

Retail Credit Association of NZ

24 June 2011

Credit Reporting Privacy Code Amendment
Office of the Privacy Commissioner
P O Box 466
AUCKLAND

Submissions to the Office of the Privacy Commissioner on Amendment Number 5 to the Credit Reporting Privacy Code

INTRODUCTION

1 These comments are made by the Retail Credit Association of New Zealand (RCA). This organisation is shortly to incorporate. The following comments are made on behalf of those organisations listed in Appendix A. These companies comprise the major New Zealand providers of credit to individuals (including a utility credit provider) and those that provide credit reporting services. The subject of this consultation is hence of direct and real significance to them and their customers.

2 RCA's agreed purpose is to encourage greater clarity, transparency and efficiency in credit risk assessment and management in order that the benefits gained may be shared by consumers and providers.

3 While RCA is new, its members have a long involvement with the provision of credit to individuals. Credit reporting companies have been subject to the specific requirements of the Credit Reporting Privacy Code (CRPC) since December 2004. In most respects this has served well by providing a framework which balances the information privacy rights and obligations of credit reporters, individuals and credit providers.

4 The original CRPC restricted credit reporting to the collection and disclosure of “negative” information about credit users. A subsequent review of the code by the Office of the Privacy Commissioner recognised that a persuasive case existed for this to be extended to allow comprehensive reporting to be introduced. The amendments made to the CRPC in December 2010 went some way to permit this. Amendment No 5, which is the subject of this consultation, extends this to make a comprehensive reporting regime meaningfully workable.

SUBMISSIONS

5 The following comments made by RCA on the Amendment are general in nature. Specific technical matters relating to it will be addressed by individual RCA members in their submissions.

6 The case for positive reporting is widely recognised and operates as the norm in most countries. New Zealand and Australia are two of only three developed countries that do not operate a positive reporting regime at present. Australian Federal Government acceptance of an Australian Law Reform Commission recommendation that it should be introduced has paved the way for reforms substantially similar to those now proposed for New Zealand to be introduced in that country.

The need for this amendment

7 RCA fully supports the thrust of Amendment 5. In doing so it fully appreciates the fact that the Office of the Privacy Commissioner has been open to accept not only the economic and social arguments in favour of adopting a comprehensive credit reporting regime, but also to the minimum data requirements needed to make it a credible and workable reality.

8 We acknowledge that the amendment is somewhat sensitive from a privacy perspective. However, RCA submits that the extension of the information that can be collected and disclosed to include repayment history is both sensible and consistent with the Privacy Act.

9 It is sensible as it allows the collection of the minimum cluster of information necessary to operate a workable comprehensive reporting system. The information permitted by the December amendment alone goes only some way and makes the comprehensive reporting proposition marginal in most situations.

10 The Amendment is consistent with the Privacy Act. The Act does not prohibit comprehensive reporting. It was the specification of data permitted to be collected in the 2004 CRPC which had that effect. The Privacy Commissioner is expressly empowered to make and review Codes and to balance privacy and efficiency factors. The explanatory material provided for this consultation clearly demonstrates that such steps have been carefully and thoughtfully undertaken.

The case for comprehensive credit reporting

11 The benefits of comprehensive reporting are widely known by credit reporters and credit providers. Some RCA members have direct experience of working in countries that operate with such regimes. Importantly these benefits include the ability to obtain a wider view of an individual's credit history and so permit a more balanced assessment of creditworthiness. This has a number of effects including –

- Credit rehabilitation by enabling some individuals to obtain credit based on evidence of successful credit management notwithstanding that they may have had a default.
- Allowing credit providers to better operate risk based pricing and so reduce the cross subsidisation that negative reporting produces. This should work to enable a lowering of the cost of credit where comprehensive data indicates excellent individual credit management behaviour. This will produce a more equitable credit environment.
- The availability of comprehensive data will enhance responsible lending, better warn of over indebtedness and allow improved credit allocation. Bankruptcy losses can be reduced.
- Affordability analysis by credit providers will be improved.

12 Significant evidence exists of the economic and social benefits of comprehensive credit reporting. The Credit Reporting Factsheet made available by the Office of the Privacy Commissioner in early June makes reference to just some of these.

Practical implementation

13 It has been the experience overseas that comprehensive regimes take some time to put in place and accordingly the benefits emerge over time.

14 RCA is active to ensure that the regime can be introduced on a sound basis in New Zealand. To this end it has established two working groups - one dealing with data standards and the other with reciprocity. In the work of both groups its contacts with its Australian equivalent ARCA will allow it to draw on some of their work in these areas.

15 The data standards working group is concerned with developing the detailed technical specifications that accord to the new fields permitted under the CRPC. This work is important to ensure that there is clarity and consistency about what can be collected and what and when it is reported.

16 The reciprocity working group is concerned with developing a set of principles that define the bounds within which data collection and provision can take place. The underlying need for these principles reflects the fact that comprehensive data will only be available to those who themselves contribute data as permitted by the CRPC and in accordance with agreed technical standards.

17 While work in both areas has a long way to go, planning for the changes already agreed and for those that would result from this amendment is needed before 1 April 2012.

Issues for individuals

18 While there will be benefits for individuals and credit reporters from comprehensive reporting it would be quite understandable that some people have concerns about the changes brought by its introduction. RCA is mindful of these.

19 Some concerns will be able to be dealt with by means of better public awareness of comprehensive reporting.

20 In other cases credit reporters who are the "regulated" parties under the CRPC have their established dispute procedures in place and are subject to ongoing scrutiny by the Office of the Privacy Commissioner. These are available to individuals.

21 In addition to their internal complaint handling procedures we note that all bank and non bank credit providers must now belong to a recognised external dispute resolution scheme. This provides a mechanism that is well publicised, readily available, objective and no cost to individuals for handling qualifying disputes.

22 The ability to develop specific codes of conduct are part of the remit for RCA. If previously mentioned procedures for resolving concerns are found wanting RCA will work to deal with these.

For further comment or clarification in relation to this submission please contact:

Justin Kerr

Chief Executive Officer
Retail Credit Association of New Zealand
Mobile 027 4176831 Email justinkerr@xtra.co.nz

Appendix A

Comments made on behalf of the following

- American Express
- ANZ National Bank
- ASB Bank
- Centrix Group
- Dun & Bradstreet
- Finance Now
- Fisher & Paykel Finance
- GE Capital
- Kiwibank
- Telecom
- Veda Advantage
- Westpac