

CCAAC Gift Card Review
c/- The Manager
Consumer Policy Framework Unit
Infrastructure, Competition and Consumer Division
Treasury
Langton Crescent
PARKES ACT 2600

By email: CCAAC@treasury.gov.au

8 March 2012

Dear Sirs,

Gift cards in the Australian market Issues Paper

ANZ is pleased to provide a submission in response to the issues paper concerning 'Gift cards in the Australian market'. We understand that the Commonwealth Consumer Affairs Advisory Committee has been tasked with exploring the gift card market and developing options to better protect consumers who use gift card products.

The issues paper highlights a distinction between 'open loop' and 'closed loop' gift cards. ANZ participates in the retail open loop gift card market by offering a Prepaid Visa Gift Card. This submission focuses on our experience in that market.

In general, we believe that some of the areas of concern raised in the issues paper are avoided with open loop gift cards. For example, open loop gift cards are not affected by the insolvency of a particular retailer. They offer consumers greater flexibility by being able to choose a range of retailers.

Background

ANZ's Prepaid Visa Gift Card is connected to the Visa payment system, allowing users to use the card for the purchase of goods and services with merchants who generally accept and process Visa pre-paid cards electronically.

The ANZ Visa Gift Card is a non-reloadable prepaid product, which can be purchased by retail consumers at several retail outlets across Australia such as Australia Post outlets, 7-Eleven stores and Caltex Petrol Stations. Cards can be purchased to a value of \$50 or \$100.

1.2 Why do consumers purchase gift cards and how are any advantages or disadvantages shared between giver and receiver?

It is ANZ's view that consumers purchase gift cards because:

- They offer ease and convenience in choosing a suitable gift;
- Are easily posted or delivered; and
- Allow the recipient freedom to choose the gift they want.

In addition, we believe that consumers particularly choose to purchase open loop gift cards connected to a card scheme payment system because:

- Consumers associate the branding of the issuing Authorised Deposit-taking Institution (ADI) on the card with security of the payment system;
- Consumers have confidence they are dealing with an ADI which is subject to substantial regulatory oversight
- These cards are not store specific and can generally be used at any location where that scheme card is accepted worldwide;
- They can generally be used for shopping online or over the phone in addition to in-store; and
- In the case of the ANZ Prepaid Visa Card, customers can have an expiry date of up to two years with a minimum of 12 months. The expiry date is prominently displayed on the card and the packaging.

1.3 Does the existing consumer protection framework provide practical protections for consumers who experience problems or issues when they purchase or receive gift cards?

Customers of ANZ Prepaid Visa Card benefit from the regulatory framework applicable to ADIs, as well as our own practice in relation to disclosure of applicable terms and conditions which provide a high level of disclosure and protection for consumers.

The general consumer protection provisions of the ASIC Act apply to gift cards that are "financial products" and therefore apply to ANZ Prepaid Visa Gift Cards.

In addition:

- Consumers benefit from the fact that ADIs issuing gift cards are subject to substantial regulatory and prudential supervision;
- ANZ is a member of the Financial Ombudsman Service (FOS), an ASIC approved external dispute resolution scheme. The FOS terms of reference enable this scheme to deal with disputes concerning stored value cards such as gift cards;

- Gift cards that are financial products may also be subject to the comprehensive disclosure requirements in the *Corporations Act*, unless exempt under relevant ASIC class order relief. The current ASIC class order relief for gift facilities (CO 05/738) is not conditional, but issuers will only be able to rely on that relief if the product meets the definition of a “gift facility”, which requires, among other things, any expiry date to be prominently set out on the card or otherwise prominently displayed; and
- In addition to existing regulatory requirements, the new ePayments Code will have application to open loop gift card products issued by subscribers to the Code.

1.4 What specific features of the ASIC Act and the ACL should be promoted to consumers to better inform them of their rights in relation to gift cards?

