



7 October 2008

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Dear Sir/Madam

**Responsible lending practices in relation to consumer credit cards
Consultation Regulation Impact Statement**

Consumer Action Law Centre (**Consumer Action**) is pleased to have the opportunity to make a submission to the Ministerial Council on Consumer Affairs' *Responsible lending practices in relation to consumer credit cards* Consultation Regulatory Impact Statement (the **Consultation RIS**).

Summary

- Due to the unique features of credit cards (compared to other credit products), their use can lead some borrowers to use more credit than they would have otherwise, had only other forms of credit been available.
- Lenders use psychological techniques to encourage increasing levels of interest bearing debt.
- Credit cards are a major contributor to debt stress, however the impact is often hidden due to:
 - default rates being expressed as a proportion of all outstanding credit card amounts, rather than as a proportion of interest bearing credit card debt (ie that proportion that is being used as credit rather than solely as a payment facility);
 - credit card debt often forms part of debt consolidation/refinancing or mortgage redraw, therefore transferring some credit card hardship to other forms of

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credit and resulting in default being registered for the refinance facility rather than the credit card facility that precipitated the refinance;

- Borrowers under stress are sometimes offered assistance by relatives – this is so particularly for borrowers who are young, or elderly.
- We do not believe that disclosure, self-regulation or consumer education can effectively protect consumers – indeed these mechanisms have been tried.
- In our view, the most viable option presented in the consultation is Option 6: Regulation. We support most of the regulation proposals in Option 6.

Background

Debt from consumer credit card use causes problems at a number of levels. At one level, credit card debt can lead to, and exacerbate, the financial marginalisation of disadvantaged consumers. At another level, some of the dynamics (eg. marketing practices) surrounding the steadily increasing levels of credit card debt in Australia are relevant to mainstream credit card users and to the Australian financial system. At an acute level, credit card debt is dangerous for some individual consumers (and results in financial hardship, bankruptcy and, in some cases, can place the family home at risk). At a generic level, the level of credit card debt of Australian consumers as a whole is cause for some concern in relation to macro social policy objectives and the stability of the financial system generally.

Credit cards are different from other credit products, and this creates peculiar benefits and problems. The benefits of credit cards as a payment facility include convenience and scalability: credit cards can be used for a very wide range of payments, and only the amount necessary for a purchase needs to be advanced. But credit cards also bring specific problems: credit cards provide open-ended and revolving credit (the balance does not need to be paid back and can carry forward from month to month) and this, combined with rising credit limits spurred by marketing techniques,¹ can lead to debt spirals and personal bankruptcies.² The capacity for credit card debt to spiral out of control is particularly problematic when the marketing of unsolicited credit limit increases by banks and other lenders does not require the consumer to disclose their income and expenses (as is often required when a credit card account is opened). Another problem with the credit card as a credit facility is the possibility for credit card lenders to profit from lending models that push consumers to the financial brink: this is most obvious with equity stripping, where the lender relies on the consumer's underlying assets where income is inadequate.³ However, even in some circumstances where the consumer has few assets and will ultimately face bankruptcy, credit card lenders can profit if they charge high enough interest and fees for

¹ For example, unsolicited credit card limit increase offers. See Dr Paul Harrison & Mara Massi, *Congratulations You're Pre Approved!: An analysis of credit limit upselling letters*, A Report by the Consumer Action Law Centre, August 2008, pages 35-36.

² Ronald Mann, *Charging ahead: the growth and regulation of payment card markets*, Cambridge University Press, 2006.

³ Even major international card scheme Visa alluded to equity stripping positively, stating (in words that could be interpreted as encouraging equity stripping) "[t]aking net worth into account, the very low-income earners have a very high capacity to repay if they spend their entire limit." Visa International, *The Credit Card Report - Credit Card Spending in Perspective*, 2002.

long enough before bankruptcy.⁴ Unfortunately, irresponsible lending can pay off as it externalises the cost of irresponsible lending onto the wider society.

