

**Evidence pertaining to public hearings before
the Manitoba Public Utility Board to determine
maximum allowable charges and fees for
payday loans.**

Presented by



September 17, 2007

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Executive Summary

310-LOAN, by most measures Canada's largest direct payday lender, applauds the Province of Manitoba's leadership role in bringing regulations to the payday loan market. We support the legislation and regulations that have been put forth and are pleased to offer our input in regards to restrictions on payday loan rates.

A wealth of research has demonstrated that the Canadian payday loan consumer is representative of the typical Canadian consumer with the distinction that they have a slightly lower level of income. Consumers are generally satisfied with the payday loan product, especially when compared to their satisfaction level with banks and other traditional financial service providers.

Consumers use payday loans predominantly for emergencies and unexpected expenditures and place a high level of importance on the speed with which they can obtain their funds. Consumers also choose payday lenders because of their convenient locations, long hours and high levels of customer service.

The payday loan market is moving towards the end of the growth stage of the product life cycle and beginning to enter the maturity stage. The maturity stage is signified by saturation in the market as enough companies enter to fully meet consumer demand. In this stage of the product life cycle, discounts, price wars and promotions occur and companies focus on reducing costs, defending market share and differentiating their product.

The payday loan market is just beginning to reach saturation as is evidenced by lenders, such as Mogo, reducing their rates and lenders, such as 310-LOAN, significantly enhancing their product. In addition, market leaders like Money Mart and CashMoney have begun to focus their marketing efforts on their superior pricing.

A rate ceiling in Manitoba should be set at such a rate that will encourage more competition in the market to further drive enhancements in product offerings and decreases in price. Such a rate should be set significantly above the competitive rate and should act only to exclude the most egregious lenders.

Considering both the Ernst & Young data and current market rates in Manitoba, we submit that an optimal rate ceiling would be 25% of the amount issued, equating to \$69.75 on a loan of \$279, the typical size of a payday loan in Canada. This rate is slightly above the current average rate in Manitoba today (23.07%) and would allow ten of the eleven lenders that we surveyed to remain in the market at their current rates.

Setting a price ceiling that excludes anything but the most overreaching lenders will serve to limit the long term affordability of short term credit and dramatically slow the evolution of this product, eroding the degree to which it meets consumer's non-price needs and desires. A price ceiling at or below the competitive rate will force all lenders to focus on cost reduction at the expense of other endeavours that may go further to meeting the consumer's needs.

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Introduction

"The intention is not to drive the companies out of business, because people are showing an interest in having this service, but to make sure that when they offer the service they do it in a way that's just and reasonable."

Greg Selinger, Minister of Finance
March 13, 2006

First and foremost, we would like to applaud the Province of Manitoba for being one of the leaders in bringing forth regulation for our industry. This process is essential for facilitating the responsible use of payday loans and protecting consumers from a small minority of lenders whose business practices include hidden fees and extending loans to vulnerable individuals. We are grateful for the opportunity to participate in the rate setting process undertaken by the Public Utility Board and are pleased to provide our input.

About 310-LOAN

310-LOAN is, by most measures, Canada's largest direct payday lender. Founded in 2000, we were one of the first two lenders in Canada to issue payday loans directly, using a combination of phone, fax and internet to accept loan applications, sign loan agreements and issue funds. Today, 310-LOAN employs twenty-two people at our head office in Surrey, BC and provides payday loans to customers in all corners of Canada, including Manitoba. We also operate two storefront locations in British Columbia.

We are sensitive to the concerns expressed by the Consumer Measures Committee and the Provincial governments. To this end, we ensure that our fees are clearly explained to customers before they agree to a loan and our customer verification protocol prevents loans from being issued to financially vulnerable applicants. In particular, to open an account at 310-LOAN, an applicant must be actively employed. We do not lend to pensioners or individuals on social assistance. 310-LOAN also scrutinizes each applicant's bank statement and will not accept an applicant with more than two NSF transactions or more than one payday loan transaction from another lender. These measures are aimed at ensuring that those applicants who do receive a loan are in a reasonably good position to pay it back.

About Direct Payday Loans

A direct payday loan is a short-term, small sum loan obtained by a customer without visiting a physical location. Direct payday loan consumers apply for a loan over the phone or online, submit several items for verification (bank statement, pay stub, void cheque, loan agreement) by fax or online and then receive their funds by direct deposit or e-mail money

transfer. Direct deposit is available to all customers and, in most cases, customers will receive their funds in one business day. E-mail money transfer is available to customers who bank with one of the “Big Five” banks, have online banking setup with their bank and have an e-mail address. With this option, customers can receive their funds within 30 minutes. 310-LOAN is currently the only lender in Canada who offers this e-mail money transfer option.

The Payday Loan Consumer

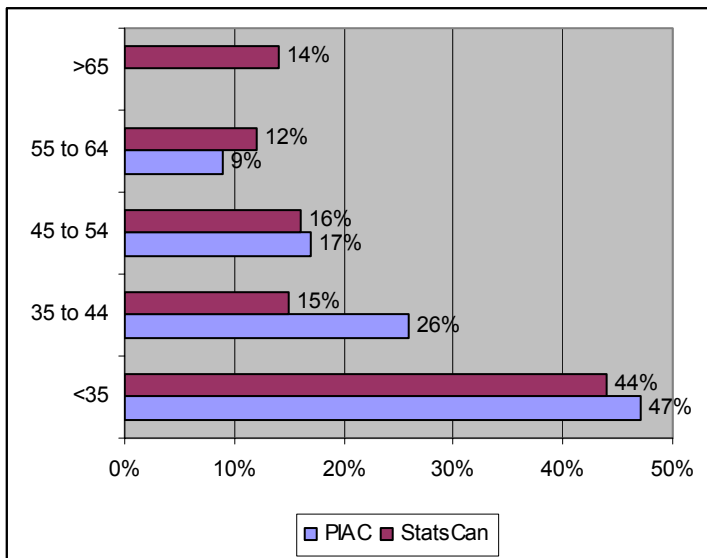
Given the extent to which the Board has studied the payday loan market, we are certain that they have a good understanding of who the payday loan consumer is. By way of review, and for the benefit of other readers who may not be as well versed, we would like to present a summary of the data available on the Canadian payday loan consumer.

For this summary, we rely on payday loan studies completed by Statistics Canada (StatsCan), IpsosReid, Environics, The Public Interest Advocacy Centre (PIAC) and StratCom. Where possible, we also compare the payday loan specific data with data from the general population. This data is highlighted in yellow.

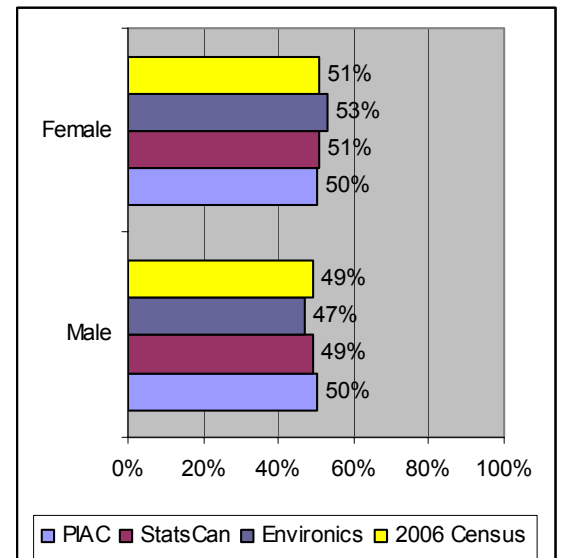
These studies, initiated by a diverse set of interest groups representing the industry, consumers and government, have all illustrated that the characteristics of the Canadian payday loan consumer reflect those of the lower income bracket of the Canadian middle-class. While the data from all parties indicates that payday loan customers earn below average income, it also dispels the myth that the payday loan consumer is financially vulnerable or beset by poverty.

