

FINAL REPORT

Investigation on the effectiveness of the alternate dispute resolution (ADR) market in South Africa

March 2012

Alternative Dispute Resolution



Prepared by Topline Research Solutions





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1.0 EXECUTIVE SUMMARY

In line with its mandate, Client, the National Credit Regulator (NCR), commissioned research to understand the structure and dynamics of alternate dispute resolution (ADR) sector within the credit industry of South Africa. For purposes of this study an ADR was defined as an entity providing formal services to assist in the resolution of consumer credit disputes. The findings of the research would be used to inform policy development and to advise the role-players within the market of issues pertaining to their effectiveness and to the needs of consumers. The survey focused on both the supply and demand aspects of the ADR market utilizing both qualitative and quantitative research techniques. The geographical scope of the study included Gauteng, Limpopo and Northern Cape.

The profile of credit users showed that usage generally cuts across all respondents groups interviewed but showing a heavy skew towards the black population (94%). In terms of age the 31-40 year olds dominate credit usage whilst in terms of income the middle to low income are among the majority. Common types of credits used include clothing accounts (19%), personal loans (14%), furniture (13%), cellphone contracts (12%) and credit cards (9%). Generally, consumers' perception of credit is both negative and positive. Credit is, in the main, seen as an enabler to acquiring items that one would ordinarily not afford. However deficiencies in credit knowledge, consumer protection legislation as well as industry shortcomings tend to result in disputes of various forms between customers and other credit industry players. All respondents interviewed had experienced credit disputes they undertook to get resolved through use of ADR agents.

Common credit dispute categories identified included service provider related (50%), credit bureau related (30%) and debt counseling related (8%) elements. Within these, common dispute types singled out were overcharging, over-deduction or other mistakes on installments, excessive interest, unknown garnishee orders and general "harassment" by the service providers. Types of credit disputes however vary by social status whereby higher income people tend to have disputes related to mortgages and secured types of credits whilst the middle to low income customers have disputes in personal unsecured loans and credit facilities.

Although as noted above, most credit disputes arise from agreements with credit providers, credit dispute resolution agents (ADRs) consulted tend to be legal practitioners (31%) and legal insurance (Legal Wise, 21% and Scorpion, 15%) firms and credit providers themselves (22%). Credit Providers, Debt counselors and industry specialized bodies like the

National Credit Regulator (NCR), Credit Ombud, Banking Ombudsman, Provincial Consumer Affairs offices and the National Debt Mediation Association (NDMA) are used to relatively lower extents even though resolution services are free of charge.

The courts system is regarded the last resort when everything that could be done (e.g. consult friends, negotiate with service providers, switch banks etc) has been done and yet the dispute remains unresolved. Organisations interviewed for the supply side displayed better awareness and familiarity with the ADR terminology than the demand side respondents and ADRs were likened to ombudsman structures.

Credit providers dispute resolution mechanisms are not consulted to high extents. The findings revealed issues of effectiveness and impartiality of the process, manifested through staff suitability and proactive communication. A concern was raised that service providers tend to give standard responses to disputes due to obsession with risk management on their part.

Most respondents found out about ADR services through newspapers (48%), referrals (40%), radios (25%), magazines (15%), flyers (12%) and television (7%) these being part of channels for promotional strategies used by ADRs. However, consumers would initially contact ADRs through personal visits driven by the need to negotiate and get quick resolution of the dispute in their favour. On the contrary, ADRs discourage walk-ins and communicate telephonically or via emails, internet and letters. Many agents tend to have one operational base, typically in Gauteng for the same reason but then ensure that they are equipped with state of the art IT systems for efficient record keeping, dispute logging, case tracking and updates with consumers about the resolution process.

Most respondents (97%) had on average used ADR services for one dispute in the last two years. Choice of ADR agents is chiefly informed by capacity (49%), process correctness (45%), accessibility (42%), professionalism (38%) and fees (36%) perceptions. Need for quick fix is a key motive because by the time they look for ADR agents, the consumers' situation would, in most cases, be desperate. Apart from the need for speed and transparent fees structures consumers also scout for professionalism, defined as business-like approach to customer engagement. Consumers expect to pay reasonable fees ideally linked to the value of disputed cases and also paid in installments. Contracts with ADR agents are expected to be more 'lenient' than their disputed counterparts. The supply side findings revealed that customer commitment and cooperation in providing all necessary information and

supporting documentation actually play a cardinal role in ensuring successful dispute resolution.

In terms of the ADR process, consumers generally expect ADR agents to “take over” their disputes once they initiate contact and they expect ADRs to take their side. The ADR process was generally described by consumers as typically involving four critical steps i.e. contacting the ADR, lodge a query, submit required documentation and wait for investigation and response. During the resolution process, the ADR agent would liaise with the credit provider with little or no consumer involvement, seeking resolution on behalf of the consumer. Some ADR agents do provide the consumer with feedback or communicate when the consumer should expect feedback or the matter to be resolved. Upon finding resolution, depending on the type of ADR agency as well as the type of dispute, the ADR agent may or may not give formal or informal feedback about the resolution and close the case. Lack of consistent consumer involvement throughout the resolution process, tends to compromise effectiveness of the resolution process as reasons for time taken, seemingly lack of communication and fees charged become less understood.

Regarding costing structures, service fees constitute a larger part of what consumers pay for ADR services, particularly when the ADR is a legal practitioner. Not for profit organizations and industry expert bodies offer resolution services for free. Credit providers do not charge for their internal ADR services as this is deemed part of customer care. Overall, respondents showed preference to pay something for dispute resolution in exchange for an impression of commitment to get the disputes resolved in their favour within reasonable time. Various amounts for ADR services, mostly less than R1000, for the full process was considered acceptable varying by dispute type and complexity. Due to lack of customer knowledge about the law and what is possible and not possible, many customers fall prey to value propositions that create the perception that disputes can be resolved in their favour regardless of circumstances.

Chief among dispute resolution challenges identified are lack of education and knowledge about consumer protection

legislation and credit industry dynamics making engagements and understanding between the agent and the customer in largely one way and vulnerable to misunderstanding. Secondly consumers do not seem to appreciate the need to stay committed to the full resolution process. In some cases drop-outs are caused by fear of the unknown because of the perception that there could cost implications when one keeps following up on dispute resolution especially with lawyers. Thirdly, there are elements of irresponsible credit: either caused by credit agreements not properly explained by the credit provider or the consumers themselves not having read effectively the contents of the credit agreements. Another key barrier to resolution of credit disputes is inaccessibility of relevant service providers. Consumers tend to spend towards transport and communication in efforts to access services. An industry stakeholder conference could be considered to provide a platform for engagements and resolutions on prevailing industry challenges.

The dispute resolution process varies, in duration, from a few weeks to a couple of months. It was also clear that resolution period tends to be, in part, a function of legal stipulation, customer process preference, service provider and dispute type. Although there were many concerns associated with ADR agents, disposition towards ADR agents is generally high on the demand side mainly because they ultimately help solve the problem. A vast majority (85%) of respondents confirmed they would recommend ADR service providers they were served by. This means the ADR service is largely seen as effective. Likelihood of recommendation was highest for legal firms and lowest for credit providers’ type ADR agents as well as Debt counsellors. It appears that as a service ADR agencies are endorsed as having a job to do. The main issues revolve around the process duration and associated communication as well as seemingly lack of transparency (involvement of consumers and justification of fees).

The overall researcher impression was that the ADR market is indeed effective but requires adoption of an industry accredited process framework to facilitate consistency, transparency and ultimately consumer protection. This framework could be reviewed and adopted at a credit industry stakeholder conference mentioned above.

2.0 BACKGROUND & OBJECTIVES

Client, the National Credit Regulator (NCR) was established as the regulator under the National Credit Act 34 of 2005 (the Act) and is responsible for the regulation of the South African credit industry. It is tasked with carrying out education, research, policy development, registration of industry participants, investigation of complaints, and ensuring enforcement of the Act. The Act requires the Regulator to promote the development of an accessible credit market.

The NCR has the mandate to promote a responsible and accessible credit market and to protect consumers from abusive and unfair practices. It has the responsibility to monitor and report on the credit market in terms of the NCA. The NCR is also tasked with the registration of credit providers, credit bureaus and debt counselors; and enforcement of compliance with the Act.

In line with its mandate, Client, decided to conduct research into the alternate dispute resolution (ADR) sector within the credit sector of South Africa. Section 1 of the National Credit Act defines an ADR service provider as “a person providing services to assist in the resolution of consumer credit disputes through conciliation, mediation or arbitration”.

The findings of the research will be used to inform policy development and to advise the role-players within the market of issues pertaining to their effectiveness and to the needs of consumers. Consequently, the survey focused on both the supply and demand aspects of the ADR market to conduct an investigative study on the effectiveness of the alternate dispute resolution market. In particular the mechanisms used within this sector, the related costs, also benefits to consumers who choose to use these service providers and the services they offer.

This project is one of many which will assist the NCR in meeting its annual credit market research reporting requirements in terms of the NCA. The research program also investigated the impact on consumers, the satisfaction level of those who utilised the services of such service providers and the extent of consumer access to such services. In specific terms, the research sought to understand the following about the overall market:

- The nature and extent of ADR services as well as their processes;
- The spread, nature and profile of customers of the various ADRs;

- Nature of disputes consumers lodge with ADRs & drivers;
- Their fees structures and value perceptions;
- The record keeping which they undertake in regard to clients, their complaints and the resolution thereof;
- Their promotional strategies, tools and basic message contents;
- The challenges the ADRs face in rendering their services to consumers
- Whether consumers refer others to ADRs and under which conditions.
- Any provincial perspectives or issues which may be material to the access to ADR services by consumers.

3.0 RESEARCH METHODOLOGY

3.1 Introduction

A variety of research methods were employed to address the subject matter adequately, ranging from desk research to primary research amongst both the consumer sector and the ADR sector. It was necessary for the survey to be conducted in a consultative manner to afford credibility and confidence to findings. The methods and survey tools were thus developed with NCR inputs at the relevant stages of development – these ranged from, but not limited to, interview guides, questionnaires, recruitment guides, to fieldwork guides and project training. Data collection tools were similar in content, all seeking to address the same objective. Accordingly common themes are discussed together under the same headings making this report a blend of findings from all tools used.

3.2 Desk Research

As part of our research process, we conducted desk research to inform ourselves more about the dynamics of the credit industry. This research phase was, in the main, meant to enable the researcher to have a better understanding of the functioning of the credit market and key players; credit providers, debt counselors and credit bureau as well as complaint handling and resolution processes. Literature from websites and publications of specialized organizations including the ones shown below was interrogated.



The National Credit Regulator (NCR) is responsible for the regulation of the South African credit industry. It is tasked with carrying out education, research, policy development, registration of industry participants, investigation of complaints, and ensuring enforcement of the Act. The NCR is also tasked with the registration of credit providers, credit bureaus and debt counselors as well as enforcement of compliance with the Act.



The NDMA is a non-profit organisation designed to assist over-indebted consumers by resolving where possible, through debt mediation their current over-indebted situation and to prevent potential financial problems with the help of debt counselling and financial management through affiliated debt counselors.



CBA's mandate is to provide a framework for a sustainable and well functioning credit information system, by facilitating a fair practice within the credit bureau industry and to promote transparency, accountability, high quality credit reporting and sound business practices within the credit bureau industry.



The MFSA is the Voice of Reputable Microfinanciers in South Africa with a vision is to ensure a sustainable Micro Finance Industry. They are committed to promoting the interests of all members and their clients through continuous advocacy, creation of development and growth opportunities

The Credit Providers Association (CPA)

The Credit Providers Association (CPA), previously named the Consumer Credit Association (CCA), is a non-profit association representing all credit providers who voluntarily choose to become a member of the Association. The CPA provides a self-regulatory framework by which consumer credit data is shared between all the members of the Association. The cornerstone of the CPA is reciprocity: a member has to share data in order to be able to receive data. The CPA does not handle consumer disputes as these are referred to the Credit Ombud office.

