



the dti

Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA

PRESENTATION TO THE PORTFOLIO COMMITTEE ON TRADE AND INDUSTRY

THE NATIONAL CREDIT AMENDMENT BILL, 2017 – DEALING WITH DEBT INTERVENTIONS

the dti, NCR AND NCT

14 FEBRUARY 2018

PRESENTERS

Mr MacDonald Netshitenzhe
Acting Deputy Director General (DDG): Consumer and Corporate
Regulations Division, the dti

Ms Nomsa Motshegare
CEO: NATIONAL CREDIT REGULATOR (NCR)

Prof Joseph Maseko
Chairperson: National Consumer Tribunal (NCT)

SUMMARY OF THE ISSUES RAISED

1. Constitutionality of the Bill
2. Reporting suspected reckless lending to NCR
3. Criminalisation of prohibited conduct
4. NCR powers to suspend reckless loans
5. Compulsory credit life insurance
6. Capacity of NCR and NCT to implement debt intervention

CONSTITUTIONALITY OF THE BILL

- Principle of co-operative governance.
- Executive arm should not be involved in getting legal opinions on legislative arm legislation.
- Circumscribe factors to be considered by Tribunal to extinguish debt- e.g. whether a consumer has any chances of getting employment in the future, permanent disability, family circumstances, age of the consumer, prescription, voluntary write-offs.
- *Audi alteram* principle to be observed through negotiation of new payment terms with all credit providers and at Tribunal hearings.
- Priority of orders – interest rate reductions, restructure, alternatively suspension, and if payment plan does not solve, extinguish portion of debt.

REPORTING SUSPECTED RECKLESS LENDING TO NCR

- Credit providers will not sufficient information to make assessment.
- Competition amongst credit providers.
- However, we support criminalise Debt Counsellors' failure to report alleged reckless loans to courts.

CRIMINALISATION OF PROHIBITED CONDUCT

- Criminalisation is supported.
- Directors and owners of the credit providers to be liable for the actions of the responsible juristic person.
- Propose that the drafting be aligned to cartels provisions in Competition Act.

NCR POWERS TO SUSPEND RECKLESS LOANS

We support the provision, but foresee the following effects:

- The accumulation of capital & cost of credit during suspension—especially should the reckless loan not be confirmed by the Tribunal or court.
- Usage of assets whilst not making any payments during suspension (cars, houses, furniture).
- Suspension should be made subject some conditions, such as the return of assets during the suspension period.

COMPULSORY CREDIT LIFE INSURANCE

- We support the compulsory credit life insurance, but recommend a consultative process for pricing/costing in line with section 106.

**CAPACITY OF NCR AND NCT TO
IMPLEMENT DEBT INTERVENTION**

- NCR and NCT resources to be enhanced to enable efficient implementation of debt intervention.

CONCLUSION

- **the dti** supports the spirit of the Bill as expounded by the political head of the Department of Trade and Industry.
- It is wrong for technicians to contradict principals.
- Argument on the constitutionality should not be used to frustrate Parliament.
- Task team from **the dti** is prepared to work with the Parliamentary legislative drafter to improve the Bill.



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THANK YOU