

CHAPTER 3

THE AVAILABILITY AND TRANSPARENCY OF FEE INFORMATION

3.1 The Committee's second term of reference was the availability and transparency of fee information for consumers who undertake electronic banking transactions or telephone banking.

3.2 The Committee isolated a number of major issues from this term of reference.

The availability of fee information on electronic and telephone banking

3.3 The issue here was whether information on fees is available in ways which are beneficial to consumers. The Committee received submissions on this from the Australian Bankers' Association (ABA) and from individual banks. These submissions advised generally that fee disclosure was necessary and desirable, to facilitate efficient markets and to protect consumers. The banks argued, however, that comprehensive fee information for consumers was already provided under the various codes of conduct approved by ASIC. These codes are market based and therefore are particularly effective. The codes are also being reviewed, which should improve even more the accessibility and transparency of information for consumers.

3.4 The banks also argued that in any event they went further than the codes required, providing information to customers on how to minimise fees. The banks advised that this is done by training counter staff to assist customers, by special brochures, by information on statements and especially through Internet sites.

3.5 The banks explained, however, that fee information is related to the relationship between costs and benefits, warning against excessive information that will not assist but confuse consumers and add to costs which will be passed on to customers.

3.6 In particular, the ABA advised that there is at present a high level of fee disclosure, required since at least 1996 by the Code of Banking Practice and the EFT Code of Conduct. These requirements ensure that customers are provided with comprehensive information on fees and changes to fees, well before they occur. Many financial institutions in fact go further than these existing disclosure provisions. The ABA claimed that there are no other continuous supply industries where there is the same level of disclosure or notification. In the light of such disclosure any proposals for change should be subject to a detailed cost benefit analysis and tested, to ensure that they will actually improve the position of consumers. The ASIC Transaction Fee Disclosure Working Group would be a suitable body to do this.

3.7 The Commonwealth Bank submitted that it is important to provide fee information to enable customers both to be aware of the fees they are paying and to minimise those fees. The Bank produces an extensive range of fee brochures which are available at all branches. When the Bank writes to customers to change fees, it provides information on how to avoid or minimise fees; bank staff are also trained to assist customers to do this. The Bank also publishes extensive fee information on the Internet and conducts workshops and seminars for disadvantaged and community groups on the advantages of electronic banking.

3.8 In addition, the Commonwealth Bank advised that the Code of Banking Practice and the EFT Code of Conduct, which are voluntary codes agreed between industry and government, have established efficient disclosure regimes. The Codes provide generally for full disclosure of fees when an account is opened or on request, and for notice of increases in fees or new fees for ATM or EFTPOS at least 30 days before they take effect. The Commonwealth Bank noted that there are a number of reviews in progress of the fee disclosure framework.

3.9 The ANZ Bank submitted that informed customers are essential for efficient markets. A lack of proper information results in reduced competition with higher prices for lower quality products. In this context the Bank suggested that market based solutions such as self-regulatory codes will provide better information than intervention-based solutions, such as liability laws and forced disclosure.

3.10 The ANZ Bank emphasised that the provision of information is, however, only sensible if the benefits of the information outweigh the costs of providing it. Mandatory disclosure provisions may actually harm consumers because suppliers will pass on any costs involved. The quality, not the quantity, of disclosure is important. Information should not be excessive or complex.

3.11 Like the other banks, the ANZ Bank noted that disclosure of transaction fees in Australia by banks to retail customers is governed by the relevant Codes, which are being reviewed. These Codes, together with ANZ Bank practice, provide for substantial disclosure already of ATM, telephone and Internet banking excess withdrawal fees.

3.12 The ANZ Bank advised that it discloses transaction fees when an account is opened, an ATM card is issued, on monthly account statements, in brochures and when fees are changed. In the case of the Internet, the excess withdrawal fee is also displayed on the ANZ Bank home page each time that a customer logs on for Internet banking. The Bank noted that the Internet is a powerful channel for disclosure, with full listing and explanation of all personal and small business Internet banking fees.

3.13 In any event, the ANZ Bank submitted that its practice is to go beyond disclosure obligations under the codes and to provide information to customers on how to manage and minimise fees. For instance, monthly transaction account statements include suggestions on how to do this.

3.14 The St George Bank submitted that the relevant codes provide for the availability and transparency of electronic banking fees in a variety of ways. In addition, the Bank provides a booklet on fees and charges and how to minimise them and sets out this information on its Internet site.

The transparency of fee information on electronic and telephone banking

3.15 The issue here is whether fee information is sufficiently transparent to enable customers to make an informed choice between products. The Committee received submissions from consumer groups and individual consumers which advised of a lack of transparency in fee information provided by banks. The consumer groups submitted that different products are hard to compare, because of different fee structures and account statements. This complexity adversely affected consumers, making it difficult for them to exercise an informed choice between the various products offered by banks. The resultant lack of transparency means that disclosure is neither fair nor effective, especially for low income consumers. In this respect the market and competitive forces have failed consumers.

3.16 The Consumer Law Centre Victoria Limited (CLC) made the most detailed consumer group submission. The CLC advised that it was difficult to make an informed choice between different banking products because of lack of uniformity in fee structures and account statements between different institutions. The result is considerable complexity in transaction fees, which leads to a high level of consumer dissatisfaction and calls for action to alleviate the situation. In particular, information supplied by different financial institutions is not standardised and is hard to compare. This lack of basic comparative information means that it is not possible for consumers to make an educated choice about the best fee structure for their individual circumstances. In light of this serious market imperfection there should be intervention to require full, transparent, standardised disclosure by all supply-side market participants.

