



**Submission to
Senate Standing Committee on Economics**

**Response to
Causes and consequences of the collapse of listed
retailers in Australia
“Specifically Gift Cards”**

18 March 2016

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1 Executive Summary

The gift cards issued by the Australian Retailers Association (ARA) and Australian Merchant Payments Forum (AMPF) major members represent around 75% of closed loop cards issued in Australia and about 68% of total gift cards in the market (including open loop cards).

Members of ARA and AMPF issue gift cards in a manner that is professional, responsible and sensitive to the needs and feedback of their customers. They believe that their closed loop gift cards are one of a number of important tools to develop their brand and customer loyalty.

While they have differing terms and conditions (for example one and two year expiry dates, and one member with no expiry date) they have clear and simple means of communicating this information to both the purchaser and redeemer of the gift card.

Levels of consumer complaints and calls for assistance are extremely low in Australia and are symptomatic of an efficient and consumer-aware market. Unlike many overseas countries, closed loop gift cards in Australia are issued free to consumers. This is only possible because administration, fraud and marketing costs are kept to a minimum. If program administration and compliance costs increase in the future, it is possible that some level of purchase fees may need to be introduced to cover those costs.

The Australian gift card market has different characteristics to overseas markets, therefore, some of the conditions that have prompted a regulatory response in other countries do not exist here. For example, open loop cards comprise 20% to 25% of the US market, but account for less than 10% of the Australian market. Australian consumers appear to have a clear preference for gift cards issued free of charge, and this accounts for the 90% market share enjoyed by closed loop cards today.

The Australian closed loop gift card market also has low breakage rates (below 3%), almost no fees (some issuers charge a fee to cover the cost of issuing and delivering a replacement card), grace periods where cards are accepted for a time beyond their expiry date, online redemption to minimise and control fraud costs, and a very low incidence of complaints and calls for assistance.

The ARA and AMPF believes that there is no current evidence of consumer detriment in this market segment, that consumers are comfortable and confident in their use of gift cards, and that they are experienced in comparing and using payment cards with a variety of terms and conditions. The existing generic consumer regulatory framework appears to provide the required level of protection needed, therefore, it seems unnecessary to introduce specific additional gift card consumer protection measures at this time.

We also note there was an extensive inquiry into this matter finalised in 2012 by the Commonwealth Consumer Affairs Advisory Council, which stated there was no reason for changes to the current gift card regulations. This report pointed to extra pressure on business should there be any move towards ministerial regulation of a currently effective system. (This report is available at <http://www.treasury.gov.au/PublicationsAndMedia/Publications/2012/Gift-Cards>)

The ARA and AMFP sees proposals around regulation as a serious impediment and additional cost to small and medium retailers issuing cards with major retailers, potentially incurring significant red tape costs and having no choice and passing them onto the consumer.

2 Introduction

2.1 The ARA and AMPF

The Australian Retailers Association (ARA) and Australian Merchant Payments Forum (AMPF) represent the interests of merchants within the payments sector of the economy. It is important that the perspective of merchants is considered in addition to those of schemes, issuers, acquirers and cardholders. Merchants invest in payments infrastructure and are an essential component of the payments system. The ARA and AMPF Committee is the only merchant payments specific industry body in Australia and directly consults with and consists of retail merchants.

ARA and AMPF members account for the majority of gift cards issued in Australia. Data has been collected from major members of the ARA and AMPF for the purposes of providing an accurate response to the Senate Standing Committee on Economics Inquiry into the Causes and Consequences of the Collapse of Listed Retailers in Australia, with our topic being “Specifically Gift Cards”.

2.2 Background

The members of the ARA and AMPF issue gift cards in a manner that is professional, responsible and sensitive to the needs and feedback of their customers. They believe their closed loop gift cards are one of a number of important tools to develop their brand and customer loyalty.

While they have differing terms and conditions (for example one, two and three year expiry dates, and a number of larger members with an effective no expiry date) most have clear and simple means of communicating this information to both the purchaser and redeemer of the gift card.