ANZ considers that the protections against misleading and deceptive conduct in the ACL/ASIC Act should be promoted to consumers.

ANZ supports clear disclosure of product terms and conditions, including any applicable expiry dates, to assist purchasers to make informed decisions in relation to gift cards and to ensure that purchasers are not misled about the features of the product they are purchasing.

ANZ recognises that the ultimate user of the gift card is unlikely to be the purchaser, and therefore supports an approach where terms and conditions of the product and information on fees and charges can be easily accessed by gift card recipients. ANZ does this via integrated packaging that contains the terms and conditions and by including on the gift card itself the details for the ANZ web page where the full terms and condition can also be found.

Key issues affecting consumers

2.1 What evidence is there to demonstrate that issues related to gift card terms and conditions lead to consumer detriment?

Many of the areas of possible consumer detriment identified in the issues paper are avoided or mitigated with open loop gift cards connected to a card scheme payment system. For example:

- Card holders are not at risk of losing the value on a card if a particular retailer or group of retailers becomes insolvent because open loop cards are available for use at more than one retailer or group of retailers;
- It is easy for consumers to use small value amounts remaining on a card (either to purchase small value items from the variety of retailers who accept open loop cards, or to use as partial payment for higher value transactions); and

- Card scheme rules protect customers against unauthorised transactions.

In addition, ANZ gift card customers benefit from:

- Expiry dates clearly displayed on the card itself as well as on the card packaging;
- Terms and conditions clearly disclosed on card packaging, and also being made available to consumers online; and
- The ability to check, at no cost, card balances and transaction history online (provided they have registered the gift card).

Complaints in relation to gift cards are very low relative to other financial products. In the past 12 months, we have received, on average, fewer than 20 customer complaints per month. ANZ has internal dispute resolution processes in place to deal with complaints on a case by case basis.

ANZ is also a member of the Financial Ombudsman Scheme (FOS). Where gift card customers are dissatisfied with the outcome of ANZ's internal dispute resolution they are able to lodge a complaint with FOS for an independent review of their claim.

2.6 Broadly speaking, are terms and conditions of gift cards adequately disclosed to gift card purchasers and recipients? Please provide examples.

ANZ considers that the terms and conditions which pertain to its gift card product are adequately disclosed to both the purchaser and recipient:

- The expiry date is prominently displayed on both the card and packaging sleeve;
- The packaging contains the full terms and conditions applying to the product which can be read prior to purchase;
- The terms and conditions disclose the fees that are applicable to the gift card;
- On the back of the card, in an enlarged font, are the details for the ANZ website page (www.anz.com/prepaidcards) where information on prepaid card products can be found, including information on the ANZ Prepaid Visa Gift Card and its full terms and conditions.

Gift card administration

2.9 What evidence is there to demonstrate that issues related to gift card administration lead to consumer detriment?

ANZ notes the Issues Paper mentions a number of administration issues which may cause consumer detriment.

We believe that some potential areas of consumer detriment are eliminated with open loop cards provided by ADIs:

- ADIs issuing open loop gift cards are subject to substantial regulatory and prudential supervision. Accordingly, the risk of insolvency and impact on gift card holder rights is extremely unlikely;
- Because open loop cards that are connected to a card scheme payment system are generally accepted by merchants who participate in that card scheme, card holders are not at risk of losing the value on a card if a particular retailer or group of retailers becomes insolvent; and
- It is easier for consumers to use small value amounts remaining on a card because many retailers who accept open loop cards will allow them to be used to purchase small value items or to be used as partial payment for higher value transactions.

ANZ will consider requests on a case by case basis to replace lost, damaged or stolen gift cards. However, due to the non-personalised nature of gift cards, and in order to minimise the risk of fraud, ANZ will generally limit replacing cards to where the customer is able to provide the card number. This is so a restriction can be placed on the card preventing it from further use.

We note that concerns have also been raised about unspent monies. ANZ recognises that it is appropriate in some circumstances to provide a refund or replacement card. We consider such requests on a case by case basis.

