



Promoting Responsible Consumer Lending

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Response to

CCAAC Secretariat
c/- The Manager Consumer Policy Framework Unit Competition
and Consumer Policy Division
Treasury
Langton Crescent PARKES ACT 2600

In Response to Issues Paper, *Review of the Benchmarks for Industry-
based Customer Dispute Resolution Schemes*

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**Response to Issues Paper – April 2013
“Review of the Benchmarks for Industry-based
Customer Dispute Resolution Schemes”**

Introduction

The **National Financial Services Federation** is pleased to submit the following response to Issues Paper – April 2013: “Review of the Benchmarks for Industry-based Customer Dispute Resolution Schemes”

Reference Section of Document	Consultation Questions	NFSF Response
PART I — INTRODUCTION AND CONTEXT Page 5	No consultation questions	As a Federation representing financial service providers (FSPs), we provide the following comments in representing our members. Our experience is only with those EDR schemes providing service to the small amount credit contract (SACC) industry sector.
PART II — DISPUTE RESOLUTION AND THE BENCHMARKS Page 11	Consultation questions 2.1 How widely are the Benchmarks used by industry schemes? Are there any examples of how the Benchmarks are used?	The use of the Benchmarks by industry schemes and how widely they are applied is best responded to by EDR providers. The ASIC Regulatory Guide 139 clearly indicates the Benchmarks are needed to be taken into account in providing an EDR’s scheme. In an EDRs annual report 2011/2012 they refer to this RG as requiring an “impartial, independent and accessible” scheme in reference to the organisations aims. This appears to miss a number of required Benchmarks listed in the RG and this Issues Paper.
	2.2 To what extent do the Benchmarks act as a useful guide for industry schemes as well as consumers and industries that access such schemes? Are there any ways in which they could be improved to more effectively fulfil this role?	Awareness of Benchmarks is not widely known by consumers, if at all. Financial service industries that use EDRs are generally aware that industry expectations should match the described Benchmarks which match the RG 139 guidelines. Reports by EDR schemes should cover performance against all Benchmarks as detailed in RG 139.
	2.3 Are there any other standards or guidelines that are commonly used by industry schemes to deliver and determine best practice operations? If so, how are	Other than the NCCP Act and Regulations and ASIC guidelines there are no apparent means that determine any best practises. Reporting by EDRs is focused on volumes of complaints and membership data and details, there is little qualitative reporting. There

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	they are applied in conjunction with or as an alternative to the Benchmarks?	appears to be no requirements to report to ASIC on service levels. One EDR refers in its annual report 2011/2012 to workshops being introduced in a third training scheme, covering complaint handling processes, EDR procedures and how best to work collaboratively with an EDR scheme.
	2.4 Are the Benchmarks consistent with other standards or guidelines and if not, in what respect are they inconsistent?	To the best of our knowledge, benchmarks are consistent with ASIC RG 139.
PART III — PRINCIPLES, PURPOSES AND KEY PRACTICES Page 16	Consultation questions 3.1 To what extent do the underlying principles and key practices under the benchmark of Accessibility remain relevant and appropriate to the needs of industry scheme stakeholders? How can they be improved?	We believe accessibility is relevant and appropriate for consumers. Improvement could be made by further consideration to allowing members of the schemes to provide effective feedback and discussion.
Page 17	Consultation questions 3.2 To what extent do the underlying principles and key practices under the benchmark of Independence remain relevant and appropriate to the needs of industry scheme stakeholders? How can they be improved?	This is relevant and appropriate. As to extent, it is imperative that independence is maintained. As to whether this is achieved, it is impossible to measure from a member’s perspective.
Page 18	Consultation questions 3.3 To what extent do the underlying principles and key practices under the benchmark of Fairness remain relevant and appropriate to the needs of industry scheme stakeholders? How can they be improved?	Again there is no measurement or monitoring of this. We can only comment from a user of an EDR scheme perspective in that borrowers can be significantly advantaged in the resolution process. There is little emphasis on consumer onus. Improvement could be made by acknowledging a borrower’s responsibility as part of the Fairness benchmark.
Page 19	Consultation questions 3.4 To what extent do the underlying principles and key practices under the	Accountability appears to be covered by EDR providers with annual reports. By way of improvement, we believe there

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	benchmark of Accountability remain relevant and appropriate to the needs of industry scheme stakeholders? How can they be improved?	should be regular feedback as noted in 3.1. Communication is not generally easy for FSPs with one EDR scheme providing “position statements” and considering these as engaging with members.
Page 20	Consultation questions 3.5 To what extent do the underlying principles and key practices under the benchmark of Efficiency remain relevant and appropriate to the needs of industry scheme stakeholders? How can they be improved?	Efficiency is about value for funding for scheme members. Essential to this is that complaints are only considered when they are in the schemes terms of reference. Feedback to the Federation is that on occasion complaints appear to be outside the terms of reference yet there are still charges applied to members. In regard to reasonable timeframes there is a level of inconsistency in the EDRs response times even though the demand by the EDR for members to meet response times is always there. For example, a COSL complaint that has been with COSL for months came back to the FSP with a comment, “sorry this took so long to get back to you, we have been busy” . Improvement could be made by requiring reporting of performance by EDRs against objectives in this area, and also reporting of feedback from stakeholders.
Page 21	Consultation questions 3.6 To what extent do the underlying principles and key practices under the benchmark of Effectiveness remain relevant and appropriate to the needs of industry scheme stakeholders? How can they be improved?	Whilst the principles and key practises do remain relevant for the application of effectiveness as an objective, it is impossible to express to what extent when there is no expectation benchmark. For improvement, an independent review is an important part of this criteria, however it does not appear to be any such review in place for EDRs.
Page 22	Consultation questions 3.7 Could any element of the Benchmarks, including terminology or key practices, be modernised in the light of subsequent developments in ADR processes or technologies?	NO
Page 22	3.8 Do each of the six	Yes, they are appropriate.

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	benchmarks remain appropriate as part of a best practice framework for industry-based dispute resolution services, and are there any additional benchmarks (and associated key practices) that could be included?	We offer no suggested change.
PART IV — IMPLEMENTATION GUIDANCE Page 24	Consultation questions 4.1 Would industry schemes benefit from additional implementation guidance and if so, how?	Yes, we believe so, by reporting against each Benchmark in annual reports. Member feedback should be commented on and addressed in reports and, as previously mentioned, reports should also provide measures of Efficiency and Accountability. A reference to RG 139 could be used as a basis for this reporting requirement, e.g., Accountability RG 139.118 (c) independent review of operation.
Page 24	4.2 Are there any elements of the Benchmarks where additional implementation guidance would be particularly beneficial?	As per 4.1
Page 24	4.3 Are there any principles or processes that if followed, would improve the quality and usefulness of implementation guidance materials?	ASIC RG 139 covers these principles and processes very well. Providers of EDR schemes may need a separate guideline document to cover the Benchmarks, and how to satisfy accountability in meeting these.
Page 24	4.4 Who should be involved in the development of additional implementation guidance?	ASIC, industry, EDR providers, Consumer representatives.