
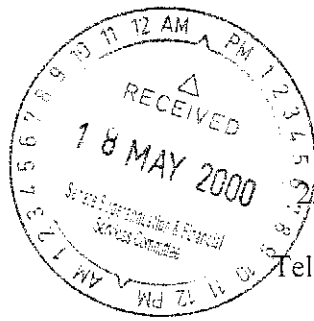


**Senate Select Committee on
Superannuation and Financial Services**

**Main Inquiry
Reference (a)**

Submission No. 41 (Supplementary to Submission
No. 35)

Submittor: Mr Shawn Fracchia
Westpac Customer
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18 May 2000

The Secretary
Select Committee on Superannuation and Financial Services
Parliament House
CANBERRA ACT 2600

Dear Secretary,

SUPPLEMENTARY SUBMISSION

**FAILURE BY WESTPAC BANKING CORPORATION TO ADDRESS
BROADER ISSUES**

Thank you for providing me with a copy of the Westpac Banking Corporation submission in relation to my original submission of 27 March 2000. As with my original submission, this supplementary submission is also made in a private capacity.

Broader issues that haven't been addressed by Westpac Banking Corporation

I did not expect to be writing to you again particularly in light of the fact that my original submission was a new and big step (my first ever submission !). However, the many Australians taking an interest in the proceedings of the Committee will be disappointed by the failure of Westpac Banking Corporation to address any of the broader issues mentioned under "Main Points to the Committee" on page 3 of my submission.

My main interest in making my original submission was to seek improvements in the consumer protection of bank customers, particularly in relation to bank fees which have, contrary to perception, also indiscriminately affected all types of bank customers (including those who would be valued and in a bank loyalty program if one existed). Unfortunately, bank customers will also be disappointed to learn that Westpac Banking Corporation has not addressed the broader issues involved with pages 1 and 2 of my original submission and has given the submission to the case officer to respond in the case manner that she has.

Interest in Westpac's omission to offer constructive insights will be particularly strong for those bank customers:

- without the necessary bargaining or persuading power to rectify bank wrongs;
- those too young to know or comprehend that taking movie tickets offered by banks for being wronged is at the expense of their entitlements;

- those 'financially illiterate' bank customers who sign 'without prejudice' legal documents like the document the Bank has asked me to sign up to, which provides that *"it is not usual Bank practice to compensate for these situations and any further requests for reimbursement will be declined"* and which fails to raise the issue of seeking independent advice; and
- those that have realised there is a fundamental inequity and lack of fairness in the privileged position that banks hold in the Australian community: banks charge Australians fees when they make mistakes (to the tune of big dollars drawn from the Australian community). However, when the bank makes a mistake the bank's last card of redress for the mistake is an apology, despite the individual incurring administration in rectifying the mistake.

In respect of pages 1 and 2 of my original submission, Westpac has failed to address the following key issues:

- How fair is it to the community and customers that banks can charge customers fees for mistakes in lieu of administration and customers can't charge for bank mistakes ?
- How ethical is it for banks to be offering movie tickets to customers, particularly young customers, who have come forward with issues relating to Bank conduct ?
- How appropriate is it in a consumer protection regime to allow banks (or other financial institutions) to bind customers from seeking future reimbursement in respect of future wrongs by the bank (without even disclosure that independent advice should be sought) ?

Bank fees have had a significant impact on Australians in recent years. I have been fortunate as on most occasions I have been able to point out to branch staff the unintended or inadvertent consequence of the fee and they have waived the fee. However, I believe that the broader issue at stake compels the Committee to explore the extent to which fees have been implemented by banks (often hurriedly under competitive pressure) only to be waived later in large numbers. There is a negative cost of this short sightedness for everyone. For banks, it involves reverse workflows, negative customer sentiment and the inefficient use of resources and for customers, it has blighted their trust and loyalty.

