



Australian Financial Counselling and Credit Reform Association

Chairperson: David Tennant

Secretary: Joanne Lowth

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Pamella Criddle
National Project Officer
Uniform Consumer Credit Code Management Committee
Locked Bag 14
Cloisters Square
Western Australia 6850

& by email to: credit@docep.wa.gov.au

Dear Ms Criddle,

**Uniform Consumer Credit Code –
Consumer Credit (Queensland) Amendment Bill 2005 (Consultation Draft)**

As you may be aware, AFCCRA is the national peak body for the financial counselling sector. The Association operates under a federated structure and each State and Territory has a nominated representative on AFCCRA's national Council. Whilst AFCCRA has in recent years received resources for various project activities, it has no recurrent funding to support its peak body role. I was elected Chair of AFCCRA at the Association's AGM earlier this week and make the following comments on the proposed amendments to the Code on behalf of our national Council. The views contained in this letter are also endorsed by my employer, Care Inc Financial Counselling Service and the Consumer Law Centre of the ACT.

There are many reasons why consumers seek assistance from a financial counselling agency. As a general rule however such contacts are usually triggered by financial hardship. The causes of that hardship can range from a change in circumstances, through loss of employment, ill-health, separation and so on, to ingrained, even intergenerational poverty and exclusion. To the extent that our clients interact with the consumer credit market, those interactions are often amongst the least appropriate in terms of meeting the needs and capacities of the consumers involved. Our clients tend to pay more for the credit they can access and experience greater difficulties in repaying that credit. To the extent the amendments seek to tackle issues related to credit provision at the margins of the consumer market, proportionally the clients of financial counselling agencies are more likely to come into contact with the products and providers that the amendments seek to tackle.

We are aware that a number of consumer legal services are providing specific comments on the terms of the legislative amendments proposed. For example, we have been consulted in the preparation of and provided with copies of submissions prepared by the Consumer Credit Legal Service of Victoria and the Centre for Credit and Consumer Law at Griffith University. AFCCRA supports and endorses the comments and concerns expressed in those submissions.

To add to those comments, we would however like to return to the principles that steered the establishment of the Uniform Consumer Credit Code system – principles that we believe are under threat because the process of review and reform is so slow and almost entirely reactive. The most relevant principles are:

- that all consumer lending should be covered,
- that the credit provider should bear the onus of arguing why their particular product or service is not covered by the Code,
- that consumers should get accurate and truthful information about the cost of the credit that they are being offered, in a manner that is understandable to them and
- that unconscionable conduct is unacceptable and will be pursued by regulatory authorities.

An example of how the principles are either not met or undermined by the proposed amendments are the proposed terms relating to Solicitor lending. Some 6 years after the Post Implementation Review (PIR) recommended that amendment make clear this type of lending is regulated under the Code the issue is being addressed. In those intervening years since the PIR, many clients of agencies like the one in which I work have been disadvantaged, sometimes facing financial ruin, by accessing such products and being unable or forced to fight to access the relief provisions of the Code. We accept that addressing the issue late is preferable to not doing it at all, however the UCCCMC has received advice from consumer advocates that the “style” of lending sought to be captured by the solicitor lending provisions is not unique to that profession. It is deeply concerning then that such a narrow response has been proposed. Passing the amendments will not therefore deal with the problem, just narrow the loophole.

Regardless of the passage of the current amendments, AFCCRA encourages the UCCCMC to embrace and reaffirm the underlying principles of the Code. The credibility of the entire system demands such an approach.

Yours sincerely

David Tennant
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