

The Public Utilities Board of Manitoba

2013 Payday Loans Review

CPLA Answers to Public Utilities Board Information Requests

PUB/CPLA– 1.

- a) Please provide a membership list, location of member businesses, and whether each member business is considered a small or large volume lender (over / under \$1 m. annual lending).

A list of members is attached.

The CPLA has no information on the volume of loans provided by each member.

PUB/CPLA – 2.

- a) What consumer information is produced by CPLA? Produce copies? How is it made available to member businesses?

Attached is consumer information produced by the CPLA.

CPLA brochure “Using Payday Loans, A Guide to Responsible Borrowing” is produced by the CPLA. The brochure is made available to members via PDF for them to print or CPLA will ship brochures for members to display in stores.

CPLA current year Members door and window decals are sent to member stores each year. Members put the decal on the door so borrowers can see the lender is a member of the CPLA.

PUB/CPLA– 3.

- a) Does CPLA mandate availability or distribution of consumer information? If so, provide details.

The CPLA makes material available to members and encourages members to print material and make it available in their outlets.

PUB/CPLA– 4.

- a) For all member businesses please provide a sample loan application form or provide loan application criteria required for a loan advance.

Attached is a loan agreement for Money mart and loan application for Xtra Cash.

PUB/CPLA– 5.

- a) Other than not meeting the basic loan application criteria, under what circumstances would CPLA members refuse to loan to a customer?

310-Loan indicates they have developed an extensive list of proprietary underwriting criteria designed to evaluate the credit worthiness of an applicant. They would refuse credit to any customer who, based on this criteria, did not demonstrate the ability to repay their loan. Cash Money indicates that in addition to other matters Cash Money would not grant a loan to a customer if it had an outstanding unpaid loan with Cash Money. The other members declined to answer on the basis that credit underwriting is proprietary information.

PUB/CPLA– 6.

- a) Do CPLA member businesses inquire about other outstanding payday loans that a customer may have?

The CPLA does not have this information. Conditions of lending is proprietary information to each lender.

PUB/CPLA– 7.

- a) Reference pre-filed evidence – p. 3, item (c) – please explain the public interest components with respect to allowing payday loans to be available without regard to credit history?

Each lender develops its own credit scoring and risk criteria. Generally speaking, borrowers with poor credit history are of greater likelihood of defaulting on their loans. As a result the cost of lending to this category of borrower is greater than the cost of lending to other borrowers. Therefore the lower the maximum rate, the greater the category of borrowers with poor credit history that will be denied access to this form of credit.

PUB/CPLA– 8.

- a) Please elaborate on the public interest in respect of the comment as to “geographic location”.

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. If the maximum fee for providing a loan is low then volume of loans must be greater in order to cover the lender’s costs. In rural or smaller centres with a small population base there may not be a large enough population to generate the volume of loans to support the operating costs of a lender. As a result the lower the rate the greater the likelihood there will be fewer payday loan outlets in rural areas.

PUB/CPLA– 9.

- a) Do any of CPLA’s Manitoba members provide online payday loans to Manitoba borrowers? If so, are they licensed in Manitoba? If not, please explain.

Manitoba Payday loan regulations require any entity providing loans into Manitoba must be licensed. One member, 310-Loan advises that they provide loans online and are licensed.

PUB/CPLA– 10.

- a) How does availability of internet lending impact the public interest issue respecting “geographic location”?

It is true that people in rural areas will have access to internet loans however not everyone is fluent or comfortable with obtaining a loan over the internet. Also there is often a delay in the time of deposit of funds in the borrower’s account once a loan is concluded due to bank timing of processing transactions and borrowers usually wish to have immediate access to funds.

PUB/CPLA – 11.

- a) With reference to p. 3 item (d) and Schedule A graph “National Payday Lenders 2007 – 2013”, confirm that the industry in Canada has shown contraction between 2011-2013.

The contraction represents the exclusion of The Cash Store and Installoan outlets in Manitoba and Ontario from the total National list of licensed lenders.

PUB/CPLA– 12.

- a) Provide graph/Manitoba/formatted the same as Schedule (B) for each province representing same data groups.

Attached are graphs for each province.

PUB/CPLA– 13.

- a) With reference to p. 3 item (e), what point is CPLA making in respect of current rates and regulatory regime in Manitoba?

Many borrowers who seek payday loans do not have access to other credit facilities. If a borrower needs \$300-\$400 and cannot obtain a payday loan they may be forced to obtain credit elsewhere that is more costly.

PUB/CPLA– 14.