AFSA

The Arbitration Foundation of Southern Africa operates as an administrator of disputes but mainly for businesses through clauses in contracts between parties. AFSA is the national leader in all types of appropriate dispute resolution. AFSA is a joint venture between organised business, the legal and accounting professions and was founded in 1996. AFSA has branches in Sandton, Pretoria, Durban and Cape Town. The business aims to provide a one-stop dispute resolution service through arbitrations, mediations and a fully administered dispute resolution service.

ADRASA

ADRASA (The Alternative Dispute Resolution Association of South Africa) is a wholly owned subsidiary of AFSA. The organization allows free membership for all organizations involved in dispute resolution through arbitrations, mediations and conciliation efforts.

3.3 Primary Research

In order to glean fresh insights, focus group discussions and personal interviews were conducted with respondents drawn from both the demand side and supply side as discussed below.

3.3.1 Qualitative Focus Group Discussions



Picture 1: Focus Group Discussion in session

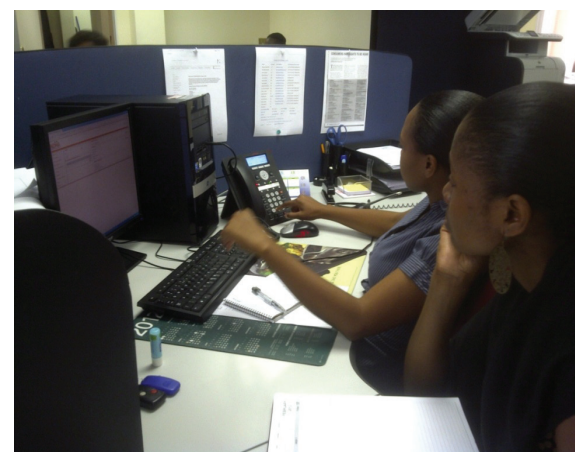
Six Focus Group Discussions (FGDs) were conducted, each comprising of eight respondents who used ADR service providers' services and residing in the three provinces of Gauteng, Limpopo and Northern Cape. Two FGDs were conducted per province specifically Johannesburg, Polokwane and Kimberly. All FGDs in Limpopo were attended by Client representatives.

3.3.2 Qualitative In Depth Interviews (IDIs)

In order to elicit expert opinion about the ADR market, qualitative interviews were conducted with specialized organizations within the industry. In-depth Interviews (IDIs) are usually recommended in cases where the target audiences are people of executive standing and therefore difficult to summon to attend Focus Group Discussions. Interviews happened at the respondent's preferred setting, typically their offices as depicted in the picture below. Although the researcher was equipped with a mandate letter from the NCR, many respondents requested anonymity as a condition to share opinions about the ADR sector. The organisations from whom eligible respondents were drawn can be classified as follow;

- Legal Firms/legal insurance;
- Credit & banking industry expert bodies/associations;

- Credit Providers (banks, retailers & microfinance institutions);
- Credit bureaus;
- ADR agents/Credit Rehabilitation and
- Debt Counsellors.



Picture 2: Supply side in-depth interview in Johannesburg

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Picture 2: Supply side in-depth interview in Johannesburg

The use of mystery shopping exercise was utilized to confirm findings pertaining to service, products, pricing and documentation through observation. Due to the high refusal rate, especially among ADR agents, the mystery shopper exercises were not treated as a standalone exercise but undertaken as part of in-depth interviews involving TRS executive staff.

3.3.3 Quantitative personal interviews

As part of the final segment of the study, quantitative interviews were conducted with ADR consumers and service providers drawn from the three provinces of Gauteng, Limpopo and Northern Cape. A sample of 1000 interviews across the three provinces was targeted.

PROVINCES	TARGET		ACHIEVED	
	Demand	Supply side	Demand side	Supply side
Gauteng	576	104	456	30
Limpopo	182	78	138	25
Northern Cape	42	18	101	10
Total	800	200	695	65**
TOTAL	1000		760	

**NB: Please note that more than 200 supply side interviews were conducted. However most turned out to be debt counselors with no ADR component and were thus filtered out at data analysis stage.

Demand side interviews were conducted with credit consumers who have experienced at least one credit dispute in the past two years and have sought assistance to their disputes from ADRs. Supply side interviews were conducted with those who offer ADR services to get the disputes resolved. An ambitious target of 200 respondents was set for the supply side without sufficient insight on the refusal rate which later emerged. It later emerged that ADRs service providers do not seem to want to be known and all interview attempts were either flatly rejected or needed several advance bookings and permission from senior management. Their business model does not typically allow visits preferring telephonic and email engagements. Eventually, identification

of supply side respondents was done via the demand side respondents who were in turn randomly sampled in the homes and at public places. This also had its challenges as many names suggested had no contact details. Many of the supply side interviews had to be done telephonically whilst some of the information was gathered from websites with guidance from the industry associations and expert bodies.

Demand Side Quantitative data collection approaches involved the following:

- face-to-face pen and paper household interviews

- intercepts at public places like taxi ranks & shopping malls.

Staff from the NCR education department assisted with branded material to help attract respondents at public places as depicted by the pictures below. Client also referred a couple of ADR agents they came across to TRS.



Eligible respondents were adult men and women aged 18-64 drawn from both urban and rural locations. With little to no information available about the ADR market in South Africa, it proved to be a challenge to find a sampling technique that would ensure that each member of the target population had an equal chance of being selected. The multi-stage stratified sampling technique was used for the demand side and this entailed random selection of study areas in each of the three provinces, random selection of primary sampling points within the selected study areas and random selection of eligible respondents in the households or public places.

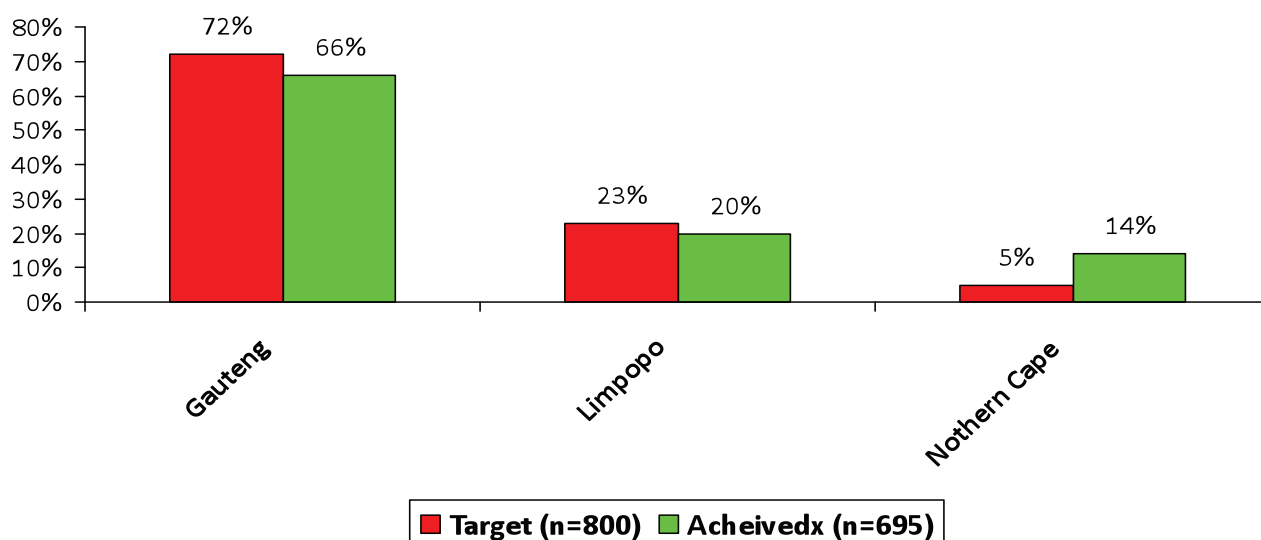
The core topics reflected in the data collection instrument as key information required included key themes mentioned



Picture 3: TRS staff conducting interviews at taxi ranks

in the background and objectives section of this report. The questionnaire was translated into relevant provincial languages to ensure that the instrument brought out maximum value out of the research as intended. A pilot of the overall methodology was conducted in Gauteng and then later rolled out to Limpopo and the Northern Cape.

Fieldwork took place between November 2011 and March 2012. The graph below shows the target sample versus achieved sample for the demand side of the study.



Data collectors underwent a two day training workshop to explore research needs as well as understand the data collection tools. The workshop was designed to ensure that the interviewers understood credit industry and ADR concepts. It was also deemed important to get research teams to appreciate industry terminology and so the training was attended by Client representatives. Follow-up questionnaire briefing sessions were also conducted regionally. After each briefing session was conducted, mock interviews were conducted and facilitated by supervisors. These were followed by real life pilot interviews, conducted with respondents who would qualify to participate in the study. Debriefing sessions were conducted on a regular basis with all interviewers not only to assess interviewers' understanding of the project but also to continually assess questionnaire contents. As part of field data integrity checks, call backs were undertaken on 25% of each interviewer's returns to ensure that all was in conformity with briefing instructions.

After the data collection phase, questionnaires were taken through the data processing (DP) steps which involved four stages discussed each in turn below.

- **Editing:** As a first step, questionnaires were checked for completeness and consistence of responses.
- **Hand tabulations & coding:** All open ended questions were analyzed to extract responses, assign codes and generate a code sheet. Once the code sheet was produced all open ended questions in the questionnaires were coded before they went for data entry. The coding process involves assigning numerical values to respondent responses in preparation for data entry/capturing. The data capturing software only "understands" numbers and not alphabetic text.
- **Screen development and Data Capturing:** A data entry screen was developed using software called SPSS/DE (Statistical Package for Social Sciences/Data Entry version) where each question is represented by its own variable(s) into which the codes will be punched or entered in. Data Entry/Capture is the process of punching in the codes onto a screen on a computer.
- **Data Cleaning/ Analysis:** After capturing, the data file was then opened in SPSS where it was cleaned for illogical elements. Frequency checks and combinations were run using SPSS Syntax scripts to see if all applicable questions were answered as well as making sure the output is logical. When the data was satisfactory, data tables and other outputs were then generated.

3.4 Survey Limitations/challenges

The study design assumed that it would be possible to interview up to two hundred interviews for the supply side so that, like for the demand side survey, statistical measurement would be possible on obtained responses. In practice it emerged that although ADR agents do exist as confirmed by respondents from the demand side interviews, many of them did not seem to want to be known and thus declined to be interviewed and flatly refused that photos of premises be taken. After several attempts lasting a couple of months, forty seven interviews were conducted telephonically and eighteen face to face, giving an achieved total of sixty five. Due to resultant sample size limitation, analysis for the supply side of the research was therefore done qualitatively and no figures may thus be quoted in this report. However insights from the statistically robust demand side sample are in tandem with themes generated from the supply side and we consider these conclusive enough.

4.0 MAIN FINDINGS

4.1 Introduction

This section discusses the findings from the research covering all respondent categories. It must however be borne in mind that the bulk of the quantitative study was focused on the demand side, hence responses from this category will dominate in terms of statistical representation. However, as much as possible, illustrative quotes will be used to represent the views of the supply side respondents. For ease of comprehension and interpretation, the actual questions administered are used as headings on most of the sections. The discussion under each heading is derived from the responses obtained from the indicated questions.

4.2 Context

Literature regarding developments in the ADR market in South Africa does not seem to exist. However the NCR provides information to the financial industry and key stakeholders on consumer credit in South Africa, on the levels of borrowing, types of borrowing and the levels of debt stress amongst consumers. The NCR also provides credit statistics in its annual reports.

According to these publications, since the start of the financial crisis the credit records of almost two million people in South Africa were impaired through judgements, adverse listings or arrears on payment obligations. The percentage of people with impaired records has increased from around 36% prior to the financial downturn to over 45%.

