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Written Submission of the Coalition in the
Payday Lending Proceeding

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About the Coalition

- The Coalition is comprised of the Consumers' Association of Canada (MB Branch), Winnipeg Harvest and Community Financial Counselling Services.[1] Coalition partners have taken the unprecedented step of jointly appearing before the Public Utilities Board because of their shared view that payday loans can cause harm to financially vulnerable persons;

- Based on its review of the record, the Coalition is of the view that payday loan consumers are disproportionately vulnerable in the marketplace because:

    they may have troubled or non-existent credit histories and low or limited incomes;

they may not have access to or may be unaware of viable and lower priced options in the mainstream credit marketplace;

they have been abandoned by mainstream financial institutions who cater to more lucrative markets;

they may not have the literacy skills, or the financial literacy skills, to fully understand the contract that they are entering when they purchase a payday loan; and,

there is a stigma attached to poverty and debt in our society where vulnerable consumers may be loathe to complain or to ask too many questions if they find someone, anyone, who will offer them credit.

- Based on their review of the record, the Coalition partners are also concerned because:

[1]For background on the Coalition, please see Appendix A.

of the risk associated with the one-time, full payment nature of the product;[2] and,

of the risk that the first loan may lead to a cycle of increasing debt that cannot be supported by income.

- Given the vulnerability of these consumers and the failure of the marketplace to adequately protect them, fair and reasonable regulation is necessary;

- The Coalition applauds the Manitoba Legislature for mandating a review of the existing regulatory regime. It thanks the Public Utilities Board for the opportunity to make this submission.

[2] If consumers do not have the money on the first cheque, how will they find the money (or 90% of it), plus the interest, on the the next one?

Overview

- The payday loan phenomena is the complex product of a number of factors including the financial stresses of users, the decline in mainstream "brick and mortar" service in low income areas and a growing reliance on credit by many consumers. By all financial measures, payday loans are an extremely costly source of credit;

- The payday loans customer is not a typical Canadian.[3] At a time of rising consumer debt, payday loan customers tend to be more vulnerable than other consumers. In particular, frequent users tend to have lower incomes than other payday loan customers;

- Regulatory protection introduced by the Province in October of 2010 has brought real benefits to Manitoba consumers and to the Province. While rates are still too high, the existing rate structure has offered meaningful savings to consumers who continue to use payday loans. Based on the limited evidence available in this proceeding, it also appears to have assisted in reducing the annual number of loans per customer;

- Recognizing the limits imposed by size of community, those Manitoba consumers obliged to take payday loans continue to have options to take regulated payday loans through the Internet and through "brick and mortar" stores;

- For certain vulnerable populations, the product offered by Aski Financial also offers an additional and analogous product at much lower rates. As well, other lower cost options such as lines of credit are offered by mainstream financial institutions;

- While real strides have been made, there are still material challenges in the marketplace. These include a cost of credit that is still too high as

[3] PUB/Coalition 5. Payday loan customers constitute a more vulnerable population less able to rely on an adequate and steady flow of income to support a family. This population is made up of persons who are likely to have children, less likely to have a partner and more likely to carry financial responsibility for a child or multiple children. They are also more likely to be aboriginal which is an issue of concern in Manitoba with its relatively large aboriginal population.

well as the presence of unregulated lenders in the marketplace who offer an extremely high priced product which is a payday loan in all but name;

- The regulatory response to the payday loan industry in North America has been mixed. In terms of rate caps, American jurisdictions have been more assertive in protecting consumers. The American industry continues to operate in rate cap environments considerably less expensive than the Manitoba cap;

- Canadian jurisdictions have been more generous in their treatment of the payday lending industry. This is made evident by the handsome operating margins of Money Mart (DFG) in Canada as compared to the DFG operations in the United States;

- Growing corporate concentration in the payday lending industry is a reality in the Canadian marketplace. While some operations have closed, efficient payday lenders continue to operate in Manitoba. The number of Money Mart operations is higher than in 2005 and comparable to the figure in 2009. The number of Cash Money operations is the same as in 2009;

- The CPLA has never suggested that efficient payday lenders employing economies of scale and scope cannot earn a fair return at the Manitoba rate cap;

- The CPLA proposes a radical increase in the payday lending cap in Manitoba to $23 per hundred dollar loan. The inexorable result of the CPLA position would be that many people will pay a lot more so that a smaller number have access to payday loans at higher rates. This is not a good regulatory outcome;

- Recognizing the handsome operating margins of Canadian payday lenders such as DFG and the success of US payday lenders in lower cap environments, the Coalition endorses a rate cap of 15%. Vulnerable consumers need and deserve rate cap protection which is more consistent with North American best practice.

The Phenomenon of Payday Loans

- Canadian research suggests that over time low-income communities are less attractive to mainstream banks and more attractive to fringe banks. Banks and credit unions have left areas where lower income residents are most abundant;[4]

- Dollar Financial Group, Money Mart's US parent company, is quite transparent about its location strategy:

  > *Despite the demand for basic financial services, access to banks has become increasingly difficult for a significant segment of consumers. Many banks have chosen to close their less profitable or lower-traffic locations and to otherwise reduce the hours during which they operate at such locations. Typically, these closings have occurred in neighborhoods where the branches have failed to attract a sufficient base of customer deposits. This trend has resulted in fewer convenient alternatives for basic financial services in many neighborhoods. Furthermore, traditional banks have tended in recent years to eliminate, or have made it difficult or relatively expensive to obtain, many of the services that under-banked consumers' desire.*[5]

- Dollar Financial Corporation expects that this market will expand as mainstream banks continue to withdraw from low-income neighbourhoods and certain 'demographic trends' persist . These demographic trends include an increasing reliance on low-wage jobs in the service sector and in small business;[6]

- Some of the void left by the exit of banks and credit unions may be

[4] Buckland, *Payday Loan Literature Review,* citing Simpson and Buckland (2013) and Brennan et al. (2011) and Brennan (2012).
[5] Dollar Financial Corporation 2010, p.3 cited in Brennan et al, *The Changing Structure of Inner-city Retail Banking: Examining Bank Branch and Payday Loan Outlet Locations in Winnipeg, 1980-2009,* (2011), Appendix A to the information Responses of the Coalition.
[6] Dollar Financial Corporation 2010, p.3 cited in Brennan et al, *The Changing Structure of Inner-city Retail Banking: Examining Bank Branch and Payday Loan Outlet Locations in Winnipeg, 1980-2009,* (2011), Appendix A to the information Responses of the Coalition.

picked up by ATM's and online banking but many low-income residents may not have access to these technologies. Low-income residents in the inner city may only have access to payday lenders and pawnshops, thus limiting their ability to save and borrow at reasonable rates and be economically upwardly mobile.[7] This is a harmful trend.

[7] Buckland, *Payday Loan Literature Review,* citing Simpson and Buckland (2013) and Brennan et al. (2011) and Brennan (2012).

The Vulnerability of Frequent Users

- Amidst a rising tide of consumer debt,[8] consumers of payday loans are particularly vulnerable as compared to other consumers;

- The CPLA concedes that many borrowers seeking payday loans do not have access to other credit facilities.[9] US research also suggests that payday loan consumers are less financially literate.[10] In a disturbing revelation, Coalition mystery shoppers were advised:

  > *most people just want the money so they will do whatever it takes to get it right away.*[11]

- A common theme in the literature is the risk of a debt spiral for frequent users.[12] Research by a Canadian Trustee in Bankruptcy suggests that easy access to credit combined with poor financial management and employment challenges are the primary drivers of insolvency. Twelve percent of its clients owe money to payday loan companies with an average of 3 payday loans outstanding per client;[13]

- Frequent users of payday loans are disproportionately vulnerable in the marketplace. They tend to have lower family incomes than less frequent payday loan users;[14]

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[8] See PUB/COALITION – 17 citing James MacGee, The Rise in Consumer Credit and Bankruptcy: Cause for Concern? CD Howe Institute Commentary 346, April 2012, cdhowe.org/pdf/Commentary_346.pdf. MacGee says: Consumer credit, which includes automobile loans, credit card debt, and lines of credit – especially home equity lines of credit – has risen by more than a factor of five since the late 1970s and, at 43 percent of disposable personal income, is more than double its level of 20 years ago. (pg. 2).

