



9 March 2012

CCAAC Gift Card Review
c/- The Manager
Consumer Policy Framework Unit
Infrastructure, Competition and Consumer Division
Treasury
Langton Crescent
PARKES ACT 2600

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Dear Sirs

GIFT CARDS IN THE AUSTRALIAN MARKET: ISSUES PAPER - RESPONSE

The Commonwealth Consumer Affairs Advisory Council (**CCAAC**), in its issues paper entitled *Gift Cards in the Australian Market (Issues Paper)*, invited stakeholder comments in respect of the matters raised in the Issues Paper. Westfield welcomes the opportunity to address the matters raised in the Issues Paper.

Westfield manages a number of shopping centres in Australia, and issues two gift card products: the Westfield Gift Card and the Westfield XS Gift Card. Both of these gift cards are “open loop” gift cards which use the EFTPOS system to enable them to be accessed by a wide range of retailers. Westfield gift cards can be purchased through a range of channels, including at in centre at Westfield Concierge Desks, via Australia Post outlets, via phone, fax and online.

Westfield believes that gift cards provide a product which meets a unique consumer need – a product which is able to be given as a gift but provides the recipient with flexibility as to how to use the “gift”. Westfield acknowledges there is a need to ensure that the terms and conditions of issue and use of gift cards contain appropriate consumer protections, however Westfield believes that gift cards are products that are well known to consumers – both the purchasers and the recipients of gift cards – and that the current legal regime of both consumer protection through the Australian Consumer Law and the *Corporations Act 2001* (Cth) is appropriate for these purposes.

Acceptance by retailers

As noted above, Westfield has established both the Westfield Gift Card and the Westfield XS Gift Card as “open loop” gift cards which use the EFTPOS system to enable them to be accessed by a wide range of retailers. In particular, the Westfield XS Gift Card is accepted by retailers outside of Westfield Centres. While Westfield can establish its gift card products in a manner which enables consumers to be given access to as wide a range of retailers as possible (in this case, all retailers who accept EFTPOS), Westfield cannot compel retailers to accept the Westfield Gift Card or the Westfield XS Gift Card. Westfield does, however, make available to consumers lists of retailers who accept Westfield gift cards, and this is drawn to customer’s attention in the terms & conditions of use of the gift cards.

Westfield actively encourages retailers in Westfield centres to accept the Westfield Gift Card and the Westfield XS Gift Card, and does not impose any additional costs or barriers to entry

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which would deter retailers from accepting these gift card products. In Westfield's experience, those retailers who do not accept Westfield gift cards have their own proprietary gift cards.

Westfield would welcome further discussion, to facilitate the acceptance of "open loop" gift cards by all retailers who access a particular payment system. Westfield believes that this would provide consumers with improved choice, particularly where consumers are recipients of gift cards.

Insolvency risk

Westfield believes that the ability for gift cards to be accepted by multiple retailers (as are the Westfield gift cards) greatly reduces the risk that a consumer will be adversely impacted by the insolvency of any one retailer. To the extent that there is concern that gift card consumers may be unduly disadvantaged in the circumstances of corporate insolvency, and unilateral variations by administrators of terms and conditions, we consider that this is a matter which is most properly addressed with the administrators themselves, rather than the gift card issuers.

Awareness of terms and conditions

Westfield believes that consumers are familiar with gift cards, and the common terms and conditions of issue and use of gift cards. In particular, consumers are aware of the expiry dates associated with card use and the fees which may be associated with purchase of gift cards – both by custom and by the availability of gift card terms and conditions which can be accessed not only at the point of purchase of gift cards. In the case of Westfield gift cards, these include Westfield concierge desks or online as noted on the back of the respective gift cards. The ability to link terms and conditions to the back of cards, via incorporation of website details, reduces the risk that (as identified in the Issues Paper) the tripartite nature of gift cards means that a participant in the gift card transaction is unaware of the terms and conditions of that transaction. Westfield believes that appropriate disclosure of terms and conditions is an appropriate way to regulate any concerns about terms and conditions – rather than imposing restrictions on what these terms and conditions may be.

Expiry Dates

An example of the above is expiry dates, which must be described on the back of each gift card. On Westfield gift cards, the issue date of that card is set out on the back of a card, the period after which the card expires is explained. Restricting the ability of gift card issuers to be flexible with the expiry dates attributable to their cards would limit the ability of cards to compete with each other as gift card products – except to the extent that some gift cards would lock a recipient into a particular retailer – and (as noted in the Issues Paper) hamper the ability of card issuers to properly account for unredeemed balances.

Issue Fees

Similarly, whether or not to pay an issue fee is merely the part of the decision of a consumer when they are considering which gift card to purchase (which is disclosed to consumers on purchase of Westfield gift cards). In Westfield's case, charging an issue fee enables Westfield to support, administer and maintain the Westfield gift card program as, unlike retailers who issue gift cards which can be redeemed for their own product, Westfield does not make any margin out of the purchase of goods from retailers when cards are redeemed.

In Westfield's opinion, there is a need to balance consumer protection mechanisms with the promotion of a competitive gift card market which will ultimately benefit consumers. Appropriate disclosure of terms and conditions, without over regulation of those terms and conditions, should facilitate a flexible market which will ultimately lead to consumer benefits. While Westfield is concerned that further regulation would reduce the ability of gift card issuers to be flexible with their offerings, Westfield welcomes efforts to enhance consumer education and best practice guidelines.

Yours sincerely
Westfield Group



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Director Business Development

