

STOP THE DEBT TRAP



09 November 2020

By email: CBSReforms@sa.gov.au

Dini Soulio
Commissioner
Consumer & Business Services
GPO Box 1719
ADELAIDE SA 5001

Dear Commissioner,

Thank you for the opportunity to provide feedback on the draft *Fair Trading (Small Amount Credit Contracts and Consumer Leases) Amendment Bill 2020 (SA)*.

The Stop the Debt Trap Alliance (**the Alliance**) is a coalition of consumer advocacy organisations from around Australia, including financial experts, community advocates and service providers. Every day our organisations hear from people who have been trapped in crippling debt due to high-cost fast loans and harmful consumer leases.

We strongly support the proposed legislation and urge the South Australian Parliament to pass these crucial reforms as a matter of urgency.

High cost fast loans (also known as payday loans) and consumer leases (marketed as “rent-to-buy”) are a multi-million-dollar industry that has a history of non-compliance with responsible lending requirements. They profit by charging excessive fees and entrenching Australians in a cycle of debt. The impact of unaffordable debt is significant – it can limit people’s ability to pay rent, put food on the table or keep the lights on, and can harm people’s mental health and family relationships.

These products are targeted at people who are financially desperate and feel they have no other option. Therefore, competition does not work to reduce cost – that is, people are unlikely to ‘shop around’.

Despite responsible lending obligations, there is evidence that lenders continue to offer loans to people who can’t afford to pay them. The independent SACC Review commissioned by the Federal Government in 2016 found that the current Federal laws are ineffective in ensuring lenders don’t overburden borrowers.

The only way to make these products safer and make sure businesses treat people fairly is by introducing sensible safeguards as recommended by the Review.

The reforms included in the proposed legislation would be a critical first step to improving protections for people who use payday loans and consumer leases. They would ensure people have enough money for essential living expenses by capping the amount of a person's income lenders can take – known as a 'protected earnings amount'. It is for this reason that we particularly support the inclusion of the 10% cap on repayments for both payday loans and consumer leases.

Research commissioned by the Alliance shows that over a five-year period, around 15% of all payday borrowers fall into a debt trap which puts them in financial hardship and at risk of bankruptcy.¹ The proposed legislation would introduce provisions to help protect South Australians from falling into this trap. These protections are critical as we recover from the COVID-induced recession.

Similarly, consumer leases – where goods such as fridges, washing machines, or lounge suites, are rented for household use – come with eye-watering fees. With no caps on the amount that can be charged for a consumer lease, people are often charged multiple times more than what it would cost to have purchased the goods outright.

Critically, the proposed legislation would introduce a cap on costs for consumer leases, which would be calculated on the base price of the goods plus 4% of the base price per month for a maximum of 48 months. The introduction of this cap would go a long way towards addressing the financial harm caused to people by unaffordable consumer leases.

Furthermore, the Federal Government's proposal to introduce a watered-down version of these reforms as part of broader consumer credit legislation is of serious concern. The Alliance does not support the Federal Government's proposal, given the risk of financial harm that will result from removing responsible lending obligations if the legislation passes Parliament.

It is the Alliance's view that the Federal Government's proposed reforms to payday loans and consumer leases do not go far enough in addressing the harm caused by these unsafe products and will therefore be largely ineffective.

We commend the South Australian Government for planning to introduce these desperately needed reforms and strongly urge Parliament to pass the legislation. The Federal Government has failed to act. State governments must step in to ensure their citizens are appropriately protected from predatory lenders.

Thank you for providing the opportunity to make a submission on this important matter.

Signed,

Stop the Debt Trap Alliance

Anglicare Tasmania
Anglicare Victoria
Australian Council of Social Service (ACOSS)
Care Financial Counselling Service and the Consumer Law Centre of the ACT
CHOICE
Consumer Action Law Centre
Consumer Credit Law Centre SA
Consumer Credit Legal Service WA

¹ Stop the Debt Trap Alliance, *The Debt Trap: How payday lending is costing Australians*, November 2019, available at: https://consumeraction.org.au/wp-content/uploads/2019/11/200217_PaydaylendingReport-1.pdf, p 6

Financial Counselling Australia
Financial Counselling Victoria
Financial Counsellors' Association of NSW
Financial Counsellors Association Tasmania
Financial Counsellors Association Queensland
Financial Counsellors' Association of Western Australia
Financial Rights Legal Centre
Hume Riverina Community Legal Service
Indigenous Consumer Assistance Network
MoneyMob
Neighbourhood Houses Tasmania
NILS Network of Tasmania
NSW Council of Social Service (NCOSS)
Salvation Army Australia
South Australian Financial Counsellors Association
Tasmanian Council of Social Service (TasCOSS)
UnitingCare Australia
Uniting Country SA
Victorian Aboriginal Legal Service
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