



Position Paper

**Response to the
Federal Government's
Green Paper on**

FINANCIAL SERVICES AND CREDIT REFORM

**Improving, Simplifying and Standardising Financial Services
and Credit Regulation**

July 2008

Response to Federal Government Green Paper Financial Services and Credit Reform

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1.0 Introduction

On 3 June 2008, Senator Nick Sherry invited public consultation on the Federal Government's Green Paper on Financial Services and Credit Reform (*Improving, Simplifying and Standardising Financial Services and Credit Regulation [June 2008]*).

Cash Converters welcomes regulation of the industry and, in particular, the decisions taken to adopt a national approach on the issue of consumer protection. We will continue to work with all States and the Federal Government in achieving this policy objective.

However, we also have very real concerns for our tens of thousands of customers, our business owners and their employees if regulatory changes result in the loss of short term lending as a viable credit option.

Any proposed changes must recognise that there is a need in the community for short term loans.

This submission is in response to the Federal Government's Green Paper and details the position of Cash Converters with regards to nationally uniform regulation, and provides a summary of our participation in State-based reviews and research commissioned over the past twelve-months.

1.1 **Cash Converters: The Company**

Cash Converters is a well-known growing international brand and is the industry leader in second-hand goods retailing, pawnbroking and the provision of a range of short term loans of less than one year in Australia.

Australia wide, Cash Converters has 138 outlets and employs more than 2,000 staff. Each year, we provide approximately \$230million in small dollar, short term loans.

As a public company, listed on both the Australian and London Stock Exchanges, Cash Converters complies with the highest standards of corporate governance and ethical conduct and is an exemplary corporate citizen.

Some eight years ago Cash Converters identified a need in the "small dollar" short term loans sector and saw an opportunity to provide, via our franchised network, a service to borrowers that is no longer available in the mainstream credit market.

Our customers value this credit facility and we work to ensure there is maximum satisfaction in meeting their short term financial needs with minimum risk for them and our franchisees.

1.2 **Cash Advance: Cash Converter's Short Term Loan Product**

A full analysis of our *Cash Advance* product is provided in Appendix 1. To provide an overview of the product, it is:

- **short term** — average loan period is one-month;
- **fixed cost** — one set fee of \$35 in the \$100, not rolled over, no compounding of fees and charges;
- **small amount** — average loan is \$250;
- **widely used** — 220,000 users nationally; and
- **used well** — 97% of loans are repaid in full.

Cash Converters also offer unsecured loans between \$1,000 and \$2,000, generally over a seven month term, and secured loans (against a motor car) between \$3,000 and \$5,000. These loans are a relatively small part of the total loan business, however are all fully compliant with the Uniform Consumer Credit Code (UCCC) and are an important service to our customers.

2.0 Response to the Green Paper

2.1 Productivity Commission Review

In May 2008, the Productivity Commission released their final report, the *Review of Australia's Consumer Policy Framework*. Cash Converters were participants in the review indicating support for industry specific consumer regulation and a national responsibility for regulation of credit provision.

The report presented a number of recommendations including:

- a single national generic consumer law;
- identifying unnecessary or costly consumer regulation that only applies in a few States and Territories, or to one industry, and either removing them or, if justified, introducing nationally consistent rules;
- transferring regulation of credit providers and finance brokers to the Australian Government, with the Australian Securities and Investments Commission (ASIC) as the regulator; and
- new redress and enforcement powers for consumer regulators, including the ability to seek redress for non-parties, civil pecuniary penalties, banning orders and substantiation notices.

2.2 Green Paper Recommendations

In parallel to the Productivity Commission Review, the Council of Australian Governments (COAG) tasked a subgroup with developing a work program to improve Australia's business regulation process and competition policy.

The *Business Regulation and Competition Working Group* has prepared a Green Paper for public comment in line with the Productivity Commission's recommendations. The final step in the work program will be the presentation of a White Paper to COAG in October 2008.

The Green Paper presents three options (as listed below) for reform in Chapter 1 for mortgages, mortgage broking and non-deposit taking institutions.

1. maintain status quo;
2. regulate all credit; or
3. regulate mortgages only (and consequently mortgage lenders and brokers).

It should be noted that the suggested reforms listed above are not dissimilar to those recommended in Chapter 6 for other credit products. The following is Cash Converters response to each option.