Statistics regarding the dynamics of the credit industry in South Africa are published on a quarterly basis by the NCR through a publication called the Credit Bureau Monitor (CBM). Credit bureaus create consumer credit profiles based on credit information received from credit providers, courts and utility service providers. The NCR regulates and monitors registered credit bureaus and the quality of their data.

Statistics in the NCR annual report of 2010, show that a total of 4168 credit providers are registered with the NCR, representing 33706 branches. Ten credit bureaus were registered with the NCR by 2010. The registration process includes a pre-registration audit on each applicant to determine whether the applicant has appropriate technical capacity, processes and expertise to operate a credit bureau and meet the requirements of the act. The NCR registration department is also responsible for debt counsellor registration, increasing the number of registered debt counsellors from 834 as at March 2009 to 1642 as at March 2010.

According to the Credit Bureau Monitor of 3rd Quarter 2011 the following situation prevails in the credit industry in South Africa;

- There are 19.10 million credit active consumers accounting for a loan book of R1.1 trillion;
- 10.27 million (54%) of credit active consumers are in good standing while the balance (8.8mil) have impaired records;
- 90% of credit is with banks whilst the remainder is almost equally split among retailers, non-bank vehicle financiers and other credit providers;
- Banks also dominate all enquiries on consumer credit records at 74.5%. Retailers account for 5.2% and enquiries from telecommunications providers account for 9.3%. The balance is from other credit providers;
- High income consumers tend to go for mortgages, secured credit and credit facilities whilst low income consumers typically settle for short-term personal loans, unsecured personal loans and also credit facilities and
- 7070 disputes were lodged with credit bureaus in a three months period up to September 2011. More than 72% of these were resolved in favour of the complainant.

Regarding consumer awareness and education, the NCR has a consumer awareness programme, including regular capacity building workshops, radio talk shows, events at

shopping malls, presentation at public events and regular awareness campaigns in newspapers and magazines.

Complaints logging at key specialised industry organisation like the NCR, Credit Ombud, NDMA, Credit bureaus is largely through their call centres as well as the websites. The NCR has regular engagement with the Credit Ombud and the Ombud for banking services to facilitate the referral and resolution of complaints. The NCR is a member of the Provincial Consumer Protection Forum, consisting of provincial consumer protection offices, the DTI and relevant regulators. The forum facilitates effective cooperation between the NCR and provincial government consumer support.

The credit bureaus also handle disputes to do with creditor customer information whilst credit providers also have mechanisms to handle contracts related disputes. The NDMA has jurisdiction of debt counselling related disputes. The three entities (credit bureaus, credit providers & debt counsellors) can refer unresolved disputes to the Credit Ombud, who in-turn can refer matters to the NCR or the customers can resort to litigation. If matters are still unresolved, the NCR can refer matters to the Nation Consumer Tribunal which has consumer interest spanning beyond credit issues.

When there are credit disputes, credit reports may include adverse information that affect the consumer. Adverse credit information may include judgements, enforcement actions, sequestrations and rehabilitation.

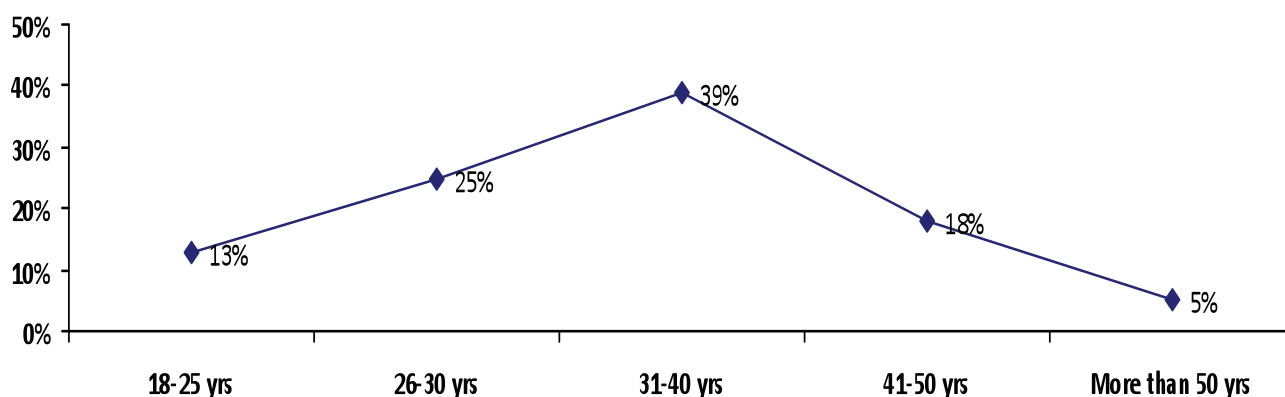
4.3 Credit customer profile: Who uses credit?

A look at the profile of credit users interviewed showed that usage cuts across all demographic groups encompassing gender, age, income, education and occupation. There is an almost equal split by gender but with a heavy skew towards the Black population groups.

"I would say its black people....we grew up not having these things, so when we start working you naturally want to have all those things at all cost.....and also we are very much about wanting to get family members or the next person happy... have a communal culture.....exerts lots of pressure"
Consumer Limpopo

An analysis of credit usership by age reveals the following pattern where the economically active middle aged groups dominate.

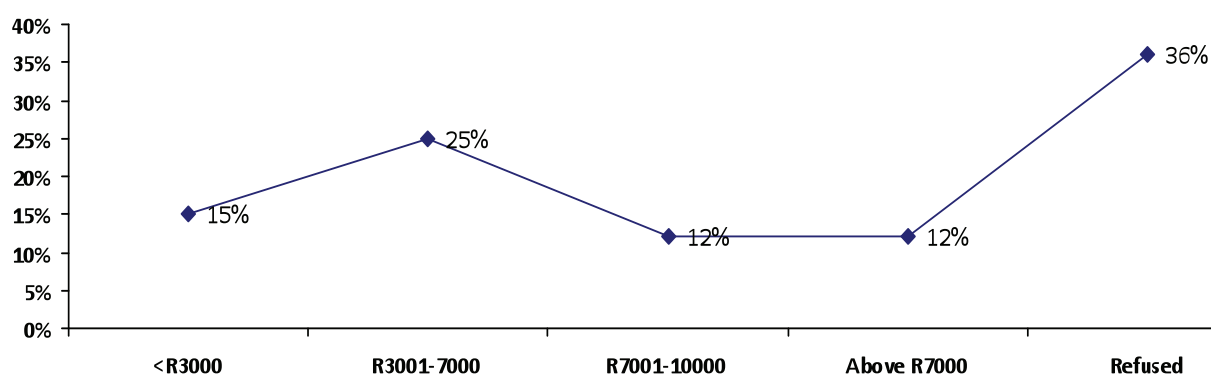
Figure 3 : Age Profile



Certain types of credits are more associated with certain categories of people than others. For instance higher income people tend to go for mortgages and secured types of credit whilst the majority of previously disadvantaged and low income people tend to settle for short-term and unsecured

types of loans together with credit facilities. The graph below shows the proportion of respondents in different income categories. It can be seen that credit acquisition is not necessarily a preserve of the poor people.

Figure 4 : Income Profile



Each of these consumer segments seems to have unique credit consumption needs and therefore would typically use credit products that are suitable for their circumstances at their life stage. Students would use income (allowances) from parents or part-time jobs to opening student accounts. Young adults would be new entrants in the job market and needing to meet with the demands of the working life. On the social side there could be newlyweds with new responsibilities, e.g. kids, house, cars etc. The middle to older age groups tends

to be more vulnerable to unforeseen circumstances, e.g. retrenchment, illness, death etc. Across provinces majority (57%) of credit customers interviewed are single whilst about a third (29%) are married. This trend was observed across all provinces. It is largely a self-centric market. The rest are either living together, divorced, separated or widowed.

The sentiment from supply side interviews was that anyone is vulnerable to credit disputes.

"...we never judge anybody...we have a handful of flashy high level customers....you will see very nice cars parked here...that is why our attitude is not to blame anyone....If governments have problems dealing with their budgets, why should we want to blame consumers and judge them" ADR agent, Gauteng.

There was consensus on the view that customers would rather be segmented by types of credits they used and inherent different levels of responsibility they exude. However credit is seen in serious light and was regarded as something people will never leave without because of needs, seen as long-term and wants, seen as short-term.

4.4 What are all the kinds of credit you know/use?

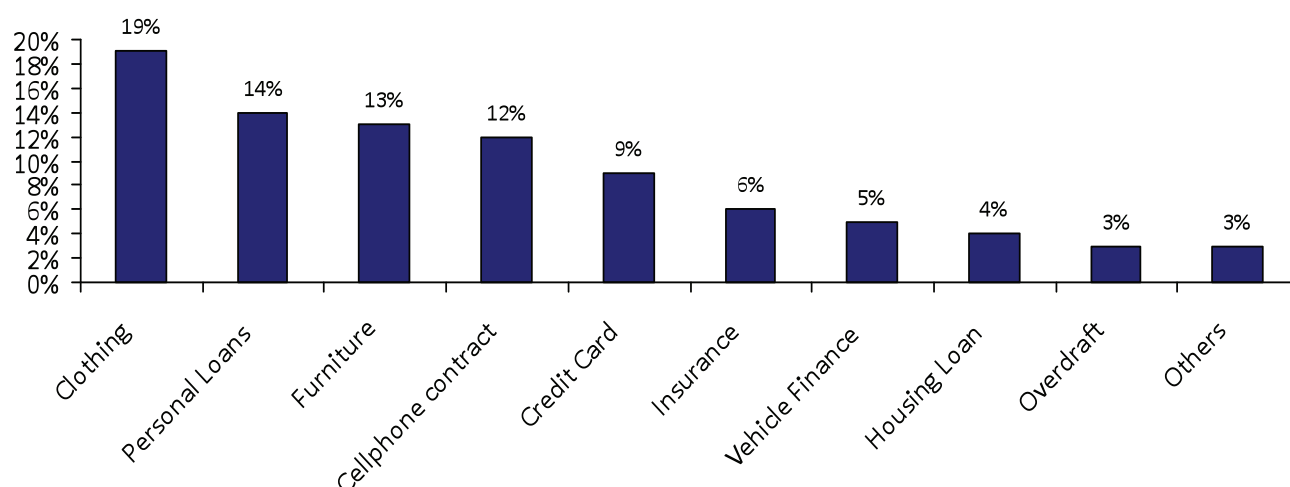
Respondents were asked for types of credit they knew. Clothing accounts, personal accounts and furniture type of credit products were popularly mentioned as shown below.

Figure 5: Types of credit known

Types of Credit known	Total	Gauteng	Limpopo	Northern Cape
Clothing account	53%	55%	55%	39%
Personal Loans	36%	33%	36%	47%
Furniture account	32%	36%	30%	14%
Cell phone contract	27%	25%	36%	23%
Credit Card	18%	20%	19%	8%
Vehicle Finance	10%	6%	19%	14%
Study Loan	8%	5%	20%	6%
Life insurance	8%	8%	12%	4%
Overdraft Facilities	5%	7%	3%	3%
Housing Loan	5%	4%	6%	4%
Others	3%	2%	2%	7%

Even cell phone contracts were also mentioned by a notable 18%. There are however noteworthy regional variations as shown above. Cellphones contracts are incidental credit which is not regulated. Consumers can not plan for them because they can change any time. However common

disputes arise from contracts entered telephonically and also continued installments deductions even after contract expiry. Surprisingly life insurance was also cited as a form of credit but to a rather low extent.



Usage pattern was more of a mirror image of responses to the awareness question (*akin to what they know is what they use*).

