

23 December, 2022

SUBMISSION: Regulating Buy Now, Pay Later in Australia

Having reviewed the *Regulating Buy Now, Pay Later in Australia Options paper* provided by Treasury, I provide this submission in strong support of Option 3: Regulation of BNPL Under the Credit Act.

The problem of inappropriate credit

It is evident in the BNPL firms product and business models that users are being extended credit – regardless of existing definitions creating regulatory loopholes – and that serious financial harm is being caused by these firms’ inappropriate lending practices. The same pattern can be seen in overseas markets. The resulting problems faced by consumers globally – particularly the young – have been covered in detail by both financial and mainstream press. Two indicative pieces are below:

- [*'Buy now, pay later' is sending the TikTok generation spiraling into debt, popularized by San Francisco tech firms- May 4, 2022 \(US market focus\)*](#)
- [*New BNPL study raises concern about 'debt spiral' – 10 March 2022 \(UK market focus\)*](#)
“Nearly 20 percent of U.K. credit cards were used last year to make buy now-pay later payments, a “warning flag” for regulators concerned about consumers taking on more debt than they can afford”

The additional problem of ‘no surcharge’ models

BNPL firms typically generate revenue via a combination of late fees and merchant service fees – that is, a commissioned percentage of the sale. The latter is paid by the merchant, with most BNPL contracts containing a ‘no surcharge’ clause to ensure that the cost is not passed onto the consumer. The result is that BNPL is offered for ‘free’ to the user, making it a more attractive option than cash payment.

However, the effect of the ‘no surcharge’ model is an increase in the cost of doing business for the merchant, which is ultimately passed on to *all* consumers in the form of higher prices. The net outcome, therefore, is that those who do *not* use BNPL services are ultimately the ones funding it by providing higher margin sales to the merchants. This leads to a perverse disincentive for responsible financial behaviour, further entrapment in the ‘free’ BNPL services for young consumers, and more of the resulting

financial hardship already experienced by many existing BNPL customers. New regulations may wish to consider making demands for 'no surcharge' models in BNPL contracts as unenforceable.

We thank you for consideration of this submission, and your efforts to engage in meaningful consultation to ensure improved outcomes for Australian consumers, whether or not they use BNPL services.

Kind regards,

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