- a) How does CPLA propose that Manitoba establish the national average rate? Provide supporting calculations. What rationale supports this submission by CPLA respecting Manitoba rates?

The CPLA has no expertise in determining the method to establish a national rate. It could merely be an average of all rates or based on population. The rate in Ontario is \$21.00. The rate in Nova Scotia and PEI (when it proclaims its regulations) is \$25.00. BC, Alberta and Saskatchewan is \$23.00. The CPLA would recommend a maximum rate of \$23.00.

PUB/CPLA– 15.

- a) What are the standards applicable to CPLA membership?

To be a CPLA member a lender must be licensed in the province or provinces in which it provides loans. It must comply with the Code of Best Business Practices. A copy of the Code is attached.

- b) Produce the most current copy of CPLA's Code of Best Business Practices.

The Code of Best Business Practices is attached.

PUB/CPLA– 16.

Referencing p. 5 of evidence, Consumer Response and Resolution Bureau (CRRB):

- a) How many complaints in total nationally in 2012? To date in 2013? (Please answer the same question for Manitoba). Provide explanation as to categories or nature of complaints.

2012 - 34 complaints in Canada, 0 in Manitoba
2013 - 26 complaints in Canada, 0 in Manitoba

The CPLA does not keep a record of complaint categories. The nature of complaints that are received include the borrower has lost a job and needs to set a different payment structure, complaints about collection procedures, questions about the maximum amount that can be charged for a loan, removal of funds from bank account before a due date.

- b) What is the protocol applied to resolution?

When the CRRB receives a complaint about a CPLA member, it passes the complaint on to the member company. The CRRB then follows up with the member to ensure the issue has been resolved.

When a complaint is received about a non CPLA member, the CRRB advises the complainant of the contact information and phone number of the provincial consumer protection office and also provides a link to the Canadian to the Canadian Consumer Handbook. www.consumerhandbook.ca/en/topic/financial Sometimes a suggestion is made to the caller to contact a not-for-profit credit counselor.

- c) Is there any discipline model applicable within CPLA for its members?

If the CPLA becomes aware that a member is not in compliance with the Code of Best Business Practices it will work with the member to ensure that it comes into compliance. Ultimately, if it fails to comply, the CPLA has the option to terminate its membership.

PUB/CPLA– 17.

- a) How are consumers made aware of the CRRB, within respect to store fronts and internet CPLA lenders?

Consumers are made aware of the CRRB by reference on the CPLA website and CPLA brochures that are in member outlets.

PUB/CPLA– 18.

- a) Referencing p. 5 of evidence and the payday loan definition in Manitoba, does CPLA have a position as to whether similar loan products, such as line of credit – type loan should be regulated in a similar way?

The federal government regulates maximum rates of borrowing. By the amendment of Sec 347 of the Criminal Code it transferred this jurisdiction in respect of small short term loans to any province that elected to regulate and set maximum fees for such products. The amendment to sec 347 defined the product as an unsecured loan of \$1500 or less for a term of 62 days or less. If the loan is for a term over 62 days or an amount greater than \$1500 the only the federal government has jurisdiction to regulate. Our members in Manitoba advise us that they do not offer other loan products.

PUB/CPLA– 19.

- a) Referencing p. 6 of evidence and CPLA Manitoba members, did the members reduce either or both of (i) store front outlets or (2) internet lending after 2010 regulation?

Yes. Quick Loans, Money Mart, National Cash Advance and Dash Into Cash.

- b) If so, please provide the specific factors which led to the specific outlet reductions or internet offerings.

310-Loans indicates they have reduced resources such as customer service staff assigned to Manitoba in an effort to compensate for the low total cost of borrowing cap in Manitoba. Fast Cash Co. indicated that they had three outlets in Manitoba but were forced to close one of the outlets after regulation came into effect. Staffing has been reduced at the other two outlets and hours of operation have been reduced as well. Extra Cash indicates regulations have resulted in a reduction of hours of operation.

PUB/CPLA– 20.

- a) With reference to the report of Dr. Chris Robinson filed by CAC, p. 7, Dr. Robinson reports the decline in outlets to be consistent with the normal progression observed in most new industries. Does CPLA agree? If not, provide explanation of response and information source to support response.

The decline in outlets in Manitoba is greater than the rest of Canada and is therefore does not appear to be consistent with the normal progression of new industries if that theory is correct.

PUB/CPLA– 21.

- a) Comment on Dr. Robinson's assertion that Manitoba's cap is still higher than in most U.S. jurisdictions, where the industry remains viable.

The CPLA does not have experience with the US market. We understand that legislation, cost models and lending practices are very different.