Age

Age Range:



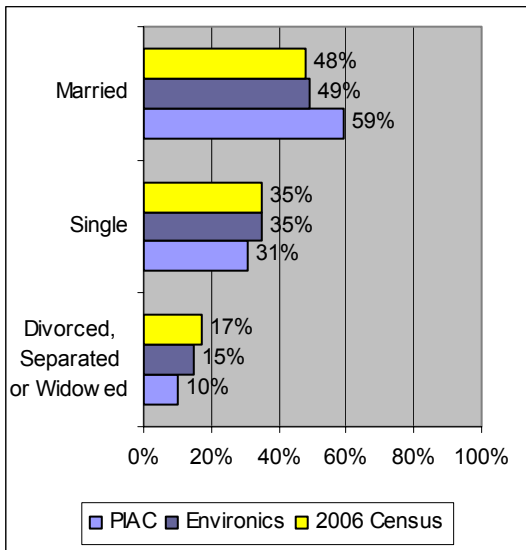
Gender



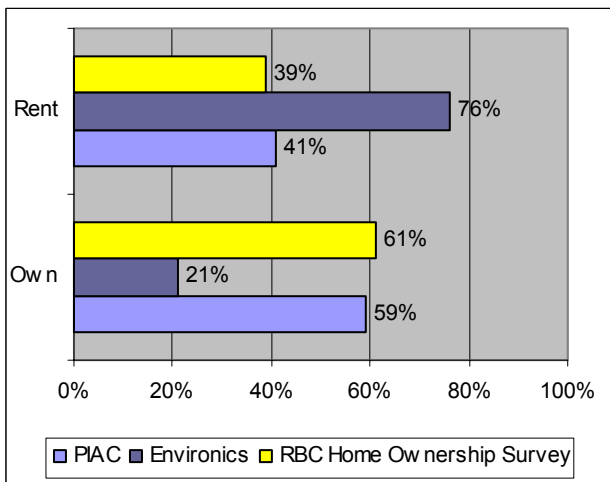
Average Age:

StatsCan	39.5
PIAC	42
Environics	39

Marital Status



Home Ownership

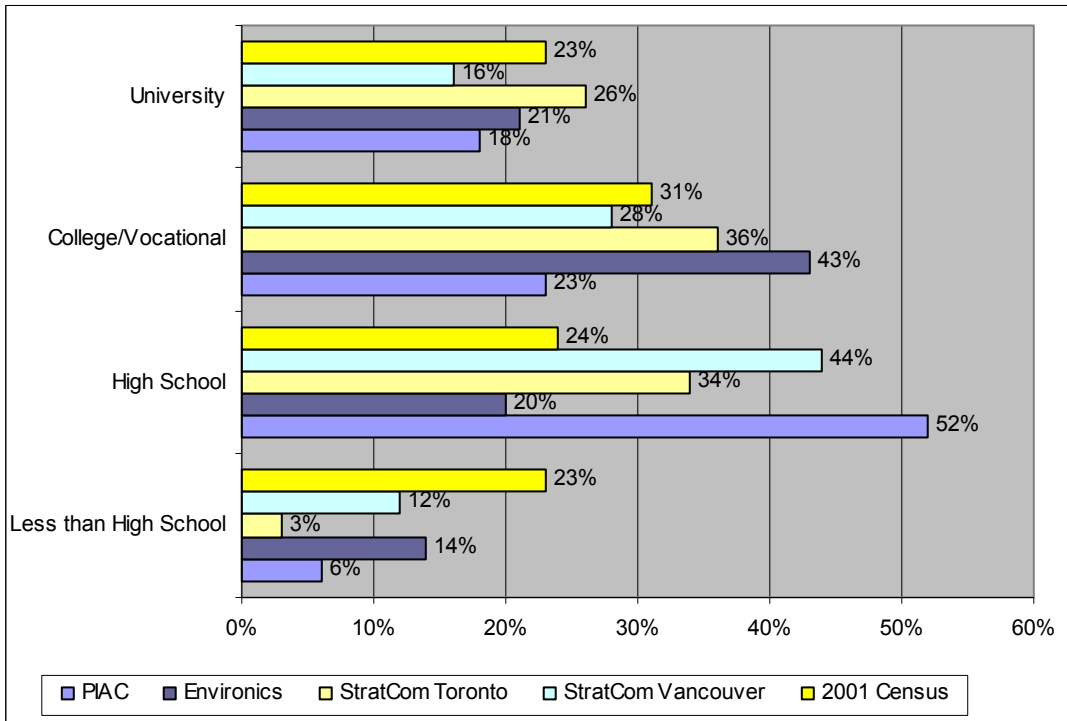


Household Income

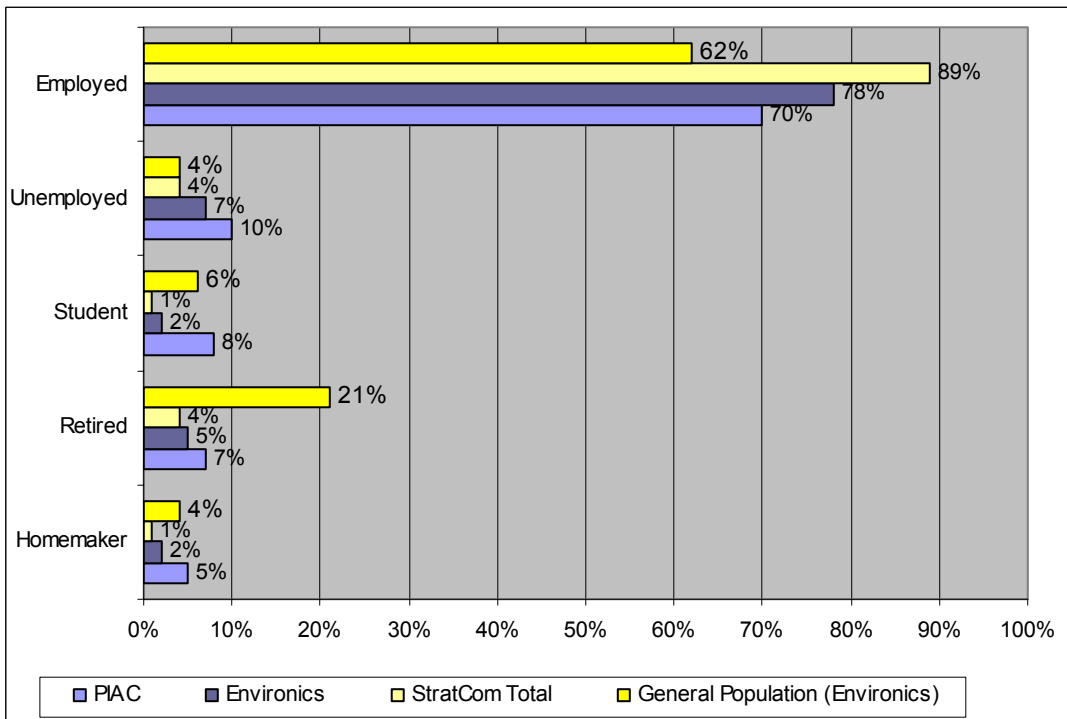
Average Household Income:

