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Budget Policy Division
The Treasury
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Submission to The Treasury on priorities for 2016-17 Federal Budget

Consumer Action Law Centre (**Consumer Action**) welcomes the opportunity to provide input into The Treasury's budget development for financial year 2016-17.

The stated aim of the Government in inviting submissions to feed into the development of the 2016-17 Federal Budget is to focus on responsible expenditure. This also gives the opportunity to identify saving measures that will allow the focus of Government resources on the skills and jobs Australians need.

Consumer Action has identified three budget measures that, if implemented, would improve the lives of low income and vulnerable Australians:

- Recover fees paid to Registered Training Organisations who are found to have mis-sold inappropriate courses, and free students from a debt they should never have incurred and are unlikely to be able to repay;
- Invest in legal assistance, provide access to justice, and avoid cost shifting to other government departments and service providers through escalation of legal problems; and
- Invest in financial counselling services to help Australians struggling with credit and debt get back on their feet, pay their way, and return to financial inclusion.

Our comments are detailed more fully below.

About Consumer Action

Consumer Action is an independent, not-for-profit, campaign-focused casework and policy organisation. Consumer Action offers free legal advice, pursues consumer litigation and provides financial counselling to vulnerable and disadvantaged consumers across Victoria. Consumer Action is also a nationally-recognised and influential policy and research body, pursuing a law reform agenda across a range of important consumer issues at a governmental level, in the media, and in the community directly.

1. VET FEE-HELP Loans

The opportunity

Consumer Action has been a leading advocate for Australians who have been mis-sold Vocational Education and Training (VET) courses attached to a Commonwealth supported VET FEE-HELP loan. Mis-selling could be the result of, or be aligned to: unfair contracts, poor quality and unsuitable courses, aggressive marketing tactics (such as the harvesting of job-seeker details) or excessively high costs.

Upon enrolling a consumer in a VET-FEE HELP loan, Registered Training Organisations (**RTOs**) were provided by the Commonwealth with the full amount of the course (and therefore the loan) upon the end of the census date after enrolment. This situation has changed as of 1 January 2016.

Our casework shows that the monetary cost of popularly sold Diploma and Double Diploma courses have widely led to VET FEE-HELP debts of in excess of twenty thousand dollars.

The enrolment practices, widely reported in the media, of many VET providers and third-party brokers have targeted the most vulnerable in society, including people with disabilities, migrants with limited or no English language skills, and job-seekers.

The statistics for enrolments for VET FEE-HELP backed courses between 2011 and 2014 in Figure 1 show the explosion in enrolments during this time:

Figure 1

| <i>Mode of Attendance</i> | <i>2011</i> | <i>2012</i> | <i>2013</i> | <i>2014</i> |
|---------------------------|---------------|---------------|----------------|----------------|
| Internal | 24,253 | 32,748 | 54,432 | 97,845 |
| External | 13,669 | 20,222 | 45,042 | 101,389 |
| Multi-modal | 2,729 | 4,625 | 7,648 | 17,720 |
| Employer based | 113 | 84 | 489 | 316 |
| TOTAL | 40,764 | 57,679 | 107,611 | 217,270 |

Source: Department of Education and Training

The VET FEE-HELP cases that Consumer Action's legal practice has been involved in has involved the mis-selling of primarily online courses. These are referred to as "external" in the figures provided by the Department of Education and Training (**the Department**).

According to the Department, based on the "3-year completion rates", only 7% of "external" students enrolled in 2012 had completed their courses by 2014. Most Diplomas are designed to take between six to twelve months to complete. In 2013, the 3-year completion rate for these courses was also 7%.

Commonwealth expenditure on the VET FEE-HELP loan scheme increased substantially between 2011 and 2014, following the trajectory of enrolments. The total expenditure on VET-FEE HELP assistance over this period is shown below in Figure 2:

Figure 2

| | <i>2011</i> | <i>2012</i> | <i>2013</i> | <i>2014</i> |
|--------------|----------------------|----------------------|----------------------|------------------------|
| TOTAL | \$205,270,858 | \$324,617,430 | \$699,242,617 | \$1,757,304,188 |

Source: Department of Education and Training

It is worth looking at the average annual tuition fee per “equivalent full-time student load” (EFTSL). The EFTSL is a measure of the study load, for a year, of a student undertaking a course of study on a full-time basis. The annual tuition fee is shown below in Figure 3:

Figure 3

| | 2011 | 2012 | 2013 | 2014 |
|--------------|----------------|----------------|----------------|-----------------|
| TOTAL | \$4,814 | \$5,917 | \$9,549 | \$12,308 |

Source: Department of Education and Training

While it is impossible to accurately determine how many courses have been mis-sold, the exponential growth in both enrolments and expenditure, as well as anecdotal evidence from our case work, media reports and multiple submissions to the recent Senate Inquiry suggest the practice was wide spread.