[9] PUB/CPLA 13.

[10] Buckland, *Payday Loan Literature Review*, p. 5 citing Edmiston.

[11] Report on Mystery Shopping Payday Lending & Payday Lending-Like Outlets in Winnipeg, p. 7.

[12] Buckland, *Payday Loan Literature Review*, p. 5 citing Edmiston. Most payday loan clients lack financial education and do not know that they are paying a 400 percent APR. With more knowledge, these consumers might choose an alternative product. Borrowers who get into a series of renewals wind up in more and more debt. Debt spirals cause more Chapter 13 bankruptcies because clients are already financially stressed when they start borrowing and repeated payday loans drive them deeper into the cycle of debt. See also Morgan, Strain, Seblani (2012) at 7.

[13] Hoyes and Michalos, *Who Is At Risk?*, p. 7.

[14] Simpson et al, *Payday Loans Consumer Profile based on the 2009 Canada Financial Capabilities Survey*. See also US data suggesting that the median bank payday borrower took out 13.5 loans in 2011 and spent at least part of six months during the year in bank payday debt. Rebecca Borné and Peter Smith, “Triple Digit Danger: Bank Payday lending Persists, March 21, 2013. http://www.responsiblelending.org/payday-lending/research-analysis/Triple-Digit-Bank-Payday-Loans.pdf, referenced in Robinson, *Regulation of Payday Lending in Manitoba Are the Rate Caps Reasonable?,* p. 10.

- Frequent payday loan usage is an ongoing concern in Canada and Manitoba. According to the *2009 Canada Financial Capabilities Survey*, almost half of payday loan consumers have used the service at least three times during last 12 months;

- In Manitoba, an average of 6.8 loans per MPL customer were taken out in 2012.[15] The number of loans per customer in British Columbia in 2011 was 5.38;[16]

- Notwithstanding these fundamental concerns, the CPLA chose not to survey payday loan customers on their frequency of payday loan use.[17] An adverse inference should be drawn from the failure of the CPLA to explore this issue.

[15] PUB/MPL -2.
[16] Statistics Regarding Payday Lending Regulation in Other Provincial Jurisdictions prepared for the 2013 Payday Loans Hearing for The Public Utilities Board of Manitoba.
[17] CPLA/Coalition 1-6.

The Payday Lending Business Model – A National Trend to Increasing Concentration

- Payday lenders always have offered a relatively homogeneous product. This is even more the case in the current regulatory environment. As a staff person of one payday lender advised:

  > *We are basically all the same because we have the same regulations. There is really no reason to pick us above another store.*[18]

- The business model of efficient payday lenders is dependent upon frequent users who allow for economies of scale. Data prepared by Ernst and Young in 2004 suggested that for every loan issued to a new customer, 15 loans were issued to repeat customers;[19]

- An individual payday loan store is a small business. The key success factor for most small businesses is achieving enough sales to cover the fixed cost of opening the doors every day. Payday lenders are no exception. Their annual reports and the Ernst & Young study show that 70 to 80% of costs are the operating costs of the stores.[20] As the CPLA acknowledges:

  > *Many of the costs of operation of a lender are fixed. A lender must complete a certain number of loans to cover its costs each month.*[21]

- In the absence of a sufficiently high volume of loans, payday lenders wishing to stay in business must achieve economies of scope through

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[18] Buckland, *Report on Mystery Shopping Payday Lending & Payday Lending-Like Outlets in Winnipeg*, p. 11.
[19] PUB/COALITION– 21 The Cost of Providing Payday Loans in Canada: A Report Prepared for the Canadian Association of Community Financial Service Providers, Ernst & Young Tax Policy Services Group, Oct. 2004 (http://www.cpla-acps.ca). The Association has since renamed itself the Canadian Payday Loan Association (CPLA). This study used extensive data provided by payday lenders and reported that for every loan issued to a new customer, 15 loans were to repeat customers.
[20] PUB/Coalition 52.
[21] PUB/CPLA 8.

revenue diversification;

- The payday lending industry was highly concentrated in Canada prior to the introduction of the provincial rate regulation. Developments since the introduction of the rate regulation suggest an even higher concentration by firms such as Money Mart and Cash Money;[22]

- The growth of the chains, the reduction in the smaller operators' numbers and the expansion of Internet payday lending are natural responses to changing business realities.[23]

[22] Second, the number of stores outside of the big three chains has declined greatly since 2005 in Canada as a whole, and by almost 50% in Manitoba since 2008. . . . The opportunity for easy profits with high prices has vanished and efficiency becomes essential for survival. The large chains have economies of scale in advertising, oversight and systems that keep their costs per loan lower than independent stores, and hence the largest chains are expanding while the smaller players are disappearing. *Regulation of Payday Lending in Manitoba Are the Rate Caps Reasonable?*, p. 7.

[23] *Regulation of Payday Lending in Manitoba Are the Rate Caps Reasonable?*, p. 9.

A Generous Regulatory Regime Leads to Generous Operating Margins for Efficient Lenders

- The CPLA declined to provide information about regulatory caps in US jurisdictions[24] notwithstanding the fact that its dominant Manitoba member is wholly owned by a US company (Dollar Financial Group).[25] An adverse inference should be drawn from the failure of the CPLA to provide information easily within its grasp;

- There is no evidence to suggest that a rate cap of 17% prevents an efficient payday lender from earning a fair rate of return. There is good evidence to suggest that efficient payday lenders can operate at a rate cap of 15%;

- As compared to the rate cap range in US states,[26] Canadian provinces tend to offer a more generous haven for payday lenders.[27] Since Canadian rate caps were implemented, no Canadian regulator has raised the rate caps. One jurisdiction has lowered its rate caps;[28]

- The rate charged by Money Mart (DFG) in Ontario was $19 per hundred prior to the introduction of rate regulation. It rose to $21 per hundred after the introduction of the more generous Ontario rate cap. This suggests the choice by Ontario to go to a higher rate cap imposed a substantive cost on existing Money Mart customers;[29]

- The rates currently offered by Money Mart and Cash Money in Ontario suggest that even in a high cost province such as Ontario, efficient lenders do not require a rate cap of $21 per hundred to earn a fair

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[24] In the response to PUB/CPLA– 21 it was suggested that the "CPLA does not have experience with the US market."

[25] PUB/Coalition 40. Money Mart is wholly-owned by Dollar Fianncial Group.

[26] PUB/Coalition 37, Appendix D. See aggregated table in Appendix A to this submission.

[27] Financial Consumer Agency of Canada report entitled "Payday Loans: An Expensive Way to Borrow" dated September 2012, p. 7.

[28] Nova Scotia reduced the rate cap from $31 per hundred to $25 per hundred.

[29] For an average size loan of average time length, the Money Mart fee was approximately 19% of the principal. When Ontario introduced its regulations, the Money Mart fee rose to 21% in Ontario, which meant that Ontario consumers were in fact hurt by the regulation. *Regulation of Payday Lending in Manitoba Are the Rate Caps Reasonable?*, p. 9.

return;[30]

- A review of current US rate caps indicates that caps have remained relatively static since 2007.[31] This suggests that rate caps below the level selected by Canadian jurisdictions are sustainable;

- Dollar Financial Group (Money Mart in Canada) has operations in the US, Canada and Europe. It earned a return of equity of 15.2% in 2011 and 11.4% in 2012.[32] Given the significant element of the DFG business in the US, it is reasonable to infer that efficient payday lenders can earn competitive returns in jurisdictions with regulated caps that are significantly below those which tend to be offered in Canada;[33]

- Operating margins are an important tool for assessing the health of a firm.[34] They provide insight into the working business as opposed to the company as a whole;

- Publicly available financial information for efficient payday lenders such as Money Mart (DFG) suggests that operating margins are materially higher in Canada than the United States. AS Dr. Robinson observes:

> *Money Mart clearly has a license to print money in Canada.*[35]

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[30] Money Mart now offers a special deal to the first time borrower – the first $200 is free, anything more than that is charged 20.79%. Cash Money offers a different deal for a first-time borrower, the first $200 is charged only $20, and 21% on anything above that. However, the Money Mart offer is uniformly available only to a first-time borrower. *Regulation of Payday Lending in Manitoba Are the Rate Caps Reasonable?*, p. 9.

