

BEFORE THE DEPARTMENT OF DEFENSE

**In the Matter of
Request for Comment on Proposed Regulation Implementing Limitations on
Terms of Consumer Credit Extended to Service Members and Dependents**

Docket No. DOD-2006-OS-0216

**Comments of the Staff of the Bureau of Consumer Protection, Office of Policy
Planning, and the Bureau of Economics of the Federal Trade Commission**

June 11, 2007*

*** These comments represent the views of the staff of the Bureau of Consumer Protection, Office of Policy Planning, and the Bureau of Economics of the Federal Trade Commission. They are not necessarily the views of the Commission or any individual Commissioner. The Commission has, however, voted to authorize the staff to submit these comments.**

I. Introduction

The Department of Defense ("DoD") has requested comment on proposed amendments to

its regulations to implement the military lending consumer protections of the John Warner National Defense Authorization Act of Fiscal Year 2007, section 670, "Limitations on Terms of ~~Certain~~ Credit Extended to Service Members and Dependents" ("Act"). Drawing on its

...the Consumer Financial Protection Bureau, including, among others, the Truth in Lending Act.

II. The Act and the Proposed Regulation

lending affecting the military ("DoD Report").²¹ DoD's Report noted:

Military families have characteristics that can make them a market of choice for predatory lenders. Forty-eight percent of enlisted Service members are less than 25 years old, typically without a lot of experience in managing finances, and

without a cushion of savings to help them through emergencies. They are on their own without the guidance or assistance of family, with perhaps their first significant paycheck. They are paid regularly and are not likely to be downsized, outsourced or to quit their employment. Also, the military culture emphasizes

financial responsibility, with basic policy explicitly stating that Service members are responsible for their own debts.²²

The Department's proposed definition of the term "consumer

credit products and services that are potentially detrimental and for

which there are DoD-recommended, alternative products or services available to Service members and their families. DoD believes that a narrow definition can prevent unintended consequences while affording the protections granted by the statute.²⁷

DoD explained that by streamlining the definition, many products (e.g., lower-cost small loans)

that military consumers may need will still be available.²⁸ In addition, the definition adopted

IV. Scope of Proposed Regulation: Coverage of Entities

A. Proposed Coverage

The Act's requirements apply to anyone who is a "creditor," a person who "is engaged in the business of extending consumer credit" and "meets such additional criteria as are specified

B. Exemption for Banks

DoD has specifically requested comment on the question of "whether the final regulation

should exclude regulated banks, credit unions and savings associations and their subsidiaries

federal bank regulators have discouraged the practice.⁴⁰ Accordingly, banks and other entities have offered some of the specified credit products that the proposed regulation would restrict.

Banks and other entities are subject to regulatory oversight and various regulatory

the specific lending requirements and protections that they address for military consumers. Moreover, the Act does not grant bank regulators or other regulators aside from DoD the authority to issue and enforce regulations concerning its requirements, including those that are tailored to military consumers.

Thus, the contemplated exemption would leave banks and other entities free to extend payday loans, title loans, and P.A.L.s to military consumers without limitation, while imposing

regulation is a reasonable approach.

V. Conclusion

The FCC's ~~regulation~~ ~~is~~ ~~not~~ ~~reasonable~~ ~~and~~ ~~is~~ ~~not~~ ~~in~~ ~~the~~ ~~public~~ ~~interest~~.

prevent practices that Congress concluded were causing harm to military consumers and because