In addition to problems caused to borrowers and the financial market generally, it is well known that credit cards have disproportionate impacts on particular individuals and groups in society. Credit cards are particularly harmful for low-income earners⁵ and those who have inadequate impulse control.⁶ For those with the most acute problems with credit card debt, the debt seriously harms their lives. It causes amongst other things, family breakdown and deterioration in health (including mental health).⁷ These are serious and profound impacts, and taking appropriate steps (including regulation) to minimise these impacts should be a priority for policy makers.

The problem of debt is compounded by lender practices designed to increase debt levels. One example is the offering of unsolicited credit card limit increase offers (**UCCLIOs**) - a marketing method that has aroused particular concern due to its potential to lead to vulnerable consumers becoming mired in excessive debt.⁸ Further information about this practice and its consequences for consumers is detailed below.

Particular practices such as UCCLIOs demonstrate the need for regulation. Credit card lenders have a self-interest in continuing what is a very successful marketing practice, and because of this self-interest it is unrealistic to expect industry to voluntarily make changes that may significantly curtail profitability.⁹ In fact, fierce competition for market share appears to lead to an increase in irresponsible marketing practices as lenders compete for consumers who hold interest bearing debt – and aim to increase the debt levels of these customers. For this reason, regulation is needed.

Identifying the Problem: Expansion of Consumer Debt

The extent of credit card debt problems

It is difficult to quantify the extent of the problems caused by credit card debt, and we would welcome more research into this area. Consumer Action runs a telephone advice service through which consumer lawyers provide free legal advice to Victorian consumers with legal problems. Over a 12 month period to May 2008, of the 1186 advices given in relation to consumer credit, 22% related to credit cards (which was the third biggest category after

⁴ Ronald Mann, 'Bankruptcy Reform and the "Sweatbox" of Credit Card Debt', *University of Illinois Law Review*, No. 1 2007, pages 375-404.

⁵ For example, low income earners are less likely to own credit cards than middle and high income earners, but those low-income earners that do own credit cards have similar debt balances to middle and high income earners. See Australian Bureau of Statistics, *Household Wealth and Wealth Distribution*, Australia, 2003-4.

⁶ Jeffrey Hibbert, Ivan Beutler & Todd Martin, 'Financial Prudence and Next Generation Financial Strain', *Financial Counseling and Planning*, Volume 15 (2), 2004, page 56.

⁷ Financial and Consumer Rights Council Inc., *Submission to the House Standing Committee on Economics, Finance and Public Administration: Inquiry into Home Loan Lending Practices and Processes*, August 2007, pg 3.

⁸ Wesley Mission, *Financial stress and its impact on the individual, family and community*, available at: http://www.wesleymission.org.au/news/publications/finstress/financial_stress_report.pdf

⁹ Harrison & Massi, above n 1, pages 35-36.

mortgages and vehicle finance).¹⁰ This shows that, for Victorian consumers of credit seeking our help, credit cards are one of the major causes of problems.

We believe that problems caused by credit cards are seriously underestimated. Default rates appear low when presented as a proportion of all credit card users. However, defaults would relate almost entirely to the one third or so of consumer who hold ongoing balances and pay interest.

Credit card borrowers – including those in financial difficulty - are likely to have a range of refinancing options. A Google search of “debt consolidation” + “credit card debt” delivers over 23,000 results. Mortgage redraw – or even mortgage refinancing – is one way that borrowers can borrow to pay out credit card debt. It is the experience of Consumer Action that in the majority of cases where a consumer’s home is sold by the mortgagee, the mortgage has resulted from refinancing a previous mortgage and other debts – including credit card debt. While financial difficulty may become evident later, this difficulty is not reflected in credit card default rates.

Consumer Action is also aware of cases where family members have assisted elderly family members who have become overcommitted by credit card debt.¹¹ One carers group told us at a forum that credit card debt was a particular problem, where parents of young adults with mental illness reported paying out their son or daughter’s credit card debt. Again, these cases of financial difficulty may not show in default statistics.