PUB/CPLA– 22.

Referencing the Consumer Survey by Environics:

- a) Respecting "250 interviews", please define "interview".

A telephone survey interview.

PUB/CPLA– 23.

Environics identifies statistical significant as "results are considered accurate to within +/- 6.2% points, "19 times out of 20", and "the margin of error for subgroups will be wider."

- a) What is typical range of accuracy ("+/-") for Environics polling, regardless of sample size?

Margins of error are always related to sample sizes – the larger the sample size, the tighter the statistical accuracy. A sample size of +/-6.2 percent 19 times out of 20 means that if the same poll were fielded 20 times, the results to any given question would fall within 6.2 percentage points of this poll, 19 times out of 20.

Most of Environic's national polls are based on samples of 1,000 (+/- 3.1%, 19 times out of 20), but when they do surveys of specialized audiences or regional markets, sample sizes often fall to between 100 (+/-9.8%) and 400 (+/-4.9%). In a national sample of 1,000, the sample allocated to Manitoba would be n=36. With n=250, this poll is considerably larger than that.

- b) Comment on +/- 6.2%, as to usefulness of results?

As noted, the +/-6.2% confidence interval is a measure of statistical accuracy for all the results in the study. That, along with the statistical significance indicators in the report allow the reader to determine whether differences over the prior study or differences between subgroups are significant or not.

- c) Explain the reference to greater margin of error for "subgroups" in report methodology.

Because subgroups such as gender and age break the total sample size down into smaller groups, the margin of error grows for them.

- d) How many subgroups are being reported? Comment on usefulness of subgroup data in this case.

The main subgroups focused on for reporting include gender (male/female) and age (<35, 35-54, 55+).

PUB/CPLA– 24.

- a) Was Environics asked to poll borrowers as to percentage of consumer debt vs. disposable income? What is this rating as compared to national average for Canadians?

No

PUB/CPLA– 25.

- a) Environics Study – Q10 – 98% of customers surveyed say they pay loans back in full, on time, or most of their loans on time. Is this percentage confirmed by CPLA's (a) national experience?; (b) Manitoba members?

The CPLA is an industry association and does not have experience in this regard. The experience of members is proprietary.

PUB/CPLA– 26.

- a) Referencing the data on p. 7 of study, "48% have a major credit card and 45% have overdraft protection at their bank." Can CPLA explain why these borrowers would use payday loan products instead of their existing borrowing options? Was this question asked of the interview participants?

We do not have this information. The question was not asked in the survey.

PUB/CPLA– 27.

- a) Referencing p. 8 of the study, did Environics explore the reasons why payday loan products have lowest satisfaction level?

They did not.

PUB/CPLA– 28.

- a) Have CPLA Manitoba members conducted any consumer surveys in 2011 to 2013? If so, please produce results.

Fast Cash Co. indicates they have conducted an in-house consumer survey in 2011 and the results are proprietary. The other members indicate they have not conducted any studies.

PUB/CPLA – 29.

Referencing p. 9 of the study, were borrowers asked about their knowledge of total cost of borrowing on an APR basis for payday loan products and any other credit/loan products?

They were not asked this question.

PUB/CPLA– 30.

- a) Have CPLA members surveyed their borrowers knowledge respecting Question 29 / APR knowledge, above?

Our members indicate they have not surveyed their borrower's knowledge of this.

PUB/CPLA– 31.

- a) Referencing p. 11 of the study, please explain/clarify the meaning of green arrow and red arrow, respecting "previous wave at the 95% confidence interval". What is the importance of these indicators for the purpose of the study?

The arrows identify which changes in results between 2007 and 2013 are statistically significant, and the direction they changed by. For example, compared to 2007, respondents are significantly less likely to say they would borrow from a family member (16% in 2013 is significantly lower than 23% in 2007, based on the sample sizes asked in each year).

PUB/CPLA– 32.

- a) Referencing p. 12 of the survey, does the indicated lack of knowledge of borrowers as to licensing and regulation (59% v. 41% who are knowledgeable) suggest more consumer education or awareness is necessary?

As most people are not aware of regulation in many industries we believe the level of awareness of regulation of the payday loan industry after a few years is very high. This is likely due to the mandatory disclosure posters and standardized regulation information on contracts.

PUB/CPLA– 33.

- a) Referencing p. 17 of the study, did Environics survey the general Canadian and general Manitoba population respecting attitudes on the (4) questions.

No

PUB/CPLA– 34.

Referencing p. 17 of the study:

- a) Why were credit cards used as a comparative product? Does the form of the questions impact results? Explain.

