CHAPTER 4

THE FEASIBILITY OF IMPLEMENTING A FEE DISCLOSURE REGIME

4.1 The Committee's third term of reference was the feasibility of implementing a fee disclosure regime for customers who undertake electronic banking transactions or telephone banking.

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

Real-time fee disclosure

4.3 The issue here was the feasibility of introducing real-time fee disclosure for electronic and telephone banking, both now and in the future. The Committee received submissions in relation to this issue from the Australian Bankers' Association (ABA) and from individual banks. These submissions advised that any proposals for change to the present extensive disclosure requirements should be weighed carefully, to ensure that they were of real benefit to consumers. The submissions argued that real-time disclosure was not possible at this time, because of technical difficulties and costs, which would be passed on to the consumer. The submissions suggested that real-time disclosure might be available in the longer term, but its introduction must be market driven, not prescriptive.

4.4 The ABA submission warned that any proposals for fee disclosure should help customers to make informed choices without adversely affecting customer service. In particular, disclosure requirements should not merely add to transaction times and costs. In this context the ABA supports the agreed principles of the ASIC Transaction Fee Disclosure Working Group.

4.5 The ABA submitted that, although advocated by some, real-time fee disclosure is not feasible at this stage because:

- Fees paid are typically not able to be calculated until the end of the month, because they may take into account the number and type of transactions, the minimum monthly balance, the number of free transactions in the period, and relationships with the bank. In other words, fees can only be known retrospectively.

- It would be very expensive and affect the response times of transactions, because all of the information necessary to calculate fees is maintained at the main computers of the banks, or back-end hosts. ATM and EFTPOS terminals, on the other hand, are connected to 24 hour front-end computers, which maintain only the information essential for the required very fast processing. It would be expensive and slow to transfer the necessary information between the host computers and the front-end computers.

- There would be even longer transaction times where a customer does not use their own bank's facilities.
- Call centres which operate telephone banking would require significant additional capacity.

4.6 The ABA suggested that real-time disclosure of electronic fees may be possible in the medium to long term with advances in technology. This should, however, be market driven, with consumer preference and cost the major determinants. Unnecessary or excessive prescription could put this at risk. Any proposals should be based on consumer needs, determined under the agreed principles of the ASIC Transaction Fee Disclosure Working Group.

4.7 The ABA advised that surcharging is the practice, common in the United States but not in Australia, where an ATM owner, which may not be a bank, imposes a fee on customers using the ATM. This is in addition to any bank fees a customer is charged, such as a foreign ATM fee. In the United States the surcharge fee must be disclosed at the time of the transaction, either by a message on the screen or a sticker on the machines. If surcharges were introduced in Australia the ABA would support the same disclosure requirements as in the United States.

4.8 The Commonwealth Bank submitted that the existing disclosure provisions are extensive and that significant potentially adverse consequences would result from the imposition of additional disclosure requirements.

4.9 The Commonwealth Bank advised that the greatest risk is the cost of new systems, which would be passed on to the customer. In particular, if customers had to be advised of the fee for an electronic transaction at the time of the transaction, there would be a total change to fee structure and it may not be possible to continue fee free transactions or other concessions. The present variety of products, including fees and rebates determined by monthly volumes or transactions, often make it technically impossible to quote a fee at the time of the transaction. For instance, the banking relationship rebate is calculated on account activity over the whole of the month.

4.10 The ANZ Bank advised that its computer systems did not at present have the capability for real-time fee disclosure. The system which processes ATM and EFTPOS transactions during the day does not have access to details of transactions using other channels such as branches, or to customer fee plans. Transactions on ATM and EFTPOS are batched and processed overnight and the final account balance for the day is the result of the overnight batch processing. The ANZ Bank advised that real-time disclosure may be possible in the medium to longer term, but would need to be costed and tested to ensure that it was of value to customers. Also, real-time disclosure would require significant investment, including not only host computer system changes and a new link between the host system and ATMs, but also replacement of older ATMs.

4.11 In any event, even after the required investment, the ANZ Bank advised that it was not possible to guarantee that the real-time disclosures would be completely accurate. Lags may still occur between the time of the transaction and the time that the transaction is reported to the bank. Customers would need to understand clearly the limitations of real-time disclosure. Finally, screen based messages for a non-ANZ customer are technically feasible now, but are of questionable values to customers. Also, messages of more than a certain length would require a separate screen, which would slow down transaction times. The ANZ Bank supports the operations of the ASIC working group.

4.12 The St George Bank submitted that it provides adequate fee disclosure to its customers at present. Any more information would be of no additional benefit to them and would perhaps be an overload. The ASIC working group is the appropriate forum to discuss any changes to fee disclosure.