4.5 Why do you use credit? What is the role of credit...?

Chief among the reasons cited for using credit was that credit is seen as an enabler to acquisition of items one would otherwise not afford. In some cases credit was regarded as a form of investment mainly among those with an aspiration of a better lifestyle. However in a number of cases use of credit was triggered by misfortunes resulting in societal pressure on those able to access credit facilities. During the focus group discussions with demand side respondents, a question was asked to uncover thoughts associated with the word credit. In response both negative and positive aspects emerged. It was quite evident that a majority of the people harbour dreams to migrate from humble living environments to more



Low income environment



Middle income environment



High income environment

POSITIVE ASSOCIATIONS WITH CREDIT

Opportunity to finance dreams, money, easy way of life, help/assistance, pay as you go, relief, solving family problems, parents upkeep, lawyers, NCR, success, meeting day today needs, bank, interest, get money back when you sell asset, events, responsibility etc

NEGATIVE ASSOCIATIONS WITH CREDIT

Debt collectors, credit bureaus, ICT, pain, Debt counselors, PDAs, admin fees, transport, multiple charges, arrears, calls, letters, SMSs, final notices, stress, summons, sheriff, lawyers, repossessions, paper work/contracts/forms, court, jail, retailers, banks, interest, loans, hidden costs, debts, daylight robbery, being ignored, temptations, problems, running away, switching banks, confusion, garnishees, judgments, ignorance, selfishness, poor communication, fly by nights etc

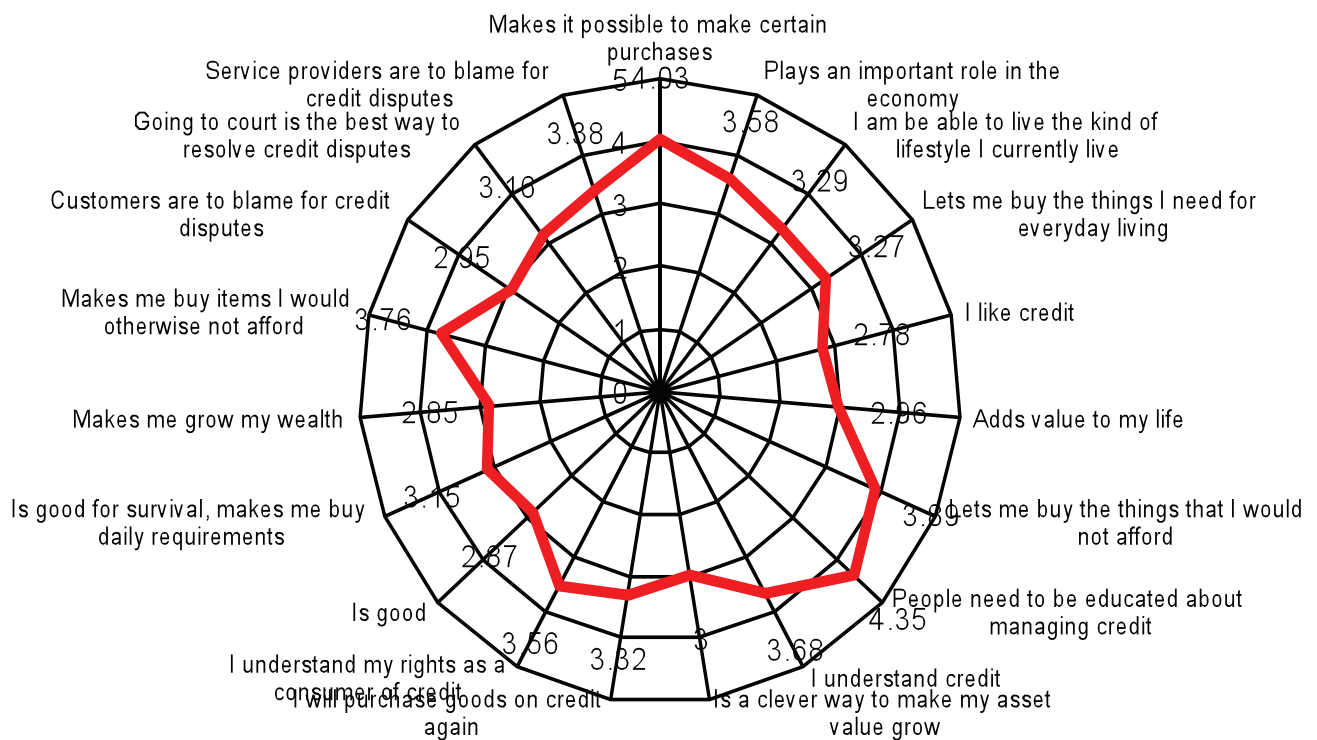
Identified roles of credit also included improving lifestyle and inherently teaching people financial accountability and responsibility. The responses from individual interviews showed credit is in part viewed as an integral part of life, in some cases categorized as one of the basic necessities.

Credit is mostly negatively perceived due to the consequences of bad credit management. Negative effects of credit are quite evident in society manifested by guilt

feelings as well as mental and emotional effects arising from loss of belongings, harassment from collectors, courts and even jail.

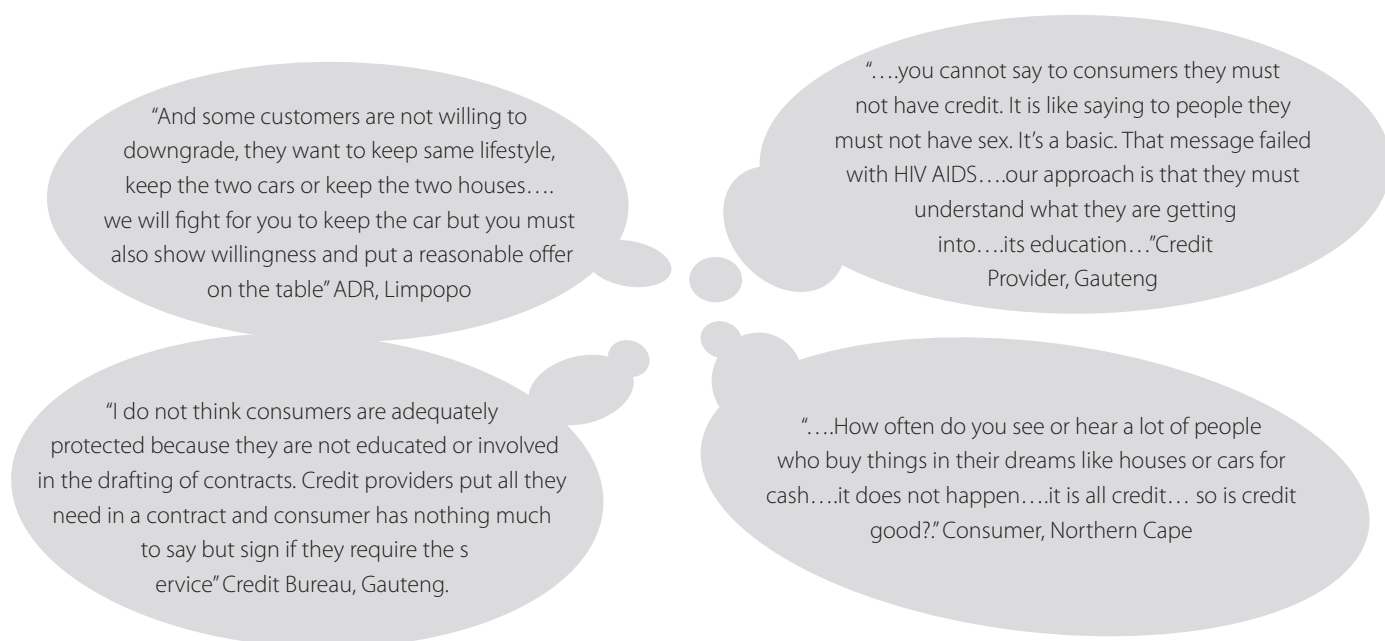
To quantitatively gauge perceptions around credit, respondents were asked to rate a predetermined list of credit related statements (attributes) on a scale of 1 – 5 to indicate degree of agreement or disagreement. On the scale, 1 meant totally disagree while 5 meant agree strongly. The graph below indicates scores obtained per statement.

Figure 7: Credit Perceptions



As shown above the importance of credit was confirmed whilst lack of credit education was endorsed as one of the key barriers to effective credit management by consumers. From the attributes rated, credit was highly rated as an enabler to obtain things that people would otherwise not

afford. However credit seems to be perceived negatively. The statements "I like credit" and "credit is good" had lukewarm ratings of less than 3. Though important, credit is neither seen as "good" nor is it liked.



From both the demand and supply surveys, there were mixed reactions on whether consumers are adequately protected or not. Those who said they are protected made reference to those able to use organized dispute resolution schemes involving ombudsman office which are run on tight constitution, with proper terms of reference with the right of judicial review and services are for free. Those who said customers are not protected, cited ignorance of the law and suitable dispute resolution structures, lack of resources by majority to access organized dispute resolution services and in many cases consumers seek ADR services when it is too late and desperate situation.

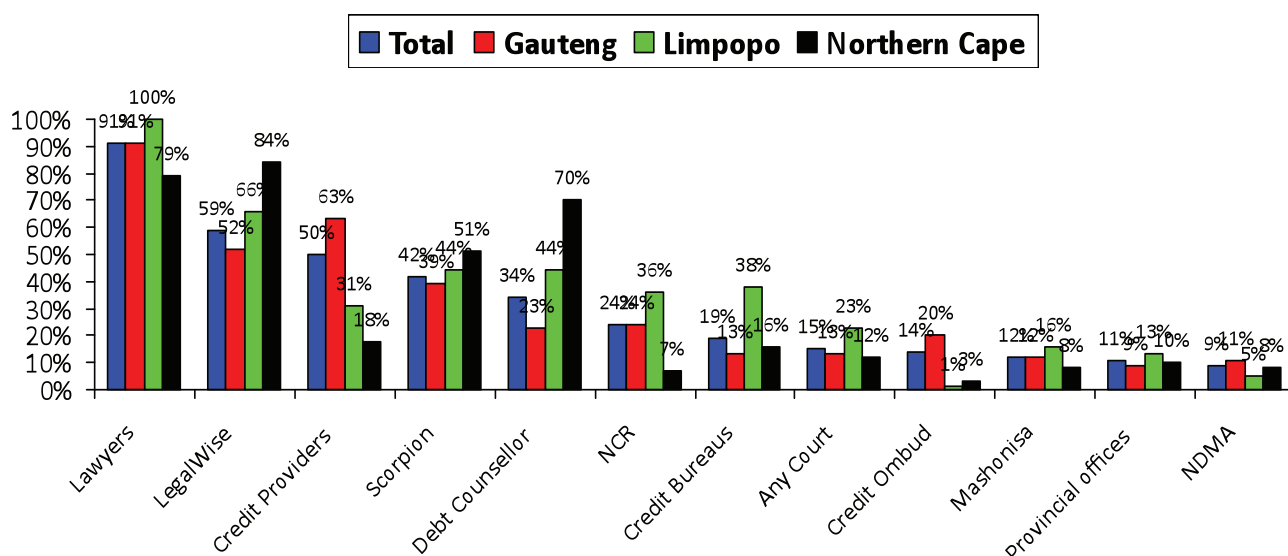
4.6 Awareness of entities that assist with credit dispute resolution

The research unearthed entities widely seen as ADR agencies in the provinces surveyed. The questions and responses are discussed in the sections below.

4.6.1 Which organisations do you know that assist customers with credit disputes

An analysis of all service provider categories mentioned as known to assist with credit disputes show lawyers (sometimes referred to as family lawyers) occupying an emphatic first position. As shown in the graph below credit providers (encompassing banks and retailers) as well legal insurance firms (specifically LegalWise and Scorpion) enjoy high levels of awareness as providing platforms for credit dispute resolution. Debt counsellors also had significant mentions but seem to have relatively higher prominence in the Northern Cape. It appeared debt counsellors informally provide ADR service.

