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The National Consumer Credit Protection Bill 2009

Dun & Bradstreet Submission
May 2009



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Contents

Executive Summary	2
Responsible Lending Code of Conduct	4
Implications of the NCCP Bill for contingent debt collectors	6
Appendix 1 – What is comprehensive credit reporting?	8
Appendix 2 – The benefits of comprehensive credit reporting	9
Appendix 3 – An appropriate model for reform	15
About Dun & Bradstreet	18



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Executive Summary

Dun & Bradstreet (D&B) is the world's leading provider of business-to-business credit, marketing and purchasing information and debt collection services.

As a business operating in both the consumer credit reporting and debt collections markets, D&B welcomes the opportunity to provide its views on the *National Consumer Credit Protection Bill 2009*. We strongly support moves by the Government to enhance consumer protection, update legislation to achieve national consistency and remove duplications which are a hindrance for business. We believe this consultation provides an opportunity to modernise Australia's consumer credit laws and to establish an appropriate federal regulatory environment for consumers, credit providers and debt collection firms that reflects the cross jurisdictional nature of the industry.

D&B's submission responds primarily to two areas of the draft bill – responsible lending requirements and the implications of the Bill for contingent debt collection firms – focusing on areas where D&B has expertise.

On the issue of responsible lending, D&B believes that comprehensive credit reporting is an important component in any strategy to improve the quality of credit provision to Australian consumers. Accordingly, we recommend that the implementation of comprehensive credit reporting (consistent with Australian Law Reform Commission recommendations) should form one part of the government's NCCP legislation.

Recommendation 1: That the Commonwealth Government introduces the Australian Law Reform Commission's recommendations (that additional data elements be placed on consumer credit reports) in conjunction with the National Consumer Credit Protection Bill 2009.

The second area of focus in D&B's submission is the Bill's implications for contingent debt collection firms. Although D&B is supportive of efforts to effectively regulate the debt collection industry, we believe that the NCCP Bill has a number of unintended consequences which significantly increase the compliance and cost burden for collections firms without necessarily achieving the Government's stated aims.



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In addition, the legislation groups together contingent collections agencies and debt purchasers when the practices of both groups differ significantly. As a consequence D&B believes the legislation is un-workable in its current form and we make the following recommendations:

Recommendation 2: That contingent debt collection agents are exempt from phase 1 of the NCCP Bill.

Recommendation 3: That the industry continues to work with government to develop a nationally consistent approach to debt collection legislation.



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Responsible lending requirements

Over the past few decades the consumer credit market has undergone significant changes, including growth in the non-bank sector, an increase in the use of low-doc loans and consumer demand for instant approval of credit products. However the system which currently exists for assessing credit applications has not kept pace with these changes and accordingly the current framework is ineffective in dealing with these new practices.

The draft National Consumer Credit Protection Bill (the Bill) and related legislation has been designed to address these issues, with its primary objectives to modernise Australia's consumer credit laws and enhance consumer protection. Critical to achieving enhanced consumer protection is the requirement that credit providers adhere to specific responsible lending practices. These practices require credit providers to:

1. determine whether a loan is suitable for a consumer; and
2. whether that consumer has the capacity to repay the loan.

Dun & Bradstreet believes that effective application assessment is a critical component of responsible lending, making credit reporting reform an important component of efforts to improve consumer credit laws. Furthermore, credit reporting reform will have a range of additional benefits including improved access to credit for unincorporated entities.

Under the current negative credit reporting system only limited information is available with which to complete a credit assessment. D&B believes that the inclusion of some additional data elements has the capacity to significantly improve the assessment process. The additional data that credit providers could access under a comprehensive credit reporting system would enable them to develop an accurate picture of a consumer's current credit commitments and the appropriateness of additional credit products.

At a macro level, comprehensive credit reporting has the capacity to improve default rates, increase overall lending in an environment where credit flow is constrained, and to provide a solution to identity based crime. Consequently D&B recommends that:



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The Commonwealth Government introduces the Australian Law Reform Commission's recommendations (that additional data elements be placed on consumer credit reports) in conjunction with the National Consumer Credit Protection Bill 2009.