[31] In 2007, Dr. Robinson observed that "thirteen states banned payday loans, in effect. A few did not regulate them. Most states did regulate them, and the average of the rate caps was about 15.5%. A number of states had a rate cap of 15%, and in all the states with rate caps ranging from 13% - 19%, major US payday lending companies had a substantial presence, and all of those companies whose results were in the public domain were profitable. This evidence supports the conclusion that at the very least, a rate of 17% would not be too low for the companies to operate, since the US companies were able to operate profitably at 15.5% on average, and had many outlets in states with caps as low as 13%." *Regulation of Payday Lending in Manitoba Are the Rate Caps Reasonable?*, p. 6.

[32] *Regulation of Payday Lending in Manitoba Are the Rate Caps Reasonable?*, p. 11 and 12. Payday lending accounted for 61% of company revenue in 2012.

[33] PUB/COALITION – 41 in Appendix B to this submission. See also *Regulation of Payday Lending in Manitoba Are the Rate Caps Reasonable?* Please see Table 2: Summary Financial Results of the Largest Payday Lenders in Canada and the US in Appendix B to this submission.

[34] Generally, they would include all cash costs of running business but would exclude interest, head office, income tax and restructuring charges.

[35] PUB/Coalition 41.

- Even after adjusting for higher revenues related to the more generous Canadian rate caps, the operating margins for Money Mart (DFG) in Canada still compare favourably to the DFG US operating margins;[36]

- A review of the Canadian DFG (MoneyMart) operating margins reinforces the Coalition's conclusion that a rate cap of $15 per hundred would be sustainable.

[36] PUB/Coalition 41.

Consumer Options in Manitoba

- There are a number of mechanisms for accessing regulated payday loans in Manitoba including "bricks and mortars" stores, telephones and the Internet;[37]

- Through employee partners such as First Nation Bands, associations and organizations, Aski Financial Services provides some potentially vulnerable populations with additional options for analogous products;[38]

- Consumers of regulated payday loan products in Winnipeg and Brandon have a variety of choices including regulated "bricks and mortar" outlets and regulated Internet lenders;

- Consumers of regulated payday loans in rural Manitoba also have some access to regulated "bricks and mortar" outlets and regulated Internet lenders. However, like rural consumers of other goods, consumers of payday loan products in rural Manitoba do not have the same access to "brick and mortar" stores as consumers in Winnipeg and Brandon. The largest community in Manitoba without a payday lender is Winkler which has a population of 10,670;[39]

- Rural payday loan outlets offering payday loans and payday loan like products achieve economies of scope through revenue diversification;

- Among mid size Canadian provinces in 2013, Manitoba has more regulated "bricks and mortar" operations than the total number in New

[37] Dr. Robinson argues that "[t]wo of the registered lenders in Manitoba are Internet lenders only, and Money Mart and Cash Money also offer Internet loans. Manitoba residents probably have better access to payday loans in 2013 than they did in 2008 when the original hearings on the rate caps concluded." *Regulation of Payday Lending in Manitoba Are the Rate Caps Reasonable?*, p. 9.

[38] See Coalition IR Responses, Appendix F, Aski can provide a single loan for $1000.00 termed over 86 days or approximately 6 pay periods for a total fee of about $72.00 or an APR of 31.3%. Further information about Aski can be found in the Appendix to this submission.

[39] Using the 2011 census figures, we find that the population per payday lender (including Cash Store and Instaloans) is 13,290 in Ontario, 19,807 in Manitoba, 17,817 in Saskatchewan and 16,000 in British Columbia. Manitoba has the largest number per lender, but the difference is not enough to say that Manitoba residents are denied access to payday lenders. *Regulation of Payday Lending in Manitoba Are the Rate Caps Reasonable?*, p. 9.

Brunswick or the total number in Newfoundland;[40]

- Among mid size Canadian provinces in 2013, Manitoba has less than the total number of regulated payday lender "brick and mortar" outlets in Saskatchewan and Nova Scotia;[41]

- In addition to the regulated outlets in Manitoba, there are over 20 outlets of formerly regulated operations which are offering payday loan like products (LOCs);

- The LOCs caused significant confusion for the Coalition's mystery shoppers. The multiple charges and fees made them difficult to understand.[42] Loan information was enveloped in a shroud of secrecy. One staff person estimated that a loan of $100 would cost $75.[43]

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[40] CPLA Schedule 12 (a) – Graphs for each Province.
[41] CPLA Schedule 12 (a) – Graphs for each Province.
[42] Buckland, *Report on Mystery Shopping Payday Lending & Payday Lending-Like Outlets in Winnipeg*, p. 13.
[43] Buckland, *Report on Mystery Shopping Payday Lending & Payday Lending-Like Outlets in Winnipeg*, p. 2/3.

The Quality of Service of Manitoba Payday Lenders

- Exit interviews suggest that the lack of other options as well as the speed and accessibility of payday loans were important factors in the choice of payday loans;[44]

- With a few exceptions, mystery shoppers confirmed that outlets offering payday loan and LOC services were friendly and accessible;[45]

- The mystery shopping exercise presented ongoing concerns regarding the quality of financial information available to first time shoppers.[46]

It identified risks to the privacy of consumers;[47]

- A surprising result from the mystery shopping was the offering of loans by some lenders which were collateralized on non-employment income. While some payday lenders have renamed their product to line of credit, other lenders have broadened they type of collateralized income they rely on;[48]

- The high non-response rate to exit interviews may suggest a sense of consumer shame associated with the use of the payday lending product.[49]

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[44] Buckland et al, *Report on the Exit Interviews of Payday Loan Customers*, p. 3. These consumers go to payday lenders instead of banks or credit unions because they feel more welcome at payday lenders, it takes less time than a bank/credit union or they are ineligible for a bank loan or credit card.

[45] Buckland, *Report on Mystery Shopping Payday Lending & Payday Lending-Like Outlets in Winnipeg*

[46] Buckland, *Report on Mystery Shopping Payday Lending & Payday Lending-Like Outlets in* Winnipeg, p. 15. The data indicated a general deficit in fair disclosure of product information, especially regarding fees. Customer representatives were not forthcoming with information and only provided adequate information with probing by the shopper. This would not be helpful to customers who are not well informed on the product prior to the outlet visit. The need to provide customers with adequate written information is illustrated by the responses in the survey that indicated comprehension of the process only after specifically requesting information. Even if information provided is forthcoming, it may not necessarily be enough to lead to an informed decision. There is a need for additional written information which the customer can take away to consider.

[47] Buckland, *Report on Mystery Shopping Payday Lending & Payday Lending-Like Outlets in* Winnipeg, p. 15. Some responses indicated the potential exposure of customer records and information or of being overheard because of open spaces or crowded positions.

[48] Buckland, *Report on Mystery Shopping Payday Lending & Payday Lending-Like Outlets in* Winnipeg, p. 15.

[49] PUB/Coalition 49. Researchers were surprised at the high non-response rate to the exit interview. One hypothesis is that customers feel shame about using payday loans and thus avoid talking about them. We could not test this hypothesis but we think that, in light of the non-response rate, this should be explored. This is because if customers feel shame about using a product, their shame may prevent them from taking action if they face a debt problem.

