Submission to the House of Commons Finance Committee

Study on Non-Prime Lending & Criminal Interest Rate

ACORN CANADA

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Dear members of the Finance Committee,

ACORN Canada would like to make a submission with reference to the study the Finance Committee is undertaking on the non-prime lending and criminal interest rate.

ACORN is a national community union of low- and moderate-income people. ACORN has 177,000 plus members organized into 30 chapters in 10 regions across 6 provinces.

Lack of access to fair credit from banks has been pushing people to borrow from fringe high interest lenders such as Easy Financial, Cash Money, Money Mart and several others. As per the Criminal Code of Canada, alternative or fringe lenders can charge 47% Annual Percentage Rate (APR) or 60% Effective Annual Rate (EAR) for installment loans that typically include loan amounts above $1,500. On top of this, the lenders can add on insurance, fees etc. which raises the interest rate even more. In addition, such lenders use predatory tactics such as refinancing that ensures people never get out of the debt trap.

Several surveys to low- and moderate-income people done by ACORN and other organizations illustrate the devastating impact these loans have on people's lives.

After years of community organizing to stop predatory lending, the federal government committed to lower the interest rates of installment loans from 47% APR to 35% APR. Early this year, the government drafted regulations to this effect. This is a positive step. The government must work to further lower the interest rate and create fair credit alternatives so that people don't have to rely on alternative lenders.

As this happens, the Canadian Lenders Association (CLA) led by GoEasy, one of Canada's biggest installment lenders, launched a campaign to scare borrowers and lobby the federal government to not move forward and create exemptions.

Fact check on the CLA's claims to oppose the government's move.

1. ***Lowering the interest rate will not eliminate the high interest alternative lending industry and it will not cause a massive growth of more expensive loans and illegal lending.***

The **CLA claims** that the lowering of interest rates will cut off 8 million Canadians from accessing credit because the lenders will no longer be commercially viable to provide credit riskier borrowers. Goeasy Ltd. or Easy Financial which claims to be the leading provider of credit for 8.5 million Canadians recently came out with its financial statements for the fourth quarter and full year of 2023 which counter this claim. Here are some of the results for 2023:

- **Loan Portfolio** of $3.65 billion, **up 30%** from $2.79 billion
- **Revenue** of $1.25 billion, **up 23%** compared to $1.02 billion in 2022.
- Operating income of $477 million compared to $332 million in 2022, an increase of 43%.
- Adjusted operating income of $491 million, 33% higher compared to $369 million in the prior year.

Aside from the **massive growth Goeasy Ltd reported for 2023**, the Company also provides an extremely **positive outlook for 2024-26 despite assuming** that the new federal regulation to **lower the criminal interest rate** for installment loans will be effective mid-year 2024. Goeasy forecasts its operating margin to go up by 39% in 2024, 40% in 2025 and 41% in 2026.

Despite the lower interest rate of installment loans in Quebec at 35%, in its 2022 annual report, Goeasy says - "**Further retail expansion will be targeted within the province of Quebec**".

The **CLA published claims** in a report in which it says that lowering the interest rate of installment loans in Quebec, California and the UK led to borrowers losing access to credit and forced them to borrow money from loan sharks or illegal lenders.

- **California**
  In 2019, the California Legislature passed AB 539, the Fair Access to Credit Act, which capped the interest rates for loans between $2,500 to $10,000 at 36% APR.
    - As per the Center for Responsible Lending, which was a major backer of AB 539, the **CLA's claim** that people were pressed into payday loans following AB 539 **is totally inconsistent with the data.** In fact, payday loans volumes dropped significantly starting in 2020 (when AB 539 went into effect). The annual payday report from the California state regulator shows loan volume dropping 40% between 2019 and 2020, and staying mostly flat since then.
    - Further, the CLA report states that there has been a reduction in the percentage of loans between $2,500 to $10,000.
        - Firstly, the reduction in the volume of loans in 2020 vis-a-vis 2019 (249,769 compared to 856,450 loans) is because *all* loan volume fell by quite a bit in 2020 versus 2019 due to pandemic government benefits.
        - Secondly, lenders making fewer loans ranging between $2,500-$10,000 in 2020 versus prior years is also a direct and a positive result of the new law coming into effect because the law prevented borrowers from being pushed into unaffordable loan products. The Department of Financial Protection and Innovation (DFPI) in 2020 found that loans with APRs above 100% dropped 99.9 percent in the immediate wake of AB 539. A loan with an APR of 100% is plainly predatory, especially on a dollar amount of greater than $2,500, hence the volume of such loans dropping is a good thing! But again as per the data from DFPI in 2019 (page 13) and 2020 (page 14), you see that nearly all the growth in loans over $10,000 in 2020 was due to growth in loans secured by real property. In fact, unsecured loans were basically flat between 2019 and 2020.
        - Thirdly, the CLA also claims that borrowers were forced to borrow higher amounts of loan and blames the new legislation for this. However, the data from DFPI for 2019 and 2020 shows that all the growth in loans over $10,000 in 2020 was due to growth in loans secured by real property.
        - Lastly, the CLA report mentions illegal sovereign loans but that is a function of lack of law enforcement to rein in these lenders, not making unaffordable, predatory loans lawful under California law.

