



7 October 2022

Senate Standing Committees on Economics
PO Box 6100
Parliament House
Canberra ACT 2600

By email: economics.sen@aph.gov.au

Dear Committee Members,

**Senate Economics Legislation Committee
Financial Sector Reform Bill 2022: Schedule 4**

1. Introduction

- 1.1. The Consumer Credit Legal Service (WA) Inc. (**CCLSWA**) welcomes the opportunity to provide submissions to the Senate Economics Legislation Committee's Inquiry into the Financial Sector Reform Bill 2022 (the **Bill**).
- 1.2. CCLSWA's submissions below refer to the reforms to high-cost credit products in Schedule 4 of the Bill. These submissions are in addition to previous submissions already made, or supported, by CCLSWA in respect of small amount credit contract (**SACC**) and consumer lease reforms.
- 1.3. CCLSWA is a not-for-profit community legal centre based in Perth. CCLSWA champions the financial rights of Western Australians on credit, debt and consumer law issues.
 - (1) We ensure people in Western Australia are treated fairly in the financial marketplace by providing free, confidential legal advice through our Telephone Advice Line.
 - (2) We provide legal representation to people experiencing vulnerability and disadvantage so that they can access justice.
 - (3) Our community legal education programs empower West Australians experiencing vulnerability and disadvantage to understand their rights and avoid financial pitfalls.
 - (4) We help other service providers, including financial counsellors and community support workers, to understand and support their clients' financial rights.

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(5) We are a voice for change so that financial systems and consumer laws are improved for all.

1.4. CCLSWA is well placed to provide the Senate Economics Legislation Committee with insight into, and information on, how Western Australians are impacted by the operations of SACC lenders and consumer lease providers.

2. Previous Submissions

2.1. CCLSWA has been involved in SACC and consumer lease reforms for an extended period, including as part of and following the independent review of SACCs which took place in 2015-2016.

2.2. CCLSWA has made the following submissions previously about reforms to SACCs and consumer leases:

- (1) Submissions on the Final Report of the Independent Review of Small Amount Credit Contracts (June 2016) ¹
- (2) Submissions to the Senate Economics References Committee's Inquiry into Credit and Financial Services targeted at Australians at risk of financial hardship (November 2018) ²
- (3) Submissions to the Senate Economics Legislation Committee inquiry into National Consumer Credit Protection Amendment (Small Amount Credit Contract and Consumer Lease Reforms) Bill 2019 (No.2) (February 2020) ³
- (4) Submissions to the Senate Inquiry on the National Consumer Credit Protection Amendment (Supporting Economic Recovery) Bill 2020 (February 2021) ⁴

2.3. CCLSWA has also been a signatory on the following submissions calling for reform to SACCs and consumer leases:

- (1) Joint submission to Treasury consultation on Consumer Credit Reforms (November 2020) ⁵
- (2) Stop the Debt Trap Alliance Submission to the Senate Inquiry on the National Consumer Credit Protection Amendment (Supporting Economic Recovery) Bill 2020 (February 2021) ⁶

¹ [CCLSWA Submission on SACC Review | Working for your financial and consumer rights](#)

² [Submission to the Senate Economics References Committee's Inquiry into Credit and Financial Services targeted at Australians at risk of financial hardship | Working for your financial and consumer rights \(cclswa.org.au\)](#)

³ [CCLSWA Submissions to the Senate Economics Legislation Committee inquiry into National Consumer Credit Protection Amendment \(Small Amount Credit Contract and Consumer Lease Reforms\) Bill 2019 \(No.2\) | Working for your financial and consumer rights](#)

⁴ [CCLSWA's Submissions to the Senate Inquiry on the National Consumer Credit Protection Amendment \(Supporting Economic Recovery\) Bill 2020 | Working for your financial and consumer rights](#)

⁵ [Treasury consultation: Consumer Credit Reforms | Working for your financial and consumer rights \(cclswa.org.au\)](#)

(3) Joint Submission to Senate Inquiry on the National Consumer Credit Protection Amendment (Supporting Economic Recovery) Bill 2020 (February 2021) ⁷

2.4. These detailed submissions are available for review and consideration in support of the Bill.

2.5. In 2016, the Federal Government of the day also accepted the vast majority of the recommendations made by the Final Report of the Independent Review of Small Amount Credit Contracts. The Australian Labor Party also accepted those recommendations. Since that time there have been several unsuccessful attempts to implement legislation to give effect to the recommendations.

