

Blackhawk - Gift Cards In the Australian Market



Gift Cards in the Australian Market



About Blackhawk Network

Blackhawk Network is a subsidiary of Safeway USA. The core business proposition of Blackhawk is the development and distribution of Gift Card and Prepaid Financial Services products for consumers in Grocery and other channels including mass merchants, petrol and convenience and pharmacy. This category is one of the fastest growing categories in the US Grocery Market. Blackhawk is the worldwide proven leader in the sales of 3rd party Retailers gift cards - with 93% market share of 3rd party sales in grocery channels in the USA. Blackhawk was founded over 10 years ago, and pioneered the concept of selling 3rd party gift cards, which, is the core business of Blackhawk in 17 countries around the world.

Blackhawk Australia first launched in late 2007 and distributes over 70 major Gift Card Retailers products in over 7,000 retail outlets. Blackhawk introduced the concept of 3rd party gift card sales in retailer channels in Australia and is, therefore, the major participant in this 3rd party category. This concept is commonly referred to as the Gift Card Mall or Gift Card Store.

Blackhawk brings together a leading retail network of distribution partners with leading brands of prepaid products and services, so that consumers have choice of prepaid products at convenient and everyday shopping locations.

Blackhawk Retailer Network in Australia

Since 2007, Blackhawk Australia has successfully launched the 'Gift Card Mall' and built a large number of complex technology integrations with 16 Major Retailers and over 70 individual card partners.

The Blackhawk Gift Card Mall concept & capabilities are continually changing as the Prepaid product categories continue to expand. Once Prepaid was the domain of Prepaid Mobile products but the Prepaid category has expanded to include the following categories:

- Traditional "closed loop" gift cards

- Fashion
- Books/Music/Games
- Home
- Hotel/Accommodation/Travel

- Self use products, such as well known online music stores

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- **Prepaid Visa Gift Cards**
- **Prepaid Financial Re-loadable (GPR) cards**
- **Travel and Ticketing**
- **Online Digital Gaming Category**
- The largest US digital, online payment and social media providers are also worldwide partners of Blackhawk

Blackhawk operates in each and every one of the categories above.

Blackhawk's continual drive to remain the industry leader guarantees consumers will always have access to future products and technology advancements and the greatest choice of range at convenient everyday shopping locations.

In store Display

The Blackhawk stands offer the following:

- ✓ A wide choice for all consumers for any gift giving event
- ✓ Providing the retailer the ability to range multiple categories
- ✓ Able to sell multiple Card denominations from each Card Partner
- ✓ Scalability for new products entering the market
- ✓ A permanent destination within the store
- ✓ Built in storage facilities for easy stock replenishment

The Australian Gift Card Market

The Australian gift card market has emerged over the last 10 years from when mainstream tier 1 retailers first moved from converting paper vouchers to gift cards. This followed the gift card phenomenon in other global markets, predominantly the US, which have well been regarded as the leaders in the global prepaid gift card market.

As discussed, prepaid products have now emerged into various applications and uses to meet changing consumer demands.

The gift card market in Australia is estimated to be reported between \$2billion and \$2.5 billion with millions of gift cards issued every year. Most issuers would report that the demand for gift cards has been steadily increasing, especially given the convenience and number of locations that consumers can purchase gift cards. Industry growth has averaged circa 25% over the last 5 years.

Consumer Behaviour

Studies undertaken in the Australian market indicate that the Australian market for gift cards is a mature market along with the USA, Canada and the UK. By far the majority of consumers would report a preference to receive a gift card, thereby offering choice rather than an “unwanted” gift that could often get wasted.

More importantly, is that most consumers researched would report that gift cards are easy to use.

Gift Card Market - Consultation Questions 1.1 – 1.4

- 1.1 *What are the features that characterise the gift card market and what trends are likely to shape the manner in which consumers use gift cards into the future?*

As described above, the Australian gift card market is characterised by consumer demand for the convenience and ease of the product.

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

Consumers love to give and receive gift cards as they are a convenient and useful gift. In the current economic environment, gift cards are also a convenient budgeting tool as it enables them to set a pre-determined budget for gift giving, or to take advantage of discounts or promotions that are periodically provided.

Trends that will impact the market are likely to be driven by overall consumer trends such as digital and technology improvements and a demand for more choice and flexibility. Additionally, more “Self-use” product categories are launching into Prepaid, such as Computer software, ticketing etc.