3.17 The CLC submitted that fee disclosure should be fairer and more effective. This is becoming more important because bank income is coming increasingly from non-interest sources, with consumers faced with confusing transaction fee triggers and exemptions. Also, fees fall more heavily on low income consumers. All this shows a need for government action in relation to disclosure. If bank fees are just and fair then fee disclosure should not be a problem. There should be disclosure in account statements, at transaction points and in plain English advice on account terms and conditions. Technology advances mean that this should not be a problem for electronic and telephone banking, with such advances being more important than outdated excuses such as compliance costs and technical difficulties.

3.18 The CLC suggested that key disclosure issues for banking consumers should include:

- product comparability, without which consumers have only a limited ability to select the accounts which best serve their needs;

- fee threshold disclosure, because banks vary in their calculation of fee free transactions;
- options to minimise fees, because of the wide range of circumstances which affect fees; and
- changes to terms and conditions, including changes to fee triggers, which should be subject to notice periods to ensure that consumers are not disadvantaged.

The characteristics of an ideal fee disclosure regime

3.19 The issue here is the extent to which present disclosure practice complies with an ideal disclosure regime. The Australian Securities and Investments Commission (ASIC), as the conduct and disclosure regulator for the financial sector, made a detailed submission which, in relation to the second term of reference, set out the principles of good disclosure and then examined how the present systems and practices complied with those principles. ASIC concluded that there was room for improvement, particularly in relation to disclosure at the time of the transaction and on statements.

3.20 The ASIC submission, which addressed only fee disclosure on transaction accounts, advised that the present law does not deal directly with fee disclosure for any form of transaction banking, including electronic and telephone banking. However, the *Financial Services Reform Bill*, the draft of which has been reported on by the Committee, will have such an application. Also, the Banking, Building Society and Credit Union Codes of Practice provide for:

- disclosure of fees to a customer before or when a service is provided, or otherwise on request;
- notification of new fees in writing to affected customers at least 30 days before they take effect; and
- notification of variations in fees by advertising or by writing to affected customers, no later than the date of effect.

3.21 The EFT Code of Conduct at present covers only ATM and EFTPOS transactions, but is being expanded to include all forms of electronic banking, including telephone banking. The Code provides for:

- disclosure to a customer before an EFT card is first used of fees for the card and PIN, separate from fees applying to the account generally;
- notification of variations in fees for an EFT card and PIN to each cardholder in writing with at least 30 days notice; and

- statements to show as a separate line item any charges relating solely to the EFT card and PIN.

3.22 ASIC submitted that effective disclosure is important to correct information asymmetries between institutions and consumers and to enable markets to compete. Disclosure ensures that consumers are able to make meaningful choices between financial services and providers based on price and to conduct their banking to minimise fees. ASIC advised that it has formed some well considered views about the principles which constitute good disclosure, which are set out below.

Disclosure must be timely: disclosure about fees for electronic and telephone banking will be relevant for consumers at a number of different times, such as selecting a service (so that they can compare fees), immediately prior to making a transaction (so that they can, for instance, take out more money if it is their last free transaction for that month), when a statement is received (so that they may review the impact of their banking practices) and before any changes to fees (so that they may change accounts if they wish).

Disclosure must be relevant and complete: this includes such concepts as highlighting the most important information, providing details not only of fees, but also of how they were incurred and providing information to enable comparisons between products.

Disclosure should be personalised where possible: ideally, information should tell consumers what a particular transaction will cost or how many free transactions are left in that month.

Disclosure must be clear and comprehensible: this means that information must be in simple language which the target audience can understand; if it is not possible to explain fees in simple terms then it may be appropriate to simplify the fees themselves.

Important information should catch the consumer's attention: relevant information should not be lost in a mass of other information, because it is the quality not the quantity of information which is important.

Disclosure documents should be subjected to consumer testing before being finalised: general policy on disclosure should be tested with consumers as well as the actual documents themselves, to ensure that consumers understand the information provided and that the disclosure includes all the information which consumers need.

3.23 ASIC advised that it had tested present disclosure practices against these principles of good disclosure, at each of the times when disclosure is important. The results are set out below.

3.24 Disclosure when selecting the product has until recently been mainly by brochure, but computer banking is now a more convenient delivery mechanism for this. Almost all financial institutions which offer Internet banking disclose fee

information on their websites. Such disclosure is generally good in that fee structures are adequately broken down, but comparisons between different institutions is difficult because fees are imposed using different criteria. Other problems with disclosure when selecting the product is that information tends to be generic and often the entire range of retail deposit products is included in the same brochure, which may be confusing for consumers. Also, fee information in brochures is not as attention catching as information about the products themselves, but this defect was not generally present in relation to fee disclosure on Internet sites.

3.25 Real-time disclosure, or disclosure at the time of the transaction, is not yet available, but Internet banking sites now provide information about fees for that type of product at the time of the transaction. Personalised information, however, about the particular transaction is not provided.

3.26 Disclosure on statements in relation to the EFT Code is interpreted very differently by different institutions. Some statements do not provide enough information to tell what individual transactions cost. Others, however, are good.

3.27 There is adequate disclosure about new fees, but not for changes to existing fees, although this should change with the revision of the EFT Code. Notice of new or changed fees, however, is often not personalised, being disclosed by brochure or in the media. Disclosure in this way is generally difficult to understand or is simply disregarded.

The regulatory model to oversee any future disclosure regime

3.28 The evidence received by the Committee raised the basic issue of whether a future disclosure regime should be market based and self-regulatory, or legal and prescriptive.