Levels of consumer complaints and calls for assistance are extremely low in Australia and are symptomatic of an efficient and consumer-aware market. Unlike many overseas countries, closed loop gift cards in Australia are issued free to consumers. This is only possible because administration, fraud and marketing costs are kept to a minimum. If program administration and compliance costs increase in the future, it is possible that some level of purchase fees may need to be introduced to cover those costs.

2.3 Scope

This response has a focus on “closed loop” gift cards, as these are the cards issued primarily by the ARA and AMPF membership. Some comments on “open loop” cards are made where appropriate to the context.

2.4 Limitations

Independent gift card market research has not been undertaken for this paper, however, the number of closed loop gift cards issued by, or on behalf of, ARA and AMPF members represent a significant proportion of the closed loop cards in the Australian market. The trend statistics presented here should be viewed in that light.

Statistical data supplied by ARA and AMPF members is included in this document in consolidated form to protect the confidentiality of data belonging to individual members.

3 Market Overview

The Australian Gift Card Market is healthy, with a wide range of issuers and both closed loop and open loop cards. While no definitive numbers of gift cards are available, it is estimated that around 32 million closed loop gift cards and some 2 million open loop scheme-branded¹ gift cards were sold in Australia in 2014.

In 2014, major ARA and AMPF members issued more than 24 million gift cards², which represents an estimated 70% of the total Australian Gift Card market. Total spend on these cards was approximately \$1.25 billion to \$1.5 billion of an estimated total market of \$2 billion plus in 2014. All figures in this paper relating to gift cards issued by ARA and AMPF members are only for closed loop cards.

It should be noted that there is a major difference between the Australian and US markets in relation to the proportion of open loop to closed loop cards. In the US, it is estimated open loop cards account for between 20% and 25% of the gift card market, whereas in Australia, it is estimated that open loop cards account for only around 5% to 6% of the market.

For gift cards issued by ARA and AMPF members, the average spend per card is \$56, and on average each card is used 1.4 times.

Market research and the low number of complaints experienced by ARA and AMPF members issuing these cards demonstrates that consumers are comfortable with these cards and understand any differences in the offers or the terms and conditions between the various issuers. As the GPX market research concluded: *"Satisfaction is high for givers and receivers because the product works."*³

4 Responses to the Senate Inquiry issue raised

Australian consumers understand gift cards very well now and are buying them with confidence. Levels of spend and transaction numbers are increasing year on year. The level of issues and complaints with closed loop gift cards is extremely small compared to the volume of cards and transactions being conducted each year.

The vast majority of gift cards have at least one redemption transaction within 12 months of issue, regardless of the expiry period. The length of the expiry period appears to have minimal impact upon the way in which the card is used by the redeemer. All respondents indicated they had leeway policies in place for card redemption, and nearly all indicated discretion on timeframes depending on customer circumstances. One consistent point made on expiry dates was that businesses need the ability to remove liability from their financials, and this is a particular issue for smaller to medium retailers.

¹ Scheme branded gift cards are those with a Visa or MasterCard logo and are typically issued by Financial Institutions.

² These are ARA and AMPF members based on historical data.

³ Market Research on the Australian Gift Card Market conducted by The Global Prepaid Exchange (GPX) and Retail Decisions in 2010.

Consumers in Australia overwhelmingly prefer closed loop gift cards, which are issued free of charge, to open loop gift cards which have purchase fees and typically also have other charges. Proposals around trust funds or other mechanisms to protect unsecured creditors would inevitably see increased costs for merchants. In the case of small to medium merchants these costs would see them either remove themselves totally from the marketplace or pass on the fees. Likewise, major retailers would also be hit with increased red tape costs impacting shareholders, customers or employment as offsets.

One impact of closed loop gift cards is that they contribute towards the decline in cash usage at the point of sale in a manner that is very cost effective for the retailer. Unlike open loop gift cards, the merchant is not required to pay a merchant service fee for each transaction.

