



4 August 2010

National Credit Reform Green Paper
Corporations and Financial Services Division
Treasury
Langton Crescent
Parkes ACT 2600

Australian Institute of Credit Management Submission re the National Credit Reform Green Paper

Introduction

This submission has been prepared by the Australian Institute of Credit Management (AICM) following consultation with members and the wider credit industry.

AICM welcomes the opportunity to comment on the extensive range of issues raised in the Green Paper. AICM's membership provides commercial and consumer credit across all industry sectors. This provision of credit represents a significant component of the Australian economy. The value of the provision of credit to the Australian economy is significant. Whilst the Australian Bureau of Statistics (ABS) does not collect official figures for the value of commercial business to business credit, using the most recent ABS Input Output Tables¹ together with the annual AICM National Credit Industry Survey it is conservatively estimated that commercial credit is provided to an annual value of \$600 billion. This figure does not reflect consumer credit or loans to business.

However as the majority of AICM members do not offer credit cards, reverse mortgages or investment lending, AICM's submission does not address these Chapters of the Green Paper.

The Credit Context

AICM believes that it is important to state at the outset that when commenting upon the issues raised concerning the possibility of regulating credit for small

¹ ABS Input Output Tables 2004-2005 Cat No 5209.055.001 www.abs.gov.au

business this must be considered in conjunction with the matters set out in Chapter 8 of the Green Paper relating to the coverage of credit under the *National Consumer Credit Protection Act 2009* (the Credit Act).

A threshold issue which appears to have been omitted from the Green Paper is the definition of small business. It is stated at p2 of the Green Paper that there are approximately 1.93 million small businesses. Whilst not seeking to dispute the figures provided, the figures released by the Australian Bureau of Statistics would appear to offer additional insight into what constitutes small business. The ABS figures reveal the following information that as at June 2007 there were:

641,538 (32%) Companies,
620,037 (31%) Sole proprietors,
385,801 (19%) Partnerships and
364,075 (18%) Trusts.

In addition the ABS data also reveals the employment levels across businesses as follows:

- 839,938 (42%) employing businesses and 1,171,832 (58%) non-employing businesses
- Of the employing businesses,
 - 755,758 (90%) businesses employed less than 20 employees comprising 527,445 (70%) businesses with 1-4 employees and 228,313 (30%) businesses with 5-19 employees
 - Further there were
 - 78,304 (9%) businesses with 20-199 employees and
 - 5,876 (<1%) businesses with 200 or more employees.

Therefore AICM would caution that prior to any wide ranging policy changes being implemented it is essential that there is greater clarity as to which businesses would potentially be embraced by such reforms.

The second key issue that AICM would highlight is that the Green Paper only considers the role and function of the following forms of credit:

- credit cards
- leasing
- overdrafts

- hire purchase and
- mortgages

It is understandable that this would be the focus of the Green Paper, if the only framework upon which the issues canvassed were confined to the Credit Act. However this could potentially exclude and indeed contribute to confusion on the part of the small business proprietor and the other parties if the role and function of commercial credit was over looked. Indeed such an oversight could impede the ultimate achievement of policy objectives.

Commercial credit falls outside the parameters of the Credit Act on two grounds. It is a business to business transaction and should this first ground fail as an outcome of legal proceedings as noted at p95 of the Green Paper then the trading terms offered are predominantly of less than 62 days duration with possible fees and charges which do not exceed the specified limits within the Credit Act.

Thus should the Government resolve to introduce regulatory practices relating to the provision of credit to small business, both of the factors outlined above would need to be addressed.

Should it be resolved that the best way to proceed is to extend the legislative regime to embrace credit to small business, there may be unintended consequences. Commercial credit may become more difficult to obtain. Indeed it is foreseeable that commercial credit providers may determine to only offer credit to those businesses that are incorporated and trading with other types of small business on a cash on delivery or equivalent basis. Such an outcome would potentially increase compliance costs on a small business and if the business decided not to incorporate it could significantly affect cash flow and other financial management issues.

AICM appreciates that the Government in undertaking this consultation is not seeking to embark upon a course which would affect the growth and development of small business indeed the reverse is presumably the objective.

Therefore AICM recommends that an alternate strategy be considered which would be beneficial to both small business and commercial credit providers. This strategy would have a two prong approach and is informed by initiatives of the Institute of Credit Management (UK) and the Department for Business for

Business Innovation & Skill. However AICM proposes that the United Kingdom approach could be enhanced resulting in greater success by:

1. Encouraging "Big" business to pay small business on time.

One of the contributing factors to financial difficulties for small business is to be prompted paid for goods and/or services supplied. This problem was highlighted by the Federal Small Business Minister Dr Craig Emerson in January 2009².

AICM would work in conjunction with the Government to obtain big business "buy-in" on a code of practice which would relate to prompt payment. A copy of the brochure from the United Kingdom campaign is attached.

2. Advice to small business regarding the significance of cash flow management

Again AICM would work with the Government to disseminate straight forward advice to small business regarding mechanisms by which they can more effectively manage the financial aspects of their business.

AICM is proposing that a simple flyer in both hard and soft copy could be developed which could be distributed by commercial credit providers with invoices and statements informing small business of sources of advice and support, as well as including basic information relating to financial management.

AICM is mindful of existing Government initiatives to support small business such as the New Enterprise Incentive Scheme (NEIS) and the Business Enterprise Centres (BECs). However the level of take up of such schemes would appear to be limited. This is in part due to the constant refrain for small business operators that they do not have the time to attend training and information sessions. AICM believes that if a direct communication is fostered through the mechanism outlined above this would not only support Government objectives of encouraging and supporting small business but also potentially foster the building of relationships with other Government services such as the BECs.

² Media Release Emerson Calls On Big Business To Pay Small Business Bills On Time 29 January 2009
<http://minister.innovation.gov.au/Emerson/Pages/Emersoncallsonbigbusinessstopaysmallbusinessbillsontime.aspx> accessed 06/08/2010

A screenshot of the material jointly developed by the UK Institute of Credit Management and the UK Government is attached. The Institute of Credit Management reports that there have been 168,000 downloads of these resources³. AICM acknowledges that whilst the market for the UK resources is considerably larger than Australia, if the communication method recommended by AICM is utilised then an equivalent if not greater understanding of the information would be achieved.

The need to enhance the understanding of small and medium sized business in relation to credit management is further confirmed by the AICM Credit Industry survey results. In 2008 and 2009 commercial credit managers consistently reported that there was as significant lack of understanding of debt management and financial risk management amongst small and medium sized business⁴. Unless the small business operator increases their knowledge and understanding of financial risk management no level of regulatory reform in relation to credit will improve the viability of small business.

Conclusion

AICM appreciates that this Submission does not directly respond to some of the specific questions raised by the Green Paper. AICM believes that unless the threshold questions relating to the size and nature of the business, the form of the legal relationship between the parties and the Government's objectives are clarified a simplistic extension of resolving to extend the Credit Act to include small business could result in a less favourable outcome than intended.



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³ <http://www.icm.org.uk/> accessed 06/08/2010

⁴ AICM *Credit Industry Survey* 2009 p15