

***A REGULATORY SUCCESS STORY -  
PROTECTION, ACCESS AND  
SUSTAINABILITY IN MANITOBA***

**CLOSING SUBMISSION OF THE PUBLIC INTEREST LAW CENTRE (PILC)  
ON BEHALF OF THE CONSUMER COALITION**

**April 18, 2016**

# The Coalition

## **Consumers' Association of Canada (Manitoba Branch)**

- non-profit, community based - over 400 members and donors
- interacts with roughly 14,000 consumers annually through research and consumer education and information centre
- about 6,000 Manitoba consumers annually attend information sessions and workshops

# The Coalition

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## Winnipeg Harvest

- non-profit, community-based organization - providing food to people who struggle to feed themselves and their families
- partners with more than 340 agencies to distribute surplus food to hungry families all over Manitoba
- shares food through the Manitoba Association of Food Banks
- more than 63,000 Manitobans receive food from food banks each month

# The Coalition

## **Community Financial Counselling Services (CFCS)**

- non-profit, community-based - free of charge credit counseling to individuals
- delivers education and financial literacy programs, seminars and workshops
- advocates on behalf of Manitobans for fair practices in lending, debt repayment and financial services
- CFCS partners with CRA - free income tax preparation  
- 30,000 low income Manitobans annually

# Client Objectives

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## Voice for Manitoba Consumers

- Consumer Panel
- 130 interviews
- 9 longer interviews
- 2 focus groups (over and apart from client led focus groups)
- National surveys

# Client Objectives

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- Balance consumer access and consumer protection with industry sustainability in a transparent, publicly accessible process

# Client Objectives

7

- enhance MB reputation as Canadian leader
- good advice to government

# Good Advice to Government

8

- success of MB model
- essential elements of industry analysis (wheat from the chaff)



# Good Advice to Government

9

- key evidentiary findings to protect the government from results driven lobbying

# Success of Manitoba Model

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## **Thank you from Mr. Shemley**

*And by the way, talking about interest charges and stuff, my brother lives in Edmonton, and he uses these companies. And when I tell him what I pay, he flips out. Only that much? Only that much? So I thank you guys for regulating the limit on interest and that.*

p. 181/182

# Success of Manitoba Model

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## The Original Choice

- efficient industry sustainable at \$17/100
  - control bad debt costs
  - control operating costs
  - urban centres (economies of scale) – volume would continue to exist
  - rural (economies of scope)

# Success of Manitoba Model – A Good Choice

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## The Original Choice

- price competition would not exist in imperfect marketplace
- rejected Industry requests for \$21/100 and \$25/100
- consolidation - high bad debt – RentCash

# Success of Manitoba Model – A Good Choice

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*the maximums it will set herein will be adequate to allow for the survival and continuance in business of **efficient payday lenders**, though it acknowledges that the approach may result in considerable consolidation in the industry and will likely result in the exit from the industry of several firms and outlets*

39/08, p. 233

# The Manitoba Model – Significant Savings for Vulnerable Consumers

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- MB \$17/100
  - Ontario \$21/100, NS \$22/100 Sask, AB, BC, \$23/100
  
- Ontario rate/100 more than 23% higher

# MB Model Correct Judgement – price caps and competition

15

rejects the premise that existing competition within the industry is sufficient to protect consumers and will lead to competitive and efficient payday lenders offering lower rates. The industry is highly concentrated and operates with a symbiotic relationship amongst the firms in the industry (39/08, p. 233)

# MB Model Correct Judgement – price caps and competition

16

*What the PEW Trust research found was that when the caps were put in place, payday lenders typically moved to that cap. Whether they were below it or above it, they -- they moved to that cap*

p. 280-81 – Buckland

Money Mart complex fee schedule, average loan cost was about \$19 per hundred. Cash Money charged flat \$20 per hundred. Ontario regulated at \$21, some other provinces at \$23. Cash Money and Money Mart rates are at the maximum in those provinces now.

Robinson, Exhibit 36, slide 8



# MB Model Correct Judgement – price caps and competition

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high cap (and market dominance) contributing factors to DFG very high operating margin Canada

	2013	2012	2011
Europe retail	24%	30%	34%
Canada retail	49	51	50
US retail	25	27	26
E-commerce	19	32	30

Robinson, Exhibit 36, slide 11

# MB Model Incented Efficiency Rural Economies of Scope

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*Prior to the 2010 regulations, PPL charged \$23.00 per \$100.00 of payday loan advances. The rate cap of \$17.00 per \$100.00 in 2010 combined with a total \$6,000.00 license fee and education levy caused PPL to reconsider its business model. PPL chose to diversify. The business went from 600 sq. ft. and 4 employees to 8,000 sq. ft. and 17 employees. PPL confirmed that its products and business lines include purchase and sales of new and used furniture and appliances, scrap gold purchases, jewellery sales, cheque cashing and payday loans.*

**2013 PUB Order (p. 13), Parkland Payday Loans and The Pas Payday Loans**

# MB Model – Distinguish Evidence and Assertion

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*CPLA recommends that Manitoba: increase its payday loan cost of credit to \$23.00 per \$100.00 loaned. CPLA submits that this is closer to a national average and will foster competition in Manitoba.*

2013 PUB Order (p. 27)

*Moneytree Payday Loans (MPL) seeks to have the rate cap increased to 23% to correspond with other rates in Western Canada. Competition amongst lenders would result in rates lower than the cap.*

2013 PUB Order (p. 12)

# MB Model – Distinguish Evidence and Assertion

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Profitability for **efficiently run payday lending** operations is being achieved in Manitoba at the current 17% rate and in accordance with the loan amount restrictions existing under Manitoba regulations (2013 Review, p. 65)

# MB Model – Maintains Access

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*The hours are flexible, there's no doubt about it. Especially the one at 24 hours is pretty awesome because you know when you come from out of town you want to do something. They're all over. They're accessible all over, like there's just one right behind here. Actually there's two in this area.*

Interview Participant 8, repeat borrower  
(St Aubin, Exhibit 35, slide 17)

Statistically significant evidence that Manitobans make comparable or higher usage of payday loans than other provinces (SFS, Simpson regression analysis)

# MB Model – Maintains Access

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2013

Inner city - 13

Suburban - 14

Total - 27

2014

Inner city - 12

Suburban - 14

Total - 26

2015

Inner city - 13

Suburban – 14

Total – 27

Tab 8 of the Coalition's March 24 filing.  
Data from the Manitoba Consumer Protection Office.

# MB Model – Maintains Access

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- payday lenders continue to be heavily concentrated in inner city of Winnipeg
- evidence of co-location between two largest lenders in Manitoba – (ie1 Cash Money 311 Henderson Hwy/MoneyMart 215 Henderson Highway) (ie2 Cash Money 647 Portage Ave/Money Mart 879 Portage Avenue)

# MB Model – Maintains Access

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- despite smaller population centres industry continues to exist in rural areas including Brandon, Dauphin, Swan River, The Pas and Thompson
- new entrant to the payday lending market in Thompson in 2015 (MM)



# MB Model – Maintains Access

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- more payday lenders in Brandon Manitoba than in the province of PEI (2) despite \$25/100 rate cap in PEI
  - Money Mart - 750 Victoria Avenue - Unit A  
3928366 Manitoba Ltd. dba
  - The Fast Cash Company - 840 McTavish Avenue - Unit A  
3928366 Manitoba Ltd. dba
  - City Cash Co. - 840 McTavish Avenue - Unit B