2.2.1 Maintain Status Quo

Maintaining the status quo would fail to address the Productivity Commission's recommendation to establish a single national generic consumer law.

Unscrupulous lenders and rogue traders would be allowed to continue trading unabated. Under State-based legislation, businesses in the short term credit markets in New South Wales (NSW) and Queensland will be driven outside the protection of the UCCC, effectively cutting off a viable credit option to thousands of Australians.

The Green Paper suggests adopting the current draft National Finance Broking Bill, however this would not impact non-deposit taking institutions which would instead remain regulated by the UCCC.

Cash Converters feels the UCCC in its current form has shortcomings that require correction, specifically:

- There are currently four different variations in the application of the UCCC across Australia. These differences exist despite there being no discernible difference in the credit environment or profile of the credit user across the country.
- Further, changes to the UCCC are cumbersome, slow to implement, and have led lenders to seek loopholes.

Further, if the status quo is retained, any change is likely to be a lengthy process requiring amendments to the National Finance Broking Bill, individual State-based legislative arrangements or to the UCCC.

2.2.2 Regulate All Credit

Cash Converters supports moves to regulate all credit products, thereby ensuring that the short term loan industry in Australia is appropriately regulated.

The Green Paper states that this option

‘would achieve uniformity as all regulation would be with one Government’ but would also incur ‘significant transitional and ongoing costs for both the Government and business’.

Cash Converters does not believe that the total cost to Government of nationalising the legislation will be any greater than it could be were individual state governments to bolster their regulatory regimes.

While we believe the responsibility for regulation rests with the Federal Government, State Governments have a legitimate and necessary role in ensuring that participants in the industry comply with their obligations. Rather than a significant increase in resources, Cash Converters see this as requiring a redirection of existing resources through clarification of responsibility and a reduction of duplication in regulatory responses from multiple jurisdictions.

State governments are yet to experience the “hidden” social costs of a cap on interest, fees and charges. Once all of the loopholes are shut down and a cap is truly in effect, the social consequence stemming from the inability of thousands of people across Australia to access small sum credit, will lead to a dramatic rise in requests for help from social welfare.

Existing no interest and low interest loan schemes, commonly known as *NILS* and *LILS*, are put in place by some Governments to specifically aid families experiencing crisis situations. These schemes go nowhere near meeting the demands of the wider Australian public for short term loans.

It is also suggested in the Green Paper that

‘regional differences may require control of credit other than mortgages to be retained by the States’.

We are unaware of any evidence of differences in the profile of short term credit users across Australia. Indeed, in *The dynamics of low income credit use*¹ it is also observed that, not only are there very little differences in credit use between Australian states, but the trends in domestic credit in Australia mirror those of international credit markets.

The current trend amongst State-based legislation is to introduce annualised caps on interest rates, fees and charges. Section 4.0 of our submission outlines research and arguments against the introduction of a capping regime. Essentially, if regulation of credit does not extend to the short term loan industry, States such as Queensland and NSW will continue to introduce independent legislation and capping, threatening the viability of the industry.

¹ *The dynamics of low income credit use* is a summary report developed by [Policis](#), a full copy of which is included as an appendix to this paper.

2.2.3 Regulate Mortgages Only

With mortgages accounting for 86% of all credit, the Green Paper recommends the regulation of the mortgage broking industry only. While this option would be easier to administer given the isolated target group and high consumer impact, it would provide no regulation for the short term loan industry.

Short term lending is an important component of Australia's credit industry. In the period 1 June 2007 to 31 May 2008, Cash Converters provided approximately \$19million in *Cash Advance* loans in South Australia, and \$48million in Queensland. These figures clearly indicate how widely our micro lending service is used. And we are only one lender in the industry.

The National Financial Services Federation represents hundreds of businesses across Australia, each providing much-valued credit options that are widely and responsibly used, and could be enhanced with uniform regulation and licensing. If National regulation of the short term loan industry is not achieved, the introduction of an annualised cap will take effect in Queensland as planned, and possibly eventually in South Australia.

2.3 Financial Impact

The Green Paper calls for information in relation to the likely compliance costs, impacts on competition and other costs or benefits of regulation.

In relation to micro lending, we do not agree with the contention that the costs of compliance or transition will be greater under a national system. In fact, if the status quo is maintained, the costs to Government, business and consumers are significantly greater and will continue to escalate.