The Marketplace in Manitoba

- A reasonable rate cap for a payday lender is a rate that allows an efficient lender to recover reasonable costs and earn a reasonable profit. Rate caps should not be set to enable efficient lenders to earn an excess profit;

- The CPLA chose not to ask whether Manitoba consumers would prefer the rate cap to be higher, stay the same or be lower;[50] However, as the Money Tree candidly acknowledges, consumers:

  have no problem with the $17.00/ $100.00.[51]

- In terms of the number of "bricks and mortar" operations, the Manitoba marketplace is dominated by the members of the CPLA.[52] Numerically, the dominant forces in the Manitoba CPLA are Money Mart and Cash Money;

- To date, no information is available on the public record about the operating revenues or net income associated with payday lending operations in MB. The CPLA has declined to make that information available.[53] The CPLA also has declined requests by the Coalition for information about the impact of the recession on payday lending operations;[54]

- The CPLA has not suggested that efficient payday lenders are not viable under the current rate cap. The CPLA has not suggested that Money Mart and Cash Money are not viable in the Manitoba marketplace;[55]

- Cash Money has confirmed that it will continue to operate in the

[50] CPLA Coalition 1-7.
[51] Submission of the Money Tree, May 16, 2013.
[52] The May 16, 2013 evidence of the CPLA suggests that it has 5 members holding 30 licenses in total to provide loans through outlets or over the Internet.
[53] CPLA/Coalition 1-2, e) f).
[54] CPLA/Coalition 1-2 g) h).
[55] CPLA/Coalition 1-2.

marketplace if the current rate cap is continued. Money Mart declined to answer that question;

- Apart from the information of Money Tree, no information is available on the public record in terms of the volume of loans historically or currently offered by payday lenders per outlet. The CPLA has declined to make that information available;[56]

- The number of current Money Mart operations in Manitoba is comparable to the number operating prior to the introduction of the rate cap and higher than the number operating in 2005;[57]

- The number of current Cash Money operations in Manitoba is comparable to the number operating prior to the introduction of the rate cap and the number operating in 2005.[58]

Should There be a Difference Between Rural and Urban Rates?

- PPL addressed bank charges, extension loans and the number of

[56] CPLA/Coalition 1-2 g).
[57] CPLA Coalition 1-4 b).
[58] CPLA Coalition 1-4 c).

authorized debits.[59] The evidence of PPL did not argue that diversified rural payday lenders are not viable under the current rate cap;

- In an answer that was notable for its bluntness and its dearth of explanation, the CPLA rejected the concept of a rural/urban distinction with regard to payday loans. Noting the importance of the Internet loan option as well the critical importance of volume to any outlet, Dr. Robinson offers a more nuanced answer in rejecting any rural/urban distinction;[60]

- Dr. Robinson observes that of the Manitoba communities with regulated "bricks and mortar" outlets, only three seem to have enough people to support the number of payday lenders in the community. He concludes that outlets in smaller centres are drawing on a rural population from a substantial distance around them;[61]

- Dr. Robinson points out that volume is a more critical issue than price. As Dr. Robinson observes:

The baker who cannot get enough business in a small town to survive does not suddenly become a success by increasing his prices by 25%.[62]

- A rise in price will not induce payday lenders to set up shop in every small community in Manitoba. If there is to be payday loan service in the small communities it will have to come via the Internet, the telephone or a diversified store that already sells goods such as groceries, hardware, gasoline and clothing;

NSF Charges

- PPL demonstrated that banks are charging more for NSF cheques than the current default regulation allows to be recovered, Dr. Robinson

[59] Evidence of PPL dated May 16, 2013.
[60] PUB/Coaliton 52.
[61] PUB/Coaliton 52.
[62] PUB/Coaliton 52.

recommends that regulation 15.4(1) be rewritten to allow for full cost recovery, perhaps requiring the lender to give the borrower a photocopy of the bank debit that the lender was charged.[63] The Coalition concurs with this recommendation;

- The Coalition does not agree with the analysis of PPL regarding extension loans. As Dr. Buckland's literature review makes evident, rollovers, repeat loans and extensions have been identified as a major problem with payday loans. This is because the fees add up when small loans are continuously re-done. Dr. Simpson's analysis of the 2009 CFCS survey demonstrates a relationship between lower income and repeat borrowing.

[63] PUB/Coalition 42.

Underlying Analytic Flaws in the CPLA Argument

- Payday borrowers are suffering financial stresses of varying degrees and are disproportionately low income persons. Notwithstanding this reality, the CPLA proposes a radical increase in the payday lending cap to $23 per hundred dollar loan.[64] In essence, the CPLA proposes that one group of these relatively disadvantaged families should pay a high rate – an additional $6 per hundred borrowed – in order to help the other group;

- The inexorable logic of the CPLA position is that a lot of people will pay a lot more so that a few people can have access to payday loans at rates that will also be higher;

- The CPLA has never suggested that efficient payday lenders employing economies of scale and scope cannot earn a fair return at the current rate cap. Instead, the CPLA presents an analytically counter-intuitive argument. It argues that a greater societal good can be achieved by setting a payday lending cap higher than the one required by efficient lenders to earn an adequate return;

- The CPLA argument does not address the harm that will flow to consumers who currently have access to the payday lending marketplace and who will have to pay dramatically higher rates under its proposal.[65] It does not follow that because there are low volumes of demand for a service in a community, public welfare requires a large subsidy be extracted from other users of the same service in other communities. Such a wealth transfer requires a serious assessment of the competing rights and wealth of the two groups of users;

- The CPLA never addresses market theory suggesting that in a properly functioning marketplace demand will tend to decrease as prices

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[64] PUB/CPLA– 14.

[65] The logical consequent of this argument is granting credit to anyone who asks for a loan, with the responsible borrowers paying far higher rates to subsidies the losses.

increase;[66]

- Notwithstanding the threshold analytical inconsistencies of its position, the CPLA never provides analytical support to demonstrate the uncertain benefit of raising rates. The CPLA does not provide any empirical estimates or evidence to support its contention that demand will increase as prices increase;

- The CPLA never successfully addresses the suggestion that the critical driver in the lack of rural "bricks and mortar" operations is a function more of low populations than the current rate cap;

- The CPLA does not provide any credible evidence to suggest that there will be a material increase in the number of "brick and mortar" outlets in rural Manitoba as a result of a dramatic increase in the rate cap;

- The CPLA has made a lot of claims with no Canadian evidence to support them. It has not provided any financial data. The financial reports of DFG shows that the Canadian operations are vastly more profitable than the US or European ones.

[66] PUB/Coaliton 52. Increasing the price of a service that is not a luxury will reduce the volume in the long run. Payday borrowers will have to pay more, there will be more defaults and the debt traps will get larger, faster.

Adverse Inference Relating to the Evidence of Environics

- The CPLA and Environics failed to disclose the substantial risk of non-response bias[67] clouding the Environics Survey result. Not until it was questioned by the Coalition did Environics acknowledge that the non-response rate related to its survey was 94.9%;[68]

- A charitable characterization of a non-response rate of this magnitude would be to say "use with extreme caution." With a non-response rate this high, it would be difficult to conclude that the sample is representative of CPLA clients in Manitoba. An adverse inference should be drawn related to the failure of Environics to disclose the caution with which its information should be used.[69]

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[67] For a relatively accessible discussion on non-response bias, please see Andy Peytche, *Consequences of Survey Nonresponse* in The ANNALS of the American Academy of Political and Social Science, Nov 26, 2012 http://ann.sagepub.com/content/645/1/88. When a large percentage of the people who are requested to answer a survey refuse to answer, a possible bias arises. The people who refuse to respond are likely doing so for specific reasons, and one or more of those reasons may identify them as a particular group. The particular group may be quite different from the rest of the population. If this group would have answered the questions of interest differently than the people who did respond, the responses fail to represent the true population. Unless we know something about the non-respondents that tells us they would have answered the same as the rest of the population, we are less certain of the validity of the responses we did get to tell us about the entire population. The larger the percentage of non-respondents, the greater the potential for a bias. If only 5% of the sample refuses to answer, their answers couldn't change the average by much. If 50% of the sample refuses to answer, their answers might change our conclusions about the entire population. If 90% of the sample refuse to answer, extreme caution must be exercised.

[68] CPLA//Coaliton 1-11, a).

[69] By contrast see the approach of Simpson et al in outlining response rates for the CFCS survey. See also the commentary of Buckland and Simpson in describing their exit interview analysis. "An exit interview was undertaken to assist in understanding the extent to which payday lenders are complying with the Manitoba payday lending regulations. This method, like the mystery shopping, is a field method that is undertaken in a non-randomized field research fashion. Unlike a randomized method in which results stand on their own, field methods are often combined to triangulate on a particular issue. Triangulation, or using a variety of field methods to examine the same issue, enhances the validity and reliability of the results. There were 100 people who were asked to participate but did not meet the requirements (no recent experience with a small loan) and another 101 people who were eligible but declined to participate in this research. This constitutes a rate of non-response of 64.3% which compares favourably with the exit interview non-response to the survey of fringe financial institution customers in Prince George conducted by Bowles et al (2011)." See also PUB/Coalition 10. Dr. Simpson et al employed regression analysis to permit an assessment of the relative impact of a number of factors that might explain the probability of taking out a payday loan. This provides important additional information to the earlier results because one factor (e.g., presence of a partner) may be closely associated with another factor (e.g., household income).

