

# **Consumer Credit Legal Centre (NSW) Inc**

submission in response to

## **Australian Consumers and Money – A Discussion Paper by the Consumer and Financial Literacy Taskforce**

### ***About Consumer Credit Legal Centre (NSW) Inc.***

The Consumer Credit Legal Centre (NSW) Inc ('CCLC') is a community legal centre specialising in financial services, particularly matters and policy issues related to consumer credit, banking and debt recovery. It is the only such Centre in NSW, and it has a particular focus on issues that affect low income and disadvantaged consumers.

CCLC provides free legal advice and assistance to consumers concerning banking, credit, debt and related matters. We also educate consumers about their rights and obligations in the field, and seek to identify and change areas of law that we see as needing improvement.

### ***About this submission***

CCLC welcomes the opportunity to provide a submission to the Taskforce in response to the Discussion Paper on Australian Consumers and Money, noting, however, that we were only forwarded a copy of the Discussion Paper on 7 July 2004, more than three weeks after the Paper was released. As a consumer protection agency that has provided educational services and resources for financial counsellors, community workers, other community legal centre workers, as well as members of the public, CCLC has some experience in this field but limited time and resources with which to contribute to such policy discussions.

On balance, CCLC is in favour of initiatives aimed at increasing financial literacy in the community, particularly if it incorporates general numeracy. However, while many people make poor financial decisions, this is not exclusively due to low financial literacy. We agree that financial literacy has a role to play in improving these problems, but we are of the view that there are a few fundamental flaws in the approach taken in the Discussion Paper. In particular, there are erroneous underlying assumptions that obscure the real source of this problem.

Firstly, it assumes that poor financial decision-making is the result of low financial literacy, and that improvements to financial literacy would reduce consumer problems without any grounds to support this assumption. It also assumes that regulation of industry must be unnecessarily restrictive and complex, or that regulation is always a less efficient mechanism than consumer education. Another key assumption is that improving financial literacy will produce uniform improvements in wealth when the reality is that some parts of the industry thrive on the consumers' making poor financial decisions and that some consumers who make "good" financial decisions are effectively cross-subsidised by those who do not. In our answer to Question 2.1, we discuss the problems with industry practice and their influences on consumer decision-making process, as well as the apparent shift of responsibility to consumers to make 'better informed' choices.

Financial literacy is not in and of itself the only solution to consumer problems. We argue that financial literacy is likely to have only a minimal effect on reducing vulnerability to exploitation and unmanageable debt. The mere provision of information to consumers is not likely to bring about permanent behaviour change. It cannot, and indeed must not, distract the government away from providing or encouraging the provision of appropriate and varied choices, and encouraging lenders to take more responsibility by ensuring that they perform proper credit assessment and do not participate in exploitative practices. Inadequate income, unsuitable products, desperate choices, unfair non-negotiable terms

We are encouraged by the proposal to establish a central body to promote a coordinated and targeted approach to consumer and financial information and education, subject to the issues raised above. We agree and acknowledge that the factors in the Consumer Behaviour Model have an impact on how consumers make their financial decisions. These are discussed in more detail in our responses to Questions 2.2, 2.3, 2.4, 2.5, and 2.6. However, we also believe that there should be greater reliance on existing groundwork undertaken by community organisations such as CCLC, and their track record of having established strong ties with target consumer groups, in identifying these factors. Delivery strategies should include the community sector where appropriate and facilitate the resourcing of community-based initiatives. This is further elaborated on in our answer to Question 4.1. To do otherwise would not be an effective use of resources which should be more properly spent in appropriate regulation of industry practices, which in our view is the primary priority.

## ***Responses to Questions***

### **Question 2.1**

*Economic forces and government intervention can both improve and constrict a consumer's ability to understand and act on information. As such, information providers must make assessments about the extent to which information alone can change*

*consumer behaviour.*

*Are economic and government factors sufficiently understood in information provision to consumers?*

We find that the discussion of this topic in the Discussion Paper is deficient in many respects. While economic, regulatory, cultural and political factors are identified as shaping the external environment in which consumers make their choices, it is an overly simplistic view of industry practices, and overlooks the importance of government regulation of industry practices.

There is little doubt that industry will always be concerned with the maximization of profit. To this end, millions of dollars are spent in advertising and marketing strategies that are intended to convince and influence consumer practices, regardless of their financial literacy levels. In terms of resources, any consumer education campaign would be constantly struggling to keep pace.

It is evident from the types of financial products available that some lenders rely on consumers making uninformed decisions. For example, the offer by some lenders or businesses of interest-free finance is only predicated on the fact that they are self-sustaining *because* they are profitable. To a large extent they continue to be provided because there will always be a portion of consumers who are unable to meet the repayments within the specified period, and who are then required to pay interest at a much higher rate. There is then an inherent conflict of interest in industry providing financial literacy information to consumers.