The non-personalised nature of gift cards makes it difficult to provide refunds or replacement cards where the card recipient does not contact the issuer. The issuer of the gift card has no record of the purchaser or recipient and no contact details for them. There is also no way for the issuer to ensure that the holder of the card is either the purchaser or intended recipient.

ANZ's Prepaid Visa Gift Card could not be provided without an expiry date. Expiry dates are a requirement under both Visa scheme rules and ASIC Regulatory Guide 185 – Non-cash Payment Facilities and Class Order 05/738;

To minimise the risk that consumers reach the expiry date with credit remaining on the card:

- ANZ clearly discloses in the terms and conditions on the card packaging and available online that unused value expires. We consider that this product characteristic is well understood by the majority of consumers; and

- Expiry dates are also prominently disclosed and are a minimum of 12 months, providing consumers with considerable opportunity to use the full value of the card;

2.12 What accounting, record keeping and administration processes generally support gift card facilities?

ANZ keeps its own internal records regarding the sale of its gift card product. We do not, however, keep a record of the purchaser's details.

Records of all transactions (by card number) are maintained by ANZ.

Where the recipient of a gift card registers the card with ANZ (via our website), they are able to obtain an on-line transaction listing showing all transactions made with the card by date, merchant and value. In addition, gift card users are able to register for a mobile phone SMS balance alert. This allows gift card recipients to SMS a designated number and receive an SMS back with details of the remaining value on the card. Gift card users can also register for a monthly SMS value balance message to be sent to them.

ANZ considers that it has robust administration processes in place for its open loop gift card product, including compliance with Visa scheme rules and applicable financial and consumer regulation, as well as access to internal and external dispute resolution mechanisms for consumers.

2.13 Are there any market indicators to suggest that the Australian gift card market is not operating efficiently?

ANZ considers that open loop gift cards are relatively simple products, which are easy to use and generally well understood by consumers. This is borne out by the low levels of complaints that we see in relation to our ANZ Prepaid Visa Gift Card, both through internal and external dispute resolution.

For reasons set out earlier in this submission, we consider that many of the issues of concern identified in the issues paper are avoided or mitigated with open loop products.

2.14 What factors do gift card issuers consider when determining the terms, conditions and administration processes typically applied to gift cards?

When determining the terms and conditions and administration processes for any retail product, the factors ANZ may consider include applicable legal and regulatory requirements, card scheme requirements, distribution channels, commercial viability, best possible disclosure for the consumer, customer needs (including security needs), fairness and alignment with existing administration processes.

2.16 How would gift card issuers be affected if there were any restrictions on allowable terms and conditions, including expiry dates, applied to gift cards?

ANZ does not consider that there are any identifiable consumer detriment issues with open loop gift cards connected to a card scheme payment system that require regulatory intervention. To the extent that any additional regulation is considered, it should be consistent with existing obligations.

ANZ supports transparent disclosure of expiry dates for gift cards. However, additional regulation restricting or prohibiting the use of expiry dates could potentially see ANZ withdraw its gift card product. This would, in turn, diminish the choice of products available to consumers, particularly with open loop gift cards that are connected to a card scheme payment system. The reasons for this are as follows:

- It is a requirement under the Visa scheme that cards have an expiry date. Removal of expiry dates would mean the product could no longer be issued;
- For security reasons, Visa scheme rules mandate a maximum expiry period. Any setting of minimum expiry periods could not exceed this for the product to continue to be issued; and
- Any extension of expiry periods from ANZ's current expiry of up to two years would result in liabilities incurred on old unused cards remaining on balance sheet for longer periods. This would also impact the commercial viability of the product.

ANZ would be pleased to provide any further information on this submission. I can be contacted on (03) 8654 3459 of Michael.Johnston2@anz.com.

Yours sincerely



Michael Johnston
Head of Government & Regulatory Affairs