The Human Context of Payday Loans

- Amidst the flurry of debate regarding loan volumes and return on equity, there is an important human context to the regulatory dialogue relating to payday loans. When payday loans are used by families to meet basic living expenses, it may be impossible for the family to pay back the loan and meet basic living expenses;

- Similarly, payday loan recipients who are living on fixed income CPP/Disability/other pensions may enter a cycle of increasing debt as their income does not increase to pay basic costs and repay loan. Payday loans may provide an easy convenient mechanism for problem gamblers to fund their addiction. The location/ease of use of payday loans also may provide an incentive for low income consumers to go into debt rather than work on longer term more affordable/beneficial forms of financial management;

- Notwithstanding the significant improvements wrought by the current regulatory regime, there does not appear to be an effective mechanism to prevent individuals from taking out multiple loans from different payday lenders or even different branches of the same payday lender. While "rollovers" are prohibited, there is nothing to prevent borrowers from going from payday lender to payday lender in order to pay off their debt;

- It also appears that young people turn to payday loans when in need of short term funds. Given the acknowledged lack of financial literacy training provided to young people, it is quite possible that they do not have sufficient information to determine their best course of action with regard to financial management.

Conclusion

- There are a number of important associations between payday loan use and customer characteristics, including lower household and personal incomes, lower levels of assets and higher levels of short term and expensive debt;[70]

- Payday loan customers tend to be younger, less educated, and carry financial responsibility for children. These results suggest that payday loan customers are likely to be disadvantaged in a number of important respects and are likely to face significant financial challenges;[71]

- The important policy question is whether the restrictions on payday lending are appropriate to help them cope with these challenges to improve their personal well-being over time;[72]

- At present, there is no large-scale alternative to payday lending for many low-income consumers who need cash in a time of crisis. However, where clients are repeat borrowers, harm can result for those who get into a cycle of relying on small loans that, when added up, amount to a substantial amount of money;[73]

- US research suggests that consumers are assisted by a maximum amount that can be borrowed, a lower interest rate on the payday loan, and shorter terms for carrying the loan;[74]

- Information disclosure and financial education surrounding the payday

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[70] Simpson, PUB/COALITION – 14.
[71] Simpson, PUB/COALITION – 14.
[72] Simpson, PUB/COALITION – 14.
[73] Buckland, *Payday Lending Literature Review*, p. 13/14.
[74] Buckland, *Payday Lending Literature Review*, p. 6 citing Li (2006). Using data from an online payday lender making loans in 2006, Li (2012) found that decreasing the maximum interest rate that may be charged on a payday loan decreased the probability of default on the loan. As well, reducing the maximum amount that the consumer could borrow decreased the amount the consumer chose to borrow, decreased the length of time the consumer held the loan and decreased the probability of default on the loan. The consumer was helped by a maximum amount that could be borrowed, a lower interest rate on the payday loan and shorter term that the loan could be carried.

borrowing decision has a significant impact on whether a consumer takes out a payday loan. Getting a consumer to think more long term about adding up the costs of the loan over time reduces the frequency of payday borrowing;[75]

- Payday loan regulation in Manitoba has offered consumers of regulated alternative credit products significant benefits over the previously unregulated marketplace including:

    - A lower overall cost of alternative credit;
    - A slowing of the cycle of debt by capping the interest on repeat loans, capping the late payment fee, and capping the amount of total income that they can borrow; and,
    - Access to their right to redress, through the Manitoba Consumer Protection Office.

- Given these strides forward, this is not the time to increase the cap on payday loans in this province. Instead, it is time to take another step forward;

    - There is no compelling evidence to indicate that efficient payday lenders cannot operate at the current rate;
    - There is evidence from Dr. Robinson, the DFC results and the US experience suggesting that efficient payday lenders can operate within reasonable profit margins at 15%;
    - While 17% is better than any jurisdiction in Canada, it remains extremely expensive credit;
    - Any move to lower the cost of alternative credit will provide much-needed increased benefits to financially excluded alternative credit consumers.

- " Lines of credit", or payday loan-like products are a disturbing presence in the Manitoba marketplace. Many of the same concerns

[75] Buckland, Payday Lending Literature Review, citing Bertrand and Morse (2011).

with these products existed prior to the regulation of the payday lending industry:

- There is even more market concentration in Manitoba now than there was in 2010, especially if we consider only unlicensed alternative lenders; and,
- The formula or contract for purchasing a line of credit is complicated and incomprehensible to many consumers.

- Payday loan-like products (LOC's) are not significantly different from payday loans from a consumer perspective. Paying 90% of a loan and interest at the end of the month is not that different from paying 100% of the loan and interest on your next payday, which may be the end of the month:

    - There is significant potential for confusion and misunderstanding amongst consumers who mistake regulated alternative lenders, and regulated payday loan products, for unregulated lenders and products. These consumers are vulnerable to purchasing a credit product in error that is much more expensive than the one they intended to purchase.

- From an **equity** perspective, it is unreasonable to allow some businesses to operate without regulation providing very similar products to those provided by another business that has to abide by regulation.

Recommendations of the Coalition

Payday loans can cause harm to financially vulnerable persons through high interest rates, increased debt and cycles of debt. Because of this harm, fair regulation is required to protect consumers.

The Coalition takes the following positions:

1. Interest rates on payday loans should be capped at 15%
   a) Interest rates must remain reasonable. The Coalition believes that a rate is reasonable if it allows an efficient lender to recover costs and earn a reasonable profit, but not earn an excess profit. There is evidence that some Canadian payday lenders are earning an excess profit as compared to the American operations. It is clear from the American experience that payday lenders continue to profit when providing loans at an interest rate of 15%. A rate of 15% will allow efficient companies to continue to cover costs and earn a reasonable profit.
2. Interest rates of 5% on replacement loans, extensions, renewals and loans made within 7 days are appropriate
   a) A 5% interest rate cap on additional loans protects consumers from excessively large compounded interest rates while providing ongoing profitability to lenders.
3. A loan restriction of 30% of income is appropriate
   a) The loan restriction of 30% appropriately balances the potential immediate needs of the consumer for credit with the potential harm to the consumer of entering into irrecoverable debt.
4. Dishonoured cheque payments should reflect their actual cost to payday lenders
   a) The Coalition agrees that the $20 dishonoured cheque penalty in section 15.5 of the *Payday Loan Regulation* should be changed to reflect the actual cost of dishonoured cheque fees. The Coalition believes that payday lenders should not be required to cover the costs of dishonoured cheques and that customers should bear the cost of dishonoured cheques.
5. There is a need for increased education, transparency, and privacy protection in payday lending
   a) Based on mystery shopping evidence, the Coalition takes the position that payday lenders should provide additional information on fees, interest rates and APR, and should take appropriate steps to ensure the protection of consumers' personal information during the transaction.
6. Consumers should be protected from lenders with products similar to payday loans
   a) Companies offering the LOCs charge unacceptably high rates and provide

inadequate disclosure. Consumers using these services should be better protected.

7. Transparency in the Financial Literacy Fund
   a) The Financial Literacy Fund must be more transparent. The Coalition has four points on where this transparency is required:
      - The availability of and access to funds needs to be better publicized;
      - Information should be available on how much is available to be allocated;
      - Information should be available as to projects that have been awarded funding; and
      - Information should be available on the criteria for applying for use of the fund.

Appendix A

Introducing the Coalition

The Members of the Coalition

Winnipeg Harvest

Winnipeg Harvest is a non-profit, community-based organization committed to providing food to people who struggle to feed themselves and their families. We are also committed to maximizing public awareness of hunger while working toward long-term solutions to hunger and poverty.