Problem with increasing consumer debt and credit card debt

Consumer debt in Australia has been rising sharply. There is serious concern about the rising consumer debt levels, both for individuals and families that suffer financial hardship as a result of rising debt and for the impact of this debt on the economy more generally. Revolving debt (ie. credit card debt) is the most significant component of consumer debt after home mortgages,¹² and has risen quickly.¹³ Unlike home mortgages which fund the purchase of a fixed and (usually) appreciating asset, credit cards are used by consumers primarily to fund consumption. Consumer credit card debt is of particular concern in that because it is typically used to fuel consumption, it may increase the current account deficit without adding to the productive capacity of the economy.¹⁴

¹⁰ Consumer Action Law Centre, *Submission to Treasury Financial Services and Credit Reform Green Paper*, 1 July 2008, page 4.

¹¹ As recently as 3 October 2008, one ABC radio presenter told a Consumer Action staff member on air that his mother had become over-burdened with credit card debt unbeknownst to the family, and he had to help her repay the debt.

¹² Consumer Affairs Victoria, *The Report of the Consumer Credit Review*, 2006, page 35.

¹³ Credit card balances have grown from \$9.299 billion in July 1998 to \$44.446 billion (of which \$32.357 billion is accruing interest) in July 2008. Reserve Bank of Australia, *Bulletin table C1 - Credit and Charge Card Statistics*, including data to July 2008.

¹⁴ Senate Economics References Committee, *Consenting adults deficits and household debt: Links between Australia’s current account deficit, the demand for imported goods and household debt*, October 2005.

There is a strong relationship between credit card debt and personal bankruptcy,¹⁵ and it has been suggested that this relationship is causal¹⁶ (ie. excessive credit card debt causes bankruptcy) and that the causal link is applicable to Australia.¹⁷ Despite increased net family assets due to increases in property prices, the debt servicing ratio of Australian consumers is much higher than it has ever been in the past. As a percentage of disposable income, debt has risen from 34.6% in March 1977 to 158% in June 2008 and, more importantly in terms of its practical effect on households, interest payments have risen from 5.5% to 14.4% of disposable income in that time.¹⁸ It has also been noted that in developed countries, there is a very strong relationship between debt and poverty.¹⁹

Clearly debt (particularly credit card debt) is a serious problem for certain people (particularly low income highly indebted people). However, contrary to suggestions in the consultation that the percentage of consumers who are adversely affected by consumer credit card debt is small, the evidence suggests that credit card debt does impact consumers, and the economy, generally through, amongst other things, increasing debt burdens to fund consumption. While the exponentially increasing credit card debt levels may cause only limited problems for most consumers in favourable economic times, there is a real risk that in an economic downturn - which we may shortly enter - levels of credit card debt, and consumer debt in general, may cause widespread harm to consumers. While asset price growth means households may profit even while debt levels rise, in a negative economic climate asset prices typically stagnate or decline. In these circumstances, household wealth declines but high levels of debt remain. Debt fuelled demand drops as household wealth can no longer sustain increasing debt, and the risk to lenders increases as the value of assets against which lenders may have recourse in case of default declines.

Credit card marketing and rising credit card debt

Even putting aside irresponsible marketing techniques, we believe that credit cards encourage some consumers to take on high levels of debt. Unlike other forms of debt – for example a mortgage or a personal loan – the decision to incur credit card debt is not one decision – in fact it can be the result of three or more separate decisions made over a period of time. For example:

- Consumer makes a decision to apply for a credit card or accept a limit increase;
- Consumer makes a decision to use the credit card for an “emergency” – for example to buy petrol;
- When the statement arrives, the consumer decides (or is only able) to pay less than the amount spent on petrol and other expenses during the period.

The first two decisions are not clearly decisions to incur debt (albeit that any card spending is a debt until it is repaid). The consumer may have the complete intention of repaying the

¹⁵ Ronald Mann, *Credit Cards, Consumer Credit & Bankruptcy*, Law and Economics Research Paper No. 44, The University of Texas Law School, Revised March 2006, ii.

