The Parliament of the Commonwealth of Australia

REPORT ON FEES ON ELECTRONIC AND TELEPHONE BANKING

PARLIAMENTARY JOINT STATUTORY COMMITTEE ON CORPORATIONS AND SECURITIES

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DUTIES OF THE COMMITTEE

Section 243 of the *Australian Securities and Investments Commission Act 1989* sets out the duties of the Committee as follows:

The Parliamentary Committee's duties are:

(a) to inquire into, and report to both Houses on:

(i) activities of the Commission or the Panel, or matters connected with such activities, to which, in the Parliamentary Committee's opinion, the Parliament's attention should be directed; or

(ii) the operation of any national scheme law, or of any other law of the Commonwealth, of a State or Territory or of a foreign country that appears to the Parliamentary Committee to affect significantly the operation of a national scheme law;

(b) to examine each annual report that is prepared by a body established by this Act and of which a copy has been laid before a House, and to report to both Houses on matters that appear in, or arise out of, that annual report and to which, in the Parliamentary Committee's opinion, the Parliament's attention should be directed; and

(c) to inquire into any question in connection with its duties that is referred to it by a House, and to report to that House on that question.

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CHAPTER 1

CONDUCT OF THE INQUIRY

1.1 On 2 May 2000 the Parliamentary Joint Statutory Committee on Corporations and Securities agreed to inquire into fees on electronic and telephone banking, with the following terms of reference:

(1) the reasons for and impact of fee increases on:

- ATM withdrawal (own machine)
- ATM withdrawal (foreign machine)
- Telephone transactions
- Internet transactions

(2) the availability and transparency of fee information for consumers who undertake electronic funds transactions or telephone banking;

(3) the feasibility of implementing a fee disclosure regime for electronic funds transactions and telephone banking; and

(4) the role of ASIC in ensuring 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.

1.2 The Committee received 30 submissions in relation to the inquiry, listed in Appendix 1. The Committee held one day of hearings in Adelaide on 23 August 2000. Appendix 2 lists the witnesses at that hearing.

1.3 On 21 June 2000 the following officials of the ANZ Bank privately briefed the Committee:

- Ms Kathryn Fagg, Managing Director, Banking Products
- Mr Gerard Brown, General Manager, Government and Regulatory Affairs
- Ms Jane Nash, Senior Manager, Government and Regulatory Affairs
- Ms Sharon Siebel, Business Analyst, E-Commerce

1.4 On 1 November 2000 the following officials of the Reserve Bank of Australia privately briefed the Committee:

- Dr John Laker, Assistant Governor (Financial Systems)

- Dr John Veale, Head, Payments Policy Department
- Ms Michelle Bullock, Financial Systems Group

1.5 Also on 1 November 2000 Ms Delia Rickard, ASIC Transaction Fee Disclosure Working Group, privately briefed the Committee.

1.6 All submissions and the Hansard of the Committee's hearings are tabled with this report. Copies of submissions are available on request from the Committee staff on 02 6277 3580 or e-mail: corporations.joint@aph.gov.au. The Hansard of the hearing is available at the Committee site on the Internet www.aph.gov.au/corps_securities.

CHAPTER 2

THE REASONS FOR AND IMPACT OF FEE INCREASES

2.1 The first term of reference of the Committee was the reason for and impact of fee increases on:

- ATM withdrawal (own machine)
- ATM withdrawal (foreign machine)
- Telephone transactions
- Internet transactions

2.2 The Committee isolated one major issue from this term of reference.

The effect of deregulation and competition on consumers generally

2.3 The major issue here was whether deregulation and competition has resulted in a more efficient market with increased benefits for consumers, or whether market forces have failed, with little benefit for retail customers.

Submissions on this issue from the banks

2.4 The Committee received submissions on its first term of reference from the Australian Bankers' Association and from a number of individual banks. The submissions advised generally that fee levels were set by the market and by competition, which had increased both in quantitative and qualitative terms since deregulation of the banking industry in the 1980s. In relation to the impact of fee increases the submissions advised that these were mitigated by competition, with banks offering products which would assist consumers to minimise transaction fees.

2.5 The ABA emphasised that banks and other financial institutions are subject to competition in pricing their products and services, including electronic services. The ABA noted that a succession of public inquiries has recognised that competition, including market based pricing, is the best way to increase benefits for consumers and the ABA strongly supports this position.

2.6 In addition, the ABA advised that the deregulation of financial markets has led inevitably to a user pays principle for retail transaction accounts and explicit fees for services. Before deregulation, borrowers paid high interest rates and savers received low interest rates to subsidise transactions. Now, however, there is an enormous range of innovative products and the choice of a far larger number of institutions, which set fees and charges based on costs. Explicit pricing has resulted in a more efficient financial system and is fairer to consumers, who pay only for what they use.

2.7 The ABA submitted that a significant number of bank customers pay no fees at all for a wide range of services and, for those who do, both the fee and the amount are low in absolute and relative terms. In any event, rises in fees were not as great as declines in interest margins. Between a third and three quarters of bank customers pay no fees on personal transaction accounts.

2.8 Turning to the impact of fees, the ABA advised that competition has forced banks and other financial institutions to provide fee discounts and exemptions to a wide range of customers, including children, students, pensioners and the disabled. Also, customers will usually be eligible for a fee discount or waiver if they provide their bank with a certain level of business through a home or other loan or by purchasing services such as funds management or superannuation. Centrelink has in collaboration with the ABA produced a popular brochure showing Centrelink customers how to minimise fees.

2.9 The ABA added that an important feature of most bank accounts was either a number of free transactions a month (usually about eight) or a set fee with no limit on transactions. This feature enables customers to minimise fees.

2.10 The ABA noted that most transaction fees have been steady since mid-1999, with the fees on low cost processes such as Internet and telephone payments generally lower than fees from higher cost processes such as over the counter withdrawals.

2.11 The ABA submitted that the impact of these fee structures is that customers are increasingly using cheap and convenient telephone and electronic banking services; this applies across age, gender and regions. These services are also more flexible, with about one third of ATM and EFTPOS transactions taking place outside traditional branch opening hours.

2.12 The ABA gave details of how a dramatic expansion by banks of electronic networks has improved customer convenience. For instance, in the last five years ATM facilities have increased by about 50% to 9,300 and EFTPOS machines by 32% to 265,000. Most banks also provide Internet banking and telephone based services. Australian banks arguably lead the world in investing in electronic banking.

2.13 Individual banks made similar submissions to that of the ABA. The Commonwealth Bank advised that customers now benefit from deregulation and greater competition, paying only for services actually received. Transaction costs can no longer be subsidised by income from other products and the present position is that fees for each service are more directly related to the cost of that service. Nevertheless, the costs of transaction services are still at least three times the fees collected.

2.14 As with the ABA submission, the Commonwealth Bank emphasised that the use of electronic transactions, including ATM, EFTPOS, telephone banking and the Internet, has been growing rapidly and now includes four out of every five Commonwealth Bank transactions. The Bank has invested heavily in this new technology to give customers cheaper and more efficient banking services. These new services give customers greater choice, with consequent benefits. The impact of fees on customers has, therefore, not been adverse.

2.15 The Commonwealth Bank submitted that EFTPOS transactions are particularly popular, with over 100,000 outlets. Shop assistants guide customers through transactions, with many customers considering EFTPOS to be face to face banking within a safe transacting environment. In December 1998 the Bank reduced EFTPOS fees and direct entry withdrawals by 12.5%, from 45 to 40 cents. This could be done because of economies of scale.

2.16 The Commonwealth Bank advised that its ATM network is similarly large, with 3,900 terminals. ATM fees for customers using its own machines relate to transactions in excess of a number of fee free transactions over a period, but include relationship rebates and other exemptions. Because these fees depend on transaction activity over the period, it is not possible to determine at a time during the period whether a particular transaction will or will not be subject to a fee. For this reason any fee notification requirement at the time of the transaction would itself have an impact on fees, resulting in a different approach to fee setting, as well as significant compliance costs, both of which could jeopardise the present rebates and concessions.

2.17 The Commonwealth Bank submission also addressed the reasons for foreign ATM fees, levied by banks on customers who use an ATM of another financial institution or ATM provider to recover costs charged by that provider. Foreign ATM fees are a fixed amount depending on the nature of the transaction. The emergence of ATM operated by non-financial institutions illustrate both the demand for ATM services and the willingness of consumers to pay for them; these non-financial institutions usually charge more than financial institutions.

2.18 The Commonwealth Bank confirmed that telephone and Internet banking was particularly convenient and flexible. Over two thirds of Commonwealth Bank customers do not pay transaction fees. One Bank product with 2.4 million accounts provides up to 10 free electronic withdrawals per month, with over 75% of these customers making fewer than 10 such withdrawals. The product has no minimum monthly balance requirement. The Bank in alliance with Woolworths provides a product that can be used in more than 600 Woolworths and related stores. The product includes 50 free in-store withdrawals each month with a further five free electronic withdrawals per month at any Commonwealth Bank ATM, EFTPOS, Internet or telephone banking. The product has no account keeping fee, no minimum balance requirement, a rewards program and interest rates comparable to a cash management trust. Access is through stores, a dedicated call centre (24 hours, 7 days), a dedicated Internet banking site, EFTPOS terminals, the ATM network and worldwide by credit card.

