



Buy Now Pay Later Reforms  
The Treasury  
E: [CreditReforms@TREASURY.GOV.AU](mailto:CreditReforms@TREASURY.GOV.AU)

9<sup>th</sup> April 2024

**Subject: Regulation of the Buy Now Pay Later Industry: A Perspective from SACC and MACC Providers**

Dear Treasury

Thank you for the opportunity to contribute to the discussion on regulating the Buy Now Pay Later (BNPL) industry. We believe that effective regulation is crucial to safeguard consumers and ensure equitable conditions for all credit providers.

The National Credit Providers Association (NCPA) represents a diverse group of credit providers and serves as the peak industry body for Small Amount Credit Contract (SACC) and Medium Amount Credit Contract (MACC) providers. This submission is made on behalf of NCPA's SACC and MACC members.

**Classification of BNPL within ASIC Subsectors:**

We propose a thorough examination of the question *'which ASIC subsector will the BNPL services fall under?'*

In asking this question, we wish to highlight the unfair ASIC levies that SACC and MACC lenders have endured during and post-Covid by covering ASIC's costs in relation to unregulated credit products.

Over the years, the small ASIC subsector (called: 'small and medium amount credit providers') has faced increasing levies of over 500% from FYE 19 (\$8.06 per \$10,000 loaned) – FYE 23 (\$52.96 per \$10,000 loaned) due to our regulated status. Meanwhile, unregulated products such as Cigno and BNPL have operated without the imposition of an ASIC levy.

ASIC would argue that it is 'beneficial' to industry to pass on costs associated with unregulated products to the closest related ASIC subsector, but the real-world results of these high ASIC levies is regulated small businesses going out of business and as a result, jobs lost.

The ASIC levies place an undue and undeserved burden which punishes regulated businesses for the behaviour of unregulated businesses and creates a significantly unlevel playing field within the Australian Financial ecosystem.

If unregulated products such as BNPL, will be subject to regulation in the future (which we highly support), but do not fall under the same ASIC subsector which has been covering ASIC's expenses associated with unregulated credit products, we would seek consideration of a refund of ASIC levies already taken for costs associated with unregulated products and ask that this question is carefully considered within the context of what is fair.

### **Perpetuated Discrimination Against SACC and MACC Lenders:**

Despite being compliant with regulations and delivering a much-needed service to over three million financially excluded Australians, SACC and MACC lenders continue to face bias at the political and regulatory level as a result of the confusion and failure to differentiate between regulated Small Amount Credit Contracts, unregulated credit products such as Cigno, and illegal credit products such as Payday Loans.

The consultation paper, perhaps unintentionally, perpetuates this confusion by using the term "payday" lenders<sup>1</sup>, when most likely the consultation paper was meaning to refer to regulated Small Amount Credit Contracts. This mislabelling perpetuates negative stereotypes and unfairly further tarnishes the reputation of SACC and MACC lenders, which further creates a bias, which leads to regulatory and legislative discrimination. We urge fair treatment, a level playing field and recognition of the role of SACCs and MACCs in providing essential financial services to financially excluded Australians.

### **Comparison Rates and Perpetuated Confusion:**

We congratulate Treasury for recognising the confusion which comparison rates cause for consumers and the limited consumer benefit when a credit product is short term. 'Treasury Laws Amendment Bill 2024: Buy Now, Pay Later' Exposure Draft Explanatory Materials pg 21 Sec 1.111

*"Comparison rates for small amount credit contracts can be deceptively high for short-term credit, and therefore provide limited benefits for consumers. The amendment distinguishes short-term credit from other credit contracts as consumers are likely to be confused by receiving the disclosure information of comparison rates for a product that does not actually charge interest."*

We applaud and agree with the removal of the comparison interest rate requirement for BNPL and hope that this decision goes some way towards the removal of that expectation for all credit products which offer terms on average of less than 12 months. Comparison rates have been, and still are used against SACC and MACC lenders, by people who fail to differentiate between regulated, unregulated and illegal short term credit products.

### **Primary Purpose and Impact of BNPL vs. SACC and MACC Lending:**

The consultation paper incorrectly asserts that BNPL is a low-cost alternative to SACCs.

---

<sup>1</sup> 'Treasury Laws Amendment Bill 2024: Buy Now Pay Later' Exposure Draft Explanatory Material pg 4 Sec 1.6.

'Treasury Laws Amendment Bill 2024: But Now Pay Later' Exposure Draft Explanatory Material  
pg 4 Sec 1.6.

*"New Credit products, such as BNPL arrangements, can offer consumers a cheaper and easier way to access forms of credit when compared to most traditional forms of credit such as credit cards, payday loans, and consumer leases."*

Although BNPL products and SACC and MACC products are short term credit products, there are key differences in how they are used. BNPL products are primarily associated with retail spending, particularly of products they don't need, and as a one-off purchase to those already included in the financial system, it is a great alternative to using a credit card. But overuse, without limits on how many BNPL products a consumer can have, quickly leads to no affordability to borrow money if you need credit for something important. This doesn't cause consumer harm to those who have access to savings or a credit card, but for those who are financial excluded from those options, where the only place to turn has been SACCs, MACCs, they now have no affordability.

In contrast, SACC and MACC loans primarily serve the needs of financial excluded Australians who have urgent financial needs, such as one-off car repairs, medical expenses, surgery for pets, and funeral costs etc. The SACC and MACC industry play a vital role in meeting the real needs for financially excluded individuals who need a 'leg up'.

### **Conclusion**

In conclusion, we advocate on behalf of our SACC and MACC lenders for fair treatment, accurate terminology, and a comprehensive regulatory framework that recognises the distinct purposes of BNPL and SACC/MACC lending. By doing so, we can protect consumers while fostering a healthy credit system. The NCPA hopes to assist regulators further by cutting through the confusion which currently exists, so that there can be a level playing field amongst credit providers, fair and proportionate protections for consumers, without the unintended and unacceptable consequences of consumer harm.

Thank you for considering the perspective of our members and I am available to discuss with the above in more detail as required. I can be contacted at [support@ncpa.net.au](mailto:support@ncpa.net.au) and on mobile at [REDACTED]

Yours sincerely



Michael Rudd  
Chairman