We also see the volume and usage of “virtual” gift cards issued via the internet or smartphones increasing rapidly, along with a general trend over time towards the use of mobile payment by customers. There is a lot of development in this area and new players such as Apple, Amazon, Google, and Microsoft have been showing interest in entering this space. Younger people (18 to 35) are more comfortable with operating in the virtual space, and most of the growth is expected to come from this segment.

The Global Prepaid Exchange (GPX) / Retail Decisions 2010 Australian Gift Card independent research found the two main reasons for purchase of a gift card were as a birthday gift (71%), followed by Christmas gift (16%).

Sixty nine percent of the sample purchased at least one gift card in the previous 12 months. This compares with 76% in the US, 73% in Canada, and 59% in the UK (from earlier Giftex Prepaid studies).

The research established that women purchase gifts more frequently than men and are more likely to plan gift purchases in advance.

A key factor in deciding to give a gift card was the dislike people have of giving or receiving an unwanted gift, which is considered wasteful in the current economic climate. A gift card allows the recipient to choose a gift they actually want. This is also important to retailers who prefer to reduce the number of gifts returned or exchanged by customers.

The intention to buy more gift cards in the future is strongly correlated to previous positive experience, therefore, retailers hold the key to increasing sales through excellent delivery of their gift card proposition to consumers.

The majority of gift cards are given to friends or close family members, excluding the spouse or partner. There is some reluctance to give them to a spouse or partner as it may appear to be evidence of a lack of thought or understanding of what they really want.

Sixty percent of people receiving a gift card believe that it is better than receiving cash. Less than 15% of people disagreed with this proposition. Eighty three percent of people receiving a gift card agreed that the best part is the choice such a card offers, making the key attribute the same for both the purchaser and the redeemer.

Eighty nine percent say that gift cards are easy to use.

The ARA and AMPF believes the existing consumer protection framework provides effective protection for consumers purchasing gift cards. The number of complaints received is extremely small compared to the number of cards issued and number of transactions processed each year.

For ARA and AMPF members, the average level of complaints is around 0.016% of transactions, as measured by calls received at merchants' customer service Help Desks. Typically, more than 90% of calls received relating to gift cards are not complaints but requests for information or card balances, terms or expiry dates.

The majority of these complaints were resolved to the satisfaction of cardholders, typically as a result of issuers providing benefits beyond what is required under the terms and conditions of the card.

ARA and AMPF members are well aware of their obligations under both the ASIC regulations and Australian Consumer Law, and in most cases, will seek to go beyond their legal obligations in order to satisfy genuine customer concerns. For example, while most ARA and AMPF members have terms and conditions saying they will not be responsible for lost or stolen gift cards, most will replace cards if they believe the request for replacement is genuine and sufficient details are provided. Most also provide a grace period beyond the expiry date to allow an unused balance to be spent. Two ARA and AMPF members have a policy of accepting all gift cards they have issued, regardless of the expiry date, provided an unused balance remains on the card.

The ARA and AMPF believes current statistical data indicates there is minimal consumer detriment being experienced.

The ARA and AMPF does not support the actions taken by Dick Smith administrators and feels its gift card holders were justified in protesting the cancellation.

The AMPF has no access to data from consumer affairs bodies, however, based on the level of complaints made directly to our members in their role as issuers, we suspect complaint levels to these bodies will also be very low for closed loop cards, with the exception of insolvency or administration issues, such as those related to Dick Smith gift cards.

It is the ARA and AMPF's view, based on these figures, that the level of complaints indicates a high level of satisfaction with the existing gift card system, at least for closed loop, retailer-issued gift cards.

It would be detrimental to an effective gift card market to see costs imposed on the healthy market around trust funds or other mechanisms, which would cripple card offerings for many smaller and medium retailers when this could be best resolved by the administrators of businesses.