2001 Census	\$58,360
PIAC	\$51,400
Environics	\$41,376
StratCom (Toronto)	\$53,480
StratCom (Vancouver)	\$42,026

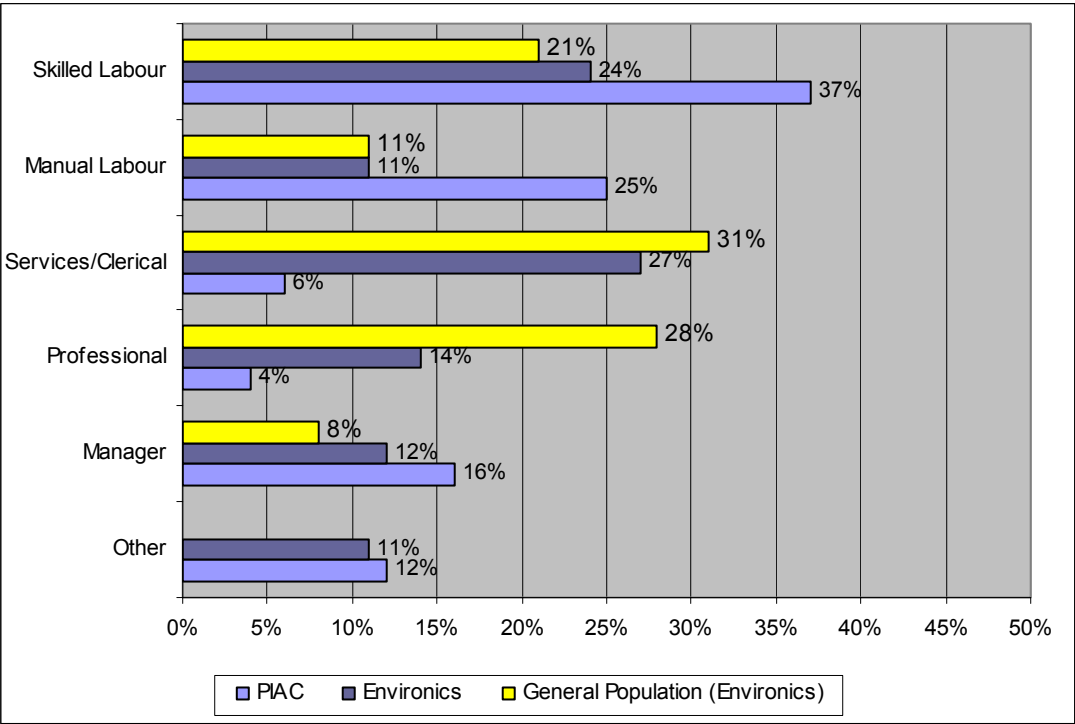
Education



Employment



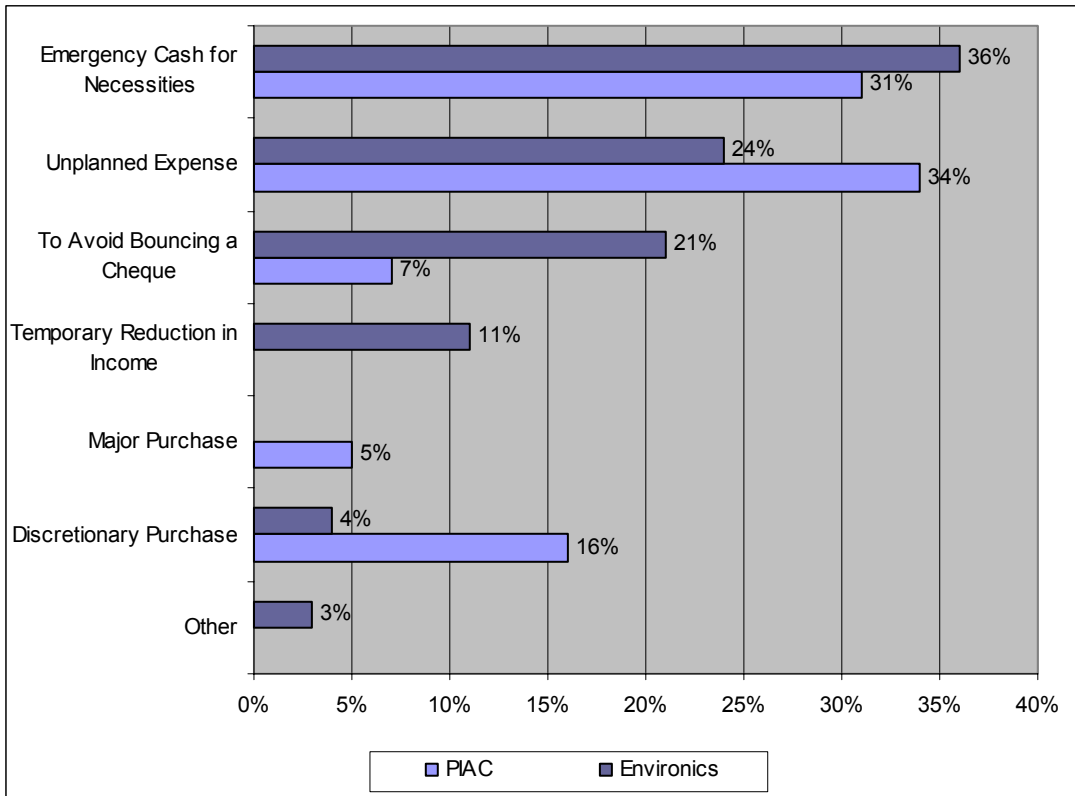
Occupation



Use of Payday Loans

What Are Payday Loans Used For?

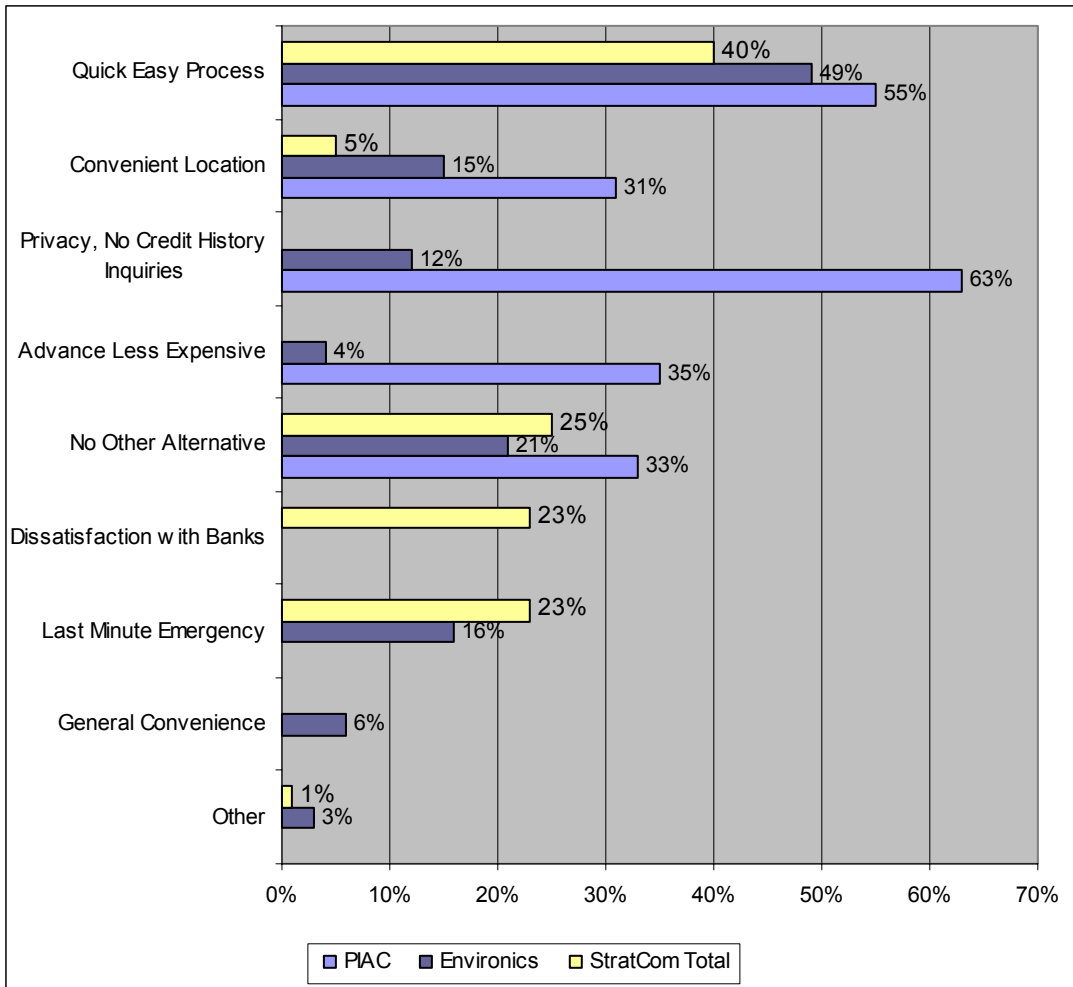
According to PIAC and Environics, consumers are using payday loans predominantly for emergency cash and unexpected expenses. Environics also identified a significant portion of consumers who used a payday loan to avoid bouncing a cheque.