# MB Model – Maintains Access

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- for price cap provinces number of stores per 100,000 by Canadian province tends from a low of 1.4/100,000 in PEI to a high of 5.89/100,000 in Ontario
- number of stores per 100,000 MB (3.09)
- in hybrid and permissive US states, estimated number of stores/100,000 ranges from 1.05 (Hawaii) to 34.62/100,000 (Mississippi) (Robinson Appendix 3)
- Minnesota (1.35), Rhode Island (2.75), Utah (3.87), Illinois (4.06) and California (4.60) (Robinson Appendix 3)

# MB Model – Increasingly Important Today

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- “one of our members, in fact, is the dominant operator here in Manitoba”

Keyes, 62

- Industry moving increasingly into welfare and pension
- jurisdictions such as Alberta taking a harder look at industry
- MB important example
  - evidence based
  - reliance on evidence rather than on lobbying

# Just and reasonable rate

28

- reasonable opportunity for efficiently run company to earn risk-adjusted return for comparable companies of similar risk
- BCUC, *Generic Cost of Capital Proceeding*, (2013, s. 2.2)
- *PUB Order 5/12*, p. 26
- *PUB Order 84/14*, p. 28
- *2008 Payday Lending Review*
- *2013 Payday Lending Review*

# Weighing Evidence

29

Critical task in advisory role to government –  
weighing evidence

# The PUB – Gold Standard

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## PUB Rules

17. (5) Pre-filed written evidence may be received in evidence at the hearing with the same force and effect as if it were stated orally by the witness, provided that the witness shall be present at the hearing and that the witness:

- a) testifies as to his/her **qualifications**;
- c) submits to **cross-examination** on the same.

# Only one party was tested under the PUB – Gold Standard

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## Coalition:

Dr. Buckland, Dr. Simpson, Ms St. Aubin, Dr. Robinson

- based upon pre-filed expert report
- tested by information requests
- expertise of witness confirmed before PUB in *voir dire* (testing of qualifications)
- independence can also be tested
- open to be tested by cross examination
  - including reports relied upon in written report (ie PEW Trusts)

# Open to draw an adverse inference from failure to submit to qualification and cross examination

32

## Deloitte and Environics

- based on pre-filed report
- qualifications of witnesses not established through *voir dire*
- witnesses not made available to be tested by cross examination in terms of accuracy, credibility or bias
- only one round of information request
  - effective immunity from follow up if do not present for cross examination



# Adverse Inference Should be Drawn from Policis

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- appearance financially funded by CPLA but not disclosed prior to appearance
- no expert report
- no *voir dire*
- no cross examination

# Adverse Inference Should be Drawn from Policis

34

And then in terms of the actual use of the data, in terms of the -- the slides that we saw -- and -- and if I could just backup for a moment, I guess as a researcher, what I would have preferred to see is a report where there's detailed information about the methods, where they came from, how they were collected, how they were analyzed, and limitations.

p. 864-865 – Buckland (on methodology used by Policis)

# Care should be taken with company specific information

35

- C11 no audited material presented
  - no cross examination
- Cash Money/Money Tree
  - no disclosure
  - no cross examination
- No ability to cross examine for accuracy, credibility or bias
- Care also must be taken in extrapolating to broader industry

# Industry Evidence as a Whole

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adverse inferences can be drawn:

- no discussion of upselling tactics
- no discussion of increased reliance on welfare
- limited if any discussion related to debt cycle/harm from repeat borrowing

# Research versus Lobbying

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- Willingness to address the hard questions:
  - Environics Coalition/CPLA 1-3 – no repeat loan questions, no repeat loan study
- Are the calculations, conclusions and sources transparent?
- Wide ranging and robust or results driven?
- Credibility of past research:
  - Deloitte Manitoba 2007/08
  - \$26.87/\$100 Loan (PUB/CPLA 1-15, p. 1)
  - clear CashStore not part of sample (Robinson, redirect, April 15, 2016, p. 108)
  - clear MoneyMart not part of sample (Robinson, redirect, April 15, 2016, p. 108)

# A Positive Inference can be drawn from the robust Coalition research approach

38

“So we have brought the **combination of quantitative methods and qualitative methods** to understand as best we can the **payday loan industry**. **And I guess I would say that I feel that this is one of the** strongest methodologies in terms of understanding a social problem or – a social program, a situation”

p. 250 – Buckland

“we used mixed methods and we **triangulate**. And what we look for is whether the results from our different methods are consistent. And when the results from different methods are **consistent**, then that lends to the **validity** of the results.

p. 251 – Buckland

# A Positive Inference can be drawn from the robust Coalition research approach

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- open access to assumptions and model
- regression/probit regression

Simpson, Exhibit 34, slide 15

# A Positive Inference can be drawn from the robust Coalition research approach

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highlight work by PEW Charitable Trusts, which I believe is a responsible and reputable organization in the United States

p. 259-260 – Buckland

I am not aware of this scale of research by such a respectable organization as Pew Charitable Trusts. . . It's quite a unique data set, and their efforts were really quite universal . . . in the US context.

p. 641-642 – Buckland



# Pew Trusts Employed a Representative Sample

41

- 33,576 adults originally screened
- Another 16,108 adults were screened in order to find a sufficient number of storefront payday loan, online payday loan, and auto title loan borrowers to complete a 20-minute survey about their usage and views.
- 49,684 adults were screened to complete the research.
- 703 persons were interviewed including 451 storefront borrowers and 252 online borrowers.
- A description of the Pew survey methodology can be found at: [http://www.pewtrusts.org/~media/assets/2012/07/19/pew\\_payday\\_lending\\_methodology.pdf](http://www.pewtrusts.org/~media/assets/2012/07/19/pew_payday_lending_methodology.pdf). A description of the internet payday loan research can be found here: <http://www.pewtrusts.org/en/research-and-analysis/reports/2014/10/fraud-and-abuse-online-harmful-practices-in-internet-payday-lending>.

Coalition Exhibit 40, p. 2

# Addressing the Record

42

- Consumer Dynamic
- Industry Dynamic
- Regulatory Dynamic
- The Regulatory Dynamic and Internet Lending
- Recommended Factual Findings
- Recommendations

# Consumer Dynamics – The Broader Context

43

Part of a broader dialogue of social exclusion, inequality and market limitations

# Consumer Dynamics – Specific Points

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- Openness and Accessibility of Industry in Manitoba
- Payday loans are expensive
- Borrowers population disproportionately vulnerable compared to non-borrower population
- Significance of Repeat Loans
- Repeat loans and those on welfare and pensions
- Evidence of upselling
- Limits in model of perfect rationality
- The Debt Cycle
- Distinct consumer experiences
- Harm
- Desire to Reconnect with mainstream industry

# The Industry is Open, Accessible and Nonjudgmental

45

*The **hours are flexible**, there's no doubt about it. Especially the one at 24 hours is pretty awesome because you know when **you come from out of town** you want to do something. They're all over. They're **accessible all over**, like there's just one right behind here. Actually there's two in this area."*

- Interview Participant 8, repeat borrower  
St Aubin, Exhibit 35, slide 17

Prominent theme role of mainstream banks; mismatch of products offered by mainstream banks and the needs of participants. Feelings of being marginalized by mainstream banks in comparison to payday loan lenders.

