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CREDIT RECOVERIES LIMITED
DEBT COLLECTION SPECIALISTS

Monday 23 July 2018

Competition & Consumer Policy
Building, Resources and Markets
Ministry of Business, Innovation & Employment
PO Box 1473
Wellington 6140

To Whom I May Concern:

RE: SUBMISSION IN RESPONSE TO DISCUSSION PAPER – REVIEW OF CONSUMER CREDIT REGULATION

Firstly, I would like to take this opportunity to thank the Ministry of Business, Innovation and Employment (MBIE) as well as the Minister of Commerce and Consumer Affairs, Hon Kris Faafoi for the opportunity to respond to the discussion paper relating to the Consumer Credit Regulation review.

Credit Recoveries Limited (CRL) is a small debt collection agency based in Blenheim specialising in contingent debt collection solutions for all sizes of New Zealand businesses. The company has been operating for over ten years, providing exceptional results for its clients and working with both companies and consumers to realise and meet their obligations to repay accounts that are outstanding.

CRL's submission is a partial response to the review, providing its view on the questions relating to the respective areas on debt collection. The submission is set out with the relevant questions followed by our views.

Q.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? These problems relate to false and misleading claims, unaffordable repayment schedules, excessive charges (fees and interest) for debt collection and harassment.

CRL believe that this is not an accurate account of the debt collection industry as a whole.

False and misleading claims – CRL issue initial demand letters and emails which stipulate the name of the client, amount of the debt claimed, client reference number and advice that CRL has passed the account to us an external debt collection agency. Should any enquiry be received from the person or organisation pertaining to the validity of the debt being collected, CRL refers this enquiry back to their client to justify the amount that has been referred for collection by means of a statement(s), invoice(s) and/or contract(s). No further collection activity is undertaken until this is received.

Unaffordable repayment schedules – CRL work closely with their customer to ensure that any repayment schedule that is set up ensures that they can still meet day to day expenses. This includes working with other authorised parties such as lawyers, solicitors and/or budget advisor in extreme cases. This ensures that CRL respects the customer current financial situation and commitments. As outlined on page 8 of the Responsible Lending Code under "Commentary – Agents and other lenders", CRL understand and accept that we must be acting in accordance with the recommended code on behalf of our clients where a debt is deemed to come under the Credit Contracts and Consumer Finance Act (CCCFA). When assessing the ability to repay an overdue account, CRL considers some of the suggested elements that are stipulated under clause 5 – Inquiries into and assessment of substantial hardship (borrowers).

Furthermore, elements of the Australian Competition & Consumer Commission (ACCC) and the Australian Securities and Investments Commission (ASIC) debt collection guidelines are adhered to when contacting customers that have entered a repayment arrangement. Some of these guidelines include but are not limited to:

- Only contacting a customer once every three (3) months; or
- Contacting the customer to provide a genuine offer such as a discount off the total amount due

These guidelines have been in effect for a number of years in Australia and are used as a base to provide self-regulation in the New Zealand debt collection market.

Excessive charges (fees and interest) for debt collection – CRL have a standard practice of charging a set percentage of any debt that is loaded with the company as well as an administration fee for loading a debt. This amount is what is charged to our client and therefore can be recovered from the customer if they have the applicable clauses in their agreements.

When clients outsource their accounts to a third-party debt collection agency, it is the general practice that any interest component ceases being charged since the customer attracts this collection cost. While there is an ability to charge this interest, albeit an annual interest or default interest, general industry practice suggests that this is not done. Ordinarily, this is a benefit to the customer.

Example: A major bank issues a credit card to a consumer with an annual interest rate of 23.99%. The balance of the credit card is $2,000. The customer has defaulted on their repayment obligations, and the account is referred to debt collection.

If there are sufficient terms and conditions to add on the cost of collection, let's suggest 20% is added on to the customer's account (20% is a general benchmark in the debt collection industry). This takes that account balance of $2,400 for the customer to repay.

The customer has advised that the main reason that they have defaulted is due to becoming unemployed and is proposing to repay $20 per week. At this rate, it will take 120 payments or 120 weeks to repay the amount in full or 2.3 years.

If the customer remained unemployed for the duration of this period and did not change the repayment amount, the annual interest rate on the credit card is much higher for the first year of repayments let alone the ongoing interest the bank account charge after the initial year of repayments.

Harassment – Similar to the above comments that have been made, CRL use the Responsible Lending Code and the ACCC ASIC debt collection guidelines to assist self-regulation in the New Zealand market. This relates to the frequency of contact in general as well as frequency if complying with an agreed repayment arrangement.

Fundamentally, CRL believes that there is enough regulation that already exists that could assist with correcting the behaviour of some debt collection practitioners in New Zealand. One of the main pieces that were developed in the last review was the Responsible Lending Code.

It is clearly understood that this code is a guide. If it is not followed, there is no defined penalty for a lender and/or third-party debt collection agency. Similarly, if it is followed, there is no guarantee that this will mean that you comply with the Act. There are several items covered in the Responsible Lending Code that would address some of the concerns of MBIE and the Minister if the code was merely updated to show that it must be complied with.

The debt collection industry has been self-regulated for a number of years. As larger collection agencies have been acquired by and run from offshore owners, their general practices have been enhanced from overseas regulation that has been worked too as "best practice" in the debt collection industry not just domestically but globally.

Similar to the New Zealand lending industry, the commentary that is provided in the discussion paper appears to resemble what might be general business practice for smaller debt collectors that do not share similar views nor provide scale for what the majority of the industry is actually doing and how the majority of the industry actually operates.

Before any new legislation is put in place, it is strongly suggested that MBIE and the Minister look to work with the debt collection industry to understand better how it operates. Furthermore, this should highlight that there is a lot of regulation already in place, however, the agencies that govern the sector, i.e. MBIE, Commerce Commission need to be more definitive, in a way more directive, to say that something like the Responsible Lending Code is the guideline to be followed.

Thank you again for the opportunity to provide input into this process.

Should any further clarification be required, please feel free to contact the underwriter on or

Yours sincerely,

Kyle McElwain
Chief Executive Officer
Credit Recoveries Limited