

30 May 2018

Gift Card Expiry Dates Consultation Paper
Consumer and Corporations Policy Division
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Dr Alexander Pound (Consumer Policy Unit),

LPA Submission to Gift Card Expiry Dates Consultation Paper

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 *Gift Cards Expiry Dates Consultation Regulatory Impact Statement*.

In summary, LPA submits:

- Maintaining the status quo, in which businesses can set their own gift card expiry dates (except where state or territory law applies) is ideal for businesses in the live performance industry to avoid the costs of a protracted expiry period.
- Prohibiting the use of expiry dates for gift cards would be excessively burdensome upon businesses and cost-prohibitive.
- LPA Members indicated that a mandatory three (3) year minimum expiry period would be manageable 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)

1. The use of gift cards in the live performance industry

LPA represents a broad range of businesses including producers, music promoters, performing arts companies, festivals, venues and service providers such as ticketing companies. Businesses in the live performance industry sell different types of gift cards for varying purposes and periods.

This includes:

- Gift cards with a fixed monetary value
- Event-specific or show-specific gift cards (e.g. for a concert, musical season or festival)
- Seasonal gift cards (e.g. for a limited theatre or festival season)

Gift cards with a fixed monetary value typically have a 12-month expiry period. On case-by-case basis and at their discretion, some LPA Members allow consumers to redeem their gift cards after the set expiry date. Event-specific or seasonal gift cards are issued for events or a season of events that expire at the conclusion of the event or season.

2. Prohibition on expiry periods

As recognised in the Consultation Paper, a prohibition on gift card expiry dates would come at a significant cost to businesses that we believe outweighs the benefit to consumers. LPA Members indicated that they require the ability to set clear expiry dates to continue issuing gift cards.

Businesses in the live performance industry cannot afford the uncertainty of carrying the liability of unredeemed gift cards for an indeterminate period. Many businesses in the live performance industry are dependent upon recurrent and project funding from government, sponsorships and philanthropic donations to support their operations. These potential funding sources (i.e. governments, sponsors or donors) scrutinise the financial results of businesses when determining if they should provide funding support. The presence of an ongoing gift card liability can significantly affect financial results and consequently affect the ability of businesses to secure funding.

Additionally, businesses are reliant upon budget certainty to effectively stage events or run festivals. Carrying a significant ongoing liability would make it exceedingly more difficult to plan and budget for upcoming events.

3. Three (3) year minimum expiry period

By maintaining the status quo businesses would avoid the costs borne by introducing a prohibition or mandatory minimum for gift card expiry dates. LPA supports limiting the occurrence of consumer detriment caused by unredeemed gift cards. We believe this can be most effectively achieved by educating businesses on the importance of ensuring expiry dates, along with other gift card terms and conditions, are clearly and effectively communicated to both the gift card purchaser and recipient.

The introduction of a mandatory 3-year minimum expiry period would impact on annual auditing processes, yearly financial reconciliation, data management, communications and gift card management processes. Some LPA Members indicated that if a 3-year minimum expiry period were introduced, they would consider charging additional post-purchase fees on gift cards not redeemed in the first 12 months to assist in mitigating the costs borne by extending the liability held for an additional 2 years.

While maintaining the status quo is optimal, LPA Members mostly indicated that they can manage the introduction of a mandatory 3-year minimum expiry period for gift cards under certain circumstances as outlined below.

3.1. Exemptions for gift cards issued for a specific event or limited season

Gift cards issued for goods or services that are available for a limited time cannot be subject to a 3-year minimum expiry period, as the good or service can only be redeemed within the limited time that it is available. For example, a consumer buys a gift voucher to a specific show (e.g. a musical) but the show is only scheduled to run for six months. In this example, there would be no opportunity for the recipient of the gift voucher to redeem the gift beyond the show's scheduled season. Where a gift voucher has been purchased for a specific show or season, then there is a natural expiration date.

If a 3-year minimum expiry period were introduced, then LPA strongly believes an exemption similar to that adopted by the NSW Government must be provided. The NSW legislation excludes the following type of gift cards from the mandatory 3-year minimum:

A gift card or voucher for a good or service available for a limited time where the card or voucher expires at the end of that period (for example, entry to a concert or museum exhibition, or a pair of shoes that is only available for a limited time).¹

3.2.A minimum transition period of 6-months and no retrospective application

LPA Members indicated that they would require a minimum transition period of 6 months to manage the implementation of a mandatory minimum 3-year expiry period. Businesses need this time to make changes to accounting systems, budgeting practices, website purchasing processes and physical voucher stock. Additionally, an adequate adjustment period is needed for businesses to effectively inform consumers of the changes.

It is critical that if a 3-year mandatory minimum were to be introduced, that it is not retrospectively applied to gift cards issued prior to the commencement date of introduced legislation. Businesses will have already budgeted based on the set expiry date of gift cards already issued. Any retrospective application of a 3-year minimum expiry period would result in unexpected liabilities that have not been budgeted. Therefore, introduction of a 3-year minimum expiry period should only apply to gift cards purchased from and after the date that prospective legislation commences.

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,



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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.

¹ NSW Fair Trading (May 20018), *Factsheet: Changes to gift card expiry dates and fees*, p.2