¹⁶ As above, pages 65-66.

¹⁷ As above.

¹⁸ Reserve Bank of Australia, B21 *Selected Ratios - Household Finances*, current to June 2008.

¹⁹ Harrison & Massi, above n 1, page 6.

total balance – or at least the amount spent during the period. The actual decision to incur – or maintain – interest bearing debt is actually the third decision.

Put another way, many consumers have significant interest bearing credit card debt which they could not pay immediately even if they wished to. However, it is unlikely that many of these consumers would have chosen to apply for a personal loan for \$5,000 or \$10,000 to pay for living expenses. We believe that the fact that the decision is spread over a period of time – and the debt is incurred gradually - leads some consumers to incur more debt than they, in hindsight, would have chosen to incur.

Recently we commissioned a study into UCCLIOs called *Congratulations: You're Pre-Approved!*.²⁰ This research found that UCCLIOs are specifically designed to make use of various psychological manipulations (cognitive biases) that make it more likely consumers will think less about their decision and simply accept the limit increase being offered. These include:

- triggering the natural human instinct to trust “experts”, who in this case have already determined you can afford a limit increase;
- indicating that the customer has been chosen to receive a “limited” offer, either because of their special status as a good customer or placing a time-limit on the offer, triggering well-known psychological factors such as the scarcity effect and loss-aversion;
- stating that the offer is “pre-approved” and making it very easy to accept by simply signing and posting back, making the customer feel like they already “own” the limit increase and triggering the endowment effect and loss-aversion;
- not requiring the consumer to provide any personal financial information that might assist in determining whether the lender should extend more debt to the consumer, for example the consumer’s current income and expenditure;
- using positive words and especially avoiding the word ‘debt’; and
- *if* they include a warning to the consumer to consider whether they can afford an increased limit, printing the warning in much smaller print and less prominently, so that it cannot counter-act the strength of the other messages.

UCCLIOs are intended to increase consumer debt in order to increase interest payments and, therefore, lender profit. They do not, by their nature, take account of whether the increased debt is actually appropriate for the individual’s circumstances (at best, they only require a consumer to ‘tick a box’ that they have capacity to repay the additional credit). Similarly, due to their unsolicited nature they do not take into account a change in the customer’s situation, for example due to job loss, illness or family breakdown, which is when customers are very vulnerable to easy offers of more credit. Alternatively, there may be no change in the consumer’s circumstances, which makes it hard to determine how an increasing credit card limit was justifiable given no change in the consumer’s income, especially if they are a pensioner on a fixed income.

Banks and other lenders argue that it is not to their benefit to lend to customers who cannot repay the debt. However, credit marketing techniques such as UCCLIOs are specifically designed to increase the amount loaned, given an accepted and planned-for default rate.

²⁰ As above.

More profit is made with increased lending, even if a certain percentage of loans default. A large increase in outstanding balances and a small increase in defaults can be a profitable scenario. Further, the default percentage represents individual people who are placed under stress and hardship as a result of the increased marketing and lending activity.

In addition, it is arguably not of concern to lenders whether customers struggle to service increased credit card debt levels, so long as they do not completely default on the credit card. Many consumers continue to make minimum repayments on their credit card even though they are in financial difficulties, in order to avoid defaulting.

Consumer Action has advised many consumers who accepted unsustainable credit limit increases after they were sent unsolicited increase offers. Two examples from our litigation division illustrate this:

- The client, a 44 year old man, became mentally ill and in 1993 he ceased employment and began receiving the disability support pension as his sole source of income. The client's credit limit was \$2000 in 1993 - by 2008 after accepting numerous unsolicited credit limit increase offers, the client was in debt to the bank to the tune of more than \$34,000.
- The client, an 85 year old widow, was a housewife until retirement age and then received the old age pension. The client was given a credit card with a limit of \$6300 in 1995. Over the next 11 years the client accepted a number of pre-approved credit limit increase offers so that by 2006 her credit limit had increased to \$21,500.

