# Submission on discussion document: Consumer Credit Regulation Review

## Your name and organisation

| | |
|---|---|
| **Name** | Eileen |
| **Organisation** | Auckland finance company |

## 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? |
| | *Payday lending is at such high levels that we see few loan applications which do not contain payday loans of some kind and it's not uncommon to see a number of different payday lenders being serviced at the same time. Lenders a few years ago adopted a policy of not lending to borrowers who used a payday lender, if we still had that policy today we would be declining almost all loan applications, today a criteria might be how many payday loans not if the borrow has a payday loan.*<br><br>*Payday loans should be limited to one at any time or even better make a stand-down of 30 days which will make it easier to recognize last payday loan. Multiple pay day loans are a trap which can also impact normal lending by having a term loan debt consolidation repay the multiple pay day loans, but of course does nothing to stop the same event recurring for the borrower* |
| 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? |
| | *Payday lenders requirement to show their fees as a percentage is an error, if the objective is to provide transparency and comparison to the borrower, a far better way is to just express it as a cost, for instance a $500 loan over say 6 weeks has a fee of $150 this is a simple comparison to another lender who charged $250 fee for instance. Compare this example to one lender charging 500% and another charging 450%, borrowers do not have the time or inclination to compare, make it simple, payday loans are a unique product and not comparable to other category of lending or interest rates and to do so only confuses the borrower.*<br><br>*Make any unpaid balance of a payday loan at the end of the term attract a caped interest rate say 30% and capped or limited default fees to prevent unreasonable costs.* |

| | |
|---|---|
| 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 idea of capping payday lenders interest rate is covered above, however the idea of putting them out of business by making their returns so low that they can't operate openly may likely encourage unregulated black market type of payday lending. I would suggest the idea of fixed fee payday lending would encourage traditional lenders to add payday loans to their product mix and providing opportunities for a more low cost and competitive market and would be simple for traditional lenders to introduce and likely to be more compliant.* |
| 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? |
| | *[Insert response here]* |
| 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. |
| | *[Insert response here]* |

## 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? |
| | *[Insert response here]* |
| 7 | If there are to be more prescriptive requirements for conducting affordability assessments, what types of lenders or loans should these apply to? |
| | *Using prescriptive requirements for assessing affordability is a good idea especially as it informs the lender of what needs to be reviewed and that expert advice could be provided by the regulator, rather than made up at the lenders discretion. Today we have excellent information provided by the bank report providers (we use mainly bankstatements.co.nz) who provide an easy and quick analysis of the borrowers bank transactions. This new technology has advanced to the point where any kind of analysis also can be set up to create a standard affordability test of any bank report.*<br>*The key to affordability lies in the bank report as that information is not provided by the borrower and cannot omit or embellish income etc.*<br>*One obvious limitation in any assessment is we are seeing only borrower's account and does not include other accounts of say the spouse which would have a material impact on affordability who may for instance pay the rent etc. Today it is common that each partner will* |

| | |
|---|---|
| | *have their own bank account.*<br>*Some credit report agencies are providing comprehensive credit reporting which shows payment history for different lenders of the borrower and is an up to date reflection of the borrowers status not a just a credit score and is becoming more wide spread in the lending community and is available to smaller lenders providing they have the ability to interface their data with the credit reporter.* |
| 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? |
| | *Registration option C a comprehensive licensing system is a good idea, as it will enable the lender to have confidence that they are operating adequate systems and procedures and comply with the CCCFA*<br>*To meet the licencing requirements, could be assigned to independent assessors under the control of the regulator and could include a requirement to attending training sessions and review of all relevant documents costs and procedures and therefor provide confidence to the public and the regulator of the licenced lender compliance. Reviews could be conducted say 2 yearly with annual in-house compliance reports*<br>*The present system of "principal based" requirements do not create certainty in the minds of the lenders of their compliance.* |
| 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? |
| | *One of the issues with the Responsible Lending Code is that it is not just the responsibility of the lender* ***it's also the responsibility of the borrower*** *which seems to be overlooked in these discussions.*<br>*Obviously the dynamics of lending online has changed the landscape of how lending is conducted and how borrowers interface with the lenders. It is one thing for a borrower to come to the lender office and apply for a loan and it's entirely a different event for the same borrower to do so online.*<br>*Most lenders provide a quick and simple process for borrowers to apply on line which means there is no limit to how many loan application a borrower can make in the comfort of their home, and for some just to see if they can get approval from a lender who will lend to them, and should the lender do so "take the money and run"*<br>*It's a fair comment to suggest that a large part of the loan applications processed fall under the "take the money and run" category, and of course the lenders are aware of that. So given that the lender loses money in that situation the lender has as much interest in responsible lending as the regulator.*<br>*While a loans officer may review say 5 or 10 face to face loan applications, an online loans officer may process up to a 100 or more a day which of course means that the lender must have a clear requirement of the type of borrower he will lend to and then apply the affordability measure before making a loan offer to the borrower.* |