Founded in 1984, Winnipeg Harvest opened its doors in 1985. Our immediate goal was, and continues to be, to feed hungry people. Winnipeg Harvest is a founding member of Food Banks Canada and the Manitoba Association of Food Banks (MAFB).

Community Financial Counselling Services

CFCS is a Manitoba not-for-profit corporation, a registered charity and a member agency of the United Way of Winnipeg that also receives funding from the Province of Manitoba, WCB and Winnipeg Foundation.

CFCS has provided credit counselling services since 1976 and is presently the only Manitoba-based, not-for-profit organization providing such services in the province. It is also a formally accredited member of Credit Counselling Canada, a national association of not-for-profit agencies and government debt repayment programs.

The staff of CFCS works with families and individuals to create both detailed, realistic assessments of financial resources and spending plans to manage living costs. Clients are informed of their rights and responsibilities, and all available options for resolving financial problems are reviewed. If a client wishes to propose a repayment plan to creditors that can be supported by their financial resources, CFCS will negotiate acceptance of the plan on behalf of the client. In addition, CFCS maintains a trust account through which it is able to establish and administer debt repayment plans.

Throughout the relationship with the client, the goal of credit counselling is to provide clients with the skills and resources needed to make informed choices on how to best manage their financial resources and fulfil their financial obligations.

In addition CFCS develops and delivers Financial Literacy programs in the form of seminars, workshops and presentations to a wide variety of community groups, agencies and organizations throughout Manitoba. CFCS partners with Canada Revenue Agency in The Community Volunteer Income Tax Program, a province wide program where volunteers complete more than 30,0000 income tax returns for low income Manitobans annually. CFCS is also funded by Manitoba Lotteries to work in partnership with Addictions Foundation of Manitoba in assisting problem gamblers and effected family members.

Consumers' Association of Canada (Manitoba)

The Manitoba branch of the Consumers' Association of Canada (CAC Manitoba) is an independent, not-for-profit, volunteer-based organization. Its mandate is to inform and educate consumers on marketplace issues, to represent the consumer interest with government and industry, and to work with government and industry to solve marketplace problems in Manitoba.

CAC Manitoba is guided in this work by eight Consumer Rights, which have been adopted by many consumer organizations around the world, and include the right to accurate and timely consumer and product information, the right to redress, and the right to a voice in making decisions for the marketplace. Formed in 1947, CAC Manitoba works to empower and represent the interests of all consumers in Manitoba, with particular focus on those groups of consumers that are more vulnerable in the marketplace, including rural consumers, consumers living with low or fixed income, newcomers, aboriginal consumers, seniors, and youth.

Public Policy Considerations Flowing from the Mystery Shopping and Exit Interviews[1]

• The provision of clear, understandable information regarding the costs and requirements of payday loan products by alternative (payday) lenders.

• Training to ensure that staff representing alternative lenders understand, and can explain, the above costs and requirements, and that they have the time and appropriate environment where this can take place, with a view to protecting the personal information and privacy of their customers.

• The regulation of new products in the marketplace that are "payday loan-like", but do not currently comply with the legislation.

• Alternative lenders now offer a myriad of services, from bank accounts, to currency exchange to lines of credit. Some of these, namely Lines Of Credit are troubling in that they may be seen as exploitive and circumventing the regulations. LOCs in particular revert to the 59.9% APR, have significant fees attached and encourage "rollovers". CFCS has seen clients who have secured 4 concurrent LOCs from different branches of the same payday lender. Widening the regulations to include these products needs to be considered.

• Ensuring that decisions related to the use of funds for consumer education are made in a transparent manner with appropriate stakeholder input.

• The provision of loans to clients with income sources other than employment. This practice needs to be explored from two perspectives:

    • CFCS has seen clients where EIA or CPP, OAS, or

1PUB/Coalition 48.

disability income has been used to secure loans. These are all low/fixed income clients. Provincial regulations under the Employment and Income Act prohibit EIA funds being used for anything other than intended purposes, which would not include loan repayments.

• However consideration must be given to the rights of EIA recipients to credit when necessary. This issue might be more a function of the EIA system where it is extremely difficult to obtain additional funds on short notice.

Supporting Material for the written submission of the Coalition in the Payday Lending Proceeding

Byron Williams
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3rd floor – 287 Broadway
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June 26, 2013

PUB/MPL -2. Operations (excerpt)

a) Please indicate what percentage of your payday loan business is representative of repeat business from the same customer vs one time transactions.

Our program does not capture that specific information. However, it does indicate the average number of loans per client. I would refer you back to the Yearly Stat sheet to “# of loans per Client”.

# of Loans per Client

2012	2011	2010	2009	2008
6.78	9.26	11.2	14.44	16.21

Payday Loans Consumer Profile based on the 2009 Canada Financial Capabilities Survey

Summary of Results[1]

- Payday loan consumers had lower household and personal incomes than non-consumers. The gap was not as large for the very lowest income category in each case as it was for the lower income categories just above it.

- Consumers of payday loans tended to have smaller tangible and financial assets and shorter term and more expensive debts (such as credit card and student loan debt rather than mortgage debt) compared to non-consumers.

- Consumers of payday loans were more likely to be fully employed but had lower education levels than non-consumers

- Consumers of payday loans were younger and more likely to live without a spouse or a common-law partner. However, more payday loan users carried financial responsibility for children compared to non-users.

- Almost half of payday loan consumers used the service at least three times during last 12 months and these users tended to have lower family incomes than less frequent payday loan users.

- Probit and ordered probit models corroborate the basic results above: lower household income, lower assets, employment, lower education, younger age,unmarried individuals, and financial responsibility for children each increase the probability of having taken out a payday loan and increase the probability of repeat use of payday lenders, even when other factors are accounted for.

1 Payday Loans Consumer Profile based on the 2009 Canada Financial Capabilities Survey.

Payday Lending Regulations by Province (as of January 2012)

Province	Maximum cost of borrowing for a $100, 2-week payday loan
British Columbia	$23.00
Alberta	$23.00
Saskatchewan	$23.00
Manitoba	$17.00
Ontario	$21.00
Quebec	
New Brunswick	
Nova Scotia	$25.00

Additional Documents of the PUB Issued June 20, 2013: Financial Consumer Agency of Canada report entitled "Payday Loans: An Expensive Way to Borrow" dated September 2012, pg 7.

American Rates – Payday Lending

Alabama	17.5% flat rate
Alaska	$5 + the lesser of $15 per $100 or 15%
California	15% of check
Colorado	20% on first $300 + 7.5% on the rest, plus 45% per annum interest plus monthly maintenance fee $7.50 per $100 borrowed, up to $30, after first month. (Min. loan term is 6 months)
Delaware	None
Florida	10% of check + maximum verification fee of $5
Hawaii	15% of check
Idaho	None
Illinois	15.5% flat rate
Indiana	15% on first $250; 13% on next $150 ($251-$400); 10% on next $150 ($401-$550)
Iowa	15% on first $100 on face of check; 10% thereafter
Kansas	15% flat rate
Kentucky	15% flat rate + $1 database fee
Louisiana	16.75% of face-value of check, not to exceed $45, + $10 documentation
Michigan	15% of first $100, 14% of second $100, 13% of third $100, 12% of fourth $100, 11% of fifth $100, 11% of sixth $100 + any database verification fee
Minnesota	$5.50: $0-$50; 10%+$5: $51-$100; 7% (min. $10) + $5: $101-$250; 6% (min. $17.50) + $5: $251-$350
Mississippi	Under $250: $20 per $100 advanced; $250-500: $21.95 per $100 advanced
Missouri	None. No borrower shall be required to pay a total amount of accumulated interest and fees in excess of

	75% of the initial loan amount on any single authorized loan
Nebraska	$15 per $100
Nevada	None
New Mexico	15.50% flat rate + .5% verification fee
North Dakota	20% + data basing fee
Oklahoma	15% on first $300; 10% on remainder ($301-$500)
Oregon	36% APR interest, plus 10% of loan amount as fee, up to $30
South Carolina	15% flat rate
South Dakota	None
Tennessee	15% of the face value of the check
Texas	Maximum APRs for payday loans range from 83.43% for a 30-day, $350 loan to 569.92% for a 7-day, $100 loan.
Utah	None
Virginia	36% annual interest + $5 verification fee + 20% flat fee
Washington	15% on first $500; 10% on rest
Wisconsin	None
Wyoming	the greater of 20% per month or $30

Source: PUB/Coalition 37, Appendix D.