4.13 The St George Bank emphasised that proposals for real-time disclosure are, however, impractical and costly at this time. Also, such disclosure will not change customer transaction behaviour because the customer is likely to have chosen the transaction by the time of the disclosure. Further, real-time disclosure would add substantially to costs, which would lead to increased transaction fees.

4.14 Other reasons why the St George Bank opposed real-time disclosure include:

- Transaction fee calculation is complex due to the diversity of bank products, with most fee calculations based on the minimum balance in an account in a given month. It is therefore only possible to calculate fees for any transaction at the end of the month.

- Banks offer a number of free transactions for different channels, with fees based on the net position of the customer in relation to these. Here again it is almost impossible to calculate what fee would be charged before the end of the month.

- Information about all customer transactions and account type parameters is maintained in the mainframe back-end host computer. ATM and EFTPOS, on the other hand, are connected to 24-hour front-end computers, which maintain only the information absolutely essential to perform the very fast processing necessary for ATM and EFTPOS transactions. Real-time disclosure would be very expensive. It would also result in longer response times for transactions, with consequent longer queues.

- Real-time disclosure would affect the entire ATM and EFTPOS network, not just the terminals of the customer's own bank. This also would result in a slower transaction rate.

- Real-time disclosure would mean some redundant repetition of the same information to customers every time they used ATM or EFTPOS. Customers would perceive this not as beneficial but as annoying.

4.15 The Australian Association of Permanent Building Societies (AAPBS) submitted that it opposes real-time fee disclosure because of the very substantial administrative costs involved. Processing time would be unduly increased, because the fees may not be known until the user inputs the details of the proposed transaction. There would need to be substantial systems changes to cope with such a concept, with major disruptions and delays in call centre operations. These additional costs would be passed on the consumer in the form of higher fees.

4.16 The AAPBS advised that, in particular, disclosures would be difficult to determine where fees are affected by exemptions or allowances based on other banking relationships and loyalty programs. Also, it would not be reasonable to expect a foreign ATM to provide details of the fee payable by the user to its own account institution. There is also the question of whether the fees to be disclosed should include statutory charges.

4.17 The AAPBS noted that most fees are based on average or minimum monthly balances, the number of transactions over the month in different categories and the use of other facilities provide by their own financial institution. The fees, therefore, cannot be determined at the time of the transaction. The AAPBS suggested that conceptually it is unrealistic and unreasonable to expect account providers to notify users of the possible fees which might be incurred, at the time of the transaction. Users must ultimately take responsibility for the management of their accounts. Customers can do this by, for instance, using their own network ATM, not foreign ATM, and by not over-using their own ATM or EFTPOS facilities.

Fee disclosure issues across banking channels

- **Account statements and fee disclosure**

- **ATM and fee disclosure**

- **Telephone banking and fee disclosure**

- **Internet banking and fee disclosure**

- **EFTPOS and fee disclosure**

4.18 The issues here are the extent to which transaction fee disclosure may be improved in relation to each of the above electronic and telephone banking channels.

Submissions on these issues from consumer groups

4.19 The Committee received submissions in relation to its third term of reference from numbers of consumer groups and individuals. The most detailed submission was made by the Consumer Law Centre Victoria Limited (CLC) on behalf of 8 leading consumer groups. This submission discussed options for improving fee disclosure in relation to different banking services. The conclusions reached by the CLC are set out below in summary, followed by a more detailed description.

- Account statements have the greatest potential to educate consumers, but at present vary greatly in quality. Also they are deficient in that they provide information only after the event.
- Brochures and signs are useful but could be improved.
- Telephone and Internet banking provide an excellent opportunity to enhance fee disclosure, with useful improvements possible within 1 year.
- ATMs are particularly deficient in relation to fee disclosure, given the opportunities for disclosure through this channel. There are possibilities to improve ATM fee disclosure.
- There are no viable options to improve EFTPOS fee disclosure.
- Some disclosure improvements could be made across all banking services, such as common language and terminology.

4.20 The CLC submission set out a number of options for improving transaction fee disclosure. The CLC advised that account statements continue to be the primary means of communication between the bank and the customer. Statements are important because they are usually read, they relate directly to the customer and because of their regular nature have the greatest potential to educate the consumer on how to minimise fees. At present there is great variation in the way that fees are disclosed in bank statements, with only some including a full breakdown of individual fees. Consumers would benefit from this type of disclosure, together with information or the number of free transactions to which they are entitled. Banks should move voluntarily to these types of statements within 1 to 2 years. The disadvantage of bank statements, however, is that they provide information after the event, so are one of the very few goods or services which do not give information about cost before the service is provided.