Comprehensive credit reporting is an important component in any strategy to improve the quality of lending to Australian consumers. Accordingly, Dun & Bradstreet believes the implementation of comprehensive credit reporting should form one part of the government's NCCP legislation consistent with Australian Law Reform Commission recommendations.

Refer to Appendices 1-3 for further information regarding the benefits of credit reporting reform. D&B's submission to the Australian Law Reform Commission inquiry has also been included to provide additional information on the issue of comprehensive credit reporting.



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Implications of the NCCP Bill for contingent debt collectors

Dun & Bradstreet is a member of the Australian Collectors and Debt Buyers Association (ACDBA), an industry body which represents the interests of debt collection agencies across Australia. D&B has worked with the ACDBA in the development of its submission, which focuses on the impact that the NCCP Bill will have on the debt collection industry as a result of duplication and inconsistencies between Federal and State | Territory laws.

The ACDBA's submission offers the views of the industry as a whole, incorporating contingent collectors, debt buyers, repo agents etc. D&B supports the views expressed in the ACDBA paper. This document makes a number of supplementary comments.

D&B is supportive of efforts by the Federal government to effectively regulate the debt collection industry however we believe that in its current format, the NCCP Bill has a number of unintended consequences. These include:

- applying an additional layer of regulation to the industry as collectors will be required to adhere to current state | territory legislation in addition to the NCCP Bill
- increased costs to business to achieve compliance, particularly for firms that are located across multiple jurisdictions and are therefore already required to comply with differing legislation in each location
- that debt collectors must be a member of an external dispute resolution scheme (EDR) even though the consumer can seek remediation through the creditor's EDR
- that license numbers be provided on the debt collectors documentation when some states | territories already require this action to be taken
- that collections agents provide credit guides to each debtor when contracting credit providers will already have provided applicants with their credit guide prior to contract.

All of these factors increase the compliance and cost burden for collections firms. In addition, the legislation groups together contingent collections agencies and debt purchasers when the practices of both groups differ significantly. D&B



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believes these factors make the current legislation un-workable and consequently we make the following recommendations:

Recommendation 2: That contingent debt collection agents are exempt from phase 1 of the NCCP Bill.

Recommendation 3: That the industry continues to work with government to develop a nationally consistent approach to debt collection legislation.

A national approach which better reflects the current environment and offers the flexibility to address future market developments will provide significant benefits for the industry and its regulators, including:

- a more cost effective regulatory regime which provides certainty across jurisdictions
- higher regulatory standards and increased competition
- consistent licensing and conduct requirements across jurisdictions
- relevant, cost effective training programs which are position specific and include ongoing training throughout a collector's career
- reduced regulator administrative obligations.



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Appendix 1 – What is comprehensive credit reporting?

Different countries have different types of credit reporting systems which are broadly defined by the amount of data that can be placed on credit files.

Australia operates under a negative-only credit reporting system which means lenders only have negative data upon which to judge an application. An Australian credit report contains identification data; a listing of credit applications but not whether those applications have been approved or rejected; and negative performance data such as defaults, bankruptcies and court judgments.

The other end of the spectrum is known as a full-file positive reporting system and it is best demonstrated by the United States model. Under this system a credit report may contain all of the information in the negative-only system plus a range of payment performance data such as account balances and debt ratios.

There are a range of intermediate systems in existence (i.e. models which fall between the Australian and US models), with all credit reporting systems that include elements of positive and negative data categorised as comprehensive credit reporting models.

This additional information available under a comprehensive model provides lenders with a more comprehensive picture of consumers' credit worthiness. This is particularly important for consumers that have had a negative credit event as the good payment performance can off-set negative events and prevent the consumer from being forced into the sub-prime lending market.

In the developed world Australia is one of only three countries that operates under a negative-only system. The remaining countries operate under comprehensive reporting systems with each having their own particular take on the amount and type of positive data that is permissible on credit reports.