St Aubin, Exhibit 35, slide 27

# The product is very expensive

46

*The only thing I'd stress is maybe to get them to lower the interest rates on these payday loans. Practical. I mean. It's always the poor people that gets the shaft it seems like. **We're paying higher interest because we're poor.***

-Focus group participant 6  
(St Aubin, Exhibit 35, slide 25 )

“It seems to me that they kind of take advantage of the people who don't have good credit, and can't go to a bank. They're -- **the rates are much higher** than a bank loan, or -- or a credit card.”

p. 713 – Brandy Getty

# The Population is Disproportionately Vulnerable

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“What I'm -- what do I mean by 'vulnerability'? Well, it would be someone who's probably lower income, lower asset level, someone who may have limited access to mainstream banking, and someone who gets into a repeat borrowing cycle.”

p. 259 – Buckland

# The Population is Overrepresented among Aboriginal People

48

“The payday loan borrowers are also more likely to be Aboriginal and immigrant”

p. 310 – Simpson

Aboriginal population in Manitoba survey 48%  
(St Aubin, Exhibit 35, slide 5)

MB Survey triangulation with other Canadian observations



# Regression results reinforce vulnerability and access

49

- Assets and wealth reduce PL usage (SFS and CFCS)
- Those with postsecondary education are less likely to use PL (SFS and CFCS)
- Use of credit cards reduces PL usage (SFS)
- Residence in Manitoba increases the likelihood of PL usage, all these other factors considered (SFS)

Simpson, Exhibit 34, slide 17

# Inconsistencies with the Emergency Narrative

## Payday Loans and Basic Necessities

50

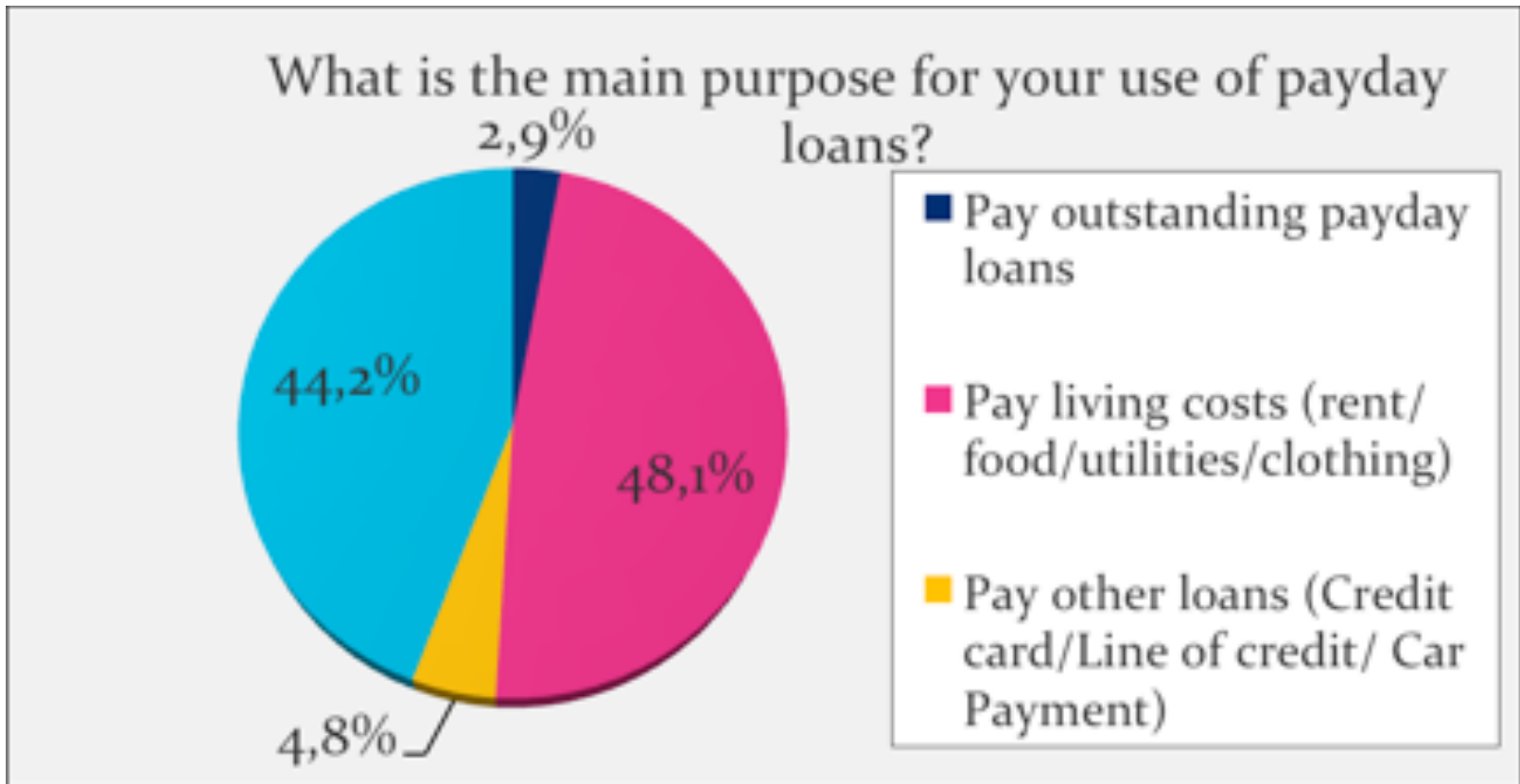
*“Payday loans are for occasional use only and should not be used to cover continual shortfalls in persons budgetary requirements.”*

**PUB/CPLA 1-3, Code of Best Business Practices**

# Inconsistencies with the Emergency Narrative

## Payday Loans and Basic Necessities

51



(St Aubin, Exhibit 35, slide 7)

# Inconsistencies with the Emergency Narrative - Payday Loans and Repeat Borrowing

52

**reliance** on payday loans for an extended period of time seems contrary to the short-term financing intention of the product and **may exacerbate** rather than relieve financial problems some consumers face (Lawrence and Elliehausen 2008, p.315).

Buckland, Exhibit 32, slide 15

# Repeat borrowing common in US

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- Consumer Financial Protection Bureau
- State regulator databases
  - (Buckland Exhibit 32, slide 18)
- Pew Charitable Trusts
- Center for Financial Services Innovation
- Advance America
  - (Buckland Exhibit 32, slide 19)

# Significant Evidence of Repeat Borrowing in Canada

54

## All borrower data

- Consumer Protection BC provided data that finds that the average annual number of loans per borrower in that province has moved from 5.9 in 2012 to 5.4 in 2013 to **4.3 in 2014** (Consumer Protection BC, undated).
- The number of individuals with **more than 15 loans in one year increased by 34%** to just fewer than nine thousand people.
  - (Buckland, Exhibit 32, slide 23)
- Nova Scotia's regulator noted that, for Nova Scotia in 2013-14, 52% of all payday loans were repeat loans of some type and, of those, **30% received 8 or more loans**
- "It is estimated that these borrowers, which total about 5,000 individuals, received an **average of 13 loans each in addition to initial loans** (Service Nova Scotia 2015)."
  - (Buckland, Exhibit 32, slide 24)

# Significant Evidence of Repeat Borrowing in Canada

55

- 76.64 percent of Canadian payday loan borrowing population reported 2 or more loans in CFCS

Simpson, Exhibit 34, slide 13

- My -- my sense from everything I've heard and read is that the -- this is what we'd call a **long right-hand tail**. That is to say in that three (3) plus category, there's a **lot of people with a very high number of loans**. And that could be both simultaneous loans and a sequence of loans. So you can imagine how big a number that -- that could be. But this survey doesn't allow us to draw that conclusion because it simply categorizes those for three (3) or more.”

