

9 August 2018

Consumer Policy Unit
The Treasury
Langton Crescent
PARKES ACT 2600

By email: consumerlaw@treasury.gov.au

Dear Dr Alexander Pound (Consumer Policy Unit),

LPA Submission to Gift Card Expiry Dates: Consultation paper on proposed regulations

As the peak body for Australia's \$2.5 billion live performance industry, Live Performance Australia (LPA) welcomes the opportunity to provide feedback to the Treasury's Consultation Paper on the proposed regulations for Gift Cards Expiry Dates and the *Competition and Consumer Amendment (Gift Cards) Bill 2018* (Bill).

LPA's submission to the Treasury's previous consultation on gift card expiry dates (dated 30 May 2018) proposed that a mandatory three (3) year minimum expiry period for gift cards would be manageable for the live performance industry under the following circumstances:

- gift cards issued for a limited season or specific event must be exempt
- a minimum 6-month transition period should apply
- any changes to mandatory minimum expiry periods can only apply to gift cards purchased from and after the date that reforms commence (i.e. cannot be retrospectively applied to gift cards purchased prior to the commencement of legislation)

We believe that the proposed regulations adequately provide for the circumstances outlined. LPA supports the introduction of Federal legislation on this matter to ensure national consistency.

In response to the consultation paper on proposed regulations LPA submits the following feedback:

1. Exemptions: Time-limited goods and services (Clauses 21-23)

LPA supports the proposed exemption to the minimum 3-year expiry period for gift cards redeemable for goods or services that are only available for a limited period of time and expire at the end of that specific period.

It is important to ensure that businesses in the live performance industry can continue to issue gift cards for events that are only available for a limited time. For example, in our industry this would include gift cards for a specific event (e.g. concert or festival) or limited season (e.g. musical or theatre season).

2. Post-purchase fees (Clauses 40-44)

LPA supports the proposal to ban post-purchase fees that specifically relate to the administration of a gift card (e.g. gift card activation, inactivity or maintenance fee).

We understand that the proposed regulations will contain an exhaustive list of fees that can be charged after a gift card is supplied. These fees relate to the ability for businesses to recover the costs of settling individual purchases made by consumers through payment systems, including booking and transaction fees. We strongly believe business should be able to recover costs associated with providing goods and services to consumers by charging fees. As such, we support the inclusion of this list in the regulations to provide clarity and to avoid confusion for both businesses and consumers.

However, we believe the term used to describe these fees is too limited by the phrase “payment systems”. LPA seeks clarification on the definition of “payment systems”. In addition, businesses in the live performance industry often apply additional fees to purchases to cover the processing of a sale that are unrelated to the payment method or system used. For example, other purchase fees that should be excluded under the regulations include delivery fees and optional ‘add-ons’, such as insurance fees to cover the purchase.

LPA recommends that the Bill and regulations clearly limit the ban on post-purchase fees to charges that specifically relate to administering a gift card. Fees that a business charges for processing a sale that are unrelated to the use of a gift card should be clearly excluded from the ban on post-purchase fees.

Thank you again for the opportunity to provide feedback to this Consultation. We look forward to liaising further with the Treasury on this issue.

Yours sincerely,



Kim Tran

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ABOUT LPA

LPA is the peak body for Australia’s live performance industry. Established 100 years ago in 1917 and registered as an employers’ organisation under the Fair Work (Registered Organisations) Act 2009, LPA has over 400 Members nationally. We represent commercial producers, music promoters, major performing arts companies, small to medium companies, independent producers, major performing arts centres, metropolitan and regional venues, commercial theatres, stadiums and arenas, arts festivals, music festivals, and service providers such as ticketing companies and technical suppliers. Our membership spans from small-medium and not-for-profit organisations to large commercial entities. LPA has a clear mandate to advocate for and support policy decisions that benefit the sustainability and growth of the live performance industry in Australia.