Appendix 2 – The benefits of comprehensive credit reporting

Improved credit assessment practices – reduced default rates

Enabling credit providers to better assess the financial capacity of consumers is a key outcome of comprehensive reporting. This outcome occurs because the increased level of data available enables informed lending decisions within an environment where credit providers can be held to account. Default rates research provides a clear indication of the improvements that can be made with the introduction of a comprehensive reporting model.

The following table illustrates the difference in default rates between a comprehensive reporting system and a negative only reporting system based on US data. The research demonstrates that default rates are lower in a comprehensive system regardless of a lenders target approval rate (exc. 100%).

Effects of negative only credit information on default rates			
Target approval rate (%)	Default Rates		
	Full model (%)	Negative only model (%)	Percent increase in default rate on loan with negative only model (%)
40	1.08	2.92	170.4
60	1.90	3.35	76.3
75	3.04	4.07	33.9
100	9.31	9.31	0.0

Source: US, Staten 2000

Experiences from overseas

In Japan the TeraNet model – which is a comprehensive model similar to the model recommended by the ALRC for Australia – reduces the probability of delinquencies (60 days +) by 34.1% for the mean loan. The Japanese experience also demonstrates that the value of more comprehensive data increases with the loan amount, reducing the probability of delinquency by 41.3% for the mean large loan.



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Experiences in Hong Kong show a dramatic decline in defaults and write-offs following the introduction of comprehensive data at the recommendation of the Hong Kong Monetary Authority in 2002.

In the four years before comprehensive data was introduced Hong Kong experienced growth in personal bankruptcy of 1,900% with approximately 12% of this caused by credit card debt. In addition, credit card write-offs stood at 13.6% by the end of 2002, a level significantly higher than comparable nations such as Singapore and Korea which had write-off rates of 5.5% and 6.1% respectively. Defaulting customers in Hong Kong had acquired up to 55 times monthly incomes in 2001 and 42 times monthly incomes in 2002.

Hong Kong Monetary Authority figures show that the two years following the shift to comprehensive reporting resulted in:

- credit card write-off ratios declining from 13.6% to 3.76%
- credit card delinquency ratios declining from 1.25% to 0.44%.

The same impact on default rates is also evident in developing economies. The following table provides data from Brazil and Argentina and illustrates that for both small and large loans comprehensive data has a significant impact on default rates, regardless of a lenders target approval rate.

Target approval rate	Argentina (loans of \$20,000 and more)			Brazil (loans of \$300,000 and more)		
	Default rate (%)		Percent decrease in default rate when using positive and negative model	Default rate (%)		Percent decrease in default rate when using positive and negative model
	Negative only model	Positive and Negative model		Negative only model	Positive and Negative model	
40%	2.45	1.53	-37.6	2.78	1.30	-53.2
60%	3.81	2.98	-21.8	3.37	1.84	-45.4
80%	6.03	5.70	-5.5	3.74	2.88	-23.0
100%	12.19	12.19	0.0	6.77	6.77	0.0



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Essentially these examples demonstrate that increased data for credit providers' results in more appropriate lending to consumers, as is evidenced by reduced default rates. The increased data may result in some applications for credit being denied however this action (which is based on better data about the consumers' financial health) will prevent the consumer from becoming over burdened with debt.

Improved access to credit for under-served markets

Evidence demonstrates that comprehensive reporting improves access to mainstream, affordable credit for under-served sections of the community. Under a negative-only reporting system under-served groups (most often women, young people and ethnic minorities) are often denied access to mainstream credit because they cannot demonstrate a strong payment history. Consequently they are forced into alternative credit arrangements often at high levels of interest.

The following table from the United States demonstrates that minority groups have had significant uplift in home ownership as a consequence of comprehensive reporting. In particular, the table shows that access to home ownership has been greatest for lower and middle income families and younger families.



