

5 April 2006

Ms Pamela Criddle
National Project Officer
Uniform Consumer Credit Code Management
Committee
Department of Consumer and Employment
Protection
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Dear Ms Criddle

Re: Pre-Contractual Disclosure and the UCCC – Consultation Package

ANZ appreciates the opportunity to provide comments on the consultation draft amendments to the Uniform Consumer Credit Code (UCCC) pre-contractual provisions.

The stated objective of the proposed reforms is to make it easier for the consumer to understand important product features before entering the credit contract. The recommendation is to require credit providers to provide this information in two documents (*the financial summary table and summary of other information*), separate and distinct from the complete and detailed information in the credit contract. The proposed reforms purport to carry out the recommendations of the Post Implementation Review of the UCCC which was completed in December 1999.

While we support moves to simplify disclosure and ensure disclosure remains relevant and helpful to the consumer, we are concerned with two aspects of the proposed amendments.

Increased disclosure and repetition

ANZ believes the consumer is unlikely to benefit from the increase in disclosure received as a result of the amendments.

To illustrate, an ANZ consumer credit card customer currently receives product disclosure consisting of:

1. a 'letter of offer' containing the pre-contractual information required by s 14(1) of the UCCC, highlighted in a Schumer Box, including the interest rate(s) and credit fees and charges; and
2. a terms and conditions booklet containing information required by section 15 of the UCCC and other requirements (eg. the Electronic Funds Transfer Code of Conduct).

While the amendments would in theory provide the opportunity to dispense with the letter of offer as a disclosure document and move that information to a terms and conditions booklet, this option may be impracticable for many credit providers. Several details contained in ANZ's letter of offer (for

example, fees and charges) are subject to change and it is more efficient for these details to be included in a 'dynamic' document like the letter of offer, which is produced for each credit contract, than the standard terms and conditions booklet which would need to be amended, reprinted and redistributed to all sales channels with each fee variation.

Therefore at least in the short term, assuming ANZ would retain the letter of offer, the proposed reforms would add to current disclosure by requiring a further two documents at the pre-contractual stage: the *financial summary table* and *summary of other information*.

Not only would this increase the volume of disclosure for the customer, but it would represent a substantial duplication of information. For example, a customer seeking the full details of the annual percentage rate or rates and the circumstances in which it (they) can vary would find disclosure in three places, being the summary table, summary of other information and the full credit contract (or four if, as mentioned above, the full contract remains divided between the current letter of offer and terms and conditions booklet).

Rather than create two entirely new documents, the better option may be to refine the current disclosure regime to 'draw out' more effectively for the consumer those features that are most important at pre-contractual stage.

The current 'Schumer Box' or financial table requirement carries the same objective as the proposed reforms – to isolate the generic information about the cost of the facility from other terms and conditions thereby promoting comparison between products and credit providers. Currently, there are items which *must* be contained in the financial table and those which *may* be included. The optional items can complicate the financial table making it too lengthy to serve as a 'snapshot' of the contract. Instead of introducing new documents, the UCCC Management Committee should consider restricting the items which may be included in the current financial table, for example by limiting the financial table to those items currently identified under regulation 13(1) as mandatory. Limiting the detail contained in the financial table (and perhaps requiring the table to be in bold type) may give more prominence to important product features and therefore improve consumers' awareness of these features.

Lack of Consumer Testing and Research

ANZ is concerned with the statement in the consultation package (p. 3) that 'there are no plans to test the new scheme by simulation or survey prior to its implementation'. There is also no reference in the discussion paper to research on the effectiveness (or shortcomings) of the current disclosure regime and why the proposed *financial summary table* and *summary of other information* would make it easier for consumers to understand product features. The reforms appear to be based primarily on the Post Implementation Review of the Code undertaken in 1999.

While there have been studies to suggest the current financial table presents comprehension problems for consumers¹, any decision to increase disclosure (at substantial cost to the industry) must be based on a proper analysis of whether the new disclosed information will be used by the consumer. Indeed at least one study into the effectiveness of UCCC disclosure has suggested further research into the cognitive dynamics of document comprehension to

¹ Paul O'Shea, *Consumer Credit Code disclosure: does it work?*

better understand how consumers read documents and where they think the answers to their questions should appear.

In addition, ANZ's own research into the causes of financial difficulty (November 2005) suggests that those most at risk of financial difficulty are unlikely to be influenced by increased disclosure.

The qualitative survey, conducted last year as part of ANZ's research into financial literacy, found that financial difficulty is most often caused by a combination of factors relating to the traits and behaviour of the individual and their circumstances rather than a lack of information. The core factors were 'unhealthy ways of thinking about money' (eg. lack of interest in managing finances; 'living for today'; keeping up with the Joneses') and circumstances beyond the person's control (eg. job loss; illness; relationship breakdown), with the smallest group affected by a lack of financial skills and knowledge.

These findings suggest increased information is unlikely to assist those most vulnerable to difficulty:

- 'unhealthy ways of thinking' dominate decisions about finances – eg. those who are 'disengaged' from their finances are not reading disclosure material now which suggests they are unlikely to consider the same information repeated; and
- 'circumstances beyond a person's control' create urgent financial pressure overwhelming the effect of increased disclosure.

Concluding Comments

ANZ believes a cost-benefit analysis is important to good business regulation. It is integral to ensuring regulation is workable for the industry and effective for consumers. Effective disclosure of credit contract terms is preferable to more disclosure. A proposal to add a layer of disclosure to what is already a disclosure-focused regime without detailed analysis and testing is not consistent with the recent announcements from the Federal and some State Governments to improve the rigour of the regulation-making process.

ANZ recommends UCCMC:

- consider amendment of the current financial table disclosure requirements as an alternative to introducing a further layer of pre-contractual disclosure to the UCCC; and
- test any amendment to the financial table with consumers before implementation, paying particular attention to those most at risk of financial difficulty.

Please do not hesitate to contact Michael Vasta on 03 9273-6332 or at vastam@anz.com to discuss any aspect of this submission.

Yours sincerely

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