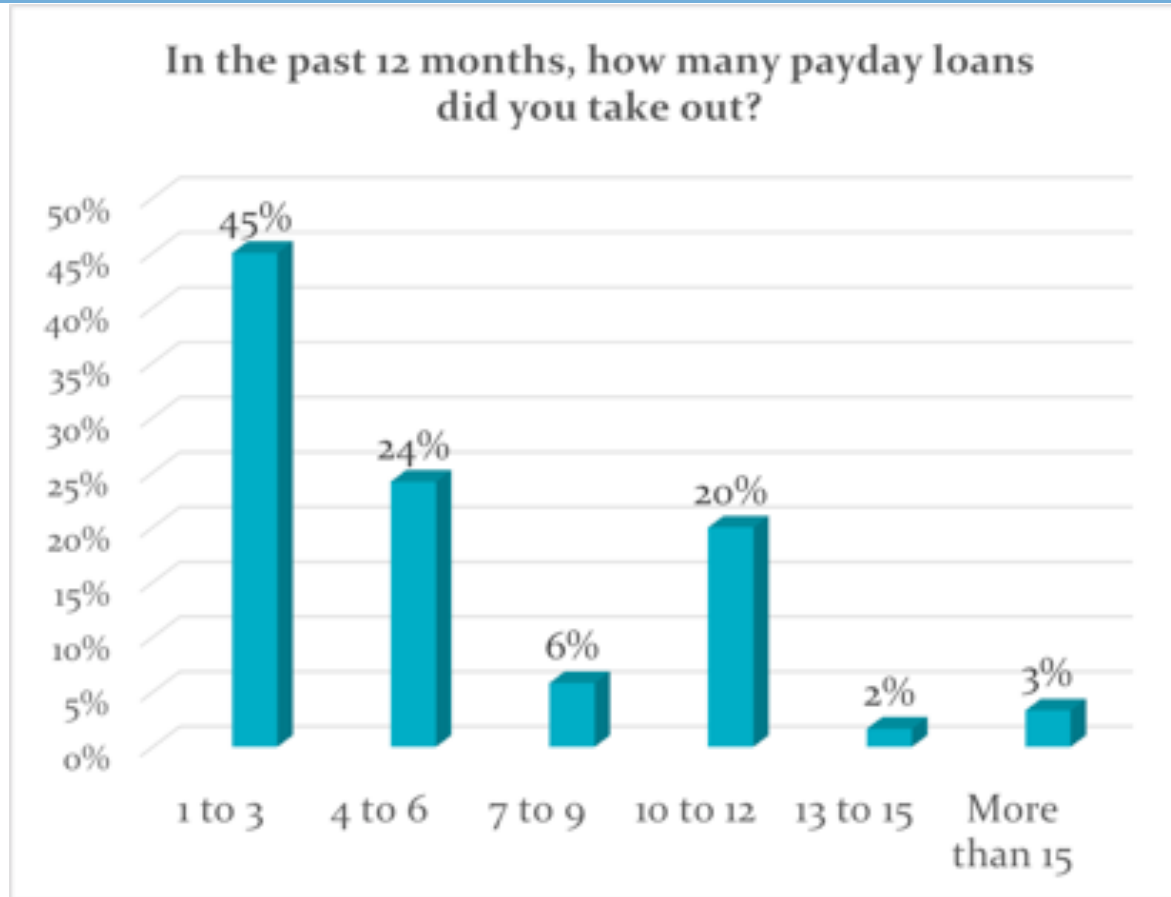
p. 327 – Simpson

- But I think you're right that there's probably some understatement of loans.

p. 329 – Simpson

# Manitoba Survey

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St Aubin, Exhibit 35, slide 8



# Manitoba Survey

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So continuing with borrowing practices, survey data shows that 40 -- 45 percent of respondents received one (1) to three (3) payday loans in the past twelve (12) months, and that 31 percent had taken out seven (7) or more loans over a twelve (12) month period.

p. 343-344 – St. Aubin

# Repeat Borrowing and the vulnerable

58

## representative sample

- An FCAC-sponsored survey undertaken by Ipsos-Reid it was found that 52.4% of respondents who reported taking out a payday loan at least 12 times per year had household incomes of less than \$30,000.

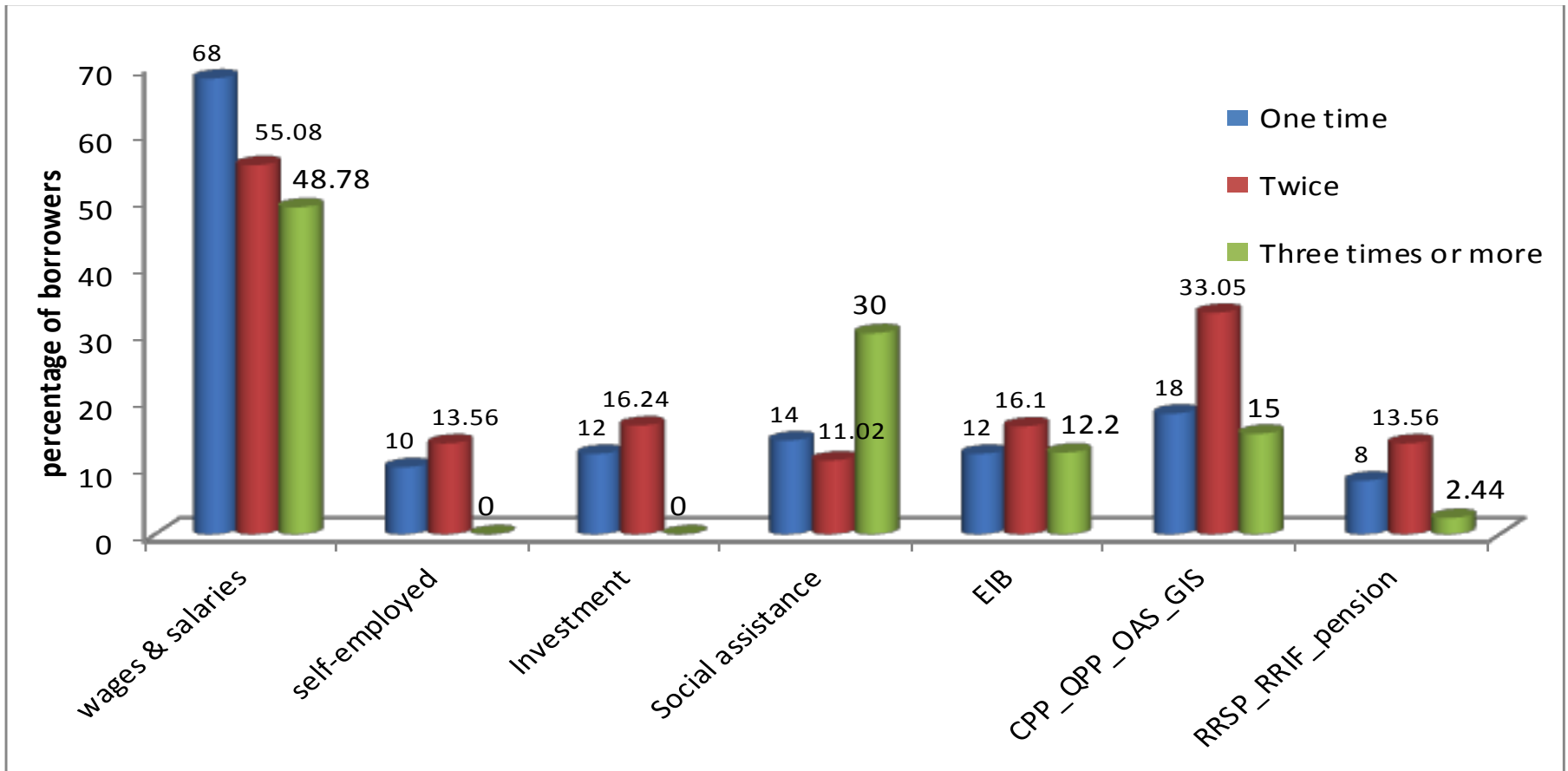
Buckland, Exhibit 32, slide 21

- 2009 Canadian Financial Capability Survey Simpson and Bazarkulova (2013) found more evidence of that repeat borrowing is more common among poor and modest income and asset-holding Canadians as compared to the non-poor.