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Family characteristic	Year						
	1983	1986	1989	1992	1995	1998	2001
All families	60.2	62.8	63.9	63.9	64.7	66.3	67.7
Income (1998 dollars)							
<\$10,000	29.2	41.6	31.3	36.2	36.3	35.1	34.2
\$10,000-\$24,999	48.8	52.8	51.2	54.6	55.5	51.6	54.1
\$25,000-\$49,999	63.7	60.4	66.7	67.0	67.0	68.2	66.4
\$50,000-\$99,999	85.0	80.1	84.6	82.6	84.9	85.1	85.9
\$100,000+	91.1	91.1	94.2	90.2	90.8	93.3	94.0
Age of head							
Less than 35	34.1	42.9	39.3	36.9	37.9	38.9	39.9
35-44	68.5	62.0	66.1	64.5	64.7	67.1	67.8
45-54	78.0	71.7	76.5	75.5	75.3	74.4	76.3
55-64	76.4	72.1	80.1	77.5	82.0	80.3	83.2
65-74	78.1	79.6	77.8	79.3	79.5	81.5	82.5
75+	68.0	65.1	69.9	77.3	72.8	77.0	76.2
Race							
White	67.4	66.7	70.5	70.3	70.6	71.8	74.1
Black	44.3	44.5	42.4	43.4	42.7	46.3	47.5
Hispanic	31.4	37.3	42.0	39.9	42.9	44.2	44.3
All minority	33.9	44.6	44.3	44.4	44.3	46.8	47.1

Improved access to credit for SMEs

Comprehensive credit reporting also improves access to affordable credit for small and medium sized enterprises. Research¹ conducted by Dr Michael Turner of the Political and Economic Research Council (PERC) in the United States reveals that more data is critical to effective credit scoring, the preferred method of risk assessment for most large credit providers. The ability to blend business owner and small business data provides a stronger foundation for scoring, encouraging major lenders into the SME credit market and improving access and price for small business.

¹ The Roadmap to Reform, 2008



Increased competition

Comprehensive credit reporting enhances competition as lenders, seeking to grow their client base by selling their products and services to potential new customers, innovate and tailor products to better suit needs and levels of risk. However despite the wider lending, research demonstrates that comprehensive credit reporting systems produce lower write-off rates than negative reporting systems (WorldBank, IADP, Pagano & Japelli).

In 2000 Professor Staten examined the impact of comprehensive reporting on competition, investigating the impact of reporting systems on a lenders ability to provide credit without their target default rate being affected (i.e. how much could a credit provider lend consistent with their risk appetite).

The research found that comprehensive reporting produced better outcomes than negative reporting, with the greatest uplift resulting from lower target default rates. This means when a lender seeks to have a default rate of no more than three per cent, the full-file comprehensive model (the credit reporting model which exists in the US) provides access to credit for a far larger number of consumers.

The table below illustrates that the use of comprehensive data allows lenders to provide loans to an increased number of credit worthy applicants who would be denied funds under a negative only reporting system due to lack of information. It also indicates that the more stringent a lender is about target default rates the greater the uplift.

Effects of negative only credit information on credit availability			
Target default rate (%)	Approval rates		
	Full model (%)	Negative only model (%)	Percent decrease in customers who obtain a loan with negative only model (%)
3	74.8	39.8	46.8
4	83.2	73.7	11.4
5	88.9	84.6	4.8
6	93.1	90.8	2.5
7	95.5	95.0	0.5
Mean	100.0	100.0	0.0



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Assists in the fight against identity crimes

The addition of account information on a credit report allows more effective monitoring of any unusual behaviour in new account creation and improves identity verification, data quality and matching techniques. For example, the reporting of new account information to a centralised third party, such as a credit bureau, allows a data subject to review regularly any new accounts have been opened in her | his name. Consequently a comprehensive credit reporting system allows for the early detection of identity theft.

Figures from the United States indicate a decline in identity theft since the early part of the decade when campaigns designed to engage consumers in the regular monitoring of their credit files spread. Surveys conducted for the U.S. Federal Trade Commission indicate the number has fallen from 10.1 million in 2003, to 9.3 million in 2005, to 8.9 million in 2006, to 8.4 million in 2007. Losses from identity theft have begun to decline from a peak of US\$55.7 billion in 2005 to US\$49.3 billion in 2006. These findings indicate that the engagement of consumers in the monitoring of their information via a credit bureau (where a comprehensive credit reporting system exists) is an effective tool in combating identity theft.