There is also an underlying assumption that government intervention or regulation would unnecessarily be proscriptive, complex, and unworkable, or that existing regulation is already sufficient and effective. This is further characterized also by the government's view that consumers are in the best position to look out for their own interests. This blatantly disregards the power imbalance between multi-million dollar industries and consumers who are, more often than not, made more vulnerable by their need. Further, many financial products are complex in nature and are difficult for consumers to understand even if they have reasonable levels of financial literacy. This problem is compounded by the lack of clear guidelines for comparison between products.

It is meaningless for consumers to be 'better informed' or have better financial literacy skills if there is no equal, if not greater, effort to focus on the impact that industry practices in advertising and marketing have on consumer choices and decisions. The Taskforce also seems to divert attention away from the importance of government's responsibility to create a more equal playing field by providing greater protection to consumers.

## Question 2.2

*Where we come from and our socio-economic status in life are key determinants in how we access and use information. As such, it is important for information providers to recognise the particular disadvantages that some consumers face in both accessing and acting on information.*

*Are socio-economic and demographic factors that important? How should they be factored into what information providers produce?*

From our advice and casework experience, low-income or disadvantaged consumers are particularly vulnerable in two aspects. Firstly, poorer consumers often find it difficult to obtain mainstream credit, and hence are more vulnerable to falling into disadvantageous credit or financial relationships. Secondly, they may face additional difficulty in responding to problems when they arise. It is difficult to see how financial literacy information, for example, information related to mainstream credit products, would prove to be of any use to these consumers. It is our view that improved financial literacy will solve some problems, but certainly not all. In this scenario, the more appropriate strategy to provide a safer market place for disadvantaged consumers, for example, must not be ignored.

We are of the view that socio-economic status and demographic factors do have some influence on financial decisions. From our casework experience, the financial literacy of our clients varies accordingly to factors such as age, family background and status, location, or whether or not there is a language barrier.

It is essential that information providers tailor their information by having regard to these various factors as outlined in the Discussion Paper. It is also our belief that information that is sensitive and relevant to the group will be more effective than generic or neutral information. The Cape York Family Income Management Project as discussed on page 23 of the Discussion Paper is a fine example of such a program which success is attributable to the cultural-sensitivity of the information.

As an example of how some community members are discouraged from establishing traditional banking relationships, the Discussion Paper states on page 24 that “those living in the Arabic community tend to choose Arabic financial institutions as they conform to the Koran and do not charge interest. However, these consumers may not be aware that they are being charged administrative fees by these institutions, which in some cases, cost more than the interest that would have normally been charged.” We wish to point out, as an illustration of the importance of cultural understanding, that the inaccuracy of the above statements is not likely to lead to productive outcomes, especially in the context of financial literacy.

Firstly, we wish to point out that while the prohibition of dealing with interest is an Islamic teaching, not all of the ‘Arabic community’ is Muslim. Those in the Arabic

community who are not Muslim, for example, Egyptian Coptics, would have no problems with dealing with an interest-bearing financial institution.

It should also be noted that the hesitation of Muslims to deal with interest-bearing financial institutions is not necessarily linked with financial literacy, but rather, is strongly rooted in their religious belief, such that even if they were aware that the administrative costs would be higher than the actual interest that would have normally been charged, it is unlikely that they would change their banking practices.

Therefore, any information provided on the basis of the statements on page 24 would essentially be useless in helping these consumers in their dealings with potentially disadvantageous financial situations. A more useful approach in this particular case may be an increase of the availability of choice, thus increasing competition leading to a reduction of administrative fees. We reiterate our general comment above that financial literacy is inadequate and indeed inappropriate where there is a substantial lack of choice available.

It is difficult to expect any one particular information provider to be able to produce information that can be understood by the whole spectrum of consumers. Therefore we see great value in tailored information provided specifically at a particular target group, for example, for young people, low income, by people or organisations that have intimate knowledge of those target groups.

Moreover, particularly in regard to the factors of family background and status, or social factors such as race or religion, the audience is often more receptive if they could relate to the information provider by, for example, similarity of background. This has the added advantage that the person already understands the background factors that affect that person's understanding.

Therefore we see the role of the central body as conducting research on levels of consumer and financial literacy using the Model by providing background information or in identifying gaps of information, but we are not certain that the central body should be devoting much resource to analyse the needs of each target group. Moreover, it would be more appropriate to rely on those already acquainted with or have existing ground work in the community to provide that information, and draw on the existing extensive work of community organisations which already have the support structure, the required relationship with the target groups, as well as background knowledge.