Figure 8: Agents Known to handle credit disputes



As shown above industry specialised bodies like the NCR, credit bureaus, the Credit Ombuds and NDMA enjoy decent recall levels as platforms for credit dispute resolution. In the focus groups, it was clear that customers are aware of dispute resolution agents but could not recall names except for

organisations that tend to be in the media or are established industry players. In many other cases names mentioned by consumers were actually debt counsellors and not ADR agents per se. The use of the term ADR is not at all common among consumers.

"We know them at that moment when we are in the situation..... people forget about them until they get in trouble again.....not many of them are in your face anywhere" Consumer, Gauteng.

There appeared to be better appreciation of the ADR terminology among the supply side respondents than their demand side counterparts. Supply side respondents associated ADRs with any form of dispute resolution other than formerly in a court of law and the Ombudsman structures were frequently cited as typical examples of ADRs where negotiation, arbitration and mediation were seen as key resolution methods used. Provincial consumer affairs offices were mentioned frequently on the supply side of the research together with the complaints department within the NCR which was accepted as an ADR in terms of the Act but not widely mentioned among consumers.

During in-depth interviews with respondents from the supply side, the National Consumer Tribunal was also widely mentioned as part of the dispute resolution mechanism but never featured during demand side interviews. The National Consumer Tribunal is an independent body, which aims to achieve fairness and justice for everyone in the consumer

and credit market. The role of the Tribunal is to adjudicate on applications made by consumers, credit providers, credit bureaus, debt counsellors and the NCR including applications for interim relief and a review of the NCR's decisions. The National Consumer Tribunal hears all sides of an argument before making a decision. A decision made by the National Consumer Tribunal has the same status as one made by the High Court of South Africa. Failure to comply with an order of the Tribunal carries a fine or imprisonment for up to ten years.

Another organization mentioned only on the supply side is the Arbitration Foundation of Southern Africa (AFSA). The foundation operates as an administrator of disputes but mainly for business entities through clauses in contracts between parties. AFSA positions itself as playing leading role in all types of appropriate dispute resolution. AFSA is a joint venture between organised business, the legal and accounting professions and was founded in 1996. AFSA has branches in Johannesburg, Pretoria, Durban and

Cape Town. Their proposition is to offer a one-stop dispute resolution service encompassing arbitrations, mediations and a fully administered dispute resolution service. ADRASA (The Alternative Dispute Resolution Association of South Africa) is a wholly owned subsidiary of AFSA and is voluntary membership organization for all involved in dispute resolution.

Given that some of the disputes that AFSA handles involve credit providers versus individual customers, this organization has scope to be of service to individual customers.

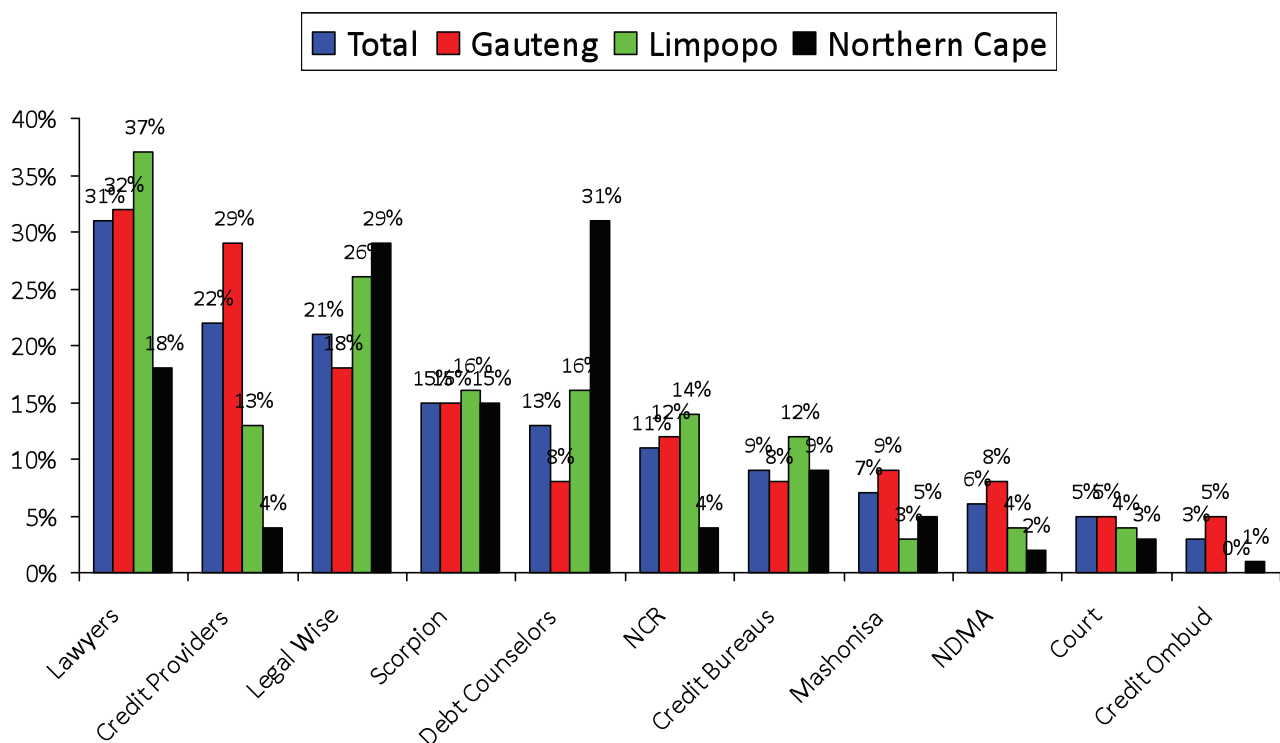
"But of course business disputes may include consumer disputes which involve individuals e.g. between individual and a bank. And the type of the dispute typically would be- you are not honouring the terms of the loan agreementor there has been reckless lending.....many relate to I cant pay and why I cant pay and therefore the seeking of dent counseling....

our experience is that you are looking into the credit act with disputes which ultimately do not turn into legal pint" ADR agent Johannesburg.

4.6.2 Who would you go to if you had a credit issue/dispute?

Consistent with awareness responses discussed in the preceding section, for most respondents top of mind consideration of ADRs to use are legal practitioners (attorneys/ lawyers) as shown in the graph below. Credit providers also feature prominently as first port of call. High among the ranks are also LegalWise and Scorpion, whom are often mistaken for lawyers themselves, whereas they offer legal insurance. A look at the results by income reveals that higher income customers tend to resort to lawyers more than their middle to low income counterparts who in turn patronise other mechanism more.

Figure 9: Agent would use if had credit dispute



In principle, credit providers should be the first point of contact for consumers should there be any disputes arising as this forms part of customer service. In line with credit concentrations most credit disputes emanate from agreements with credit providers (banks and retailers included). However as noted from the previous question, lawyers and legal insurance companies stay on top in terms of usage on the demand side implying that most consumers do not necessarily go where most complaints emanate from (credit providers) or that the credit providers' processes of dispute resolution have some inadequacies. Residents of the Northern Cape seem to be least likely to approach credit providers regarding credit issues resorting to third parties before engaging credit providers. It also emerged from the groups that apart from consulting colleagues and friends, a common habit is to stay within "family lawyers" who have a reputation of resolving family problems of various forms.

The government has also set up Provincial Consumer Affairs Offices countrywide to provide consumers with protection, information and advice. However from the demand side interviewers, these were mentioned in very isolated cases. The researcher's impression was that being government structures, these offices tend to be seen in the same light as the court system in terms of bureaucracy. Aggrieved individuals can approach a Consumers Affairs Office to intervene in disputes over contracts, quality of products or services.

However like other dispute resolution agencies, the consumer affairs office also advises complainants to first complain to the branch manager or customer care office of the business concerned before asking the Consumer Affairs Office to intervene. These offices have trained staff to advise on rights of consumers. The offices can also be contacted to find out if a company that consumers intend doing business with does not have previous history of complaints against them.

From the supply side interviews there were many ADR supportive structures mentioned that the demand side does not seem aware of. For instance industry associations like the Credit Providers Association, Credit Bureaus Association and the Banking Association do not actually have ADR structures but help with disputes advice informally before they refer complaints to the ombudsman. Banks also have set up their own ADR which help minimize the amount of complaints that go to the banking ombudsman. This internal ombudsman assess cases and makes a ruling before referring to external ombudsman structure who will not entertain customers unless they have a reference number from the internal bank ombudsman. The system encourages that customers with disputes contact their banks first. Retail shops have the same internal arrangement that manages and minimize disputes that get referred to the credit ombud for example. There was also reference to the legal resource centre (LRC), a human rights organization that was formed in Johannesburg South Africa in 1979. The organisation uses the law as an instrument of justice for the vulnerable and marginalised, including poor, homeless, and landless people and communities who suffer discrimination by reason of social, economic, and historical circumstances. The LRC has offices in Johannesburg, Durban, Grahamstown and Cape Town but their work spans from urban cities to the most remote rural areas in South Africa. And lastly there was mention of law clinics, each university has a law clinic

Overall both the demand and supply side interviews revealed that there seem to be numerous relatively small ADR agents who are not qualified to offer credit dispute resolution service they offer. These are perceived to play low profile and tend to not visibly engage initiatives by industry specialized bodies like the NCR and Credit Ombud whose credit resolution structures were widely seen as transparent.

"We have advocates of the high court, assisting consumers with these matters and when asked to produce bar council they have registered with, they will never respond" Credit Provider Limpopo.

"...my sense is it is working well.... the ombudsman has clear terms of reference and he adjudicates in terms of those references.." ADR agent, Gauteng

"Many of them function as credit repair agencies....when I was at the regulator, we used to deal with them.... Actually saying they provide assistance to consumers to resolve disputes...but they are also providing financial advice ... but not registered with the FSB....they also provide debt counseling services and not registered with the NCR....they are not qualified to do what they are doing, so can understand why you can't find them easily, they do not want to be found" Debt counselor Northern

The NCA requires that credit dispute resolution service be offered by competent people. Interestingly it was revealed that many of the small ADR agents regularly interact with industry organisations. However they seem to test the system and see how far they can get. When they approach credit providers or credit bureaus with disputes on behalf of customers, with power of attorney, the main preoccupation becomes that of resolving the dispute on either party and less so to investigate whether either party is registered or not. Some of the ADR agents' business environments resemble residential areas but with elaborate security. They tend to be disguised either in name or in outward appearance. As a way to identify them, maybe relatively bigger industry players need to be on the alert and keep verified records of who they deal with.

Mystery visits to some of the ADR agents clearly showed that calibre of premises vary from least to most sophisticated. In a couple of cases, business premises would resemble a residential set-up with no or less obvious signage whilst others premises exude sophistication synonymous with a banking set-up. An area of emphasis seems to be staff suitability. It was reiterated that to be effective dispute resolution agents need to be manned by people with legal, banking, systems and debt reviewing experience because these are the aspects they deal with on a daily basis. There is also demand for people with mediation skills, who are able to negotiate because in many cases things are not always black and white; there are times when parties involved want to hide certain information from each other. Special negotiation skills are thus needed to be able to work around these tendencies to realise progress.