    To quote Centre for Responsible Lending,
    "The existence of illegal lending is not a reason to increase allowable interest rates. Such an argument is, in effect, arguing that the way to fight illegal activity is to give in and permit that illegal activity. That makes no sense because illegal loans at predatory interest rates do no one any good, often leaving borrowers worse off than had they not been snared in a debt trap. Instead, governments should use their law enforcement authority to combat illegal lending while also ensuring through legislation that lawful interest rates are set at an affordable, non-predatory level.

- **UK**
    - For the UK, the CLA asserts that there has been a massive drop in payday lenders as a result of regulatory tightening in the country. And secondly there has been a surge in the complaints filed with the Financial Ombudsman Service. Both these, from the standpoint of consumer rights and access to fair credit are positive results.
    - The CLA also cites a report titled "Swimming with Sharks", published by a non-profit organization, Centre for Social Justice in the UK. This report captures the scale of illegal lenders in the country and CLA asserts that the massive growth in the illegal lenders is because of the regulatory tightening. Again, like many other countries, the growth of illegal lenders is a big issue, but that needs to be combated by having stronger enforcement and not continuation of predatory lending. The UK non-profit in its report does not make any link between the growth of illegal lending and regulatory changes.

- **Quebec**

With respect to Quebec, again the CLA asserts that there has been a massive growth of illegal online lenders. This is an issue of enforcement. There is no link between lowering the criminal interest rate for predatory loans and growth in illegal lenders. The problem of illegal lenders is not specific to Quebec. Stronger enforcement is the answer to the issue and not letting lenders charge predatory interest rates.

Union de consommateurs, a non-profit organization that brings together 14 consumer rights groups, says -

"It is false to say that lowering the legal credit rate in Quebec has made the legal market unprofitable for Quebec lenders. In Quebec, the Consumer Protection Office (the OPC) only issues permits to lenders who can guarantee they will charge a credit rate of 35% or less. This type of measure does not prevent lenders from continuing to offer small installment loans in Quebec. To date, the OPC has issued 267 permits to lenders. The conclusions of the joint report by the OACP and the CLA on the consequences of lowering the legal credit rate in Quebec are erroneous. **Nothing in their report shows that the problem of illegal lenders is worse in Quebec than in other provinces.** Thus, it is false to conclude from their data that there is a link between illegal online lenders in Quebec and a lower credit rate for installment loans".

Further, ACORN is against federal government making any exemptions while lowering the criminal interest rate of installment loans. **There should not be any exemptions.**

2. Higher amount of loans should carry much lower interest rates

- Based on a survey of the interest rates and loan fees allowed by all 50 states and the District of Columbia for an unsecured 5-year installment loan of $10,000, a new report by the National Consumer Law Centre (NCLC) found that 42 states in the US and the District of Columbia cap the interest rate and fees for a $10,000 loan, with a median cap of 27% APR.
- The report argues that even 27% is a high rate, especially for larger loans, and 20 states plus the District of Columbia impose lower rate caps on a $10,000 loan.
- Given that the borrower will pay the interest on a larger amount over a longer period of time, the rate cap should be substantially lower than the cap for a smaller, short-term loan. Longer terms on larger loans also heighten the impact that higher interest rates have on a consumer's ability to make progress in repaying the principal. It also limits the consumer's options to get help paying off the loan should it prove unaffordable over that long term.

3. When predatory lending gets restricted, people borrow from friends and family.

Quite contrary to the CLA's claim that lowering of the interest rate leads to more expensive borrowing, evidence from the US shows that after the interest rates for high-cost loans were lowered, in state after state, consumers were better off and found better ways to cope with financial challenges:

- Former borrowers generally agree that they are better off without payday loans and express relief that the loans are no longer available.
- People use a variety of strategies to manage their finances, including borrowing from family and friends, negotiating payment plans with utility companies, and using pawn shops or traditional credit products like credit cards.
- Eliminating high-cost loans spurs an increase in affordable loans like credit union loans and more attention on other safer alternatives.
- Consumers do not turn to illegal internet loans in large numbers.

4. Lowering the interest rates will not lead to rise in criminal activity

CLA's submission stresses that lowering the interest rate of predatory loans will lead to a rise in criminal activity. There is no relation between lowering the criminal interest rate and criminal activity. As stated, the issue of illegal lenders or online lenders is not a function of lowered interest rates. In fact, lowering the criminal interest rate will help people falling into debt traps and deeper poverty. There is enough evidence that suggests that deprivation and poverty is what leads to violence and crime. By reducing harm, the lowering of the criminal interest rate is good for people and society.