) interest charges; (ii) charges for an optional service; (iii) default fees: (iv) government charges, duties, taxes, or levies; (v) fees and charges payable…if the other person or agency is not an associated person of the creditor.
Default fees	Fees or charges payable on a breach of the credit contract by a borrower, or on the enforcement of a credit contract by a lender.	• non-payment fee	Fees or charges payable on a breach of a credit contract by a debtor or on the enforcement of a credit contract by a creditor. It does not include default interest charges.
Default interest	Interest charged when the borrower breaches the credit contract.	• “interest of 350% p.a. will be charged if the borrower defaults on a payment”	Additional interest charges payable on a breach of a credit contract by a debtor.
Annual interest rate	A charge occurring over time determined by applying rate to an amount owing. To count as an annual interest rate, it had to be expressed annually.	• “16.95% p.a.”	A rate specified in the credit contract as an annual interest rate.

Appendix 5: Detailed description of methodology

90. The following method was used to identify lenders for inclusion in the 2018 study. To maintain comparability, it is a replication of the method used in the 2015 study.

Existing lenders

91. A review was undertaken of the list of finance companies and other lenders from the 2015 study to determine which of these lenders were still in operation. To confirm which lenders from the 2015 list still existed, the names of each lender on the 2015 list were searched in the following online search engines:

    91.1. Google (www.google.co.nz)

    91.2. New Zealand Companies Office Register (www.business.govt.nz/companies/app/ui/pages/companies/search)

    91.3. Yellow Pages Online Directory (www.yellowpages.co.nz)

    91.4. New Zealand Online Business Directory (www.finda.co.nz).

92. As in the 2015 study, lenders were considered to still be in operation if they had an online presence in at least two of the four search engines above. These lenders were then added to the 2018 Other Lenders list. Lenders who appeared on fewer than two of the lists generated by search engines were not transferred to the 2018 list.

New lenders

93. New lenders were found on Google using the first 40 hits (here, four pages) of the following search terms. The terms used in this research were the same as those used in the 2015 and 2011 studies:

    93.1. cash advance NZ

    93.2. finance – mortgages and loans NZ

    93.3. finance – motor vehicle NZ

    93.4. finance companies NZ

    93.5. financial services NZ

    93.6. money – cash and loans NZ

    93.7. money lenders NZ

    93.8. pawnbrokers NZ

    93.9. personal finance NZ

    93.10. pay day loan NZ

93.11. payday loan NZ.

94. To avoid duplicating lenders, search results were then cross-checked against the existing 2018 list of Other Lenders. New lenders picked up by search results were added to the final 2018 list.