**Discussion of revisions to the *Sustainable Payment Plans* Framework v0.3 – 8 January 2016**

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| Issue | AER comment |
| Title | We have changed the title of the Framework from *Capacity to Pay good practice framework* to *Sustainable Payment Plans: a good practice framework for assessing customers’ capacity to pay.*  This reflects the document’s overarching aim of facilitating the establishment of payment plans that customers can successfully maintain and complete. |
| Testing what a customer says they can afford to pay | ***Starting a conversation with ‘What can you afford?’***  While there was agreement that this was a reasonable starting point, some retailers said that asking the question on its own was not sufficient as many customers would not immediately understand what they could afford in the context of their future consumption. They were concerned this would lead to unsustainable repayments, broken plans, and also restrict their ability to explore a customer’s situation in more detail.  In our discussions with retailers, we have clarified that the intention of this section is not to restrict retailers from taking steps to test whether a nominated amount is affordable, but to highlight the risk of prompting a customer to consider a specific repayment amount (e.g. by asking *“can you afford $x per fortnight?”*)is likely to make a customer feel pressured to accept the proposed amount, regardless of whether they can afford it. This can lead to unsustainable and broken plans.  **We have added text to clarify that exploratory questions may be useful and/or appropriate when done respectfully.**  ***Testing what’s affordable***  There was general support for the Framework’s suggestions for testing whether an amount is realistic and appropriate through open prompting for customers to consider their other expenses and circumstances.  Consumer stakeholders and a number of retailers highlighted the importance of this initial conversation setting a foundation for future engagement with a retailer, with trust in what a customer said they could afford being an important factor in building an open relationship with that customer.  Some stakeholders noted that the shame and embarrassment associated with payment difficulties were significant impediments to seeking assistance for some customers, and approaches that sought to reduce stigma associated with financial difficulties were often effective. They noted that some of the proposed questions to clarify the customer’s circumstances may be perceived to contain underlying assumptions about a customer’s status (e.g. ‘Are you in public housing?’). These may create a fear of being categorised as disadvantaged that would act as an impediment to some customers seeking assistance. We also received feedback that while the questions were relevant to identifying vulnerability, they would not be of practical assistance in reaching agreement on an affordable payment plan amount.  **We added examples of the questions that may be asked to test the amount suggested by the customer. We also removed the example questions that were intended to clarify the customer’s circumstances.**  ***Factors that identify a customer is more likely to need assistance***  We received feedback that there were a number of factors that a retailer could use to identify customers who were more likely to encounter long-term or severe financial difficulties. These factors can indicate that a customer would benefit from the additional support of the kind listed under Option C.  Factors that would identify a customer as higher risk might be evident from a customer’s account history (e.g. previous plans, applications for relief grants, concessions) or may be volunteered by the customer (e.g. unemployment or pending unemployment, illness, accident, family death).  Our view is that it is good practice for retailers to be alert to these factors and proactively consider whether additional support is necessary.  **We have amended the Framework to note that customers identified as being at higher risk of further payment difficulties should be given additional support, regardless of which category they fall into.** |
| Referral to financial counsellors | Consumer stakeholders (including financial counsellors) supported the Framework’s suggested triggers for referring a customer to a financial counsellor. No retailers raised concerns with the Framework’s proposed approach to financial counselling referrals.  Financial counsellors and other consumer stakeholders agreed that retailers should always attempt to work out a reasonable repayment amount with a customer, accepting that some customers will not be able to afford usage and debt, and that this on its own should not be a trigger for a referral to a financial counsellor.  Financial counsellors commented that once they advised a retailer of what a customer can reasonably afford, retailers should not ask for a customer’s further financial details. We support this view, and note the Framework states: “Retailers should accept advice from the financial counsellor about what the customer can afford to pay.” |
| Referral to self-assisted budget tool | We have broadened the section referring to the MoneySmart budget planner. This is one of a range of tools that may be suitable, and we have changed the reference to a more general one. |
| Option A | Retailer and consumer stakeholders commented that the 15 month maximum time for Option A was quite long and increased the risk of a customer experiencing more serious issues, particularly if there was no review of payments. In general, retailers considered if a repayment arrangement was to take longer than 12 months, it was more likely that a customer would require the greater level of hardship assistance available under options B or C.  **We have reduced the maximum timeframe for Option A to 12 months.** |
| Option B | Based on the same reasoning above, we reduced the timeframes for option B.  **We have changed the timeframes for Option B to 12 to 18 months**. |
| Option C | Consumer stakeholders said that the actions a retailer could take to close the gap between ongoing usage and what they can afford should include a reference to replacing (or retrofitting) inefficient equipment.  **We consider that the current wording in Option C clearly indicates that the list is non-exclusive. Retailers remain free to offer additional services such as equipment replacement.** |
| Interim payment plans (to put in place while a customer is referred to a financial counsellor) | We received feedback that including this step was appropriate, with some noting that retailers should be aware that in some areas it could take several weeks for a customer to see a financial counsellor.  In the case of a retailer agreeing to a temporary payment plan with a customer who is referred to a financial counsellor, our view is that it is good practice for a retailer to accept the amount offered by the customer until a further discussion can occur, informed by a financial counsellor’s input.  **We have added the text ‘affordable’ to reflect this.** |
