



16 December 2016

Mr Blair Stewart
Assistant Commissioner

Office of the Privacy Commissioner
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Dear Mr Stewart

SUBMISSION ON THE DISCUSSION PAPER: CREDIT REPORTING PRIVACY CODE REVIEW

D&B (New Zealand) Limited (D&B) thanks the Commissioner for the continuing opportunity to comment on the evolution of the Credit Reporting Privacy Code 2004 (Code).

D&B's responses to the specific questions raised in the Discussion Paper are as follows:

Part 1: General issues: Have Amendments No 4 and 5 delivered benefits and protected individuals?

1.1 What benefits for individuals have resulted from the introduction of more comprehensive credit reporting? Please provide specific examples.

While the adoption of Comprehensive Credit Reporting ("CCR") continues to mature, we firmly believe there is support for the benefits noted by the Commissioner's December 2010 Information Paper. D&B is in favour of the exchange of a broad range of credit related information to promote and enhance competition, and to allow consumers to have greater and more informed access to their own information, including credit scores.



Credit Simple, a member of the D&B group, recently launched its www.creditsimple.co.nz service. This allows consumers to access their credit information, including a CCR-enriched credit score, and financial literacy content, in real-time and for free. Observations based on the registration and activity rates are that many consumers are using the information and educational material available from www.creditsimple.co.nz to better understand and manage their credit profiles.

Credit Simple as a platform for consumers is enabling consumers to look across loans based on potential eligibility for lending products. This enables lenders to price their lending products particular to credit scores. We see this today and Credit Simple is in discussions with lenders that are planning to introduce risk based pricing in 2017 into the platform. It is worth noting that the Credit Simple platform delivers risk based pricing by virtue of lenders setting differing score band cut-offs for finance product eligibility. The further participation of CCR enriched data and scores will allow for an improved level of certainty for consumers when considering products in a risk based priced environment.

It is worth noting that the provision of scores to consumers has allowed Credit Simple to advertise financial assistance and literacy programs (ie NZ Family Budgeting Service) to those that are the most likely to need it. Again we would submit that CCR data will assist connecting people who require financial assistance with the relevant programs.

In D&B's June 2016 White Paper on CCR in New Zealand, we noted that even at this early stage of adoption in New Zealand, the benefits observed from Comprehensive Reporting are compelling. In particular, D&B's analysis identified and quantified the following key benefits to New Zealand consumers and lenders:

- That circa 5% of credit active New Zealand consumers are very high credit risks, and that this risk was hidden from lenders prior to Comprehensive Reporting. We estimate this can save \$108m p.a. in bad debt costs
- Identifying that circa 17% of credit active New Zealand consumers are very low risk and that this strong credit behaviour was hidden from lenders prior to Comprehensive Reporting. We estimate that circa \$1b can be responsibly lent that would not be today, resulting in income for banks of circa \$100m p.a.
- That credit consumers with even one credit account at 30 days in arrears have a circa 30% likelihood of immediately rolling into more serious arrears. By understanding the strong relationship between a consumer's early payment delinquency and their subsequent likelihood of credit default, lenders and



consumers will be better able to manage debt exposure and existing repayment obligations. We estimate managing this risk better, and the risk of fraud noted below, should save circa \$100m p.a.

- That consumers with higher levels of credit risk are also more likely to change their address to avoid being contacted. Our analysis found that consumers changing address are 60% more likely to fall into a 90 day arrears status than other consumers. Comprehensive Data will therefore help lenders avoid systemic credit risks and fraudulent credit consumers by better identifying consumers that deliberately avoid their credit obligations.
- That Comprehensive Data will enable a more efficient, accurate and cost effective process to be implemented by lenders when assessing credit applicants once a consumer has two credit accounts contained on the Comprehensive Credit Bureau database. This will mean that fewer personal questions need to be asked by the lender making the process less intrusive to the consumer. Also, the lower cost of lending and better loss mitigation from CCR will potentially lead to lower fees and servicing costs for the consumer.

Quantifying the above benefits, we have conservatively estimated that the amount of lending allocated to credit eligible consumers could increase by \$1billion per annum and lead to economic benefits of \$328million per annum to the New Zealand economy. This is through reduced credit losses from lower levels of indebtedness, increased revenue for the credit industry from additional lending to previously underbanked customers and lower lending costs through more efficient credit assessment processes.

D&B recognises that Comprehensive Reporting is still evolving in New Zealand, with several key institutions yet to adopt the new data regime. Nonetheless, this early analysis strongly supports similar cases made in overseas studies. With additional institutions earmarked to join during 2017, we believe that the observations noted above will become even more compelling. Already, at this early stage of adoption, we can see material benefits to the New Zealand credit industry, consumers and the wider economy.