Cash Converters has identified a number of immediate and obvious cost impacts (as listed below) that flow from the regulation and licensing of the short term loan industry. However, we would also strongly urge the Government to commission a full impact statement to help identify the myriad of hidden costs.

Figure 2a: Impact Statement

Green Paper Option	Impact	Comment
1. Maintain Status Quo	<i>Compliance Cost</i>	Compliance costs would continue to increase under this option as each State amends the non-uniformity areas of the UCCC. As a national business this continues to add compliance and operational costs to our various business and product models in each jurisdiction. There is little Government cost with this option in financial terms, however the cost in terms of consumer dissatisfaction may be significant.
	<i>Impact on Competition</i>	We see no positive impact in relation to competition with this option. With each state taking different approaches to the non-uniformity matters there is massive duplication of resources required and as such these costs add to the cost of providing financial products, to the detriment of consumers.
	<i>Other Costs of Benefits</i>	None identifiable.

Green Paper Option	Impact	Comment
2. Regulate All Credit	<i>Compliance Cost</i>	Whilst there may be some initial cost to business and government in rationalising the current situation and introducing national consistency to all credit sectors it will be this consistency that will deliver efficiency, and cost of business reduction for government and credit providers. With introduction of a national licensing/registration scheme with an associated fee the Government can reduce or eliminate any potential cost. Depending on what this fee is set at there may well be scope for funding assistance to people in disadvantaged/vulnerable positions.
	<i>Impact on Competition</i>	This efficiency will flow on to a more competitive market place that is not fragmented by borders, internet product and various approaches taken within the same marketplace to offer similar financial products.
	<i>Other Costs of Benefits</i>	The Green Paper mentions that the use of certain credit facilities may be affected by regional differences, and while these affects are not expanded on, it reports more understanding is needed before a single regime is introduced. Uniformity would save businesses thousands of hours working with various levels of Government in their reviews of individual consumer credit legislation and attending to the disparity of compliance requirements across the country.
3. Regulate Mortgages Only		This is essentially a status quo for the credit sector that Cash Converters provides services in.

2.4 Case for Uniformity

Currently there are a number of short term loan products available to the consumer. Each has different interest rates, fees and charges, time periods and penalties. To most consumers, this is confusing and it can be difficult to make a comparison between products.

Under uniform legislation, lenders would be required to adhere to one set of regulations, and be responsive to one governing body. This would enhance market competition among lenders within a specific set of boundaries offering the consumer more choice and simplifying consumer understanding of the industry and the products on offer.

The following section outlines the various legislative or regulatory arrangements around Australia. From our analysis it is clear that uniformity would be more cost effective and beneficial for both consumers and business. It would also provide for licensing of lenders and the application of penalties where required.

3.0 Analysis of State-Based Reviews

Across Australia there has been discussion, and in some cases policy implementation, on regulating the short term loan industry. However, states have not been uniform in the way they have approached this issue and this is reflected in differences in their legislation.

Cash Converters has provided strong support for all of the State consumer credit reviews and has undertaken extensive independent consumer consultation. We have worked with a number of State Governments on their individual reviews of consumer credit laws. The following is our analysis of each of these experiences.

3.1 Queensland

The Queensland Government were tasked with developing template legislation to regulate the short term loan industry, parts of which will automatically take effect in NSW and the ACT.

A discussion paper was released by the Queensland Government last year recommending that a balance needed to be achieved between providing improved consumer protection and the maintenance of industry viability.

During the Government's consultation process, Cash Converters maintained regular correspondence with key Ministers and all Government Members of Parliament in a bid to collaborate on a less reactionary policy development. We presented an alternative model to the Government which would afford consumers protection while retaining a viable industry and credit option for many Queenslanders – the *Total Cost of Credit Cap* [which is outlined in Section 6.2.5 of this paper].

Unfortunately, despite our efforts, the legislation inclusive of an annualised 48% cap on interest rates, fees and charges was passed. Further, a component of this legislation will outlaw the application of a brokerage fee (currently operating in NSW), thereby threatening the viability of the short term loan industry. Over the coming months the real social consequences of this legislation will be seen as the policy is implemented.

Cash Converters believe a balance was not achieved, and further the new legislation when proclaimed will effectively prevent reputable micro-lenders from operating under the UCCC.

