

## **CHAPTER 5**

### **THE ROLE OF ASIC IN ENSURING THE PROVISION OF APPROPRIATE FEE INFORMATION**

5.1 The Committee's fourth term of reference was the role of ASIC in ensuring that bank, non-bank financial institution and non-financial institution suppliers and operators of those facilities provide appropriate fee information on electronic and telephone transaction banking.

5.2 The Committee isolated one main issue from this term of reference. This was whether the codes of practice monitored by ASIC should continue to be the main mechanism to ensure the provision of appropriate fee disclosure, or whether there should be direct government intervention to impose levels of disclosure.

5.3 The banks supported the present role of ASIC. The Commonwealth Bank, for instance, advised that ASIC at present plays an active role in relation to consumers and fee disclosure. In doing this ASIC takes a consultative approach, working closely with industry to achieve the required regulatory outcome, but being practical and realistic. ASIC has sufficient powers to do this under its enabling Act, including the ability to seek fines, injunctions or orders. The ASIC role in relation to the relevant codes of practice is also appropriate, particularly in the present review of the EFT Code of Conduct. The St George Bank emphasised that ASIC was the appropriate forum for non-financial institution suppliers of electronic transaction banking .

5.4 Consumer groups and individual consumers, on the other hand, agreed generally that direct and immediate government legislative intervention was necessary to ensure proper disclosure.

5.5 ASIC, as the financial services disclosure regulator, described how it perceived its roles in relation to fees for electronic and telephone banking, although it emphasised that these did not extend to the actual level of fees. These roles are set out below:

- Enforcer of legislation: where legislation addresses these matters ASIC should monitor the market place to ensure compliance and to take enforcement action where appropriate.
- Contributor to the reform process: although ASIC is not a policy maker it is uniquely well placed to contribute to reform debates such as the present Committee inquiry. ASIC has expertise and experience with disclosure issues and with self-regulation.
- Facilitator of self-regulation: where self-regulation operates along functional rather than industry lines, as the EFT Code does, there may also be a role for ASIC to facilitate self-regulatory initiatives.

- Monitor of reforms: ASIC already monitors the Payments Systems Codes and the EFT Code. If the present Committee inquiry recommends reforms and these are adopted then ASIC should have the role and be given the resources to monitor the changes and to report back to Parliament after an appropriate time.
- Educator of consumers: the primary role of educating consumers about fees is clearly with financial institutions, but ASIC does use consumer education as one of its most important regulatory tools. ASIC does not at present have express educational initiatives about fees and how to compare them, but it may be appropriate to do this at some time in the future.