1.2 Do the accountability requirements for credit reporters provide a good basis for the public to have confidence that the credit reporters and their subscribers are acting compliantly?

D&B supports and subscribes to the accountability requirements as prescribed by the Code. The annual assurance reports produced by credit reporters to fulfil their



accountability and assurance requirements are informative and transparent, however we are unable to comment on the extent to which credit providers and consumers read and rely on these assurance reports.

D&B has found the OPC pragmatic and reasonable in their responses to credit reporting issues, and takes a collaborative approach to finding resolutions.

1.3 Have the credit freezing provisions been useful?

The credit provisions are useful to protect individuals in cases of identity theft and fraud. However, they have not been widely used by consumers. This could be due to a general lack of awareness of the availability of this facility.

From a credit reporter's perspective, the operational requirements of the Code for the management of credit file suppressions are overly complicated. The corresponding provisions in the Australian regulatory framework are simpler and easier to administer, without compromising on the security and integrity of consumers' information held by CRAs.

D&B questions the provisions in the Code for the extensions of credit file suppressions, being specified as not less than twelve months or for an indefinite period. We have not seen evidence of the file suppression facility being abused or misused; this is supported by the low volume of suppression requests (both initial and extensions) being received by D&B. However, we believe that the extended suppression period could result in improper use of this facility. D&B suggests the duration of suppression extension periods should be at the discretion of the credit reporter, having reasonable regard to the circumstances of each case and the particular requirements of the consumer involved.

1.4 Has pre-screening of marketing lists proved to be a beneficial use of information held by credit reporters?

While this facility is useful and could be an effective tool to enable credit providers to meet responsible lending obligations, particularly where CCR information is included in the filtering process, it has not been extensively used.

The NZ Marketing Association direct marketing opt-out list operates as an efficient and effective limit on marketing communications; we suggest consideration should



be given to whether Rule 10(1C)(c) could be extended so that the individual receives a more tailored marketing message based on whether the product would suit the individual, not just the elimination of adverse credit risk situations.

We submit that the complexity and restrictiveness of these provisions results in them being underutilised.



Part 2: Operational issues: Are amended Code provisions working well?

2.1 Has the provision for reporting serious credit infringements worked well in operation?

While utilisation of this provision has not been significant to date, it should be retained as it is a useful indicator of credit risk to credit providers. Recent amendments to the RCANZ Data Standards will allow for simpler and more efficient of these events.

2.2 Have the credit non-compliance action and confirmed credit non-compliance action provisions worked satisfactorily for individuals, subscribers and credit reporters?

This type of credit information is currently underutilised, perhaps because of the operation of Schedule 3 paragraph 3A, requiring an active confirmation after 3 months of listing but before 6 months of listing that the situation of credit non-compliance continues. While this is intended to address the ambiguity surrounding the time period since the credit provider last had contact with the individual, D&B proposes a period of three months of lack of contact before credit non-compliance can be recorded as confirmed would be sufficient, and that the fact that the situation changed in the fourth month doesn't necessarily mean the original credit non-compliance information was incorrect (the credit provider might make subsequent contact but still not get paid).

D&B proposes that the responsibility of the subscriber to take such steps as are reasonable in the circumstances to contact the individual to remain, alongside with the obligation to update credit information, but a deletion of paragraph 3A in favour of a simpler "no-contact for 3 months rule" be inserted instead of paragraph 3A, and that paragraph (a) of the definition of credit non-compliance action (... *an action done by an individual that a reasonable person would consider that the individual no longer intends to comply with their credit obligations ...*) remains.

2.3 Has Schedule 5 worked well in operation to improve identity matching while appropriately limiting the use and retention of driver licence information?

Driver licence information should enhance credit file matching and provide better protection for consumers in terms of the integrity of credit information supplied to credit providers. However, as this the provision of driver licence information is



voluntary, it is often not supplied to credit reporters by credit providers, thus diluting the benefits and usefulness of this information where it is held.

The current process of driver's licence verification required by the New Zealand Transport Agency ("NZTA") requires the complete driver licence card number ("Version Number") and driver licence number. D&B notes that there is a level of verification that would be possible based on one of driver licence number or Version Number, and submits that consideration should be given to alternative verification options by OPC and NZTA to support the credit reporting system.

D&B further submits that the safeguarding provisions as they relate to credit reporter obligations are perhaps over-engineered, and could be simplified while credit providers will still maintain adequate and appropriate security of this information, as they do with other personal and credit information.

2.4 Have the new reporting and retention periods worked satisfactorily in operation?

The retention periods for *confirmed credit non-compliance action information* and *repayment history information* are appropriate and operate satisfactorily. This is also supported by the weight given to more recent credit information in credit underwriting and scoring.

As noted in 2.2 above, D&B believes a review of the requirements to confirm *credit non-compliance information* is appropriate, as will be the retention period of *credit non-compliance information*.

