

NCR coming of age

For Immediate Release

October 2009

The National Credit Regulator's (NCR) annual report for the year ended 31 March 2009 has been tabled in Parliament.

CEO, Gabriel Davel says the fact that the implementation of the National Credit Act (NCA) coincided with the credit crunch raised significant challenges. The Act deals decisively with many of the problems which caused the sub-prime crisis. It has been a challenge to implement a new Act at a time when the financial crisis and debt stress were posing huge demands on both consumers and financial institutions.

"The NCA established the function of a debt counsellor, to assist debt-stressed consumers in the engagement and negotiation with the different credit providers in order to create a debt restructuring plan. We found that consumers applying for counselling had on average of 10 credit agreements each, many of which would already be in arrears, with legal action being threatened. Without the specialist assistance of a debt counsellor, most consumers would find it very difficult to conclude a feasible debt restructuring plan." Davel further says that the most critical and complex component of the debt restructuring process is the engagement with the different credit providers and achieving a restructuring plan which is acceptable to all parties.

Davel notes that there are a range of factors which are undermining the implementation of the debt counselling provisions of the Act, and are causing substantial delays. The inability to conclude the magistrate's court hearings on debt counselling applications is one of the most significant obstacles to its effective implementation. "At our financial year end, magistrates court hearings had taken place for less than 3 000 of more than 50 000 applications for debt counselling. In the six months following year-end, the number of debt review applications continued increasing and now exceed 100 000."

In March 2009, the NCR applied to the High Court for a declaratory order in relation to several matters relating to debt counselling. Judgment was delivered in August 2009. It provided clarity on many aspects of the interpretation and application of the debt counselling provisions of the NCA. Also, the Department of Trade and Industry has published draft regulations which could address certain problems which are delaying the magistrates court hearings.

The NCR is pleased with a consistent increase in the number of debt counsellors, and with a consistent improvement in the quality of debt counselling. "Our priorities also include the maintenance of standards regarding the debt counselling process, and we ensure this through ongoing education, training and monitoring of debt counsellors.

We also perform ongoing inspections to ensure that debt counsellors adhere to the conditions of their registration and comply with the requirements of the NCA and its Regulations.”

“During the year, we expanded the scope of the NCR’s awareness and educational campaigns. Our aim is to ensure that all consumers, and particularly financially vulnerable consumers, are aware of the protective measures contained in the NCA. Our media strategies over the past year have emphasised responsible financial behaviour and the importance of savings. Some of the highlights were the campaigns with the Deaf Federation of South Africa and with the South African Council for the Blind.”

The NCR has an on-going programme of investigations and has had notable successes in the enforcement of the Act. Some of the most concerning practices which were investigated over the past year related to housing finance. This often implies that debt stress homeowners are targeted with offers of finance. These schemes often involve an element of fraud and misrepresentation, resulting in the borrowers losing their homes.

The NCR completed a number of important research projects over the course of the year, including a project on the impact of the NCA on the cost of finance and access to consumer credit. The NCR also undertook research into the impact of the financial crisis and economic downturn on the South African consumer credit market.

Davel notes that, once again, the NCR received an unqualified audit report on its annual financial statements, confirming that the NCR implemented effective internal controls and reporting standards. The NCR’s total operational expenditure for the past year was R52.8 million and it has a complement of 86 staff members.

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