

Wednesday, 22 September 2021

By email: [senator.hume@aph.gov.au](mailto:senator.hume@aph.gov.au)

Senator the Hon. Jane Hume  
Minister for Superannuation, Financial Services & Digital Economy  
Parliament House  
Canberra ACT 2600

Dear Minister,

### Improving consumer protection from scams

As you will be well aware, consumer losses from scams and frauds have increased substantially over the recent period. The ACCC's most recent report on scams finds there was a combined \$851m in scam losses reported to regulators and leading financial institutions in 2020, and we understand that scam losses have increased 90 percent already this financial year.

While the Government's Digital Economy Strategy includes some commendable actions and commitments to improve online cybersecurity, particularly in respect to government agencies and institutions, an area that is lacking is consumer protection.

Enclosed is a briefing note from Consumer Action which sets out some practical reform options to better protect consumers from scam losses. We consider Australia's consumer protection framework has fallen behind best practice, and that institutions such as banks can take some practical steps to better protect against consumer losses. These include:

- Ensuring confirmation of payee for any online payment: the ageing direct-entry (BECS) system is regularly exploited to facilitate scams. While the PayID system allows for payee matching, the current system relies on individuals to create a PayID rather than banks taking responsibility for this to happen.
- Introducing a regulatory solution like the UK Contingent Reimbursement Model Code, which provides that blameless people should be reimbursed for any losses through bank transfer fraud, provided the victim did not engage in 'gross negligence'.

A shift in liability would align the incentives banks face with the situation with unauthorised transactions like counterfeit/skimming fraud, fraud on lost and stolen cards, and 'card not present' fraud. It is apparent that systematic bank fraud prevention efforts appear to be focused on guarding against unauthorised access to accounts, where banks do face liability, rather than scam losses where consumers face liability.

We have shared these suggestions with the Australian Banking Association, and would be happy to discuss with you further. I am available on \_\_\_\_\_ or at \_\_\_\_\_

Yours faithfully,

**CONSUMER ACTION LAW CENTRE**

**Gerard Brody**  
Chief Executive Officer

cc. Treasurer The Hon. Josh Frydenberg MP  
Assistant Treasurer The Hon. Michael Sukkar MP