- 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?*

The existing consumer protection framework, particularly the recent Defect Warranty Regulations under the ACL, certainly provide the consumer with sufficient protection with problems. In addition all card issuers provide consumer help lines and in Blackhawk’s case, (where we issue the

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card ourselves) we often provide the first line of consumer enquiries via telephone. We are then in the best position to determine where the problem has arisen, with the retailer or the card issuer or (often) with the consumer themselves.

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?*

From our own experiences in handling consumer enquiries via telephone, it would appear that Defect Warranty Regulations or indeed the ACL as a whole have not been widely disseminated to the general public, not only in the Gift Card area but for all goods and services.

This lack of information should be met with television, web and print information from ASIC and the ACCC directed towards consumers.

Additionally, the key terms and conditions of the product are clearly outlined on the back of the product.

Gift Card Terms and Conditions - Consultation Questions 2.1 – 2.8

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

Given the significant millions of gift cards that are bought by consumers in Australia every year, and the “extremely” small proportion of consumer complaints, there does not appear to be evidence that gift card terms and conditions lead to consumer detriment. Customer research and sales data continues to support the Customer acceptance of the product.

2.2 *What experiences have individual consumers had with the terms and conditions that apply to gift cards, including the resolution of any complaints either direct with the gift card issuer or through a consumer affairs or fair trading body?*

In Blackhawk’s experience, most customer support would handle a variety of issues as set out below

- Card Activation
- Card Issues
- Card balances
- Lost/Stolen Cards
- Technical issues

Very few of these issues involve the terms and conditions. The majority of enquiries are of a technical nature and can be resolved at an IT level, either by the card issuer, Blackhawk or the retailer. Retailers as a general rule are sympathetic to a customer’s concerns and will respect a customer’s genuine complaint.

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2.3 *What are the specific issues associated with the application of terms and conditions including expiry dates, restrictions on low value use, changes in terms and conditions in the event of insolvency, fees and charges, limitations on use, and restrictions on receiving change? Please provide examples.*

Many retailers, and card programs, including major retailer groups and some of the most popular cards in the market have a very flexible or “no expiry” policy. Most retailers take the view that the customer holding the gift card, wants to spend the prepaid value in their store and hence generally support an increased “grace period” or “re-activation” of the card.

However, if retailers choose to expire the card, Australian consumers are generally well versed in terms and conditions and provided the terms and conditions are available, displayed or communicated most consumers have an expectation that there will be some conditions.

The main difficulties with requiring a non-expiring card are:

- a contingent liability needs to be maintained for gift cards indefinitely as the gift card could be redeemed at any point in the future. This ties up significant funds, audit and compliance costs as well as making these funds un-available to the economy as a whole as the card issuer cannot re-use the funds on expired cards (as there is no expiry date) and the consumer often never redeems (as they have lost or thrown out the gift card).
- expiry dates assist greatly in reducing fraud; and
- expiry dates assist with anti-money laundering obligations.

Importantly, and critically, cards with no expiry date make the prevention of fraud and anti-money laundering very difficult. The funds would be able to be held in an anonymous state indefinitely, with no risk of the funds being retained by the card issuer.

Open loop products have the expiry date clearly printed on the front of the packaging. The consumer has a clear understanding of the expiry date in advance of purchasing the product.

2.4 *What flexible policies or ‘grace periods’ are offered by retailers to support gift card holders who are unsatisfied with the terms and conditions that may apply?*

This is entirely up to the retailer. Blackhawk ensures that all commercial participants in the sale chain are paid quickly once a valid tender for the gift card has been made and the gift card is activated. This means that the card issuer has been paid the gift card value and has these funds available for the consumer to redeem.

If the consumer made a mistake in purchasing the wrong gift card or changed their mind or just wants to return the gift card for a refund, then, in our experience, many retailers will agree to provide refunds or swap one gift card for another as part of their general consumer satisfaction processes. Many major retailers may extend expiry dates, offer a “grace period” or re-activation of the card, where technically possible.

2.5 *How do terms and conditions vary between gift cards and what expectations do consumers have with respect to the core terms and conditions that apply?*

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As a matter of practice, there is very little variance in the terms and conditions of card issuers in the area of traditional gift cards (i.e. those that are issued by a retailer for use only in the retailer's store). The general expiry dates are between 12 months and 2 years. The expiry date details are contained on the card or carrier for the gift card with some card issuers including more in depth terms on their websites. Our experience is that the vast majority of consumers have no difficulty in understanding these terms and conditions and abiding by them. These cards are covered by the ASIC Class Order 2005/738 (or similar Class Orders for prepaid mobile cards).

