FINLAYSONS

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October 20 2011

Committee Acting Secretary
Senate Economics Committee

By e-mail: economics.sen@aph.gov.au

Attention: Dr Richard Grant, Acting Secretary

Dear Sirs & Mesdames

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Inquiry into *Consumer Credit & Corporations Legislation Amendment (Enhancements) Bill* 2011 (Bill)

Super Nexus Pty Ltd (*Nexus*)

We act for Nexus, which operates a number of Cash Converters franchised outlets in South Australia.

On September 12, 2011, we lodged with Treasury, on behalf of Nexus, a lengthy and detailed Submission regarding the Exposure Draft of the Bill.

We ***attach*** a copy of that Submission as Appendix A to this letter.

Nexus would also like us to convey a number of further comments to the Senate Economics Committee.

To summarise:

- Despite being an efficient supplier of short-term loans, Nexus incurs significant costs in making short-term Cash Advances.
- On an average loan of $320, Nexus incurs costs of $96.
- Those costs reflects the risks and expenditure associated with providing unsecured, small amount, short term loans to persons.
- Nexus cannot make credit available to consumers at the rates set by the proposed cap (i.e. $38 for a $320 loan).
- Implementing the proposed cap will therefore destroy a significant part of the Nexus business and will result in further credit *exclusion* for customers who have limited access to alternative finance.
- That outcome clearly fails to meet the Government's express policy objectives.
- Serious consideration should be given to adopting a cap model similar to that used in South Africa.

In more detail:

1. The policy objectives of the Bill include ensuring the financial inclusion and protection of consumers; and Nexus strongly supports those objectives.

2. The Assistant Treasurer, the Hon. Bill Shorten, identified the primary purpose of the Bill as being to: "*... stop payday lenders from overcharging consumers ... by introducing limits on the costs they can charge*".[1]

3. Again, Nexus supports that primary purpose.

4. The Assistant Treasurer believes the cost of payday loans, in Nexus's case $35 per $100 loaned, represents overcharging, and the proposed cap is evidence of that belief.

5. Over the last few years there have been a substantial number of submissions in response to various State and Federal reviews of short term credit.

6. While there is a large body of information available, there is little verifiable information available regarding the cost of providing payday loans.

7. Nexus operates 8 franchised outlets and provides more than 38,000 Cash Advances per year. Nexus is therefore a reasonable size lender in the micro-finance market.

8. We set out below a summary of Nexus's FY2011 financial results per average Cash Advance of $320.

Income	**$110.84**
less Expenses	
Administration	
Direct	$34.59
Indirect	$39.39
Other	
Bad debt	$14.71
Interest	$1.90
Income tax	$6.08
Total expenses	**$96.66**
Profit per Cash Advance	**$14.18**

[1] Assistant Treasurer's Media Release No. 123 (August 25, 2011).

9. Nexus is happy to provide the Senate Economics Committee with the detailed financial reports which give rise to the summary and welcomes examination of these reports.

10. The above figures demonstrate that Nexus incurs costs of $96.66 on an average loan of $320, and makes a modest profit of $14.18.[2]

11. Compared with the NAB, which incurred administration costs (excluding cost of funds and loan defaults) of $321[3] per loan, Nexus is an efficient supplier of short-term, low value credit.

12. On that basis, it is, with respect, difficult to see how it could be argued that Nexus is overcharging consumers.

13. Nexus is simply charging its customers a fair fee to compensate Nexus for the risk, work and cost associated with providing unsecured, short-term, small-amount loans.

14. Under the proposed cap, Nexus can charge only $12 per $100 lent, or $38 for the average one-month loan of $320.

15. <u>Nexus simply cannot make credit available to consumers at the $12 per $100 loan permitted by the proposed cap; and believes no legitimate micro-credit provider could do so</u>.

16. Supporting this position, the NAB Small Loan Pilot concluded:

> *… it is not possible to make a profit and legally operate within [a] 48% per annum cap for loans of $1700 or smaller for a portfolio of 3000 loans or less for loan terms of 1 year or less*.[4]

17. Implementing the proposed cap will therefore destroy a significant part of the Nexus business.

18. The proposed cap will also leave many consumers without an alternative source of finance, since a large number of Nexus's customers will be ineligible for Government or charitable assistance, or will find loans offered by other lenders to be ill-suited to their needs[5].

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2 Much less than the "*modest profit margin of 20 cents in the dollar*" - National Australia Bank, *Do you really want to hurt me? Exploring costs of fringe lending – a report on the NAB Small Loans Pilot* (2010), p 13 (***NAB Report***).

3 Ibid, p 12.

4 Ibid, p 13. Although the Cash Converters stores operated by Nexus have loan portfolios averaging approximately 4,700 loans, those loans are for amounts and terms that are significantly less than the $1,700 loan and 1 year terms identified in the NAB Report.

5 See Dean Wilson, *Payday Lending in Victoria – A research report* (2002), pp 79-80, for a comparison of payday loans to credit cards and traditional bank finance.

19. That will result in further credit *exclusion* for consumers – an indication the Bill *fails to meet* the Government's policy objectives.

20. Paragraphs 34 to 45 of Nexus's Submission to Treasury (Appendix A to this letter) provide a simple breakdown of the characteristics of the Cash Advance product; differentiate the Cash Advance product from traditional payday loans and bank products; and demonstrate how the product supports the policy objective of consumer protection.

21. Paragraphs 46 to 54 of the Submission contrast the proposed cap with the caps imposed on micro-finance lenders in South Africa under the *National Credit Act* 2005 (RSA).

22. Those caps, which have been set at realistic rates to reflect the costs of providing unsecured loans in the micro-finance industry, would maintain consumer access to credit and prevent overcharging. This arrangement would be more effective in achieving the Government's policy objectives.

23. Nexus strongly recommends that consideration be given to adopting caps similar to those used in South Africa, and would be happy to discuss its own experience operating under the *National Credit Act* 2005.

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If we or Nexus can provide any further information or documentation that would help the Senate Economics Committee in its deliberations, please do not hesitate to let us know.

Yours faithfully

M St J R Butler
Partner