There is a gap between the reasons that payday loan users give for getting a loan and the public's perceived reasons of why they get a loan. The Environics study identified a significantly high perception amongst the public that payday loan consumers can not control their spending or that they borrow the money for discretionary purchases as opposed to necessities. Multiple studies indicate that payday loan consumers are borrowing to cover emergency expenses as opposed to discretionary uses.

Why Do Consumers Choose Payday Loans Over Other Alternatives?

Payday loan consumers have expressed a high level of satisfaction with the service provided by payday lenders and are particularly satisfied with the speed and ease with which they can obtain a loan. This is consistent with their need for emergency funds for unexpected expenses. Some evidence also exists to suggest that consumers are dissatisfied with traditional financial institutions and choose to use a payday loan instead of more traditional credit products because of a higher level of customer service, longer hours and more convenient locations. Finally, a select portion of borrowers chose the product because they fear judgment or rejection from ‘traditional lenders’.

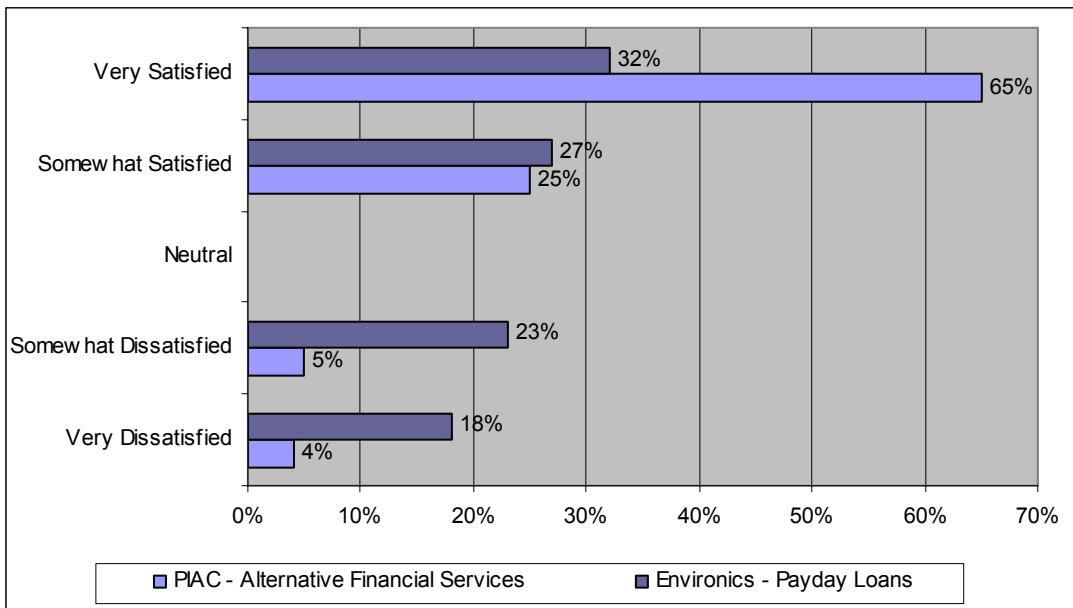


Are Consumers Satisfied With The Payday Loan Product?

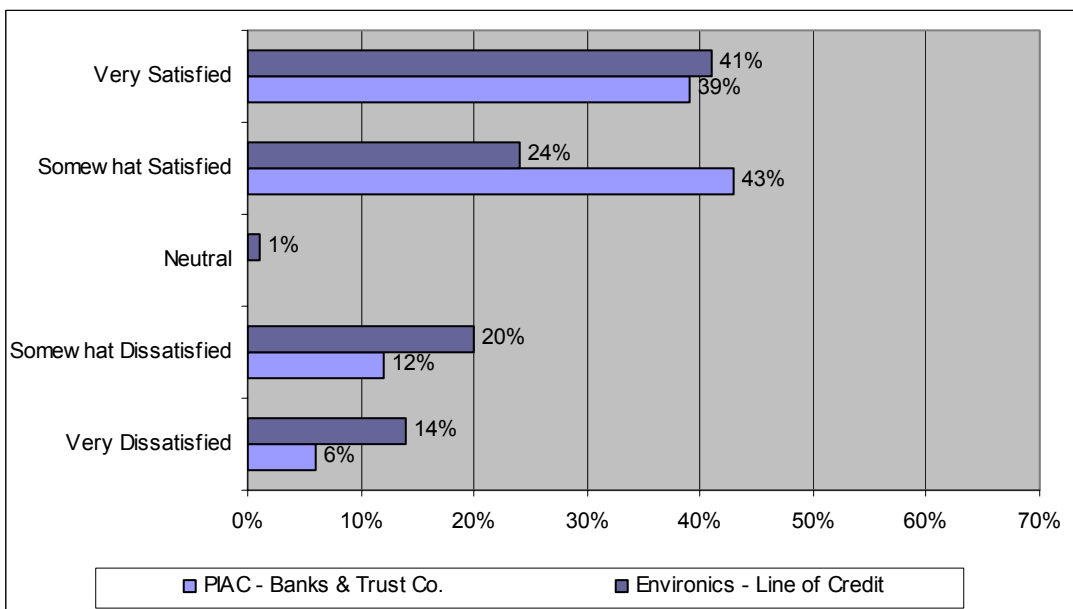
Depending on the study, levels of customer satisfaction are either higher or on par with customer satisfaction with traditional financial institutions and products. Payday lending consumers strongly believe that the industry provides a useful service to consumers and believe that lenders are favorably orientated to customers and their communities.

Environics demonstrates that payday loan consumers find the service to be a better option than title loans and pawnbrokers. The unsecured nature of the loan as well as the less complicated process make payday loans a more appealing option.

Satisfaction with Payday Loans



Satisfaction with Traditional Financial Services

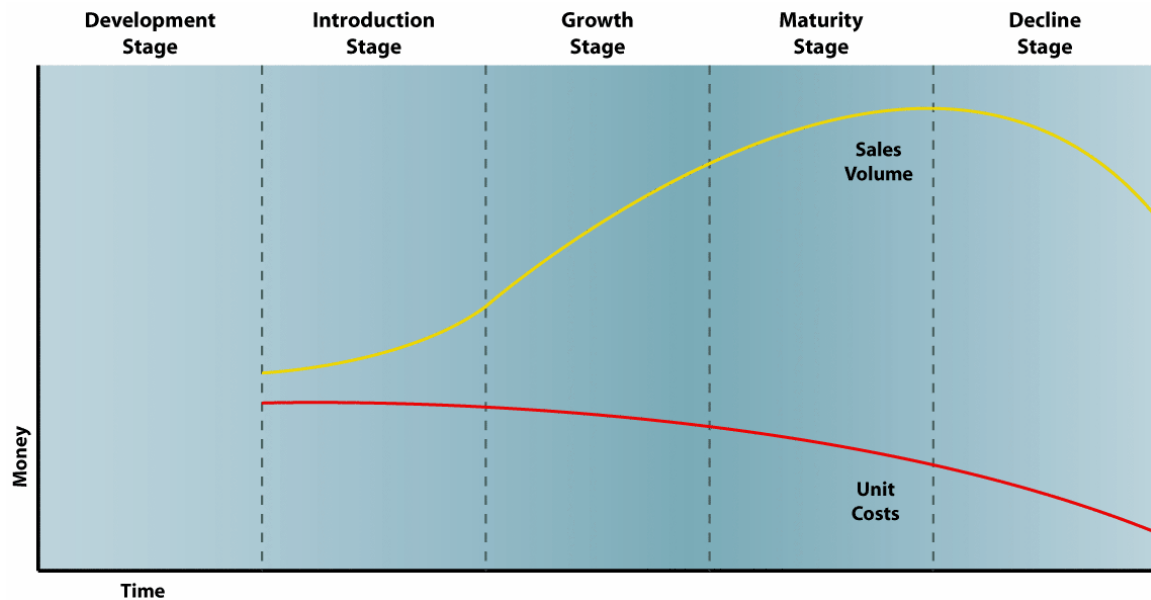


Setting an Optimal Limit on Payday Loan Rates

Competition & Market Evolution: The Product Life Cycle

In order to effectively illustrate the impact of a rate ceiling on the payday loan industry in Manitoba, it is necessary to identify where the product is along the product life cycle. For a brief introduction to the product life cycle, please see Appendix A.