2.19 The Commonwealth Bank also offers a customer relationship fee rebate based on the amounts held by the customer in selected accounts. In addition, the Bank makes special arrangements for children, students, aged and war veteran pensioners and community groups. For instance, the majority of age and war veteran pensioner customers are entitled to a rebate of $6 per month, which allows additional fee free transactions such as three over the counter withdrawals, ten ATM, fifteen EFTPOS, or a combination of these.

2.20 The ANZ Bank also advised of the effect of competitive pressures and deregulation, which has resulted in less cross-subsidisation and in explicit fees for services. The old system of services, such as lending for housing subsidising individual customer transactions, could not be sustained in a competitive deregulated environment. The shift to differential pricing of delivery channels has resulted in a more efficient financial sector and in advantages for consumers, who are now able to shop around for the products which suit them.

2.21 The ANZ Bank submitted that there has been a major shift in the last 15 years in the way that customers access financial services. This change was caused by financial deregulation and the revolution in telecommunications technologies. Competition has forced the banks to unwind cross-subsidies, reduce mispricing and impose explicit fees for service, such as fees on transaction accounts. These fees have caused customers to use cheaper and more efficient financial services, in particular electronic banking.

2.22 The ANZ bank noted that this increase in electronic banking has been rapid and widespread, starting with ATM and moving to EFTPOS, telephone and Internet. In the last three years branch transactions have fallen from 20% to 12% and ATM from 16% to 13%, while EFTPOS has increased to from 41% to 43%. Telephone and Internet banking, which were introduced only during those last three years, now account for 6% and 1% respectively and are growing very rapidly. The reasons for the increase in electronic banking are rising levels of computer literacy, cheaper hardware and Internet access, consumer lifestyle and lower costs compared to traditional branch delivery.

2.23 The ANZ Bank charges transaction fees only for withdrawals in excess of a free number. Fees differ according to the channel used, as set out in the next table:

Channel	**Excess withdrawal fee**
Branch	2.50
ATM	.65
EFTPOS	.40
Telephone	.40
Internet	.20

2.24 The ANZ Bank calculates excess withdrawal fees at the end of each month, reviewing all withdrawals and counting the most expensive withdrawals first to include them in the free withdrawals. The incidence of excess withdrawal fees is low, with about 80% of customers in any given month not paying these fees. About 30% of customers are exempt, including full time students, children and customers with home loans.

2.25 The balance of ANZ Bank customers stay within the fee free limit. Fewer than 40% of withdrawals from all channels incur excess withdrawal fees. Customers therefore tend to ensure that they stay within their fee free limits. In particular, customers restrain their use of the more expensive channels. Also, the low proportion of excess withdrawal fees reflects the ANZ practice of first allocating expensive withdrawals to the allowance of free withdrawals.

2.26 The ANZ Bank has priced its delivering channels differentially since January 1997. Since that time excess withdrawal fees for branches have doubled, while those for EFTPOS and telephone have come down from $1.25 to .40 cents. This last reduction was based on economies of scale as customer usage increased. The Internet excess withdrawal fee at 20 cents represents a loss, but is designed to encourage customer usage in the expectation that it will grow and produce economies of scale which should cut the loss.

2.27 The St George Bank submission advised that at present telephone and Internet banking fees are set as loss leaders to encourage customers to use these new channels. The reasons for the loss were high development costs and low use of the new channel in its initial phase. Once customers start to use the new channels prices will be adjusted. A channel must have high volumes to operate in an economically sustainable manner. The reason for any fee increase is to ensure the commercial validity of the services provided. Cost recovery, competitive pressures and general commercial considerations are also taken into account.

2.28 The St George Bank noted that increases in electronic banking fees have not resulted in a decline in the use of those services, which indicates that customers use them by choice at that level of fee. In addition, customers are given information on how to minimise transaction fees, both when the account is opened and at any other time on request. This information also assists customers to minimise government charges.

2.29 The St George Bank advised that it charges customers a fee to use a foreign ATM, but in return it does not generate fees from substantial related costs, such as free minimum transactions and concessions for customers who maintain a minimum balance.

2.30 The Australian Association of Permanent Building Societies (AAPBS) generally made the same points as the banks, advising that there was an extraordinary contrast in customer services and convenience between the building society of today and that in the previous regulated environment. Building societies, because of the nature of their business, have always been reluctant to impose transaction fees, but the competitive environment now makes this difficult to avoid. Building societies have many customers who have large numbers of transactions on limited savings, accepting more Centrelink customers than their market share would suggest. The building societies support the need of these customers for a low cost transaction service, but there is a limit to moving against the trend to fee income. Building societies must have the flexibility to price their products in a competitive market to generate a reasonable return. Interference in the pricing mechanism can generate instability and lead to unsustainable low margins and loss of confidence. Competition will result in appropriate fee outcomes.

Submissions on this issue from consumer groups

2.31 The Committee also received submissions on its first term of reference from consumer groups and individual consumers. These differed significantly from submissions from the banks in that they disputed that effective competition existed between banks, asserting that supposed competition was of little benefit to retail customers. The submissions advised generally that the effects of deregulation were adverse to consumers, with the impact of fee increases falling most on the vulnerable and disadvantaged segments of society.

2.32 The most comprehensive submission on behalf of consumers was prepared collaboratively by a number of groups and submitted by the Consumer Law Centre Victoria Limited (CLC). The CLC submission concentrated on the impact of electronic bank fees on vulnerable customers, especially low income earners, benefit recipients, the elderly, the disabled and non-English speakers.

2.33 The CLC submitted that the free market does not deliver banking services to all who need them, as shown by unprecedented lack of consumer confidence in the banks. Increased profits together with increased fees and charges raise the question of whether the banks have any social responsibility towards vulnerable customers. Banks should be forced to adopt corporate citizenship responsibility.

2.34 The CLC questioned the proposition that the free market will control fee increases. The free market in banking benefits wealthy individuals and companies but disadvantages lower and fixed income consumers and customers with high transaction and low balance accounts.

2.35 The CLC submitted that new banking technology is driven more by the banks themselves than by consumer demand. Over the last 10 years banks have successfully changed the banking habits of consumers by discouraging the use of over the counter services in favour of EFTPOS services, initially by increasing fees on the former with no fees or transaction number limits on the latter. Once this was achieved, however, the banks then introduced fees on electronic services.

2.36 The CLC advised that the needs of all consumers are not the same and all customers are not disadvantaged in the same way. Needs are diverse and, in particular, fees on over the counter services discriminate against those with literacy, language or other disabilities due to the difficulties that these people have with electronic banking.

2.37 The CLC suggested that the above conclusions are reinforced by data showing increased use of electronic and telephone banking, with a significant reduction in branch numbers, particularly in non-city branches. All customers, however, need to use branches for certain services and vulnerable customers find the new technologies hard to access.

2.38 The CLC submitted that consumer groups are concerned about the impact of fee increases. Electronic and telephone banking continue to be marketed as more cost-effective transaction methods than over the counter products. However, there have been massive increases in fees for these services, with no regulatory control over either the fees or the increases. There is also significant variation between fees depending on the terms and conditions of different accounts and the form and number of transactions. Fees are also important because a larger proportion of bank profits are deriving from non-interest income. Specifically, consumer issues in relation to fee increases are:

- it is hard to determine the actual cost of banking services, given the limited range of information provided by banks on how charges are set and applied;
- different fee structures and complicated terms and conditions limit the ability of consumers to make informed, low cost decisions about banking services;
- regulation of bank fees and charges is inadequate;
- services in remote areas have been particularly affected by branch closures and reductions in service, accompanied by invitations to use poorly explained electronic banking services which are followed by dramatic fee increases;
- fees do not apply equitably, with high value customers given exemptions while high transaction and low balance customers pay disproportionately more for what is fundamentally an essential service.

2.39 One of the groups which contributed to the CLC submission was the Finance Sector Union (FSU), which represents 85,000 members employed throughout the finance industry, including the banks. The FSU advised that it has felt the impact of relentless cost cutting by banks, accompanied by waves of retrenchments. This has led to chronic understaffing of branches, together with a culture of overwork and expectation of overtime and increased hours. In addition, staff often bear the brunt of public outrage against fee increases, adding to existing high levels of work stress.

2.40 The FSU advised that fees to cover the costs of services are legitimate, but that there is concern about their level. There is, for instance, no link between fees and job security. Also, the FSU was concerned about the use of fees to modify customer services, particularly when there is no link between the cost of services and the fee charged and the introduction of fee free channels which are changed to fee based once customers have started to use them. There is also certain confusion about fees and charges, which have become so complex that it is hard for customers and staff to keep fully informed about them.

2.41 The FSU submitted that it sought the outcomes of an improvement in the relationship between the industry, customers and the general public, promoted by an open exchange of information, with a genuine commitment to ensuring access to low cost financial services for all. These outcomes would be facilitated by:

- monitoring of all fees, not just those on electronic transactions;
- a regular examination of the impact of fees on the cost of providing essential banking services;
- the development of core information which must be provided to customers when new fees and charges are introduced; and
- requirements that bank staff are fully trained in relation to new and existing fees and charges.

2.42 The CLC expressly addressed issues for rural and regional customers, advising that in these areas branches are closing due to new technology, cost cutting and mergers, with queues forming at the branches which remain. Customers especially in rural areas have become accustomed to face to face banking and find it difficult to adjust to electronic banking, apart from the extra cost of branch banking.

2.43 The CLC submitted that physically, mentally or socially disadvantaged people do not find electronic banking to be user friendly. Also, such people often pay more in fees and charges because they are unable to select the most cost-effective package for them out of the large number of alternative banking services and electronic options available.

