A non-profit, volunteer organisation, advocating to advance the interests of consumers in Queensland

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SUBMISSION ON TREASURY LAWS AMENDMENT (GIFT CARDS) REGULATIONS 2O18

BACKGROUND

The Queensland Consumers' Association (the Association) is a non-profit organisation established over 40 years ago and which exists to advance the interests of Queensland consumers. The Association's members work in a voluntary capacity and specialise in particular policy areas.

The Association is a member of the Consumers' Federation of Australia, the peak body for Australian consumer groups, and works closely with many other consumer and community groups.

The Association made written submissions on the consultation regulation impact statement and on the proposed Regulations, and welcomes the opportunity to participate in this consultation on the draft Regulations.

The contact person for this submission is: Ian Jarratt, email ijarratt@australiamail.com

COMMENTS

1. Fees or charges for disputing a transaction

We are extremely concerned that 89B (b) of the draft Regulations provides for fees or charges for disputing a transaction to not be prohibited post-supply fees and charges.

We consider that fees or charges for disputing a transaction should be prohibited post-supply fees and charges and that provision (b) of 89B should be removed.

Our reasons are:

- A Guiding Principle of Australian and ISO standards on dispute resolution[1] is that access to the complaints handling process should be free of charge to the complainant. This is a fundamentally important principle which greatly reduces the extent to which consumers may be constrained from making a complaint to a provider of goods/services.
- This Guiding Principle has been adopted very widely in Australia for internal and external dispute resolution processes/schemes. Also, via ASIC referencing AS

[1] For example AS/NZS 10002:2014 Guidelines for complaint management in organizations, and ISO 10002:2018 Quality management- consumer satisfaction – complaints handing.

ISO 10002:2006 in its RG 165 Licensing: Internal and External Dispute Resolution, it is a requirement for organisations licensed by ASIC.

- The Regulation should also reflect this Guiding Principle.
- The Exposure Draft provides no reasons or justifications for allowing post-supply fees or charges for disputing a transaction.
- ASIC's RG 165 Licensing: Internal and External Dispute Resolution prohibits any fees or charges on consumers who dispute transactions, including chargebacks, with cards subject to ASIC regulation. Therefore, to allow such fees and charges for gift cards would create a major anomaly and cause consumer confusion.

2. Exemption for gift cards supplied in relation to an employee reward scheme

We consider that gift cards supplied in relation to an employee reward scheme should be not be exempt from the minimum 3 year expiry period requirement and that the provision in 89C(3)(c) of the draft Regulations should be removed. .

Our reasons are:

- Contrary to the statement in the exposure draft that "there is minimal risk of financial harm or detriment to the recipient employee", we consider that the risk of financial harm or detriment to the recipient is the exactly the same as if the card was supplied by another consumer. The only difference is between the harm/detriment to the donor. Given that the focus of the legislation is to reduce recipient harm/detriment, the legislation should not discriminate between gift cards on the basis of whether the donor is the recipient's employer or another consumer.
- When employees may select the gift card from a third party website rather than from the employer, unless products are created especially for this segment of the market, these cards will have a minimum 3 years expiry period. Therefore, not requiring this for **all** gift cards supplied as part of an employee reward scheme will create a major anomaly and cause consumer confusion.

3. Mandatory review

We consider that the Regulations should include a requirement that they be reviewed no more than 3 years after the date of full implementation.

Our reasons are:

- The legislation covers a very diverse and numerous range of products.
- The gift card market and consumer needs are changing rapidly.
- The legislation may result in unexpected/unintended consequences that become apparent soon after implementation.