Figure 3a: 2007 Community Response in Queensland

In October 2007, 13,500 Queenslanders signed a Cash Converters petition to Parliament urging the continued availability of short term loans in the community. A month earlier, 2,692 of our customers were surveyed in Queensland. The results were as follows:		
<i>Question</i>	Yes	No
Have you found this credit facility valuable?	2689	3
When applying for a loan, are the interest rates, fees and charges clearly explained?	2689	3
Do you think the Government needs to get involved in the credit service you receive from Cash Converters?	3	2689

3.2 NSW and the Australian Capital Territory (ACT)

The NSW and ACT Governments have introduced an annualised 48% cap [inclusive of all fees and charges] and are often cited as examples of how effectively the system has worked. These claims are misleading.

There are over 200 micro lenders in NSW offering loans of less than one year and none of these businesses operates under this cap. They cannot survive without an additional fee in their costs, generally a brokerage fee, which is needed to cover overheads and achieve a reasonable return.

Several Members of Parliament both within Government and Opposition are beginning to escalate their concerns for the future of the industry, and the subsequent impact on consumers, and are now calling for a review of the legislation. Specifically, they are concerned about the social impact on their constituents once the template Queensland legislation is proclaimed as it includes an amendment which will outlaw brokerage arrangements in NSW and end the industry.

3.3 Victoria

The Victorian Government adopted a different approach inviting submissions from consumers and industry, undertaking research with short term credit users, and conducting public forums on their proposed plans to introduce a cap. The end result was some 38 recommendations to the *Ministerial Council on Consumer Affairs* for future implementation.

They rejected the NSW model of incorporating fees with interest under a cap, observing that if all the loop holes could be shut, it would inevitably drive fringe lenders out of the market and deny people access to this form of credit.

It is important to note that although Victoria is also identified as having a 48% cap, this cap is not inclusive of all fees and charges.

3.4 South Australia

In 2006, submissions were invited in response to a Government Discussion Paper however there has been no public or consumer specific consultation process outside of this. A Cash Converters petition was signed by more than 4,500 South Australians and presented to Parliament in November 2007 urging the continued availability of short term loans as a viable credit option for consumers.

Whilst no draft regulation has been tabled in South Australia, a community education campaign has been launched and the Minister has publicly supported a regime of an interest rate, fees and charges cap.

More recently, concern has been expressed from a number of Government Members of Parliament about the consequences of capping, and the need to ensure the community retains access to this widely used form of credit. Consultation with the South Australian Government is ongoing.

3.5 Western Australia

The Western Australian Government does not support capping and has adopted a stringent licensing regime, allowing them to exclude rogue traders from participating through a process of regular review. They understand that annualised capping distorts the market for short term loans and will drive traders from the industry denying consumers' choice.

4.0 International Research

Little research of low income credit users or users of high cost credit had been undertaken within credit review processes. Up until this point, much of the consumer information provided to governments has been sourced internationally, or focussed on the most seriously exploited users of high cost credit as a base of evidence for the broader consumer experience in Australia.

To provide context and data to the debate, Cash Converters commissioned [Policis](#), in conjunction with [Synovate Australia](#), to produce consumer research on the habits and use of credit by low income Australians.

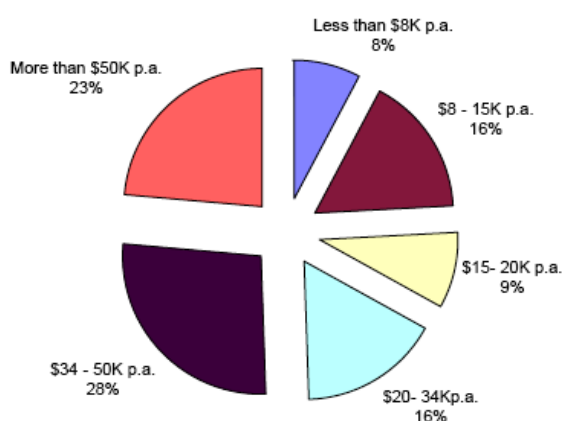
As part of the research, 500 low income Australians, 400 low income users of credit and 320 low income users of payday lending were surveyed earlier this year. While those earning less than \$34,000 pa represent fewer than 50% of short term credit users, these so called low income consumers were the focus of this research due to the overwhelming interest that this user group attract in the short term credit policy debate.

[Policis](#) produced a number of papers outlining the findings from the research. Full copies of the following research papers have been included as attachments to our response.