2.44 The CLC made a number of recommendations about fees and education in relation to electronic banking, as follows:

- if a bank closes a branch and does not provide the local community with an ATM, and the only nearby service is not the user's bank, then the user's bank must pay the cost of any extra transaction fees;
- people with a disability who must deal directly with a teller because they are unable to operate an ATM should not be charged a fee;
- people with different levels of financial knowledge should have explained to them at their level how best to use a product;

- banks have a responsibility to inform individual customers of products which will assist the customer's specific circumstances and to encourage them to use those products;

- access to electronic cash or credit in hotels and clubs can entice people into gambling habits; which is a problem which should be addressed by education; and

- a fund should be established, paid for by the banks, to educate users of banking services, although if such education is successful, aided by the demise of the generation not brought up with electronic banking, then the fund need only be transitional.

2.45 The CLC submitted that numerous government inquiries have made many recommendations to benefit consumers but few have been adopted. The Prime Minister has stated that the banks have a community responsibility and that the government would take action if this responsibility is not met. The CLC suggested that the banks are not meeting these obligations, with unprecedented disapproval and mistrust of banks by the public. Therefore the government should act urgently and intervene to regulate fee increases.

2.46 Mr John Watkins MP, the NSW Minister for Fair Trading, submitted that the deregulation of the banking system which had commenced in 1985 had changed the delivery of banking services. Previously there was a choice of branches in suburbs and small towns, which provided services free of fees. Now many banks pursue niche markets, with more off-street outlets in shopping centres and stores but fewer full branches.

2.47 Mr Watkins advised that before deregulation the banks recovered the costs of transaction services through interest margins. However, in the present competitive environment the banks attract the most profitable customers by waiving fees, while imposing fees on the smaller, higher cost accounts. The banks now encourage the use of electronic banking, but while older and less able people can use ATM and EFTPOS, telephone banking is more complicated and Internet banking is irrelevant for many customers. The impact of these developments has been a consumer backlash.

2.48 The National Council of Women of Victoria (NCWV) submitted that fee levels reflect the fact that banks are more interested in the business sector than in individuals or families. It was deplorable that the banks pressured customers to use ATM by placing fees on counter transactions, then imposed fees on ATM transactions. In particular, the number of free ATM transactions per month disadvantages the elderly who do not wish to keep money in the house. People are also disadvantaged when a local branch closes and the nearest ATM is not operated by their own bank.

2.49 The NCWV advised that telephone banking is difficult for the elderly, those for whom English is a second language, the intellectually challenged and those with hearing difficulties. There is also a range of problems with the actual operation of telephone banking and with bank staff in branches not being trained to explain Internet banking. The banks, however, have pressured retail customers to use these channels.

2.50 Submissions received from other individual consumers made similar points to the above submissions. For instance, Mr Bill Watson, a retired bank manager with 34 years experience in the industry, advised that when ATMs were first installed there was free interchange between all banks, even overseas. This was because each bank would incur the same operating costs. The free service soon attracted customers. Later, however, each bank decided to impose a fee on transactions by customers of the other banks and to pass on this fee to customers. The same process occurred with EFTPOS. Now the banks encourage customers to use ATMs and EFTPOS by imposing fees on over-the-counter transactions.

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.

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.

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.

CHAPTER 6

ATM INTERCHANGE FEES

6.1 While the PJSC inquiry was in progress, the Reserve Bank of Australia and the Australian Competition and Consumer Commission published *Debit and Credit Card Schemes in Australia – a Study of Interchange Fees and Access, October 2000.* On 1 November 2000, Dr John Laker, Assistant Governor (Financial Systems) of the RBA, together with his colleagues, Dr John Veale and Ms Michelle Bullock, privately briefed the Committee on the study.

6.2 The study concentrated on interchange fees, or "wholesale" fees which are paid between financial institutions when customers of one institution are provided with card services by another. In Australia, interchange fees are unique to ATMs, credit cards and debit cards; in other cases financial institutions recover their costs directly from their own customers.

6.3 The study advised that the justification for interchange fees is that they maximise the benefits of the payments network. The result has been growth of world-class ATM and credit and debit card payment networks. Pricing for these networks is, however, still based on interchange fees, which are set by financial institutions at one remove from the cardholders and businesses who ultimately pay the fees. This is in contrast to most other markets, where users influence price setting.

6.4 The PJSC was most interested in the parts of the study dealing with ATMs. In this context, the study advised that ATM interchange fees are a substantial mark-up on costs. For instance, interchange fees average about $1.00 for cash withdrawals, which is double the average cost. Card issuers pass on these fees in full to customers using foreign ATMs. On the other hand, fees for ATM excess withdrawals from their own ATMs are much more in line with costs. Interchange fees for balance inquiries are also substantially higher than costs; in many cases they are the same as for cash withdrawals. The study suggested that interchange fees do not change over time to reflect changes in costs, even though it appears that the costs of operating ATMs have fallen.

6.5 The study advised that the substantial difference between interchange fees and costs could be expected to attract new entrants to the provision of ATM services. Neither these new entrants, however, nor competition between providers, has resulted in a reduction of interchange fees. Most bilateral interchange fees have not been adjusted for 10 years, despite significant changes in cost structures.

6.6 One reason why interchange fees have not fallen is that there is no incentive for financial institutions to lower them. In addition, the bargaining power of parties negotiating ATM interchange agreements favours large financial institutions over smaller new entrants. Owners of large ATM networks and large card issuers are both at an advantage over new and smaller operators. Finally, bilateral interchange agreements are not easy to re-negotiate, with smaller parties prepared to accept the status quo rather than deal with the unequal bargaining strength of large players.

6.7 The study advised that direct charging for the use of foreign ATMs would be a preferred alternative to interchange fee arrangements. The benefits of direct charging are that it could result in transaction fees more in line with costs, and be more transparent. For instance, it puts the ATM owner in a direct economic relationship with the cardholder, which would allow the consumer to directly influence pricing. It would also avoid the present position where the same interchange fee is paid for all ATM withdrawals by a given issuer, which is an effective subsidy of high cost locations by low cost ATMs.

6.8 The study concluded that interchange fees, because they are an integral part of retail payment services in Australia, contribute to distorting the payment choices facing consumers. As a whole, therefore, Australia has a higher cost retail payments system than is necessary. The study found that Australia has well-established ATM, credit card and debit card networks, which are technically efficient and which have a high level of customer acceptance. Interchange fees in the past may have played a significant part in the development of these networks, but they have done so by reducing the effectiveness of the normal market mechanisms which determine consumer choice and resource allocation. The study then emphasised that for ATM networks there are alternative pricing arrangements under which providers of card services could recover their costs directly from users, as they do with other payment instruments.

6.9 The PJSC notes that the ACCC has commenced Federal Court action against the National Australia Bank, alleging price-fixing in the fees charged to retailers for the supply of credit card systems. The other three big banks have all agreed to an authorisation process by the ACCC which should improve public scrutiny of the fees.

CHAPTER 7

FINDINGS AND RECOMMENDATIONS

FINDINGS OF FACT

Reasons for fee increases?

7.1 On the evidence presented to the PJSC it is clear that increases in fees and charges on electronic ‘banking’ transactions have occurred primarily as a result of the adoption of a user-pays charging structure by financial institutions on a range of services. This has been fostered by the deregulation of financial services in the mid-1980s which resulted in substantial reductions in the financial institutions’ margins between borrowing and lending rates. Hence, these margins no longer subsidised to the same extent other services provided by the institutions, including transaction costs, to the same extent.

7.2 Despite this move toward a user-pays system, the evidence presented leaves the Committee in no doubt that there remain substantial cross-subsidies within financial institutions, which make it difficult for consumers to ascertain whether they are paying a competitive or fair price for the service being provided to them.

7.3 The PJSC notes, however, that while cross-subsidisation may reduce the transparency of pricing in the marketplace much of the cross-subsidisation that remains within institutions and the sector as a whole (eg. fee free accounts for customers who hold mortgages) is competitively driven and results in a positive welfare effect for a large number of consumers.

7.4 There is also substantial evidence to indicate that financial institutions have historically underpriced the cost of electronic ‘banking’ transactions, to attract customers to these new ways of conducting transactions. However, once a substantial base of customers moved away from traditional forms of transactions, such as ‘over the counter’, to the new electronic forms, the financial institutions increased fees substantially in percentage terms, if not in absolute dollar terms. The net result of which has caused an observable increase in fees and charges across a range of electronic banking transaction services.

7.5 The fact of these fee increases indicates market failure, which the Committee finds largely is a consequence of the lack of real-time disclosure of fees for electronic banking transactions.

7.6 Research conducted for the Bank of Boston clearly demonstrates that greater transparency with regard to the availability to customers of information on fees changes customer behaviour, thereby increasing competitive pressure for fees to be reduced.

7.7 The Bank of Boston survey results found that when customers were advised, immediately before conducting a transaction at an ATM which was not one of their own bank's, that a surcharge would apply, 25 per cent cancelled the transaction and sought out an "own bank" ATM to conduct the transaction.

7.8 One area that has proved problematic to PJSC is the cost of foreign ATM withdrawals. Indeed the PJSC notes that the cost of this service, unlike the cost of other electronic banking transactions, bears no relationship to the marginal cost of providing the service.

