CONSUMER CREDIT (AMENDMENT) BILL 2018

Submission to the Joint Committee on Finance, Expenditure and Public Reform and Taoiseach

NOVERMBER 24, 2020

SVP SOCIAL JUSTICE AND POLICY TEAM

Introduction

The Society of St Vincent de Paul (SVP) is the largest charity of social concern and action in Ireland, with a variety of supports and services being provided by our 11,000 voluntary members on an all-Ireland basis. Home visitation is the main work of the organisation where we provide support and friendship to individuals and families in need.

According to the research commissioned by the Social Finance Foundation, on *Interest Rate Restrictions on Credit for Low Income Borrowers,* there are an estimated 330,000 customers of moneylenders in Ireland, with an average loan size of €566. The majority of customers are female, in the lower socio-economic group and between 35 and 54 years of age. Most commonly loans are offered over 9 months at an APR of 125%. Loans are usually taken out to purchase household goods and clothing, and to cover the cost of family events. The convenience of home collection, immediate availability of credit and tradition are among the reasons why customers choose moneylenders and customer satisfaction with moneylenders is generally high. However, there is a high price to be paid for the use of moneylenders and many users of home credit services believe that using this form of credit has trapped them in a cycle of debt and borrowing.[1]

Research carried out by the Vincentian Partnership for Social Justice on behalf of SVP found that many families who have an inadequate income would prefer to avoid borrowing if at all possible, due to a fear that getting into debt would only worsen their situation in the longer term.[2]

Access to affordable credit is essential for individuals on a low income but SVP believe an APRs of up to 287% (including charges) are wrong and should not be permitted. It is a contradiction in terms to offer loans at such high costs to an individual or family who is living below the poverty line and struggling financially. SVP members are concerned at the amount of interest being paid to moneylenders by households on very low incomes, who often must sacrifice other needs including food, fuel, and education to meet loan repayments.

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[1] Faherty, M., McCarthy, O., & Byrne, N. (2017) on behalf of the Social Finance Foundation: Interest Rate Restrictions on Credit for Low Income Borrowers. https://sff.ie/wp-content/uploads/2018/11/irr.pdf.

[2] Vincentian Partnership for Social Justice (2018) Stories of Struggle. www.svp.ie/storiesofstruggle

It is within this context SVP welcome to opportunity to make a submission to the Joint Committee on Finance, Expenditure and Public Reform and Taoiseach on the Consumer Credit (Amendment) Bill 2018.

SVP Experience and Concerns

In 2019, SVP received over 160,000 requests for assistance. Low income is the key factor driving people to resort to doorstep moneylending. But people on low incomes need low-cost solutions to their credit needs, not the exorbitant rates that characterise moneylending. SVP members regularly report inappropriate lending to very vulnerable households who do not have the capacity to repay the loan.

Low income households are often subject to a poverty premium when accessing services, including financial services. Living on a low income and having a poor credit rating limits the options for people who are trying to access credit. Moneylenders are meeting a need for access to credit but often at a cost which people who are better off and who have other options would baulk at. Repaying a high cost loan is a very heavy burden for households that are struggling.

In October 2020, calls to our East Regional Office which covers Dublin, Kildare and Wicklow were up by 24% compared to the same time last year, as the socioeconomic consequences of the COVID-19 crisis continue to unfold. Many calls are from households who are behind on their bills or who have no money for food after they have paid their basic household costs. Families on low and fixed incomes have been faced with higher bills due to being at home all day, are on reduced incomes and without any savings to stay afloat. Once restrictions are lifted, we can expect to see an increase in borrowing to meet the costs of essentials and we fear moneylenders will target people who will just not be able to repay loans at the exorbitant interest rates they are charging.

In this context, we welcome the recent enhancement of protections for moneylending customers announced by the Central Bank earlier this year which will make it mandatory for all moneylending advertisement to carry prominent warnings and details of alternatives for those facing financial difficulty. We have also support the roll out of the 'It Make Sense Loan" by Credit Unions and now see it as a viable alternative to moneylenders.

However, we believe further measures are needed so people are not saddled with high-cost debt, sending families into a debt trap with wide-ranging consequences, from difficulty making ends meet to an inability to build up savings.

