



AUSTRALIAN BANKERS' ASSOCIATION INC.

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Mr Peter Hallahan
Committee Secretary
Senate Economics Committee
Department of the Senate
Parliament House
CANBERRA ACT 2600

Email to: economics.sen@aph.gov.au

Dear Mr Hallahan,

Australian Securities and Investments Commission (Fair Bank and Credit Card Fees) Amendment Bill 2007

Thank you for the opportunity for the Australian Bankers' Association (ABA) to provide a submission to the Senate Economics Committee regarding the Australian Securities and Investments Commission (Fair Bank and Credit Card Fees) Amendment Bill 2007. The ABA has 25 members authorised by the Australian Prudential Regulation Authority (APRA) to carry on banking business in Australia. The ABA's membership includes the four major banks, regional banks and foreign banks. We look forward to elaborating on this submission when we appear before the Committee.

Exception fees on personal accounts include dishonours, credit card late payment, account overdrawn and credit limit excess fees. These fees are charged by financial service providers such as banks, building societies, credit unions and other non-APRA regulated lenders.

It is important to note that Australian banks are highly regulated and disclose their fees to customers in a variety of ways including published fee tables and through information services. These disclosures are mandated by legislation and under the ABA's Code of Banking Practice and, in relation to electronic banking facilities under the Electronic Funds Transfer Code of Conduct administered by the Australian Securities and Investments Commission (ASIC) and generally must be provided before a customer takes up the banking service.

In May this year the ABA and member banks acknowledged the debate in the community on exception fees and decided that it would be helpful to increase community understanding about these fees. The approach that our members

have taken in response to the debate on exception fees is that a greater understanding by consumers about bank products and exception fees will lead to better decisions about the selection of products and the way they operate their accounts. This includes the provision of information by banks which helps customers monitor their account balances and keep track of payments to avoid incurring these fees. It is important to make the point that these fees are avoidable. The initiatives taken by the ABA and member banks to provide more information about exception fees go well beyond fee disclosures mandated under legislation or the Codes mentioned above.

More information about exception fees, in turn, applies competitive pressures to markets and results in them working more efficiently. The ABA therefore supports competitive fee offerings by banks and we believe that market-based outcomes best benefit bank customers.

There is already evidence of this market-based approach working in relation to bank offerings of basic bank, or concessional, accounts for low income people. Five years ago there were very limited offerings of basic bank accounts. Today, following the application of the pressures of transparency and competitive pressures, a new market has emerged. The numbers of basic bank accounts on offer by ABA member banks has grown by 18 per cent over the past five years, and the proportion offering unlimited free transactions is up from 7 to 24 percent.

If this market had not been encouraged to emerge by banks and develop through the application of competitive forces and, instead, a regulatory approach had been taken, then it is likely that consumers would not have had the range of competitively priced options that are available today. We believe that there are relevant lessons here for exception fees more generally.

The ABA and its member banks have taken the following steps in recent months to improve the amount of information that is publicly available:

- at the end of June 2007, ABA member banks published information about their own policies and products including how they affect customers in relation to the charging of exception fees (see Enclosure 1);
- at the end of July 2007, the ABA published an industry fact sheet describing each member banks' approaches and how bank customers can modify their behaviour to avoid or minimise the incidence of these fees (see Enclosure 2); and
- at the end of July 2007 ABA member banks completed a review their own terms and conditions on relevant products.

Since the Initiative

Prior to the ABA's announcement some banks (including major banks) already offered selected accounts for eligible customers receiving Government benefits which did not charge exception fees or which reduce the cost of exception fees.

Since May there have been further positive changes with bank offerings. For example:

- A bank has ceased charging personal accounts an inward dishonour fee, in the event that someone else's cheque that has been deposited is dishonoured. That same bank has capped exception fees for eligible holders of concession accounts at \$8;
- A major bank has capped exception fees on basic and selected youth accounts at \$10;
- Another major bank will not charge an overdrawing exception fee on one of its major concession accounts if a small amount is overdrawn (up to \$100);
- Two regional banks have made it clear that most exception fees cannot arise on their concession accounts;
- Three other regional banks have disclosed they have discretionary waiver policies; and
- Banks have published information on exception fees and tips on how to avoid them.

This week a major bank announced a further round of significant initiatives.

Banks' initiatives and their provision of this additional information are a clear demonstration of the ability of the market to respond through transparency and competitive pressure. The ABA believes that there is now a better informed market providing a basis for choice and competition. For their part, ABA member banks want customers to have real choice when considering exception fees.

The market for banks' products and services is dynamic and will continue to develop in response to competitive pressures. This is likely to include further changes to individual bank offerings with exception fees. This is a matter for individual banks to decide and cannot be done by collective agreement by the industry.

In 2005 the Prime Minister and the Treasurer announced the appointment of a Task Force to identify practical options for alleviating the compliance burden on business from Government regulation. The Task Force delivered its report "Rethinking regulation: Report of the Task Force on Reducing Regulatory Burdens on Business" in January 2006.

Subsequently, the Australian Government provided its response to the report. Relevantly, in addition to including support for rigorous cost-benefit analysis justifying regulation, the Australian Government had this to say:

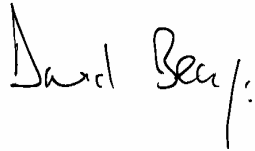
"Governments should not act to address 'problems' until a case for action has been clearly established. This should include establishing the nature of the problem and why actions additional to existing measures are needed, recognizing

that not all 'problems' will justify (additional) Government action". (Government response page 75).

The ABA believes that the steps taken by ABA members show the lack of a market failure and therefore any cause for regulatory intervention. Market-based solutions are already working, and delivering customers better outcomes. Regulatory intervention in the form of price control has the potential for economic impacts that could disadvantage consumers.

Finally, we observe that throughout this process the ASIC has informed the ABA that while welcoming a market based approach to this issue it is closely monitoring developments including making sure that the level of disclosure to customers of all financial institutions about these fees is both adequate and effective.

Yours sincerely,



David Bell

Enclosures:

- (1) ABA Media release dated 2 July
- (2) ABA media release and fact sheet dated 3 August 2007