Table 2: Summary Financial Results of the Largest Payday Lenders in Canada and the US

Table 2: Summary Financial Results of the Largest Payday Lenders in Canada and the US				
2011/2012	Revenue (MM)	Total Assets (000)	Net Income (000)	Return on Equity
Advance America 2011	$625.9	$431.6	$67.6	25.8%
Cash America 2012	1,800.4	1,818.3	107.5	11.1
2011	1,583.1	1,674.2	136.0	15.9
Cash Store 2012	189.9	200.7	-43.1	-ve
2011	187.4	121.8	9.0	10.6
Dollar Financial 2012	1,061.7	1,776.5	52.4	11.4
2011	788.4	1,661.5	64.2	15.2

Appendix E: DFC Global Segmented Financial Results 2011 and 2010

Source: DFC Global 10K 2011, pg. 58

Fiscal 2011 compared to Fiscal 2010

	Year Ended June 30, 2010	Year Ended June 30, 2011	
	(Dollars in thousands)		
Europe revenues:			
Consumer lending	$ 105,939	$ 196,884	%
Check cashing	33,601	29,592	%)
Pawn service fees and sales	19,899	48,013	%
Money transfer fees	6,184	8,127	%
Gold sales	30,674	29,271	%)
Other	17,165	22,007	%
Total Europe revenues	$ 213,462	$ 333,894	%
Operating margin	*35.6%*	*32.8%*	*)*
Canada revenues:			
Consumer lending	$ 147,851	$ 170,667	%
Check cashing	69,414	73,379	%
Pawn service fees and sales	—	30	%
Money transfer fees	16,439	19,203	%
Gold sales	11,917	14,767	%
Other	31,199	32,556	%
Total Canada revenues	$ 276,820	$ 310,602	%
Operating margin	*48.8%*	*49.5%*	
United States Retail revenues:			
Consumer lending	$ 65,675	$ 61,601	%)
Check cashing	46,459	41,083	%)
Money transfer fees	4,841	4,810	%)
Gold sales	427	2,499	%
Other	10,352	12,219	%
Total United States Retail revenues	$ 127,754	$ 122,212	%)
Operating margin	*21.2%*	*26.4%*	
Other revenues:			
Total Other revenues (included in other revenue)	15,245	21,659	%
Operating margin	*53.7%*	*53.9%*	
Total revenue	$ 633,281	$ 788,367	%
Operating margin	$ 246,340	$ 307,194	%
Operating margin %	***38.9%***	***39.0%***	

CPLA/Coalition 1-6

a) Did Environics ask what proportion of the sample used payday loans more than once?

No

b) Did Environics ask how many times respondents used payday loans?

No

c) Did Environics seek to identify repeat users in terms of age, income, education, etc.?

No

d) Did Environics ask whether the reasons of repeat users for using payday loans differ from those who use a payday loan only once?

No

CPLA/ Coalition 1-7

a) Did Environics ask respondents currently paying $17/100 loan whether they would be prepared to pay higher rates in order to make payday loan products more accessible to other Manitobans? If so, please summarize the response to that question.

No

b) Did Environics ask respondents whether they would prefer to pay rates based upon the current rate ($17/100) or at the higher Canadian average payday loan rates that the CPLA proposes? If so, please summarize the response to that question.

No

c) Did Environics ask respondents whether they would prefer to pay rates based upon the current rate ($17/100) or at rates lower than the current rates? If so, please summarize the response to that question.

No

PUB/COALITION – 39

a) Referencing Dr. Robinson's report p. 4, item no. 1 re: methods for fixing rate caps, provide information respecting the appropriate cost of capital and appropriate rate of return for Manitoba lenders.

Response

Dr. Robinson

The Board is seeking a significant quantity of analysis, replicating the original hearings. I have no reason to change my opinion from the previous hearing, and I reproduce here my answer to one of the PUB information requests from then. I used a real rate of return of 10% in my analysis as a rate that was in my opinion too high and therefore could not be reasonably criticized, but I also showed that variations in the cost of capital have a very small effect, because the business is labour-intensive, not capital-intensive. Here is what I said in 2007:

> **Please explain the rationale for suggesting that the rate of return should be as low as 7% vs. 10% as utilized in the analysis. [The PUB query]**
>
> First, I have to say that the rate of return is not very important in the analysis, because the vast majority of the costs are the operating costs and bad debts. This is immediately evident from the spreadsheets that form part of the answer of PUB/Coalition II-15.
>
> I am thinking in very simple terms, even simpler than those envisioned by 310-Loan's response to PUB/310 1-1. I start with a long-run TSX geometric mean real return of 5.3%. The TSX is a diversified portfolio, and the small investor could replicate it with an exchange-traded fund costing .17% p.a. plus the initial broker fee. Ignore the broker fee, and the annual return is 5.13%. How much more would an informed investor require to invest in the payday loan business? If the investor is already well-diversified, as a portfolio investor who is holding Money Mart or Rentcash shares as part of a larger portfolio ought to be, then a return dramatically different from 5.13% cannot be justified. I could make complex and learned arguments using finance theory for a rate less than 5.13% or greater than 5.13%. I don't think that these arguments are valid, and I will not raise them. The portfolio investor is not our problem. The problem is the undiversified investor who has put a significant part of his or her wealth into a payday loan company with only one or a very few stores. This investor will require a premium over the average equity return, as envisioned by 310 Loan's response to PUB/310 1-1. Finance theory does not provide useful answers for undiversified investors.
>
> How do I determine that 7% might be a reasonable rate? It is a premium of 36% over the diversified rate that this investor might otherwise earn with his or her money. As I have explained in many places, including my two reports and in responses to questions from the Board and intervenors, I do not consider the payday loan industry to

be remarkably risky. Bad debts are a significant expense, but there is no reason to suppose that they will fluctuate very much. Once the business is established, there is no evidence that its volume should fluctuate very much, either. The evidence is that volume continues to rise, except for the temporary drop in Rentcash results when it stopped allowing rollovers.

Ultimately, the proof is in what choices the individual investors are making. What alternative uses did they have for the money they put into the payday loan business and what would those uses have earned? I cannot put any better interpretation than to consider what I would want as a premium, given over 30 years of experience in making equity investments, sometimes highly undiversified, risky ones. I think a 7% return is reasonable for the risk in the payday lending business. On the other hand, I am quite willing to accept that other investors might want to earn 10% in real terms for the risk undertaken. A 10% real return is a 95% premium on the TSX alternative. I cannot see any justification for an expectation higher than that rate of return on an investment in a payday loan business, or indeed in any business.

PUB/COALITION – 40

a) Referencing p. 5, para. 4, Dr. Robinson identifies the U.S. as the "obvious" comparative jurisdiction under the second method. Explain why the U.S. market is comparable.

Response

Dr. Robinson

Most areas of Canadian public policy use the US for comparisons. Both countries have federal systems, and payday lending falls under state/provincial jurisdiction. English is the common language. Canada's largest alternative financial services provider, Money Mart, is wholly-owned by a US company, Dollar Financial Group. We both have democratic governments. The payday lending industry started in the US, probably in 1989 in Missouri. The business model is the same in both countries. The regulatory issues, and the responses to them, have been the same. Some states have effectively banned payday lending, as Quebec has. Most have regulated it, with rate caps, rollover limitations and limits on loans sizes, just as Manitoba has done. The rate caps are generally lower than Canadian ones, the loan size limits are almost always lower and the rollover provisions seem to be less restrictive in some states, and prohibitive in others. The industrial organization is a bit different, because there is more concentration in Canada, with the three largest lenders – Money Mart, Cash Store/Instaloans and Cash Money being more dominant and appearing in more places than the largest US chains. This concentration ought to lead to lower costs for payday loans in Canada, but has not because of the lax regulation in the provinces other than Quebec and Manitoba.

PUB/COALITION – 41

a) Are operating costs of payday lenders different in the U.S.? Please specifically discuss business tax, minimum wage, and employer contributions to employee benefits.