Significant errors in the Westpac Banking Corporation submission

There are several significant errors in the Westpac submission which require correction. These corrections are set out in Attachment A.

I am available to expound on the broader issues raised in this submission.

Yours sincerely,



Shawn Fracchia

Significant errors in the Westpac Banking Corporation submission

Ms Kaylene Spencer, Customer Relations Manager, has written the Westpac submission. I have grouped my corrections under the same headings used by Ms Spencer.

Customer's redress

Australian Banking Ombudsman

Ms Spencer states that the Bank does not consider that financial compensation is appropriate and "the Bank's view is supported by the Australian Banking Ombudsman who advised Mr Fracchia that "the information provided by you indicates that the circumstances of your complaint would not qualify for non financial loss....".

Contrary to Ms Spencer's misrepresentation, the Bank's view is neither supported nor not supported by the Australian Banking Ombudsman (ABO). The comments of the case officer for the ABO relate to the Terms of Reference for the Ombudsman and are in fact under that heading (see page 3 of the ABO case officer's letter which sets out the heading "Terms of Reference"). Westpac has purported to speak for the ABO demonstrating a lack of respect for the independent sanctity of the ABO.

Instead, what the comments of the ABO case officer highlight, is the unfortunate position in Australia that the 'less than full' terms of reference of the ABO do not permit the ABO to deal with many banking complaints raised by customers (including my type of complaint).

Offer of Movie Tickets

Ms Spencer states that movie tickets were offered to me "as a gesture of good will on the part of the Bank and as an indication of the Bank's sincerity in its apology".

Contrary to Ms Spencer's statement, the movie tickets were offered to me to settle my case.

There had been a long delay in the Bank rectifying its mistakes to the point where Ms Spencer was aware that the only recourse I had was to the Australian Banking Ombudsman (ABO). The offer of movie tickets was made shortly after I had indicated to Ms Spencer that I intended to write to the ABO. No sooner had I rejected the movie ticket offer, then the 'without prejudice' offer took its place.

Even in the heyday of movies 50 years ago, people would have considered it superficial that a bank was offering movie tickets to indicate sincerity. Movie tickets don't indicate sincerity, people and their actions do.

Furthermore, any prospect of being endowed with a sincere effect by the bank evaporated when I received my March 2000 Westpac Visa Statement soon after the offer of movie tickets. Attached with that statement was a special promotion that Westpac was marketing (amongst other promotions) of movie tickets and movie money from Greater Union, Village and Birch Carroll and Coyle. I have attached the promotion to this submission at Attachment B.

It appears that Westpac has provided Greater Union, Village and Birch Carroll and Coyle with the benefit of its credit customer list to the point where the promotion is that of those suppliers, rather than of Westpac (the promotion states "All offers are the responsibility of the individual suppliers and all questions regarding offers should be directed to the offer provider.").

Apart from the insincerity in relation to a separate special movie deal being offered through the Bank with no strings attached, there is a key question the Bank should address: Is the Bank benefiting from customer mailing lists and advertising value to fund movie passes for buying out those same customers when they are wronged by the Bank? Because, if this is the case, how can the Bank claim that the movie passes indicate sincerity and goodwill to the customer when it is using the customer's goodwill and value to provide the movie passes? If this is not the case, the Bank should disclose in writing to customers that the Bank purchased the tickets for purpose 'XYZ'.

Conditions of settlement

Bank's admission that it does reimburse customers when the Bank makes a mistake

Ms Spencer states that "The Bank does, however, consider any actual costs the customer has incurred in having the matter dealt with, for example, solicitor and accountant costs and telephone expenses". Many bank customers will be encouraged by this statement however the bank still fails the fairness test: the Bank does not provide evidence of actual costs to customers when they are charged fees such as \$15 for overdraft mistakes.