### **Question 2.3**

*Understanding the different personal characteristics that lead to consumer problems helps information providers decide whether they need to target behaviour rather than product knowledge in any information campaign.*

*Is a broader understanding of human behaviour useful in addressing consumer and*

*financial literacy? How do we best discern the different personal characteristics of people in the community?*

A broader understanding of human behaviour is generally useful in addressing consumer and financial literacy, as it would help information providers to produce information that can more directly have an impact on behaviour. While this would be useful information, perhaps it would be more resource-effective to rely on existing market research and psychological study to assist with strategic-planning.

#### **Question 2.4**

*Understanding and appreciating the differences between consumer wants and aspirations helps information providers better prioritise information while recognising that many consumers take an aspirational outlook to issues that face them.*

*Is an appreciation of needs and aspirations useful?*

CCLC is of the view that this is a rather simplistic perspective. There is little discussion of those who face financial problems not because of ‘wants’ or ‘aspirations’, but rather, needs that are of such basic nature as food, and bills. In these circumstances it is not only a matter of clever marketing gurus trying to up-sell and upsize, but people may have no choice but to get themselves into disadvantageous loans, especially in view of the lack of availability of appropriate products and services.

One of the assumptions underpinning the current support for increased financial literacy appears to be that poorly educated people make uninformed, and hence poor, choices. Drawing from our own experience at CCLC, poor choices are as likely to result from the unavailability of suitable products as to a lack of appropriate knowledge. In many cases, such consumers may indeed lack the knowledge referred to, but to assume that giving them the knowledge would change their behaviour is a logical leap that we do not believe is necessarily supported by available evidence.

Many of our clients pay excessive establishment and brokerage fees to borrow money at high interest and on unfavourable terms because they are unable to access loans anywhere else. The same clients sign false declarations that these loans are for business and investment purposes, drastically decreasing the protection from exploitation available to them at law. Usually they do not understand the implications of signing this document. However, even if the implications were explained and understood, it is our contention that most of them would sign anyway for the simple reason that they are told they cannot borrow the money unless they do so. In most cases the money is not required for optional extras that are easily foregone or postponed. Common reasons for borrowing in these cases circumstances include payment of debts already incurred (including the mortgage over the family home), legal fees for family members, family law settlements or urgent repairs to home or vehicle.

While education can assist some of these consumers to avoid the worst pitfalls, it is largely ineffective in the absence of appropriate choices. Further, the resources that would be required to make even a small shift in behaviour would be far more effectively applied to initiatives and regulation aimed at improving the availability of affordable credit (in appropriate circumstances) and curbing the excesses of exploitative behaviour by industry participants.

## **Question 2.5**

*Understanding the life event triggers behind the big decisions that consumers make, assists information providers in targeting information at the times and places in people's lives when they most need it.*

*Does this help? How can the Taskforce's understanding of life events be enhanced?*

It is important that the information not only be tailored to target groups, but also at appropriate junctures in their lives. For example, it is unlikely school students are going to take as much notice of information about mortgage products and pitfalls as an adult who is purchasing, or contemplating purchasing, their home. It is even less likely school students will take a keen interest in providing for their own retirement.

Many successful education campaigns (and advertising campaigns for that matter) are based around life stages and experiences. Adults are most likely to hear and absorb information that is relevant to their current experience. At CCLC one of our more successful education initiatives was not in relation to credit and debt alone, but to *family breakdown and debt*, separation being a relatively common life event in which financial stress occurs.

While basic skills and a healthy skepticism may be taught at the school level, it is likely that more detailed information needs to be repeated at relevant stages in people's lives through a range of delivery strategies including the main stream media.

Therefore, we support the view that a good understanding of life event triggers would be helpful in strategic-planning. We believe that the Taskforce can gain a better understanding through consultation, especially with community groups that provide support for those people at the 5 stages of life as identified in the Discussion Paper. For example, community support groups such as CCLC, financial counselors, or youth workers would be in a good position to understand the problems faced by consumers at various points in their lives.

## Question 2.6

*Learning consumer and financial skills is all about building our capacity to make better decisions throughout our lives.*

*What skills are important to consumers? Do the consumer and financial skills presented in this section capture all relevant skills? How can we benchmark these skills over time?*

The Model of Consumer and Financial Skills seems to be a good starting point. We strongly stress that basic numeracy skills are important and should be encouraged from an early age.

We would also suggest that sound risk managements skills should include the ability to identify problems arising at its early stages. This means being able to identify warning signs and to seek legal or financial advice before the problem escalates. There should also be adequate information for consumers to know where to access such assistance.

Market awareness, as the Discussion Paper points out, should include an awareness of potential pit falls, awareness of the need to obtain sound financial advice when faced with a new financial situation, and the importance of obtaining sound financial advice.

