



1 June 2011

Mr Craig Thomson MP  
Chairman  
House of Representatives Economics Committee  
Parliament House  
CANBERRA ACT 2600

Dear Chairman

**VISA SUBMISSION TO BILL INQUIRY**

Visa would first like to thank the House of Representatives Economics Committee (Committee) for extending this opportunity to make a submission on the *National Consumer Credit Protection Amendment (Credit Cards and Home Loans) Bill 2011* (Bill) and to have appeared before the Committee in person.

The written position contained in this submission aligns with both our verbal evidence and our two previous submissions as part of the Treasury consultation process.

Visa is the world's leading payments technology company. We now operate in 200 countries and territories and our global network now includes more than 1.9 billion cards, 1.8 million ATMs and 15,500 financial institutions.

It is also important to note what Visa is *not*, particularly in the context of our submissions on a Bill that relates specifically to credit cards. Visa is not a credit card company – we do not issue credit cards, we do not extend lines of credit to cardholders, we do not set credit card rates or fees and we do not directly manage cardholder relationships.

We are the providers of the technological backbone that enables the issuance and acceptance of credit cards, along with debit cards and prepaid cards. It is a section of our client financial institutions known as "card issuers", that issue credit cards.

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Whilst almost none of the specific measures in this Bill will directly regulate Visa's business, Visa is naturally interested when regulatory and legal initiatives are under consideration that may impact on our card issuers, hence our willingness to make our views clear for the benefit of the Committee.

We also have international comparative experience arising from our global nature, and in particular from the experience of our card issuing clients in the United States where the *United States Credit Card Accountability Responsibility and Disclosure Act of 2009* (US Credit Card Act) has now been in force since 22 February 2010.

### Package of measures

First, we wish to place on the record our support for the general direction of the National Consumer Credit Protection reforms.

As stated in the Prime Minister's *Fairer, Simpler Banking* announcement from the 2010 Federal election, the broad intention of the credit card aspects of this policy package was to give "Australians a better deal when it comes to credit cards". As we understand it, most credit card issuers have also endorsed this broad direction.

In our view, a key – even fundamental – principle in giving substance and detail to such a broad direction is to ensure that the detailed measures that are developed to support it do actually deliver on the goal and don't go beyond what is needed. The first step in doing that is surely to determine what the real policy 'mischief' is that policy-makers are seeking to address and then developing detailed measures that are aimed squarely at that issue and that deliver a proportionate response to the problem or concern.

This has been achieved in some cases in this Bill, but Visa is concerned that it may not be where we have ended in some other instances.

We would like to highlight one key aspect of the Bill in particular that seem to possibly not pass the application of this test. As mentioned above, we have expressed views on other areas of the Bill during the Treasury consultation process and would be happy to make those submissions available to the Committee should it wish to review them.

### Credit limit extension invitations and retrospectivity

The core issue we'd like to raise is the retrospective application of the credit limit extension offers prohibition to contracts that already exist between issuers and cardholders.

It was not announced in the election policy that this measure would apply to existing accounts, and indeed during Treasury-led Implementation Group Consultations it was made clear that all measures would be prospective.

Latterly this was amended to provide for retrospective application of the prohibition. We feel it is a significant step for the Parliament to reach into existing and well functioning business practices and seek to change them in this manner.

Applying the policy test we mentioned earlier it is hard to clearly identify what the 'mischief' is that is being targeted by this measure. Issuers almost only extend such offers to their more creditworthy customers, it will be illogical to do otherwise, and under current arrangements, cardholders can already request a cessation of this service.

It is true that an opt-in mechanism is included in the Bill. However to ensure this mechanism has substance, much will turn on how restrictive or otherwise the communications that issuers are allowed to make to cardholders about their ability to opt-in, and it has been suggested by some that these arrangements should be set very restrictively.

All in all, we think the retrospective application here doesn't pass the proportionality test and should be re-visited.

#### *Lessons coming from the United States*

We would conclude our submission by highlighting several outcomes that seem to be flowing from the similar US Credit Card Act, which is very similar in several respects to the Bill.

In discussions we have had with the US card sector, the following trends are emerging:

- Generally, the extension of less credit to consumers;
- Significant changes in fee structures and levels, including price; increases for consumers in the form of higher annual fees and other costs;
- Higher borrowing costs for good creditworthy customers; and
- Very little marketing for new accounts

To some these may appear good outcomes – but we reject this view. Appropriately extended credit forms a very important part of our economic activity. It is a convenient, safe and efficient way for many people to pay, is widely accepted and can deliver significant rewards and other benefits to users and merchants.

At a time when the Australian retail sector is reporting significant softness and the economy appears to be operating at varying speeds, it seems an unfortunate time to take any steps that might negatively impact responsible consumer credit card issuance and usage.

Visa again repeats our strong commitment to the broad direction of responsible credit lending and measures to deliver that outcome but we think this goal may be better served by a different approach on several of the measures in this Bill.

Yours sincerely



**Adam Wand**  
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Australia, New Zealand and South Pacific