

David Johnson – CEO
TaleFin Pty Ltd
L3, 4-10 Bank Place
Melbourne VIC 3000
17th January 2022

Office of the Australian Information Commissioner
GPO Box 5218
Sydney NSW 2001

RE: Review of the Privacy (Credit Reporting) Code 2014 – Consultation Paper

To Whom it may concern,

I am writing to you in response to the consultation paper provided in relation to the Credit Reporting Code.

TaleFin is Australia's modern credit reporting bureau, established to meet the needs of the modern credit provider, and the modern consumer. Our objective is to bring fairness, openness, and transparency to the credit reporting system, and to educate consumers to understand how their credit behaviours influence their access to credit.

Over the last few years, we have seen significant changes to the types of credit related products that are available in the market, and the engagement of consumers that embraced them. Unfortunately, the credit reporting industry has been unable to keep pace with this ever-evolving market and related consumer behaviour.

Despite the rapid proliferation of these credit products, within certain market sectors, any number of credit providers have elected not to include credit bureau referencing in their credit assessment processes. This has translated to a decline in credit bureau enquiries at a time of significant increase in credit applications. A discrepancy that is driven by the inability of traditional credit reporting agencies to meet the expectations of the credit industry and the community.

We welcome the opportunity to participate in the review. While we appreciate that it is quite broad in nature, and would be happy to participate more fully, in this forum we wish to focus on and emphasis those areas that we believe most require change. Consequently, we will only be providing responses to specific questions.

Q9. Is the current process for developing variations to the registered CR Code appropriate?

When the credit reporting code was established, ARCA was a suitable representative body as it did represent a good cross section of the industry – in a market that was experiencing very little change.

Today markets are far more dynamic, the cohort of market participants is significantly larger, many of whom are not represented by ARCA. Indeed, some have elected to create their own industry groups.

Further to this, ARCA members and the traditional credit reporting industry have demonstrated that their systems and processes fall short in their ability to support a dynamic and evolving credit industry. This is highlighted by:

1. The sluggish and complicated implementation and take up of comprehensive credit reporting relative to the rest of the world.
2. The difficulty in agreeing and implement principles of reciprocity, which has effectively disincentivised many in the industry from engaging in comprehensive credit reporting.
3. More recently the implementation of the hardship regulations legislated 12 months ago and only now (following very minor adjustments to the code) being rolled out.

Whilst the decision for ARCA to create an Industry Code seemed reasonable at the time, given an ever evolving and fragmented credit environment, the needs and expectations of many in the industry (and their respective customers) will not be met.

We believe that a new Code should be developed to support a broader cohort of credit providers and consumers and seeks to receive input from all industry bodies that engage in the provision of credit. Doing so will likely see better engagement from more progressive segments of the industry.

11. Do industry and individuals have access to the information they need to understand and/or apply the CR Code in practice? If not, what amendments could be made to the CR code to improve this?

Unfortunately, the lack of transparency provided by the traditional bureaus has spawned an industry of opportunistic credit repair agencies. These agencies peddle misinformation about the use and validity of credit reporting information and generate expensive AFCA complaints where credit providers are being asked to remove and suppress credit bureau information – despite its validity.

This severely diminishes the value of credit reporting and has left credit providers weighing up the cost of complaints against the benefits of credit reports.

The net effect is that fewer credit providers are engaging with the credit reporting industry. This leads to the erosion of relevant credit data, and large segments of industry making credit decisions using data that does not fairly represent the consumer. Ultimately borrowers pay for these decisions through higher interest rates – or by finding it more difficult to access credit.

Q16. Are the RHI provisions appropriate? Should RHI provisions contained in paragraph 8 be amended in any way? If yes, how?

The sluggish and complicated implementation of comprehensive reporting has been the single biggest failure of the credit reporting industry in Australia. Draconian requirements to sign up to the terms in the PRDE to both provide and reference comprehensive credit data has created barriers to many smaller – or less sophisticated credit providers. This approach has resulted in an onerous process where many credit providers are either unwilling or incapable of submitting and referencing comprehensive credit data. A combination of the Code, PRDE requirements, a rigid credit reporting sector and continual challenges from credit repair agencies and AFCA has resulted in confusion from credit providers as to whether they are indeed operating diligently within the confines of the Act, the Code the PRDE and credit reporting agency requirements.

Conceptually two broad changes should be considered:

1. Repayment histories should be representative of actual repayment obligations and not restricted to an arbitrary calendar month. Trying to consolidate repayments to conform to a monthly calendar cycle when many repayment cycles are fortnightly (to coincide with salary payments) or weekly generate complexity in provision of data and in terms of interpretation of the information. Reporting cycles under comprehensive credit reporting need to reflect actual events and cycles as they present in the market.
 - a. Representing each repayment as and when it's due will provide a clear path for consumers and credit providers to understand the report and remediate the issues if there are any. It also allows those issues to be quickly resolved as and when they are identified.
2. Repayment updates should be immediate, and applied as and when they occur, equally, should be corrected as and when they are discovered

- a. This is essential in an environment where the velocity of credit applications is growing.
- b. Batching them to a monthly process appears to have the sole purpose of accommodating out-of-date technology.

Q21. Are the protections for the victims of fraud appropriate? Should the provisions contained in paragraph 17 be updated in any way? If yes, how?

TaleFin supports the use of bans to protect victims of fraud and to help detect fraud. Unfortunately, they have become another opportunity for the traditional credit reporting bureaux to undermine their intent. There are two significant issues in this regard:

1. The technical implementation of sharing between bureaux exposes significant risk from an information security perspective and places victims of fraud at additional risk of identity theft. This is because lists are shared between the three bureaux via email. A clear lapse of their own information security standards.
2. Because the regulations require any new CRB's to gain access to the ban information (to support its intent), it is used by the traditional bureaux to become aware of new entrants to the market.
 - a. TaleFin has become aware of offers made to its customers for access to free product shortly after contacting the traditional bureaux for access to ban information.
 - b. Ultimately, they refused TaleFin access to the information because they asserted that TaleFin would benefit in using Ban registrations to enrich our data asset.

Clearly, the purpose of bans is lost on the traditional bureaux. TaleFin was aware of the technical limitations of the Bans implementation prior to approaching the traditional bureaux. Our intent was to engage with them in a way that would remove their information security risks in dealing with Bans, however we were never afforded that opportunity.

Conclusion

We understand that there will be significant interest in this consultation, and our views have been developed over years of engaging with different types of credit providers many of whom have disengaged from the credit reporting process. Many lenders view the existing credit reporting regime as onerous, inflexible, out of step with market needs and prone to data reporting challenge from credit repair agencies and AFCA. The costs associated with this eco system now far outweigh the benefit for many lenders.



While we understand that our views will be represented as beliefs and values as they relate to TaleFin and our customers, it should also be apparent, that these views merely progress our interest in improving openness and transparency to the credit reporting industry to help consumers and credit providers alike.

We welcome any future engagement in this process, and hope that this is the beginning of positive change for the whole industry.

Yours Sincerely,

David Johnson.