The main limitation on the use of any closed loop gift card is that it is only accepted by a defined and limited set of retailers. Very few retailers will accept a closed loop card issued by another retailer unless they are operating within an acceptance partnership which is communicated to the cardholder. Consumers seem to understand this limitation whether buying or redeeming a card, and seem to be comfortable with it.

Retailers want to treat their customers well and want their shopping experience and gift card experience to be as positive as possible.

Closed loop gift card recipients typically fall into one of two categories. The first category comprises those given a gift card to a particular store or chain because they are known to have an existing affinity to that store and the products it sells. These are often that store's best customers and the retailer wants to ensure that these premium customers are well looked after.

The second category is people who are given a gift card to a store or chain where they rarely or never shop. From a retailer's perspective this provides an opportunity to create an excellent

impression and develop the potential for return visits and purchases based on that customer's satisfaction with the initial experience.

In both cases, the retailer wants to provide a positive gift card experience to maximise the potential for future return visits. Any rules or limitations on the card that are too restrictive, or any over-zealous interpretation by the retailer would be highly counter-productive to the purpose of the card. Thus, while certain terms and conditions are needed to protect both the retailer and the cardholder, these are typically reasonable in their scope and there is usually reasonable latitude provided to cardholders in their implementation.

The most common issues relating to terms and conditions are expiry dates and lost and stolen cards, although as can be seen from our previous response, complaints of any type are at very low levels.

Expiry Periods

The closed loop gift cards issued by ARA and AMPF members have differing expiry periods of 1 year, 2 years or 3 years and two retailers indicated they have no expiry period at all on their gift cards. Interestingly, the shorter the expiry period, the higher the redemption rate and also the sooner the redemption occurs after the issuing date.

In other words, mandatory long-term expiry periods such as those imposed in the US could well be counter-productive and instead increase consumer losses.

There does not appear to be any issue relating to confusion over expiry periods, with the vast majority of customers using their cards before expiry. Overall, around 97% of gift cards issued by ARA and AMPF members are redeemed before expiry. In reality, the number of cards that expire without redemption is even less than this number would indicate. Most ARA and AMPF members offer a grace period on the expiry date. Two of the three largest issuers do not ever expire their cards. These grace periods vary from issuer to issuer, but range from one month to indefinite. The ARA and AMPF estimates that less than 0.3% of gift cards issued by its members expire without being redeemed. This is a very low figure.

The ARA and AMPF believes that the majority of gift card issuers provide flexibility in imposing expiry dates and provide grace periods which allow for the vast majority of gift cards to be redeemed. We see no evidence of confusion due to the varying expiry periods offered by different gift cards. This is no different to other payment cards where different issuers offer different expiry periods depending on the issuer, the card type, and sometimes depending on the credit rating of the cardholder. We support retailers, especially those in the small to medium space, being able to have expiry dates to remove any long-term liability which could affect equity for their respective businesses, while we encourage a term of 12 months or more and use of reasonable judgment in terms of allowing expired cards to be redeemed in the best interest of good customer service.

Lost and Stolen Cards

Lost and stolen cards account for around 0.005% of all cards issued by ARA and AMPF members. Not only is this number very low, but lost and stolen cards have reduced in number and as a percentage of cards issued year on year, possibly due to increased consumer awareness.

Most retailers state in their terms and conditions that lost and stolen cards will not be reissued, partly to protect themselves from fraud and partly because some issuers view gift cards as being the same as cash. Despite this, in reality, the majority of retailers will reissue these cards providing the card has sufficient funds remaining, there is sufficient data to properly identify the

card, and the cardholder can provide proof of purchase. The number of lost and stolen cards re-issued varies from no re-issuing at all to a number of issuers who replaced every lost and stolen card that was reported, subject to relevant proof criteria.