- *The dynamics of low income credit use – A research study of low income households in Australia.*
- *The impact of interest rate ceilings – The evidence from international experience and the implications for regulation and consumer protection in the credit market in Australia.*

A brief overview of the findings from the research is listed below and a more comprehensive summary is included as Appendix 2.

Figure 4a: Share of Payday Loan Users in Australia by Income Range



4.1 Borrowing Behaviours

- Income is insufficient to cover unexpected spikes in expenditure.
- Demand is shaped by an irreducible need to borrow.
- Credit (particularly small sum credit) is regularly used for essential items.
- Almost half of respondents could not raise \$500 to \$700 in an emergency or to deal with repair or replacement of essential items.
- Reasons for using payday lending include:
 - the desire to avoid bank fees, penalty payments or reconnection fees (40%);
 - to assist with management of household bills and other commitments (60%); and
 - to avoid financial difficulties (42%).

4.2 Credit Use

- 80% of low income Australians use some form of commercial credit.
- Credit cards are the dominant vehicle for all income groups.
- A majority of low income credit users use a mix of credit products in parallel.

4.3 Credit and Social Exclusion

- In markets where access to credit is reduced or eliminated for those who need it most, research shows that a credit vacuum leads to:
 - credit, and ultimately social, exclusion;
 - a rise in indebtedness;
 - a rise in the level of default (including utilities); and
 - the rapid rise of an illegal lending industry.

- 29% of payday users do not have a credit alternative.
- Social programs are not currently in place in Australia to cater for the fall-out that will occur if annualised capping is introduced.

4.4 Consumer Management of Debt

- Payday borrowers appear better able to manage mainstream credit than other low income users because they:
 - pay back credit card debt quicker;
 - miss fewer payments on mainstream credit; and
 - are 40% less likely to pay penalty charges on loans and credit agreements.
- Total debt owed by those using pay day lenders [\$7,900] is lower than borrowers who are taking cash advances on credit cards [averaging \$9,600].

4.5 Impact of Annualised Interest Rate Ceilings

- Ceilings do not appear effective in preventing over-indebtedness.
- Default rates, rates of payment delinquency, and levels of over-indebtedness and insolvency are greater in capped regimes.
- Lack of legitimate credit options can result in the rise of illegal lending.

5.0 The Problems with Annualised Capping

The primary tool of market regulation cited by State Governments is the introduction of an annualised 48% cap inclusive of all fees and charges.

The complex formula applied in NSW and Queensland means the maximum a lender can charge for a one month short term loan is slightly less than 4% of the amount lent to cover all costs and make a return, thereby making the service unviable. Administration costs of setting up a short term loan, including interviews, documentation and credit checks, far exceed this return.

Figure 5a: Example of the Application of a 48% Annualised Cap on an Average Short-Term (one-month) Loan

Amount Borrowed	\$250.00
Loan Period	1 month
Total Interest Rate Cap	48%pa
Monthly Interest Rate Cap	4%
Total Interest and Fees Charged	\$10.00
TOTAL LOAN COST	\$260.00
RETURN ON LOAN	\$10.00

Cash Converters believe the introduction of capping as a principal tool to address unconscionable lending practices will fail to meet the objective and will eliminate the availability of short term loans to the community, adversely affecting the very people it intends to protect and thereby creating:

- an unviable industry, scooping up all responsible lenders in the proposed “solution” to the problem and encouraging the growth of an illegal lending industry; and
- a credit vacuum to the detriment of a large number of Australians.

Many consumers will be left unable to access credit, or if they can, may be pushed into using revolving lines of credit which can ultimately lead to greater levels of indebtedness.

6.0 Cash Converters Position

Cash Converters considered all credit should be regulated on a national basis. It strongly supports Option 2 of the Green Paper as it is the only proposal that effectively:

- responds to the national nature of credit markets;
- allows nationally consistent regulation to govern the operation of the micro lending industry; and
- benefits both business and consumers through a clearer, efficient and consistent application of the UCCC.

Further, consistent national regulation offers the potential to:

- reduce the duplication of resources, effort and costs by Government and industry in consultation within each State;
- avoid compromising industry efficiency;
- allow streamlined regulations and approaches to compliance; and
- allow consumers workable protection wherever they reside in Australia.

Over the past few years, Cash Converters has participated in a number of Government reviews indicating that an effective regulatory system does not need to include interest rate caps and could be achieved by the introduction of a comprehensive regulatory framework.

