



**CONSUMERS'
FEDERATION
OF AUSTRALIA**

Developing and promoting
the consumer interest

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Australian Banking Association (financial relief programs) - AA1000482

Consumers Federation of Australia Submission to ACCC in relation to the draft
determination

Introduction

1. This submission is made by the Consumer' Federation of Australia (CFA). CFA is the peak body for consumer organisations in Australia. Information about the other organisations that have contributed to this submission is set out in the Attachment.
2. This submission responds to the ACCC's 1 July 2020 draft determination in relation to the application by the Australian Banking Association (ABA) and its Member Banks made on 26 March 2020 (the draft determination). It is further to our previous submission made on 1 May 2020 (first submission).
3. We are generally supportive of the draft determination but raise a couple of issues for the ACCC's consideration.

Consumer representative group consultation and direct debit card program

4. As we set out in our first submission, we think that it is important that consumer representative groups are consulted about the design of financial relief programs. Consultation of this type will help ensure that financial relief programs benefit their customers – as required by the draft determination.
5. The draft determination encourages consultation with consumer groups and notes that the ABA has established a Consumer Outcomes Group (the COG) to discuss and respond to existing and emerging issues. The COG includes consumer representatives. The ACCC does not, however, propose to require the ABA to notify the ACCC as to whether consumer consultation has occurred in relation to a financial relief program or the outcomes of that consultation. We accept the ACCC's decision as to this.

6. We wanted, however, to raise concerns about the scope of the debit card program (notified to the ACCC on 29 April) and the fact that the authorised conduct includes the ability of banks to distribute pre-activated cards without the prior agreement of the customer.
7. We note that the Draft Determination states: “the ABA has stated that no participating Member Banks will issue, or plan to issue, activated scheme debit cards without first contacting the customer”. It is not clear, therefore, why the authorised conduct extends to issuing activated scheme debit cards prior to the customer being contacted.
8. This is particularly troubling because some of our clients choose not to have a debit card as a way of curtailing spending – and the provision of an unrequested, pre-activated card may undermine this resolve. The sending of activated cards without customer awareness also creates risks of fraud and abuse, whereas pre-contact ensures that cards are sent to correct addresses etc.
9. We are aware that some banks are in fact contacting customers to ask them if they would like a debit card, rather than going ahead and issuing an unrequested card. We think that this is best practice. When customers are contacted to ask if they would like a debit card, we understand that there are low rates of uptake – at a COG meeting we were told that only about 2% of customers are accepting. This makes it likely that, for banks that issue unrequested cards, there is a high percentage of customers who do not in fact want the card.

Public transparency

10. In our first submission, we stressed the importance of public transparency as to the outcomes of the ACCC’s authorisation.
11. The ABA is currently obliged to notify the ACCC of a financial relief program or other arrangement arising from authorised conduct, prior to implementation of that conduct. The draft determination notes that three notifications have occurred and that these can be found on the ACCC’s public register.
12. The ACCC’s public register does not, however, refer to Phase two of the banks’ COVID-19 deferred loan program as announced on 8 July. The ABA website announcement states: “This agreement has been reached pursuant to the interim authorisation granted by the ACCC.”¹ On this basis, we query whether the ACCC notification arrangements are working as intended.
13. The draft determination states that the ABA has told the ACCC that it has developed a COVID-19 webpage for the purposes of educating customers and providing transparency as to the relief measures available from member banks. Also that the webpage includes statistical information that is updated on a weekly basis and links to member bank webpages that provide further information on the individual support programs and statistics on member bank activity.

¹ <https://www.ausbanking.org.au/banks-enter-phase-two-on-covid-19-deferred-loans/>

14. This information is helpful. In particular, we welcome the statistical information as to mortgage and business loan deferrals. But so far as we could see, neither the ABA's website, nor that of the sample of banks that we checked, provide bank-specific statistical information. We remain of the view that this information would assist public evaluation of the benefits of the authorised conduct. We note that the Australian Prudential and Regulatory Authority has called for transparent public disclosure on the extent and nature of loans granted repayment deferrals, and information regarding loans that have been restructured.²

15. There is a particular paucity of information about the debit card program. The draft determination lists 9 banks that have implemented that program – but we could not find statistical information about this program on any publicly available source. In its 22 May response to ACCC questions published on the ACCC's Register, the ABA stated that they are collecting data about the number of debit cards issued and activated under the debit card program. We would like to know how many cards have been issued without prior contact with the customer. We request that the ACCC ask the ABA for this information and also the number of these debit cards that were pre-activated.

² <https://www.apra.gov.au/letter-to-authorised-deposit-taking-institutions-treatment-of-loans-impacted-by-covid-19>