



Financial Services and Credit Reform Green Paper
Corporations and Financial Services Division
Treasury
Langton Crescent
PARKES ACT 2600

1st July 2008

The Australasian Retail Credit Association (ARCA) welcomes the opportunity to comment on the Treasury Green Paper – Financial Services and Credit Reform – Improving, Simplifying and Standardising Financial Services and Credit Regulation.

The Australian Retail Credit Association is the peak industry body for retail credit risk, and its members comprise of the most senior credit executives from financial institutions, telecommunication companies and credit reporting agencies.

ARCA believes that credit reporting reform should be given high priority alongside other credit reforms because it can deliver tangible benefits to borrowers and lenders facing challenging credit conditions. Credit reporting should be considered as part of the package of credit law measures currently under consideration by the Australian Law Reform Commission's Report on Privacy and the Productivity Commission Report on National Consumer Protection.

Credit reporting lies at the heart of the national consumer credit market. The ALRC review has shown that the consequences of credit reporting activity are experienced by consumers as they participate in credit markets – either facilitating or impeding their access by influencing lending behaviour and lending decisions.

Consequently, reform of credit reporting regulation should occur along side the creation of a Commonwealth consumer credit jurisdiction to ensure consistency.

The present credit reporting regime in Australia has contributed to high levels of consumer indebtedness, particularly among those Australians who are financially vulnerable. Credit providers make lending decisions based in assessing the information readily available to them. Much of this information is provided by the borrower and verified by the lender where possible. Unfortunately, some borrowers do not disclose all of their existing debts to the lending leading to instances of over-commitment.

Access to shared information from all credit providers will allow lenders to make better informed credit decisions. Reforms leading to comprehensive information on credit files should identify people who are potentially over-committed and whom should not be extended additional credit.

ARCA has been working with industry stakeholders including consumer advocates, privacy groups and industry associations. Stakeholder positions are more aligned now than they have been for more than two decades, meaning that the prospects for clear, swift discussion to progress reforms are good. Strong microeconomic reform that will benefit both borrowers and lenders is within the reach of the government.

A credit law reform package should be based on two principles:

- Better credit information for borrowers and lenders; and
- Better consumer protection

Better information and consumer protection are the heart of healthy competition. Measures that promote effective competition in credit markets will preserve economy wide benefits while ameliorating some of the negative outcomes currently being experienced.

ARCA have provided submission to the Australian Law Reform Commission and the Productivity Commission to with options for implementation of a robust credit reporting framework that consists of:

- General privacy principles
- Credit Reporting Regulations
- A binding industry Credit Reporting Code of Conduct

ARCA have completed a draft Credit Reporting Code of Conduct which is being discussed with industry representatives to ensure it addresses the range of stakeholder views including data standards, dispute resolution and compliance obligations. ARCA is aiming to implement the Code of Conduct in 2008

ARCA would like to see Treasury's approach to Financial Services and Credit Reform include credit reporting and support the option of the Australian Government assuming regulatory responsibility for all retail credit products and services in addition to mortgages and margin loans.

As part of this option, ARCA encourage Treasury to take a leading role in the development of reform measures in response to the relevant sections of the forthcoming Australian Law Reform Commission's Report on Privacy (30 May, 2008) and Productivity Commission Report on National Consumer Protection (30 April, 2008).

ARCA also recommends that the government commit to reforming credit reporting regulation within the life of this parliament with a target date for legislation of December 2009.

In summary, ARCA recommends:

- A single credit law reform package to include credit reporting reform;
- A target date for legislation of December, 2009; and
- A commitment to providing better credit information for borrowers and lenders, and better consumer protection.

David Grafton
Chairman

AUSTRALASIAN RETAIL CREDIT ASSOCIATION (ARCA) BACKGROUND

- 1 The ARCA was established in 2006 as an independent industry sponsored body focussed on retail credit issues.
- 2 The Charter of the ARCA is, “To lead the ongoing examination of retail credit practices and the development of improved policies for the betterment of the consumer credit industry”. Its primary objective is the continued improvement of responsible credit provision.
- 3 The ARCA has particularly focused on all matters related to the sharing and use of credit reporting information and has developed a (currently unauthorised) code of conduct to improve the associated policies and practices under the following governing principle:

“Credit reporting data is shared only for the prevention of over-commitment, bad debt, fraud and to support debt recovery and debtor tracing and other uses in accordance with the law, with the aim of promoting responsible credit provision. Credit reporting data is not shared for direct marketing purposes”.
- 4 The ARCA consists of the most senior credit executives of financial institutions, telecommunication companies and credit bureaux.
- 5 The central advisory body of the ARCA consists of the following groups:
 - (a) Data Sharers and Users:
 - (i) Major Banks (ANZ, CBA, NAB, Westpac);
 - (ii) Other Australian Banks (St George, BOQ, BankWest);
 - (iii) Telecommunication Companies (TCNZ);
 - (iv) International Banks and Non-bank Lenders (Amex, Citigroup, GE, HSBC); and
 - (v) Building Society and Credit Union (Abacus).
 - (b) Credit Reference Agencies (Dun & Bradstreet, Veda Advantage).
- 6 Since its formation, ARCA has implemented a number of significant improvements to credit reporting:
 - (a) Developed an industry code of conduct, with principles and rules for credit reporting operations;
 - (b) Improved complaint handling with the establishment of single points of contact;
 - (c) Established minimum default reporting standards;
 - (d) Collaborated with the BFSO, OPC and consumer advocates to improve and recommend new default reporting definition;



- (e) Reviewed international practices and progressed data quality improvements with a work group established to produce a common industry data reporting standard;
 - (f) Developed 'scheme of arrangement' reporting standards;
 - (g) Improved the linkage of credit reporting to existing hardship policies;
 - (h) Established policies for 'ageing of default listings' notably for divested debt portfolios; and
 - (i) Established ongoing engagement with consumer and privacy advocates.
- 7 ARCA is writing to draw the Treasury's attention to the close relationship between aspects of the Green Paper with the Productivity Commission's terms of reference and recommendations concerning consumer credit and the Australian Law Reform Commission's reference and recommendations regarding credit reporting.
- 8 The Productivity Commission has drawn attention to widespread concerns about inappropriate lending by some providers and over-borrowing by some consumers.
- 9 ARCA's submissions to the ALRC sought to address these concerns by promoting improvements that will enable more responsible lending by:
- (a) allowing lenders and borrowers to get access to the best up to date information when making a credit decision; and
 - (b) reforming consumer protection (particularly complaints handling, data quality, and a Code of Conduct binding on the industry).
- 10 In ARCA's view, better information for borrowers and lenders is an essential enabler of improvements in responsible lending and credit provision to the benefit of consumers and credit providers.
- 11 For individual borrowers, better information means fairer access to credit.
- (a) Under the current system, a borrower with a period of financial instability, for example following marriage break-up may suffer credit rationing, despite rapidly re-establishing a good payment history, because the current credit reporting system does not show that good payment history, but keeps defaults for up to five years.
- 12 For lenders, better information means:
- (a) Access to individual's credit performance information electronically via CRAs as currently banks and credit providers cannot see from the CRA information whether a new borrower is overcommitted (but not yet overcommitted) since the Privacy Act permits only collection of negative default data. Overcoming this lack of information is vital as;
 - (i) 55% of bankrupts have no default on their credit file the last time they applied for credit



before going bankrupt; and

- (ii) over-committed consumers have an incentive to misrepresent their circumstances in applying for credit. In a recent galaxy survey (Sep 2007), 18% admitted to having misrepresented their financial circumstances when applying for credit.

13 Research undertaken by ARCA member - Veda Advantage also shows that:

- (a) 1.9 million adult Australians claim to have been denied credit despite having a good payment history;
- (b) Young people (25-34 years old) are the most likely to be denied credit despite a good payment history; and
- (c) 80% of Australians believe that people who pay their debts on time should be entitled to borrow money at a lower rate.

14 ARCA has also supported reforming consumer protection as part of efforts to promote responsible lending. We note that while some consumer protections can be built into privacy regulation, others should more appropriately be dealt with in consumer credit regulation or general consumer regulation.

15 ARCA is considering the point from consumer and privacy advocates that better information (positive data) is a necessary but not sufficient condition for responsible lending. In particular consumer advocates are asking for more specific obligations on responsible lending and marketing to accompany a move to better information with positive reporting. ARCA is working on ways to incorporate sufficient consumer protections within its Code of Conduct.