Capping of Moneylending Interest Rates: Issues to Consider

As highlighted in the study by Flaherty et. al (2019) Ireland is now in the minority of countries in Europe with no formalised interest rate restriction on high-cost credit, with this coverage gap now addressed in almost all other European countries.[3] SVP has regularly called for a statutory maximum cost of credit which can be charged by a moneylender and that consumers should have better access to sources of low-cost credit and is included among our recommendations in the submission to the Central Bank on review of the moneylending code in June 2018[4] and to the Department of Finance consultation on capping interest rates in July 2019.[5]

We acknowledge that when considering introducing an interest rate restriction (IRR), a key issue for the Central Bank is how to balance the high cost of credit versus access to and availability of low cost credit credit to low income or disadvantaged groups but we believe the time has now come to move on the introduction of the IRR and fully endorse the main recommendation from the SFF report which states:

> *The Government to adopt a policy that prohibits usurious rates of interest in the interests of fairness to the most vulnerable in Irish society by the introduction of a restriction on interest rates and charges*

a) Total Cost of Credit and Collection Charges

The aim of additional restrictions on the activities of moneylenders should be to reduce the cost of credit to low income households. If an interest rate cap is introduced, it may be the case that moneylenders seek to recoup any loss of revenue by other means and therefore a statutory maximum home collection charge would need to be introduced or alternatively the

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[3] Faherty, M., McCarthy, O., & Byrne, N. (2017) on behalf of the Social Finance Foundation: Interest Rate Restrictions on Credit for Low Income Borrowers. https://sff.ie/wp-content/uploads/2018/11/irr.pdf.
[4] SVP (2018) Review of the Moneylending Code: Submission to the Central Bank of Ireland: https://www.svp.ie/getattachment/d6dbed9e-714f-4e05-a260-9a003f4a6615/SVP-Reponses-to-the-Review-of-the-Consumer-Protect.aspx
[5] SVP (2019) Capping c

cap as proposed would incorporate collection charges. Therefore, the following points should be taken into consideration in relation to the issue of home collection charges:

- The interaction between an interest rate cap and a maximum home collection charge
- The actual cost of operating a home collection service
- The alternative options for repayments which are offered to customers including the option of electronic repayments for which there should be no charge
- The current charges imposed by moneylenders, the benefits in terms of home collection as a sales channel and in minimising bad debts, the benefit to the consumer in terms of convenience and the extent to which collection charges impose an undue additional cost burden on low income households
- The likelihood of increased collection charges in the event of the introduction of an interest rate cap or restriction

Recommendation

- The cap should be carefully designed to avoid circumvention through introduction of other fees and charges and ensure that resources are provided to enforce interest rate restrictions.

b) Illegal moneylenders

A key concern for policy makers and regulators is that increased restrictions on legal moneylending, would lead to an increase in activity among illegal moneylenders. However, the review in the SFF report on international experience concluded the assertion that an IRR leads to an increased market in illegal lending is disputable as there is no empirical and undisputed evidence available in this regard.[6] They cite analysis of debts held by Citizens Advice in the UK which shows that the number of loan shark debts has remained constant since the introduction of a cap on pay-day loans.

Based on the research carried out by the Central Bank in 2013, 12% of respondent indicated that they would go to another moneylender if their current moneylender ceased operating

[6] Faherty, M., McCarthy, O., & Byrne, N. (2017) on behalf of the Social Finance Foundation: Interest Rate Restrictions on Credit for Low Income Borrowers. https://sff.ie/wp-content/uploads/2018/11/irr.pdf.

and a further 12% said that they wouldn't know where to go to source the credit.[7] Given that 13% of respondents also indicated that there are aware of illegal moneylenders operating in their area, there is a risk that some borrowers from legal moneylenders could be displaced to illegal moneylenders. Our experience and the experience internationally are that those who seek out the services of illegal moneylenders are often do so to pay essentials and basic households good. The practices adopted by illegal lender are often predatory, targeting people when they are vulnerable, and report of illegal moneylending practices tends to be low.

In our view access to credit is not the solution to financial difficulties in these circumstances and by adopting a holistic approach to the demand side factors for illegal moneylending and properly enforcing existing legislation to tackle supply side factors, it is possible to mitigate against displacing lending from legitimate money lenders to illegal money lenders.

