

MEDIA RELEASE

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NATIONAL CONSUMER CREDIT LAWS WELCOME BUT LOOPHOLES MUST BE CLOSED

Consumer Action Law Centre has welcomed today's release of the proposed national consumer credit laws by the Federal Government, but has warned that while the intention behind the laws is good, there are serious flaws in the Bill that must be addressed or consumers will continue to remain vulnerable to unfair and irresponsible lending practices.

Catriona Lowe, Consumer Action co-CEO, said that the Government's proposals to require all lenders to be licensed and to join an external dispute resolution scheme were major improvements that would significantly increase protections for ordinary consumers.

Responsible lending

"One of the most important parts of the Bill is the requirement that licensed credit providers and brokers lend responsibly," Ms Lowe said.

"This could be a big step forward for Australia but the challenge is to make sure this obligation actually works in practice. There must be a strong incentive to act responsibly in marketing and selling responsible products.

"This includes fixing the current situation where a lender can simply blame a bad loan on a broker. The current Bill does not achieve this."

"The best approach would be to have some broad principles rather than requirements that are too limited and specific. The regulator can provide guidance on broad principles as is done in the UK."

"A key problem with our current state laws is that unscrupulous lenders have found many loopholes to avoid obligations, and we must make sure that the detail in the new laws does not limit their coverage and lead to avoidance."

Hardship variations

Ms Lowe said that the proposal to lift the threshold under which consumers can request a change to their loan repayments due to hardship was good, but other problems in this area also needed to be fixed to ensure consumers in hardship could access help.

"The new requirement for lenders to respond to consumer requests for a change within 21 days so that consumers are not left hanging is a welcome improvement."

"But lenders should have to consider a range of more flexible options for repaying a loan, similar to the options the Government agreed with the major banks voluntarily a few weeks ago. Otherwise the help available is too limited."

"It is also important that consumers can force a lender to agree to reasonable requests for changes. At present lenders often refuse these requests and consumers have to go to court to enforce them, which is often not feasible due to the cost, time and uncertainty involved in legal action."

Media Contact: Catriona Lowe, Co-CEO 03 9670 5088 or 0412 633 090

Consumer Action Law Centre
Level 7, 459 Little Collins Street
Melbourne Victoria 3000

Telephone 03 9670 5088
Facsimile 03 9629 6898

info@consumeraction.org.au
www.consumeraction.org.au

“It will be a huge improvement if all consumers can take these requests to the Financial Ombudsman Service or Credit Ombudsman Service. We also welcome the Bill’s recognition that a new low cost jurisdiction should also be established in the Federal Magistrates Court to handle these and other consumer applications, although the details need to be drafted.”

Predatory lending

Ms Lowe said predatory lending practices needed to be addressed in the Bill as a matter of urgency.

“The laws should place a cap on the cost of a loan, including interest and fees,” said Ms Lowe.

“New South Wales and Queensland currently have a cap on the total cost of a loan, equivalent to 48% interest, although some loopholes need to be closed.”

“We are particularly concerned that the Government has said nothing about retaining these caps in those states. They must be retained while the Federal Government considers the best way to address exploitative high cost loans such as payday loans.”

“The Federal Government has not addressed this problem and it is unlikely that the irresponsible lending laws being proposed will stop these practices.”

“The current caps of 48% need to be retained and tightened to stop predatory payday lending. We believe there is no place for such usurious lending in a community concerned with equity and the fair treatment of the disadvantaged.”