7.9 The PJSC is concerned that financial institutions are making abnormal or supranormal profits on foreign ATM withdrawals and that the reason for the disparity between the marginal cost of the service and the price charged may be the result of collusive activity between financial institutions or, at the very least, lack of competition in this service.

7.10 The PJSC finds that on the basis of the Reserve Bank and ACCC study of interchange fees that the banks may be making oligopolistic (in the economic sense of that word) profits through ATM interchange fees. The PJSC also finds that there is the potential for excess profits in other areas of electronic and telephone banking. This is despite economic and competition theory which would predict that such profits would attract competitors who accept lower rates of return, leading to more competition and lower prices for consumers.

What has been the impact of fee increases?

7.11 The PJSC notes that the majority of revenue generated from fees associated with electronic banking has been reinvested into banking infrastructure, such as ATMs, and that this has resulted in a rapid expansion in the ATM network and the development of new and innovative electronic banking services. The net result has been a substantial increase in access to electronic banking services and a substantial increase in the economic welfare of consumers of electronic banking services.

7.12 The PJSC notes that increases in banking fees and charges on electronic banking services are generally viewed as having a regressive impact on lower income groups. However, the existence of a range of safety net services which are voluntarily offered by financial institutions has substantially reduced this impact such that the distributional effect of fee increases can be viewed as having at the very least a proportional impact across consumer segments.

7.13 The PJSC accepts the evidence presented that up to 75% of customers pay no fees at all on personal accounts and that most banks provide substantial fee discounts and exemptions for people who are financially disadvantaged or disabled, and for pensioners and students.

The availability and transparency of fee information for consumers who undertake electronic fund transactions or telephone banking

7.14 The PJSC considers that the availability and transparency of general fee information is good, with the ASIC approved codes of conduct providing comprehensive advice on fees and charges well before they take effect. The EFT Code in particular sets out clear statements which should be enhanced further by the current review. The PJSC notes that the codes are market based and self-regulatory, which provide more effective outcomes than direct regulatory intervention.

7.15 The PJSC especially finds that in any event banks provide more information than the codes require, providing express information on how to manage and minimise fees. This is done by training counter staff to assist in this regard, by information on account statements and by letters to customers. The PJSC commends the banks for the increasingly common practice of disaggregating fees and charges, breaking these down into individual components, thereby enabling the customer to control the impact of excess transaction fees.

7.16 The PJSC also notes that banks publish extensive fee information on the Internet, which is a particularly effective channel for disclosure. Most banks display excess withdrawal fees on the home page each time a customer logs on for Internet banking, as well as listing and explaining other fees in relation to personal and small business accounts. Also, information displayed on the Internet in this way attracts the attention of the consumer better than the more traditional brochures.

7.17 The PJSC finds, however, that a major shortcoming is a lack of fee disclosure at the point of transaction of electronic banking, which is often the most significant time in relation to informed consumer decisions. This is because the information which is disclosed is generic, applying only to that particular product, rather than personalised advice about the effect of a particular transaction upon the individual consumer. This reduces the availability of critical information and the ability to make an informed choice.

The feasibility of implementing a real-time disclosure regime on electronic fund transactions and telephone banking

7.18 The PJSC notes that there is a consensus that real-time disclosure, or disclosure at the point of transaction, is technically feasible, although there are different views about the time within which this can be introduced. One view is that this could only be implemented in the medium to long term, because of technical difficulties and high costs, which would be paid by the consumer. Another is that significant real-time disclosure could be achieved within one or 2 years in relation to Internet and telephone banking and ATM. Regardless of the timing, however, the PJSC finds that the introduction of real-time disclosure would result in downwards pressure on fees and charges.

7.19 In spite of this downward pressure, the PJSC accepts that there would be substantial costs if real-time fee disclosure was implemented immediately. These costs include replacement of the present front-end computers to which ATMs are connected, new operating systems, longer response times with longer queues and bigger call centres.

7.20 The PJSC expressly finds, however, that a 5 year delay in implementing real-time fee disclosure would have an unacceptably adverse effect upon consumer welfare. The PJSC finds that Internet and telephone banking and ATMs afford opportunities within a shorter time frame to introduce significant aspects of real-time disclosure.

The role of ASIC in ensuring 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

7.21 The PJSC notes ASIC's general role in enhancing disclosure and transparency in the financial services market. The PJSC has confidence in the processes established by ASIC to review the EFT Code and, in particular, in the principles of operation agreed by the ASIC Transaction Fee Disclosure Working Group.

Additional matters arising from the inquiry

7.22 The PJSC finds that another significant issue that arose from the evidence was that of ‘surcharging’. Surcharging refers to a situation where an ATM operator charges a transaction fee, for conducting banking services via an electronic terminal, which does not relate to the maintenance of an account held by a financial institution.

7.23 The PJSC notes that no financial institutions in Australia impose a surcharge, although the practice is common, for instance, in the United States, where it causes considerable controversy. The PJSC endorses the position that any surcharge should be subject to effective disclosure prior to the transaction.

7.24 The PJSC warns, however, that the non-financial institution operators who impose surcharges are not signatories to the EFT Code, whose provisions apply only to financial institutions. The PJSC cautions that this is a potential loophole which should be addressed, to ensure appropriate disclosure requirements for third party operators. The Committee’s finding in this instance is reinforced by the fact that approximately 4,000 ATMs have been purchased by non-financial institutions in the last 12 months.

7.25 While the issue of banks having what are termed community service obligations was not a term of reference of the inquiry, it was raised by some witnesses and the Committee notes that banks need to address this issue. The PJSC notes that communities, particularly in rural and regional Australia, expect a minimum level of banking services as part of the community infrastructure. To foster good customer relations by seeking to meet community expectations is in the banks’ own commercial interests. Accordingly, the PJSC expects that the banks will seek to maintain the feasibility of traditional services, such as branches, but where they are closed, banks should make special efforts to compensate for this by facilitating alternative ATM and other electronic and telephone banking for those affected.

Recommendations

7.26 The PJSC **recommends** that a framework for a real time disclosure regime on electronic and telephone banking needs to be established in no more than two years and implemented within six months of the finalisation of the framework. On technical grounds the PJSC would accept the exclusion of EFTPOS transactions from this timeframe.

7.27 The PJSC **recommends** that ASIC report back to the Committee its progress in implementing this recommendation on a quarterly basis, with a review of its progress at the two year deadline.

7.28 The PJSC **recommends** that financial institutions provide to customers:

- a transaction statement through their ATM terminals and through their Web Sites setting out the number of previous transactions undertaken in at least the last month;
- that monthly account statements include a breakdown of all fees and charges, not simply a lump sum amount, and that these fees and charges be displayed in a prominent manner; and
- that as a transition to real-time disclosure, a warning notice be displayed at all ATMs immediately indicating that a fee will be charged on foreign ATM transactions.

7.29 The PJSC **recommends** that interchange fees between banks in relation to foreign ATM transactions be abolished immediately and replaced by direct charging with the effect of reducing foreign ATM transaction fees from approximately $1.50 to 50 cents.

7.30 The PJSC **recommends** that all of these recommendations be included as requirements in the EFT Code of Conduct.

7.31 The PJSC notes that the practice of surcharging creates a potential risk for consumers and that as a matter of course **recommends** that any surcharge must be disclosed. Consequently, the PJSC **recommends** the insertion into the EFT Code of Conduct of a provision that would require parties to the Code to make it a condition of their merchant agreements that surcharges be disclosed in time for a transaction to be cancelled.

7.32 The PJSC **recommends** that if, two years after the introduction of real-time disclosure, the level of electronic banking fees provides evidence of continuing market failure, then the Productivity Commission should inquire into the reasons for this and recommend measures to alleviate it.

Senator Grant Chapman
Chairman

Bank Fees: Up, Up and Away

Labor Members Report
Inquiry into Fees on Electronic and Telephone Banking
Joint Parliamentary Committee on Corporations and Securities

February 2001

Executive Summary

Banks earned fee income of $1.8 billion from households in 1999. Significantly the revenue earned from deposits has increased by 44% and the income earned from transactions has increased by 160% since 1997.

Labor members of the JPC believe that the charging regimes for bank fees are not efficient and competitive and are based on extracting an obscene level of profit. The increase in bank fees has been excessive and is not related to movements in inflation.

The Commonwealth Bank presented evidence to the committee that the revenue that the banking industry earned from fees is only 1/3 of the costs they incur.

The ramifications of this are clear. If banks charged the full cost of providing services bank fees would increase by up to three times their current levels. On current fee levels this would result in an over the counter transaction in a bank branch costing $9 while an ATM and eftpos transaction would cost $1.80.

This is socially unacceptable.

There needs to be a recognition from banks and policy makers that banking is an essential service. The level and incidence of banks fees has a social implication which cannot be ignored.

Labor members of the committee are of the view that there is a point at which the banks must be told that enough is enough.

It is now time to draw a line in the sand on bank fees.

Bank fee increases have been justified on the basis that consumers should pay for the services that they consume. However Labor members of the JPC are concerned that it is low income earners who are paying bank fees because they are not able to access fee exemptions based on levels of lending or deposits and do not use subsidised services such as internet banking.

Low cost bank accounts that the banks were said to provide are not widely available and could not in all cases be regarded as low cost accounts.

Labor members of the JPC found that cross subsidies still exist in the banking industry but banks have been selective in choosing which cross subsidies they seek to remove. While over the counter transaction fees have increased by up to 400% in the last five years, banks continue to provide fee exemptions for housing loans and large deposits that are not related to the costs of operating a retail transaction account.