Picture 4: ADR Business Environments



ADR service providers' environments

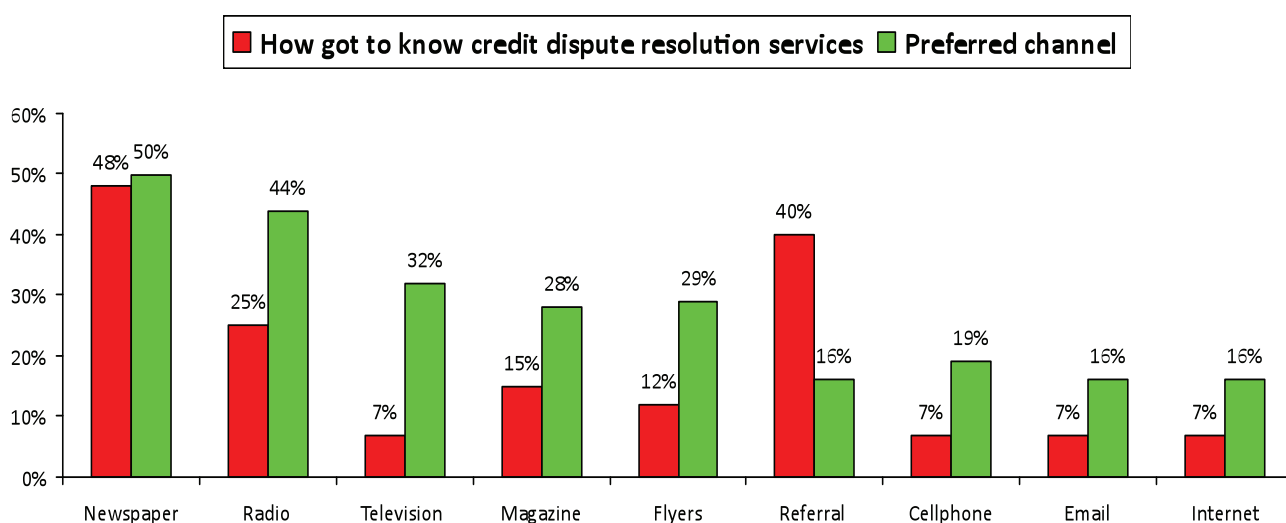
"We also need bull dozers as well. If you are dealing with credit providers, you need to have a very strong personality to not just take no for an answer.....and also case officers need to be able to empathize and not be judgmental. Some consumers are naughty and rude" ADR agent in Limpopo

4.7 How did you come to know about credit dispute resolution service providers?

Respondents were asked about how they came to know about credit dispute resolution services, their preferred

channels of communication for such information as well as the kind of information they would like to see advertised concerning ADR services. The graph below shows a comparison of sources of information against preferred channels.

Figure 11: How ADR Agents known



As shown above credit dispute resolution service providers appear to conduct their awareness and educational campaigns mostly through newspapers and radios. Word of mouth (referrals) is also prevalent as a source of information about ADR service providers. However when asked for channels they preferred or saw as best suited for advertising ADR services, respondents endorsed a wide range of channels

as shown above, encompassing both above the line and below the line platforms. Interestingly though in practice referrals are among the commonest source of ADR service information, the respondents significantly played down word of mouth as a preferred source illuminating some possible credibility concern with this channel.

“On TV, they will not really lie about who they are whereas word of mouth might be distorted a bit. People might be told to say only the positive things” Northern Cape customer

During focus group discussions, respondents also mentioned that use of celebrities as Brand Ambassadors would play an important role in urban areas whilst road shows would be more effective for those who stay in less urban areas. Messages that credit consumers would like to experience more often regarding ADR services communication revolve around the following themes:

- Consumer Protection: there was a general sentiment that credit consumers are not adequately protected. Awareness about legislation and consumer rights is generally low;
- Financial Assistance: most disputes are triggered by inability to meet financial obligations with credit providers. So messages associated with mechanisms for relieving financial pressure would attract attention;
- Affordable dispute resolution services: in line with the

above, having been in credit disputes, consumers resent excessive expenditure in an effort to resolve disputes. So communication focused on transparent fees structures would be catchy;

- Resolution process education: consumers need to know in simple terms where the dispute resolution starts and ends as well as their right at various stages and
- Consumer-centric propositions: once in dispute, consumers tend to associate effective dispute resolution to be that which results in quick outcome

"There is no need for too much marketing.... just need to be known by leading credit bureaus and the big four banks then you will be smart" ADR Agent, Limpopo

that is in their favour. Related to this would be need for educational messages enabling the customer to appreciate either party's rights when in dispute.

An analysis of responses from the supply side interviews showed that service providers advertise in the mainstream media but also tend to concentrate their efforts on cementing relations with key stakeholders in the credit industry [i.e. credit providers (banks & retailers), credit bureaus and debt counselors]].

"Seeing is believing.. people need to see testimonies...this is why we are on TV all the time" ADR Agent, Gauteng

4.8 How many credit disputes did you have resolved in the past two years?

In response to the above question, almost all respondents (97%) across all provinces surveyed reported that they have

had one dispute resolved during the past two years. When asked about the specific nature of the disputes, the following scenario emerged where contract agreements topped the list.

Figure 12: Category of credit disputes resolved

Category of credit disputes resolved	%	Gauteng	Limpopo	Northern Cape
Service provider/Credit contract/agreement	50%	59%	44%	25%
Credit bureau related	30%	24%	41%	45%
Garnishee order related	12%	11%	9%	21%
Debt counseling related	8%	7%	12%	10%

Literature reviewed showed that more than 90% of credit in South Africa is with banks. It is therefore not surprising that the majority of the disputes are within credit provider category. There was consensus between consumers and service providers that lack of understanding or knowledge by the consumer is a key root cause of credit disputes.

The prevailing thought was that there tends to be incomplete understanding of credit terminology (e.g. guarantee vs warrantee), terms and conditions, 'hidden' costs and calculation of interest all resulting in credit providers being perceived as dishonest.

"I do not think consumers are adequately protected because they are not educated or involved in the drafting of contracts. Credit providers put all they need in a contract and consumer has nothing much to say but sign if they require the service" ADR Agent, Gauteng.

"Most of the time we do what customers should do themselves like negotiate with the credit provider"
"ADR Agent, Northern Cape

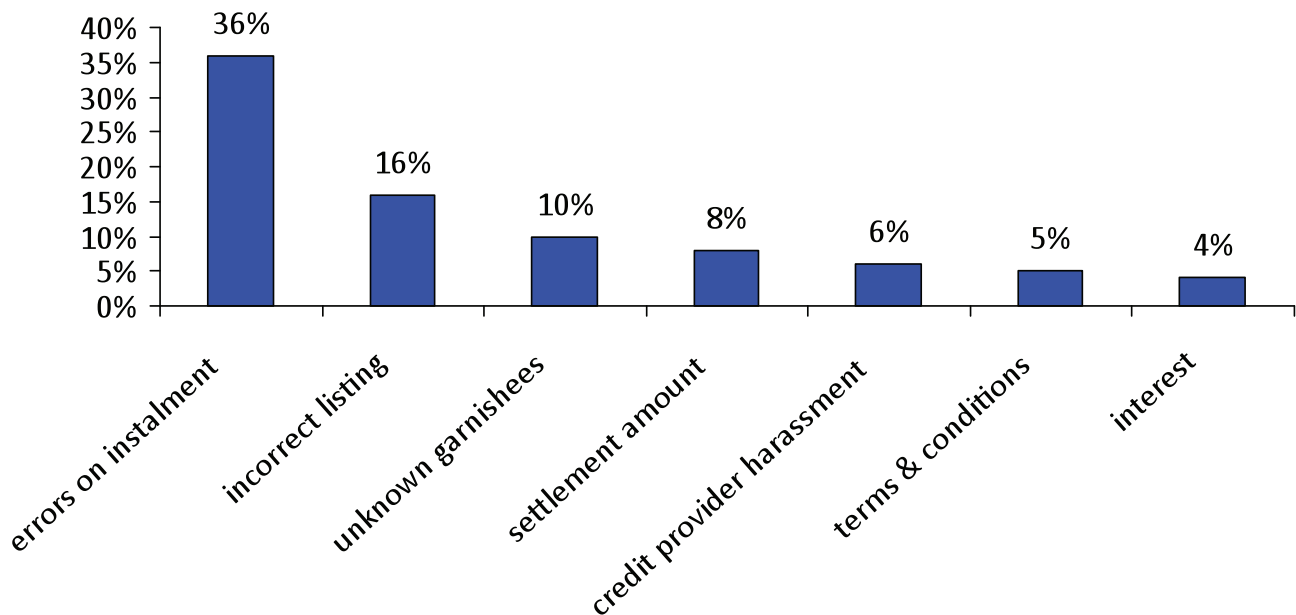
"The law does not allow that we be taken for a ride... but in rural areas and with less educated consumers- I still believe the practice of the current PIN is prevalent....especially with Micro Lenders. They take the bank card and PIN number and take money from their account on pay day" Consumer, Northern Cape

In the focus group discussions it was reported that credit acquisition is in many cases impulsive because of pressure from emergencies and occasionally contracts are agreed telephonically. During the group discussions it was common to hear the phrase “we are lazy to read contracts in full.. just want to see where the X is and sign”.

There are consumer behavioral challenges worsened by some credit providers who do not go the extra mile to explain contracts and do comprehensive background checks before

extending loans. Consumer education and simpler contracts naturally came up as obvious areas of potential improvement. Debt counseling related dispute tend to be about debt review consequences not explained, creditors not paid by debt counsellors and their payment distribution agencies (PDAs) as well as customer getting summons while in debt review. Credit Bureau related issues mainly arose from incorrect information resulting in unfair negative listing and judgment. The graph below illustrates the frequencies of these specific issues prompting credit disputes.

Figure 13: Specific types of disputes



4.9 Who gave you complete assistance with your dispute?

As a follow up to the question about credit disputes attended to, respondents were asked about organisations that came to their rescue regarding complete resolution of their disputes. In response, once again, legal practitioners (lawyers 27% & Legal Wise 15%) and credit providers (27%) were singled out within the demand side as offering complete assistance.

Though in somewhat isolated cases (5%) Debt counsellors were also mentioned in the same vein.

Responses from the supply side regarding agents suitable for assisting with resolving credit disputes brought up the same set of agents as from the demand side but however brought up more. Credit bureaus tend to feel confident that they resolve most of the disputes more than the credit Ombud as illustrated by the quotations below.

"..we have only one ADR agency which is the Credit Ombud...was set up before the credit Act but the bureau sector....called the credit information ombudsman and dealt only with credit information disputes because there was no Act ...no legal obligation on the bureaus to deal with dispute resolution" Credit Bureau, Gauteng.

"..the credit Ombud did only about 3700 odd credit bureau disputes in a year. One credit bureau did over 50000...meaning a small number of credit bureau disputes will need to be escalated to ADR service, Credit Bureau, Gauteng

Key reasons cited for choices of the above mentioned organisations included referrals/recommendations, feeling that there was need for legal representation and the need for a platform to negotiate and understand around issues at hand.

Respondents were asked for what they looked for when they select an ADR service provider to deal with. As a follow-up question, respondents were asked for how ADR agents they knew fared on their identified consideration set of choice factors. A whole host of factors were mentioned and in the group discussions, it became apparent that there are mixed feelings about how service providers live up to customer expectations.

