



Australasian Retail Credit Association

15th June 2009

Mr David Bergman
Assistant Secretary, Bankruptcy Policy
Civil Law Division
Attorney-General's Department
National Circuit
Barton
ACT 2600

ARCA
41 Bank Street
McMahons Point
NSW 2060

Dear Mr Bergman

The Australasian Retail Credit Association (ARCA) is grateful for the opportunity to respond to the proposed Bankruptcy Law Changes. ARCA member institutions will make their own individual submissions providing further detail but this letter summarises ARCA's concerns.

We recommend that there is further detailed consultation with all impacted stakeholders (industry, consumer and regulators) prior to the finalisation of any law changes in regard to bankruptcy. There has been an insufficient period of time to consider the proposed amendments.

- The changes focus on 'back end' procedures. The introduction of new credit reporting elements such as comprehensive reporting as proposed by the ALRC that is strongly supported by industry will provide significant opportunity to reduce the number of consumer bankruptcies. The proposed changes provide no link to the National Consumer Credit Protection Bill (NCCP) or Privacy Act reforms and we suggest there is a misalignment of objectives between the proposed reforms.
- ARCA does not agree that 'most' consumer bankruptcies are being caused by misfortune rather than misdeed and consequently law changes based on such an assumption are erroneous and will not deliver the intended outcome. There needs to be a balance in insolvency arrangements that provides fairly for creditors and debtors.
- There needs to be continued access to the National Personal Insolvency Index (NPII) for the full 7 years as provided under Part IIIA of the Privacy Act. ARCA does not support the reduction of the bankruptcy period for first time bankrupts from 36 to 12 months as this change would significantly reduce the consequences of bankruptcy and place at risk the legitimacy of the consumer credit market model i.e. such a change provides a soft option for consumers to 'walk away' from their debts as has been proven in the UK.
- ARCA supports increasing bankruptcy and financial literacy including clearly explaining the consequences of bankruptcy.

Yours Sincerely

Michael Vainauskas
Chairman
Australasian Retail Credit Association