| Centrepay | Consumer stakeholders commented that Centrepay can assist customers manage payments and should be offered as early as possible.  We agree that good practice is to promote the benefits of Centrepay to any customer a retailer identifies as receiving income support – i.e. concession card holders – in addition to offering it as a matter of course for Option B and C customers.  **We have added consideration of Centrepay to the first box to make it clear that Centrepay is a basic level of assistance that should be offered to any customer seeking a payment plan who receives payments from Centrelink.** |
| Practices around increasing a customer’s repayment amounts | Consumer stakeholders strongly agreed that repayment amounts should not be increased for hardship customers without first having a conversation with the customer. Most retailers who provided feedback said this reflected their existing practices.  Retailers, particularly larger retailers, noted that the large number of customers on payment plans outside hardship programs made it impractical to contact all these individuals by phone.  For non-hardship program customers on payment plans we consider that it is good practice to contact a customer by mail to advise them of a new repayment amount, provided that the letter:   * explains the reason for the increase (e.g. that their usage has gone up) * makes it clear that the customers can contact the retailer if they have any concerns about the affordability of the revised amount with the amount * provides a period of time in which a customer can contact the retailer to discuss the revised amount * states when the revised amount will take effect.   For hardship customers, our view is that good practice is to attempt to contact a customer by phone to have a conversation about the increased repayment, in the context of what is affordable.  For other payment plan customers, the retailer should also attempt to have a conversation with the customer when the repayment amount increase is significant. Some retailers told us their threshold for contacting customers by phone was when the increase was greater than 20 per cent.  Significant increases in a customer’s usage may indicate an underlying change in consumption patterns and an early conversation about usage and energy efficiency may help avoid a customer’s financial situation worsening.  Additionally, the initial conversation to set up a payment plan should include the circumstances in which the retailer will contact the customer to conduct routine reviews of payment plans.  **We have updated the Framework to clarify what we consider good practice in this area.** |
| Missed payment amounts | While most stakeholders did not raise any concerns with the proposed three day minimum period before contacting a customer who missed a payment, some consumer stakeholders felt that five days would provide more flexibility to customers.  Our view is that the three day minimum period is appropriate as it provides some flexibility and space to customers to meet their payment obligations while giving retailers the opportunity to proactively contact customers to discuss their circumstances (noting that they are free to wait longer if desired). This consistent with the Framework’s aim of facilitating prompt and constructive engagement.  Applying the Framework’s principles to engagement with customers should increase the likelihood that customers will proactively contact their retailer in advance when they are unable to make their payment by the agreed date. |
| Applying the Framework to inactive accounts | A number of stakeholders including retailers, consumer representatives and Ombudsmen considered the Framework’s principles should flow through a retailer’s treatment of customers who have a debt with a retailer but no longer have an active account with them (inactive account customers).  Other retailers raised concerns that applying the Framework’s processes to inactive account customers would increase administration costs for retailers who would have to put extra resourcing into managing this group.  Additionally financial counsellors provided feedback that many debt recovery agencies already considered a debtor’s capacity to pay when negotiating payment arrangements.  Our view is that it is good practice for retailers to give inactive account customers with a debt a reasonable opportunity to repay the amount owed, taking into account what a customer can reasonably afford, and apply the principles of flexibility, consistency, empathy and respect when negotiating these repayment plans. |
| Measuring the Framework’s effectiveness | Stakeholders suggested the AER could consider a number of quantitative and qualitative metrics to measure the impact retailers’ implementation of the Framework. Key suggestions included:   * the number of customers successfully completing hardship programs and payment plans * the number of customers using payment plans and hardship programs * customer complaints to retailers about payment plans and hardship programs * customer complaints to Ombudsman schemes about payment plans and hardship programs * retailers surveying payment plan and hardship program customers about their experiences.   **We will continue to consider what measures might be appropriate to measure the impact of the Framework.** |
| Barriers to access | An issue raised in our Hardship Review and emphasised by consumer stakeholders was that of retailers putting barriers in the way of customers accessing hardship assistance. These barriers included retailers requiring a customer to see a financial counsellor or make an up-front payment as pre-conditions of access to a hardship program or payment plan.  Requiring an up-front payment from a customer who has made contact because they are unable to pay their bill on time or to advise they are experiencing financial difficulty has the potential to exacerbate their situation.  As the Framework states, there are circumstances where referral to a financial counsellor may be necessary. However requiring a customer to unnecessarily see a financial counsellor without providing hardship assistance or attempting to agree an affordable payment plan could delay a customer receiving assistance by several weeks, potentially worsening their situation. Additionally, it can place an unnecessary strain on scarce financial counselling resources.  We consider it is not appropriate to put these types of barriers in the way of a customer getting access to a payment plan or a retailer’s hardship program, particularly where this may exacerbate their circumstances.  **The Framework emphasises that all payments are to be based on the customer’s capacity to pay.** |
| Principle of consistency | Some consumer stakeholders said that it was important that customers receive written confirmation of their repayment arrangements.  We note that the Retail Rules (72(2)) already require retailers to inform customers of:   * the duration of the plan * the amount of each instalment payable under the plan, the frequency of instalments and the date by which each instalment must be paid * if the customer is in arrears—the number of instalments to pay the arrears * if the customer is to pay in advance—the basis on which instalments are calculated.   Given the amount of information to be provided, we consider it good practice to provide this in writing to the customer so they have a copy they can refer to if needed. |