

16 November 2020

## Response to ASIC Report 672

FlexiGroup Limited (ASX: FXL) (“**flexigroup**”) today welcomes the findings from the updated Australian Securities & Investments Commission (“**ASIC**”) ‘*Report 672: Buy now pay later: An industry update*’ (“**Updated ASIC Report**”) that focuses on improving customer outcomes without increasing regulatory burdens on the sector, or triggering changes to **flexigroup**’s business model.

We are pleased that ASIC has recognised that the industry has implemented a range of important protections and safeguards since November 2018 in response to the initial ASIC Report 600. This has involved significant follow up engagement with ASIC to support good consumer outcomes.

The Updated ASIC Report demonstrates ASIC’s tailored and proportionate approach to regulation of the Buy Now Pay Later (“**BNPL**”) sector, recognising the importance of striking the correct balance between supporting competition and innovation, while effectively addressing areas of emerging risk.

We also commend ASIC on the targeted use of its new product intervention power, to address artificial business models and other misleading and deceptive conduct that is not representative of the BNPL sector.

**flexigroup** also notes the consumer research in the Updated ASIC Report that highlights those most at risk of missed payments, particularly those aged between 18-29 years old. Over 75% of **humm**’s customers are over the age of 35 and a large proportion of those are homeowners giving us greater confidence in their ability to repay and reducing the risk of requiring hardship assistance. This is evidenced by our low arrears rate of 2.3% and less than 1% of our customers currently seeking hardship support. In addition, over 70% of **humm**’s revenue is derived from merchant fees, with less than 2% from late payment fees demonstrating that **humm** is lending responsibly and not placing additional financial stress on its customers.

With the diverse, evolving and rapidly growing nature of the sector, **flexigroup** welcomes ASIC’s continuous review of BNPL arrangements. **flexigroup** commends the regulator on its approach to eliminate artificial price inflation and address any lack of transparency regarding the true cost of BNPL arrangements.

**flexigroup**’s contracts with merchants clearly state that the merchant must not on charge to customers the merchant service fees the merchant pays to **flexigroup**. This isn’t just hidden in our terms and conditions, we have been proactive in communicating with our sellers our stance on surcharging and we have taken prompt action where we have identified instances of merchant surcharging, up to and including termination of the merchant relationship.

Commenting on the Updated ASIC Report, Rebecca James, Chief Executive Officer of **flexigroup**, said:

*“The report provides a comprehensive update to the initial review of BNPL by ASIC in November 2018. We are extremely pleased the Updated ASIC Report highlights the strong and continuous engagement from the sector, including **flexigroup**, in assisting ASIC with its review. This consistent dialogue has allowed the BNPL sector to make ongoing changes to address any emerging risks or concerns in a quick and effective manner.*

*“**flexigroup** has worked diligently since the 2018 ASIC Report 600 to pro-actively implement a range of best practice recommendations to continue promoting positive consumer outcomes and facilitating confident and informed consumer decision making. **flexigroup** was happy to produce significant qualitative and quantitative information to ASIC to assist its understanding of the BNPL industry.*

*“The report also confirms that **hum** makes substantially less than its peers from late payments fees, with only 2% of all revenue coming from missed payments. These fees are already one of the lowest in the market, as our business model is designed not to profit from a customer’s inability to repay. Our continued arrears performance and low default rates demonstrate that we are delivering finance in the best interest of our customers.”*

A number of ASIC’s best practice recommendations have been implemented by **flexigroup** through its BNPL product **hum**, since the release of the initial ASIC Report 600 in November 2018 which include:

- preventing consumers from making another purchase where they have missed a payment for an existing purchase;
- simple, clear and transparent contract terms for merchants and customers, including upfront disclosure of all applicable fees and charges, with **hum** now offering the shortest and simplest merchant contract in the Australian BNPL market;
- additional changes to terms and conditions to ensure compliance with unfair contract terms obligations;
- continued commitment to all complaints being managed efficiently, honestly and fairly;
- simple and accessible complaints management processes for customers, as well as access to the Australian Financial Complaints Authority as an external dispute resolution scheme; and
- clearly outlining the availability of simple and accessible hardship processes for customers who experience unexpected financial difficulty.

At the same time, the BNPL industry has also recognised the important role it needs to play in self-regulation through the Australian Finance Industry Association BNPL Code of Practice (“**Code**”). The Code, first proposed by **flexigroup** in 2019, has introduced a number of key measures which aim to provide the best outcome for consumers such as:

- an upfront and ongoing suitability assessment over the entire product life cycle;
- an agreement to never initiate bankruptcy proceedings against a customer;
- a commitment to ensure fees are reasonable at all times and capped; and
- preventing customers from making additional purchases if they have not remedied a missed payment.

Commenting on the Code, Ms James said:

*“As the sector continues to grow and evolve, the proactive measures introduced through the Code which extend above and beyond the Updated ASIC Report will become even more important.*

*“The Code and self regulation is an important step in the evolution of the BNPL industry. We welcome the Senate Committee’s recommendation that the BNPL industry should be allowed to self-regulate. The high levels of adoption and customer satisfaction of BNPL is a direct result of these products being designed from the outset with the benefit of the consumer in mind. The Senate Committee’s decision to allow the industry to self-regulate is a ringing endorsement of the industry’s commitment to good consumer outcomes.*

Authorised for release by the **flexigroup** Disclosure Committee.

**-ENDS-**

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**ABOUT FLEXIGROUP**

**flexigroup** is a diversified full service payments company with leading offerings in Buy Now Pay later, revolving credit and SME finance. Serving a broad footprint of millennial spenders, through to young families and small and medium businesses, it facilitates purchases for over 2.2 million customers. For more information visit: [flexigroup.com.au](http://flexigroup.com.au)

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