4.10 ADR perceptions and expectations

"There has to be some sort of transparency and someone has to be regulating these ADRs....they are businesses when they deal with their customers but when they deal with bureaus, they say they are friends of consumers who have given them power of attorney. So they do not lodge a complaint as a business...how are you going to ever find them? Consumer, Northern Cape

"..the credit Ombud did only about 3700 odd credit bureau disputes in a year. One credit bureau did over 50000...meaning a small number of credit bureau disputes will need to be escalated to ADR service, Credit Bureau, Gauteng

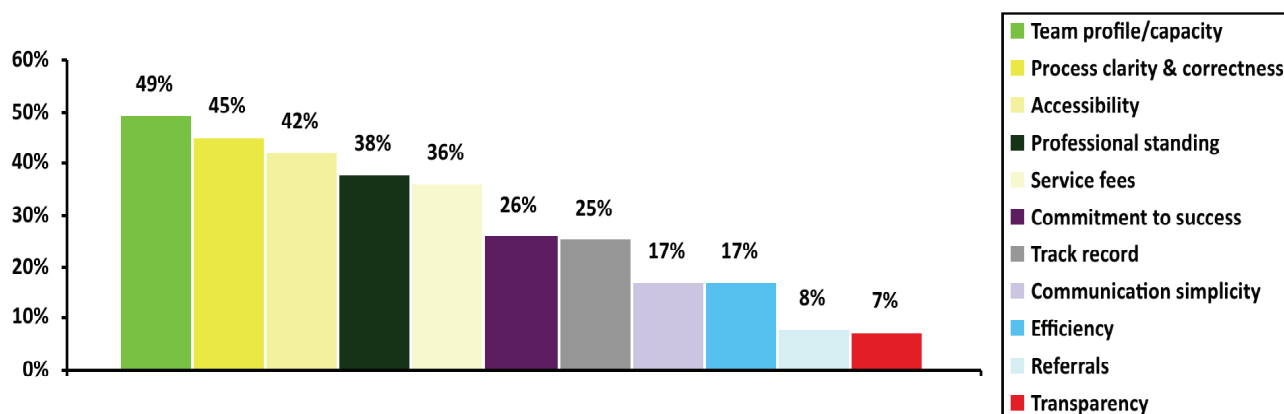
Among critical staff qualifications expected are legal, credit, banking and IT related backgrounds. There were no signs of concerns about the existence of these skills in the industry which is why there is prevalent usage of the agents. However professional business conduct, customer-centric conduct (encompassing regular communication, transparent & reasonable fees, quick turnaround times and accessibility) were cited as critical behaviour related expectations were some agents fall below expectations.

whilst others consider them a viable alternative to credit dispute resolution. Affiliation or registration with industry regulatory bodies was endorsed as adding credibility to the service providers and also resulting in control over service fees as well as consistent consumer education regarding credit issues. However many ADR agents do not seem to belong to any associations.

ADR agents are at best expected to be pro-consumer and at worst neutral or impartial. There were mixed feelings about neutrality of current ADR agents with some largely seeing them as merely facilitating collections for the credit providers

During the quantitative demand side interviews, it was confirmed, as shown below, that service provider capability or capacity, process correctness, accessibility of service provider, professionalism in handling the case and service fees are lead factors considered when choosing an ADR agent.

Figure 13: ADR Agents choice factors



In terms of importance all factors identified above were rated above 3.5 on a 5-importance scale implying that they are generally important considerations. However professional standing, process clarity and service fees had the highest importance rating of 4.39, 4.36 and 4.34 respectively. Case handling capacity and commitment to success also recorded scores of more than 4 ahead of the relatively more popularly

mentioned accessibility factor which received a rather lukewarm importance rating of 3.82.

From the supply side, the major expectations are that ADR agents should be able to resolve disputes using transparent processes that fall within the law and at affordable prices to the consumer.

"We can not imagine how the individual consumer, who is perhaps arguing about R10000 would be helped by going to a dispute resolution process which involves the cost of the administration of that process as well as the cost of the arbitrator. It will be quite counterproductive...I think the legislators like the flavor of ADRs without understanding how it will work...with very small amounts at play. What is required is heavily subsidized process, not free otherwise the value perception is lost.....and will be suspicious" ADR agent Gauteng.

"The problem is that if you stay about 45 km from town and you have to get R30 for transport to look for an agent, you end up giving up....they will also need to invite a third party"
Consumer Gauteng.

There was a common sentiment on the supply side that current processes seem to be below ideal and there were calls for regulation or even penalization of possible malpractices. There are agents whose preoccupation seems to be facilitation of payment of credit providers' dues without regard for the protection of consumers and their rights as enshrined in the law. It does not seem to be about the customer.

4.11 ADR processes & perceptions

Regarding ADR processes, as perhaps expected, supply side respondents tended to be clearer about the steps than their

demand side counterparts who tended to know more about just how to lodge a complaint and wait. The ADR process was generally described as typically predetermined by legal requirements involving the following steps in various forms depending of type of dispute and at times ADR agent (credit provider, credit bureau, debt counselor or industry specialized bodies like the NCR);

- Contact ADR. Fill in a form to lodge a query with the ADR;
- Sign contract with ADR agent, transfer power of attorney;
- Submit the required documentation: depending on the type of complaint and merchandise, these would

be ID, relevant signed agreement, any other supporting documentation, e.g. slips, receipts, invoices.

- Wait for the ADR to investigate and formally respond & outline steps;
- Go through resolution process. At this stage various process or step can be followed depending of dispute type and ADR agent. Commercial ADR agents would immediately liaise with the credit provider with little or no consumer involvement, seeking resolution on behalf of the consumer. Typically the consumer would get involved during resolution if there are outstanding documents or information. Some ADR agents do provide the consumer with feedback or communicate when the consumer should expect feedback or the matter to be resolved. However free-service dispute resolution service

mechanism like the Provincial consumer affairs offices and others would start with mediation, failing which they would get the two parties together and move to conciliation. Informed customers can chose resolution process they prefer.

- Closure:- Upon finding resolution, depending on the type of ADR agency as well as the type of dispute, the ADR agent may or may give formal or informal feedback about the resolution and close the case with a formal written letter. All correspondents are then filed in a case file.

Those who knew the process tended to agree that no entity has control over the process as most elements are legal requirements with standardised timelines. In other cases there is some urgency induced by the nature of the case.

"The act is clear on how we need to treat the disputes, what documentation we need in order to investigate the dispute... how long it takes etc...we report on monthly basis on disputes... rolled up into quarterly reports and then annual reports." Credit Bureau, Gauteng

There is a standard process to be followed, according to the NCA- you as a consumer, you need to transfer the power for that person or agent to .." Credit provider Limpopo

"We do not need to see customers... just need documentation..we talk telephonically... a lot of the cases we hear are that a house is being sold or a car is being repossessed..a lot of times consumer come when it is too late..so there is no time to sit around a table.." Northern Cape

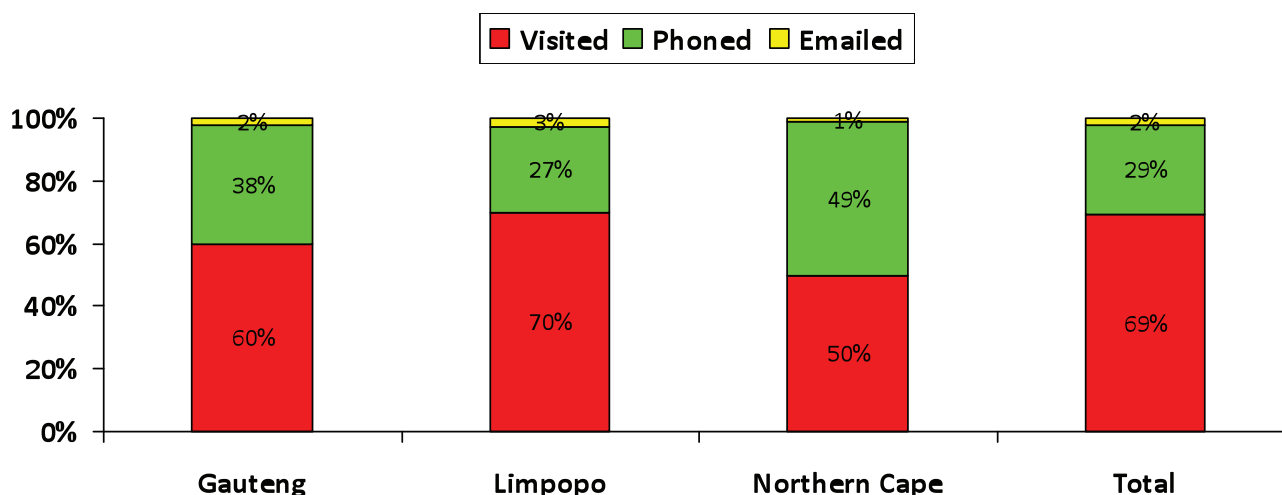
".....Unfortunately many many people do not supply full information in the forms..... Sometimes we have to get back to the complainant to get all information before we take it to the credit provider for negotiation. There are known timeframes within which they have to respond to us...." ADR agent Gauteng

There seemed to be a general theme that the most intense parts of the dispute resolution process are the investigation and mediation or negotiation. The impression the researcher got from both the demand and supply side is that the process is rather complicated for the consumer and involves a lot of parties that are inter-dependent on each other. In some instances it is the credit provider who is wrong, sometimes is the debt counsellor or the consumer. Consumers tend to complicate matters more because they do not feel obliged to respond to requests once they have identified an ADR agent to work with. If they find an ADR agent, they tend to leave everything and go away and not proactively monitor progress.

4.11.1 How did you first contact the ADR service provider that assisted you?

A notable majority (69%) of the people interviewed from the demand side of the credit industry indicated that they first came in contact with ADR service providers through personal visits. About one in three people contacted the service provider telephonically whilst a mere 2% emailed. The graph below analyses these responses by province.

Figure 14: How ADR Agents Contacted



Responses from the supply side revealed that service providers clearly discourage walk-ins but rather technology based communication platforms. There are interesting activities that credit customers with disputes do before approaching an ADR agent. These include consulting informed relatives or colleagues as well switching banks.

4.11.2 How long did it take between reporting the case & getting it resolved?

As shown below the dispute resolution process varies, in duration, from a few weeks to a couple of months. It was also clear that resolution period tends to be, in part, a function of legal stipulation, customer process preference, service provider and dispute type.

Figure 15: Duration of dispute resolution

Duration	%
Up to a week	46%
1-4 weeks	18%
1-2 months	14%
3-6 months	17%
More than 6 months	5%

For instance mediation was said to be a much quicker process but only works if the parties "are not totally at arms' length". If they have too many issues, many ADR agents would immediately recommend arbitration. Overall, there was a

near equal split between those who found the duration to be too long and those who said it was short, a clear case of mixed feelings.

"We have about 20 days to resolve complaints... that is the back and forth of documents, the mediation and dealing with credit providers... to be honest, 90% of our cases are resolved within a week to two of receiving all information we need.... Most matters are urgent and need to act quick"

ADR agent Gauteng

"it needs time..remember when consumers come to us they do not know much, all they know is they are under debt counseling and have received summons...so we investigate for them.."

ADR agent Gauteng

Respondents from the supply side interviews were able to make a comparison between court trials which can take up to a couple of years to get a resolution compared to arbitration which was associated with a couple of months to reach resolution.

A direct question was asked to find out if those who sought resolution of credit disputes through ADR service providers were satisfied with the process. The effect of the resolution process was both positive and negative. A significant 77% endorsed the process as satisfactory. An analysis of the proportion of respondents satisfied with the process by province painted the following picture.

4.11.3 Was dispute resolved to your satisfaction?

Figure 16: Proportion of respondents satisfied with resolution process

Province	%
Gauteng	73%
Limpopo	86%
Northern Cape	86%
Overall	77%

Reasons for satisfaction with the process were in almost all cases because the dispute had been resolved in favour of the customer and follow-ups by the credit provider brought to a stop. An opposite outcome would trigger dissatisfaction with the process.

4.11.4 During the resolution process, how was feedback communicated to you?

ADR service providers largely use telephonic means (73%) to keep their clients updated during the dispute resolution process. This is followed distantly by letters (29%). Other means are not common. In all provinces surveyed and across all service provider categories the commonest practice is to keep customers updated telephonically. In most cases the telephonic contact is meant to advise the customer of the

end result of the resolution process. The letter approach tends to be common because of the need for written evidence and records.

4.11.5 What did you like about the resolution process?

When asked about what they liked about the credit resolution process, many respondents found it a difficult question to answer. This is primarily because, once the case has been logged with the service provider and necessary documents submitted, there is minimum involvement of the customer in the whole process. However sentiments from demand side group discussions revealed that there is the speed and confidentiality factors where very much liked.

Reasons for satisfaction with the process were in almost all cases because the dispute had been resolved in favour of the customer and follow-ups by the credit provider brought to a stop. An opposite outcome would trigger dissatisfaction with the process.

4.11.4 During the resolution process, how was feedback communicated to you?

ADR service providers largely use telephonic means (73%) to keep their clients updated during the dispute resolution process. This is followed distantly by letters (29%). Other means are not common. In all provinces surveyed and across all service provider categories the commonest practice is to keep customers updated telephonically. In most cases the telephonic contact is meant to advise the customer of the

end result of the resolution process. The letter approach tends to be common because of the need for written evidence and records.