Credit cards were used as an example to explain the concept of making credit available to users so long as they fulfill their obligation of paying it back.

- b) Why were pawnbrokers and title loans used as comparative products?

Title loans and pawn brokers are often used by those who find themselves in difficult financial circumstances and in need of short-term loans.

PUB/CPLA– 35.

- a) Referencing the Dr. Wayne Simpson and Dana Bazarkulova Report filed by CAC, respecting “summary of results”, please confirm if CPLA agrees with the results findings? If not, please provide areas of disagreement with any supporting data for CPLA’s position.

We do not have comparison information for the general population. The Simpson/Bazarkulova Report looks at studies done across Canada of payday of payday loan users between 2005 and 2009 whereas the Environics study is a study of Manitoba users in 2013. The income categories and level of full time employment of borrowers is fairly similar between the two reports. The level of education of Manitobans in 2013 appears to be somewhat higher. The borrowers in the Environics study generally appear to be older and a greater percentage were married as opposed to single. The CPLA does not have evidence or surveys on the other attributes referred to in the Simpson/Bazarkulova Report.

PUB/CPLA– 36.

- a) Referencing p. 7 of the evidence, para. 3, as to the unintended consequences, provide the details of the jurisdictions where the consequences have occurred.

One of our members advised us that when Washington State introduced amendments to payday lending regulations in 2009 which restricted borrowers access to credit the state

financial regulator saw a significant rise in complaints in respect of unlicensed internet lenders. Attached are press releases of the Washington State Department of Financial Institutions.

<http://www.dfi.wa.gov/consumers/news/2010/unlicensed-internet-lenders.htm>

<http://dfi.wa.gov/consumers/alerts/7-day-loans.htm>

<http://www.dfi.wa.gov/consumers/news/2012/western-sky-financial.htm>

<http://www.dfi.wa.gov/consumers/news/2010/celebrity-short-term-loans.htm>

<http://www.dfi.wa.gov/consumers/news/2011/checkmania.htm>

<http://dfi.wa.gov/consumers/alerts/gentle-breeze-online.htm>

PUB/CPLA– 37.

- a) Pp. 7-8 of evidence, what does the term “unlicensed lender” mean?

The term “unlicensed lender” means an online lender that provides loans to residents in a province and has not applied for and obtained a lending license in that province.

PUB/CPLA– 38.

- a) For all Manitoba CPLA members, does each member intend to remain in business in Manitoba for next 12 months?

310-Loan indicates that it is not certain. It continues to review its participation in Manitoba in each quarter. Fast Cash Co. indicates that if the cost of licensing and regulations regarding percentage of pay and the total cost of borrowing do not increase they will likely be forced to close all their remaining stores in Manitoba. Extra Cash reviews its participation in Manitoba every quarter. Cash Money indicates yes. Money Mart declined to answer the question.

PUB/CPLA– 39.

- a) Has membership in CPLA Manitoba branch dropped as a result of lenders exiting the industry in Manitoba since 2010? Have any lenders that have exited the industry in Manitoba also ceased operation in other jurisdictions?

Question 1 – Yes

Question 2 – We understand National Cash Advance closed outlets in BC

PUB/CPLA – 40.

- a) Evidence p. 9-10: With reference to the specific distinctions in U.S. market as to the tribal lending phenomenon, explain with supporting source information the conclusion as to why the current market conditions for the payday loan industry prevent this phenomenon from happening in Canada?

We do not have any evidence to support why this phenomenon does not exist. We would speculate that because the market is adequately served in Canada due to stable and balanced regulation the opportunity to exploit the market in this way does not exist.

PUB/CPLA– 41.

- a) Referencing p. 10 of the evidence, please identify current examples in each regulated Canadian jurisdiction where the lending program has changed to circumvent the regulations?

The CPLA does not have this information.

PUB/CPLA– 42.

- a) Do any CPLA Manitoba members have product lines for small loan lending other than payday loans? If so, provide these other product details for each such member.

Our members advise that they do not.

PUB/CPLA– 43.

- a) Provide 2011/2012 financial statements for 5 CPLA Manitoba members (in confidence).

The CPLA does not have this information.

PUB/CPLA– 44.

- a) Please confirm CPLA's position (or for each of 5 members provide a position) as to a reasonable rate of return for the payday lending position of their business?

The CPLA cannot speak to this.

PUB/CPLA– 45.

- a) Referencing Dr. Robinson's report, p. 9-10, Dr. Robinson concludes that the Ontario rate of \$21.00/100 is too high, as rate competition as occurring below that rate, with competitors remaining in the market. Does CPLA accept Dr. Robinson's analysis? If not, provide rationale to explain the Ontario market activity?

