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Consumer Credit Review
Consumer Affairs Victoria
GPO Box 123A
MELBOURNE VIC 3001

By Email: creditreview@justice.vic.gov.au

12th August 2005

Dear Mr Merlino MP,

RE: CONSUMER CREDIT REVIEW

The Tenants Union of Victoria welcomes the opportunity to respond to the Consumer Credit Review Issues Paper.

We firstly wish to endorse the joint submission made to you by the Consumer Law Centre Victoria and Consumer Credit Legal Service (Vic). Their expertise in this area is significant and their thoroughly researched submission is to be commended.

However, the Tenants Union thought it appropriate to respond to this Issues Paper to draw attention to the plight of low-income households in the private and public rental sectors in Victoria and to provide some additional detail.

Who we are

The Tenants Union of Victoria was established in 1975 as an advocacy organisation and specialist community legal centre, providing information and advice to residential tenants, rooming house and caravan park residents across the state. We assist about 30,000 private and public renters in Victoria every year through out telephone and email advice services, and at our drop-in centres throughout metropolitan Melbourne. We also promote community awareness of tenancy law and issues, lobby for tenancy law reform and provide accredited training for tenancy and housing workers in Victoria.

The Tenants Union is committed to improving the status, rights and conditions of all tenants in Victoria. We represent the interests of tenants in law and policy making by lobbying government and businesses to achieve better outcomes for tenants, and by promoting realistic and equitable housing policies for Commonwealth, State and Local Governments.

Renters and credit

The increasing cost of rental housing is an issue that we believe is contributing to the propensity for low income Victorians to access credit- it's often the only way they believe they can continue to be housed. Victoria has the combination of high house prices, a shortage of affordable private rental stock, a lower than the national average level of public housing combined with a long waiting list. This leaves increasing numbers of people with limited choices about where and what they rent due to their severely constrained financial capacity. Almost 200,000 Victorians receive Commonwealth Rent Assistance in addition to their Centrelink benefit (Australian Institute of Health and Welfare, 2003). Of those receiving CRA nationally 36% are on the maximum rate yet are still paying over 30% of their income in rent, a commonly accepted measure of poverty (FaCS Annual Report, 2003- 04). This final figure better than others highlights the precarious financial circumstance of many low-income renters.

This lack of choice in the lower cost end of the housing market appears to be replicated by a similar lack of choice among low-income people to secure affordable credit. It is a matter of concern that low income Victorians, who can already face some significant disadvantages, are forced to enter into expensive forms of credit. In our experience many renters are only a single wage or welfare payment away from being in rental arrears. The consequence of being in rental arrears is significant with landlords able to serve a 14-day notice to vacate and move to get possession of the property. Tenants, anxious to avoid being homeless, often prioritise their rent over other payments such as utilities and food. Others make the choice to prioritising those payments over their rent.

Faced with the choice of disconnection or eviction many tenants look to access credit to cover these basic costs. While it is clear that more affordable credit is not a sustainable solution when a tenant simply is incapable of being able to afford their rent and other basic costs, it is a tragedy that many face a double bind. They try to legitimately arrange their affairs to enable self-sufficiency, perhaps in the hope that their financial difficulties are only short term, but end up being penalised for simply being poor by being locked into extremely unaffordable and unfair terms of credit. This of course reinforces and deepens their impoverished financial circumstances.

The Tenants Union of Victoria believes that problems in the housing market require housing specific solutions and more available or cheaper forms of credit is not a sustainable solution to this problem. However it is clear from the experiences of our clients that for some people cheaper access to credit would assist those renters whose inability to pay is temporary or has arisen as a result of poor cash flow.

Those tenants who find themselves between salary or benefit payments have a justifiable need for short-term credit. Pay day and other similar types of fringe lending products are, in our view, fundamentally unfair in their construction and charges. It appears that previous regulation, such as the 48% interest rate cap, has been ineffective. More effective regulation is clearly needed to ensure that low-income earners who have a need for short term or bridging finance are able to receive it.

We therefore endorse the recommendations put to you in the joint submission of CLCV and CCLS that further regulation and compliance of fringe and pay day lending is desperately needed. In particular we support the view that tailored welfare solutions are not the answer to the problems in the credit market. While community based micro finance appears to have delivered positive results, stronger measures across the credit market would benefit many more people and hence are preferable to niche solutions.

Rent to buy schemes

Despite home ownership becoming more expensive and therefore more difficult to achieve, the desire of those currently renting to buy remains high. In this environment the potential exists for those without sufficient savings and access to legitimate mortgage products to attempt other ways to achieve their dream. Fringe lenders and unscrupulous individuals may also encourage renters to enter rent to buy contracts that promise ownership but deliver only long term rental.

The Tenants Union of Victoria is concerned that, as is currently the case with cars, contracts offering home purchase on a rent to buy model could start to proliferate. While not common, we are aware that these schemes, often expressed as vendor terms, are offered in Victoria. These schemes offer a tenant the option of their "rent" being used to build a level of equity in the property, which when it reaches a certain point triggers a transfer of ownership. The obvious concern is the lack of clarity about the legal rights of the "purchaser" at any point prior to the transfer of title- a transfer that, of course, may never occur.

Reverse Mortgages

At the other end of the housing career the increasing costs of living, facing many retirees in particular, combined with some aggressive marketing appears to be leading to an increase in both the offerings and take up of reverse mortgage products. The Tenants Union of Victoria have recently received inquiries by homeowners about their legal rights should they take up such an option. Many believe that they will become tenants in their own home should they enter into such a contract. Our concern is that a lack of consumer education and associated protection may lead people to be swayed by aggressive promotion to enter into contracts which they do not understand and under which they have limited redress.

We are also concerned that as these mortgages proliferate and gain acceptance in the community more extreme versions of this product could include such a significant level of gearing or specific terms in the agreements so that ownership might actually change and the mortgagee may in fact become a tenant in their own home. The Joint CLCV and CLCS submission gives an example of one person exchanging title for a life- tenancy and regular income and state that such an arrangement is unlikely to be caught by consumer credit legislation. A life tenancy is also unlikely to be covered by the *Residential Tenancies Act 1997* leaving the person with quite uncertain rights in relation to a range of matters as basic as repairs and as significant as security of tenure. The implications, both legal and social, of such tenancies are disturbing and require investigation.

The Tenants Union of Victoria believes that the Government must consider legislation regulating both rent to buy and reverse mortgages. While there are

obvious consumer credit issues the residential tenancies implications of such arrangements are potentially large and hence we call for such regulation to be considered from a tenancy as well as a credit perspective. While consumer education would be an important first step we believe a stronger level of action is required to ensure that consumers are not only informed but also protected.

The Tenants Union thanks you for the opportunity to comment. If you wish to discuss this submission, or the specific issues affecting low-income renters, I can be contacted on 9411 1413.

Yours sincerely,

David Imber
Policy & Liaison Worker
Tenants Union of Victoria