Product Life Cycle Diagram



Source: <http://en.wikipedia.org/wiki/Image:ProductLifeCycle.png>

We submit that the payday lending industry is just now reaching the end of the growth stage of the product life cycle. The growth stage is marked by an acceleration of product sales as introductory stage consumers repurchase, and product awareness grows. (Levin, 1965)

During this stage, the product becomes very profitable because the costs of marketing are relatively fixed while sales are beginning to increase. Because of this profit, competitors are attracted to the marketplace. Competition during this stage is different from the effects in later stages as it acts to continue to expand the marketplace for the product rather than detract from its sales. (Corey & Capon, 1978) This occurs because the market for the product has not been saturated and because the consumers see the fact that other producers offer similar products as verifying the fact that the product must be important or useful. In the case of payday loans, as more lenders appear, consumers are more exposed to the product and more inclined to use it.

As the growth stage for the payday loan product comes to an end, it will be followed by the maturity stage. This stage is reached when enough competitors enter the market to cause supply to catch up with demand. As this saturation occurs, competition will intensify and

discounts, price wars and promotions will occur. (Levin, 1965) At this stage, companies will focus on reducing costs, defending market share and differentiating their product. The progression of the payday lending product into the maturity stage of the product life cycle will have dramatically beneficial effects for consumers as competition reaches its pinnacle.

The evolution of a product through the product life cycle and the consumer benefits that are enjoyed as competition intensifies are some of the basic principles of a free market economy. This economic system is designed to deliver to consumers the best possible price and features as firms compete for scarce market share. It is our submission that, in order to ensure the best possible benefit to consumers, **every effort should be made to increase competition in the payday loan market to the point where supply catches up with demand and the product evolves to the maturity stage of its life cycle.**

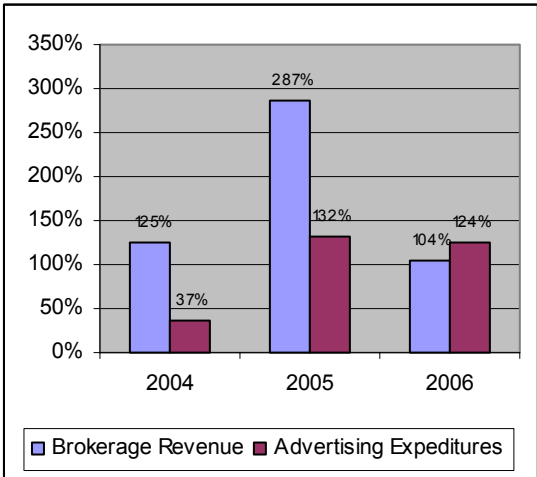
Isn't There Enough Competition Already?

Some observers have noted that the payday loan industry has become increasingly more competitive over the past five to ten years as seemingly more and more locations have opened across Canada. They assert that the expansion experienced by the industry has been significant and that competition should already be at a level that generates lower rates. Because there has not been a significant change in the rates offered in the industry, they assert that payday loan rates will not be affected by competition and therefore rate ceilings are required.

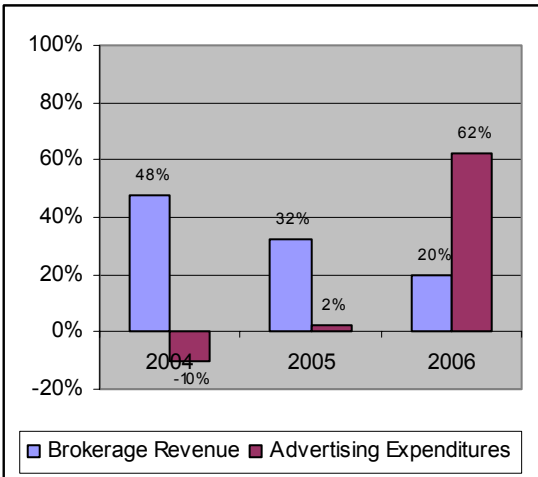
As mentioned above, increased competition without a change in price is consistent with the growth stage of the product life cycle and will continue until there is enough competition to fully meet consumer demand. While the industry has grown quickly, supply in the payday loan market is just now starting to catch up with demand. Until recently, the number of new payday loan consumers has grown faster than the number of new payday lenders. To support this point, we have compared growth in advertising spending with revenue growth for 310-LOAN and RentCash Inc. over the past three years. As is illustrated, 2006 was the first year where increases in advertising spending exceeded increases in revenue. This is consistent with the tighter market conditions that exist as a product moves into the maturity stage of the product life cycle. Years 2004 and 2005 were consistent with the growth stage and demonstrate that without enough supply in the market, little effort is required by lenders in order to acquire new customers.

Annual Percentage Change in Revenue and Advertising Expenditures

RentCash Inc.



310-LOAN



As the life cycle model would suggest, 2006 was the first year in which there began to be enough competitive pressure in the Canadian payday loan market to force lenders to alter their rates and features. This increased pressure prompted Mogo to lower their rates to \$18.75 per hundred (the lowest in the market) and 310-LOAN to invest heavily in new features; introducing e-mail money transfer (funds available in 30 minutes) and a truly faxless application process with online bank statement capture, both firsts in Canada. Around this time, the industry also saw its first major marketing campaigns that focused exclusively on rates. CashMoney, Canada's third largest payday lender, broadly promoted their "New Lower Rates" and Money Mart promoted its payday loan as "The Lowest Cost Payday Loan – By a Lot."

Why Hasn't Saturation Occurred Faster?

In most industries that have experienced the type of growth rates that the payday loan industry has, it would be reasonable to expect that enough companies would have moved into the market to fully satisfy demand by this point. The payday loan market, however, is somewhat unique. Since the industry emerged, it has been plagued by legal uncertainty surrounding the cost of credit and the implications of Section 347 of the Criminal Code. This uncertainty, coupled with the uncertainty surrounding how and when the federal and provincial governments would regulate, has acted as a substantial barrier to entry. This barrier has kept new companies from entering the market and limited investment from existing lenders. Until this uncertainty is resolved, investors cannot judge the long-term viability of the market and it will remain accessible only to those with a high tolerance for risk. These conditions make it difficult to draw enough investment into the industry to achieve a saturated market.

To illustrate the increased competition that can be expected in a regulated market, consider that Money Mart has announced that it will open 75 to 100 new stores in Canada as a result of expected regulations in several provinces in 2008 and Advance America, the world's largest payday lender, has announced its intention to expand into Canada, also in anticipation of regulations. It is clear from these announcements that the legal questions surrounding the industry in Canada have served as a major barrier to entry and a regulated market will produce far more lenders than are in the market today.

Evidence from the U.S. Payday Loan Market and the Canadian Banking Sector

Evidence that the payday loan market does in fact behave as all markets should was provided in January 2007 by Donald Morgan of the Federal Reserve Bank of New York. Morgan found that in the United States (where many states have been regulated for several years and the market is more mature) there are "somewhat lower payday prices in cities with more payday stores per capita, consistent with the hypothesis that competition limits payday loan prices."

