

**Question on notice taken by WACOSS**  
**Public Hearing in Canberra on Friday, 19 February 2021**

**Hansard transcript, page 37**

**Senator BRAGG:** *Thank you for your time. I asked the last witnesses if they had any suggestions as to how we could improve the operation of AFCA, recognising that they're essential to the credit regime, let's say, in this context. Maybe you'll want to take it on notice and provide some information to the committee, but I think it's a worthy line of inquiry while we're looking at these proposed legal changes.*

**Mr Twomey:** *Yes. I think that's a really important issue. I would say, as a peak body for community services, it's a little bit beyond our expertise. Certainly, we haven't really had the capacity to engage at that level of policy. But, yes, we're certainly happy to take that on notice and we'll probably also touch base through our networks to see who has been doing that work.*

**AFCA**

Our concern is that this Bill will both serve to inappropriately place AFCA in the position of being the final decision maker, as well as undermine its ability to consider complaints from consumers.

As an external dispute resolution service, AFCA was intended to act as an alternative measure to resolve issues before having to seek redress through the court system. Importantly though, consumers have the option of pursuing the matter in court if the outcome was unsatisfactory. The resulting legal decision would then have an impact on how AFCA make their decisions into the future. Under the Bill, AFCA would act as the sole interpreter of the law, as there are no provisions allowing for consumers to bring legal actions for individual instances of irresponsible lending. This unreasonably restricts the options available to a consumer to seek redress.

Removing responsible lending provisions will also reduce their capacity to hear complaints from consumers regarding inappropriate credit arrangements. As the only time AFCA is able to hear complaints about a lender's assessment of credit risk is complaints relating to maladministration, the consumer will need to be able to make the case that the lender failed in meeting their legal obligations. With the removal of responsible lending obligations, their ability to do this is seriously compromised.

We support the comments made by the Consumer Action Law Centre in their submission to the inquiry on this matter.