In the Discussion Paper, market awareness is defined as including an understanding of current financial products and services, for example, how the returns and risks in different investments compare. We contend that market awareness in this regard should be complemented by proper regulation or guidelines to simplify the comparison process. It is difficult for a person to know what are the best products, if the comparison standards are not the same across the board.

## Question 3.1

*The extent to which Australians' needs are met by the currently available consumer and financial education programs needs to take account of a number of factors including the following:*

- *The availability of information — Are there some topic areas where there is insufficient information?*
- *Awareness of the available information and information sources — Do consumers (or teachers and other intermediaries) know what is available?*
- *Access to the available information — Do consumers know how to access information? Are all consumers able to access information?*
- *The quality of the information provided — Is the available information clear and consistent?*
- *Efficient allocation of resources — Is consumer education delivered efficiently?*

In evaluating the quality and effectiveness of the information provided, CCLC is concerned that some materials provided are skewed or biased in some way as to not present a properly balanced viewpoint, and in fact, appear to be a marketing tool in disguise. For example, in one instance credit was described as a convenient tool many times throughout the material without also being balanced by an accurate description of the extent of the dangers and traps associated with credit, and the ease with which a consumer can fall into these traps. Another recent example is the CBA's sponsorship of Channel Ten's *ttn* children's program, by broadcasting a cartoon during the first ad break which promotes the virtues of banking to children. Not only does this blur the line between advertising and editorial, it is aimed at young children, who may not necessarily appreciate the difference between what is an ad and what is educational. It is all the more worrying that the CBA views this as a 'financial literacy' message, even stating, "We felt that to get the financial literacy message across it would be more effective to have a fun and engaging piece such as this than ram it down their throats with a traditional message."<sup>1</sup>

In our view, the taskforce should not allow such material to masquerade as financial literacy material, as such materials are counter-productive to the aims of financial literacy, and may only bait consumers to fall into further traps. There should be some mechanism developed to ensure that information provided, no matter by whom, must be unbiased, accurate and complete. There needs to be a monitoring or peer reference process.

#### **Question 4.1**

*The Taskforce is proposing that a coordinating body be established to promote and facilitate a coordinated and targeted approach to consumer and financial information in Australia.*

*The body would aim to achieve this through the development of the Consumer Behaviour Model into a tool that can be used by service providers. The body would also be given a number of other functions to do with consumer and financial literacy that are currently not implemented in a comprehensive and coordinated manner. These include: research, a clearinghouse, an accreditation service to enable consumer and financial literacy to be incorporated into the school curriculum, an ongoing awareness campaign, a capacity-building grants program and a partnerships program.*

*Is a coordinating body necessary? Should it be Government or industry funded?*

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<sup>1</sup> Gary Hardwick, managing partner of CBA's media agency Ikon Communications, in 'Commonwealth cartoon to lure little savers', Julian Lee, *Sydney Morning Herald* 8 July 2004.

*What functions should it perform?*

CCLC supports the formation of a central body to oversee and coordinate a targeted approach to consumer and financial information provision and to conduct research on levels of consumer and financial literacy using the Model, subject to the issues already raised above. We also support the development of a clearinghouse for consumer and financial literacy information, and conducting community awareness campaigns on important consumer issues.

We are also supportive of the proposal to provide a grants program for capacity-building. Many community organisations such as CCLC are already engaged in education programs targeted at specific groups in the community of low socio-economic status. Many are targeted at the more vulnerable sectors of the community. These organisations have considerable skills in effectively reaching those sectors of the community least likely to benefit from general improvements in school curriculum. However, there are two main problems with education delivery in the community sector that could be potentially be addressed by the central body:

- Lack of coordination – successful initiatives are often undertaken in isolation but no central body keeps track of their content and effectiveness, leading to unnecessary work and a lack of shared and accumulated knowledge;
- Lack of funding – while the financial services industry is potentially rich source of funding for this type of work, few community organizations are in a position to accept project funding from individual industry players. Most community organisations derive their experience in this field from advice and casework practice (whether legal or financial counselling) and must vigorously preserve not only their actual independence, but also their appearance of independence. Further any branding of education materials is likely to be interpreted as endorsement of the funding sources as ‘safe’ or better than its competitors when neither may be the case.

It is important to preserve the local origins and flavour of these projects, and as discussed above in our answer to Question 2.2, it is also important to utilise the existing skills base of these community organisations. The central body could play a role in the coordination, evaluation and promulgation of community sector education initiatives. It could also facilitate the movement of funds from industry contributors to community sector partners without the need for specific obligations or branding (that is that provided there were a number of contributors, the industry organisation could be credited with supporting the central body or the Taskforce rather than a particular community-based initiative).