

## financial overcommitment

On April 20 and 21, 1988 the National Consumer Affairs Advisory Council (NCAAC) conducted a national forum on consumer credit focusing on overcommitment. Participants at the forum were drawn from a wide cross-section of individuals and organisations ranging from the consumer, credit industry, advertising and economic perspectives.

The forum was organised by NCAAC to initiate useful and productive dialogue between these groups with the ultimate aim of making recommendations to the federal Minister for Consumer Affairs, Senator Bolkus. The federal Attorney-General, Mr Bowen, in his opening address to the forum suggested that one of the aims of such dialogue should be an attempt to identify where overcommitment commenced so that it might be avoided in the future.

*an overcommitment crisis?* Senator Bolkus indicated that the federal government was concerned at the increasing evidence of a substantial body of consumers who were overcommitted. There was disagreement among speakers, however, whether a consumer credit crisis in fact existed in Australia. Several speakers representing credit providers quoted various statistics, disputed by some, in support of their argument that although the level of indebtedness had increased over the last 10 years, the level of indebtedness was now in decline and continued to be negligible if population growth was taken into account. In addition, they asserted that the level of bad debts had remained consistently low. This, it was said refuted the general and anecdotal evidence presented by those who represented the interests of consumers.

Justice Stein, Chairperson of NCAAC later observed, however, that it was irrelevant to look at the more recent downturn in the level of consumer debt. Rather it was necessary to confront the acknowledged problem of substantial numbers of consumers who were overcommitted. These were the casualties of the previous ten years.

*increase in bankruptcies.* Although the issues of what constituted overcommitment and whether there was in fact an overcommitment crisis remained matters of contention throughout the forum, repeated concern was expressed at the increasing numbers of bankrupts. In the current financial year the number of bankrupts are expected to exceed 8 000. Over ninety percent of those bankrupts would be consumer bankrupts. Concern was also expressed at the increasing numbers of young debtors becoming bankrupt. The creditor groups noted, in particular, the increasing number of debtors who voluntarily initiated their bankruptcy. In this context proposals made last August in the Australian Law Reform Commission's discussion paper No 32: *General Insolvency Inquiry*, were cited with approval. The discussion paper proposed that there be available alternatives to bankruptcy which would, as one possibility, enable debtors and creditors to come to some mutually agreed arrangement or compromise for the payment of debts outside of formal bankruptcy.

*credit assessment.* The present system of assessment scoring, based on the statistical likelihood of a particular type of debtor honouring repayments, was lauded by all credit providers as lowering the level of bad debts. Although some credit providers conceded that debtors with a less satisfactory score paid more for credit, this was

denied by others. Those representing consumers contended that this method of credit scoring, though it keeps bad debts low, did not prevent overcommitment as the assessment did not enquire into a potential borrower's ability to repay the debt. It was asserted that the credit industry used certain practices such as debt consolidation, asset-based lending and 'flipping' (refinancing and taking security) to disguise risky lending decisions.

*positive credit assessment.* The possibilities of positive reporting were discussed. This system, already used in a number of countries, would report information about the level of an individual's ongoing commitments in contrast to the current system of negative reporting which details only bad debts. Although it was generally agreed that positive reporting would not necessarily prevent overcommitment, it was considered by some that it would enable a more accurate assessment of a potential borrower's capacity to pay. The cost to industry of positive reporting would be high, although it was said that credit providers were not daunted by that aspect if it were shown to be of material benefit to the industry. Others expressed serious reservations on the basis of the privacy implications of positive reporting. Some suggested that positive reporting should set the standard for credit assessment so that creditors who extended credit without regard to the borrower's positive credit report would be deemed negligent or reckless and excluded from access in the courts to recovery from such borrower. Others were not prepared to go that far.

*credit marketing.* Consumer organisations criticised credit advertising which, though the major source of information about credit to consumers,

did not provide sufficient details. It was suggested that credit advertisements should be regulated to ensure that minimum information about a product was disclosed. It was also suggested that detailed information about particular credit products be available before contract. Credit providers were sceptical, however, whether even an annual interest rate could be included in advertisements — one suggested type of basic information — because of all the different methods of defining and calculating interest. In this regard it was suggested that there should be developed a standard description of interest rates which consumers can understand and that this be a required inclusion in any credit advertisement. The main criticism of credit advertisements made by the consumer organisations was that attention was not generally directed to the need for the borrower to be in a financial position to repay a loan.

*future options.* An extensive array of possible options was canvassed for future study of the incidence and impact of overcommitment and initiatives for its prevention. These options included:

- The commissioning of a study into the macro economic perspectives of overcommitment.
- The regulation of advertising about credit.
- The possibility of a standard form of balance sheet providing detailed information about a person's assets and liabilities (including recurring liabilities) which a prospective borrower would have to supply when applying for credit. The form could be updated each time the person again applied for

credit. The enquiries of a prospective creditor need not be limited to this information.

- The suggestion was made that certain remedies available to consumers should be expanded to allow class actions and even punitive damages could be considered.
- There was general agreement that uniform credit legislation was necessary and that it should cover all credit providers.
- One remedy against irresponsible credit advertising should be confessional advertising.
- There should be increased availability of financial counselling services. Although it was stressed by consumer organisations that financial counsellors should be independent from creditors, in his speech closing the forum Senator Bolkus indicated that the federal government was not prepared to fund these services and, consistent with the model developed in the United States, funding of financial counselling services should be borne by the private sector.
- The main proposal of credit providers was to encourage borrowers to contact the lender at the earliest possible time when a difficulty was perceived in making repayments.
- Credit providers also proposed that financial counsellors, as a group, be prepared to open lines of communication to discuss these issues with credit provider bodies so that particular cases could be examined to determine whether they were systematic of the general practice.

*future dialogue.* NCAAC is encouraging ongoing debate of these issues and has called for submissions from interested persons and organisations.

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## gun laws

Gun law reform failed because the issue of gun control became politicised.

Damien Murphy, the *Age*

*mass murders.* Major public outcry over the ready availability of guns in Australia occurred in the latter half of 1987 following two shooting sprees in Melbourne. The first in Hoddle Street left six people dead. The second, in Queen Street, resulted in nine dead. Earlier in the year a series of shootings in the Northern Territory left five people dead. The year ended with another multiple killing which left three people dead in the Riverland district of South Australia. All of these incidents, particularly the ones in Melbourne, brought calls for stricter control of guns and the need for uniform gun laws throughout Australia.

The Victorian and New South Wales Governments were the first to announce that their gun laws would be significantly tightened. This was supported by the federal Government. The Prime Minister, Mr Hawke, called a meeting of the Premiers in Canberra on 22 December 1987 to consider national uniform gun laws. Indeed at the time there appeared to be widespread public support for significant restrictions on gun ownership and for bans on semi-automatic guns. A Saulwick-Herald Poll conducted on 10 December showed that 86% of persons interviewed supported the Victorian Government an-