2.5 Has the provision for quotation enquiries been utilised and, if not, why not?

This provision appears to be under-utilised at this stage. Other mechanisms are available to achieve similar purposes, for example "Access Seeker"-type products, and services like www.creditsimple.co.nz, both of which are becoming more widely used.

2.6 Have the Code's obligations, limits and processes been sufficient to provide an appropriate level of transparency and to provide meaningful opportunities to challenge accuracy and obtain correction [in respect of credit scores]?

Many consumers do not yet appreciate that even a single late or missed payment now impacts their credit scores. There is a clear need for education on the impact that CCR has on credit scores and credit profiles. The value of a good credit score to an



individual appears not be as well understood as it is in some other countries (eg. USA). There are initiatives to improve this understanding, such as the recently launched Credit Simple website, which together with providing credit information and a credit score, also provides information as to how an individual might improve their score, and other financial education content.

The Code provisions for access to, and correction of, credit information by individuals are clear and efficient in their operation. There appears to be little evidence of individuals experiencing undue difficulty in obtaining further information from CRAs with respect to disputed information and in having validly disputed information corrected by CRAs

Rule 10 paragraph (e) currently limits the purpose of use of data to be directly related to the purpose for which it was collected. D&B proposes that the safeguard of individual consent provides sufficient protection for the use of data which was originally obtained for one purpose but is found to be probative of credit risk, and that the re-purposing of data should be allowed to occur subject to the prior consent of the individual.

2.7 Are there any significant problems with the operation of the amendments that you would like to raise?

The following matters, while not necessarily significant problems with the Amendments or the Code, are raised as D&B believes these should be considered as we contend that additional information sources and additional users of credit information in a regulated environment lead to better identification, better lending, and lower costs of service for the credit community of New Zealand as a whole, while protecting the interests of the individual.

- a) **Rent Roll Information and Existing Landlord Access:** Rule 11(2)(b)(ii) already provides prospective landlords (and their agents) with the ability to access credit information in the context of prospective tenancy (or in the individual's role as guarantor of a tenancy). While the current law allows prospective landlords to view credit experiences in non-tenancy situations, it does not allow for rental repayment and default to count as credit information that can be recorded by current landlords (as is permissible in other jurisdictions). Should this innovation be considered, it would mean that only amounts in arrears could count as credit amounts. Landlords have checked tenant's references for many



years; this innovation would allow for more accurate recording of the reality of whether an individual is a tenant that pays on time or not in a more regulated environment. Further, D&B considers the inclusion of this information as analogous to a consumer's mortgage repayments and regular payment obligations (e.g. utility bill payments). Having visibility of the borrower's clean rental payment history, where they have little or no credit history, would increase their creditworthiness and potentially lead to even greater access to lower priced credit. Inclusion of this data will assist in assessing the risk associated with people taking out their first mortgage;

- b) **Birth date and Change of Name Information:** The Code already recognises the importance of credit information in identity verification. Changes of name are particularly difficult to track, and verifying the accuracy of birth dates is also an important fraud prevention step. D&B proposes that birth and marriage information should be added into credit information to enhance fraud prevention, and that this information be made available directly from the government data source;
- c) **Existing Insurer Access:** Rule 11(2)(b)(iv) already provides prospective insurers (and their agents) with the ability to access credit information in the context of "making a decision in the underwriting or continuation of insurance in respect of a credit related transaction relating to that individual". As the Code already refers to "continuation of insurance" it is not logically clear why this right of review should be limited to prospective insurers, and should extend to a monitoring right to current insurers to allow them to actively manage insurance portfolios;
- d) **Insurance Fraud:** given that the existence of insurance fraud would be probative of credit risk, D&B is unclear as to why this information cannot be added by existing insurers;
- e) **Trans Tasman Users:** D&B's observation is that New Zealand credit providers find the rules for access to Australian credit information (and access by Australian credit providers to New Zealand credit information) not simple and not workable in practice. D&B is supportive of any measures that would result in greater trans-Tasman synchronisation of legislative frameworks and transfer of credit information, while retaining robust laws and governance.



Part 3: Future directions for the Code: Are further changes to credit reporting warranted?

3.1 Would allowing the reporting of account balance information deliver substantial benefits to the credit reporting system while appropriately respecting individual privacy?

One of the fundamental purposes of CCR is to prevent credit providers from inadvertently lending to individuals who are not credit worthy. This purpose has economic benefits by ensuring that capital is directed to the most efficient purpose, and social benefits by ensuring that individuals are not indebted beyond their reasonable ability to service their credit obligations.

