

14 December 2022

Consumer Credit Unit  
Financial System Division  
The Treasury  
Via email: [CreditReforms@Treasury.gov.au](mailto:CreditReforms@Treasury.gov.au)

Dear Sir or Madam,

### **Submission to Regulating Buy Now, Pay Later in Australia Options paper**

The Public Interest Advocacy Centre (PIAC) welcomes the opportunity to respond to Treasury's Regulating Buy Now, Pay Later in Australia Options paper.

PIAC is a leading social justice law and policy centre. Established in 1982, we are an independent, non-profit organisation that works with people and communities who are marginalised and facing disadvantage.

The Energy and Water Consumers' Advocacy Program works for better regulatory and policy outcomes so people's needs are met by clean, resilient and efficient energy and water systems. We ensure consumer protections and assistance limit disadvantage, and that people can make meaningful choices in effective markets without experiencing detriment if they cannot participate.

### **Payment harms research into Buy Now, Pay Later and similar credit products**

In partnership with the Australian Communications Consumer Action Network (ACCAN), PIAC recently undertook research into payment harms in energy (gas and electricity) and telecommunications (phone and internet), asking the question, 'If you are experiencing disadvantage, do you pay more to receive your utilities because of the way you pay?'. The research included qualitative (interviews with consumers and frontline workers such as financial counsellors) as well as quantitative (a survey of approximately 1000 people) aspects.

As part of this research, we explored the extent to which people are using Buy Now, Pay Later (BNPL) and other credit products (particularly unregulated/lightly regulated products) to directly pay for their energy bills and if they use these products to pay for other expenses as part of strategies to manage their energy bills.

Using a credit product to either pay directly for energy or using it to pay for other expenses to manage energy bills, should be unnecessary. Energy retailers are required to offer payment plans and hardship programs, and many retailers also offer monthly or fortnightly billing and other bill smoothing options that serve the same purpose more safely and affordably. Governments also provide supports, such as rebates and emergency payments, for energy consumers. As an essential service, management of debt related to energy should be shared

between consumers, energy retailers and governments. When people use credit products to pay for energy, the liability for the debt is shifted away from a shared debt (or risk) to one held only by the consumer.

For our submission, we attach our report, *Paying to Pay: Using credit products to afford energy*, which examines the findings from the research. This report exposes credit related issues in energy and provides valuable context for Treasury in exploring options to regulate BNPL (and other unregulated credit products).

Some key findings from the report are:

- While people prioritise energy bills, carefully budget for them and make sacrifices to afford them, many still find them difficult to pay on time (or at all).
- There is increasing use of BNPL and similar credit products and this is expanding rapidly into essentials, including energy.
- BNPL and similar credit products cause harms including making bills more expensive (because of fees or, sometimes interest), they can be difficult to pay back and can result in a debt spiral for some people. They also act to 'mask' people experiencing payment difficulty from energy retailers and others who may be able to provide more effective early assistance.
- Some people prioritise repaying their credit products above essential expenses.
- Use of BNPL and similar credit products as part of strategies to afford utility bills is very prevalent. People use them to pay for other essentials (including groceries) freeing up money for their energy bills.
- There are relatively low numbers of people using these credit products to directly pay for their energy bills at the moment, but, concerningly 31% of energy respondents indicated they are likely to use BNPL to pay for their energy bills in the future.

The research also found that:

1. Energy bills are expensive and often far exceed any available income or savings.
2. Energy bill amounts are uneven which makes them difficult to pay, especially on time.
3. Many people value how credit products enable them to make smaller, regular repayments to make larger amounts more manageable.
4. In contrast to safer forms of assistance, the process to get credit products is quick and easy and repayment amounts are easily altered.
5. Credit products can help people manage cashflow issues and unexpected expenses.
6. Accessing a credit product can feel like a 'positive' experience for some and can give people an immediate sense of control to manage their money, at least until they cannot be paid back or when multiple payments compound.

Energy is an essential service. The ability to affordably manage and pay for energy bills in a way that meets the needs identified by people in this research, should be accessible free of charge and detriment through the regulated supports in the energy system. People should not need to engage in risky or costly credit measures to afford energy.

PIAC recommends that BNPL and similar credit products should not be available for the payment of energy bills, and consideration should be given to prohibiting their use to pay for other essential services. In combination with this, PIAC recommends reform of the structure of energy support measures to make them as accessible and flexible as credit products. Awareness of retail energy and government support will also need to be increased as part of any measures to restrict and regulate BNPL and similar credit products.

Because people access BNPL and similar credit products to cover other expenses as part of strategies to pay energy bills, and other essentials, greater regulation of credit products is required to limit their availability to people on low incomes. PIAC supports proposals being put forward by organisations such as Financial Rights Legal Centre, Consumer Action Law Centre and CHOICE who are looking at ways to safely regulate these products.

### **BNPL in the use of solar and other distributed energy resources**

The Australian Energy Regulator's (AER) 'Review of consumer protections for future energy services' is looking at how to ensure regulation and protections appropriately cover the products and services that provide and/or impact access to essential energy, including rooftop solar and other distributed energy resources. As part of this process, the AER is well placed to examine issues of BNPL and other arrangements in the purchase of rooftop solar and other distributed energy resources.

### **Continued engagement**

PIAC welcomes the opportunity to meet with Treasury and other stakeholders to discuss these issues in more depth.

Yours sincerely

**Thea Bray**  
**Senior Policy Officer, Energy and Water Consumers' Advocacy Program**

+61 2 8898 6550  
tbray@piac.asn.au

Encl: *Paying to Pay: Using credit products to afford energy*