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Our ref: AA1000521
Contact officer: Jaime Martin
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10 August 2020

Mike Laing
Chief Executive Officer
Australian Retail Credit Association

Via email: [REDACTED]

Dear Mr Laing

**Re: Australian Retail Credit Association (ARCA) application for re-authorisation
AA1000521 – interested part submissions**

As you are aware, the closing date for submissions in relation to ARCA's application for re-authorisation of the relevant provisions of the Principles of Reciprocity and Data Exchange (PRDE) was 31 July 2020. Some parties requested more time to provide their submission.

Public submissions received have been available on the ACCC's [Authorisations Public Register](#) for this matter.

The ACCC has now received all late submissions it expected to receive. Please find enclosed a copy of all public submissions received to date from:

1. The Insurance Council of Australia
2. Record of joint oral submission from Financial Rights Legal Centre and Legal Aid Queensland
3. Legal Aid Queensland (written submission) and
4. Australian Institute of Credit Management.

To assist the ACCC's consideration of ARCA's application for re-authorisation, we seek ARCA's response to any of the issues raised by interested parties, including the following:

- General concerns about a lack of genuine consultation with consumer advocates following the independent review of the PRDE by Price Waterhouse Coopers (PWC) in 2019.
- The PRDE should not be re-authorised until it meets minimum ACCC and ASIC guidelines for industry codes. In particular, it is submitted that the PRDE Administrator should be chaired by someone independent from the industry; and

should be adequately resourced to enable meaningful consumer representation, which it currently lacks.

- It is not clear how the recommendations in the independent PWC Review of the PRDE have been incorporated in the proposed revised PRDE for which re-authorisation has been sought.
- The PRDE requires further amendment to address ongoing public detriment concerns, including:
 - in the absence of permanent and enforceable resolution in Australia about how financial hardship arrangements are to be reported by credit providers, the PRDE should be amended to provide clarity and consistency about how credit providers should report on this issue. It is submitted that the PRDE should be amended so that where signatories have chosen to contribute comprehensive information under the PRDE, signatories must not disclose a payment as overdue if they have entered into a financial hardship arrangement with a customer. In these circumstances, Repayment History Information should be recorded as 'current up to and including the grace period', in accordance with clause 8.2(c)(i) of the Credit Reporting Code 2014 (CR Code), and
 - the PRDE does not currently provide exceptions to the listing of defaults, which results in public detriment. The PRDE should be amended to provide exceptions in certain legitimate circumstances, including if there has been a recommendation or determination of the Australian Financial Complaints Authority.
- There is a high rate of non-compliance among signatories to the PRDE because there is a lack of equity in how Repayment History Information is reported under the PRDE where credit providers have entered into financial hardship arrangements with customers, and which those customers are complying with.
- The six year period for re-authorisation of the PRDE requested is too long, due to pending legislative reforms and lack of effective consumer consultation by ARCA in the past.

Please provide ARCA's response by no later than **Friday, 28 August 2020**. The ACCC has previously indicated that it intends to make its draft determination in September 2020. The ACCC is still working towards this timeframe.

A copy of this letter will be placed on the public register. If you have any questions about the issues raised in this letter, please contact Jaime Martin (03) 9290 1477 (or at jaime.martin@accc.gov.au).

Yours sincerely



David Hatfield
Director
Adjudication