The above examples show how credit card marketing can encourage irresponsible lending.

UCCLIOs also show the need for regulation: the psychological manipulations used in UCCLIOs lead to such financial benefits that it is unrealistic to expect credit card lenders to abandon them voluntarily.

Reform Options

The consultation contained six Options for reform. Consumer Action supports Option 6 as it the only option likely to achieve all three Government aims. Options 1-5 are unlikely to resolve the problems that exist in relation to consumer credit cards or meet the first two Government aims of:

- Assisting consumer choice of competitively priced credit card products; and
- Adequately protecting consumers, especially vulnerable or disadvantaged consumers, from lending practices which irresponsibly provide continuing credit at levels which cannot be repaid without substantial hardship.

We comment on each specific option below.

Option 1: Maintain the status quo.

The status quo has failed to address important deficits in the regulatory regime surrounding credit cards. Therefore, it is not an appropriate proposal for reform.

Option 2: Increased penalties and better enforcement of the current law

The provisions of the UCCC do not adequately deal with the particular problems arising from credit cards – as well as other forms of credit. Some key legislative failures are:

- Credit cards differ from other forms of credit, in relation to the decision to incur credit and therefore in relation to the timing when disclosure would be most useful.
- No Australian law places an obligation on lenders to assess ability to repay. The obligation in the Banking Code of Practice (which is binding on the banks once they sign up to the Code) goes further than the law, but is inadequate to prevent irresponsible lending via credit limit increases. We prefer the terminology used in the final draft of the Mutual Code of Practice, which applies to credit unions and building societies.²¹
- While the UCCC enables a Court or Tribunal to take into account, in considering whether to re-open a contract, whether the lender advanced a loan that the debtor could not pay without substantial hardship,²² this only enables a consumer to raise this in an individual dispute. There is no capacity for remedies that would have a systemic impact. This is also the case in relation to maladministration in disputes with banks.²³

It is clear that these provisions have had limited impact on lending practices, and there is a need for:

- Clarity in relation to the outcome of an individual case where it is shown that the lender failed to adequately assess capacity to pay; and
- A clear obligation to assess capacity to pay, which gives the regulator the power to prosecute the lender for a breach of the obligation.

While section 63A of the *Trade Practices Act 1974* (Cth) (**TPA**) prohibits a company from sending a credit card to an individual who had not requested the card, neither the TPA nor the UCCC prohibits pre-approved credit limit increases. It is our view that the problems caused by pre-approved credit limit increases are similar to those which would be caused by unsolicited credit cards. Therefore pre-approved credit limit increases should also be prohibited.

Option 3: Education and information

Education and information is always a valuable and important element of consumer policy. However, when it comes to specific problems that have been identified by the consultation in relation to consumer credit cards, education and government-sponsored or non-mandatory information will not resolve the problems.

Timing of information and the way it is provided is important. As shown in *Congratulations, You're Pre-Approved*, marketing techniques can draw attention away from valuable

²¹ We will always act as responsible lenders. We will base our lending decisions, including decisions to extend existing credit facilities, on a careful and prudent assessment of your financial position. We will periodically review our credit assessment procedures and criteria for the products we issue (clause 6.1).

²² UCCC, section 70(2)(l).

²³ UCCC, section 63A.

information – or can negate the benefits of warnings, and breaks in the decision process may be necessary to ensure that information is considered by consumers.

The authors of *Congratulations, You're Pre-Approved* suggest mandating psychological and temporal breaks to force consumers to engage in a decision to accept credit. For example, an UCCLIO application could require the consumer to provide up-to-date income and expenditure details, including, but not limited to, providing pay slips or proof of current income. This process will oblige the customer to think more thoroughly and methodically about their financial situation, and will slow down the application activity while the customer puts together the materials for the application. There may be other psychological breaks that could be considered.