Banks also charge some services as loss leaders in order to encourage customer migration to new channels. Labor members of the JPC are concerned that while the practice of 'loss leading' may lead to economies of scale in one distribution channel it may also lead to diseconomies of scale in banks' alternate distribution channels.

Direct charging of ATM fees allows ATM owners to charge a different fee for each individual ATMs based on their different costs. Under this fee regime, ATMs with high volumes of transactions would normally have lower fees than ATMs with low volumes of transactions.

The ACCC and Reserve Bank have specifically recognised that a direct charging fee regime for ATMs would allow higher fees to be charged in remote areas.

Labor members of the JPC are concerned that introducing a direct charging fee regime for ATMs without a commitment from the banks on the level of bank fees would lead to increases in ATM fees in rural and regional areas where the costs of providing ATM services are greater.

Labor members of the JPC do not support the Chairman's recommendation to introduce a fee regime for ATMs based upon direct charging without an agreement on the level of bank fees.

In the UK, banks have recently agreed to drop all fees for ATMs. Labor members of the JPC consider that if it is good enough for UK banks to allow their customers to access cash for free, shouldn't it be good enough for Australian consumers?

Labor members of the JPC consider that it is technically possible to introduce a real time disclosure regime for ATMs within a period of 12-24 months.

While there are costs involved in establishing a better fee disclosure regime for ATMs, these should be weighed against the benefits of a more informed market. It would be unthinkable that a bank could provide its customers with the ability to purchase a movie ticket through an ATM before it provided information on its own fees – and yet this is a possibility. Banks invest in technology when they see they can make a buck but they should also be prepared to invest in technology to benefit their customers.

Recommendations

1. Labor members of the JPC recommend that the Government immediately direct the ACCC to formally monitor bank fees and charges.

2. Labor members of the JPC recommend that banks accept a moratorium on increasing bank fees for a period of twelve months.

3. Labor members of the JPC recommend that banks offer fee free banking to pensioners and social security recipients.

4. Labor members of the JPC recommend that the Federal Government immediately direct the ACCC to hold an inquiry into why UK banks have been able to abolish ATM fees while Australian banks say they cannot.

5. Labor members of the JPC do not support the Chairman's recommendation to introduce a fee regime for ATMs based upon direct charging without an agreement on the level of bank fees.

Disclosure of Fees

1. Labor members of the JPC recommend that:

- **Banks introduce a real time fee disclosure regime for ATMs within a period of 12-24 months.**
- **Banks provide to a customer information on the cost of a transaction before the transaction is made so that a consumer has an opportunity to cancel the transaction.**
- **Banks provide to customers a break down of fees charged on monthly statements, including a comparison of fees over previous months so that consumers can compare their transaction activity.**

2. Labor members of the JPC recommend that ASIC continue its role in facilitating the introduction of a real time fee disclosure regime through the ASIC Transaction Fee Disclosure Working Group.

Terms of Reference

The Joint Parliamentary Committee on Corporations and Securities has conducted an inquiry into Fees on Electronic and Telephone Banking.

The Committee held one public inquiry in Adelaide on Wednesday 23 August 2000.

The Committee's terms of reference stated that the Committee would:

Inquire into the status of fees on electronic fund transactions and telephone banking. In particular:

1) the reasons for and impact of fee increases on:

- *ATM withdrawal (own machine)*
- *ATM withdrawal (foreign machine)*
- *Telephone transactions*
- *Internet transactions*

(2) the availability and transparency of fee information for consumers who undertake electronic funds transactions or telephone banking;

(3) the feasibility of implementing a fee disclosure regime on electronic fund transactions and telephone banking; and

(4) the role of ASIC in ensuring bank, non-bank financial institutions and non-financial institution suppliers and operators of those facilities, provide appropriate fee information on electronic and telephone transaction banking.

Banking as an Essential Service

In determining the reason for and impact of bank fee increases it is important to understand the role of banking in Australian society.

Banking is fundamental to economic activity.

Every transaction – even black market ones – at some stage involve banks.

Banks provide the cash, credit and electronic transactions upon which all economic activity is based.

One example of how banking is an essential service is in relation to accessing cash.

The Chairman's Report stated that the emergence of ATMs operated by non-financial institutions illustrate both the demand for ATM services and the willingness of consumers to pay for them.

This notion of 'demand' for ATM services is inaccurate.

Consumers demand cash, not because it is a normal consumer good like buying shoes or groceries, but because it is essential to operating in society.

Because banking is so essential to economic activity it is important that all Australians have access to affordable banking services so that they can participate on an equal footing in all forms of economic activity.

It is because banking is an essential service that banks have a social obligation to provide accessible and affordable banking services for all Australians.

Access to affordable banking services is especially important for low-income earners who are more at risk of becoming socially excluded. In the United States 12 million households do not have banks accounts. This deprives these families of the basic ability to participate in economic activity.

Labor Senators were concerned that when questioned by the Committee on whether banks had social obligations, Mr Jeff Oughton, Acting Chief Executive of the Australian Bankers Association replied, 'no.'

This comment caused a storm of protest from consumer and community groups.

Mr Oughton subsequently clarified his position stating that banks had delivered on their community obligations by being good corporate citizens and by being involved in a wide range of community based activities.

Labor members of the JPC believe that banks do have social obligations and that one of the key social obligations is to ensure that all Australians are able to access affordable banking.

Bank Fees: The Facts

According to the Reserve Bank's Report *Notes on Bank Fees in Australia* produced in May 2000, banks earned fee income of $1.8 billion from households in 1999. Of this, $260 million was earned from deposits and $430 million was earned from transactions. Significantly the revenue earned from deposits had increased by 44% and the revenue earned from transactions had increased by 160% since 1997.

In the last five years bank fees have increased significantly. In June 1995 when the Prices Surveillance Authority (the predecessor to the ACCC) investigated the incidence of bank fees on retail transaction accounts at the instigation of a Labor Government, two of the major banks did not charge fees for ATM and EFTPOS transactions.

Electronic Bank Fees on Retail Transaction Accounts.

Bank	**1995 (1)**	**2001 (2)**	**1996**	**2001**	**1995**	**2001**
	Own Bank ATM		**Foreign Bank ATM**		**EFTPOS**	
ANZ	$0.50	$0.65	$0.50	$1.50	$0.50	$0.40
CBA	$0.25	$0.60	$0.25	$1.25	$0.25	$0.40

NAB	$0.00	$0.60	$0.00	$1.50	$0.00	$0.60
Westpac	$0.00	$0.65	$0.00	$1.25	$0.00	$0.50

(1) Inquiry into Fees and Charges Imposed on Retail Accounts by Banks and Other Financial Institutions and by Retailers on EFTPOS Transactions, *Prices Surveillance Authority*, June 1995.
(2) infochoice.com.au

It should be noted that the increase in banks revenue from bank fees has been caused not just by increased fees, but by an increased volume of transactions. According to statistics from the Australian Payments Clearing Association, in 1995 a total of 29.1 million EFTPOS transactions were conducted each month. In 1999 the figure was 48.6 million.

The Efficiency and Competitiveness of Bank Fees

One starting point for an examination into the efficiency and competitiveness of bank fees is the Inquiry into the Financial System – the so called Wallis Inquiry.

Wallis identified the importance of an efficient financial system to the economy and recommended that a Payments Systems Board be established to regulate the Payments System. Wallis also recommended that the ACCC conduct an investigation into interchange fees.

The ACCC, together with the newly created Payments System Board, recently completed this inquiry into interchange fees. The ACCC and RBA report, *Debit and Credit Card Schemes in Australia: A Study of Interchange Fees and Access* revealed inefficiency in Australia's payments system and that banks were in some cases earning fees that were double the cost of providing services.

The report examined a number of issues that were relevant to the Committee's inquiry.

In respect to ATM fees, the report stated that the average cost of an ATM withdrawal is $0.49 while the average foreign ATM fee is around $1.35.

According to the report, ATM interchange fees have changed little since they were introduced, despite the fact that ATMs themselves have become cheaper as have telecommunications costs. The costs of supplying ATMs with cash have also fallen as interest rates have fallen.

The ACCC and RBA conclude that if ATM interchange fees were initially based on costs, they have not shown any flexibility in responding to costs in recent years.

The ACCC and RBA were of the view that the substantial margin between ATM interchange fees and costs could be expected to attract new entrants into the provision of ATM services.

According to the ACCC and RBA, ATM interchange fees are based on bilateral price agreements. A major explanation for the fact that interchange fees have not fallen is that there are no clear incentives for financial institutions to negotiate lower fees. This is because bargaining power of participants negotiating ATM interchange agreements favour large financial institutions over smaller new entrants.

The ACCC and RBA's report concluded that banks earn substantially more revenue from ATM services supplied to customers of other financial institutions than they do for transaction fees on their own customers. The impact of this is not just to raise additional revenue for the banks but to restrict competition and make it hard for new entrants without large ATM networks to compete.

The Chairman's Report stated that *"there is substantial evidence to indicate that financial institutions have historically underpriced the cost of electronic banking transactions, but are now aligning charges more closely with the marginal cost of providing the service."*

While the evidence from the ACCC and RBA was that banks earned fee revenues on interchange fees that were double the cost of providing the service, banks themselves provided evidence to the JPC that their bank fees did not in fact cover costs.

