



**City Finance Loans and Cash Solutions (Hawkesbury), Phone : 02 4588 6666**

**Tuesday, 5<sup>th</sup> May 2009**

**RESPONSE TO THE DRAFT  
"NATIONAL CONSUMER CREDIT PROTECTION BILL 2009"**

**The Treasury**  
Consumer Credit Unit  
Langton Crescent  
PARKES ACT 2600

**The Hon Nick Sherry**  
Minister for Superannuation and Corporate Law

Dear Minister,

I write to you today in response to the recent release of the draft legislation of the National Consumer Credit Protection Bill 2009. For the sake of this submission, please allow me to refer to this as the "Bill".

I am a small business owner in NSW with an establishment that has been in existence for over 10 years. I service my own town of the Hawkesbury and am known as a very reputable business man within my district. I am also a JP and offer these services to anyone who requires it.

I myself have been very pro active in the campaign to educate all those who simply just do not understand what it is we do. I have met with over 50 members of state Parliament and Ministers. This would include the previous minister of Fair Trading the Hon Linda Burnie and the current Premier Mr Nathan Rees on this exact issue of the misconception of the Micro Lending industry. In more recent times I have met with Adam Wand from your office in Canberra to explain our dilemma in person. To my surprise I was met with the greatest understanding from the federal sphere with hope that finally someone understands how our system works, or more importantly how NSW and QLD have created a system that simply does not.

Through your public consultation seminars, I attended two sessions. These sessions were quite interesting as I managed to not only comment directly to the panel but to hear what others thought of the upcoming takeover of the Credit Industry to the Commonwealth. I for one was thrilled that the dog's breakfast that existed amongst many other states was finally going to be cleaned up with one set of rules for the nation.

As I am also a director of the National Financial Services Federation "the NFSF", I was kept in the loop of the monthly outcomes from the working group in whom another one of our directors Mr John Brady made representation on behalf of our federation and its members. During this time I myself was quite acceptable with the way this was going and was looking forward to the release of the draft bill with the hope of finally some consistency within this industry throughout the country.

As you would well know the bill was released on the Monday 27<sup>th</sup> April 2009. As you would also know on the Tuesday 28<sup>th</sup> April 2009 you made the following statement.

**QUESTION:**

*Will there be any limit on lenders, like payday lenders and the like, what - a cap in the interest rates that they can charge?*

**NICK SHERRY:**

*Yeah, payday lenders will be covered by this legislation. I think three states have a 48 per cent cap. That will be retained.*

It is with this statement my worst fears were met.

This statement outlines that the states are retaining their power amongst Interest Rate Caps. This would also mean that now that we have "National Conformity" we actually will receive come the 1<sup>st</sup> November 2009 at least 4 different regimes, one for NSW and Queensland, one for ACT, one for Victoria and one for the balance of the rest of the country. How is this conformity?

You also make mention in your statement that:

*What we are doing is adding this new responsible lending principle for the first time. Those states that don't have a 48 per cent cap, we're going to ask them not to impose a 48 per cent cap, and then we will assess the outcomes; we'll look at what has happened in the states that have a 48 per cent cap and those that don't, with a responsible lending provision that has come into force, and we'll look at what the outcomes are and determine whether it is appropriate to maintain that 48 per cent cap.*

*It's a good example, I think, of a practical way to assess the evidence in an area where there was strong disagreement between the various people, organisations who were consulted. This was one of the - an important area, one of the relatively small areas where there was disagreement during the consultations.*

If I may please in my opinion point out the obvious. It seems by your statement that you would like to assess and make a comparison of the 4 different models to determine whether or not Caps are appropriate. I see one very big problem here.

How does one expect to make comparison to those states with "inclusive caps" when all lenders in those states although operating within the code, are offering a complete product package that is outside an all inclusive cap? This is well known by all states. Our view is that after the time you anticipate to be reasonable to assess the workability of "Inclusive Caps" that there will actually be "NO" data whatsoever on this product as no consumer has benefited of having their entire costs under an inclusive cap. My other fear is it may be assumed that an "Inclusive Cap" is viable to the lender as we have not closed down under the inclusive cap and have continued to operate.

An example of the failure of the "Inclusive Cap" would be that a lender that gave a \$500 loan to a consumer that was to be paid in 4 instalments over 4 weeks would pay back under the cap a total of \$511.63. This would be the total received with a gross profit of \$11.63. This \$11.63 then also has to account for tax, advertising, administration costs, wages, rents, insurances and corporate overheads. This is not to mention the interest we have to pay ourselves on these funds together with any sustainable risk. Once we incorporate these costs the amount to establish the loan is in excess of \$300, not \$11.63. This is also not to mention that if one loan goes bad, then one would have to write another 50 loans just to break even on the capital on the first alone. This should clearly show how an all inclusive cap just by a simple fact does not calculate as a viable product and explain why lenders have been forced to operate via other methods to maintain such an important life blood to over 500,000 consumers nationally every year.

The industry has also been accused of lending to people who cannot afford it. I can say that due to my own due diligence and expected code of ethics, I can boast a bad debt ratio of fewer than 4%. This is also very close to industry average.

It should also be known that if inclusive interest rate caps continue to apply then I fear also for my own circumstances. The money that I lend to consumers is my own money that is secured against my home. If my business had to close, then I risk losing everything I have built over my adult life risking myself also to be unemployed and maybe even needing the service I was once providing. There are 1000,s of people just like me that could suffer severe detriment if someone does not fix this really very simple problem. This I believe would make the Pacific Brands and Mitsubishi plant terminations look minor in comparison, not to mention that any unemployment from our industry would be mostly due to government legislation not corporate greed.

We simply need to charge these fees to continue to offer this product to consumers and make a legitimate modest income. I don't drive a Ferrari, nor do I spend my weekends on my yacht. I earn enough to pay my mortgage and live a modest life while having the opportunity to work in a business that is close to my home and services the people I see on the street every day. I am not a "Loan Shark" and strongly oppose the term.

## Conclusion

I fully support the Commonwealth take over of all things credit, although only support a true takeover with one set of rules for all states as was first anticipated. Licensing is also a great initiative and one that I also fully support.

Surprising as this may sound, I also support interest rate caps although one that "excludes" fees and charges. For years now I, as well as much of the industry, have supported the Victorian interest rate cap model together with the WA licensing model. We believe by putting these two together under a national regime that this would suit all consumers, industry as well as the consumer advocates.

## Model

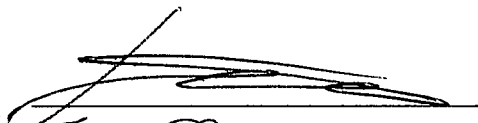
48% Cap (Exclusive of fees and Charges)

Cap on Fees and Charges as suggested on many occasions.

National Licensing for all Lenders and Brokers

Proposed Draft Bill (Modified)

Sincere thanks,



*Jason Bousfield* JP. NSW



*City Finance*  
LOANS & CASH SOLUTIONS

[jason@cityfin.com.au](mailto:jason@cityfin.com.au)

Heritage House "C" Richmond Market Place

March Street, Richmond NSW 2753

Ph: 02 4588 6666

Fax: 02 4588 6661

Mob: 0414 444 446