

9 August 2018

Gift Card Expiry Dates Consultation Paper
 Consumer and Corporations Policy Division
 The Treasury
 Langton Crescent
 Parkes ACT 2600
 consumerlaw@treasury.gov.au.

Dear Sir,

Consultation: Competition and Consumer Amendment (Gift Cards) Bill 2018

eftpos Payments Australia Limited (**eftpos**) is grateful to provide further consultation regarding the above draft legislation. In eftpos' previous consultation to Treasury in May 2018, a background was provided, specifically providing information about the eftpos scheme and involvement with debit card and gift cards. For ease, below is a brief recap:

- eftpos, administers the eftpos payment system to process eftpos debit and prepaid card transactions initiated by cardholders at merchant points of sale;
- eftpos debit cards and eftpos prepaid cards are part of the eftpos business which involves setting common rules and interchange for eftpos debit and prepaid card transactions, providing processing, settlement and tokenisation infrastructure and developing products and services for our Members to provide to their cardholder and merchant customers;
- eftpos facilitates use of millions of gift cards in market with Gift card Program providers being both direct eftpos members or sponsored by direct eftpos members; and
- eftpos sets rules for Issuers and Gift card providers to issue/distribute cards and the parameters for those cards as used in the eftpos payment system.

Noting that the following are the type of gift cards within eftpos payment system.

Program Type	Description
Open Loop	<ul style="list-style-type: none"> • acceptance is not restricted by the Program Provider (accepted at merchants that accepts gift card)
Closed Loop	<ul style="list-style-type: none"> • Acceptance restricted to one merchant • Acceptance restricted to one retail group
Semi-open Loop	<ul style="list-style-type: none"> • a particular merchant type, • a franchised merchant chain, • a particular location (eg all merchants within a shopping mall; all merchants on a cruise ship, all merchants at a sporting venue) or • retailers signed up to a particular program (eg loyalty/affinity program)

Submission:

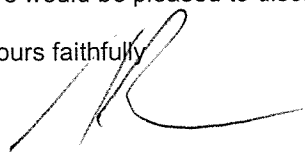
In reviewing draft legislation and supporting documentation, our further comments are as follows:

- the definition of gift card remains broad and may be assisted by the inclusion of reference to gift cards being 'fixed amount cards'. Regulations may further assist in clarifying, by exemption, what would not be considered a gift card, including explicit exemption within Regulations of:
 - credit, charge and debit cards;
 - discount coupons and vouchers (in addition to including a definition of what is deemed as a voucher or coupon); and
 - reloadable cards (including a definition for reloadable cards being cards which are used for the purchase of goods and services, which can be reloaded with an individual's own funds for personal use).
- gift cards are defined as being in both physical and 'electronic form'. Clarification within Regulations as to what an 'electronic form' would consist of may assist (ie. does this extend to digital cards in the wallet, QR Codes, email barcodes);
- other draft exemptions suggested for inclusion within Regulations:
 - 'Cards connected with a purchase in the same business' - does this extend to other entities within the company 'Group' (ie. if I receive the gift card for use at a supermarket that has a related petrol station, is the intent the card can be used across both those related entities); and
 - Clear wording that redemption of 'points' under a loyalty program would be deemed as excluded from the 'No consideration' exemption.
- definition of 'supply' does not clearly articulate the point at which supply takes place, given there may be several entities within the supply chain (ie. manufacturer, distributor and issuer), Regulations may clarify that the following instances are deemed as 'supply' with the alternative thus not deemed 'supply':
 - individual purchases a gift card as a gift for someone else;
 - a business purchasing a gift card for the purpose of providing the gift card to staff at a later date;
 - a supplier/distributor of gift cards delivering gift cards as fulfillment to the winner of a marketing campaign, promoted by another entity (a business in trade or commerce); and
 - provision of a gift card that needs to be separately, manually, activated.
- will legislation apply to location of supply, location of entity 'supplying'? Supply of gift cards may be nationwide (ie. in case of promotions with the supplier in Queensland, supplying to an individual in New South Wales);
- will there be grandfathering of cards, falling within the definition of gift cards under this legislation, which are already in the market currently? Is it intended that those current stock will be considered void, or require destruction post effective date? Inclusion of such directive within Regulations would assist;
- Clear understanding as to whether gift cards containing digital currency (ie. cryptocurrency) are covered by this legislation, or whether they are excluded.

As eftpos is not an issuer or provider of these cards, we cannot comment about the underlying commercial models nor the impact of introducing an expiry date to cards already in stock and under commercial agreements.

We would be pleased to discuss this submission if required or desirable.

Yours faithfully



Stephen Benton
Managing Director