4.21 The CLC advised that banks use brochures to meet their formal fee disclosure obligations, provided to customers when an account is opened and when fees change. However, consumers do not readily relate information in brochures to their own accounts. There is, therefore, room for improvement not only in providing additional disclosure, but also in the brochures themselves. Brochures should be in plain English, be also available in community languages, printed in a large font, dated and readily available in branches. One significant improvement should be to replace mass brochures with personalised letters, which would be less detailed than brochures but more related to the circumstances of each individual consumer. As with suggested improvements to bank statements, banks should move voluntarily towards these changes in 1 to 2 years.

4.22 The CLC advised that Australian bank branches carry very little signage disclosing fees and charges, in contrast, for instance, to the UK. More branch signage would enable consumers to read about disclosure while waiting in queues. One poster in each branch could set out the main fees and charges, complementing the brochures in each branch. Branch signage, however, is not personalised and it might be hard to summarise complex fee structures in a poster.

4.23 The CLC considered that telephone banking provided one of the best opportunities for improved fee disclosure, particularly as fees have risen sharply and it was originally a free service, promoted as a cost effective alternative to traditional branch banking. The emphasis here should be to disclose fees before they are incurred. There are a number of possibilities, but the best would be to provide an option on a menu to ascertain the cost of any transaction. An option to hear general information about fees on that account would also be acceptable. These options should be imposed by legislation or an ASIC approved code within 1 to 2 years.

4.24 The CLC advised that Internet banking also provides an excellent opportunity to enhance fee disclosure. This channel, like telephone banking, was initially promoted as an affordable replacement for branch banking, but has now seen fees rise dramatically. Again, like telephone banking, access is on-line, so information should be reasonably up to date. The Internet can also provide disclosure about all bank fees, not just Internet fees. However, because not all customers have access to the Internet there must be other improvements as well. The options here are the same as for telephone banking, with the preferred choice being to use a hotlink to access the cost of any Internet banking transaction. This should be provided for by legislation or under a code immediately or within one year.

4.25 The CLC advised that ATM transaction fees are particularly complicated, with fees on a consumer's own bank network, fees from non-network ATMs and surcharges imposed by non-financial institutions who own ATMs. Because of this confusion there is virtually no effective ATM fee disclosure prior to the transaction, despite three opportunities to do so, either on the ATM signage, on the electronic screen or on a printed ticket. There are, however, a number of steps which would significantly improve consumer protection for ATM users. Firstly, there must be warnings on screen about surcharges where these are applicable, imposed immediately by legislation or code. Next, there should be options on the screen menu to ascertain the cost of any ATM transaction or to view general information about fees applying to that account, again imposed by legislation or code, but within 1 to 2 years. Improved signage on ATMs which lists network and non-network cards separately, together with a warning sticker that non-network ATM fees may apply, should be implemented immediately but on a voluntary basis. Fee disclosure on printed receipts complements other improvements, but is no substitute for prior disclosure.

4.26 The CLC submitted that it does not consider EFTPOS transactions to be a priority for fee disclosure. There are no viable options for improving fee disclosure at the time of EFTPOS transactions, although many of the above options will improve consumer understanding about EFTPOS transaction costs.

4.27 The CLC suggested that there are a number of improvements to disclosure which could operate across all banking channels. Most importantly, legislation or a code should immediately prohibit banks from charging fees for fee queries or to check fee accuracy. Also, banks should immediately charge only reasonable fees for duplicate statements or balance inquiries, under either a code or by voluntary practice. Banks should also provide more staff training regarding fees, particularly new fees. Finally, under ABA guidelines and within 1 to 2 years, banks should use common language and terminology to describe transactions and fees; in particular, banks should use a common definition of 'month' when describing a fee free period.

The position of ASIC on these issues

4.28 The ASIC submission on the Committee's third term of reference first set out the impediments to implementing an ideal fee disclosure regime. It then outlined a two stage disclosure proposal, with initial changes concentrating on improved account statements, on Internet and telephone reforms apart from real-time disclosure and on generic ATM disclosure. The second stage, which should be possible within 3 to 5 years, related to real-time disclosure.

4.29 ASIC submitted that its principles (described in the previous chapter of this report) for fee disclosure are an ideal disclosure regime, but unfortunately there are a number of impediments to such a regime. These are set out in the following paragraphs.

4.30 ASIC advised that there are technical impediments to improved disclosure, in particular to real-time disclosure at the time of the transaction. The great benefit of speed in electronic and telephone banking is made possible by the use of front-end computers to process daily transactions, which are later reconciled that night by the main frame computer of each institution. At present it is not possible for the front-end computers to do this and the advice which ASIC has received is that it would be very expensive to convert them and would significantly slow their operations. ASIC understands that the issues for telephone and Internet banking are similar. However, the next generation of processing systems would allow for improved real-time disclosure. Nevertheless, the cost of the necessary technical changes may be so great that it raises cost benefit questions.