If, as it appears Westpac does not believe that I have incurred at least \$15 in addressing a representation by a Westpac representative which was false, rectifying the non-crediting of interest to accounts and addressing other bank actions previously outlined, I will be encouraged by Ms Spencer's statement to follow-up this issue with Westpac for the actual costs which are in excess of the requested fee in lieu.

Restrictive consumer practice engaged in by Bank

Ms Spencer provides justification for the Bank's attempt to bind a customer in respect of future bank mistakes by stating: "The intention behind my statement was to ensure that Mr Fracchia understood that I was not promising to pay him a \$15 fee *"in lieu of administration costs"* because of his anticipation of further errors occurring."

Contrary to Ms Spencer's intention, Westpac sought to prevent me from seeking redress in the future if it so happened that new errors were to occur in the future. I believe that what happens in the future should be dealt with then not by binding customers now to forgo their rights in respect of possible future matters.

The broader issue here is that the Bank is allowed to do this by the consumer protection system we currently have. Furthermore, as is clear from Ms Spencer's 'without prejudice' letter there is no caution for customers to seek independent advice.

There is an internal ambiguity in respect of Ms Spencer's justification that I consider should be clarified. Ms Spencer had previously made it clear in her 'without prejudice' letter that the \$15 offered was "in recognition of the time that it has taken to resolve [my] concerns". Accordingly, she was refusing to pay me a \$15 fee outright. Her justification does not appear to me, to be consistent with this earlier statement.

Non-crediting of interest to account

I appreciate Ms Spencer's circulation of instructions to "branch staff in NSW" requiring staff not to use the close code in question.

However, it appears that Ms Spencer's circulation of instructions to bank staff may not address the problem as my accounts were closed in Queensland and obviously there are other States where this problem may also arise.

From the beginning of my queries of Westpac, I had a concern that other bank customers may also be affected as the crediting of interest is usually an automated function and accordingly, requested the Bank to notify me whether my problem was isolated in respect of me or whether it involved other customers. Westpac has failed to provide any indication of whether other customers have been affected by the close code in question.

Unequivocal apology

I have never sought an apology of the type described by Ms Spencer, the issue was not raised in my original submission and I do not seek such an apology now. What I have been seeking determinedly is a fee from the bank on the same principle that the bank charges customers fees.

Failure to inform customer of account details

Westpac's quotation of its own bank statement is incorrect and requires correction.

Ms Spencer in the Westpac submission claims that "I have pointed out to Mr Fracchia that a credit to his account 034167 146402 for \$0.34 could be cross referenced to his statement which indicates the credit dated to 2 November 1999 and described as *"interest adjustment for 10089 4167 178586."*

Contrary to Ms Spencer's statement to the Committee, the Westpac bank statement reads *"interest adjustment for 100899 from 4167 178586"*. The word "from" is important because it demonstrates the ambiguity of the reference (this also applies, to a lesser extent, in respect of the number '9'). If as Ms Spencer implies, the Bank believes this is adequate disclosure to alert customers that non-credited interest has been credited in respect of a clearly identified account, then it highlights how far the gulf is between banks and the community.

79 page document provided to the customer

Ms Spencer fails to mention that the 79 pages of incomprehensibility was sent to me in response to my request to the Bank to check other accounts for the non-crediting of interest and it contained no explanation whatsoever.

Initially, the Bank requested a \$60 fee to do the interest recalculations but they subsequently waived this fee. Ms Spencer's assumption that I 'stressed' when receiving the 79 pages of incomprehensibility is not quite right. Although I was disappointed, the Westpac notice was self-healing in that the 79 pages were enough to make a pillow for a lie-down.

Last paragraph, page 2 of Westpac Banking Corporation submission

Significantly, Ms Spencer has failed to mention in the last paragraph of page 2 of her submission that:

- Westpac has refused to pay the \$15 on the same expressed basis that Westpac charges fees to customers (Westpac charges customers \$15 for overdraft mistakes); and
- the reason Ms Spencer has not received a Dispute Notification from the Banking Ombudsman is connected to the fact that the terms of reference of the Banking Ombudsman do not permit him to deal with the dispute.