The conditions do vary more with prepaid financial products, as these are not covered by the above Class Orders and require a full Product Disclosure Statement ("PDS"). These conditions tend to be drafted by the issuing bank and also need to comply with Visa Rules as well as Australian applicable law. Again, our experience is that the vast majority of consumers have no difficulties with these terms and conditions as they are very similar to those most consumers have experienced with their existing credit cards.

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

Yes they are – in Blackhawk's case, all of our gift cards have the terms and conditions on the gift card carrier or in a PDS which accompanies the card. Additionally, most cards also refer the customer to the full terms and conditions on the reverse of the card.

In addition we encourage our card issuers to include these terms and condition on their respective websites and most, if not all, card issuers do so.

In our experience, we have had very few consumer enquiries which relate to the consumer not being aware of the conditions associated with the Gift Card. Most enquiries are associated with an IT failure in the activation or redemption of a Gift Card, with refund enquiries on Gift cards being a distant second class of enquiries.

2.7 *What specific information is useful to consumers at the point of sale?*

As our gift cards contain the conditions on the carrier as well as clear references to card issuer websites, we believe that all the required information is carried on the product itself. As it is for all other FMCG products.

2.8 *How can information about gift card terms and conditions be effectively communicated to people purchasing gift cards as well as to those receiving gift cards?*

Our experience is that the card carrier is the best place for terms and conditions, closely followed by card issuer website copies of the terms and conditions (either in plain text or via a downloadable PDF). This ensures that if the consumer no longer has the card carrier, the website has a permanent copy of the terms and conditions available. A reference to the card issuer website is almost universally provided by card issuers on the actual card itself, which means this is a simple and effective way to inform the consumer of another location to view the terms and conditions.

Gift Card Administration - Consultation Questions 2.9 – 2.13

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

As noted above for Consultation Question 2.1, there is little to no evidence of any consumer detriment related to gift card administration in Blackhawk's experience within Australia or around the world.

Most gift card issuers handle gift card administration similarly in providing customers and merchants access to a customer service help desk or website for information and queries.

Most customer support would handle a variety of issues as set out below

- Card Activation
- Card Issues
- Card balances
- Lost/Stolen Cards
- Technical issues

In the case of lost or stolen cards, as the purchase of gift cards is usually anonymous, it is virtually impossible to identify the validity of any potential claim. It is critical that consumers are continually communicated to "treat gift cards like cash". Given the wide adoption of gift cards, the growing use and acceptance of gift cards, and the many points that consumers can seek information about gift cards, there is not strong evidence to support that gift card administration leads to consumer detriment.

2.10 *What are the specific issues associated with lost or stolen cards, the use of unspent monies and interest accumulated on unused gift cards and gift card holder rights in the event of insolvency? Please provide examples.*

We do not have direct exposure to these issues as we are not the card issuer for the majority of cards Blackhawk distributes. However, our experience has been that we can immediately assist insolvent card issuers by preventing the activation of unsold gift cards in the market, within less than 24 hours of the insolvency occurring. This ensures that consumers cannot buy a gift card from the insolvent company in a 3rd party outlet from that date.

In respect of gift cards that have already been sold and activated before the insolvency event, Blackhawk has generally already remitted the funds to the card issuer. Once this remittance has occurred, the card issuer will maintain the redemption amount in such a manner as to make the funds available on the gift card available to the consumer for redemption.

There does not appear to be any specific laws dealing with how this money is to be handled by insolvency practitioners on behalf of the card issuer (and the consumer) and some clarification in this area would probably assist the consumer.

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- 2.11 *Are the generic consumer protections afforded under the ACL and the ASIC Act capable of addressing concerns relating to gift card administration?*

As has been made clear in the rest of this submission, in Blackhawk's view, the generic consumer protections in combination with the relatively new Defect Warranty Regulations are capable of addressing any genuine concerns relating to gift card administration.

- 2.12 *What accounting, record keeping and administration processes typically support gift card facilities?*

This is a very complex question, as in our Gift Card Mall programme there are accounting and record keeping requirements for the card issuer, ourselves and the retailer. This may be further complicated by additional entities in the chain such as IT service providers interposed between the card issuer and Blackhawk and/or between Blackhawk and the retailer.

The main concern for Blackhawk is to ensure that the Gift Cards are tracked for activation and that once legal tender has been made for the value of the card, this \$ amount is swiftly distributed to all entities in the sales chain. As for the card issuer, and the retailer, their accounting, record keeping and administration is a question for them.