4.31 ASIC noted that there are many players in the present electronic banking systems, with the result that if an institution wishes to implement reforms it will require the cooperation of numerous parties, including other financial institutions, retailers and possibly telecommunications organisations.

4.32 ASIC advised that the complexity of many present fee charging regimes makes real-time disclosure difficult. For instance, account fees may be dependent upon the minimum monthly balance or the most expensive transactions for the month may be included in the free limit; in such cases it is impossible to determine the cost of a particular transaction until the end of the month.

4.33 ASIC warned that, as with most regulatory issues, care must be taken to ensure that reforms do not stifle competition between institutions to improve disclosure or result in a lowest common denominator attitude.

4.34 ASIC noted that overseas initiatives in disclosure relate mainly to disclosures of surcharges at ATM, where technical difficulties relating to real-time disclosure are not as great. The United States now requires disclosure of a surcharge on or at the ATM, with the surcharge amount appearing on the screen or on a paper notice, with a phase in period to the end of 2004.

4.35 ASIC advised that its proposals for reform include a two stage strategy. Firstly, there are measures which can be implemented in the next one or two years on an industry wide basis and which do not involve major system overhauls or complex and costly technological changes. Secondly, there are measures which could be implemented in the longer term. Within this framework ASIC advised that it has concentrated on disclosure in statements and disclosure at the time of the transaction.

4.36 The following points deal with first stage disclosure proposals:

- **Fee disclosure on statements:** given that real-time disclosure is someway off even assuming that it is technically feasible, ASIC considers that initial reforms should relate to disclosure in statements. The best way to do this would be to amend the relevant codes to require a summary of the costs for all transactions, broken down by those charged and those not charged and, where it is relevant to fees, the type of the transaction. Statements should also include information about the key variables affecting the fee structure, including the number of free transactions and any minimum balance requirements.

- **Disclosure of the applicable monthly period:** statements should also indicate clearly what is the monthly period applying to the charging regime. At present some institutions use the calendar month, others the statement period and others still other variables.

- **Disclosure of what constitutes a transaction:** disclosure statements should indicate what constitutes a transaction. For instance, it should be disclosed whether requests for balances are transactions.

- **Adoption of common categories for electronic and non-electronic transactions:** at present there is no consistency between institutions on this matter. For instance, some institutions treat telephone banking as electronic banking while others do not. This is difficult for consumers.

- **Disclosure on Internet sites:** far better disclosure is possible with Internet banking than with earlier forms of electronic banking. There may still be technical problems with real-time disclosure, but there are no such limits on disclosure of the fee structure for a particular account. All financial institution websites, whether only promotional or whether actually operational for banking, should include a link to fee information on all deposit products mentioned on the site.

- **Disclosure with telephone banking:** as with Internet banking, telephone banking should also include a facility for non-transaction specific fee regime disclosure. An option for fee information could be placed after the most commonly requested functions so that it would not cause delays for customers who did not wish to access the function.

- **Generic disclosure at ATM:** it may be appropriate to include on ATM screens, or on a sticker attached to the ATM, disclosure that a foreign ATM fee may apply.

- **Surcharge disclosure at ATM:** this is an issue related to disclosure of foreign ATM fees. At present surcharges are not prevalent in Australia but they could become more common as independent ATM owners increase. Disclosure of surcharge fees is particularly desirable because they vary and because there do not appear to be any technical difficulties involved.

4.37 Second stage disclosure proposals relate to real-time disclosure and will involve significant cost and technical changes. ASIC advised that its initial view here is that guidelines should provide principles which institutions should meet within say 3 to 5 years. The most basic principle is that customers should have access to the cost of a transaction prior to undertaking it and information about the impact of the transaction on the cost of future transactions. Disclosure may be different, however, for different channels of electronic banking. For instance, optional real-time disclosure is ideal for Internet banking and is also suitable for ATM and telephone banking. On the other hand, it does not appear to be suitable for present EFTPOS transactions, where the extra time and the impact on queues could be negatives for consumers. Also, real-time access should be optional and not be required in every case.

The role of the ASIC Transaction Fee Disclosure Working Group

4.38 The ASIC submission advised that the ASIC Transaction Fee Disclosure Working Group, set up expressly to pursue improved fee disclosure, had agreed on a set of principles under which it would operate. The issue here is whether these principles are appropriate. The Group agreed that it would:

- identify the problem to be resolved;

- adopt a two stage approach, with the first stage being reforms which could be implemented in the next year or so and the second being those with greater systems and technology implications, which could occur over a longer term of say 3 to 5 years;

- ensure that proposals are expressed as objectives and outcomes and are not overly prescriptive;

- recognise the competitive nature of the market and the need for flexibility and innovation;

- seek to integrate the work of the Group with other processes such as the reviews of other relevant codes; and

- subject assumptions and proposals to consumer testing where appropriate and possible.