



Consumer Credit  
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Personal Property Securities Branch  
Australian Attorney-General's Department  
By email: pps@ag.gov.au

Dear Sir / Madam,

### **Personal Property Securities Regulations 2008**

I refer to CCLC's submission to the Personal Property Securities Regulations 2008.

#### **Our Submission**

CCLC's comments in relation to the proposed Regulations are as follows:

##### **1. Details about a person under section 19**

CCLC supports the restrictions placed on the amount of information available about individual persons to name and date of birth only. This ensures that individual privacy is protected to the maximum extent possible, and reduces the risk of issues related to the database being used for ulterior purposes such as identity theft and tracking domestic violence victims.

We do note however, that in order for the Registrar to be able to send notices to grantors (for example to notify grantors of amendments to listings, as was proposed by CCLC in our earlier submission regarding the PPS Bill), the Registrar will need to keep additional data on grantor contact details which must be kept confidential.

##### **2. Prohibited registrations under section 194(2)(d)**

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Insurance Law Service: 1300 663 464

We support the inclusion of mechanism for the rejection of inappropriate data. However, rather than rely on the subjective opinion of the Registrar, we strongly advocate an objective standard to be set, so that the Register is placed under a positive duty to remove data that a reasonable person would consider inappropriate for registration on a public register.

We would also support a further clause requiring the Registrar, in making a decision as to whether data should be permitted on the register, to have consideration to any privacy implications to the inclusion of the data on the grantor or any other third parties.

We further call for a right for the grantor to appeal any decision made by the Registrar under this power, to ensure that consumers have some recourse to challenge unsustainable decisions.

We would also like to reiterate some comments we made in relation to the Bill in relation to:

3. the need for provisions to empower a regulatory body, whether it be the Registrar or other authority such as ASIC, to implement a system of oversight of the register which involves powers to identify, enforce, rectify and prevent systemic abuses of the register;
4. an expansion to the definition of consumer property, so that the smallest and most insignificant use of the item in furtherance of carrying on an enterprise for which an ABN has been assigned does not deprive an item of its “consumer” status;
5. greater scrutiny into putting further consumer protection mechanisms to prevent provisions such as s59 and 63 which allow lenders to take security in after-acquired goods and categories of goods which are predominately for personal or domestic use. Reliance on written terms of the contract is insufficient where most consumer simply do not read every clause of their security contract given their complexity, length and the fact that they are typically standard form contracts which cannot be negotiated;
6. a right of free access to the register for consumers to ensure that impecunious consumers are not denied the opportunity to inspect their entries for inaccuracies;
7. a system of documenting every access made to a security interest entry, in order to allow any privacy breaches to be readily identified; and
8. placing the onus on the administrators of the Register to send out relevant notices to all interested parties. The reliance placed on security holders to

notify grantors of amendments to listings is inappropriate, given their inherent conflict of interest with each other.

We have had the opportunity of reviewing Legal Aid NSW's submission to the proposed regulations, and endorse the comments made in that submission.

If you have any questions or wish to discuss our submissions, please do not hesitate to contact Alice Lin, Legal Policy and Education Officer, on (02) 8204 1360.

Yours faithfully,

**Consumer Credit Legal Centre**

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