2.6. For too long the necessary reforms contained in the Bill have not been implemented.

3. Summary

3.1. CCLSWA calls on, and supports, the Federal Government passing the Bill as a matter of urgency, without amendments.

3.2. We consider that the following are essential aspects of the Bill to be implemented as drafted:

- (1) The 10% protected earnings amount caps for each of SACCs and consumer leases
- (2) The 4% per month consumer lease cost cap
- (3) Ban on unsolicited offers of SACCs
- (4) Ban on unsolicited selling of consumer leases in person
- (5) Anti-avoidance provisions
- (6) Ban on referrals to unlicensed lenders

4. SACCs

4.1. CCLSWA's experience demonstrates that the existing SACC laws have failed to be effective in curbing the growth of the payday lending industry and the frequency of consumers experiencing debt spirals.

4.2. The high demand for SACCs is predominantly from consumers of a low socio-economic background, who need the most protection. In CCLSWA's experience, SACCs have become a necessary evil for many consumers who do not have access to, or only limited access to, alternative forms of credit. High levels of repeat borrowing are causing financial harm as consumers try to borrow themselves out of debt.

⁶ [Joint Submission to the Senate Inquiry on the National Consumer Credit Protection Amendment \(Supporting Economic Recovery\) Bill 2020 | Working for your financial and consumer rights \(cclswa.org.au\)](#)

⁷ [Save Safe Lending! Joint Submission to Senate Inquiry on the National Consumer Credit Protection Amendment \(Supporting Economic Recovery\) Bill 2020 | Working for your financial and consumer rights \(cclswa.org.au\)](#)

- 4.3. CCLSWA considers that with the increased costs of living and high inflation it is more important than ever to have proper regulation of these products, and in particular the protected earnings amount caps. Consumers need adequate protection to safeguard from the use of these products, and to limit the harm they can cause.
- 4.4. With reforms to SACCs protected earnings amount caps, financially disadvantaged and vulnerable consumers will be protected from being sold multiple loans that they cannot afford, causing further financial hardship.
- 4.5. Bans on unsolicited selling of SACCs will help stop the debt trap vulnerable consumers often find themselves in, by reducing the number of individuals who get enticed by aggressive and predatory marketing tactics into taking out another loan the moment they pay off their existing loan.

5. Consumer Leases

- 5.1. Consumer leases tend to attract a similar demographic background to payday loans – being people from low socio-economic backgrounds who are often the recipients of Centrelink benefits.
- 5.2. Consumer leases target vulnerable Australians and are often marketed as a ‘fair go’ or ‘affordable alternative’. This perception is very problematic as they are often one of the most expensive ways of accessing credit.
- 5.3. Therefore, CCLSWA strongly advocates for the introduction of a cost cap for fees on consumer leases.
- 5.4. Currently consumer leases are the only form of regulated credit without a cap. The proposed 4% cap is consistent with other forms of regulated credit.
- 5.5. CCLSWA also supports a ban on unsolicited selling of consumer leases. For example, one area of significant concern is that in CCLSWA’s experience, the door to door selling of consumer leases can be targeted at remote First Nations communities.
- 5.6. Furthermore, the cap being based on recommended retail price is likely to reduce the risk of consumers paying multiple times the value of the leased good across the life of a lease.

6. Unlicensed financial service providers

- 6.1. CCLSWA has had a number of clients who have had issues with high cost unlicensed financial service providers who have ‘assisted’ consumers in securing short term loans. However, due to their nature and corporate structure, consumers were not protected under the *National Consumer Credit Protection Act 2009* (Cth) and National Credit Code.

- 6.2. CCLSWA supports the introduction of anti-avoidance provisions and a ban on referrals to unlicensed lenders.
- 6.3. CCLSWA considers that there will be a significant positive impact for consumers by ensuring they are not targeted by businesses whose main goal is to avoid regulation.
- 6.4. For example, it will protect consumers from being offered both regulated and unregulated credit (such as buy now pay later products) to avoid SACC responsible lending requirements, as a way of keeping the consumer's business. It will also protect consumers from business models which utilise so-called 'assistance' services to secure short term loans, which services are not subject to the SACC regulatory framework.
- 6.5. Separate from these submissions and the proposed Bill, we encourage the Government to review and strengthen the definition of 'credit' under the *National Consumer Credit Protection Act 2009* (Cth) and National Credit Code.

7. Conclusion

- 7.1. Despite the 2016 Report and subsequent proposals for reform, the behaviour of the SACC and consumer lease industries has not improved. This is evident in the numerous case studies CCLSWA and other organisations have presented over numerous submissions to Government since the 2016 Report.
- 7.2. CCLSWA calls on the Senate Economics Legislation Committee to support this legislation and recommend that the Parliament pass the Bill, to ensure that Australians have a safer and more appropriate range of credit products to choose from. This legislation will protect Australians from being exploited by high-cost, predatory payday lenders and rent to buy companies.

If you have any questions or would like to discuss this matter further, please contact Roberta Grealish on (08) 6336 7020.

Yours faithfully,

Consumer Credit Legal Service (WA) Inc.



Per
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Principal Solicitor