| | |
|---|---|
| | *Furthermore, while the focus on the "Responsible Lending" might be good PR but the real reason borrowers borrow is they are experiencing financial stress due to conditions in our community which is well known.* |
| 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? |
| | *You can't stop alcoholics from drinking by closing the stores who sell alcohol to the responsible population any more than you can stop borrowers from making unsound financial decisions whether it involves borrowing money or how they spend their money.*<br>*The fact is the concept of Responsible Lending is a good thing to promote to the industry and encourage, but trying to make a difference by putting in place larger and more aggressive penalties on the lending community only alienates the cause and ignores the fact that every lender as a vested interest (money) having clients who pay their account.* |
| 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? |
| | *In seeing bank reports daily which clearly show payday lenders lending on top of each other's loans your idea of limiting any new payday loan where the lender is aware of an existing payday loan could make a bit impact, however this would be very unpopular with the payday lenders as you could imagine.*<br>Make a mandatory requirement for all lenders they include the following reviews<br>1) Credit Report<br>2) Comprehensive bank report which analysis borrowers spending and income and borrowing and assess disposable income to make loan payments taking into consideration, any dishonours for the immediate past 90 days transactions |
| 12 | Which options for reducing irresponsible lending and other non-compliance would you support? Which would you not support? Please explain how you made your assessment. |
| | *I have been told by an industry suppler that payday lenders are generating loan documents automatically from any loan application received and can produce 1000 or more of these loan documents a day, if the borrower signs the loan documents the lender then processes whatever they do to complete the loan, it's not hard to see why this happens, speed is the essence of online lending and this lender can beat his competitors by providing a loan before his competitors*<br>*I don't think this is a good thing you could the regulator could forbid this practice* |

## 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? |
| | *[Insert response here]* |
| 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? |
| | *[Insert response here]* |
| 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. |
| | *[Insert response here]* |

## 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? |
| | *Fee caps are a good idea as it removes uncertainty for both the lender and the borrower, the Commerce Commission report this year on fee costs is an excellent resource to establish a basis for setting maximum fees based on actual costs set by the industry* |
| 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? |
| | *"Fee option C Disclosure and advertising based on an annual percentage rate that combines interest and fees" is a good idea because it clearly shows the APR to the borrower and is a vast improvement on the interest rate plus fees which is current practice, disclosing the APR could be a major step for the industry and the regulator* |
| 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? |
| | *[Insert response here]* |

| | |
|---|---|
| 19 | Which options for changes to fees regulation would you support? Which would you not support? Please explain how you made your assessment. |
| | *[Insert response here]* |
| 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? |
| | *[Insert response here]* |

## 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? |
| | *The elephant in the room in respect to debt collection practices is that NZ has no court available to process small claims since the Disputes Tribunal currently refuses to hear any case from a finance company unless there is agreement from both parties there is a dispute. This of course cannot happen because disputes are covered by the Disputes Resolution Service Provider.*<br><br>*The only other option open to the lender is the District Court process with disbursements alone exceeding $500 and more than $1000 solicitor acted, and a requirement of Process Serving to the debtor makes for a difficult decision.*<br><br>*So what to do? Of course the use debt of collectors becomes the only option available.*<br><br>*Experience over a number of years has shown great merit when the Disputes Tribunal would hear such cases for these reasons.*<br><br>*1) Cost is less than 10% of the District Court (which will be charged to the debtor account anyway)*<br>*2) The debtor has a simple process for being heard either in person or by teleconference by the Disputes Tribunal*<br>*3) The finance company's evidence is reviewed to see it is meeting its CCCFA requirements*<br>*4) The court may also adjust the claim for non-legal reasons. And make an order for a payment arrangement and closes the loan with no further fees or interest also being mind-full of the payment being of a reasonable amount for the debtor to meet.* |
| 22 | What information should be provided to borrowers by debt collectors? When and how should this information be provided? |

| | |
|---|---|
| | *Disclosure to the debt collector should be specified we already provide* |
| 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? |
| | *A bad idea to make the lender pay for costs in incurring collection process, providing this is a third party cost its unreasonable to make this a cost to the finance company, it will increase collection cost and ultimately impact on charges to borrowers who meet their payment obligations.* |
| 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. |
| | *[Insert response here]* |
| 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. |
| | *[Insert response here]* |

## 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? |
| | *[Insert response here]* |
| 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. |
| | *[Insert response here]* |
| 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? |
| | *[Insert response here]* |

## Any other comments

| We welcome any other comments that you may have. |
| --- |
| *I think your document has been very well presented and comparisons addressed.*<br>*In summary"*<br>1) *Payday lenders are the problem for responsible lending, where they can lend to a borrower who they know has a payday loan or a recent payday loan.*<br>2) *Replace interest rates for payday lenders with a fee for easier comparison with a caped interest rate for any amount outstanding at the end of the term of the loan.*<br>3) *Traditional finance today is using far more sophisticated facilities to assess the financial ability of the borrowers and have no real desire to lend where there will be problems with the borrower to make payments. Increasing penalties is not the answer, industry training is more likely to be of benefit.*<br>4) *Introduce the APR process which removes the issues with fees charges and gives a transparent comparison for borrowers*<br>5) *Make a simple court process so avoid the debt collection process and give the borrower the support of the court on a case by case basis to see they are treated fairly and  the lender is maintaining property CCCFA compliance procedures* |