The ARA and AMPF sees no problems relating to Terms and Conditions. Most ARA and AMPF issuers offer a grace period for expired cards and the number of cards which actually expire with an unused balance is very small indeed. Similarly, with lost and stolen cards, an almost negligible proportion fall into this category and most retailers will provide a replacement card subject to proof of ownership. As stated earlier, retailers want customers to have a positive experience with their gift cards and wish to see these customers return to their stores.

The terms and conditions vary between different issuers, as do the goods and services they sell. The major variations in terms and conditions relate to expiry periods and lost and stolen cards.

The expiry periods vary from one year to never expiring. This situation is well understood by consumers, as similar conditions are in place for other payment cards where different expiry periods apply according to the card type, the issuer, and sometimes the cardholder.

The Reserve Bank of Australia (RBA) has implemented a series of reforms over the past decade aimed at improving competition in the card payment market and increasing choice for consumers. Allowing issuers to differentiate their offer in the market with varying terms and conditions is vital to this. The extremely low level of complaints relating to closed loop gift cards demonstrates that consumers understand these variations and are comfortable with them.

The terms and conditions of closed loop gift cards are adequately disclosed to gift card purchasers and recipients and are easily accessible.

Some closed loop gift cards have the complete terms and conditions printed on the reverse side of the card. Some have the conditions printed on the card carrier that is intended to be given to the redeemer by the purchaser. All have a website reference where more information can be obtained, including terms, conditions, card balances, help desk call numbers, etc. Some cards also have a telephone number where information can be accessed by card holders who do not have easy access to the internet.

Instore staff are also happy to answer consumer questions relating to gift cards or will refer the customer to the help desk if they are unable to answer a specific query.

The ARA and AMPF believes there is no evidence suggesting that gift card administration issues are leading to consumer detriment today. The very low level of queries compared to their high and growing level of usage allows closed loop gift cards to be issued free of charge to Australian consumers. This contrasts with some other overseas countries, where fees of up to \$5 may be charged to purchase a closed loop card.

The ARA and AMPF believe the current generic consumer protection framework is sufficient to address consumer concerns relating to gift card administration. Again, the very low level of complaints supports this position.

In addition to accounting and administration processes, retailers that issue gift cards must have processes for card issuing and replacement, marketing, staff training, and fraud management. All these processes contribute towards the cost of operating a gift card portfolio.

Statistical data provided by ARA and AMPF members indicates that the Australian gift card market is highly efficient, with comparatively low levels of cost per card issued and cost per

transaction processed. Smaller retailers are able to achieve economies of scale by outsourcing their gift card processing operations to specialist service providers.

The low level of breakage and the low level of cards that expire with an outstanding balance also indicate that the gift card market is operating efficiently with significant benefits for consumers compared to other major markets overseas.

Issuers need to balance protection of their own interests and good governance with providing a positive customer experience. Issuers of closed loop cards have implemented terms and conditions which are reasonable, but offer the required level of protection against activities such as fraud. ARA and AMPF issuers show flexibility when applying administration processes related to these terms and conditions.

Consumers do compare terms and conditions before making a gift card purchase, and this is clear from the large market share enjoyed by the free closed loop gift cards on offer.

Two examples of open loop cards available in Australia today are:

- Bank A Visa Gift Card
 - \$5.95 purchase fee
 - \$4.00 for a telephone conversation with a Customer Service representative
 - \$1.20 for a balance enquiry over the telephone
 - no charge for balance checks over the Internet
 - lost and stolen cards not replaced
 - no extension to expiry date - balance forfeited
 - a \$4 fee may apply to disputed transactions
- Bank B MasterCard Gift Card
 - \$4.95 purchase fee
 - \$1.00 fee for calling the automated Gift Card Call Centre
 - \$4.50 for a telephone conversation with the Gift Card Call Centre
 - no charge for balance checks over the Internet
 - lost and stolen cards not replaced
 - no extension to expiry date - balance forfeited

In contrast, closed loop cards charge no fees and have less restrictive terms and conditions. Despite open loop cards providing greater flexibility in relation to where they can be used, they represent only a small proportion of gift cards in the Australian market. This is almost certainly due to consumers comparing the various fees and conditions and choosing accordingly.

