

Wednesday 30 May 2018

Dr Alexander Pound

Consumer Policy Unit

The Treasury

Email: consumerlaw@treasury.gov.au

Dear Dr Pound

RE: Gift Card Expiry Dates Consultation Paper

I write regarding the consultation regulation impact statement on gift card expiry dates. CHOICE appreciates the opportunity to provide feedback on this consultation, which has the potential to benefit consumers and provide consistency in relation to gift card expiry dates across Australian jurisdictions and markets.

Consumers should have confidence that when they purchase a gift card, it will be able to be used for a reasonable time after that purchase. As the consultation paper identifies, the market for gift cards is both lucrative for businesses and subject to high levels of breakage and loss for consumers. CHOICE welcomed the NSW reforms to prohibit gift card expiry dates of less than three years, and to ban post-purchase fees, and would like to see similar reforms enacted at a Federal level.

The current system (outside of NSW), where retailers can elect to sell gift cards with short expiry periods, is leading to consumer detriment. A CHOICE member survey on consumer uses and experiences of gift cards found that one in three respondents said they had a gift card expire before it was fully used.¹ There is no real justification for including expiry dates on gift cards. Stores are paid up-front for the gift card; imposing an expiry date is unreasonable and places consumers at significant disadvantage. For this reason, CHOICE is supportive of Option 2 in the consultation paper, the introduction of a ban on gift card expiry dates. However, as noted above, CHOICE has also been supportive of the NSW gift card reforms on the basis that they are a substantial improvement on the status quo. The NSW reforms provide clarity for consumers, and reduce consumer detriment by preventing the use of unreasonably short expiry dates. For these reasons, CHOICE would support Option 3 as a secondary option for reform - a nationally consistent three year minimum expiry period with mandatory information disclosure. If pursuing this option, CHOICE urges Treasury to follow NSW's example in banning post-purchase fees and charges. Consumers across Australia should be able to

¹ 2014 CHOICE, 'One in three gift cards expires before it's fully used', via <https://www.choice.com.au/shopping/shopping-for-special-occasions/christmas-birthdays-and-gifts/buying-guides/gift-cards>.

rely on a consistent set of rules, and it is likely that if allowed, post-purchase fees will be used to erode the value of gift cards for consumers.

We note that this consultation is largely limited to the issue of expiry dates, although does touch on post-purchase fees as well. There are other issues with gift cards that Federal reforms could address, including:

- Transparent disclosure of key terms and conditions on the card, e.g. statement of value and minimum spend.
- Redeeming unused funds: the ability to withdraw unused funds is inconsistent across retailers. If the unused value reaches a low, specified level (for example, \$10), the issuer should be required to pay out the unused value at the consumer's request.

The consultation paper also does not discuss exclusions in detail. We note that the NSW legislation includes a number of exclusions. It remains CHOICE's view that exclusions should be as limited as possible, to ensure that any gift card expiry reforms achieve their aim of simplifying the consumer experience of purchasing and redeeming gift cards. A long list of exclusions will add confusion, rather than eliminate it.

For further information please contact CHOICE on sagar@choice.com.au. We note that Consumer Action Law Centre supports the comments and recommendations made above.

Yours sincerely,



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CHOICE



Gerard Brody
Chief Executive Officer
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