The Commonwealth Bank's submission to the JPC stated:

On an industry wide basis, the costs involved in providing these transaction services are still at least three times the level of fees collected. Reserve Bank research has shown that $460 million is recovered from Australian household sector by way of deposit and transaction fees, compared to total costs of the order of $1.5 billion.

If banks did charge fees according to their costs on current fee levels this would result in an over the counter transaction in a bank branch costing $9, an ATM transaction would cost $1.80 and an eftpos transaction would cost $1.80.

This is socially unacceptable.

If banks earn revenues that are only one third of the cost of providing services, at what point do we say that fees have gone up enough?

Labor members of the JPC are of the view that it is now time to draw a line in the sand on bank fees. Labor members of the JPC recommend that banks accept a moratorium on increasing bank fees.

Winners and Losers

The Australian Bankers Association stated in their submission to the inquiry that, depending on the provider up to 75% of customers do not pay bank fees.

The Chairman's Report accepted the ABA's evidence, stating:

"The Committee accepts the evidence presented that up to 75% of customers pay no fees at all on personal accounts and that most banks provide substantial fee discounts and exemptions for people who are financially disadvantaged or disabled, and for pensioners and students."

Labor members of the JPC do not accept this as fact.

Firstly let us be clear what the ABA **actually** said about bank fees. They stated, *"ABA analysis shows that, depending on the provider, 30-75% of customers do not pay fees and charges for services associated with transaction accounts."*

One way of reading this statement is to say that up to 75% of customers do not pay bank fees. Another way is to say that up to 70% of customers do pay fees.

The ABA's statement gives the impression that bank fees are a small issue relevant to a small number of Australians. With the Reserve Bank confirming that banks earn $1.8 billion in fee revenue from households it is clear that the level of bank fees is not a small issue.

The significance of bank fees as an item of consumer expenditure is evident from the fact that the ABS now add bank fees to the basket of goods and services used to calculate the CPI.

Chris Connolly, from the Financial Services Consumer Policy Centre stated to the Committee that, *"they (ABS) have decided that on their figures bank fees amount to a higher proportion of household spending that either heating or public transport….It is a reflection that the other costs to households, especially in telecommunications, postage and electricity, have either reduced or remained in contact with inflation rather than by increasing 50%, 23%, 400%."*

The Chairman's report notes that most banks provide substantial fee discounts and exemptions for people who are financially disadvantaged or disabled, and for pensioners and students.

Labor members of the JPC dispute that these accounts are widely available and are concerned that they can not in all cases be regarded as low costs accounts.

A survey recently produced by the Australia Pensioners and Superannuants Federation questioned whether banks do actually provide adequate basic bank products. The APSF's Banking Affordability Report Card found that:

- The Commonwealth and ANZ passbook accounts offered pensioners only two over the counter transactions in a month.
- The ANZ's High Performance Passbook Deeming Account charged pensioners a $6 a month account keeping fees if they could not maintain an account balance of more than $2,000
- The Commonwealth Bank's special rebate of $6.00 a month for age and service pensioners is only available to customers who were retired as at 31 October 1997. A person who retired after this date would need $12,000 in savings to be able to conduct just one branch withdrawal in a week.

Labor Senators are also concerned that, where banks provide a low cost banking product, that they do not market it to their customers.

Ms Sharon Barker, Policy Officer from the Financial and Consumer Rights Council told the Committee that consumers did not know about the existence of fee free banking accounts. She stated, *"certainly some people have contacted me at the Financial and Consumer Rights Council stating that they have contacted banks to ask specifically about those accounts, their staff have not known either. I think it raises this issue of relationships with banks and the consumer having responsibility to contact the bank and ask about these services, when in some cases the bank staff do not even know these services exist."*

The argument proffered by the banks for the reason that bank fees have increased significantly is that following the deregulation of the financial system, user pays pricing was introduced to replace existing cross subsidies.

The banking industry's argument is that banks have subsidised the provision of low cost banking products by paying lower interest on deposits and higher interest on lending. Increased competition, the banks argue, has resulted in reduced interest margins and this has been compensated for by the removal of existing cross subsidies on retail transaction accounts.

The Reserve Bank in its report, *Notes on Bank Fees in Australia* concluded that falling interest margins have not, on average, been offset by higher fees. However, bank customers without a loan but with low balances and high transactions would not have benefited from these trends in banks' pricing practices.

The ABA in their submission to the JPC inquiry stated that competitive pricing is the best way to achieve benefits for customers. The ABA stated that, *"the move towards the pricing principle of explicit fees on banking and financial services was an inevitable consequence of the financial market deregulation policies pursued by successive Governments since the early 1980s."*

The ABA go on to say, *"pricing services efficiently provides consumers with choice to use lower cost distribution channels and, therefore, facilitates a more efficient financial system."*

The argument that the removal of cross subsidies justifies fee increases on retail transaction accounts has been used selectively by the banks.

While the banks would argue that the removal of cross subsidies justifies increasing the fee for an over the counter transaction in a banking branch to $3, it appears that banks have been reluctant to remove cross subsidies which they perceive are beneficial to their business and marketing plans.

In particular, banks charge fees for some products as 'loss leaders', and exempt some customers from fees based on the level of deposits and lending.

If efficiency was the sole criteria of a bank they would charge a customer for a transaction, regardless of how much money they had.

Of course in the banking industry there will always be cross subsidies to an extent. For instance, in a bank branch it is difficult for a bank to work out what costs should be attributed to conducting a transaction when the branch also serves a marketing purpose and bank tellers are explicitly directed to sell products to the customers that they serve.

Banks not only cross subsidise some customers, they cross subsidise some products.

In its submission to the inquiry, St. George Bank stated that *"the bank's telephone and internet banking fees are currently set as loss leaders to encourage the migration of customers to these new channels."*

St. George Bank went onto to say in their submission that, *"once confidence in the channel is established, pricing will be adjusted to a basis which more closely reflects the Bank's own costs in developing and providing the channel. In the long term, the only way the Bank can sustain a channel economically is by high volume usage."*

St George Bank's comments raise a number of issues.

It is clear the banks are seeking to migrate their customers from branch banking to electronic banking. St. George Bank has acknowledged that the only way that it can economically sustain a distribution channel is through high volume usage. But the result of migration of customers to electronic banking must be that the volumes of usage in other areas fall. As volumes of usage in these alternative distribution channels fall the banks will argue that they are not economic to sustain.

The result is clear. Banks will seek to migrate customers to electronic banking by charging less than the cost of these services. The migration of customers will mean that branch banking will become increasingly unsustainable. This will justify the banks increasing the fees for services conducted in a branch and will in turn justify the closure of 'non economic' branches. Having reduced their branch networks to a core level, banks will increase the fees on electronic banking, justifying their increases by pointing out that they were never charging the true cost of providing the service. In the case of ATMs this in fact happened. Five years ago two of the major banks did not charge fees for ATM transactions. Now all banks charge fees of around $0.60 for access to their own banks network of ATMs.

ANZ acknowledged to the Committee that the importance of their branch network as a proportion of total transactions is declining. The ANZ stated in their submission that branch transactions now account for 12% of transactions, compared to 20% three years ago.

The reality is that the banks different distribution channels compete with each other. Economies of scale in one channel can mean diseconomies of scale in other channels.

An example of the competition between the bank distribution channels is the Commonwealth Bank's current series of TV advertisements promoting internet banking in which a model skites that using internet banking means that she doesn't have to queue.

It is open to question whether it is a direct strategy of banks to force consumers to queue in order to force consumers to adopt other forms of banking.

On 30 June 2000 the Herald Sun newspaper released a survey of bank queues. The longest that a customer had to wait for service was 14 minutes and 5 seconds at a Bank of Melbourne Branch in the central business district.

What we are in fact witnessing is a 'reverse' cross subsidy. The promotion of electronic banking by charging services as loss leaders is directly undermining the viability of the branch network. The impact of these practices is to hurt those consumers who rely on branches for their banking services, predominantly the elderly and the poor.

According to the *National Office for the Information Economy* Australian adult Internet users tend to be younger, male, earning in excess of $75,000, employed, and living in metropolitan areas.

By subsiding internet banking by charging services as loss leaders, banks are effectively giving the wealthy a subsidy at the expense of poorer customers.

The fact that there are 'winners and losers' from the banks' fee regimes raises significant policy issues of how to ensure that banking services are provided to all Australians on an affordable basis.

<u>Direct Charging of ATMs</u>

The Chairman's Report recommended that to reduce ATM fees, banks be allowed to direct charge for ATMs.

Direct charging of ATM fees allows ATM owners to charge a different fee for each individual ATMs based on their different costs. Under this fee regime, ATMs with high volumes of transactions would normally have lower fees than ATMs with low volumes of transactions.

The ACCC and Reserve Bank have specifically recognised that a direct charging fee regime for ATMs would allow higher fees to be charged in remote areas.

The Chairman's recommendation to introduce a direct charging fee regime for ATMs was taken from the ACCC and RBA's Report, *Debit and Credit Card Schemes in Australia*. The ACCC and RBA stated in their report that ATM owners could choose to charge card-holders directly at the time the transaction was undertaken. The report stated:

"..they could choose to charge such cardholders directly at the time the transaction is undertaken. Under this form of direct charging regime each ATM owner would decide how much to charge…"

The ACCC and RBA go on to say, *"under current arrangement the ATM owner receives the same interchange fee for an ATM withdrawal from a given issuer, regardless of where that transaction is undertaken. High cost locations are therefore subsidised by low cost ATMs.* ***Under a direct charging regime, in contrast, ATM owners could vary the transaction fee according to the per-unit cost of individual***

machines. This would provide an incentive to place more ATMs in higher cost (eg remote) locations, offering greater convenience for consumers willing to pay."

