



VILLAGE ROADSHOW

29 May 2018

Consumer and Corporations Policy Division
The Treasury
Langton Crescent
PARKES ACT 2600

Gift Card Expiry Dates Consultation Paper – Executive Summary

Thank you for the opportunity to provide submissions in response to the Gift Card Expiry Dates Consultation Regulation Impact Statement.

Given the current climate, the retail sector is under siege from Amazon, other online retailers and new technology, which is causing massive job losses. Gift cards are one of the most valuable sales weapons available to Australian retailers.

Village Roadshow supports a nationwide move to a minimum 3 year expiry period on gift cards, consistent with the NSW Act. However, it is crucial there be a number of exceptions to make it work in the retail market space. Namely, retaining and building upon the existing NSW carve outs, to ensure flexibility over gift card expiry periods for:

- Gift cards supplied in connection with promotional, loyalty and staff reward activity;
- Gift cards provided to consumers free of charge;
- Gift cards that are genuinely discounted; and
- Open loop gift cards already regulated under the *Corporations Act*.

A prohibition on expiry dates would be prohibitive on many businesses required to manage the carrying of the liability and increasing costs for the underlying services.

In all circumstances, we advocate for the clear communication of expiry dates at the point of distribution. Those cards exempt from the 3 year minimum would be presented as a 'promotional gift card' product, and as such, subject to specific terms and conditions.

We hope that the government adopts a commercial and practical policy with regard to gift card expiry that allows for the promotional industry to thrive and for consumers to take advantage of discounted and complimentary offers in market.

Yours sincerely

Graham W Burke, AO
Co-Executive Chairman
Co-Chief Executive Officer

VILLAGE ROADSHOW RESPONSE To Gift Card Expiry Dates Consultation Paper

As recognised in the Impact Statement, the Australian Gift Card market is dynamic, rapidly growing, involves a variety of gift card or voucher products and a number of participants in the delivery chain to consumers. In this submission, “gift card” is used to include physical and digital vouchers as defined in the *Fair Trading Amendment (Ticket Scalping and Gift Cards) Act 2017 (NSW Act)*.

Gift Card Incentives sit at the Heart of our Retail Economy

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As demonstrated in this submission, flexibility on expiry dates under these scenarios is needed to enable:

- Program operators and retailers to manage their cash flow and liabilities;
- The vibrancy of the promotional market to be sustained;
- Compelling yet affordable promotional offers and loyalty rewards in the market; and
- Consumers to take advantage of gift card offers that they are accustomed to.

Australian Gift Card and Trade Promotions Market

With a large (\$2.5b in annual load), vibrant and growing (25% annual growth rate) gift card market that largely includes major retailers with a national footprint, gift card expiry dates are an important consideration in developing a unified and well considered policy. Gift card expiry dates are necessary to enable much of the promotional and loyalty activity within the Australian marketplace. 63% of businesses use gift cards to drive sales.

Village Roadshow - an industry leader in Gift Card programs

Within the Village Roadshow group there are discrete retail businesses which offer gift cards to consumers, such as Village Roadshow Theme Parks and Village Cinemas. Village Cinemas has a range of gift card and voucher products including gift cards redeemable for specific dollar values, gift cards and vouchers redeemable for particular goods and services and discounted vouchers.

assuming the appropriate disclosures are made - that this benefit may come with particular conditions. *These gift cards are not a cash equivalent.* They are a promotional reward, having unique production, encoding, distribution, marketing, branding and management costs.

Free or Discounted Gift Cards

All gift cards sold at a genuine discount to consumers or given away for free should be excluded from mandatory expiry periods. The NSW Act seeks to exclude gift cards given away for free as they are not considered a "sale". However, this treatment does not necessarily recognise the complexity of the supply chain, where "sales" may take place prior to delivery to the consumer. Also, not every give away of a gift card is part of a customer loyalty or employee rewards program, another specific exclusion under the NSW Act.

One of Village Cinemas' most popular products are vouchers sold as books of 5 or 10 at a discounted price. If these vouchers had a redemption period of 3 years it could result in withdrawal of the vouchers or increases in pricing to allow for the longer time period. Neither of which is beneficial to the consumer.

Open Loop Gift Cards

Open loop gift cards should be excluded from mandatory expiry periods. As noted in the Impact Statement, open loop gift cards (which do not permit cash withdrawal and are accepted through a payment system at a variety of stores) are regulated by ASIC Instrument, including disclosure requirements on expiry dates. Open loop gift cards, typically co-branded in the name of the client funding the promotional offer, are becoming an increasing feature of the incentive market and can be distinguished from a typical gift card product redeemable at only one retailer.

Unlike retail gift cards issued by the retailer direct, where the retailer holds the cash from the POS, agencies issuing these open loop gift cards do not hold the cash, as it is held in escrow by an Authorised Deposit Taking Institution (ADI) and only remitted when the cards 'break'. So, the cash impact of delaying breakage on an agency issuing for example, \$100m in eftpos gift cards each year, with 3% breakage to help fund this program, is enormous. The cost of manufacture, encoding and processing open loop cards also far outweighs the cost of a straight forward retail gift card. Hence, the small element of breakage is important in helping to fund these programs. Moreover, there is not the incremental value to the retailer of up spend in- store upon redemption of a closed loop gift card. Inclusion of open loop gift cards within a mandatory expiry date scheme may price these cards out of the incentive market.

Broader Practical Gift Card Considerations

In all circumstances, the most important element of a successful gift card program is the clear communication of the expiry date with the gift card and at the point of distribution. Where expiry dates differ on product that can be redeemed at the same retailer, we recommend that the card imagery or copy display that the gift card is a 'promotional gift card' product, and as such, subject to specific terms and conditions. As per our current practice, grace periods would be retained in exceptional circumstances, together with many of the support services that sit around gift cards, such as online balance and expiry checks and customer service.