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Appendix 3 – An Appropriate Model for Credit Reporting Reform

Under the current negative-only system that exists in Australia credit reporting agencies are only allowed to record limited amounts of information. This includes:

- Record of credit applications made in the past five years
- Credit defaults and default payment dates
- Court judgments and summons
- Dishonoured cheques where the amount is over \$100
- Clearout Listings
- Bankruptcy orders.

As a result the system is ineffective at meeting the demands of financial services providers and consumers who require a higher level of risk assessment at a faster speed than ever before. The main impediments associated with a negative-only reporting model are:

- The system allows consumer over indebtedness to occur because it is relatively easy to obtain new credit if minimum monthly payments are met
- Only a small percentage of Australians (around 15%) have adverse information on their credit file which means a substantial portion of the population cannot be properly assessed for credit capacity
- Low risk borrowers are often denied access to credit because their file doesn't contain sufficient information about their ability to repay a loan
- Lack of information results in an inadequate risk assessment, increasing the likelihood of defaults and write-offs and allowing unscrupulous lenders to use the system as a defence against unprincipled lending practices
- It hinders competition, including the expansion of effective and equitable risk based pricing methods and tailoring of credit products.



The ALRC examined the issue of credit reporting reform as part of its inquiry into the Privacy Act and in its discussion paper (Discussion Paper 72) it recommended a comprehensive reporting model which included the data currently available on credit reports and four additional data elements:

- the type of each current credit account opened
- the date on which the current credit account was opened
- the limit of each current credit account
- the date on which each credit account was closed.

Research which examines intermediate models of comprehensive reporting indicate that significant positive outcomes can be achieved in Australia by the introduction of a model such as that proposed by the ALRC.

The Australian Finance Conference commissioned refreshed research by Barron and Staten examining the impact of negative and positive data and importantly the impact of an intermediate model similar to that proposed by the ALRC. The research demonstrates that while full file reporting would likely have the greatest impact on reducing default rates, an intermediate model can bring significant improvement.

The table below demonstrates that default rates improve when the reporting model moves from a negative only model to an intermediate model which allows for existence (and type) of accounts that are in good standing or have been paid in full but does not report current balances or revolving account credit limits.

Target approval rate (%)	Default rates		
	Full file model (%)	Intermediate model (%)	Negative only model (%)
60	1.9	2.46	3.35

The Japanese TeraNet model, referred to in appendix 2 provides further evidence of the benefits that can stem from an intermediate credit reporting model.



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D&B – which has consistently argued for a model of reporting that finds an appropriate balance between the extremes of the existing Australian system and the full-file model of the United States – believes the model proposed by the ALRC provides a unique opportunity for lenders to realise the benefits that can arise from better quality data.

In addition, D&B believes this model could have significant positive impacts for Australian consumers and the economy by increasing overall lending in an environment where credit flow is constrained, reducing bad debt, enabling access to credit for the underserved (including affordable finance for SMEs) and more appropriate levels of lending to consumers.



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About Dun & Bradstreet

D&B is the world's leading provider of business-to-business credit, marketing and purchasing information and debt collection services, managing the world's most valuable commercial database with information on more than 130 million companies.

Information is gathered in 209 countries, in 95 languages or dialects, covering 186 monetary currencies. The database is refreshed more than one million times daily as part of D&B's commitment to provide accurate, comprehensive information to its more than 150,000 customers.

In Australia D&B has been operating since 1887 and in New Zealand began in Wellington in 1903 as a correspondent country. In 1987 The D&B Corporation recognised the strategic importance of the New Zealand economy and established a direct operation.

D&B operates today under the name D&B Australasia (DBA) currently employing over 500 professionals in Australia and New Zealand.

Further information

Damian Karmelich
Director – Corporate Affairs
Dun & Bradstreet
karmelichd@dnb.com.au
03 9828 3233