Based on these factors, we have chosen to look at “external” or online courses only, and take the conservative estimate of 50% of all VET FEE-HELP enrolments as being mis-sold. Looking at the trend of 7% completion rates over three years for “external” enrolments in 2011 and 2012, we estimate the Commonwealth may be owed in excess of \$1.5 billion on mis-sold VET FEE-HELP loans.

NOTE: The figures for 2015 have not yet been released. For the purpose of this calculation, it is assumed that the enrolment or expenditure will remain steady at the 2014 rate.

Figure 4

| | 2011 | 2012 | 2013 | 2014 | 2015* |
|-------------------------------------|---------------------|---------------------|----------------------|----------------------|-----------------------|
| 50% of 'external' enrolments | 6,834 | 10,111 | 22,521 | 50,694 | 50,694* |
| Ave. annual tuition fee | \$4,814 | \$5,917 | \$9,549 | \$12,308 | \$12,308* |
| TOTAL | \$32,898,876 | \$59,826,787 | \$215,053,029 | \$623,941,752 | \$623,941,752* |

* estimated figure

How it is addressed

Many VET-FEE HELP loans are bad debts waiting to happen sitting on the Government’s balance sheet with little or no prospect of these funds being re-paid to the Commonwealth. Rather than waiting, all loans for uncompleted VET courses should be immediately investigated to determine whether the enrolment of a student was genuine or not. If it is considered that the enrolment was not genuine, the Commonwealth should recover the value of the VET-FEE HELP loan from the provider, and the debt wiped from the student.

Recovering these payments made to VET providers under the VET FEE-HELP loan scheme would improve the 2016/17 Budget position by an estimated \$1.2 billion over the forward estimates.

Not all of the Commonwealth funding paid to VET providers could be recovered. Already some providers, such as Phoenix Institute, have closed their operations. This explains the lower cumulative figure than that presented in Figure 4.

The savings

It is projected that action to recover funds disbursed to RTOs for mis-sold courses would deliver \$1.2 billion over the forward estimates.

Savings (\$million) – forward estimates

| ITEM | 2016-17 | 2017-18 | 2018-19 | 2019-20 |
|---|---------|---------|---------|---------|
| <i>Recovery of payments made to VET providers (VET-FEE Help scheme)</i> | \$300 | \$300 | \$300 | \$300 |

2. Access to justice

The opportunity

Legal assistance providers provide legal assistance services for low income and disadvantaged people in our community. The recipients of this assistance typically face a number of barriers to access the civil justice system, and if left unresolved, can deepen and complicate existing problems. The Productivity Commission, in its Access to Justice Inquiry Report (2014), recognised this, and found that there was a role for government in assisting the most vulnerable to uphold their legal rights and resolve legal disputes.¹

Consumer Action provides free legal advice to thousands of low income and vulnerable Victorians each year. We are a specialist consumer law centre and financial counselling service, and work with generalist centres and financial counsellors in Victoria to help those who need it access justice through the courts and dispute resolution forums. We also undertake advocacy in pursuit of legislative and regulatory reform.

The Productivity Commission has acknowledged there is a need for additional funding for the sector, on the basis that not providing legal assistance can be a false economy as the costs of unresolved problems are often covered to other areas of government spending such as health care, housing and child protection. There are therefore net public benefits from legal assistance expenditure.