6.1 Licensing/Registration of all Credit Providers

We believe that the Western Australian and Victorian Governments have effective licensing models currently in operation that could be used as an excellent starting base.

Under a licensing regime, Government consumer affairs authorities would have the ability to easily identify credit providers, which is not the case at present. It would also provide a considerably improved opportunity to communicate with all lenders, ensuring they are all fully briefed on changes in Government policy and regulation.

The scheme would need to embrace a “fit and proper” person test, with predetermined, concise criteria that outline who is considered a person of good character and repute. To minimise any imposition on Government, an associated license or registration fee should enable the industry to be largely self-funded and cover the cost of administration and enforcement.

6.1.1 Elements of Licensing

Elements of licensing could include:

- Annual renewals.
- Material and financial status of applicants.
- Previous issue or refusal of any Government license.
- Exclusion if found guilty of an offence involving dishonesty.
- Financial viability expected disclosure of materially adverse changes.
- Knowledge of the consumer credit code and fair trading provisions.
- Mandatory national police check.
- Appropriate references
- A strict range of fines, suspensions and exclusions, plus revocations of licenses for breaches of the consumer credit code and the licensing provisions public display of the license.

6.1.2 Improved Enforcement

Licensing and registration provides an opportunity to assess the suitability of any new entrants to the industry allowing Government to filter unsuitable candidates. A strict range of fines, suspensions and exclusions, plus revocations of licenses for breaches of the UCCC or the licensing provisions would bolster any State-based regimes.

We also support the idea of proactive audits conducted randomly by the relevant Government authority or a purpose specific unit set up for the micro lending industry. This could be largely self-funded from license charges. Some of the issues that we believe should be audited include:

- legality of contracts;
- compliance with disclosure obligations;
- documentation compliance with regulatory requirements;
- correct display of signage and licenses; and
- clearly documented internal dispute resolution processes and debt recovery procedures.

Note: A move to “unreasonable” as opposed to “unconscionable” in terms of testing the legitimacy of a lender has been advocated. This would allow for the consideration of the fairness of fees and charges of a credit contract in the event of a debtor feeling aggrieved.

6.1.3 Alternative Dispute Resolution (ADR) Scheme

We believe that all micro lenders should have clearly documented internal dispute resolution procedures for handling a customer dispute or complaint.

However, where it is alleged that unreasonable lender conduct has occurred and the customer is unable to obtain satisfaction from the lender, an ADR scheme would provide a no-cost and convenient mechanism for borrowers to, informally, present their case to an independent arbitrator.

Lenders would be contractually obliged as part of the ADR scheme to comply with the arbitrators decision. If the borrower was still unsatisfied with the outcome, they could then seek further assistance from the relevant Government authority or the courts.

The terms and conditions of such a scheme would need to include:

- Application to all micro lenders.
- Membership to a condition of a lender's license and administered and regulated by the relevant Government authority.
- All costs to be borne by the lender.
- Consumers encouraged to approach the ADR scheme in the first instance.

As far as we are aware, Cash Converters has never been contacted by a fair trading or consumer affairs body to discuss a complaint about a financial services product. However, we consider an ADR scheme represents best practice and, after reviewing the two suitable schemes most appropriate for short term lending, the [Credit Ombudsman Service Limited](#) and [Financial Ombudsman Service](#), we have selected the former as most suitable and will be introducing such a model into our business operations from July 2008.

6.1.4 Representative Industry Body

Over the past eight months Cash Converters have been actively working with our micro lending competitors to establish a national body to represent the industry, the National Financial Services Federation.

Legal, ethical and commercial issues have been considered and an appropriate structure, constitution and draft code of conduct have now been established providing a sound basis for self regulation.

The industry body can forge an invaluable link with Government, providing a major impetus for the introduction of effective consumer and industry education campaigns. We believe a well structured industry body can also provide the relevant Minister/s with industry and consumer advice and intelligence.

6.1.5 Education

Cash Converters is keen to see the establishment of effective education and information facilities for consumers and industry to improve knowledge of obligations and responsibilities by all parties.

In 2006, the Australian Government published a consumer orientated education resource entitled *Understanding money - How to make it work for you*. It was aimed at improving financial literacy covering loans, credit cards, superannuation and how to get advice. This publication has been available in all Cash Converters stores in SA for over 12-months as a means of assisting our customers who were looking for assistance. We are also currently exploring the option of making it available through our stores nationally.

