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Promontory IBM Consulting  
Review of BNPL Code on behalf of the  
Australian Finance Industry Association

via email: [BNPLCode@promontory.com](mailto:BNPLCode@promontory.com)

## ARA SUBMISSION TO AFIA REGARDING REVIEW OF THE BUY NOW, PAY LATER CODE OF PRACTICE

The Australian Retailers Association (ARA) welcomes the opportunity to provide comments to the Australian Finance Industry Association (AFIA) regarding its review of the Buy Now, Pay Later (BNPL) Code of Practice (the Code).

The ARA is the oldest, largest and most diverse national retail body, representing a \$400 billion sector that employs 1.3 million Australians and is the largest private sector employer in the country. As Australia's peak retail body, representing more than 120,000 retail shop fronts and online stores, the ARA informs, advocates, educates, protects and unifies our independent, national and international retail community.

We represent the full spectrum of Australian retail, from our largest national and international retailers to our small and medium sized members, who make up 95% of our membership. Our members operate across the country and across all categories - from food to fashion, hairdressing to hardware, and everything in between.

The ARA discloses that it has a strategic partnership with Afterpay, a BNPL provider.

In this submission, we provide a retail industry perspective on the BNPL Code and its effectiveness. Retailers can provide unique perspectives in relation to BNPL, given their relationships with BNPL providers and their customers who use a BNPL service to make a purchase.

We note that while the customer also has a contractual relationship with the BNPL provider in relation to the payment transaction, the retailer retains a strong reputational interest and responsibility to the customer to ensure that BNPL services are being offered in a responsible, fair and ethical way.

### PRINCIPLES

Given the complex and competing commercial interests and relationships involved in the payments ecosystem, including BNPL services, the ARA adopts a principled approach to developing any policy position on issues involving the payments ecosystem:

- 1. Transparency and Choice** Customers and merchants alike should have full visibility of fees and charges that may apply to any payment service to inform the choice to use that payment service. Likewise, merchants and consumers should be given choice so that merchants have the option to pass on costs to consumers and consumers the option to take on BNPL and any costs associated. To be clear, the ARA is not taking the view that all retailers should or would pass on BNPL costs, but they should be given the option.
- 2. Credit services must be provided responsibly, in a fair and ethical way.** Payment services that extend credit to the consumer must be provided in a way that is responsible, fair and ethical and meets all regulatory and legal requirements.

## COMMENTS AND RECOMMENDATIONS ON THE CODE

With the above principles as a guide, the ARA makes the following observations and recommendations in relation to the BNPL Code.

### 1. Align with the Treasury review into BNPL

We note that the Commonwealth Treasury Department is consulting on the BNPL regulatory framework in the context of the *National Consumer Credit Protection Act 2009*. The ARA notes that the Code will be ineffective if it does not reflect changes to the regulatory framework that are likely to result from the Treasury consultation process.

The ARA recommends that this review of the Code is informed by the Treasury consultation process and outcomes.

### 2. Build awareness with consumers and retail staff

The Code requires merchants partnering with BNPL providers to meet minimum standards in relation to training staff and ensuring customers awareness. Feedback from industry members highlights the need for more training to build awareness about these minimum standards.

The ARA recommends that merchants are better supported with information resources for both staff and consumers to ensure the Code requirements are being met.

### 3. Provide greater support for complaints management

The Code has a requirement in relation to responding to customer complaints in a timely manner. However, retailers find that this is not supported adequately by BNPL providers, with most only offering automated responses to customer or merchant queries.

The ARA recommends that the Code require BNPL providers to offer improved dispute resolution services to customer and merchants, with defined service levels and accessible options for customer contact.

### 4. Provide transparency around BNPL costs

Under the Code, retailers are not able to pass on any surcharge to recover the costs associated with BNPL services. This presents an inherent risk that businesses may increase prices generally to recoup these costs and this is would not be transparent to consumers.

The ARA recommends that this review considers ways to improve transparency around the costs of providing BNPL services, including costs that may or may not be passed onto end consumers.

Thank you again for the opportunity to participate in the consultation discussions and to provide a submission to the AFIA. The ARA is also engaging in the Treasury's consultation, and we look forward to receiving the review's findings and outcomes.

Any queries in relation to this submission can be directed to our policy team at [REDACTED].

Yours sincerely,