



Response to ASIC Consultation Paper 309 – *Update to RG 209: Credit licensing: Responsible lending conduct*

May, 2019

Introduction

The Polygon Group (“Polygon”) appreciates the opportunity to respond to Consultation Paper 309 and acknowledges ASIC’s consultative approach to seeking industry input.

We note that one of the key considerations of this consultation paper is whether ASIC should provide additional guidance in RG 209 to identify more clearly the inquiries and steps that are important for licensees in complying with their responsible lending obligations.

We believe there is an opportunity for ASIC to provide more clarity to licensees by specifying a minimum commitment threshold in RG 209, which would also enable licensees to compete on a level playing field with Buy Now, Pay Later (BNPL) operators.

Any assessment of responsible lending standards cannot ignore the explosive growth of BNPL operators and the impact they are having on the consumer credit market. BNPL operators were not a consideration when RG 209 was issued in 2010 or revised in November 2014, however they have experienced a dramatic expansion in recent years, which has impacted the consistent application of credit and lending standards.

Our submission outlines what we mean by a minimum commitment threshold and a suggestion of how this could work, supported by an example. We have also included some background information about Polygon for your information.

About Polygon

Polygon operates a suite of rental businesses, including Musiccorp Australia, Instrumentrental Australia, Studio 19 Rentals, Cameracorp Australia and Sportcorp Australia. The company is based in Somerton Park, South Australia and employs approximately 60 people. The company’s main focus is high-end musical instruments but it also has a dedicated camera equipment rental business and sporting equipment rental business. These products all fall within the description of non-essential, discretionary goods.

The business was originally established in 1989, both retailing and renting musical instruments. It was restructured in 1995 as Polygon, gradually phasing out retail to focus on providing customer rental solutions through schools and music stores.

Today, Polygon provides rental options direct to consumers via its own websites as well as through more than 250 other leading retailers across Australia. Polygon has also partnered with some of the world’s leading musical instrument manufacturers, exclusively providing the rental arrangements for Yamaha Music, Fender Australia and The Roland Corporation.

Polygon has also has partnered with leading Australian camera retailers - Ted's Cameras, digiDirect and Camera House.

Polygon is uniquely linked to the education sector, having rental agreements with approximately 300 schools across Australia. The company has maintained a close relationship with the education sector since establishment, currently employing 21 teachers to run a range of musical tuition programs in primary schools across the country. A large section of its customers are in fact parents who rent musical instruments for their children.

Polygon has a different business model than many other consumer rental businesses. Polygon concentrates on rental options for higher-end, non-essential, discretionary goods, and its rental rates are significantly lower than most other operators. Polygon also offers short-dated minimum contract terms compared to the industry standard. These can be as short as three-months for some pre-loved items but typically for new equipment, a minimum six-month only rental period applies. Customers can submit an offer to purchase the rental item at any time, even after only one month, demonstrating Polygon's flexible rental approach and ensuring consumers are only financially committed for the minimum rental period. Polygon also clearly stipulates all costs from the outset, with no hidden penalties or charges.

Polygon has more than 23,000 current customers, the company continues to hire new staff and has plans for further expansion as a result of the company's latest venture, sporting rental business Sportcorp Australia.

Setting a minimum commitment threshold

In response to B1Q3, Polygon believes there are circumstances where it is reasonable to undertake fewer inquiries and verification steps. More specifically, we believe if a minimum commitment amount outlined in the customer contract is below a certain threshold then an affordability assessment should not apply.

For example, Polygon leases musical equipment through its Musicorp subsidiary, a three-year rental plan for a flute valued at \$800 with a minimum six-month rental period would incur a \$38 monthly charge. Therefore in this instance, the minimum commitment amount for the customer would be \$228 (six months by \$38), at which point the customer can return the flute for no additional charges or penalties.

For this minimum commitment amount of only \$228 we have to conduct a full affordability assessment, which customers are increasingly complaining about being unduly intrusive for what they consider a small amount of money. This requirement contrasts sharply with a BNPL loan where a customer can borrow \$800 with no assessment of his/her financial position or capacity to repay the loan. It is also important to note that our customers have the option of returning the rental item after the minimum load period whereas BNPL customers are committed for the full amount and incur significant penalties and fees for any late re-payment.

Polygon believes if a consumer's minimum commitment amount is below a certain threshold, we suggest \$300, as per the above example, an affordability assessment should not apply. This would provide greater clarity to licensees by removing the current ambiguity in RG 209 concerning reasonable inquiries (scaling up and down). It would also remove customer concerns about undue intrusiveness into their financial affairs for what they perceive to be small amounts, which is having the unintended consequence of providing an unfair advantage to BNPL operators.

Further to the above, while RG 209 allows for different circumstances when making reasonable inquiries and taking reasonable steps to verify information, we contend that when it is not specifically clear what is expected of licensees, prudent and ethical operators will err on the side of over compliance to avoid any chance of being in breach of compliance obligations. While this is commendable it is harmful to reputable licensees, particularly in an environment where the same rules do not apply to BNPL players.

Our proposed minimum commitment threshold is a way of imposing a minimum standard, which we note was previously considered for RG 209 but rejected because of concerns it would be inflexible and lead to greater compliance costs. However, we believe the reverse is actually true. The lack of a minimum standard is creating a greater compliance cost for credible licensees, as outlined above. The growth of the BNPL sector and altered consumer lending landscape as a result, is another reason to consider implementing a minimum commitment threshold to ensure consistent lending standards apply to all players.

A minimum commitment threshold amount should be set at a low level to ensure lending standards are maintained, which is why we suggest a threshold of \$300 is responsible.

If ASIC was to adopt this suggestion and include it in the revised RG 209 it would remove the current ambiguity for licensees and level the playing field for all industry participants following the unregulated growth of the BNPL sector in recent years.

Conclusion

The evolution and growth of Polygon during the past 30 years is because we have developed a range of fair, low risk, low commitment, responsible and flexible rental options for our customers. And it is this customer focussed approach that informed our response to Consultation Paper 309.

We are encouraged by ASIC's commitment to seek industry feedback and hence we value our opportunity to contribute.

Our experience with the real-life implementation of RG 209, coupled with the necessity to create a fair environment for all participants following the growth of BNPL players, warrants the introduction of a minimum commitment threshold of \$300, which we believe is a reasonable and responsible starting point.

We trust our submission will be given due consideration and we would be happy to discuss it in more detail at any time.