



Gavin Jackman

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22 May 2009

Manager
Consumer Credit Unit
Corporations and Financial Services Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email: consumercredit@treasury.gov.au

Dear Sir/Madam,

This letter outlines the submission of BP Australia Pty Ltd (BP) in relation to the Exposure Draft of the National Consumer Credit Protection Bill 2009 (the Credit Bill).

BP supports the regulation of consumer credit providers and finance brokers under a single Commonwealth regime. However, BP is concerned that the concept of "credit activity" is defined too broadly under the Credit Bill and would inappropriately extend to BP's role as a mere alliance partner in a co-branded credit card program.

BP has entered into a commercial alliance with Citibank under which Citibank issues a MasterCard credit card jointly bearing the BP and Citibank brands. Under the terms of the co-branding arrangement, BP also supports a loyalty program available to cardholders.

To promote the BP-Citibank MasterCard product, BP displays advertising for the product on its website and at retail sites which it owns and operates. The same advertising is also displayed at retail sites owned and operated by BP's dealers and distributors. The advertising is developed jointly with Citibank and requires sign-off by Citibank.

Staff employed by BP, or by dealers and distributors operating under the BP brand, may, on request, provide general information to prospective credit card applicants about the application forms, such as information about where the forms may be collected. However, they do not provide any advice in relation to the credit card product and have no involvement in the application process.

Advertising

The mere placement of BP's brand on advertising for the BP-Citibank MasterCard will potentially, under the Credit Bill, constitute a "credit service" being the "credit activity" of "suggesting that a consumer apply for the provision of credit under a particular credit contract with a particular credit provider". BP would thereby be taken to be engaged in a credit activity for which it would either need to hold an Australian Credit Licence or be a credit representative. It is submitted that this would duplicate the regulatory burden without adding any additional consumer protection particularly bearing in mind that Citibank, a prudentially regulated card issuer, has full legal responsibility for the advertising of the credit card product which it issues. No advantage to the consumer is achieved by deeming BP and its dealers and distributors to be engaged in credit activities particularly bearing in mind that Citibank's co-branded advertising is already regulated by the Consumer Credit Code (and will continue to be regulated under the National Credit Code).

Limited assistance at retail locations

The purely clerical assistance provided by employees of BP and its dealers and distributors in giving directions to customers on request in relation to the availability of application forms would potentially constitute a "credit activity" under the Credit Bill on the basis that it involves assisting a consumer to apply for credit under a particular credit contract with a particular credit provider. It is submitted there is no policy justification for regulation of this limited activity.

BP submits that to ensure that credit activities do not inappropriately extend to these types of limited clerical or administrative functions, the concept of "assistance" in the Credit Bill's definition of "credit assistance" should be narrowed to exclude conduct done in the course of work of a kind ordinarily done by clerks or cashiers. This is the approach taken under Chapter 7 of the Corporations Act in relation to the provision of "financial services".

In contrast to the functions performed by finance brokers who are expected to be in a position to influence credit applicants or the outcome of a credit application, the limited functions performed by staff of BP and its dealers and distributors have no such influence. It is inappropriate that such limited clerical functions should subject BP and its dealers and distributors to regulation developed for finance brokers.

If you would like any further information, please do not hesitate to contact me directly on 03 9268 3854 or gavin.jackman@bp.com.

Yours sincerely



Gavin Jackman