

## **Concluding remarks at the Consumer Credit Seminar Lawyers' Reform Association: 13 February 2007**

It is an honour to be asked to close this seminar on consumer credit hosted by the Lawyers' Reform Association of Queensland. Since its inception in 2005, the Association has undertaken a number of worthwhile events and projects, particularly these seminars on consumer credit law.

The topic tonight is particularly important as it is one where the law and regulation impact closely on the rights and interests of ordinary members of society. It is of critical importance that the law respond to the needs and interests of those people and not just the well educated or those used to and capable of asserting their rights.

The speakers tonight have made an outstanding contribution to the topic. I am sure that the LIPITAFF scheme as outlined by the Honourable Kerry Shine will continue to make a difference in Queensland as evidenced by this series of seminars. Thank you for your overview of various State and National law reform initiatives. Randal Denning gave us a very useful update on the current law. It is always interesting to hear about the important work undertaken by QPILCH in assisting some of the most disadvantaged members of our community and proposals put forward by Tony Woodyatt for better methods of helping consumers in trouble. Rob Legat spoke about the practicalities of debt recovery from a lender's point of view. It was also informative to hear firsthand about the way the Office of Fair Trading approaches the protection of consumer rights and the difficulties they face in enforcement. I thank you all for your contributions.

Since the enactment of the uniform Consumer credit code throughout Australia in

the mid 1990s, the protection afforded to consumers has increased. However, it is obvious from tonight's discussion that changes can still be made to better protect consumers from those lenders who are unscrupulous.

The aim of the consumer credit code was to encourage credit providers to be honest and transparent about the terms on which they propose to lend money and to allow consumers to compare contractual terms and make informed decisions about entering the particular contract.<sup>1</sup>

Nevertheless, as Tony Woodyatt observed, there has been a marked increase in consumer bankruptcies which has been attributed to:<sup>2</sup>

- \* the ease with which consumer credit can be obtained;
- \* lack of adequate regulation allowing credit providers a wider lending market – including the poor and vulnerable whose need for easily obtained cash is not matched by a capacity to repay at the interest rates charged; and
- \* circumstances outside an individual's control such as illness, family problems and unemployment.

The risk for consumers is that there are lenders who will lend at exorbitant rates which face those who can least afford it with financial catastrophe. It would be, therefore, in my view be useful to reform the fringe lending industry by imposing a cap on the interest rates fees and charges that can be charged to protect vulnerable debtors from exploitation. Interest rate caps exist in New South Wales, Victoria and the ACT as well as countries like Canada and France to protect financially disadvantaged people from exploitation. I note that it was reported in the press just

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<sup>1</sup> Robert McDougal, "An Introduction to the Consumer Credit Code" (1996) 15 *Australian Bar Review* 4

yesterday that the Queensland government is presently considering the capping of interest rates, fees and charges and that this has been confirmed tonight by the Attorney-General.

What tonight's seminar has shown is that it is important that consumer credit law reform be taken seriously and that ways to improve the law are regularly considered so that the rights and responsibilities of debtors and creditors are balanced equitably and the law protects those who are amongst society's most vulnerable.

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<sup>2</sup> Jacob Ziegel 'The Challenges Of Comparative Consumer Insolvencies' (2005) 23 *Penn State International Law Review* 639, 640-1