Buckland, Exhibit 32, slide 22

# High Representation of Welfare Recipients in Repeat Loans

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Simpson, Exhibit 34, slide 13

# High Representation of Welfare Recipients in Repeat Loans

60

And that is that a lot of the source of income has **migrated to social assistance** in the case of those who have borrowed three or more times. That's gone up from – in 2009, it was 18 percent – 17.97 percent. It's gone up to 30 percent

p. 314-315 – Simpson

58% based their payday loans on their payroll cheque

St Aubin, Exhibit 35, slide 7

# 310 Loans - C11 do not loan on welfare

61

## C11

- “They [C11] will only lend on payroll cheques, but in some cases will accept CPP as well. It was expressed that for purposes of their customer’s financial well-being, they do not consider disability, social assistance or CTC as part of monthly income when determining how much they are eligible to borrow.”

Coalition Pre-filed Evidence, p. 6, Tab 7, Prices and Practices

## 310 LOAN

- “Those who receive CPP, employment insurance or social assistance are not eligible to open an account with them.”

Coalition Pre-filed Evidence, p. 6, Tab 7, Prices and Practices

# Upselling

62

*But you know **they do offer me more.** You know like I said I'll borrow maybe 100 or 150 which I did. They'll say you know you can borrow more, they'll tell you more like 200 or something. They'll tell me if you want to borrow. I just say no. Knowing I have to go back to pay them"*

- Focus Group Participant 7

*Like yesterday, they were going to give me \$380, and I said 'you guys are crazy, I just want \$150'. And so I ended up taking \$200. **You know I was surprised. I don't know why they wanted my money more.** That's crazy I thought.... Like I have a budget. And the budget has to be balanced in order for me to succeed a month. Because I'm on E.I. eh, I'm unemployed. I have to really think about my money."*

- Interview Participant 8, repeat borrower

St Aubin, Exhibit 35, slide 11

# Limits on Perfect Rationality

63

Majority of participants did not have an understanding of the annual interest rate fees

St Aubin, Exhibit 35, slide 18

When we face those kinds of scarcities, we -- the argument is, we tend to tunnel. . . . And what they mean by tunnelling is that we narrow our focus on certain issues and we exclude looking at other issues. And this tunnelling enables us to make decisions, but sometimes those decisions can hurt us in the long-term.”

p. 276-277 – Buckland

# The Debt Cycle

“Oh, yeah, for sure. It's, like -- it's just a cycle. It's -- it's like once you're in it's hard to get out.”

“But it's just, like, you borrow from one (1) cheque. You have pay it back. Then you're short again, so -- and you're going back to borrow again, and so just, like, a cycle that's going over and over.”

p. 697 – Deena Wichert

*I am still not getting paid that much, I am giving them more money. You know, next paycheck. So I'm paying them, you know obviously that's what happened but it can make it hard to get out of that hold then. Because then you have no money and you need to get another one. The cycle continues.”*

Interview Participant 6, repeat borrower

St Aubin, Exhibit 35, slide 9



# Privacy Issues

65

But payday lenders require some personal ID, e.g., bank account information, references, and in some cases request social insurance number

Buckland, Exhibit 32, slide 25

# Do payday loans benefit consumers?

66

borrowers have “appreciation for friendly service, dismay with the high cost, and frustration with lengthy indebtedness (Pew Charitable Trusts 2013, p.39).”

Buckland, Exhibit 32, slide 13

# Distinct Experiences

67

- Two types of payday users became apparent through the focus group conversation:
  - Those who are **able to use small loans from time-to-time**, in a strategic fashion, and are able to repay them in a timely fashion, and
  - The **more vulnerable repeat borrowers** who eventually become dependent on the loans.
- **In this way**, the ease of accessibility and the convenience of Manitoba's current payday loan system **can help some borrowers and harm others**.
- The **credit-challenged payday loan users** appeared to be the **most vulnerable** to potential risks and would benefit most from an alternative product.

Buckland, Exhibit 33, slide 18

# Financial Literacy and Empowerment can Assist

68

“I wouldn't have taken them out if they weren't available. I – I don't think anyone would have borrowed me money at the time so. There was – there would have been no other resource for me.”

p. 707-708 – Brandy Getty

“Maybe. You didn't ask me if I would ever -- I wouldn't use them again. If I had an emergency today, I would exhaust other options before I went to -- to a payday lender. They're quite expensive. So I would like save money, or ask a friend, or something.

And I've also changed my -- the way I look at money and the way I spend money. So, no, I -- I would never use a payday lender ever again.

p. 709 – Brandy Getty

# Do payday loans benefit consumers?

69

While impact assessments cannot definitively determine whether or not payday loans benefit consumers it is clear that some consumers –relying on repetitive borrowing, accessing their loans online, tunneling as a result of personal and professional pressures may be harmed by payday loans.

Buckland, Exhibit 32, slide 36

# Desire to Reconnect with Mainstream Services

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“It was expressed by many focus group participants and by some interview participants the desire to reconnect with their mainstream bank. They wanted to have that relationship again.”

p. 367 – St. Aubin

*I want to use my own bank. I have a bank account at BMO. I would love to deal with them rather than payday company but the downfall is the credit rating.”*

- Focus Group Participant 6  
St Aubin, Exhibit 35, slide 16

# Desire to Reconnect with Mainstream Services

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*If we did a 6 month pay back and borrowed a little bit more and stretched over 6 months, at the end of that 6 months you've shown them you didn't default so ok. Give me another one and let's do this twice in a year and at the end of that year perhaps go to a mainstream institution. And say look I' did this.... There'd be a **light at the end of the tunnel.***

*Because of the credit score that you could add to your credit score and make you less of a credit risk. That would be the ultimate goals. **Because then you can get away from the payday loan.***

*But I'm not suggesting that happens after one loan in one 6 month or 3 month payback period. I'm suggesting over a period of time.*

***Could you imagine the credit I would have? I've been using this service for 7 years. My score, my rating would be high! Banks would love to have me as customer."***

- Focus group participant 5

(St Aubin, Exhibit 35, slide 25 )

# CPLA does not Address Repeat Loans

72

## QUESTION:

a) Can the CPLA confirm that the 2013 Environics Survey **does not provide evidence** on the sample of payday loan users **who used payday loans more than once**? If not, please identify where this information is provided in the 2013 Environics Report.

**a) The CPLA confirms same.**

b) Can the CPLA confirm that the 2013 Environics Survey **does not provide evidence** from the sample of payday loan users of **how many times they used payday loans**? If not, please identify where this information is provided in the 2013 Environics Report.

**b) The CPLA confirms same.**

e) Can the CPLA identify **any study of the repeat loan** issue it has undertaken in Canada **since 2013**? If so, please provide any relevant research reports.