Recommendations:

- Utilise the findings of forthcoming research on illegal moneylending, which has been carried out by Dr. Stuart Stamp, to inform policy and legislative decisions in this area.
- Enforcement of existing legislation on illegal moneylending.
- Continue to support legal alternative credit products for low-income/high risk consumers.
- Adopt a holistic policy approach to the demand side factors for illegal moneylender services by tackling the causes through Government Anti-Poverty Policies and Action Plans addressing the issues of; 1) inadequate social welfare and low pay, 2) high cost of living and 3) financial exclusion and poor financial literacy.

c) Access to credit

Similar to the concerns in regard to illegal moneylenders, concerns have been raised about the impact an IRR will have on a low-income household's ability to access other forms of credit.

[7] Central Bank of Ireland (2013) Report on the Licensed Moneylending Industry https://www.centralbank.ie/docs/default-source/publications/consumer-protection-research/gns4-2-1-1-rep-on-licensed-moneyldg-ind-112013.pdf?sfvrsn=6

The It Makes Sense Loan is an important leaver and is a central mitigating factor for any likely impact on financial inclusion. Continued support for the initiative by Government and the Credit Union Movement is required. It is also important to note that many moneylender customers may already be accessing other products offered by CUs or banks. The Central Bank survey from 2013 survey showed that the majority of moneylending customers would seek credit from a credit union, bank or building society if their moneylender ceased operating. While there may be a minority of consumers no longer able to access credit, there is a high probability that some of these customers may already be overindebted and a loan may not be in their best interest.

In line with the SFF research SVP recommend:

- The interest rate and total price cap are initially set at a level that enables legal moneylenders to continue to operate but with reduced risk-based impairment and smaller profit margin. Gradually reducing the cap over time will limit any unintended consequences and allows borrowers and lenders time to adjust to the new business model.

This gradual approach to reducing the cap would allow time for existing protections (i.e. new regulation under the Money Lending Code – enhanced warning, ban on lending for essentials, referrals to MABS) and supports (i.e. access to low cost credit, adequate income supports, financial education and debt advice) to be enhanced and new measures to be introduced (e.g. income to debt ratio). This would also allow the Central Bank of Ireland to monitor the impact of the cap and take appropriate complementary actions where needed.

Importantly, a restriction on interest rates and the total cost of credit will force moneylending firms to re-examine their business model of home collections which often traps people in an intergenerational cycle of debt.

Conclusion

SVP has continually expressed concern about the prevalence of high cost borrowing from licensed moneylenders among the people we assist, many of whom are vulnerable and who

are trying to cope on a limited weekly income. The issue of moneylending and the high rates of interest allowable is a core issue of concern for members of SVP for many years. [8]

Customers of moneylenders tend to find their services easy to access and use and like the fact that money is available up-front, on their doorstep courtesy of the agents, and with very little paperwork required. However, given the vulnerable and stressful situations people are faced with, the proportionately large amounts of credit available, and interest rates up to and over 200%, are predatory and exploitative. The time has come for Government and legislators to move and introduce an IRR.

In conjunction with the statutory cap the Government must take a much more active approach to financial inclusion and financial education, and that those who are marginalised and excluded have:

1. access to an income buffer to cushion households against external shocks or unexpected events,
2. the skills and knowledge to deal with their personal finances, and make informed choices,
3. access to the use of appropriate financial services and protection from irresponsible lending.

[8] For example, in 1990, the Society of St Vincent de Paul successfully brought a legal challenge in Cork District Court on the grounds that legal moneylenders were charging too much interest.[8] This was the first legal challenge of under the 1933 Moneylending Act which was succeeded by the Consumer Credit Act in 1995. The judge ruled in favour of the SVP who argued that by charging interest at a flat rate allow for charges of up to 74% well in excess of maximum allowed under the legislation. The decision meant that legal moneylenders would only be able to charge a maximum of 39% cent per annum, on a reducing balance basis only, and not on a flat rate basis, as was previously the case. https://www.rte.ie/archives/2020/0629/1150296-moneylenders-challenged/