Response

Given the complexity and size of the question, we are not able to present a thorough answer within the existing time constraints and under the existing budget. We note that there have been a diversity of contrasting opinions expressed on the issue. These opinions may be linked to the political views of of the authors.

Dr. Robinson indicates that he disagrees with the approach of separating out costs and drawing conclusions. In the answer set out below, he notes tthe operating margins for Dollar Financial Group's Canadian operations are superior to both its US and European operations. He notes as well that even were average DFC revenues lowered to the $15 dollar per hundred range common to many US states, the operating margins for DFC in Canada would still be superior to those in the US.

Dr. Robinson

The best I can do is compare the US and Canadian segmented results for Dollar Financial Group, since this will minimize accounting differences and Money Mart is the largest single operator in Canada. Refer to Appendix E for a table of 2010 and 2011 results.

These results do not show the operating cost, but they do show the operating margin for Europe, Canada and the US. Operating margin is before income tax, and while they do not explicitly identify it, it should also be before interest expense. The most notable fact is the vastly higher operating margin in Canada, compared with the US and Europe. Revenues rose by an astonishing amount, and the operating margin increased. Money Mart clearly has a license to print money in Canada.

If we want to compare overall operating costs, we should reduce revenues to be comparable to the US. I will do this in a very simple fashion that will nonetheless reveal the difference. A common rate cap in the US is 15%. The rate cap in Ontario, which is by far the largest volume province, is 21%. To simplify this analysis, I assume that the average of all the Canadian provinces is 21%. Reduce the consumer lending revenue figures for Canada by six percentage points of 21, which is a proxy for reducing revenue to the same level per loan as a US store would collect, on average. This would reduce revenue by 6/21, which is 28.6%. Then adjust the operating margin by deducting the percentage effect. What is left is an operating margin as if prices were roughly at US levels, but costs are still Canadian. In 2010, the reduction in consumer lending revenue would be $42,285 (all figures in thousands). This is 15.3% of total revenue for Canada, and hence reduces the operating margin to 33.5%. In 2011 the reduction in consumer lending revenue would be $48,811 and operating margin would be reduced to 33.8%. These values are still far higher than the US (21.2% and 26.4%) and slightly lower than the European figures (35.6% and 32.8%). It seems that operating costs for Money Mart in Canada are much lower than they are for DFC Global in the US. Since the US wing of DFC continues to operate and DFC is expanding rapidly in Europe, this evidence supports a conclusion that the US rate caps are appropriate and the Canadian rate caps are much too high. I do note that the European operations are more difficult to compare with Canada, because they are expanding, and might possibly show higher operating margins after growing pains are finished.

PUB/COALITION – 42

a) Referencing p. 5, para. 5/bullets, please clarify Dr. Robinson's initial fee for default re: "$20 + NSF cost". Does Dr. Robinson agree with the current default fee regulation in Manitoba? Explain.

Response

The Coalition

The Coalition will consider Dr. Robinson's advice carefully and provide a final position in closing submissions.

Dr. Robinson

Parkland provided evidence that seems to show the banks are charging more for NSF cheques than current default regulation allows. Normal business practice in Canada is to charge anyone who defaults on a cheque at least the entire cost to the business of the bank's default charge against the supplier. These charges will increase over time. I recommend that regulation 15.4(1) be rewritten to allow full cost recovery, perhaps requiring the lender to give the borrower a photocopy of the bank debit charged to the lender. My proposed rule in 2008 included an additional charge to compensate for the work the lender has to do, but the regulations include charges for either default or extension loans, and so the extra $20 I recommended is not necessary.

PUB/COALITION – 52

a) Should the rural/urban distinction be considered in the review of policies or laws and regulations with regard to payday loans in Manitoba? If so, please explain and provide specific details.

Response

The Coalition

The Coalition appreciates the opportunity to respond to this question. We would, however, like to have the opportunity to discuss this further, in the light of reviewing the written responses of other interveners, before responding.

Dr. Robinson

I do not believe that any distinction should be made between rural and urban borrowers or payday loans made in the two areas. Quite aside from the difficulty of defining boundaries between the two when telephones, internet connections and car travel are universal, any change that attempts to set different rules to help one group has much wider and possibly undesirable effects on all payday borrowers.

The CPLA brief recommends raising the fee cap so that more lenders will enter the business, or the existing lenders will expand their services. This argument fails to acknowledge the basic reality of the economics of payday lending. A payday loan store is a small business, and the key success factor for most small businesses is achieving enough volume of sales to cover the fixed cost of opening the doors every day. Payday lenders are no exception, as I testified before the PUB in 2007-08. Their annual reports and the Ernst & Young study cited previously show that 70 – 80% of the costs are the operating costs of the stores. The average store will make between $500,000 and $2,000,000 of loans in a year. If the revenue is 17% of loan volume, that is a total sales volume of $85,000 - $170,000 p.a. Even if the revenue cap were at the unreasonably high Nova Scotia level of 26%, those volumes would still yield only $130,000 - $520,000 p.a. gross revenue. You could think of it a different way. If the average loan size is $400, these average stores would make 1,250 – 5,000 loans p.a. The stores are usually open seven days a week, minus a few statutory holidays. Let us suppose that they close one day a week plus statutory holidays and are open only 300 days per year. The stores would make an average of four to 15 loans per day. By any measure, these are very small businesses. If you add cheque cashing and various other financial services, you cannot even double the volume of business.

This leads to several further observations. First, increasing the price of a service that is not a luxury will reduce the volume in the long run. Payday borrowers will have to pay more, there will be more defaults and the debt traps will get larger, faster. Only a relatively small proportion of the population uses payday loans, and they have a finite amount of money that they can spend on payday loan fees.

Second, let us look at the current population of urban areas that do have payday lenders. Population figures are from the 2011 Census. Only three centres seem to have enough people to support the number of payday lenders in them. It seems reasonable to assume that the smaller centres are also drawing on a rural population from a substantial distance around them. What will happen if the rates are raised to 21% from the current 17%? First, the 66% of the population who are in the three centres that have enough population to support the existing stores will pay an extra 4% on their loans. In 2008 in my submission to the PUB I estimated the total loan volume in Manitoba at $102 million. The CPLA is free to provide evidence that this estimate is wrong, but without other evidence, my estimate is all we have. Inflation of about 2% p.a. would have raised this number to approximately $113 million. Suppose every person in Manitoba had access to a payday lender today, but without rate increases only 66% of them would have access tomorrow – the residents of Winnipeg, Steinbach and Brandon. The payday borrowers in those three cities would pay an additional $2.7 million p.a. in fees. The borrowers in the smaller communities will also pay 4% more on every loan, but the CPLA argument is that they would pay this figure rather than lose the service. All of the analysis in this paragraph assumes that no loans are currently made over the internet to residents of smaller communities, and that is clearly untrue.

Payday Lenders and Population of Cities and Towns

	2011 Population	2013 Payday Lenders	Lenders per capita	% of Population
Winnipeg	730018	39	18718	60.4%
Brandon	53229	5	10646	4.4%
Steinbach	13524	1	13524	1.1%
Portage	12996	3	4332	1.1%
Thompson	12839	3	4280	1.1%
Winkler	12005	0		1.0%
Selkirk	9934	2	4967	0.8%
Dauphin	8251	2	4126	0.7%
Morden	7812	0		0.6%
The Pas	5689	2	2845	0.5%
Flin Flon	5592	3	1864	0.5%
Swan River	3859	1	3859	0.3%
Internet		2		
Manitoba	1208268	63	19179	

Third, look at the number of people per store in the smaller communities. Clearly, volume is a more critical issue than the price. A rise in price will not induce payday lenders to set up shop in every hamlet in Manitoba. If there is to be payday loan service in the small communities it will have to come via the internet, the telephone or a general store that already sells groceries, hardware, gasoline, clothing and who knows what else. The baker who cannot get enough business in a small town to survive does not suddenly become a success by increasing his prices by 25%.

The one concession the PUB could make is to lower the registration fee the government charges for stores operating in small centres. I do not recommend this, but at least it would not have the effect of overcharging consumers in larger centres that a rise in the fee cap would have.