**e) No**

Coalition/CPLA 1-3



# Illiquid – Insolvent

73

- Baradaran argues that payday lenders do not check the credit worthiness of borrowers, do not test the difference between insolvent and illiquid people so that it is not a good credit model.
- Mehrsa Baradaran's 2015 *How the Other Half Banks: Exclusion, Exploitation, and the Threat to Democracy*

Buckland, Exhibit 32, slide 16

# But is the Issue more Nuanced?

74

- Clients
  - Illiquid
  - Insolvent
  - illiquid trying to emerge from insolvency
- Relatively accessible payday lenders such as MoneyMart have relatively low bad debt rate
- Accessibility does not need to necessarily lead to relatively high bad debt rate

# Industry Dynamics

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- Dr. Robinson and insightful flamboyance
- Economies of Scale
- Economies of Scope
- Reliance on Repeat Borrowers

# Industry Dynamics

76

- Market Dominance
- Superior Operating Margins reflect Market Dominance
- No Price Competition
- US Data supports price caps \$15/100 to \$17/100

# Industry Dynamics

77

- Key Regulatory Considerations
- Challenges in the Marketplace
- Limits to Deloitte Manitoba and Alberta
- Insights from Smaller Lenders

# Insightful Flamboyance

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## Dr. Robinson

- flamboyant personality – sometimes gives offense  
but:
- high level penetrating insight

# Dr. Robinson - Insightful Flamboyance

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## **strong support**

- past insight into price, consolidation
- insights into scale, scope, market dominance indirectly admitted by industry
- US regulatory data
- operating margins DFG
- use of US industry comparators – ie Cash Advance Other versus Money Mart
- Cash Money presentation – volume and operating costs

# Dr. Robinson – Transparency and Accountability

80

- model and assumptions transparent
- available for cross examination
- entertained multiple scenarios
- open to modest corrections
- many conservative assumptions – prefiled evidence
- essential analysis – not successfully challenged



# Dr. Robinson on Scale and Scope

81

The key challenge for small business is volume to cover fixed costs.

## □ **Economy of scale:**

- Most costs are fixed. Costs rise much more slowly than loan volume.
- Large chains can generate more volume with advertising, and share some costs like info tech.

## □ **Economy of scope:**

- Add more products: gold, pawn shop, tax prep
- Has not succeeded in mainstream products
- Small towns must have several businesses

Robinson, Exhibit 36, slide 5

# Robinson confirmed by Industry Evidence on Scale

82

## Economies of Scale for large chains

- Profitability is **driven by volume**, small independent companies cannot have large volumes when operating in smaller centers. Nor can profitability be compared between small independent companies against larger national companies who have **brand recognition**, who can spread expenses over many locations, who can **maximize efficiency** of staff between multiple locations. Small independent companies with one location must absorb all costs in one location, must retain staff in one location whether in peak times or in low volume times.

**PUB/C11 1-8 c**

# Robinson confirmed by Industry Evidence on Scope

83

As of 2013, PPL has been in operation for 8 years. Prior to the 2010 regulations, PPL charged \$23.00 per \$100.00 of payday loan advances. The rate cap of \$17.00 per \$100.00 in 2010 combined with a total \$6,000.00 license fee and education levy caused PPL to **reconsider its business model**. PPL chose to diversify. The business went from 600 sq. ft. and 4 employees to 8,000 sq. ft. and 17 employees.

PPL confirmed that its products and business lines include purchase and sales of new and used **furniture and appliances, scrap gold purchases, jewellery sales, cheque cashing and payday loans**.

**2013 PUB Order (p. 13), Parkland Payday Loans and The Pas Payday Loans**

Our parent Company has assets, investments and other interests. Our Thompson Manitoba office is **one asset of many**; we do not have separate statements breaking out just the Thompson office.

**PUB/C11 1-8 a & b)**

# Robinson – Repeat Loans Drive the Business

84

- Most loans are to repeat borrowers – some more than 10 p.a.
- Lenders depend on repeat business, which is also less costly to process

Robinson, Exhibit 36, slide 7

# Ernst and Young – Repeat Loans Drive the Business

85

- The operating costs of **first time loans** are **2.68 times higher** than repeat/rollover loan costs across all industry breakouts. This allocation between first-time and repeat/rollover loans simply reflects the difference in time it takes to process the different types of loans

p. 34

- Clearly, the **long-run survival** of a payday loan operator will depend on achieving a **steady repeat** customer business.

p. 37

*Ernst&Young*, The Cost of Providing Payday Loans in Canada, 2004.

# Dr. Robinson – MM dominates the Marketplace

86

Concentrated and consolidating

- Money Mart (Dollar Financial owns it) half of the market, 574/1,427 stores 21/40 stores in Manitoba

Robinson, Exhibit 36, slide 6

# DFG and CPLA – MM dominates the Marketplace

87

*Our networks of retail locations in the United Kingdom and Canada are the largest of their kind by revenue in each of those countries*

DFC Global Corporation 2013

... one of our members, in fact, is the dominant operator here in Manitoba

p. 63 – Keyes

# Superior Operating Margins reflect dominant market position

88

	2013	2012	2011
Europe retail	24%	30%	34%
Canada retail	49	51	50
US retail	25	27	26
E-commerce	19	32	30

Robinson, Exhibit 36, slide 11



# No meaningful price competition

89

- Pre-regulation rates:
  - Money Mart complex fee schedule, average loan cost was about \$19 per hundred
  - Cash Money charged flat \$20 per hundred.
- Ontario regulated at \$21, some other provinces at \$23.
- Cash Money and Money Mart rates at the maximum in those provinces now.

Robinson, Exhibit 36, slide 8

- see also Pew Trust

# Robinson Price Cap Consistent with many US regulators

90

- Common rate cap is \$15 per hundred. Some lower, e.g. Michigan; some around Manitoba rate; some with no limits (Coalition 37)
- Lots of stores in states with \$15 cap and lower
- Not as much corporate concentration as Canada
- Loan volume per store lower than Canada, on average.

Robinson, Exhibit 36, slide 9

# Key Considerations

91

- Ethical justification:
  - Disadvantaged borrower population
  - Empirical evidence shows no price competition
- Economic justification:
  - If the industry is not competitive, regulate so that it doesn't earn more than the fair return on what it invests.

Robinson, Exhibit 36, slide 15

- PUB Precedent 07/08/2013

# Key Considerations

92

- Opportunities for efficiencies in scale, scope and risk management
- The big questions about the numbers are:
  - Volume per store
  - Operating costs
  - Bad debt expense
  - And much less important, cost of capital

Robinson, Exhibit 36, slide 17

# Volume

93

- Cash Money volume estimates supportive
- appropriate to consider CashStore because it was active but unlicensed
  - Consumers should be protected from products similar to payday loans such as the line of credit products offered by Cash Store and its affiliates, where borrowing costs may be as high as \$75.00 per \$100.00 borrowed, according to one of Dr. Buckland's surveys.

**2013 PUB Order, p. 24.**

# Operating Costs

- The value of \$12.01 higher than should be used
- First, the value is derived from expenses when CSF was still in operation and actual Money Mart volumes were materially lower than they are now. The majority of costs of a small retail operation like a payday loan store, or any retailer of similar size and catering to a local market, are largely fixed.
- Therefore, when a large increase in volume occurs after the second-largest operator closes, the costs are spread over a much larger base and the cost per \$100 loan will decline substantially.

Robinson, Tab 3 PF Evidence, p. 21

# Operating Costs

95

- Cash America operates entirely in the US, and is almost the same size as Dollar Financial. Its 2014 revenue was \$1.095 billion (Cash America 2014 10K, pg. 80). It divides its expenses up somewhat differently from Dollar Financial. It shows “other” operating expenses of \$66,388 for 2014 (10K pg. 59), which is **6.1% of revenue**.
- In contrast, for Dollar Financial the sum of those expenses plus the “other” category assigned to the four business lines plus “Corporate Expenses”<sup>1</sup> is \$331.5 million, and that is **29.5%** of Dollar Financial’s 2013 revenue.