It should be noted that Blackhawk insists that payment to the sales chain is made based on our records to ensure as few disputes as possible as between the commercial parties in the sales chain.

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

The market indicators that suggest the Australian gift card market is operating efficiently, are highlighted with the year on year growing consumer demand and acceptance of gift cards, and the negligible amount of customer complaints received as a proportion of gift cards issued.

Gift Card Issuers - Consultation Questions 2.14 – 2.16

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

In Blackhawk's experience, the factors taken into account by card issuers are:

- Ease of comprehension for the consumer;
- Keeping them as brief as possible (no legal jargon);
- Ensuring that permanent copies are retained on the card issuer's website.

- 2.15 *Do consumers compare the terms and conditions of alternative gift card products when making gift card purchases? Please provide examples.*

Not that Blackhawk is aware of.

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- 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?*

In Blackhawk's view, consumers would not have the flexibility to use the gift cards as and when they wished to. Depending on the restrictions enforced each issuer would need to assess the feasibility of the programme.

International Regulation - Consultation Question 3.1

- 3.1 *Are there any other notable international regulatory approaches that specifically address the issues raised in this issues paper?*

Generally, the regulations for closed loop cards in different countries are of the same broad guidelines as Australia, however, the committee should make its own enquiries concerning the overseas experience.

Options and Policy Response - Consultation Questions 4.1

- 4.1 *How can consumers be further assisted to develop a practical understanding of how to enforce their rights under the generic consumer protection provisions of the ASIC Act and the ACL?*

In Blackhawk's view, this can only be achieved by additional timely and succinct information being provided via television, radio web and print media to combat the often false, misleading or incomplete information offered by some television and radio programmes. In current society, we also believe that web content is particularly important. Generally speaking the vast majority of consumers are well aware of their rights and the terms and conditions of Gift cards.

- 4.2 *What are fair terms and conditions in balancing the issues faced by consumers purchasing and using gift cards, and gift card issuers?*

The current requirements of ASIC Class Order 2005/738 (and similar Class Orders for other products e.g. prepaid mobile) clearly sets out the requirements for a Gift card to not be considered a regulated product. The Class Order has worked well and the vast majority of card issuers comply with its requirements. In addition all cards that do not fall within the Class Orders are more than adequately covered by the requirements to provide comprehensive Product Disclosure Statements.

Blackhawk is, therefore, of the view that the current system works admirably (as clearly shown in our own consumer enquiry experience) and that there is no reason to change the present system. Blackhawk believes a minimum expiry date of 12 months is sufficient to meet consumer's needs as well as those of the Card Issuers.

- 4.3 *What are fair gift card administration practices in balancing the issues faced by consumers purchasing and using gift cards, and gift card issuers?*

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The current consumer enquiry system (phone or web based) utilised by existing card issuers works admirably to resolve most queries quickly and efficiently. This system is no different to the consumer enquiry system used for most other goods and services used in Australia or overseas.

4.4 *Are there any other possible policy responses to issues relating to the purchase and use of gift cards?*

Blackhawk believes that there is one area where there could be improvements in policy for gift cards, being the management of fraud for all gift cards and regulated cards (in particular). Fraud awareness needs to be improved at the retailer level.

There are some opportunities for unscrupulous consumers (and potentially retailer employees) to utilize delays in IT traffic to use cards when they have not been activated fully or when they have been activated but cancelled at point of sale and the cancellation messages have been delayed. This is not an unusual occurrence given the number of transactions occurring daily and some unscrupulous consumers are becoming increasingly sophisticated in availing themselves of these fraudulent opportunities. Of course, the solution to this problem may well not be a legislative one, nor is this a cause for concern for consumers, but for the card issuers themselves.

Summary

The Australian gift card market has grown substantially over the last ten years, and as we have highlighted is a very mature global prepaid market. There are millions of gift cards issued every year. Consumers of all demographics love to give and receive gift cards due to the convenience and choice provided. Since the introduction of Blackhawk in the Australian market, we have brought even further choice for the consumer into everyday shopping locations.

Importantly, in various consumer research conducted, the vast majority of consumers report that gift cards are easy to use. The evidence that the Australian gift card market is working well is the continued growing demand and acceptance of gift cards from the consumers and the negligible complaints or negative feedback from Consumers.

If a mandatory minimum expiry date of 12 months was to be imposed on all card issuers, this would be seen as a positive consumer step, yet retain the integrity of all card issuers.