EXCLUSIVE TO WESTPAC CRED

Attachment B - Westpac Visa

Promotion Sent to Westpac Visa Holders (2000)

Make every week a movie week

You can save big at the movies with this exclusive Movie Money offer from Greater Union, Birch Carroll & Coyle, Village Cinemas and Westpac.

You'll pay only \$45 for a book of six adult tickets - that's just \$7.50 a ticket and a saving of up to \$30* on the usual box office prices.

Take the kids and save as well

Make it a family outing with a book of six children's tickets for just \$35. That's a further saving of up to \$16† on the usual child admission prices.

Here's all you have to do...

Simply purchase your Movie Money tickets between 1 March and 30 April 2000 by calling Greater Union 1300 650 4495.

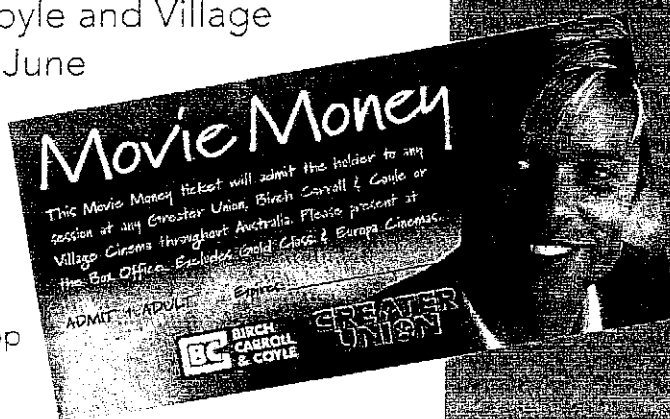
Mention the "Westpac promotion" and pay with your Westpac credit card. Movie Money tickets are valid Australia wide at all Greater Union, Birch Carroll & Coyle and Village Cinemas until 30 June 2000. Tickets will be mailed to you within seven days.

*Based on top adult price of \$12.50 and top child price of \$8.50.

MOVIE TICKETS

Save up to \$5

per adult ticket



Not good

If you book you find most simple or more Westpac a \$10 towards purch

Here

Just the nearest when \$30 of credit to value. Then, you can receive amount 1 Mar

for pr

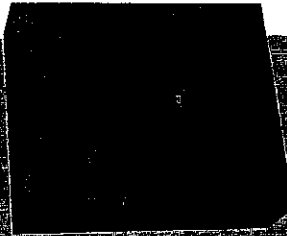
SPECIAL SAVINGS EXCLUSIVE TO WESTPAC CREDIT CARDHOLDERS

CHANDLERS, ARCHIE MARTIN VOX AND BILLY GUYATTS

Save \$100



Save \$1000



Special savings are based on the price of the original purchase. See the original advertisement for details.

Pump up the volume

Save \$100 and pay just \$499 for this Pioneer A670 stereo. Compact and power packed, this stereo's got the lot.

- 140 watts per channel
- a 3 CD carousel
- twin cassette deck
- AM/FM tuner
- 3-way speaker
- 20 cm woofers

Your own home cinema

You want your sports action BIG? Like your music videos LOUD? Feel like seeing your favourite actors LIFE-SIZE? Well rush into your nearest Chandlers, Archie Martin Vox and Billy Guyatts and take a close look at the sensational RCA rear projection TV with 132cm screen, and save yourself \$1,000. You'll pay just \$4,499.

- five speaker stereo sound
- teletext

Here's all you have to do...

The above offers are available at any Chandlers, Archie Martin Vox and Billy Guyatts store Australia-wide from 1 March - 30 April 2000 or whilst stocks last. To get the exclusive price on offer, simply pay for your purchase with your Westpac credit card.

ArchieMartinVox

Chandlers

Billy Guyatts

MOVIE TICKETS

Make every week a movie week

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will be mailed to you within seven days.