Robinson, Tab 3 PF Evidence, p. 21

1. For anyone who wants to check, the values in millions are:  $62.9 + 18.1 + 23.0 + 9.6 + 108.5 + 109.4$

# Operating Costs

96

- certain operating costs, such as rent and labour, may be lower in Manitoba

**PUB/CPLA 1-14**

- Cash Money based on oral presentation quite close to Robinson estimates



# Bad Debt

bad debt have not changed significantly

**Coalition/C11 1-1 e)**

# Bad Debt

- Deloitte Alberta bad debt in excess of 6% out of sync
- Money Mart loan loss provision was **2.2%** of loan volume for the year ended June 30, 2013.
- The last Cash Store Financial report that is available on SEDAR is for the three months ended Dec. 31, 2013, and it reports a loan loss provision of **4.1%** for the three month ended December 1, 2012 and **3.1%** for the three months ended December 31, 2013.
- These values are respectively 41% higher and 86% higher than the 2.2% just noted for Money Mart.
- On the other hand, they are **substantially lower than the loan loss provisions alleged** in the **Deloitte 2015** report for Alberta.

CPLA/Coalition 1-34

# Tarnished Deloitte Reports

99

## **Deloitte 07/08**

- excluded large lenders
- Deloitte estimates the cost of providing a payday loan Manitoba to be \$26.87

PUB/CPLA 1-15, p. 1

## **Deloitte Alberta**

- Bad debt way off
- did not appear to be crossed
- CPLA declines to provide supporting calculations for each of the figures in Deloitte cost analysis
- Due to constraints in time and resources, there were four participants.

PUB/CPLA 1-27

# Robinson Opinion

100

- I have not changed my opinion that Manitoba should go to a 15 percent rate.
- And the reason I've not changed it is because of the head office costs that appear to be buried in everything that I've looked at which have no justification.
- 17 percent may also be the correct rate.
- There is no question that any higher rate than that would be inappropriate, would in fact be surely guar -- providing excess profits.”

p. 476 – Robinson

# Insight from Concern of Smaller Firms

101

## Money Tree

- The biggest complaint is -- well, that -- that's twofold. . . .The cooling-off period, the waiting period. I would say number 1, is the hardest. . . . And the amount that they can borrow. They -- so many of the customers express, like, really -- where does the government find it right that they can tell us what we can do with our money?

p. 154 – Davis (responding to what is the biggest complaint)

## Seems consistent with C11 prefiled evidence

- see also p. 90-91 – Gaudreault

# Insight from Concern of Smaller Firms

102

- I don't necessarily agree with the **fairness of the 17 percent** based on a business perspective, but I do see how that can be actually quite fair to the -- to the customer.

p. 141-142 – Davis

- And also something that is slightly off topic, when we talk about the regulations and changes to the regulations, sometimes the amendments are -- are **hard for us to understand**, and perhaps if some of it is written in more **layman's terms**, that might be better for all of us.

p. 149 – Davis

# Insight from Concern of Smaller Firms

103

# Not a well functioning marketplace

104

- ❑ lower wealth and income
- ❑ fewer mainstream choices
- ❑ (disproportionately) insufficient income to meet needs
- ❑ challenges in understanding product
- ❑ tunneling – bounded rationality
- ❑ rates follow regulation
- ❑ industry dominated by a few players with economies scale, scope



# Online payday lending

105

- **online** marketplace is the **growth** sector.
- We are advised by **Pew Trusts** (personal communication April 14) that US storefront payday lending hit its peak around 2007 and the number of stores has been on the decline since.
- In addition, the online payday and payday installment marketplace is expanding - as it is in many other sectors of online lending, including business, student, and mortgage.

Exhibit 40, p. 3

# Online Trends Younger, More Affluent

106

- Online **trends younger**, to people who are more comfortable with e-commerce as a safe platform. It also **trends slightly higher in income**. But many of our online customers are also in-store customers.
- He added that online consumers are service sensitive, not price sensitive.
- “Ease and speed of service trumps price. That’s a general rule of all e-commerce”
- (Denise Barrett Consulting 2015, p.21-22).

Buckland, Exhibit 32, slide 26

- I have not seen evidence of vulnerable people more likely to use Internet lending. It's not to say they don't. It's to say I have not seen evidence. The evidence that I have seen is that it tends to be younger, those who are more comfortable with e-commerce, and those with slightly higher incomes in terms of that income group that use payday lending.”

p. 273 – Buckland

# Important Regulatory Issues Raised by Online Lending

107

- Asymmetry of information
- Costs different than store-front: default rates
- Lead generators important
- Unlicensed less likely to follow regulations
- Troublesome consumer practices found in US study,  
Buckland, Exhibit 32, slide 27

# Regulatory Dynamics - Permissive, Hybrid & Restrictive

108

- Regulatory regimes: permissive, hybrid & restrictive  
Buckland, Exhibit 32, slide 30

# Prices move to the Cap

109

- Price cap impact: fees move to the cap  
Buckland, Exhibit 32, slide 31

# Limited Impact Borrowing Limits

110

- Limits on amount borrowed: evidence that without more binding limits these limitations have limited effect

Buckland, Exhibit 32, slide 31

# Rate Caps and Internet Use

111

	Borrow from storefront only (%)	Borrow from online or other (%)
National	4.01	1.48
Permissive states	5.22	1.37
Hybrid states	5.06	1.28
Restrictive states	1.29	1.58

Buckland, Exhibit 32, slide 32

Based on the Pew Trusts' analysis and focusing on hybrid and permissive states, there is little difference in the percentage of adults reporting online payday loan usage in the past 5 years between hybrid states and permissive states.

Exhibit 40, p. 2

Consumer Coalition

# Internet and Factors Other than Price

112

## COALITION/CPLA 1-14

### PREAMBLE:

- At page 7 of its PFE, the CPLA comments on licensed and unlicensed online payday vendors in Manitoba including an allegation that Manitobans may be more likely to encounter unlicensed lenders.
- In Schedule C to its evidence, the CPLA indicates that the maximum rate in Nova Scotia is \$22/\$100 loan. It also indicates that the maximum rate in PEI is \$25/\$100 loan.
- In Schedule F to the CPLA evidence, p. 29, Table 2, the Consumer Council of Canada sets out the results by province of its online audit of licensed and unlicensed online lenders

### QUESTIONS:

- a) Please confirm that the Consumer Council audit identified **3 licensed online payday lenders in Nova Scotia and 8 unlicensed online payday lenders.** (a) The CPLA confirms that this is what Table 2, found at page 29 of the Barrett Report, states.
- b) Please confirm that the Consumer Council audit identified **0 licensed online payday lenders in PEI and 9 unlicensed online payday lenders.**
- (b) The CPLA confirms that this is what Table 2, found at page 29 of the Barrett Report, states.



# Internet and Factors Other than Price

113

- Number of Canadian jurisdictions relatively low access to registered Internet lenders suggests potential factors other than price
  - NS (\$22/100), PEI (\$25/100), MB (\$17/100)
  - MM not online in 2 of 7 Provinces

Coalition/CPLA 1-15

# Muting the CPLA Allegation

114

- it doesn't necessarily follow that that “regulation in Manitoba have caused conditions for Manitoba consumers which are less safe than other jurisdictions.”

**PUB/CPLA 1-13**

# Need to effectively regulate both sectors

115

- While there are limited data about online lending, what data are available does point to higher risks for consumers.
- However, this should **not**, however, be used as a **rationale to not regulate physical payday lending.**
- Both sectors must be effectively regulated.

