

# Chapter 10

## Committee conclusions

10.1 The credit reporting Exposure Draft represents a significant step in the reform of credit reporting in Australia. The Exposure Draft implements a more comprehensive credit reporting regime in place of a regime which is seen as being outmoded, cumbersome and inadequate for today's complex finance sector.

10.2 Under the proposed regime, the types of information which credit reporting agencies and credit providers can collect, use and disclose for credit purposes is expanded, including five new data sets. In addition, the regime will apply to a wider range of credit reporting agencies and credit providers.

10.3 While consumer advocates raised concerns about access to greater amounts of information, for example, that it may allow credit providers to impose unfavourable terms on vulnerable customers, the committee supports the move to a more comprehensive credit reporting system. The new credit reporting system supports responsible lending by providing a clearer picture of a consumer's ability and capacity to repay a debt. This will assist in ensuring that consumers do not over commit themselves, particularly those consumers who are disadvantaged or in a vulnerable position. The credit reporting system will also increase competition between large and small lenders thereby benefiting consumers.

10.4 Submitters to the inquiry raised a number of concerns including the complexity of the draft, the need for greater clarity of provisions and the way in which provisions may work or be interpreted. As the new requirements have been provided as an Exposure Draft, no Explanatory Memorandum was available. The committee considers that many of the matters raised will be clarified in the Explanatory Memorandum. In addition, as with the Australian Privacy Principles, many matters will be addressed in guidance from the Office of the Australian Information Commissioner.

10.5 The committee also notes that the Credit Reporting Code of Conduct is being developed in consultation with stakeholders. The Code is an important mechanism in ensuring that credit reporting agencies and credit providers know how to practically apply the credit reporting provisions. It will also address and clarify many matters raised during the committee's inquiry. In addition, the Code will ensure that the credit reporting system remains flexible and responsive to future challenges and developments.

10.6 There were, however, substantial comments in relation to the complexity of the Exposure Draft. The committee notes concerns that this makes the Exposure Draft less user-friendly and may undermine consumer protections and rights. It was also argued that the complexity of the Exposure Draft makes it difficult for credit reporting agencies and credit providers to understand and meet their obligations. The committee

acknowledges these concerns however, the credit reporting system involves large amounts of information which flow between multiple entities. The Exposure Draft proposes to regulate these information flows at each stage to ensure adequate information protection. However, the committee considers that there are some avenues for improving the clarity of the Exposure Draft and has made recommendations in relation to definitions, the use of certain terms and the need for consistency across the consumer credit regulatory regime. In relation to comments about the complexity of definitions, the committee has acknowledged that there are many new definitions, but these reflect the complexity of the information flows and information use in the credit reporting system. The committee did not support the proposal for a single definition of regulated information as this would involve a major re-drafting of the Exposure Draft and does not reflect the current business model of the credit reporting sector.

10.7 During the inquiry, a number of industry stakeholders and consumer advocates undertook consultations on five major issues: identity theft; serious credit infringement; hardship flags; complaints handling; and the simplification of definitions. The committee sought the response of the Department of the Prime Minister and Cabinet to the outcomes of the consultations. The committee has recommended that consideration be given to matters in relation to serious credit infringements so that those listings that do not relate to intentional fraud are dealt with in a different way. This new approach would apply particularly to instances where utilities and telecommunications debts were not paid because of inadvertently failing to provide a change of address notification to a utilities or telecommunications provider. In relation to identity theft, the committee did not support a change from a 'ban' to a 'flag' mechanism. However, the committee made recommendations in relation to ensuring the intent of the Government's response to the ALRC's recommendation in this regard is adequately provided for in the Exposure Draft and that consideration be given to extending the initial ban period from 14 days to 21 days.

10.8 Much evidence was received in relation to hardship provisions. The provision of a hardship 'flag' was not supported by the ALRC. However, credit providers supported such an approach. The committee considers that there are circumstances where a consumer will request a change of credit arrangement because of a change of circumstances, for example, illness. Credit providers also provide consumers with changes to arrangements in response to natural disasters and other events. In these circumstances, the new arrangement is entered into before a default is listed. The committee considers that consideration should be given to allowing these changes to the terms or conditions of an arrangement to be included as an individual's credit information.

10.9 In relation to the complaints handling process, submitters commented on the perceived complexity of the new arrangements. The committee notes that much of the evidence did not support a separate 'correction' and 'complaints' process. However, the committee was not of this view as there is significant merit in allowing for corrections to be handled quickly through the correction process before a consumer proceeds to a complaints process.

10.10 The committee has made recommendations in relation to a range of specific provisions. Many of these recommendations recognise that matters should be dealt with in the Credit Reporting Code of Conduct or that terms should be clarified. In particular, the committee has recommended that the meaning of 'access seeker' be reviewed to ensure that consumers may continue to use the National Relay Service to access their credit reporting information without overly onerous requirements.

10.11 In conclusion, the committee considers that the Exposure Draft comprehensively addresses the recommendations of the Australian Law Reform Commission and implements an effective credit reporting system that protects consumers' rights and assists responsible lending by credit providers.

**Senator Helen Polley**  
**Chair**