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"I like the speed and confidentiality factors. With court you are talking years whilst with ADRs it's a matter of weeks or months at most", consumer Limpopo.

"..and then you and I agree on who should adjudicate ... there is right of choice which you do not have in the public system", ADR agent Gauteng.

"..there is less paperwork.... And somebody takes you by the hand.... They are more convincing", consumer, Northern Cape.

"..if you cooperate them they can handle things you really cannot handle on your own especially involving the law.....they take away the stress", Consumer, Gauteng.

ADR agents tended to be applauded for knowledge of their sector as well as the law and therefore seen as able to assist. Respondents from the supply side liked the idea that a vast majority of the cases (houses, car repossessions, terminations) involve the "big four" banks who appreciate the importance of cooperation and have established processes and systems.

4.11.6 What did you not like about the resolution process?

Just below half (45%) of the people interviewed on the demand side of the credit industry revealed that they had nothing they did not like about the resolution process. This not surprising given the point made in the preceding section regarding the fact that involvement of customers tend to be minimal and peripheral.

"I want them to really meet with creditors, it sounds to me like they are just communicating with emails and check their systems...they need to sit us down" Consumer, Northern Cape

"I did not understand their fees.... I paid monthly for their services but when dispute was resolved in my favour, I was asked to pay another lump sum " Consumer, Gauteng

Out of those who had dislikes of one form or another, the commonest dislike mentioned across all respondent segments centred around time taken to resolve disputes which was deemed longer than desirable (39%). So time was both liked and disliked.

"They take their time...keep coming back with the feedback that they are still investigating. It is like they delay your life.....and they do things their way... only to surprise you at the end"
Consumer, Limpopo

As mentioned earlier, professional business conduct and customer-centricity (encompassing transparency, regular communication, reasonable fees, quick turnaround times and accessibility) were also cited as critical areas of concern.

From the supply side, the commonest dislike for ADR agents can be summarised as lack of regulation of the players and inconsistent interpretation of rules of the game, making the industry vulnerable to manipulation at the expense of the consumer.

"... seems the rules are unclear.....if it is an ADR agent, it does not matter whether it is the ombudsman or any other, if they are doing this function; they must not misunderstand and assume themselves to be consumer representatives because they are not. Consumers are but one stakeholder and consumers have their representatives; ADR agents should be completely independent of all parties that are recipients of the dispute resolution function" Credit consumer, Northern Cape

Many ADR agencies tended to place more responsibility for credit disputes on the credit provider because they tend to advise consumers to talk to credit providers as a starting point. However concern was expressed that many a times; consumers are left at the mercy of staff members who are not sufficiently qualified to embrace the issues and end up giving consumers the run around or standard answers as they are quick to manage the risk on their part. Another popular bone of contention, raised during the supply side interviews was the fact that, if one was once blacklisted, their names would not be removed automatically even after the disputes are resolved .

4.11.7 What documents were you required to submit?

Documents required as part of case logging process are basically standard and the same across all provinces

surveyed and among various service provider categories. Ability to submit all documents is a key factor in the success of the resolution process.

These mandatory documents are:

- ID Book (88%);
- Contract agreement (63%);
- Proof of residence (43%);
- Proof of employment (34%) &
- Monthly statements (6%).

In very isolated cases of less than 2% each, documents like bank statements, affidavits etc were also mentioned.

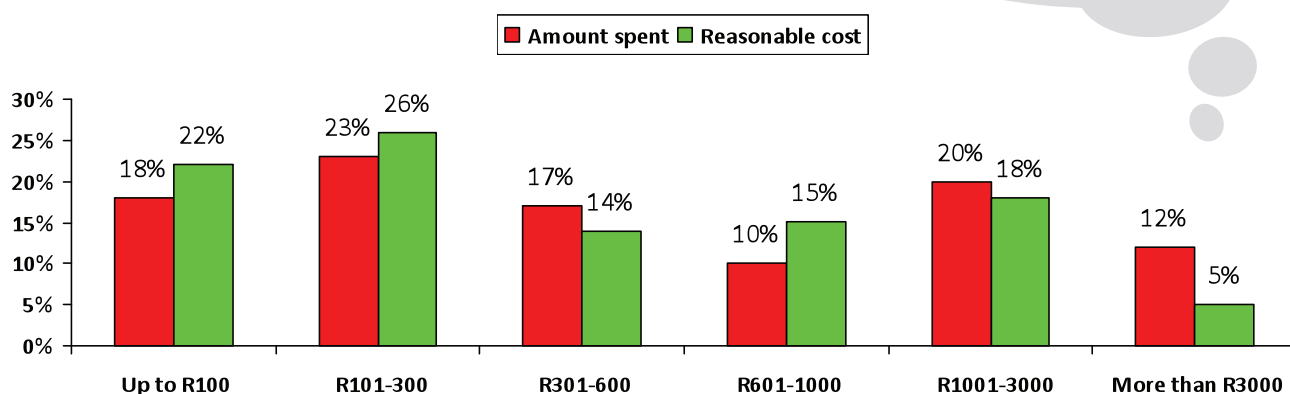
	Gauteng	Limpopo	Northern Cape	Overall
Up to R100	18%	19%	19%	9%
R101-R300	23%	22%	15%	30%
R301-R600	17%	14%	12%	36%
R601-R1000	10%	10%	11%	6%
R1001-R3000	20%	25%	17%	16%
More than R3000	12%	10%	26%	3%

A relatively bigger proportion of respondents in the Northern Cape showed that they spend more amounts than their counterparts in Gauteng and Limpopo. It will be recalled from one of the preceding sections that respondents from the Northern Cape were less likely to approach credit providers regarding credit issues resorting to third parties (legal Wise & other lawyers) before engaging credit providers.

On further probing, it emerged that the composition of the costs included transport (66%), communication (60%),

lawyers (21%), stationery (10%) and consultation fees (5%). It must be borne in mind that some service providers actually resolve credit disputes for free either because they are not for profit organisations or dispute resolution is part of customer care service in the case of credit providers in the retail sector. When asked about how much they considered reasonable for the service, a nearly similar trend of results was observed as for what they had paid. However amounts in excess of R3000 were vehemently rejected as shown below.

Figure 18: Cost of Dispute Resolution



The popular sentiment was that fees needed to be transparent, linked to the value of the disputed case and paid in instalments. Interest was not so much in the amounts but how the fees were structured.

4.12 Disposition towards ADRs

Disposition towards ADR agents is generally positive on the demand side. Intent to use ADR service providers was high across all provinces and within all service provider categories. Overall, 79% of people interviewed said would use ADR service in future.

As a further show of faith in ADR service providers, a whopping 85% of respondents confirmed they would recommend ADR service providers they were served by. This advocacy role was highest for legal firms (92%) and lowest for credit providers (69%).

5.0 Conclusions and Recommendations

- Credit is used across all demographic groups with skew towards the black population. Common types of credit include clothing accounts, personal loans, furniture, cellphone contracts and credit cards.
- Generally, consumers' perception of credit is both negative and positive. Credit is, in the main, seen as an enabler to acquiring items that one would ordinarily not afford. Deficiencies in credit knowledge, ignorance of consumer protection legislation as well as industry shortcomings tend to result in disputes of various forms between customers and credit industry players. There is need for sustained effort to correctly position credit and enhance knowledge of consumer protection legislation.

- Common dispute types singled out were overcharging, over-deduction or other mistakes on installments, excessive interest, unknown garnishee orders and general harassment by credit providers.
- Although most credit disputes arise from agreements with credit providers, popular credit dispute resolution agents (ADRs) consulted are legal practitioners and legal insurance (e.g. Legal Wise and Scorpion) firms ahead of credit providers and other for-free organisations. There seems to be a general preference to pay something as a show of commitment by the ADR agent to resolve the dispute in favour of the consumer. An opportunity exists to motivate for an ADR structure that is between legal firms and for-free mechanisms that are currently seen as two extremes.
- Supply side respondents displayed greater awareness and familiarity with the ADR terminology than their demand side counterparts and felt existing industry specialised bodies like the Credit Ombud and NDMA could be repositioned as springboards for entrenching and strengthening a transparent and cost-effective culture of effective credit dispute resolution. However processes and funding models of these organisations need to be revisited to avert bias in the eyes of the consumer. The prevailing perception is that an industry that funds the model wants to see value for what they are paying for and may influence outcomes.
- Credit providers' internal dispute resolution mechanisms are not consulted to significant levels. This presents an opportunity to engage credit providers with a view to influencing the development of an internal dispute resolution model that is more trustworthy and customer-centric. The findings highlighted issues of effectiveness and impartiality of the process, manifested through staff unsuitability and lack of proactive communication. A concern was raised that service providers tend to give standard responses to credit queries due to obsession with risk management on their part.
- Most respondents found out about ADR services through newspapers, referrals, radios, magazines and television. However, consumers would initially contact ADRs through personal visits driven by the need to negotiate and get quick resolution of the dispute in their favour. ADRs however discourage walk-ins and communicate telephonically or via emails, internet and letters. There is clear scope for community-based ADR agents to compliment current efforts from largely urban based one-branch operations.
- Choice of ADR agents is chiefly informed by capacity, process correctness, accessibility, professionalism and fees perceptions. Need for quick fix is a key motive and agreements with ADR agents are expected to be relatively more generous. The supply side findings revealed that customer commitment and cooperation are crucial in ensuring successful dispute resolution. This is in an aspect that needs to be emphasised through appropriate industry educational interventions.
- Consumers generally expect ADR agents to "take over" their disputes once they initiate contact. The resolution process typically involves four steps i.e. contacting the ADR, lodge a query, submit required documentation and wait for investigation and response. Some ADR agents do provide the consumer with feedback when many simply communicate when the consumer should expect the matter to be resolved. Lack of consistent consumer involvement throughout the resolution process, tends to compromise effectiveness of the resolution process as reasons for time taken, seemingly lack of communication and fees charged become less understood. The regulator needs to advocate for customer-centric ADR mechanisms.
- Regarding costing structures, service fees constitute a larger part of what consumers pay for ADR services, particularly when the ADR is a legal practitioner. Not for profit organizations and industry expert bodies offer resolution services for free. Credit providers do not charge for their internal ADR services as this is deemed part of customer care. Overall, respondents showed preference to pay something for dispute resolution in exchange for an impression of commitment to get the disputes resolved in their favour within reasonable time. Various amounts for ADR services, mostly less than R1000, for the full process was considered acceptable varying by dispute type and complexity. Due to lack of customer knowledge about the law and what is possible and not possible, many customers fall prey

to value propositions that create the perception that disputes can be resolved in their favour regardless of circumstances. This is an area requiring industry regulation through standardized fees structures.

- Dispute resolution challenges identified include lack of education and knowledge about credit industry dynamics. Secondly consumers do not seem to appreciate the need to stay committed to the full resolution process. Thirdly, there are elements of irresponsible credit: either caused by credit agreements not properly explained by the credit provider or the consumers themselves not having read effectively the contents of the credit agreements. Another key barrier to resolution of credit disputes is inaccessibility of relevant service providers. An industry stakeholder conference could be considered to provide a platform for engagements and resolutions on prevailing industry challenges.
- Although there are many concerns associated with ADR agents, disposition towards ADR agents is generally high. A vast majority of respondents confirmed they would recommend ADR service providers they were served by. This means the ADR service is largely seen as effective by consumers. The supply side respondents also acknowledged the importance of the ADR market but modalities of how it works still need to be debated, worked out and regulated.
- The overall researcher impression was that the ADR market is indeed effective but requires adoption of an industry accredited process framework to facilitate consistency, transparency and ultimately consumer protection. This framework could be reviewed and adopted at a credit industry stakeholder conference mentioned above.