Buckland, Exhibit 32, slide 32

# Concerns with Policis

116

- the analysis essentially **ignores the UK experience** and is inconsistent with the rapid development of internet payday lending in the UK despite minimally restrictive policies
- the analysis fails to consider the implications of the dramatically different **Dollar Financial Group experiences** in internet lending in the United Kingdom/ Europe, United States and Canada
- Policis does not identify or consider **data challenges or limitations** in its source data

Exhibit 40, p.5

# Concerns with Policis

117

- we are **unable to verify, replicate** or test the significance of the assertions drawn by Policis given the lack of explanation relating to quantitative/qualitative methodology, core data sources, calculations and statistical tests of significance
- there are **challenges in linking assertion to evidence** including inconsistencies with the data, (slide 21), the failure to provide the absolute number of consumers or loans on key slides (slides 26 and 27) and the **conflation** of information from banned and restricted states which prevents any meaningful comparison of costs between permissive and restrictive states (slides 26 and 27)

Exhibit 40, p.5

# Slide 21 – undermines Policis submission

118

## Assertion

- “Demand does not go away when supply restricted” and that “Demand displaced from storefront to online” must be read with great care given slide 21 which appears to demonstrate that:
  - **permissive** states as defined by Policis account for **roughly 35% of sub 701 FICO but over 50% of online payday loan volume.**
  - **restrictive** states as defined by Policis account for **roughly 29% of sub 701 FICO but less than 25% of online payday loan volume.**
  - **banned** states as defined by Policis account for **roughly 27% of sub 701 FICO but less than 24% of online payday loan volume.**

# Unregulated Online Lending

119

- estimated unlicensed online lending volumes in **permissive states accounted for roughly 20%** of the total online payday loan volume which appears similar to the contribution from restricted and banned states as defined by Policis.
- Dr. Simpson observes:
  - **the percentage of loan volume that is unlicensed is roughly the same across permissive, restrictive and banned states** but the percentage of licensed loan volume varies from high to low, suggesting that there is **no correlation** between restrictive/banned regulation and unlicensed loan as a percentage of volume.

Exhibit 40, p. 3

# UK Story Omitted

120

- The UK only imposed serious regulation very recently, at the beginning of 2015, but the Policis evidence and the evidence from Dollar Financial Group is that the great majority of lending in the UK was on the Internet before payday lending became seriously regulated.

Exhibit 40, p. 5/6



# DFG Data tells a Different Story

121

Dollar Financial Internet Lending Revenue by Region, 2013.  
In millions unless shown otherwise

	UK + Europe	Canada	United States
Total revenue by region	\$659.5	\$333.1	\$129.7
Total revenue minus internet	371.1	322.9	122.5
Internet loans	288.4	10.2	7.2
Storefront payday loans	171.2	190.7	68.0
Total payday loans by region	459.6	200.9	75.2
Internet loans as % of total loans	63%	5%	10%

Exhibit 40, p. 6

# Clarity Data Limitations

122

- We are **unable to analyze any sampling bias** that may exist in the self-selection of 126 lenders to report to the Clarity system, as opposed to other non-prime credit reporting agencies – or to no agency at all. Clarity requires reporting of tradelines in order to receive reports. Other non-prime credit reporting agencies may not impose such a rule, which may affect selection of the Clarity system by lenders.

Exhibit 40, p. 7

# CFB Findings re Clarity

123

- In finding a violation of s. 611 of the FCRA, the CFPB found that Clarity had failed “to promptly delete **inaccurate, incomplete, or unverifiable information.**”<sup>1</sup> (emphasis added)
- Clarity failed to meet its reinvestigation obligations even though it was aware that **information in Clarity's consumer files was provided by or generated by unreliable sources, including inaccurate data from furnishers.** (emphasis added)

Exhibit 40, p.8

1. *In the Matter of Clarity Services, Inc., and Timothy Ranney*, para 28.

# The Last Say

124

- *The only thing I'd stress is maybe to get them to lower the interest rates on these payday loans. Practical. I mean. It's always the poor people that gets the shaft it seems like. We're paying higher interest because we're poor."*

- Focus group participant 6  
St Aubin, Exhibit 35, slide 25

# Key Recommended Findings

125

## Consumer Dynamics

- challenges in accessing main stream financial products for certain consumers (Buckland, Simpsons, St. Aubin, CPLA)
- payday loan borrowers disproportionately likely to be vulnerable (Simpson, St. Aubin, Buckland)
- particular vulnerability of repeat borrowers (Simpson, Buckland)

# Key Recommended Findings

126

## Consumer Dynamics

- increased reliance on non payday sources of income in Canada and MB including welfare and pensions especially among repeat borrowers (Simpson)
- significant risk of harm for repeat borrowers (Buckland)

# Key Recommended Findings

127

## Current Marketplace Dynamics

- prices move to price cap (PEW Trust, Robinson)
- no evidence meaningful price competition in Canadian industry regardless of price cap level (Robinson)
- industry reliant on repeat users (EY, Pew Trust)

# Key Recommended Findings

128

## Current Marketplace Dynamics

- MoneyMart is the preeminent lender in the Canadian Marketplace and the dominant lender in Manitoba (DFG 10K, opening statement CPLA, Robinson)



# Key Recommended Findings

129

## Current Marketplace Dynamics

- statistically significant evidence that Manitobans make comparable or higher usage of payday loans than other provinces (SFS, Simpson regression analysis)
- payday lenders continue to be heavily concentrated in inner city of Winnipeg
- evidence of co-location between two largest lenders in Manitoba

# Key Recommended Findings

130

## Current Marketplace Dynamics

- despite smaller population centres industry continues to exist in rural areas including Brandon, Dauphin, Swan River, The Pas and Thompson
- new entrant to the payday lending market in Thompson in 2015 (MM)
- more payday lenders in Brandon Manitoba than in the province of PEI (2) despite \$25/100 rate cap in PEI

# Key Recommended Findings

131

## Current Marketplace Dynamics

- for price cap provinces number of stores per 100,000 by Canadian province tends from a low of 1.33/100,000 in PEI to a high of 5.89/100,000 in Ontario
- number of stores per 100,000 MB (3.09)

# Key Recommended Findings

132

## Emerging Market Dynamics

- significant evidence growing Internet usage in a variety of products
- internet usage dominant in UK and parts of Europe (MM 10 k, Robinson, Policis)

# Key Recommended Findings

133

## Regulatory Dynamics

- three general models of payday loan regulation:
- effectively banned
- hybrid
- permissive

# Key Recommended Findings

134

## Regulatory Dynamics

- sustainable North American industry in range between \$15/100 and \$17.25/100 (Robinson, Pew Trust, Coalition 37, Policis, California)
- \$18/100 too high for MB (Robinson)
- \$17/100 price cap significant savings for MB consumers (Robinson)
- \$17/100 price cap sustainable (Robinson)
- \$15/100 price cap sustainable for efficient payday lender employing economies of scale, scope and appropriate risk management (Robinson, Pew Trust, Coalition 37)

# Key Recommended Findings

135

## Regulatory Dynamics

- no evidence that Internet payday loans use higher in hybrid (see Pew Trust, MM 10 K and Policis)
- no reliable evidence that unregulated internet higher in hybrid (see slide 21)

# Key Recommended Findings

## Regulatory Dynamics

- Strong evidence that rates range between \$15 and \$17 best balance between protection, access and sustainability
- There is insufficient data regarding payday lending in Manitoba, especially compared to British Columbia and Nova Scotia. More information regarding loans granted each year would assist the PUB in making recommendations to government and in research being conducted.
- Need to Improve data on payday lending in Manitoba by mandating reporting by payday lenders annually.
- More information regarding internet payday lending is necessary. - In the meantime, consumers should be given information regarding the risks of unlicensed online payday lenders.
- Low-cost universal identification option so that payday lenders, and others, do not require a SIN.



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THANK YOU!