D&B supports permitting the reporting of account balance information. The words “amount of credit extended” in the paragraph (da) definition of credit information have been narrowly interpreted as not meaning remaining balance, but we contend there is no reason at law to take that narrow a definition. Account balance provides a further level of information that enables a better determination the total exposure of an individual and hence their debt servicing capacity, allows further refinement of credit scoring, and allows credit providers to better meet responsible lending obligations.

In its current form, CCR is a vast improvement on the outmoded negative reporting regime. It will provide consumers with broader credit choices – in terms of product variety, and product pricing. D&B believes that the current system is already proving successful, and that even greater improvements to credit underwriting will come when CCR is fully adopted by the credit industry. However, we can also see significant benefits for the New Zealand economy from further broadening the categories of data that can be shared under CCR. By understanding the current balance or utilisation on a credit account a lender will discern the consumer’s current exposure to credit, and when considered in conjunction with their credit limits and repayment behaviour, it will provide a clear indication of the consumer’s hunger for credit and their likelihood of experiencing credit stress. Our analysis indicates that inclusion of this additional information will enhance the predictive capability of the credit score by ~50%, thus delivering significant benefits for both New Zealand consumers and companies.



This additional information will also allow the analysis of indebtedness over various dimensions, including geographic, market, and demographic, and will be of substantial use from a macroprudential perspective.

Most countries operating comprehensive reporting systems allow the reporting of account balance, either at a point in time or over a period of time. Australia, like New Zealand, does not permit this currently. New Zealand's departure from the Australian approach is, we believe, justified, in that this represents another step towards building a modern and effective credit reporting system. Further, New Zealand already has a significantly different protocol with regards to the sharing of *Repayment History Information ("RHI")*. In Australia this is currently limited to Australian Credit Licence holders, which effectively precludes utility and telecommunication providers from supplying and receiving RHI. This restriction does not apply in New Zealand, where CCR participation by these industry sectors has been pioneering and consistent.

D&B does not expect any significant difficulties in reporting, updating, and securing balance information. We suggest the Retail Credit Association of New Zealand ("RCANZ") be engaged in the drafting process as well as the technical data sharing requirements to enable an amendment of this nature.

3.2 Should credit reporters be permitted to include tax debt information in credit reports?

D&B supports greater and more transparent sharing of credit information as this leads to greater value in reporting, as a more complete and accurate view can be formed of the individual's true liability position.

Making accurate risk evaluations reduces credit losses, and facilitates more granular differentiation of credit profiling. This creates opportunities for lending and exposure management, as lenders are more willing to lend in the presence of more information, as better decision making is enabled. The flow of capital leads to benefits for the whole New Zealand economy.

The exchange of credit information is currently enjoys a high degree of governance and oversight. The framework of governance and insight includes the Privacy Act 1993, the Credit Reporting Privacy Code 2004, and the daily operations of the Office of the Privacy Commissioner. Credit reporters including D&B are also directly responsible



for monitoring compliance with legal obligations via the assurance processes that are reported publicly annually.

D&B proposes that tax liability and student debt liability information can be exchanged responsibly under the framework specified above where it involves personal information (in the same way that the exchange of these types of credit information is currently done).

There is a current gap in the ability for businesses to determine financial risk of counterparties. Like any liability, outstanding tax liability can be a contributor to business failure. The open and transparent listing of such liabilities in commercial credit information leads to greater value in reporting, as a more complete and accurate view can be formed of the entity's true liability position. D&B supports the proposed legislative amendment to allow the reporting of corporate tax debt, and believes this will also provide valuable insight in preparing for the extension of these provisions to include individual tax debt.

3.3 How useful would the New Zealand Business number in the credit reporters reporting system?

The New Zealand business number will be a valuable data element in enhancing credit file matching integrity and accuracy. D&B does not anticipate any significant difficulties in including this number in the credit reporting system.

3.4 Should the Code require credit reporters to respond more quickly to access requests than is currently the case?

D&B provides free access to credit information in a maximum of 3 business days, and paid access within 1 business day. This service is offered in the interests of consumers, and is significantly shorter than the prescribed maxima of 20 days and 5 days respectively. Further, Credit Simple (a D&B Group company) offers free, real-time access to credit information. We do not suggest changes to the Code to require shorter response periods, as credit reporters can exercise discretion in responding to access requests as they deem appropriate to market requirements, subject to the prescribed parameters.

3.5 Should credit reporters be permitted to use credit reporting systems to trace individuals to whom money is owed and, if so, in what circumstances?



D&B submits this would be an efficient use of the data available within the credit reporting system, and is in the public interest. Credit reporters are well placed to provide this service in a properly controlled and regulated environment.

D&B welcomes the opportunity to further discuss our position on these matters with you.

Yours sincerely

A handwritten signature in black ink, appearing to read 'S Bligh'.

Simon Bligh
Chief Executive Officer
Dun & Bradstreet, Australia & New Zealand