*Based on top adult price of \$12.50 and top child price of \$8.50.



GREATER UNION
* That's what's great *

BC BIRCH CARROLL & COYLE
* That's what's great *

VILLAGE CINEMAS

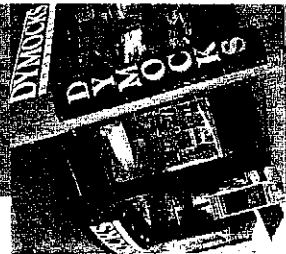
DYMOCKS

Nothing beats a good read

If you enjoy curling up with a good book, here's a special offer just for you from Westpac and Australia's most innovative bookseller, Dymocks. Simply make purchases totalling \$30 or more at Dymocks using your Westpac credit card and you'll receive a \$10 Dymocks Gift Certificate to use towards your next Dymocks purchases of \$30 or more.

Here's all you have to do...

Just take this brochure to your nearest Dymocks bookstore, and when you make purchases of \$30 or more with your Westpac credit card, ask the sales assistant to validate the certificate below. Then, when you next visit Dymocks you can use the Gift Certificate to receive \$10 off the total purchase amount. The offer is valid from 1 March to 30 April 2000.



FREE \$10

gift certificate

\$10 DYMOCKS GIFT CERTIFICATE

Redeemable from 1 March to 30 April 2000 for any purchases totalling \$30 or more, subject to previous purchase condition being validated below.

Store instructions: Please validate with Dymocks store stamp, when book purchases totalling \$30 or more are made with any Westpac credit card. Only one gift certificate per purchase. Not valid in conjunction with any other offer. Not valid for sale of the current stock.

DYMOCKS

JUST FOR YOU...

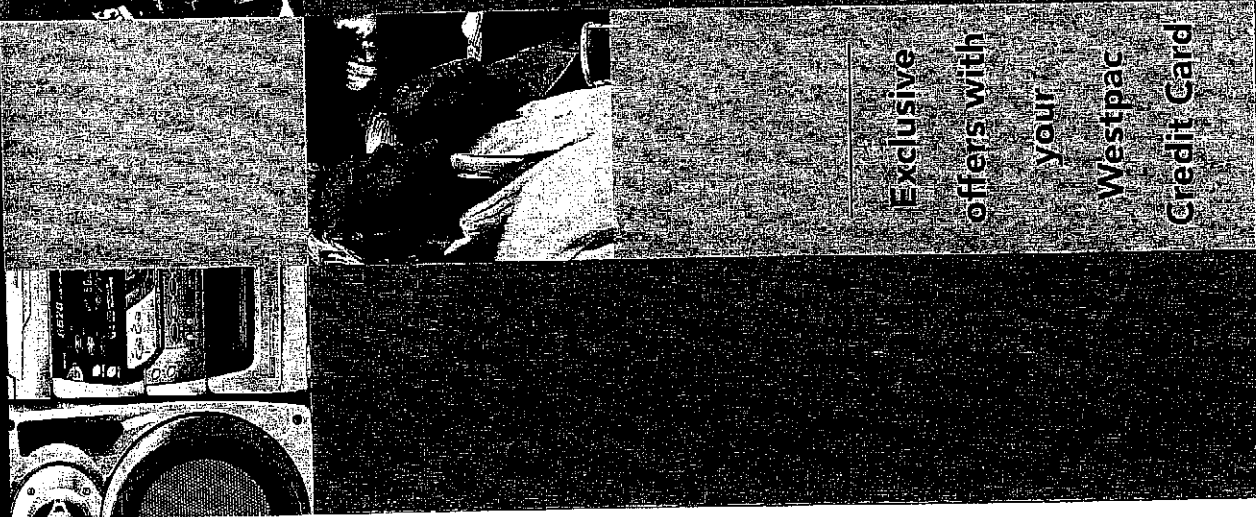
Help yourself to these great leisure and entertainment offers, exclusively negotiated for Westpac credit cardholders.

