



Submission: Regulating Buy Now, Pay Later in Australia – Options paper

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*Wesley Mission acknowledges the traditional custodians of the lands on which we work,
and pay our respects to Elders past and present.*



Regulating Buy Now, Pay Later in Australia – Options paper

Wesley Mission

Wesley Mission welcomes the opportunity to provide a submission in response to Treasury's *Regulating Buy Now, Pay Later in Australia* options paper.

This submission reflects Wesley Mission's casework experience, particularly in financial and gambling counselling in the provision of emergency relief, and from across our broad range of community services, including the experiences of clients and tenants accessing specialist homelessness services and community housing.

Wesley Mission first started delivering financial counselling services in 1980 due to the increasing number of callers to Lifeline experiencing financial crisis. Since then, we have developed an integrated suite of counselling services, engaging 20 financial counsellors and seven gambling counsellors.

Wesley Mission recommends Treasury adopt Option 3: Regulation of Buy Now, Pay Later (BNPL) under the Credit Act

BNPL is a financially inclusive product that can give people, who are not typically able, access to credit. However, in their currently unregulated state, BNPL products are causing significant harm to vulnerable consumers.

Having reviewed the three options presented by Treasury, Wesley Mission considers Option 3, requiring regulation of BNPL under the Credit Act, as the only sufficient response to address harm and provide adequate safeguards to consumers.

Since the proliferation of BNPL products, financial counsellors are spending more time on smaller debts which are causing clients high levels of financial distress because the debt is unaffordable, and fees quickly mount.¹

The Australian Securities and Investments Commission (ASIC) report in November 2020 details the negative outcomes people experience using BNPL products²:

- 20% of consumers surveyed said they cut back on or went without essentials (e.g., meals) to make their BNPL payments on time; and
- 15% of consumers surveyed said they had taken out an additional loan.

These negative outcomes are the consistent experience of Wesley Mission's clients, many of whom have increased vulnerabilities.

Research from the University of Sydney Business School shows 10% of users of BNPL are at high risk and that 40% of BNPL users have more than one account³. The two case studies provided

¹ Financial Counselling Australia – What Financial Counsellors Say About Buy Now Pay Later <https://www.financialcounsellingaustralia.org.au/docs/its-credit-its-causing-harm-and-it-needs-better-safeguards-what-financial-counsellors-say-about-buy-now-pay-later/>

² ASIC – Buy now pay later: an industry update – Nov 2020 <https://asic.gov.au/regulatory-resources/find-a-document/reports/rep-672-buy-now-pay-later-an-industry-update/>

³ University of Sydney – Buy Now Pay Later: Multiple Accounts and the Credit System in Australia https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4216008

below exemplify the use of BNPL by people experiencing significant financial stress to access more funds and which ultimately reduce people's control over their finances.

Regulation of BNPL providers under the Credit Act and in compliance with responsible lending standards is essential to prevent the exploitation of financially vulnerable people and further entrenching disadvantage.

Regulating BNPL should also -

Address unsolicited selling and advertising

BNPL products are being advertised to consumers as ways to pay for essentials, including groceries and utilities. These promotions can prevent marginalised people from accessing community services and entice low-income earners who are typically discouraged from accessing mainstream financial services into unaffordable debt.

Empower consumers with clear guidelines and product information

BNPL products often lack transparency around their terms and conditions, and consumers often don't know what product they are taking out. Regulation must improve product disclosure practices, with a senior financial counsellor commenting, "If the ever-increasing variety of unregulated products is complex for experienced financial counsellors to stay on top of, what hope do everyday consumers have?"

Our financial counsellors also note that some BNPL providers change their trading names, making it harder for people experiencing hardship to work out who to contact.

Improve hardship assistance for consumers

The National Credit Code makes provision for consumers struggling with credit payments to apply to change the terms of their consumer credit contract to pause or reduce payments for a period. While this provision is set out in the National Consumer Credit Protection Act 2009, financial hardship arrangements can be hard to obtain directly by a consumer, increasing demand for financial counsellors and community legal centres.

When a provider has a hardship team, more experienced team members are often assigned to work with financial counsellors. These team members are better able and empowered to develop solutions and positive outcomes for clients.

Our financial counsellors' experience with BNPL providers includes difficulty being able to make contact and a lack of understanding from providers around hardship. Even larger BNPL providers frequently fail to respond within the 21-day period outlined in the current code, requiring complaints to be made to the Australian Financial Complaints Authority (AFCA).

Additional recommendations

Expand credit reporting requirements

Integrating BNPL into the credit reporting framework should be considered within the scope of the comprehensive review to be provided by October 2024.

Wesley Mission prefers compulsory reporting, to support a provider's ability to conduct credit assessments and appropriately provide credit to consumers. BNPL information may also support a consumer's ability to demonstrate a good repayment history when applying for other forms of credit, opening access to a broader range of financial products.



Apply *Lower-risk gambling guidelines* when assessing suitability for BNPL products

Wesley Mission's financial and gambling counsellors have noticed an increasing number of clients receiving counselling support for gambling harm and utilising BNPL products to purchase essentials to offset gambling losses.

The Office of Responsible Gambling's GambleAware program suggests thresholds⁴ of no more than 1% of household income, no more frequently than once a week, and no more than two forms of gambling (i.e. poker machines and online gambling, but not lottery tickets as well). Anything above this is likely to be causing harm to the person or family and should at least require further discussion before credit is approved.

Review insufficient income support payments to alleviate poverty

Dependence on BNPL reflects insufficient income support and the inability of people on low incomes to access credit. Wesley Mission supports ACOSS' recommendations to lift income support payments to at least \$73 per day.⁵

Recent case studies demonstrating insufficient consumer protections

Case study 1: Victim-survivor of domestic violence in regional NSW

26-year-old mother of two, recently separated from an abusive partner, unemployed and accessing parenting payment, family tax benefit and rent assistance. The client was experiencing hardship as now having to cover all bills by herself while living in private rental accommodation.

The client had six BNPL products from providers Afterpay, Latitude Pay, OpenPay, Humm, Zip Pay and Bundll, with a total debt of over \$6,000. All BNPL loans were unaffordable for this client, and some were exacerbating financial and other abuse by the partner with items forced to purchase to appease.

Delays in hardship applications made to BNPL providers may indicate hardship teams are not appropriately staffed. The client did not want to apply for temporary hardship on Afterpay or Bundll because when applying for temporary hardship, there is no guarantee that the account will be reinstated once the hardship period is over.

Case study 2: Family with visa restrictions on a low-income

Couple in their mid-thirties who are parents to three children under the age of 10 years. Arrived in Australia in 2010, and the husband has the right to work in Australia, but the wife does not. Currently ineligible for income support, despite all three children being born in Australia. The husband/father is working in hospitality six days per week, but they are struggling to make ends meet on one income and living in a private rental.

Clients have three BNPL products from providers Afterpay, Zip and Humm, with a total debt of nearly \$11,000. Additional debts include rental arrears and loans to high-interest lenders.

Hardship has been applied for with all three BNPL providers, with great difficulty experienced in receiving replies. One BNPL provider continued to direct debit the client's account despite advising hardship had been accepted with no current requirement for payments.

⁴ GambleAware – Lower-risk gambling thresholds: <https://www.gambleaware.nsw.gov.au/learn-about-gambling/gamble-more-safely>

⁵ ACOSS – How JobSeeker and other income payments are falling behind the cost of living: https://www.acoss.org.au/wp-content/uploads/2022/09/ACOSS-cost-of-living-report_web_v02.pdf