

During the last financial year, The Port Phillip Community Centre has been conducting a credit card fee project funded through the Department of Justice. The impetus for the project was the experience of the Centre's financial counselling clients.

Our Project looked at charges described by credit card providers as "exception" fees, which are, in effect, penalty fees.

Under Australian law, contractual penalties must precisely relate to the amount of damage incurred by the breachee. The banks and other credit providers have refused to detail their method of calculating damages. Recent research by the Consumer Action Law Centre reveals the amounts claimed as fees are unrelated to damage suffered by credit providers and are therefore exorbitant. The fact that ANZ could announce last year that it was significantly lowering its penalty fees, while commendable, is an indication that the fees had been unnecessarily high.

The law decrees that a contractual penalty must be calculated or be capable of future calculation based on a formula agreed to by the parties at the time of contracting. Yet credit card providers regularly increase the amount of these fees in a unilateral decision. There has been no prior agreement between the contracting parties about the timing or degree of these increases. Although a customer who objected to fee increases could cancel their card, they would then be compelled to pay the full balance at the time of cancellation.

In addition, there are other practices that increase uncertainty regarding the real amount of these penalties. We conducted a survey of nine major credit card providers. Of these, American Express, GE Finance, National Australia Bank and Citibank have not responded to our request for information. Bendigo Bank, Commonwealth Bank, St George, Westpac and ANZ responded and confirmed that "exception" fees become part of their credit cards' account balance and therefore accrue interest and compounding interest. Further, interest rates on credit cards are continually rising; another factor adding to the unpredictability of the amount a customer will be penalised for a late payment or for their account edging over its limit.

There is no doubt that credit providers are entitled to recover the legitimate costs of late payments or of a card going over its credit limit when it is due to customer error. But uncertainty and lack of transparency are not the only issues for consideration. We have seen instances of the credit card customer making the minimum monthly payment on the account as required by the provider, only to be charged an automatic over the limit fee when the monthly interest is added to the account, causing it to go over the limit when it would otherwise have been under the limit.

Finally, during our 25 years of financial counselling, we can say that it is primarily financial difficulties that cause people to go over their credit limit or make a late

payment on their credit cards. These fees penalise those who can least afford them.

We urge you to rectify the harsh and unfair application of penalties by credit card providers, which places financial counselling clients in a position of further hardship.

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