2 February 2021

Committee Secretary
Senate Economics Legislation Committee
Department of the Senate
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Committee Secretary,

Submission: National Consumer Credit Protection Amendment (Supporting Economic Recovery) Bill 2020

Thank you providing the opportunity to make a submission to the Senate Economics Legislation Committee's inquiry on the *National Consumer Credit Protection Amendment (Supporting Economic Recovery) Bill 2020* (**the Bill**).

The *Stop the Debt Trap Alliance* is a coalition of consumer advocacy organisations from around Australia, including financial experts, community advocates and service providers. Every day our organisations hear from people who have been trapped in crippling debt due to high-cost fast loans and harmful consumer leases.

The provisions in the Bill relating to Small Amount Credit Contracts (SACCs) and consumer leases (schedules 2-6 of the Bill) are watered-down versions of the recommendations made by the independent SACC Review, and will not adequately protect consumers from predatory lending practices. As such, we strongly oppose the Bill and urge Parliament to vote against it in its entirety.

High-cost fast loans (also known as payday loans) are a multi-million-dollar industry that has a history of non-compliance with responsible lending requirements. They profit by charging excessive fees and entrenching Australians in a cycle of debt. The impact of unaffordable debt is significant – it can limit people's ability to pay rent, put food on the table or keep the lights on.

These products are targeted at people who are financially desperate and feel they have no other option. Therefore, competition does not work to reduce cost – that is, people are unlikely to 'shop around'.

Despite responsible lending obligations, which this Bill would ultimately repeal for other lenders, there is evidence that payday lenders continue to offer loans to people who cannot afford to pay them. The independent 2016 SACC Review (**the Review)** recommended further reforms to address the consumer harm resulting from predatory lending practices. The only way to make these products safer and make these businesses treat people fairly is by introducing sensible safeguards as recommended by the Review.

However, the reforms included in schedules 2-6 of the Bill are not in line with the recommendations made by the Review. They would be ineffective in reducing the harm caused by irresponsible payday lenders and consumer lease providers, as outlined below.

1. **The Bill would double the protected earnings amount cap**

Two of the key recommendations from the Review were to introduce 'protected earnings amount (**PEA**) caps' for both payday loans and consumer leases. The PEA caps would ensure a person could not be required to commit more than 10% of their net income in total to repayments for payday loans at any time, with a separate 10% cap applying to consumer leases.

The PEA cap was one of the Review's most crucial recommendations, as it would help protect people from falling into debt spirals and leave them with enough money for everyday living essentials such as food, rent, and electricity.

The Bill proposes to *double* the caps for people whose income is not predominantly from Centrelink, to 20% each for payday loans and leases. This would mean someone in employment could still have up to 40% of their net income taken by payday lenders and consumer lease providers, rendering it ineffective in preventing current harm.

Importantly, this would mean the legislation is ineffective at reducing the likelihood of debt spirals—vulnerable borrowers would be tempted back for further borrowing because the repayments on existing loans or leases leave them unable to afford repayments.

2. **The Bill includes extra charges in the consumer lease cost cap**

The Review recommended a 4% monthly cost cap for consumer leases (for a maximum of 48 months) calculated on the retail price of the leased good. However, the Bill allows 4% monthly fees calculated on the base price *plus* delivery and installation fees. This means borrowers could pay up to 192% extra on these fees over a four-year lease (i.e. 4% per month over 48 months).

The Bill allows consumer lease providers to charge an extra 20% establishment fee on leases, on top of the cost cap that was recommended by the Review. This means that consumer leases could still come with an effective equivalent annual interest rate of more than 100%.[1]

3. **The Bill leaves significant loopholes open for unsolicited selling**

The 'except by prior arrangement' provision included in the Bill would leave the door open to unsolicited door-to-door selling by consumer lease providers, contrary to the recommendations of the Review.

Unsolicited selling often results in people being sold unsuitable products. It is a practice regularly seen within the consumer lease industry, where high-pressure sales tactics are employed.

Recommendation

The watered-down reforms to SACCs and consumer lease laws included in the Bill would do little in the way of improving protections for people who use payday loans and consumer leases. Furthermore, the harm that will result from repealing responsible lending obligations (schedule 1 of the Bill) would only turbocharge financial hardship, and in turn is likely to see more people fall victim to predatory lending.

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[1] Based on a 12-month consumer lease charged at the maximum allowable under the proposed cost cap with equal fortnightly repayments.

The Review stated that a key objective of the laws applying to SACCs and consumer leases should be to facilitate financial inclusion. Unfortunately, the changes in this Bill will not achieve that objective. This is because the safeguards do not effectively reduce the risk that borrowers will be left unable to pay for basic needs or default on other necessary commitments.

We call on the Senate Committee to reject the Bill and recommend that Parliament vote against the Bill in its entirety.

We urge the Federal Government to introduce SACC and consumer lease law reforms in line with the recommendations of the Review to reduce the harm caused by predatory lending practices and ensure people have enough money for essential living expenses.

Should you have any questions about this submission, please contact Alycia Gawthorne, Campaigns & Advocacy Adviser with Consumer Action Law Centre on (03) 9670 5088 or at alycia@consumeraction.org.au.

Thank you for providing the opportunity to make a submission on this important matter.

Signed,

The Stop the Debt Trap Alliance

Australian Council of Social Service (ACOSS)
Care Financial Counselling Service and the Consumer Law Centre of the ACT
CHOICE
Consumer Action Law Centre
Consumer Credit Legal Service WA
Financial Counselling Australia
Financial Counselling Victoria
Financial Counsellors' Association of NSW
Financial Counsellors Association Tasmania
Financial Counsellors' Association of Western Australia
Financial Rights Legal Centre
Hume Riverina Community Legal Service
Indigenous Consumer Assistance Network
Kyabra Community Association
MoneyMob Talkabout
Neighbourhood Houses Tasmania
NILS Network of Tasmania
Queensland Council of Social Service (QCOSS)
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Tasmanian Council of Social Service (TasCOSS)
UnitingCare Australia
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