

5 February 2020

Competition and Consumer Policy Team  
Ministry of Business, Innovation & Employment  
PO Box 1473  
Wellington

By email: [consumer@mbie.govt.nz](mailto:consumer@mbie.govt.nz)

**Submission on exposure draft of the Credit Contracts and  
Consumer Finance Amendment Regulations 2020**

**1. Introduction**

Thank you for the opportunity to make a submission on the exposure draft of the Credit Contracts and Consumer Finance Amendment Regulations 2020 (Regulations). This submission is from Consumer NZ, New Zealand's leading consumer organisation. It has an acknowledged and respected reputation for independence and fairness as a provider of impartial and comprehensive consumer information and advice.

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**2. General comments**

Consumer NZ welcomes the introduction of regulations relating to credit affordability, suitability, advertising and disclosure at the commencement of debt collection. Our comments on specific regulations are set out below.

**3. Comments on specific regulations**

*3.1 Regulation 4AA and 4AB*

We support prescription of steps lenders must follow to make reasonable inquiries about the suitability of credit, waivers, warranties and insurance products.

*3.2 Regulation 4AE*

We support the introduction of a requirement that the borrower must have a reasonable surplus for a loan to be considered affordable. However, we suggest additional requirements be considered for inclusion in the regulations.

For example, in Australia lenders may choose to calculate a borrower's net surplus ratio to determine whether their surplus is sufficient. This is calculated by deducting monthly living expenses from monthly income after tax and displaying it as a ratio against monthly commitments.

A ratio of 1:1 shows a borrower earns exactly enough to cover outgoings with nothing left over. A ratio of 1:1.2 shows a borrower can cover their outgoings with a 20 percent surplus. Requiring lenders to perform this type of calculation would help ensure affordability assessments are consistent and increase transparency of the process.

Prescription around affordability assessments must apply to all consumer credit contracts given the evidence of irresponsible lending practices in respect of both high and lower-cost loans.

### *3.3 Regulations 4AF, 4AG, 4AH and 4AI*

In general, we support the process for estimating income and expenses set out in regulations 4AF to 4AH. We also support the presumption that a high-cost loan is unaffordable where the applicant has been in default under one or more loans in the preceding 90 days and the default has not been corrected.

In regard to guarantors, we consider the assessment process must be sufficiently robust to evaluate whether they would be able to meet any obligations that arose.

### *3.4 Regulations 4AJ to 4AN*

We strongly support strengthening requirements related to credit advertising. Existing provisions in the act and guidance provided in the responsible lending code have proved inadequate to ensure credit advertising is responsible. Lenders continue to advertise credit as easy to get and suitable for non-essential spending.

We support advertisements having to disclose mandatory credit fees. However, we are concerned that without any requirements about the prominence of such fees, these will be buried in fine print. We suggest advertisements disclose mandatory credit fees with the same prominence as interest rates.

In regard to high-cost lending, we recommend regulations require ads to disclose the daily interest rate as well as the annual rate.

We also suggest the regulations include a ban on advertising high-cost credit for non-essential spending. We included examples of this type of advertising in our 2018 submission. We consider advertising high-cost credit for unnecessary expenditure, such as overseas holidays, is irresponsible and would like the practice banned.

We agree the examples in regulation 4AN(a) are terms that should not be allowed in credit ads. However, we are concerned the reference to "15 minute approval" may lead lenders to consider short approval times (e.g, 20 minutes) remain appropriate. We suggest reference to this time frame is reconsidered

### *3.5 Regulations 4F to 4H*

We support new regulations 4F to 4H relating to variation disclosure. Requiring lenders to disclose the effect of the change, rather than just the change itself, will help ensure consumers are informed when committing to a variation.

### *3.6 Regulation 24*

We support increased transparency around the debt collection process. We consider lenders should be required to include information about all fees in the disclosure.

We don't agree consumers would find additional information about court costs or other fees unhelpful or difficult to navigate. Provided the information is given in a clear and concise manner, it should not be difficult to navigate. We also support the use of guidelines about the layout of the information.

In addition, we consider the regulations should stipulate how often and how a debt collector can contact a debtor, to reduce the chances of a debtor being harassed by constant contact.

*3.7 Regulations 5A(2) to 5A(4)*

We support regulations provided for in clause 59 of the bill. We consider the new requirements in these regulations will help ensure consumers seek budgeting assistance when required and redress when they have a complaint.

*3.8 Content of annual return*

We strongly support the new requirement for lenders to provide an annual return to the Commerce Commission, providing statistical information about their business. Without this data, it would be difficult to monitor the market and assess the effectiveness of the amendments.

In regard to waivers, warranties and insurance products, we consider all lenders that sell these products should be required to report on the numbers sold and the claims lodged.

Thank you for the opportunity to make a submission. If you require any further information, please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read "Sue Chetwin". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Sue Chetwin  
Chief Executive