Consumer Affairs Victoria has published comprehensive information online specifically focused on credit and debt. It is well-balanced in dealing with operators and providers of financial services as well as consumer rights. Other State authorities adopt a more consumer orientated approach that at times appears to be adversarial and opinion-based rather than collaborative and constructive.

Providing relevant information that is consistent for all Australians, be they consumers or business operators, is the challenge. Cash Converters is prepared to work with the Government in developing such material.

6.1.6 Targeted Programs

Cash Converters would support the introduction of targeted programmes for vulnerable and/or disadvantaged consumers to ensure Australia avoids a credit exclusion situation. (In Victoria there was a specific commitment of budget to these consumers as an outcome of the review.)

These programs need to be able to quickly assist those who have immediate needs in a way that maintains their dignity and respect. In our experience, the strengthening of a relationship between industry and consumer groups will bring significant benefits to those in the community that most need assistance, and who often cannot qualify for any commercial loan product.

6.2 Alternative Regulatory Models Considered

Cash Converters does not favour interest rate capping as an effective means of regulating the short term loan industry. Rather we see this as creating market distortion and leading to unfavourable consequences. As credit markets are national [in their nature], the trend for states to adopt independent approaches to interest rates simply amplifies this distortion. The international research studies referred to in this paper also found against the efficacy of capping.

However, despite the lack of commercial foundation or basis for 48% being chosen as a cap, and our very serious concerns about the impact of capping, Cash Converters have continued to work with Government and have developed and recommended a number of alternatives based on the introduction of a cap.

6.2.1 Adopting the Victorian Model Nationally

The Victorian model has a 48% interest rate cap that is not inclusive of fees and charges. Their regime, which has existed for many years, was once again endorsed by the Victorian Government's Consumer Credit Review in 2005-06.

6.2.2 A Cap Supported by Lender Review

The introduction of a 48% cap on interest rates, excluding fees and charges, accompanied by an "unreasonableness" test.

A National regime could have the considerable advantage of the inclusion of the recently proposed *Ministerial Council of Consumer Affairs* "reasonableness" test, subject to clarification of the criteria. Such clarification would include the courts being mandated to assess fees, charges and profitability associated with any loan, when reviewing a particular lender.

6.2.3 Total Cost of Credit Limit

The introduction of a total cost of credit limit, not exceeding the amount borrowed [100%].

It is our understanding that there are some Government fair trading compliance officers who would welcome this option, as it would provide very easy criteria to measure and assess. Time consuming calculations would be replaced with a simple comparison between the total amount advanced and the total amount paid for the loan (inclusive of all interest, fees and charges).

6.2.4 Two Independent Caps

The introduction of a 48% cap on interest and an independent cap on the total cost of fees and charges, so that the total amount paid for the loan does not exceed the principle loan amount.

This option attracts positive elements of both a cap on interest and cap associated with the total cost of fees and charges, but would be expected to limit financial products and consumer choice.

6.2.5 A Total Cost of Credit Cap

Despite our very serious concerns about the shortcomings of capping, we developed an alternative proposal that met all the key policy objectives of the Queensland Government, would protect the community from unacceptable usury interest charges, and allow a well regulated, competitive short term loan industry to continue.

Under a strong move by Government to impose a 48% cap, Cash Converters proposed not annualising the 48%, instead making it the *Total Cost of Credit*. The model would create significant benefits, while ensuring that:

- interest fees and charges could not exceed 48% of the total amount loaned;
- the customer retained access to loans of less than 12-months; and
- there is a known and definitive cap to the cost of short term credit, creating further industry competition.

Essentially, by not annualising the 48% cap, short term loan providers would have the flexibility to recoup the costs of credit over the loan period. Governments would be empowered to eliminate any chance that a short term loan provider will have to mislead the consumer over charges relating to a credit transaction; and the charges that can be applied would be limited.

This alternative is simple to understand. It protects consumers and could be easily enforced.

7.0 Conclusion

The immediate impetus for change is not only a general concern about indebtedness but specific issues relating to the activities of micro lenders. We urge the Federal Government to consider a pragmatic approach to the control and regulation of financial services that will incorporate short term lending, rather than eliminating it with the introduction of unworkable capping regimes in some States.

Cash Converters believes there is a need to enhance consumer protection while still retaining a viable short term loan industry for the community. We also believe this can be achieved through alternative solutions to annualised capping.