



22 May 2009

Manager
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SUBMISSION IN RELATION TO THE NATIONAL CONSUMER CREDIT PROTECTION BILL 2009

The Law Society of New South Wales ("Law Society") puts forward this submission for consideration in relation to establishment of a national regime of consumer credit protection as outlined in the exposure draft of the *National Consumer Credit Protection Bill 2009* ("Bill").

Background

Similar to other member not-for-profit organisations, the Law Society manages a Member Privileges Program which delivers members preferential access and discounts on a range of products and services offered by specific providers. Financial institutions such as American Express and AMP are part of this scheme. For instance, one of the benefits to members who successfully apply to Amex for a credit card is a "Law Society of NSW Gold Credit Card" which bears both the Amex and Law Society logo and incurs reduced fees. Arrangements with AMP offer members access to discounted interest rates and fee waivers on home loans.

Potential Impact of the Bill

We are concerned that the definition of credit assistance has been drafted so broadly in the National Consumer Credit Protection Bill 2009 as to potentially regulate all material that we send to our members merely promoting products issued by credit providers. At no point do we provide personal advice to our members about the suitability of these products or whether they have the capacity to repay any credit that they may seek from the credit provider.

When a reasonable consumer receives such direct mail they should be under no impression that the credit provider has considered their objectives, financial situation and needs, given that the application form contained within the material asks questions about their financial situation. It is the responsibility of the credit provider to assess the suitability of the product for the consumer and to assess whether the consumer has the capacity to repay the debt.

In order to continue to undertake this direct marketing activity, the proposed Bill may require us to either hold an Australian Credit Licence ("ACL") or be appointed by multiple credit providers as a credit representative under their ACL. Not only would this create an unnecessary compliance burden that delivers no economic benefit and is well outside the Law Society's core business, but to have multiple credit providers essentially cross-endorsing the Law Society under each of their ACL's is clearly unworkable.



Submission

We therefore submit that the definition of credit assistance should be amended to ensure that scenarios as described above are clearly excluded from the ambit of the Bill.

Should you require further information or wish to discuss this submission, please do not hesitate to contact the author.

Yours sincerely

Claudia Bels
General Counsel