Depending upon the nature of the restrictions, it is possible they will increase issuer costs. If the cost increase was high enough, closed loop gift cards would potentially no longer be offered free of charge to consumers.

One major retailer gift card issuer has indicated that if changes were made to the allocation of unredeemed funds, they would have to introduce issuing fees to meet costs that are currently covered by these unredeemed funds. Such a move would be counter-productive, as any increase in fees is likely to reduce gift card usage and reduce their important role as a cash substitute.

As already outlined we believe the biggest impact would be on small to medium retailers and consumer costs.

The ARA and AMPF does not believe that international regulatory reforms for gift cards are relevant to the Australian market as the conditions leading to the regulations are absent from our market.

When US reforms were introduced via the CARD Act in 2009, many gift cards charged a range of fees, particularly open loop cards, but also some closed loop cards. These fees included issuing fees, mailing fees, dormancy or inactivity fees, card reissuing fees, administration fees, balance check fees, fees for calls to the customer help desk and card customisation fees. With the exception of some issuers charging a fee to cover the cost of reissuing a lost or stolen card, fees on closed loop gift cards in Australia are virtually non-existent.

When the CARD Act was passed, breakage⁴ on US gift cards was estimated at in excess of 6%. The average breakage for Australian gift cards issued by ARA and AMPF members is around 3%, significantly less than the US. Breakage in the UK is more than 5%⁵, and it is believed Canada also has breakage levels much higher than Australia.

The processing environment is significantly different in Australia, with most gift cards processed over merchants' own card processing systems or the EFTPOS network, rather than networks owned by card schemes or third party processors, as is the case in the US.

Consumer education regarding the various protections available is always beneficial, regardless of whether it is generic or focussed upon a particular area, such as gift cards. The ARA and AMPF is happy to consider playing a role to support any such initiative.

The ARA and AMPF believes the current terms and conditions offered already represent a good balance of the issues faced by issuers, purchasers and redeemers.

5 Other Issues

5.1 Terms & Conditions

It is common practice for gift cards to be sold mounted on some form of carrier. This carrier usually has the main terms and conditions printed on it, along with the website and telephone number the purchaser or redeemer can use to access the full terms and conditions. The retailer intends that the gift card will be given to the recipient while still mounted on the carrier.

Either the purchase date or the expiry date may be handwritten on the back of the card by point of sale staff at the time of the purchase. If cards are issued without predetermined values and the purchaser can load any value he or she desires, there is no practical solution other than to hand write the card value onto the card. The same applies to the expiry date.

5.2 Customisation

⁴ Breakage is defined as the unused balance left on a gift card as a percentage of the original value of the card.

⁵ *"In the gift card market, the average card value is less than £50, and the average amount left unused is £2.50".* Laying of Regulations to Implement the new E-Money Directive - A Consultation Document, HM Treasury, October 2010.

Some overseas retailers allow customers to purchase gift cards for their friends or relatives from a website where the card can be customised with a selected design, or the intended recipient’s name. As these cards are printed and shipped to a specific customer, the expiry date may be printed on the front of the card. These cards are quite costly to produce and a fee (typically around \$5) is charged in addition to the value loaded on the card.

Australian retailers have generally tried to maintain a free card policy, which does not allow for this level of sophistication. Australian consumers are used to paying \$100 for a gift card which has \$100 of value loaded onto it.

5.3 Fixed Expiry Dates

There has been much discussion both in Australia and overseas regarding minimum expiry periods.

The ARA and AMPF believes that such a regulation would be counter-productive for consumers. The ARA and AMPF data shows that the longer the expiry period, the lower the redemption rate becomes. The ARA and AMPF believes there should be no restriction on expiry dates, as market competition allows customers to compare terms and conditions between various cards and make their decision accordingly as to the best product for their needs.