It is clear that the result of the Chairman's recommendation would be to allow banks and other ATM providers to charge ATMs on the basis of cost. Under this kind of fee regime, an ATM in a remote area that had few transactions per day, and had increased telecommunication and cash handling costs, would be far more expensive than an ATM in the heart of Collins St or George St.

The question must be asked, do we want to create a situation where consumers in remote towns such as Port Hedland in Western Australia, that have significant cash handling and telecommunication costs for their ATMs and are likely to have fewer transactions per day than city ATMs, pay significantly more to access cash than city consumers?

Rural and regional consumers have already been hit hard by the closure of local branches. They should not be hit harder by increasing fees on ATMs which consumers in the city will not have to bear.

Labor members of the JPC are concerned that introducing a direct charging fee regime for ATMs without a commitment from the banks on the level of bank fees would lead to increases in ATM fees in rural and regional areas where the costs of providing ATM services are greater.

Labor members of the JPC do not support the Chairman's recommendation to introduce a fee regime for ATMs based upon direct charging without an agreement on the level of bank fees.

Got you, hook, line and sinker

The fact that banks have been able to raise bank fees, and significantly raise bank revenue without losing customers suggests that there is a lack of competition in the market for retail transaction accounts.

In a competitive market we would expect that consumers who were dissatisfied with their banking services would change banks.

And yet, according to a survey conducted by the Australian Consumers Association in March 2000 despite the fact that only 13% of customers were satisfied with the larger banks, only 22% had changed institution in the last 5 years. Over 50% of respondents to the ACA survey had had their accounts at the same institution for 11 years or more.

One question that needs to be asked is why don't consumers change banks?

There are many reasons why the relationship between banks and consumers is 'sticky'.

Consumers may feel that there is no point going to another financial institution because 'all banks are the same.'

Banks are also able to 'hook' their customers. Once a consumer has a housing loan or a credit card, the process of changing financial institution is not costless.

In the case of a housing loan, transferring to another financial institution means re-financing the loan, including paying application fees and mortgage registration fees.

Even the simple case of opening a bank account requires proof of identity and a waiting period for new debit cards to be produced. Once an account is open, payroll departments need to be notified and direct debits need to be rearranged. Consumers also must pay Government taxes for transferring balances to the new bank account.

Another reason that consumers may be reluctant to change their bank may relate to the location of alternative banking branches and ATMs.

Another 'hook' that banks use is to offer frequent flyer points to consumers who use their credit cards to make payments. Banks do not charge consumers directly for making a credit card transaction which provides a price incentive compared to the cost of accessing ATMs, eftpos and cheques.

The effect of banks promoting credit cards has been that many consumers have chosen to use credit cards ahead of other forms of payment such as cash or eftpos. According to statistics from the Australian Payments Clearing Association, in the last three years alone the value of credit card transactions has increased from $2.5 billion a month to $6.4 billion a month. In the same period the volume of eftpos transactions only increased from $2.1 billion a month to $3.1 billion a month.

In its submission to the JPC inquiry, Telstra discussed the relationship between credit card payments and other forms of payment.

Telstra stated to the inquiry that in 1995-96, 9% of Telstra bills were paid by credit card. In the last financial year, 20% of credit cards were paid by credit card. Telstra attributed the increase in credit card payments to the prevalence of credit card loyalty schemes, which offered frequent flyer points in return for making transactions.

Telstra complained that the increase in credit card payments had a significant impact on the company's bottom line because credit card payments were based on a percentage of the value of the transaction rather than a flat fee.

Telstra indicated that they paid an interchange fee of 1.2% and that each credit card transaction averaged $166. Therefore Telstra's bank earned around $1.99 for each credit card transaction. According to Telstra's own figures, if 16.5 million transactions were made by credit card, Telstra alone contributed around $33 million in fee revenue to its bank.

The ACCC and Reserve Bank's recent report into Credit and Debit Card Schemes raised the issue of the impact of the current range of incentives to use credit cards on other payments methods.

The ACCC and RBA stated in its report that, *"under current arrangements, cardholders are effectively being paid by card issuers to use credit card as a payment* *instrument, but face a transaction fee for using a debit card (after a number of fee free transactions). This structure of incentives has encouraged the growth of the credit card network the expense of other payment instruments, particularly debit cards and direct debits, that consume fewer resources.* ***As a result, Australia has a higher cost retail payments system than necessary, and much of this higher cost is borne by consumers who do not use credit cards."***

It is clear that banks' promotion of credit cards is not only inefficient but distorts consumer choices. This in turn affects the ability of other distribution channels to achieve economies of scale and therefore lower costs to consumers. Ultimately it is low-income earners who are hit hardest by the banks promotion of credit cards, not only because they face higher retail prices but also because they are not able to avoid being charged bank fees on other payments channels such as eftpos and ATMs.

Banks seek to 'hook' those consumers whose business they want.

An example of this is the 'bait' that is thrown to 'super rich' customers. 'Super rich' consumers are offered individually tailored services, available 24 hours a day.
To qualify for these special banking services however, most banks require that their customers have an annual income of over $250,000 and will only offer services by invitation.

By comparison while banks are trying to pull in wealthy customers by offering enhanced service, the impact of branch closures and fee increases is to push out customers who do not generate substantial profits.

The problem is that low-income consumers have nowhere to go. They still require a banking service but banks do not believe that it is profitable to provide that service. The closure of bank branches and the increase of bank fees can be seen as a direct result of banks desire that each customer generates profits, whether or not they have the capacity to pay.

Bank Fees: What's to Come?

In the UK the major banks recently agreed to drop all ATM fees and charges.

It seems that banks have a different attitude to fees in Australia and this can largely be attributed to the attitude of the Australian Federal Governments to bank fees.

The Federal Government have in the past endorsed banks increasing their fees.

Mr Joe Hockey MP, the Minister for Financial Services and Regulation told Parliament on the 24th November 1998 that the trade off for lower interest rates is higher fees. He stated, *"the trade off has been that people are starting to pay for some of the services that they are demanding of the bank."*

Despite the fact that there is clear evidence that banks have abused their market power to earn obscene levels of profit, the Federal Government does not believe that it needs to take action.

The Federal Government has time and time again rejected calls to direct the ACCC to formally monitor bank fees and charges.

It seems that the Federal Government not only endorses fee increases, they fully expect that bank fees will continue to increase.

The Chairman's Report stated that *"the present position is that the fees for service are more directly related to the cost of providing that service. Nevertheless, the costs of transaction services are still at least three times the fees collected."*

The warning for consumers is that bank fees will continue to increase until the banks feel that they are making a sufficient profit – or until the Federal Government takes action.

There is however an alternative to continuing bank fee increases.

In the UK, the major banks have recently agreed to drop all ATM fees and charges.

This followed a report into the UK payments system, the Cruickshank Report, which demonstrated that consumers were paying between £3-5 billion more for banking services than they should.

If it is good enough for UK banks to allow their customers to access cash for free, why shouldn't it be good enough for Australian customers?

Labor members of the committee are of the view that there is a point at which the banks must be told that enough is enough.

A line must be drawn in the sand on bank fees.

Labor members of the JPC believe that it is time for action. It is recommended that the Federal Government immediately formally direct the ACCC to monitor bank fees and charges. Labor members of the JPC recommend that banks accept a moratorium on increasing bank fees for a period of twelve months.

Disclosure of Fee Information

On December 15 2000, NatWest Bank in the UK removed all charges from cash machines in the UK. Making the announcement, NatWest Bank stated to its customers that even where the owner of an ATM machine charged a fee, *"you will however be notified on screen of any charge before you withdraw cash. You can then stop the transaction if you do not wish to pay a fee."*

In the UK, banks have been able to publicly commit that they will provide fee information before a transaction is made so that a consumer can cancel the transaction.

Why can't this happen in Australia?

In Australia it appears that it is technically difficult to provide this solution to consumers.

Submissions to the JPC inquiry from banks stated that it was technically difficult to provide real time disclosure of fee information.

ANZ provided to the Committee a detailed break down of the steps that would be required to provide real time fee disclosure. The ANZ stated to the Committee that it estimated that its Transaction Banking System would require eight times the storage capacity to deliver complete real time disclosure. ANZ's supplementary submission went on to reject a 'halfway house' solution of providing consumers with the number of transactions that they had made in a month. ANZ said that while such a solution was technically possible it would require substantial duplication of systems.

ANZ Bank recently confirmed that it is considering using ATMs to advertise products and services. The Bank has stated that it conducting a trial on 92 ATMs and is considering rolling out an advertising program on 500 ATMs by July of this year.

It is ironic that at a time when Banks are arguing that it is technically difficult to provide real time disclosure of bank fees on ATMs, a new generation of ATMs is being marketed which will allow consumers to use ATMs to buy movie tickets, prepaid phone vouchers and stamps.

This new generation of ATMs is being market by US based company Diebold which three out of the four major banks use for their ATMs.

Diebold promote that banks can use their ATMs to:

- Dispense tickets, stamps, prepaid phone vouchers, coupons and other revenue-generating items
- Print coupons, statements, tickets and more
- Sell on-screen advertising
- Use screens to cross-sell other financial products and services

It would be unthinkable that a bank could provide its customers with the ability to purchase a movie ticket before it provided information on its own fees.