Option 4: Industry self regulation

In our view, industry self-regulation is unlikely to be successful and it may actually lead to market distortions. This is because without monitoring or enforcement, some industry members will comply and some will not. In fact, it is usually the industry participants that are already trading reasonably fairly that comply with self-regulatory measures, while the poorer industry players do not. Further, in relation to responsible credit card lending practices, industry has not shown a good faith resolve to forego its financial self interest to resolve the serious problems raised by the consultation, and it would be unrealistic to expect industry to take steps to resolve these problems in the absence of regulation.

Option 5: Co-regulation

Co-regulation can be a useful model that is followed to some extent in most regulatory environments in Australia. Co-regulation, which usually involves industry self-regulation in conjunction with a regulatory hook, has, in some instances, been effective in addressing problems. For example, the Banking Code of Practice (and, when it is implemented, the draft Mutuals Code of Practice) contain a regulatory hook due to clauses which deem the codes contractually enforceable by consumers against any signatory of the code. There are also independent mechanisms to monitor compliance and undertake enforcement in relation to the Banking Code of Practice. However, we don't believe that such co-regulation is adequate to address the problems due, in part, to the limited coverage of industry codes and to the failure of the Banking Code of Practice to rein in irresponsible credit card lending. The Banking Code of Practice only has one clause that considers responsible lending, and it does not specify particular conduct in relation to credit card lending. The recent review of the Banking Code of Practice also does not appear to promote further regulation of credit card lending in that code.²⁴ This is not surprising given that, ultimately, the industry participants must agree to any further self-regulation and, as stated above, it is unrealistic to expect them to take such steps where they have a significant financial self interest at stake.

²⁴ Jan McLelland & Associates, *Independent review of Code of Banking Practice*, interim recommendation at page 29. Indeed, there has been some suggestion that the banks want to change the Code so that they no longer have to promise to be "responsible lenders": see Jason Bryce, 'Banks fuel credit alarm', *Herald-Sun*, 25 August 2008, p 93.

Option 6.1: change the timing of essential information disclosure

Consumer Action generally supports the disclosure proposals in Option 6.1. Providing information after the credit facility has been approved reduces the likelihood that the consumer will act based on that information. To the extent that it is feasible, all information that is subject to mandatory disclosure should be disclosed in the application form.

However, disclosure alone will not be sufficient to address the identified problems related to credit card lending. For example, as mentioned above the *Congratulations, You're Pre-Approved* report found that even if an UCCLIO included a warning to the consumer to consider whether they could afford an increased limit, this warning was printed in much smaller print and less prominently than the offer, so that it simply could not (nor was it intended to) counter-act the strength of the marketing messages. If disclosure continues to be used as part of the regulatory response, it will be more successful if, in determining disclosure requirements, regulators and other participants consider behavioural economics principles and the inherent behavioural biases of consumers.

Option 6.2: require credit providers to allow consumers to nominate the credit limit sought

Consumer Action supports Option 6.2. It is a basic part of any credit decision to identify the amount of credit required. This would also play some part in focussing the consumer's mind on the decision to apply for, or accept, credit.

However, the manner in which this option was implemented would also be important. For example, if lenders were still able to pre-approve and prominently display their own chosen credit limit in an unsolicited offer, and simply include a sentence telling the consumer they can nominate a different amount if they so desire, it is unlikely to be effective – indeed this already occurs in some of the current examples of problematic UCCLIOs.²⁵ To be effective, this option would need both to require lenders to ask consumers to nominate their own chosen credit limit more prominently than any marketing offering the lender's preferred limit, and to require the application for credit to be transmitted to the lender and processed in the same manner regardless of whether it is the consumer's or the lender's nominated credit limit.²⁶

Option 6.3: prohibit the card issuer from providing more credit than the consumer can repay without substantial hardship

Consumer Action supports Option 6.3. Consumer Action sees cases of credit card over-commitment, like the examples we give in the section on credit limit increases above, on a regular basis. To lend money to a borrower who cannot repay without substantial hardship is irresponsible, and lenders should not be able to avoid duties to act responsibly by claiming that all responsibility should fall on the shoulders of debtors. As a matter of common-sense

²⁵ For example, see the UCCLIOs at figures 1.1, 2.1, 2.2, 3.1, 3.2, 3.4, 4.1, 4.3, 4.4, 4.5 and 5.1 in Harrison & Massi, above n 1.