Finally, the following exchange between Senator Catherine Callbeck and Warren Law of the Canadian Bankers Association helps to illustrate how rates are set in the Canadian banking sector. The following transcript is from a hearing at the Standing Senate Committee on Banking Trade and Commerce on February 3rd, 2005 in regards to proposed changes to Section 347 of the Criminal Code:

Senator Callbeck: You said that if these two amendments are passed the extent to which banks could extend credit might suffer, and you gave some examples. You then went on to talk about the strict regulations that you have. You said that your lending practices are subject to a comprehensive regulatory regime, the cost of borrowing regulations in particular. Is there a maximum interest rate stipulated in those regulations?

Mr. Law: No, there is not, senator. The thrust of the regulation is disclosure of all charges, but there is no maximum interest rate.

Senator Callbeck: What are you then controlled by?

Mr. Law: The market.

Senator Callbeck: Just the market?

Mr. Law: The competition in the marketplace is incredible. It imposes tremendous discipline on our members as it does on every other financial institution.

With the increased competition that will result from provincial regulatory regimes, the payday loan market will move quickly towards saturation and consumers will enjoy the same or more price and product diversification that is now present in the banking sector.

Broad Recommendations

As the Public Utility Board is interested primarily in setting limits on the cost of credit that may be charged to borrowers, the rest of our submission will primarily discuss the type of rate ceiling that will effectively promote consumer interests. Briefly, however, we would like to touch on a broader range of recommendations that would serve to enhance the competitiveness of the market beyond the scope of a rate ceiling.

Professor Iain Ramsay, then of Osgoode Hall Law School, was one of the first to study the Canadian payday loan sector in 2000 when he was commissioned to do so by the Consumer Measures Committee. In 2005 he introduced his “third way” approach to consumer credit regulations and provided eight recommendations for the payday loan market. We feel these are the most comprehensive and effective set of recommendations that have surfaced since research on this sector has begun and we are pleased to present them here:

1. Introduce disclosure policies that address the particular information needs of consumers in this market.
2. Reduce switching costs by facilitating credit reporting that empowers consumers to switch from the sub-prime to the mainstream market.

3. Regulate prices through interest rate ceilings established at a rate significantly above the competitive rate for that market that are designed to be a proxy for overreaching behaviour in the market.
4. Facilitate competition and entry by more reputable lenders.
5. Experiment with models of community reinvestment, the development of credit unions and partnerships between financial institutions and community or public interest groups. Credit unions might be encouraged to develop short term lending programs.
6. Deliver targeted enforcement against unfair practices.
7. Develop savings capacities among lower income consumers.
8. Facilitate monitoring of market practices through the collection of regular data.

Recommendations 1, 2, 4 and 5 represent effective mechanisms to increase competitive pressure in the industry and will push the product in Canada into the maturity stage with its resulting consumer benefits. Recommendation 1, the introduction of disclosure policies, will enhance the consumer's ability to compare the cost of credit from one lender to the next. For those consumers who are sensitive to price, this will help them to choose a lender that best meets their preferences and, in turn, encourage lenders to adjust their prices to meet this need. Recommendations 2, 4 and 5 will bring greater competition, both direct and indirect, into the market, putting pressure on lenders to become more efficient and to diversify their product to defend their market share.

Suggested Rate Ceiling

Consistent with Professor Ramsay's recommendation, we are advocating for "a rate significantly above the competitive rate for [the] market that [is] designed to be a proxy for overreaching behaviour." In order to establish this rate, we must first determine what constitutes overreaching behaviour. This is a topic of much debate and some will suggest that any loan in excess of 60% per annum is unconscionable.

On May 3rd, 2007, federal Bill C-26 received royal assent. As the board is well aware, C-26 gives the provinces the ability to exempt payday lenders from Section 347 of the Criminal Code and authorizes loans to be issued at rates that exceed 60% per annum. This was a necessary step to allow the provinces the ability to effectively regulate the industry. It was also a tacit acknowledgement that short-term, small sum loans are not financially viable within the 60% annual rate stipulated by Section 347.

If 60% per annum is not the barometer for unconscionable rates, then how can this measure be determined? Several jurisdictions include the concept of unconscionable interest rates in their consumer protection legislation, but none of the instances that we have reviewed contained a specific test or calculation to determine if a particular rate was unconscionable. Instead, the tests discussed pertained to issues such as whether or not the debtor was

deceived at the time of entering into the credit agreement, the relative bargaining power of the debtor or if the contract was unreasonably difficult to comply with.

Without an agreed upon method of calculating an unconscionable rate, we suggest that the board consider the costs involved in issuing short-term, small sum loans in the market today in order to effectively set the limit on the cost of borrowing.

In this regard, we have some helpful data from Ernst & Young's examination of the cost structure of payday lenders in Canada. According to the Ernst & Young study, the cost of providing a payday loan in Canada averages \$20.66 per \$100.00. \$4.35 of this cost is due to bad debt but nearly 75% of the costs are derived from operating costs which include items such as salaries and benefits, bank service charges, credit verification, bad debt recovery expenses and occupancy costs, to name a few.

It is important to emphasize that the providers of this service range from large publicly listed multinational corporations to family-operated sole proprietorships. In the Ernst & Young study, large businesses had lower total costs at \$16.93 per \$100.00 while small businesses had total costs of \$22.88 per \$100.00. Large businesses often have some insulation by using increased economies of scale to market other services to buffer changes in the payday loan market. For the industry as a whole, the average loan was \$279.00 and the average cost to issue that loan was \$57.64.

The Ernst & Young data represents the most comprehensive study conducted in Canada to assess the costs associated with issuing payday loans. That being said, the study looked at nineteen lenders from all across Canada and considered their operating data from 2003. This report may not be current, comprehensive or specific enough to Manitoba to satisfy the Board's requirements. Our submission will consider the data provided in this study, but we suggest the Board consider commissioning their own study to obtain the most current and specific industry cost data.

Using the Ernst & Young study, we understand that the cost to issue a payday loan for \$279.00 is \$57.64. We recognize that this number may need to be adjusted to reflect improved efficiency in the industry since 2003 and changes in practices that have occurred (eg. self imposed elimination of rollovers) and that will occur in the near future due to the onset of regulations.

In addition to the costs associated with issuing a loan, we must also add a reasonable profit margin to arrive at a competitive rate. To identify an applicable profit margin, we turn to the profit margin of Canada's big five banks for their 2006 year end:

CIBC	23.61%
BMO Bank of Montreal	27.43%
RBC Royal Bank	23.26%
Scotiabank	32.81%
TD Canada Trust	35.51%
Average	28.52%

Assuming that the net profit margin of Canada's major banks is a fair measurement of a reasonable profit margin, using the Ernst & Young cost data, we arrive at a rate of \$74.08 for a \$279 payday loan or 26.55% of the amount issued.

A survey of eleven payday lenders operating in Manitoba (see Appendix B) revealed that the average rate in the market in September 2007 is \$63.63 for a \$279.00 loan or 23.07% of the amount issued. The range in rates for a \$100 loan is between \$18.75 and \$30.00.

Acknowledging that the Ernst & Young data is slightly out-of-date, we submit that the competitive rate in the Manitoba payday loan market is best reflected by the average market rate of \$63.63 for a \$279.00 loan. As we have argued, it is our position that the maximum allowable rate for a payday loan should be set above the competitive rate so as not to exclude the majority of lenders and to maintain the competitiveness of the market. With this in mind, we submit that the maximum allowable rate for a payday loan in Manitoba be set at a level that would achieve an average charge of \$69.75 on a \$279.00 loan, equating to 25% of the amount issued.