There is no doubt that when banks perceive that there is 'a buck to be made' that they are prepared to invest in new technology. However banks appear to regard investment in new technology that provides consumers with improved service as a cost.

Labor members of the JPC believe that it is technically possible to introduce a new few disclosure regime for ATMs.

It is difficult to understand how a UK bank, which uses the same types of ATMs and has the same kind of legacy computer systems is able to achieve real time disclosure, yet Australian banks cannot.

Labor members of the JPC accept that there are costs involved in establishing a better fee disclosure regime, but consider that these should be weighed against the benefits of a more informed market.

Labor members of the JPC note that the growth in the provision of ATMs by private operators has the potential to increase the level of uncertainty amongst consumers as to the level of fees for accessing ATMs. Without the introduction of a fee disclosure regime consumers will increasingly be uncertain as to how much they will be charged for using an ATM and will continue to find it difficult to manage their own transaction behaviour.

Labor members of the JPC believe that if there is commitment from the banks it is possible to introduce a new fee disclosure regime for ATM fees within a period of 12-24 months.

The key issue at stake is whether banks are committed to introducing change.

The recent uptake of internet banking by the major banks has demonstrated that if the banks have the internal commitment to introduce a new service then they can achieve it quickly and efficiently.

If the banks applied the same commitment that they applied to the introduction of internet banking to introducing a new fee disclosure regime for ATMs then there is no doubt that a disclosure regime would soon be operational.

Labor members of the JPC consider that ASIC has an important to play in facilitating the introduction of a real time fee disclosure regime and should continue with their role in facilitating the ASIC Transaction Fee Disclosure Working Group.

Recommendations

Reasons For and Impact of Bank Fee Increases

1. Labor members of the JPC recommend that the Government immediately direct the ACCC to formally monitor bank fees and charges.

2. Labor members of the JPC recommend that banks accept a moratorium on increasing bank fees for a period of twelve months.

3. Labor members of the JPC recommend that banks offer fee free banking to pensioners and social security recipients.

4. Labor members of the JPC recommend that the Federal Government immediately direct the ACCC to hold an inquiry into why UK banks have been able to abolish ATM fees while Australian banks say they cannot.

5. Labor members of the JPC do not support the Chairman's recommendation to introduce a fee regime for ATMs based upon direct charging without an agreement on the level of bank fees.

Labor Senators believe that the charging regimes for bank fees are not efficient and competitive and are based on extracting an obscene level of profit.

The fact that banks have been able to significantly increase fees and charges without losing market share is an indication that the market for retail transaction accounts is not competitive.

The Commonwealth Bank presented evidence to the committee that the revenue that banks earn from fees is only 1/3 of their costs.

The ramifications of this are clear. If user pays pricing was fully adopted bank fees would increase by up to three times their current levels. On current fee levels this would result in an over the counter transaction in a bank branch costing $9. Access to another banks ATM would cost $4.50 and an eftpos transaction would cost $1.80.

This is socially unacceptable. Banking is an essential service. Because banking is so essential to economic activity it is important that all Australians have access to affordable banking services so that they can participate on an equal footing in all forms of economic activity.

Banks have a social obligation to provide accessible and affordable banking services for all Australians. The impact of bank fees is falling disproportionately on consumers who do not qualify for fee exemptions. Low fee bank accounts that the banks were said to provide are not widely available and could not in all cases be regarded as low costs accounts.

Banks in the UK recently announced that they will no longer charge fees to access cash from ATMs. This followed a report into the UK payments system, the Cruickshank Report, which demonstrated that consumers were paying between £3-5 billion more for banking services than they should.

If it is good enough for UK banks to allow their customers to access cash for free, why shouldn't it be good enough for Australian customers?

Direct charging of ATM fees allows ATM owners to charge a different fee for each individual ATMs based on their different costs. Under this fee regime, ATMs with high volumes of transactions would normally have lower fees than ATMs with low volumes of transactions.

The ACCC and Reserve Bank have specifically recognised that a direct charging fee regime for ATMs would allow higher fees to be charged in remote areas.

Labor members of the JPC are concerned that introducing a direct charging fee regime for ATMs without a commitment from the banks on the level of bank fees would lead to increases in ATM fees in rural and regional areas where the costs of providing ATM services are greater.

Disclosure of Fees

Labor members of the JPC recommend that:

- **Banks introduce a real time fee disclosure regime for ATMs within a period of 12-24 months.**
- **Banks provide to a customer information on the cost of a transaction before the transaction is made so that a consumer has an opportunity to cancel the transaction.**
- **Banks provide to customers a break down of fees charged on monthly statements, including a comparison of fees over previous months so that consumers can compare their transaction activity.**

Labor members of the JPC recommend that ASIC continue its role in facilitating the introduction of a real time fee disclosure regime through the ASIC Transaction Fee Disclosure Working Group.

Labor members of the JPC note that in the UK, banks have been able to publicly commit that they will provide fee information before a transaction is made so that a consumer can cancel the transaction. If this can happen in the UK, which has similar ATMs and legacy computer systems, why can't it happen in Australia?

Labor members of the JPC believe that it is technically possible to introduce a new few disclosure regime for ATMs.

Labor members of the JPC accept that there are costs involved in establishing a better fee disclosure regime, but consider that these should be weighed against the benefits of a more informed market.

Labor members of the JPC believe that if there is commitment from the banks it is possible to introduce a new fee disclosure regime for ATM fees within a period of 12-24 months.

Labor members specifically reject the Chairman's Report Findings of Fact that:

1. Bank fees have increased *'as a result of the adoption of a user-pays charging structure by financial institutions on a range of services.'*

2. There is also substantial evidence to indicate that financial institutions have historically under-priced the cost of electronic 'banking' transactions, but are now aligning charges more closely with the marginal cost of providing the service.'

3. The Committee accepts the evidence presented that up to 75% of customers pay no fees at all on personal accounts and that most banks provide substantial fee discounts and exemptions for people who are financially disadvantaged or disabled, and for pensioners and students.

4. The Chairman's report notes that most banks provide substantial fee discounts and exemptions for people who are financially disadvantaged or disabled, and for pensioners and students.

1. Cross subsidies still exist in the banking system however cross subsidies tend to favour wealthy consumers at the expense of poorer consumers. Exemptions are available to consumers with housing loans and large deposits. Banks also charge some services as 'loss leaders.' This advantages wealthier consumers who are more likely to use subsidised services such as internet banking.
2. Substantial evidence was presented to the Committee from the ACCC and RBA that bank fees are not efficient and competitive. Bank fees are based, not upon aligning charges with marginal costs, but with extracting obscene levels of profit.
3. The ABA **actually** said that , "depending on the provider, 30-75% of customers do not pay fees and charges for services associated with transaction accounts." One way of reading this statement is to say that up to 75% of customers do not pay bank fees. Another way is to say that up to 70% of customers do pay fees.
4. Labor members of the JPC dispute low cost banking accounts are widely available and are concerned that they can not in all cases be regarded as low costs accounts.

Mr Bob Sercombe, MP	Senator Stephen Conroy
Senator Barney Cooney	Mr Kevin Rudd, MP

APPENDIX 1

LIST OF SUBMISSIONS

Submission Number	Submittor
1	Mr Joseph P Bondin
2	Mr Robin Greenslade
3	Mr Arnona Ehrlich
4	Mr J Williams
5	Mr P McGowan
6	Mr Bob Holderness-Roddam
7	RJ & HR Wallace, Building Contractors
8	Mr Bill Watson
9	Mr Peter Evans
10	UNEMPA
11	Mr Peter F Osborne
12	Mr G Lloyd-Smith
13	Dr W L Baker
14	National Council of Women of Australia
15	RAM (Rural Action Movement of WA Inc)
16	St George Bank Limited
17	H & J Vangiessen
18	Rev R L Jones
19	ANZ Bank
20	ASIC
21	Australian Association of Permanent Building Societies
22	Consumer Law Centre Victoria
23	Commonwealth Bank
24	Australian Bankers' Association
24A	Australian Bankers' Association (Supplementary)
25	The South Australian Country Women's Association Incorporated
26	Credit Union Services Corporation Australia Ltd (CUSCAL)
27	STD and Associates
28	NSW Farmers' Association
29	John Watkins MP, Minister for Fair Trading Minister for Sport and Recreation (NSW)

APPENDIX 2

WITNESSES AT HEARINGS

Wednesday, 23 August 2000 - Adelaide

Australian Bankers' Association

Mr Jeff Oughton, Acting Chief Executive
Mr Gary Healey, Director

Consumer Law Centre Victoria
Financial Services Consumer Policy Centre
Financial and Consumer Rights Council Victoria

Ms Christine Rowley, Policy Officer, Consumer Law Centre Victoria
Mr Chris Connolly, Director, Financial Services Consumer Policy Centre
Ms Sharon Barker, Policy Officer, Financial and Consumer Rights Council Victoria

Australian Securities and Investments Commission

Mr Peter Kell, Director, ASIC Office of Consumer Protection
Ms Nicola Howell, Senior Policy Officer, ASIC Office of Consumer Protection

Telstra

Mr Ian Cartwright, General Manager (Finance), Operational Services
Mr Paul Hardcastle, Technical Adviser, Emerging Business

Australia and New Zealand Banking Group

Ms Kathryn Fagg, Managing Director, Banking Products
Ms Jane Nash, Senior Manager, Government and Regulatory Affairs

Mr Bill Watson (Private capacity)