Former Chief Justice Gleeson commented in a speech delivered at the Australian Legal Convention in 1999: *“The expense which governments incur in funding legal aid is obvious and measurable. What is not so obvious, and not so easily measurable, but what is real and substantial, is the cost of the delay, disruption and inefficiency, which results from absence or denial of legal representation. Much of that cost is also borne, directly or indirectly, by governments. Providing legal aid is costly. So is not providing legal aid.”*²

How it is delivered

The funding mechanism for community legal centres and legal aid commissions is through the National Partnerships Agreement on Legal Services. The additional funding, based on the figures

¹ Productivity Commission (2014) *Access to Justice Arrangements: Inquiry Report*

² Gleeson, M (1999) *“The State of the Judicature”* speech delivered at the Australian Legal Convention, 10 October 1999

recommended by the Productivity Commission, is allocated to legal aid commissions and community legal centres, with an estimated 2% CPI increase per annum, by amendment to the existing National Partnership Agreement.

The investment

Total additional investment of \$610 million over four years.

Investment (\$ million) – forward estimates

| ITEM | 2016-17 | 2017-18 | 2018-19 | 2019-20 |
|---|-----------|-----------|-----------|-----------|
| <i>Existing allocation</i> ³ | \$257.144 | \$248.714 | \$252.901 | \$256.838 |
| <i>Additional investment</i> ⁴ | \$148.0 | \$150.96 | \$153.98 | \$157.06 |

3. Financial Counselling

The opportunity

Financial counsellors assist people in financial difficulty. They provide information, support, and advocacy to help those in need deal with their immediate financial situation and minimise the risk of future financial problems. The majority of financial counsellors work in community organisations, and their services are free, confidential and independent.

Consumer Action provides email and telephone financial counselling to Victorians experiencing financial difficulty. We are recognised as the first point of telephone contact in Victoria for anyone with financial counselling issues. Where the problems cannot be tackled by phone or email, we will refer clients to financial counsellors in their local community for face to face assistance.

The most common causes of financial difficulty is a change of circumstances in a person's life. This can include unemployment, illness or relationship breakdown. Many of our clients are also on very low incomes, such as NewStart allowance, and are unable to make ends meet. Failure of a small or family business, and poor financial advice, can also be a pathway to financial difficulty.

Financial Counselling Australia (**FCA**), the sector peak body, estimates there are 2.5 million Australians living in households of high financial stress. A best practice standard would allow for the equivalent of one financial counsellor available for every 2,000 people in financial difficulty. This therefore requires a national workforce of 1,250 FTEs, at a cost of approximately \$100,000 per annum, with all associated on costs. At a total estimate of \$125 million per annum, it would seem fair that the Commonwealth fund 50%, or \$62 million. However, current funding is \$15 million.

Funding cuts for financial counselling services in the majority of Australia were announced in December 2014 and took effect from 1 July 2015. Funding cuts for services where income management is in place—Northern Territory, Shepparton (Vic), Bankstown (NSW), Playford, APY

³ National Partnership Agreement on Legal Services 1 July 2015 – 30 June 2020

⁴ Based on Productivity Commission recommended additional investment plus 2% CPI per annum

Lands and Ceduna (SA), Logan (Qld), outback WA and parts of Perth—took effect from 1 January 2016.

We support the FCA recommendations that an industry levy be used to fund the sector. This draws on the funding mechanism in the UK, where a levy is applied to financial service providers, essential service retailers, insurance companies and debt collectors. These sectors are all beneficiaries of financial counsellors who assist their customers in financial hardship and work with those in need to find a pathway back to financial inclusion.

We also recommend providing modest funding for FCA's role in supporting an essential front line service, including coordination of the national helpline number and website, training and professional standards and registration for financial counsellors, and working with industry to improve responses to financial hardship and difficulty.

How it is delivered

There is a radical overhaul of the provision of financial counselling services, appropriate to the assessed community need. This can be funded through an industry levy which reduces or removes the need for Commonwealth funding.

The investment

Total additional investment of \$202 million over four years.

Investment (\$ million) – forward estimates

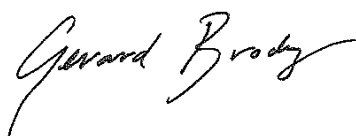
| ITEM | 2016-17 | 2017-18 | 2018-19 | 2019-20 |
|-------------------------------|----------------|----------------|----------------|----------------|
| <i>Existing allocation</i> | \$15 | \$15 | \$15 | \$15 |
| <i>Additional investment*</i> | \$49 | \$50 | \$51 | \$52 |

**includes \$2m per annum support for FCA; total combined funded by industry levy (not included in table)*

Please contact Denise Boyd on 03 9670 5088 or at deniseb@consumeraction.org.au if you have any questions about this submission.

Yours sincerely

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