WEstjustice

Senate Economic Legislation Committee
Parliament House
Canberra ACT 2600
Lodged online

5 October 2022

Inquiry into the Financial Sector Reform Bill 2022

Westjustice welcomes the opportunity to provide a submission to this Inquiry. The comments contained in this submission address the reforms to high-cost credit products in Schedule 4 of the Financial Sector Reform Bill 2022 (the Bill). We are strongly supportive of the Small Amount Credit Contracts (SACC) and consumer lease reforms in the Bill and urge Parliament to pass this Bill as a matter of urgency, without amendments.

This sector has remained under-regulated for too long, and these reforms will go a long way to addressing the ongoing harm that payday and consumer leases are doing to many within the community we serve as the Community Legal Centre for Melbourne's Outer West. We provide free legal advice, representation, education, community development, advocacy and policy in the Maribyrnong, Wyndham and Hobsons Bay Local Government Areas across four impact areas: people experiencing family and gender-based violence, youth, culturally and linguistically diverse (CALD) communities, and people facing economic injustice.

Every day in our casework, we see the disproportionate impact that payday loans and consumer leases have on people experiencing economic exclusion and disadvantage, often used to pay for essential goods and services such as rent, bills, food, transport, fuel, medicine and car repairs. These under-regulated products cause and exacerbate significant social and financial harm for vulnerable individuals.

Our community is one of the fastest growing areas in Australia and, as of the most recent Australian Census, comprises Australia's most multicultural suburbs. It was also one of Australia's hardest hit areas from the health and economic impacts of COVID-19 and Melbourne's lockdowns and is now experiencing extreme cost of living pressures.

Our community is disproportionately engaged in insecure, casualised work, and a significant segment of our community relies at least in part on social security payments to survive. In this context, payday loans and consumer leases are ubiquitous: as an example, there are multiple SACC provider outlets targeting the community in only a small stretch of Watton Street in central Werribee, in addition to a plethora of online advertising for these products.

We see our clients reach for SACCs and consumer leases when they feel they have no other options, not fully appreciating or not being in a position to make fully autonomous choices around the exorbitant interest rates and fees they attract. Our clients frequently take out multiple loans consecutively or concurrently, adding to the financial pressure they are under and trapping them in debt spirals that are extremely difficult to extricate themselves from. It is common for our clients to obtain further loans to pay off existing loans because their financial position is not sufficient to meet the repayment obligations of the loans. Vulnerable individuals end up paying back significantly more than they ever borrowed or much more than the leased product was ever worth. The only reason they must rely on these predatory products is because of poverty and marginalisation, which is exactly the profile that these products are designed to target.

Our casework experience indicates that the industry has not changed its practices since the SACC Review. In lieu of changes, the industry has developed digital marketing and online loan applications making payday loans more accessible than ever. Financial inclusion is essential to all Australians and individual financial wellbeing has impacts on wider society. People experiencing social vulnerability need access to safe and affordable financial products that meet their needs. As such, we strongly recommend the following reforms are implemented as drafted without amendment:

- **10 per cent protected earnings amount caps for SACCs and consumer leases:** we strongly support the 10 per cent cap, noting the 20 per cent cap for SACCs for Centrelink recipients is too high and has not stopped SACCs causing people to fall into debt spirals. This measure will prevent substantial harm to consumers. Financially disadvantaged and vulnerable people will be protected from being sold multiple loans that they cannot afford with affordability assessments made far clearer and less susceptible to underestimates of living expenses.
- **Consumer lease cost cap:** we strongly support the cost cap as a vital protection to reduce the risk of consumers paying multiple times the value of the leased good across the life of a lease. Any concession in this area will just put more money into the pockets of lessors at the direct expense of people in financial hardship. The 4 percent cap is also consistent with all other forms of regulated credit.
- **Unsolicited selling of SACCs:** we strongly support this broad ban to help stop the debt trap by reducing the number of individuals who are persuaded by aggressive marketing tactics to take out another loan the moment they pay one off.
- **Unsolicited selling of consumer leases:** while this band could be even broader, we support it as a means of preventing aggressive and unsolicited selling tactics, including in remote communities where a lessor will aggressively sign people up to lease arrangements.
- **Anti-avoidance provisions:** we support this provision to capture those organisations like Cigno who have otherwise attempted to avoid regulation.
- **Referrals to unlicensed lenders:** we support this provision to stem the predatory practices of referrals to unlicensed lenders or to buy additional products like buy now pay later, wage advances or credit.

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We make a final general observation that this should be a welcome step, but not the end, in addressing harmful financial products and their harm on the community. Buy Now, Pay Later (BNPL) products are currently wholly unregulated and should be brought into line with equivalent SACCs to ensure they are sold to consumers appropriately. Above all else, a fair and generous social safety net, combined with foundational financial education, will avoid the debt spirals too many low-quality financial products create, and their associated social and economic consequences.

If the Committee would like any further detail on our response or on any Westjustice client experiences or projects, we would be more than happy to meet to discuss. Please contact the legal Director, Economic Justice Program, [redacted]

Yours sincerely,

[redacted]

Melissa Hardham
CEO
Westjustice