



Thank you for the opportunity to respond to Consultation Paper 382 on low-cost credit contracts. We are an interdisciplinary team of researchers from Melbourne Law School, The University of Melbourne, RMIT and Monash University. Our research is part of an Australian Research Council Linkage project on [harmful financial products](#).

Our study investigates the perpetration of financial abuse through buy now pay later (BNPL) and we propose policy reforms aimed at disrupting the harm. We draw on two sources of empirical data collected in collaboration with a large community organisation: a census of 276 clients, and interviews with 6 financial counsellors. The community organisation provides services and support in the areas of family and domestic violence, financial insecurity and youth experiencing disadvantage.

Our research found that 14.6% of clients who had BNPL debts experienced BNPL facilitated financial abuse. Most of these were coerced BNPL debts, while close to a third were victims of identity theft or fraud perpetrated by people they knew, the most common being previous partners.

Impacts on survivors

Interviewees (financial counsellors) described BNPL facilitated financial abuse as having detrimental, lasting impacts on survivors. They described survivors becoming 'inundated with emails, text messages' from debt collectors which are highly distressing. Interviewees emphasised that dealing with the impacts of coerced debt can be 'very, very distressing and very, very difficult' for survivors who are already experiencing multiple stressors such as parenting orders and property settlement in addition to the physical and mental trauma of experiencing family violence.

The impacts of coerced BNPL debt persist beyond separation, hampering survivors' efforts to re-establish their lives. Financial hardship and impaired credit records jeopardise survivors' capacity to obtain refinancing for the family home. In the words of an interviewee: 'they've gone through a property settlement, they've gone to refinance their family home and they've been knocked back purely because of coerced debt that they did not know of.'

Many survivors do not report financial abuse to the police when they've fled a violent relationship for fear of backlash from the perpetrator. A caseworker observed a tendency for survivors to pay coerced debt until 'somewhere it just becomes impossible.' In addition to the emotional and financial strain, coerced BNPL debt and its impacts undermine survivors' longer-term economic security.

Challenges of dealing with coerced debt

Interviewees underscored significant challenges in negotiating with BNPL providers. According to financial counsellors, it takes a long time to resolve coerced BNPL debt, the protracted process is 'very stressful' and they 'work very, very hard to prove economic abuse and coercive control'. A

caseworker observed that 'it's very difficult when they don't fall under any regulation ... so, it's usually gently, gently, compassionate waiver rather than anything adversarial that would put them on the back foot.' One interviewee observed that 'you have to jump through hoops' and the process can take as long as 12 months. Likewise, complaints with AFCA involve delays that extend for months.

Safety by design

In their December 2024 report *Financial Abuse: An Insidious Form of Domestic Violence*, the Parliamentary Joint Committee on Corporations and Financial Services (PJC) underscored the need for 'safety by design' to mitigate the 'shocking extent of financial abuse in Australia'.^[1] To this end, we propose: a) preventative measures; and b) targeted responses to the problem of coerced BNPL debt.

a) Deterring fraudulent BNPL debt

The modified responsible lending obligations for amounts of \$2000 or less, and the minimal checks they require, increases the risk of BNPL accounts being opened in survivors' names without their knowledge or consent. To alleviate the risk, several measures may be adopted to strengthen identity verification. For instance, some applications in Australia such as police or criminal history checks, and online credit providers in some countries, require applicants to take a 'selfie', a photograph of themselves captured during the applications process.^[2] This allows biometric verification which guards against unauthorised use of another person's identity particulars.

Regardless of the amount of credit, asking applicants for payslips or other forms of identity verification, provides additional friction that serves as a deterrent against perpetrators' use of survivors' identity particulars to apply for BNPL without their consent.

b) Responding to coercive BNPL debt

Family violence policies that prescribe appropriate responses to disclosures of financial abuse are an important aspect of safety by design. Our findings emphasise the need for industry-wide family violence policies that align with the Australian Banking Association (ABA)'s *financial abuse and family and domestic violence* guidelines as well as staff training on family violence to promote appropriate responses. Given the ABA's guidelines were developed for in-person interactions, additional or different responses in an online context are called for.

To mitigate the risks arising in an online context, potential adaptations include the use of artificial intelligence to detect unusual patterns in transactions, akin to that used to detect credit card fraud.^[3] Our data suggests that survivors tend to use BNPL for essentials, while caseworkers took the view that perpetrators tend to have different spending patterns, and were more likely to use BNPL for discretionary items, such as a gaming console or gift cards. BNPL providers could potentially raise a query with borrowers if there are irregularities, and provide them discreet means of alerting the credit provider of coercion, which will then enable the credit provider to decline the transaction.

At present there are limited channels for survivors to alert credit providers of abusive transactions. Our interviewees emphasised the barriers that survivors face when attempting to speak to BNPL providers' hardship teams about financial abuse. Consequently, financial counsellors have had to serve as intermediaries between survivors and credit providers to facilitate the protracted discussions with hardship teams. Enabling more effective communication between survivors and credit providers would increase chances of timely intervention to curb harm from the weaponisation of credit.

Our team's previous research revealed that [debt collection processes](#) are at times weaponised by perpetrators of family violence to harass survivors. The present research demonstrates that online credit is also used as a tool of abuse. Nevertheless, when credit providers take steps to disrupt the harm, they become part of the solution.

Please feel free to contact us if you would like a copy of our research which we have not published yet. We are happy to share the research to be used on a confidential basis within ASIC. We would also be pleased to discuss the research or answer any queries.

Kind regards

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^[1] Parliamentary Joint Committee on Corporations and Financial Services, Parliament of Australia, *Financial Abuse: An Insidious Form of Domestic Violence* (December 2024) xxi [1.4], Recommendation 2 [2.131], 55, Ch 4, 109.

^[2] National Crime Check, Identity requirements for Australian Criminal History Checks <<https://www.nationalcrimecheck.com.au/fags/identity-requirements-for-australian-police-checks>>; Indonesian Financial Services Authority, Circular Letter of the Financial Services Authority of the Republic of Indonesia Number 19/SEOJK.06/2023 concerning the Implementation of Technology-Based Joint Funding Services.

^[3] EACH, Submission No 29 to Parliamentary Joint Committee on Corporations and Financial Services, Parliament of Australia, *Inquiry into the Financial Services Regulatory Framework in Relation to Financial Abuse* (June 2024), 5.

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