The CPLA does not accept this analysis. His answer presumes that lenders should be regulated as a utility. Payday lending is not a utility provided to every resident in the province like gas or electricity and payday lenders are not monopoly providers. Each lender's costs, size and volumes are different, We believe the maximum lending rate should be set as a ceiling below which lenders can compete on price and service in different geographic locations that have different populations with different volumes. Therefore evidence of competition is a good thing rather than evidence that the rate is too high.

PUB/CPLA– 46.

- a) Referencing p. 9 of Dr. Robinson's report, he indicates there is no evidence of loan volume per store decreasing. Is CPLA able to produce evidence of decreased volume per store for its Manitoba members and if so, please provide data.

The CPLA does not have evidence of loan volumes of members.

PUB/CPLA– 47.

- a) For multiple outlet Manitoba CPLA members, please confirm if aggregated sales volume per lender has increased or decreased and provide supporting data.

The CPLA does not have evidence of loan volumes of members.

PUB/CPLA– 48.

- a) Referencing evidence, p. 11, "Consumers can and do obtain such credit elsewhere at higher costs and greater risks". Provide details regarding such current borrowing options in Manitoba, and any source information available.

Schedule "F" contains examples of credit options in Manitoba. Because they are unlicensed and their location unknown this poses the risk to consumers. In addition, the line of credit product described in "Report on Mystery Shopping Payday Lending & Payday Lending-Like Outlets in Winnipeg" by Dr. Buckland is more expensive than payday loans.

PUB/CPLA – 49.

- a) Referencing the Report on Mystery Shopping filed by CAC, does CPLA and / or its Manitoba members have a response to the findings in the Report regarding privacy concerns for customers? Does CPLA and / or its members have any privacy policies or guidelines in place to comply with applicable privacy laws?

Our members advise that they have privacy policies in place and comply with privacy laws.

PUB/CPLA – 50.

- a) Beyond the current statutory wording requirements in Manitoba, does CPLA and /or its Manitoba members make credit counseling information available to its customers? If so, under what circumstances? What specific information is provided?

CPLA provides members with the CPLA brochure as well as the brochure of Community Financial Counselling Services (CFCS).

PUB/CPLA – 51.

- a) Does CPLA have any information or data available regarding provision of payday loans in Southern Canadian rural / Northern Canadian rural areas (including small urban centres) and the characteristics of lenders and borrowers in these geographical locations? Please provide available information including information specifically for Manitoba if available.

No

- b) 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.

No

- c) Does CPLA represent any members found outside the cities of Winnipeg and Brandon?

Yes, 4 outlets. See Schedule PUB/CPLA-1

PUB/CPLA – 52.

- a) Have any other Canadian jurisdictions identified or addressed rural / urban distinctions in the payday loans industry? Please provide available information.

Not to our knowledge.

PUB/CPLA – 53.

- a) Please produce any information, including papers, studies or data which CPLA has on the financial literacy of Canadians or any initiatives underway in Canada/Provinces of Canada, including Manitoba, to address financial literacy of the general public and financial services consumers.

Below are sites to material on financial literacy.

<http://www.fcac-acfc.gc.ca/eng/consumers/budgetmoney/index-eng.asp>

<http://www.fcac-acfc.gc.ca/eng/education/index-eng.asp>

<http://www.themoneybelt.ca/financialbasics-financespersonnelles-eng.asp>

http://www.ic.gc.ca/eic/site/oqa-bc.nsf/eng/h_ca02144.html

<http://www.ic.gc.ca/eic/site/cmc-cmc.nsf/eng/fe00137.html>

<http://www.cba.ca/en/consumer-information>

<http://www.moneymart.ca/education/>

<http://elearning-examples.s3.amazonaws.com/What%20your%20teachers%20never%20told%20you/player.html>

<http://abclifeliteracy.ca/financial-literacy-2012>

<http://www.mymoneycoach.ca/>

<http://www.servicealberta.ca/561.cfm>

<http://practicalmoneyskills.ca/>

<http://www.getsmarteraboutmoney.ca/managing-your-money/planning/financial-planning/Pages/default.aspx>

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TO: Canadian Payday Loan Association (“CPLA”)

PUB/CPLA – 54.

For all CPLA members in Manitoba on an aggregated basis, please produce the total annual number of borrowers, and total annual number of loans for all years from 2008 to 2012 inclusive.

Answers from the CPLA

Our members have not provided us with this information.