This rate will allow ten of the eleven lenders that we surveyed to remain in the market at their existing rates and stimulate an immediate increase in supply and investment in the payday loan industry. As illustrated previously, existing lenders, now able to accurately measure their future return on investment, will invest more heavily in their business, improving efficiency, product features and price. With the legal and regulatory uncertainty removed, new competitors will also enter the market. When enough lenders exist to fully satisfy demand, price will be driven down and new features and loan terms will be introduced as lenders compete for scarce market share. Competitive pressure on rates will be stimulated further by the province's new disclosure requirements that will make it easier for borrowers to compare rates when selecting a payday lender.

The Risks of an Excessively Low Rate Ceiling

It is our position and the position of many economic scholars that a price ceiling that excludes anything more than the most egregious lenders from the market will serve to limit the long term affordability of short term credit and dramatically slow the evolution of this product, eroding the degree to which it meets consumer's non-price needs and desires. Such desires include accessibility of credit (convenient locations, rapid availability of funds), high levels of customer service and long hours.

Allowing an industry to evolve naturally will ensure that firms enhance their product and price according to the needs and desires of consumers. A price ceiling at or below the competitive rate will force all lenders to focus on cost reduction at the expense of other endeavours that may go further to meeting the consumer's needs. To illustrate this point, consider that the higher the allowable charge, the more viable it would be for a lender to offer a payday loan that was payable over multiple pay periods. Allowing a customer to repay their loan over three pay periods instead of one may be far more valuable to them than obtaining a less expensive payday loan in its current form. This is the extent to which consumer needs will be better met as competition leads to saturation and lenders are forced to work harder to protect their market share.

In addition to our view that competition should be permitted to drive the natural evolution of the payday loan market, Thomas Durkin from the Board of Governors of the U.S. Federal Reserve System has documented several additional objections to interest rate ceilings in his paper, *An Economic Perspective on Interest Rate Limitations*. The following is a brief summary of his findings:

Controls Reduce Competition

When rate ceilings are in place, potential entrants have less enthusiasm for entering the market and existing participants have little interest in increasing supply. Competition assures that products or services, including credit, are available to those who demand them at minimum production cost for the quantity and quality of service. Thus, competition produces efficiency.

Durkin asserts that “free competition reduces potential conflicts of interest and concentrations of power that, along with higher prices are the hallmarks of uncompetitive markets. As soon as substantial barriers to entry are put in place, the competitiveness of markets begins to deteriorate and the benefits of competitive markets decline. As competitiveness ebbs, prices rise, the quality of service declines, or both. Interest rate ceilings and controls produce a barrier to entry and reduce the likelihood of competitive conditions.”

Controls Create Shortages

Upon implementation of an overly restrictive rate ceiling, shortages will exist in the credit market due to the fact that lenders will decrease the supply of credit to ensure maximum profitability. The reduction of credit would be achieved by accepting customers based on a more restrictive risk profile. Unfortunately, those customers excluded from the market will not face a corresponding reduction in emergency expenses and will still require a source of credit to meet these needs. This specific concern was raised by the Consumer Measures Committee in 2002:

Some consider that full enforcement of existing law could have the potential consequence of shutting down the ACCM [Alternative Consumer Credit Market], leading consumers to less desirable credit options associated with loan-sharking and organized crime. The consistent message from stakeholders has been to address the undesirable practices within this industry in a manner that allows its continued existence. Provincial / Territorial governments agree with this approach.

Controls can be a Misplaced Role of Government

Placing controls on the private contracting of lenders and borrowers should be limited to cases of unquestionably unconscionable behavior by one of the parties.

Government officials are not necessarily better prepared to make choices for individuals. Durkin states that “regulators and officials have their own experiences and biases which do not necessarily match the views of all their constituents all of the time. Unsuitability of

government's choices together with imagination of entrepreneurs and the fungibility and substitutability of money have produced many regulatory messes. That path leads to bureaucracy, enforcement, reporting burden, new managerial efforts to evade, and distortions in resource allocation. These produce a dead-weight loss to society.”

Controls Do Not Address the Problem of Unequal Bargaining Power

Some argue that ceilings are needed to level out unequal bargaining power and keep rates from rising to exorbitant levels. But this ignores the realities of competition. An individual creditor is not free to charge an uncompetitive price as long as other creditors are charging lower prices for similar services and the public is even partially aware of the existence of alternatives. A group of individual buyers who each have different alternatives gives consumers a resulting market power of their own. As Durkin states, “rate ceilings or controls could only make the situation worse by establishing barriers to entry.” The prospect of a few firms competing because they are the only actors with the necessary economies of scale is not a good prospect for providing consumers with access to affordable short term credit.

Credit Should Not Be Treated as a Public Utility

Financial firms are much different from public utilities and should not be subject to public direction and price control. Durkin refers to the fact that “financial firms are much different from typical public utilities. For one thing, financial firms do not produce outputs like electric power where scale economies and advantages of large size are alleged to be sufficient to drive out competitors and produce a monopoly. Evidence of economies of scale for financial firms is very slight and only then for movement out of the very small firm size classes. Furthermore, financial firms do not require the large, fixed capital investments of electric, water, and other public utilities that suggest a public interest in protecting them from competition so they are profitable and the investment is forthcoming.”

Controls Do Not Prevent Consumers From Being Overburdened With Debt

Organizations such as the Center for Responsible Lending and ACORN have argued that price controls on credit help prevent consumers from becoming overburdened with excessive debts. Many of these organizations seem determined to set rate ceilings resulting in conditions where little or no borrowing will occur and it is clear from the survey results that this objective is not shared by the individuals who use these services nor the economists that study them.

When the goal is to restrict the issuance of credit to those who are unable to pay, price ceilings are the wrong approach. The research shows that an inability to repay typically arises after the fact due to loss of job, sickness, marital problems or other personal difficulties. If interest rate control were in place prior to these events it would not have helped to solve these problems.

Controls Do Not Ensure that Consumers Pay “Fair” Rate for Credit

Some organizations suggest that rate ceilings are a viable way for the government to ensure that consumers pay "fair" rates for credit. According to Durkin, the reality is that “in a competitive market, credit transactions can occur only if lenders and borrowers agree that

the price is “fair.” In practice, it is very difficult for the Public Utility Board to set a rate that can replicate the millions of payday lending transactions that take place.

The reality is that a price ceiling that is set too low will initiate other changes in the market including changes in the goods offered, credit availability and service standards.

Consumers who value these attributes more than they value a low price will not be satisfied with the resulting credit product. Further, when ceilings eliminate some borrowers, it is unlikely that these individuals will view the set price as being fair.

Appendix A – The Product Life Cycle

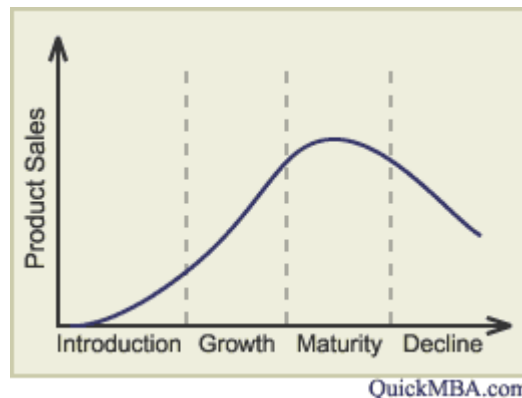
The Product Life Cycle

Source: <http://www.quickmba.com/marketing/product/lifecycle/>

A new product progresses through a sequence of stages from introduction to growth, maturity, and decline. This sequence is known as the **product life cycle** and is associated with changes in the marketing situation, thus impacting the marketing strategy and the marketing mix.

The product revenue and profits can be plotted as a function of the life-cycle stages as shown in the graph below:

Product Life Cycle Diagram



Introduction Stage

In the introduction stage, the firm seeks to build product awareness and develop a market for the product. The impact on the marketing mix is as follows:

- **Product** branding and quality level is established, and intellectual property protection such as patents and trademarks are obtained.
- **Pricing** may be low penetration pricing to build market share rapidly, or high skim pricing to recover development costs.
- **Distribution** is selective until consumers show acceptance of the product.
- **Promotion** is aimed at innovators and early adopters. Marketing communications seeks to build product awareness and to educate potential consumers about the product.