²⁶ Some of the UCCLIOs in n25 above allowed the consumer to use the same easy letter or form either to accept the offered limit increase or nominate a lower increase. However, some required the consumer to call if they wished to ask for a lower limit increase, as compared to ticking some boxes and sending back the pre-completed form. Further, not all of the UCCLIOs that did allow consumers to nominate a lower limit informed the consumer of that option in the body of the letter.

any restriction on lending in relation to hardship should apply to credit limit increases in addition to the initial provision of a credit card.

Option 6.4: provide relief for consumers by making the debt unenforceable to the extent that it exceeds an amount granted in accordance with option 6.3, including interest charged

Consumer Action supports Option 6.4, and notes that it is necessary to make Option 6.3 effective. Preventing lenders enforcing repayment for amounts loaned in excess of what a responsible lender would have extended provides the proper incentive for lenders to lend responsibly. It is also appropriate because it is a proportionate and matching sanction to the conduct causing the problem. This would also be a useful regulatory approach because it provides an incentive for the lender to achieve the government objective, but leaves the lender free to implement the most effective method of achieving this end. The proposed regulatory approach allows lenders flexibility in implementation. Thus, different lenders may use different lending procedures, evidential requirements, and scoring to ensure they are not lending amounts that would cause financial hardship - but each lender will be able to choose the right mix of steps to achieve compliance. The lender is not told how to comply, but nor is the lender left without any incentive to comply.

Option 6.5: require card issuers to warn consumers about the effect of paying only the minimum repayments

Consumer Action supports option 6.5. Lenders should be required to set out the time it would personally take each consumer to pay out the balance by making minimum payments on the monthly credit card statement. People are interested in information that affects them personally, and would take far more notice of information that pertains to them specifically. Carrying credit card balances from month to month is often not in the rational self interest of consumers. By requiring lenders to inform consumers of the consequences of making only minimum repayments, consumers will be better informed and will be more likely to make rational decisions.

Option 6.6: require card issuers to increase the minimum repayment percentage

Consumer Action supports the approach suggested in Option 6.6. While there are problems in mandating a minimum percentage of the premium that must be repaid (as such a percentage may be somewhat arbitrary), credit cards should not be structured to maximise, rather than restrain, the number of consumers who carry large balances from month to month with significant interest costs. We understand that lenders have reduced the minimum repayment amount as a percentage of the overall balance over the past 10 years or so, thereby encouraging consumers to obtain, and maintain, higher balances bearing interest. Given this is one of the practices that could be considered irresponsible and thus forms part of the problem, it is not unreasonable to require lenders to re-raise those minimum repayment amounts at least to where they were previously.

Other critical regulatory options

Consumer Action recommends that specific regulation is needed in relation to credit card marketing (such as UCCLIOs) because it leads to increasing credit card limits and consumer

debt. Credit card marketing is a central and not peripheral issue – it is a key driver of the increasing credit card debt levels of Australian consumers and it has led to numerous instances of over-commitment. As such, if there is no adequate regulatory response to credit card marketing it is likely that any response to the issues of credit card debt, over-commitment and financial hardship will fail.

In particular, the use of pre-approval in credit marketing is one obvious cause of current problems. At the very least, the loophole under section 63A of the *Trade Practices Act* – by which there is a ban on pre-approved, unsolicited credit cards but no ban on pre-approved increases to the credit provided once a credit card has first been issued – should be closed.

Should you have any questions please contact us on (03) 9670 5088.

Yours sincerely

CONSUMER ACTION LAW CENTRE



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