ASIC Consultation Paper on Continuing Credit Contracts

Submission from Finder

Thank you for the opportunity to provide a submission in response to the proposed use of ASIC's intervention power that seeks to address the significant detriment that has resulted from continuing credit contracts.

Finder.com.au ("Finder", "we") is Australia's most visited comparison website, with 2.6 million visitors using our site per month[1]. We compare products across more than 100 categories, including credit cards, home loans, transaction accounts, savings accounts, insurance products, superannuation, telecommunications and energy. Our purpose is to help the world make better decisions, and our guides, calculators and comparison tables enable better decision making across a range of complex products and services. Finder is proud to be an Australian fintech business that has succeeded in growing internationally, and we now have offices in Sydney, New York, London, Toronto, Manila and Wrocław.

In this submission, we share some high-level views on the payday loan industry and the regulations proposed by ASIC.

Finder's position on payday loans

As a comparison website in the personal finance space, Finder is acutely aware of the high cost of borrowing associated with short-term loans and the potential risks that these products pose. As with all of the categories we compare on Finder, we are supportive of strong regulation that protects Australians from exploitation, and we would contribute to any consultations that were undertaken in this space.

We believe that it's our role to provide Australian consumers with the information needed to compare products in a given category so that they can make better financial decisions. We always aim to improve understanding of the benefits, costs and risks of the products that are being compared and short-term loans are no exception.

Short-term loans can provide a stop-gap solution for some consumers during challenging periods, and if there were no comparison services available in this space, then many vulnerable consumers would end up going straight to a provider, which may not be the best option available to them. As such, we will continue to compare products in this space until we believe there is no role for us to play in improving consumer understanding. We also believe that these products have a role to play in preventing vulnerable Australians from borrowing from illegitimate and unregulated lenders.

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[1] 2.6 million average unique monthly audience (Oct-Dec 2019), Nielsen Digital Panel

Finder's position on ASIC's proposal

We are pleased to see ASIC taking action in this space and welcome the opportunity to consult on the proposed actions to further strengthen consumer protections. Our view is that unregulated continuing credit contract late fees could cause significant stress and financial exclusion, particularly for at-risk Australians.

The high costs adopted by lenders and their associated services outlined in Consultation Paper 330 will heighten existing financial stress and impact borrowers' ability to manage basic living expenses. Finder agrees with ASIC that continuing credit contracts, when issued to retail clients in the way described in the paper, are likely to result in significant detriment to consumers. Finder's Consumer Sentiment Tracker, a nationally representative study that monitors consumer sentiment each month, shows that Australians with a loan are more stressed by their financial situation than those without one. The study shows that almost one in three Australians (30%) with a personal loan are extremely stressed by their current financial situation in comparison to only 17% of those without a personal loan.

Finder supports the proposal for ASIC to use its product intervention power to impose a cost cap on the total fees that can be charged in relation to continuing credit contracts. Finder is particularly concerned about vulnerable Australians making risky financial decisions during times of financial hardship that in turn could lead to further financial stress. It is our view that a cap on the overall fees (lender and associated services) will assist in keeping debt accrued from short-term lending somewhat manageable, thus protecting consumers from financial hardship and exclusion.

Given the current economic climate, the need to improve consumer protections surrounding continuing credit contracts becomes more urgent. It looks like many Australians will be facing unemployment in the coming months as a result of the financial crisis triggered by the COVID-19 pandemic and this could lead to more demand for short term credit products. Figures from Finder's Consumer Sentiment Tracker show that Australians are feeling less secure in their jobs now than they were at the beginning of the year, with one in five (20%) feeling insecure in July 2020, compared to one in eight (13%) in January 2020.

Finder recommendations

Finder welcomes ASIC's proposal, but we are always concerned about consumer comprehension when it comes to complex financial products. Many consumers will have little understanding of the difference between continuing credit contracts and other short term credit options on the market. Indeed, our Consumer Sentiment Tracker shows that almost one in three Australians (31%) with a personal loan have little to no understanding of how these products work.

As a result of this limited financial comprehension, we recommend that, if reg 51 of the National Credit Regulations is used to cap fees associated with continuing credit contracts, ASIC should also require providers to display this information to the consumer in an easily understood format (e.g. display the maximum fee as a dollar figure amount) before the contract commences. It is our belief that with more comprehension, consumers will make better financial decisions. We'd also recommend that this easily understood information regarding the legal limits of the fees associated with these contracts should be clearly displayed on the website of the providers offering these products.

An alternative to using reg 51 of the National Credit Regulations could be to cap fees associated with a continuing credit contract at a percentage of the amount borrowed by the consumer. The $200 cap for the first 12 months referred to in the National Credit Regulations will be significant for many consumers, given the amount of money that is often being borrowed under these contracts. In the case studies outlined in Consultation Paper 330, $200 of fees in the first 12 months would increase the amount owed by 57-133%. This is still a significant increase for a consumer, particularly if they're experiencing financial hardship. We believe that setting a cap on fees in a way that is proportional to the amount borrowed could be a fairer way of regulating these products. Again, if this is the option progressed, Finder would be supportive of clear rules on transparency and disclosure when it comes to the maximum fees possible in a given contract.

Overall, we support ASIC's proposal to introduce greater regulation for credit providers and their associates that are issuing continuing credit contracts. Further to this, and if new regulation is introduced, we would welcome clear rules on the disclosure of the legal limit of fees that can be charged by providers offering these products.