Growth Stage

In the growth stage, the firm seeks to build brand preference and increase market share.

- **Product** quality is maintained and additional features and support services may be added.
- **Pricing** is maintained as the firm enjoys increasing demand with little competition.
- **Distribution** channels are added as demand increases and customers accept the product.
- **Promotion** is aimed at a broader audience.

Maturity Stage

At maturity, the strong growth in sales diminishes. Competition may appear with similar products. The primary objective at this point is to defend market share while maximizing profit.

- **Product** features may be enhanced to differentiate the product from that of competitors.
- **Pricing** may be lower because of the new competition.
- **Distribution** becomes more intensive and incentives may be offered to encourage preference over competing products.
- **Promotion** emphasizes product differentiation.

Decline Stage

As sales decline, the firm has several options:

- Maintain the product, possibly rejuvenating it by adding new features and finding new uses.
- Harvest the product - reduce costs and continue to offer it, possibly to a loyal niche segment.
- Discontinue the product, liquidating remaining inventory or selling it to another firm that is willing to continue the product.

The marketing mix decisions in the decline phase will depend on the selected strategy. For example, the product may be changed if it is being rejuvenated, or left unchanged if it is being harvested or liquidated. The price may be maintained if the product is harvested, or reduced drastically if liquidated.

Appendix B – Payday Loan Rates in Manitoba

On September 13, 2007 we contacted each of the following lenders operating in Manitoba to obtain their current payday loan rates. Every effort was made to identify as many Manitoba lenders as possible in an effort to conduct a comprehensive sampling of Manitoba rates.

Company	\$100.00	\$279.00	\$300.00
Mogo	\$18.75	\$52.31	\$56.25
Money Tree	\$19.92	\$55.58	\$59.76
Cash Money	\$20.00	\$55.80	\$60.00
Money Mart	\$20.74	\$53.85	\$57.90
The Cash Store	\$22.24	\$57.88	\$62.24
Can Cash	\$23.50	\$65.57	\$70.50
310-LOAN	\$24.26	\$67.69	\$72.79
Sorensen's Loans til Payday	\$24.40	\$68.08	\$73.20
Dash Into Cash	\$25.00	\$69.75	\$75.00
Cash Now	\$25.00	\$69.75	\$75.00
Zippy Cash	\$30.00	\$83.70	\$90.00
Average	\$23.07	\$63.63	\$68.42

Bibliography

ACORN Canada. (2004) Protecting Canadians' Interest: Reining in the Payday Lending Industry.

Bair, Sheila. (2005) Low-Cost Payday Loans: Opportunities and Obstacles, Annie E. Casey Foundation.

Bird, Edward J. and Paul Hagstrom. (2001) The Demand for Credit Cards: Evidence from the Survey of Consumer Finances, paper presented at the annual meeting of the American Economic Association, New Orleans, Louisiana.

Calder, Lendol. (1999) Financing the American Dream: A Cultural History of Consumer Credit. Princeton, New Jersey: Princeton University Press.

Camerer, C., & Lowenstein, G. (2002). Behavioral Economics: Past, Present Future.

Caskey, John P. (2002) The Economics of Payday Lending; Swarthmore College; Swarthmore, PA.

Corey, ER. & Capon N. (1978) Product Life Cycle. Harvard Business Review

Durkin, Thomas A. (1993). An Economic Perspective on Interest Rate Limitations. Georgia State University Law Review Vol 9 Number 4

Elliehausen, Gregory and Edward C. Lawrence. (2001). Payday advance credit in America: An analysis of customer demand. Credit Research Center, McDonough School of Business, Georgetown University

Envionics Research Group. (2005). Understanding Consumers of Canada's Payday Loans Industry. Presentation to the Canadian Association of Community Financial Service Providers.

Ernst and Young. (2004). The Cost of Providing Payday Loans in Canada. Tax Policy Services Group.

Freixas, Xavier and Jean-Charles Rochet. (1997). Microeconomics of Banking. Cambridge: The MIT Press.

Gross, David B. and Nicholas S. Souleles. Consumer Response to Changes in Credit Supply: Evidence from Credit Card Data. Working Paper 00-040B. (Philadelphia, University of Pennsylvania, The Wharton School, Financial Institutions Center, 2000).

IpsosReid for the Financial Consumer Agency of Canada. (2005). Public Experience with Financial Services and Awareness of the FCAC.

Johnson, Creola. (2002). Payday loans: Shrewd business or predatory lending? *Minnesota Law Review* 87: 1-153.

Juster, F. Thomas and Robert P. Shay. (1964) *Consumer Sensitivity to Finance Rates: An Empirical and Analytical Investigation*. Occasional Paper 88. New York: National Bureau of Economic Research.

Katona, George. (1973) *Cognitive Processes in Learning: Reactions to Inflation and Changes in Taxes*. In *Surveys of Consumers, 1971-72*, Lewis Mandell et al.. Ann Arbor, Michigan: Institute for Social Research.

Katona, George. (1975) *Psychological Economics*. New York: Elsevier Scientific Publishing Company.

Kilborn Jason. *Behaviour Economics* (n.d.) Retrieved August 30, 2007, from <http://myvestafoundation.org/articles/articles/10/5/Behavioral-Economics-Overindebtedness--Comparative-Consumer-Bankruptcy-Searching-for-Causes-and-Evaluating-Solutions/>

Kitching, Andrew and Sheena Starkey. (2006). *Payday Loan Companies in Canada: Determining the Public Interest*. Library of Parliament. Parliamentary Information and Research Service. 14 p.

Lawford, John. (2003). *Pragmatic Solutions to Payday Lending: Regulating Fringe Lending and "Alternative" Banking*. Ottawa, ON: The Public Interest Advocacy Centre.

LECG Canada. (2006). *What Determines the Profitability of a Retail Gasoline Outlet? A Study for the Competition Bureau of Canada*.

Lehman, Thomas (2005). *Contrasting Payday Loans to Bounced Check Fees*. Consumer Credit Research Foundation.

Les Études de Marche Createc + for the FCAC. (2006). *General Survey on Consumers Financial Awareness, Attitudes and Behaviour*. [Electronic version].

Levin, T. *Exploit the Product Life Cycle*. (1965) *Harvard Business Review*

Lott, Sue and Michael Grant. (2002). *Fringe Lending and "Alternative" Banking: The Consumer Experience*. Ottawa: Public Interest Advocacy Centre.

King, U., & Parish, L & Tanik, Ozlem. (2006). *Financial Quicksand: Payday lending sinks borrowers in debt with \$4.2 billion in predatory fees every year*. Center for Responsible Lending.

Morgan, Donald P. (2007). Defining and Detecting Predatory Lending. Federal Reserve Bank of New York – Staff Reports No.273

NACHA. (2003) NACHA Newsletter: More than One Billion E-Checks, March/April Issue 3.3.

Pyper, Wendy. (2007). "Payday Loans." Perspectives on Labour and Income. Vol. 8, no. 4. April. Statistics Canada Catalogue no. 75-001-XIE.

Ramsay. Iain. (2000). Access to Credit in the Alternative Consumer Credit Market. Paper prepared for the Office of Consumer Affairs, Industry Canada, and the Ministry of the Attorney General, British Columbia.

Ramsay. Iain. (2005). Consumer Credit Regulations as ‘the Third way’? An article drawn from his Keynote Address to the Conference, Professor Ramsay advances ‘a third way’, a new framework for ideas in an era of globalisation, for credit policy and regulation.

Robinson, Chris. (2006). Regulation of Payday Lending in Canada. A Report to ACORN.

Stegman, Michael and Robert Faris. (2003). Payday Lending: A Business Model That Encourages Chronic Borrowing. Economic Development Quarterly 17: 8-32.

Stratcom for ACORN Canada. (2005). Survey of Payday Loan Users in Toronto and Vancouver. [Electronic version].