From the best value in books and movies, to super savings on hi-fi and big-screen TVs, there's a special offer that's right for you. Just look at what's available and how much you'll save when you use your Westpac personal credit card!

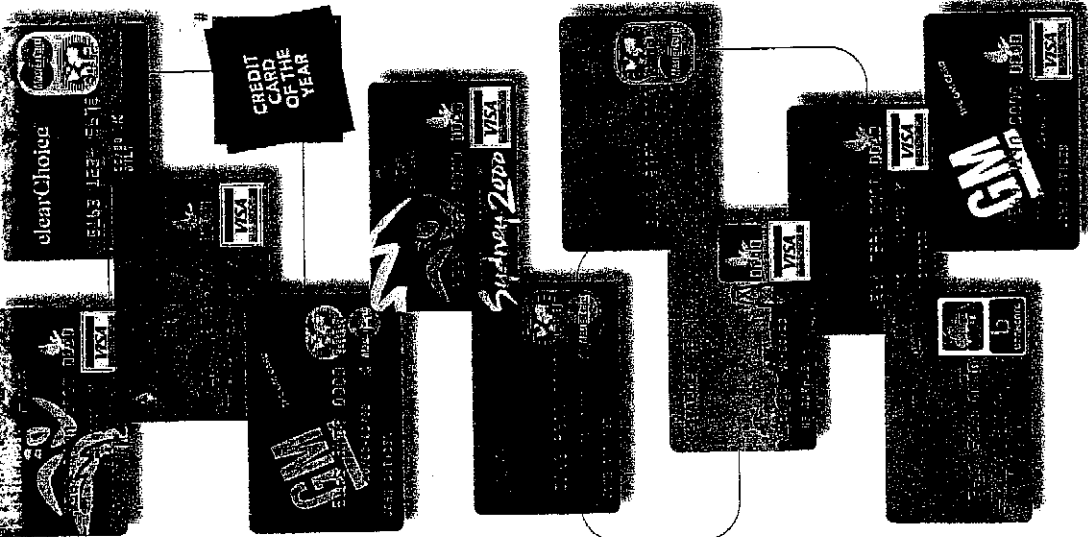
Company	Offer	Saving
Greater Union Birch Carroll & Coyle Village	Book of six adult movie tickets for just \$45	Save up to \$30 on individual ticket prices
Greater Union Birch Carroll & Coyle Village	Book of six children's movie tickets for just \$35	Save up to \$16 on individual ticket prices
Chandlers Archie Martin-Vox Billy Guyatts	Phoneisters 6670 for just \$199	Save \$100
Chandlers Archie Martin-Vox Billy Guyatts	RCA rear projection TV 32cm for just \$4,999	Save \$1,000
Dymocks	A \$10 Dymocks Gift Certificate with any purchase of \$30 or more	Save \$10

For full details and conditions see inside

SIT BACK, RELAX, AND SAVE.



Exclusive offers with your Westpac Credit Card



CHALLENGE BANK Bank of Melbourne
Australia's First Bank
www.westpac.com.au

Westpac Banking Corporation ARBN 007 457 141. Also trading as Challenge Bank and Bank of Melbourne. All offers must be purchased with an eligible Westpac personal credit card (BankCard, 55 Day MasterCard, No Annual Fee MasterCard, Gold MasterCard, clearChoice MasterCard, GM MasterCard, Private Bank Gold MasterCard, Global Rewards Westpac Visa card, Global Rewards Westpac Visa Gold card, 55 Day Visa card, Visa Gold card, Challenge Bank Visa card and GM Visa card)

All offers are the responsibility of the individual suppliers and all questions regarding offers should be directed to the offer provider.

Westpac won the 'Credit Card of the Year' Award at the 1999 Personal Investor Bank of the Year Awards.

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