



Australian Government



Australian  
**Small Business and  
Family Enterprise**  
Ombudsman

1 August 2018

Competition and Consumer Amendment (Gift Cards) Bill 2018  
Consumer Policy Unit  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Email: [consumerlaw@treasury.gov.au](mailto:consumerlaw@treasury.gov.au)

Dear Sir/Madam

**COMPETITION AND CONSUMER AMENDMENT (GIFT CARDS) BILL 2018**

The Australian Small Business and Family Enterprise Ombudsman (ASBEFEO) is pleased to provide feedback on the impact on small business on the Gift Cards Bill 2018.

In accordance with our previous submission from 29 May 2018 (attached), we welcome the key elements of the reform, in particular mandating minimum three year expiry date as setting a fixed period for gift cards nationally.

The Bill aims to deliver consistency and certainty for the consumer and small businesses across different jurisdictions. However, while further clarification on the national meaning of a gift card has been addressed in the Bill, the definition of gift cards has not been expanded to other similar provisions: coupons and vouchers. We consider that by exempting these from the definition will add red tape and increase the burden on small businesses to know and comply with variations in law.

I trust that these comments further assist you and would be happy to discuss any of these matters with you. Please feel free to contact Jill Lawrence, on

Yours sincerely

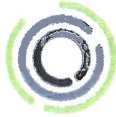
**Kate Carnell AO**  
Australian Small Business and Family Enterprise Ombudsman

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29 May 2018

Gift Card Expiry Dates Consultation Paper  
Consumer and Corporations Policy Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Email: [consumerlaw@treasury.gov.au](mailto:consumerlaw@treasury.gov.au)

Dear Sir/Madam

### **CONSULTATION REGULATION IMPACT STATEMENT (RIS): GIFT CARD EXPIRY**

As part of the Regulation Impact Statement process the Australian Small Business and Family Enterprises Ombudsman (ASBFEO) is pleased to provide feedback on the impact on small business for each of the proposed options.

In consideration of the impacts on small businesses we support Option 3 – Three Year Minimum Expiry Period with Mandatory Information Disclosure. We would further recommend that three years also becomes the maximum. Setting a fixed period for gift cards nationally will remove uncertainty across borders and allow small business to manage the financial liability within their cash flow (refer comments on Option 2).

ASBFEO considers gift cards an important element of the economy. As shopping online becomes the norm any change must be applied nationally. Consistency not only provides certainty for the consumer but reduces the burden on small businesses to know of, and comply with, variations in law across different jurisdictions. In particular, we support gift cards' redemption terms and condition are nationally consistent and include provisions to honour gift cards when business is placed into administration: e.g. Toys R Us<sup>1</sup>. To further streamline red tape we recommend that the definition of gift cards be expanded to other types of similar provisions such as vouchers and coupons.

As part of the RIS process ASBFEO is pleased to provide the potential impact on small business of the alternate options proposed:

- Option 1 - retain the status quo. Currently businesses can issue cards under terms they deem appropriate. Some jurisdictions have enacted minimum expiry periods, for example New South Wales has set a three-year minimum. This increases red tape for small businesses and creates confusion for consumers. Small businesses will not be able to compete with large national businesses who have the depth of resources to issue gift cards with no expiry therefore circumventing the need to monitor legislative requirements across jurisdictions.

<sup>1</sup> Government of Western Australia: Advice to Toys R Us customers with stores in administration

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- Option 2 - prohibition on gift card expiry dates. This would threaten the sustainability of small businesses and create a competitive disadvantage for small businesses. Business must carry a liability in their accounting systems for amounts paid for unredeemed gift cards. To carry this indefinitely would see such a liability compound and, when redeemed, create a loss for the small business. Consumers will expect that the product or service gifted to be the same when redeemed. Yet the cost and resources to provide the product or service may increase, may no longer be available, by the time the gift card is redeemed. This will result in the small business delivering a similar service or product at a loss.

As noted in our comments to Option 1, large businesses have depth of resources to offset carrying a gift card liability and delivering an equivalent service or product years after the gift card was received. Option 2 will create a competitive advantage to large business to offer gift cards where small businesses cannot compete.

I trust that these comments further assist you and would be happy to discuss any of these matters with you. Please feel free to contact Jill Lawrence, on

Yours sincerely



**Kate Carnell AO**  
Australian Small Business and Family Enterprise Ombudsman

