

# Currency (Restrictions on the Use of Cash) Bill 2019 Submission

Concerned citizen GK01234  
Richmond Electorate, NSW

11 August 2019

Manager Black Economy Division  
The Treasury Langton Crescent  
PARKES ACT 2600

Dear Sir/Madam,

## **Re: *Currency (Restrictions on the Use of Cash) Bill 2019***

I am a concerned Australian citizen writing to express my strong opposition to the draft:

- *Currency (Restrictions on the Use of Cash) Bill 2019;*  
and the and associated instruments
  - *Currency (Restrictions on the Use of Cash – Expected Transactions) Instrument 2019;*
  - and
  - *Currency (Restrictions on the Use of Cash) (Consequential Amendments and Transitional Provisions) Bill 2019.*

The “at a glance summary document<sup>A</sup>”, released by treasury, states that the bill

“sends a strong signal to the community that it is not acceptable to avoid tax and other obligations by paying with cash”.

I contend that this proposed bill is instead an assault on the economic freedom of Australian citizens, a significantly restriction of Australian civil liberties, is anti-competitive in nature and imprudent without providing the necessary laws for consumer protection against the commercial banking sector misconduct.

I provide evidence from a study that shows that this law is unlikely to have a significantly impact on the black economy.

The treasury and the government do not estimate additional cost of this legislation on individuals, business, the authority responsible for policing the law as well the likely tax revenue of the legislation. Additionally, I have a number of concerns with this legislation the least of which is the fact that Australians are being given 2 weeks to comment on this law despite it not being fully developed.

### ***Restriction of economic freedom and civil liberties***

Australians are currently able to conduct the transactions in cash that is free of cost, instant and independent of the banking sector. I present three examples of transactions that under these laws would be illegal and liable for imprisonment and significant fines despite not being part of the black economy or trying to avoid paying tax.

I used to have a credit card with different bank to the one in which my salary was paid. Whenever I paid the debt, the funds would be instantly deducted from my account but only appeared in my credit card account three days later. I then decided to do all my banking with the same institution assuming that this delay would be removed. Unfortunately, this was not the case. While the money is immediately deducted from my cash account, it is listed as pending on my credit card account without the balance being reduced. I am not aware of the length of this delay, but assume it was credited to the account the next business day. If I went into the bank, withdrew the payment and then paid in into my credit card, the funds would be instantly credited to my credit card account. Electronic transfers while convenient are not instant, even within the one institution. Additionally, under this bill, it would be illegal for me go into the bank, withdraw the cash to pay of my credit card in full, within the same bank, to avoid paying interest on the credit card debt, if that debt is more than \$10,000.

In 2000, we purchase a new car at a cost \$36,000 in cash because I firmly believed I should be allowed to make a large transaction free of cost. I refused to pay a fee to a bank employee the fee to electronic transfer of the funds to the car dealers account or for cost of the bank providing me with a bank cheque. At the time, on-line banking facilities were not yet available. I gave the bank the required notice, withdrew the funds from my saving account and paid the dealer in cash. I paid the GST, did not get a discount for paying cash and exercised my right to transact a significant financial transaction free of bank fees. Under this bill, I will be liable to a 2-year jail sentence and a fine in excess of \$25,000 even though this was not a black economy transaction to try to avoid the GST. I would be guilty without the presumption of innocence and would have to take time off work and engage legal counsel to defend myself in court, for no other reason than trying complete a transaction in the legal currency of Australia.

If I have an account with a balance of \$10,001 it would be illegal close this account and withdraw my savings in cash in one transaction.

I am sure that these transactions are not what this law tries to prevent but they would be illegal. Without doubt, passing this law is a significant restriction of my economic freedom, civil liberties and legal rights, without the government putting forward a valid justification for these restrictions.

### **Anti-competitive**

Banks do not offer a free banking account for adults who are not students or do not have a significant debt to the bank. Cash transactions are an alternative to using Australia's commercial banking sector. Under this proposed law, Australians would be forced to pay for a service of a commercial enterprise whose record for not acting in the interest of their customers was revealed in the recent Royal Commission into Banking.

Will the government imposing a universal banking guarantee of a minimum no cost, unlimited transaction, bank account that the bank sector must provide? Cash provides all of these features coupled with privacy.

It is inappropriate for the Commonwealth to be implementing anti-competitive laws in which citizens are forced to conduct transactions using a service only offered by the commercial sector while restricting a mechanism for trade that has been in place since advent of civilisation and in Australia for more than 200 years.

### **Imprudent**

It would be ill-considered for the government to enact laws that restrict the use of cash and force Australians to use services of a commercial bank without providing citizens with legal consumer protections.

During the GFC, the government guaranteed savings to a maximum of \$250K. My research for this submission has been unable to confirm if this guaranteed is still in place. Out of desperation, a visit to local bank manager as well as a call to a mobile lender were unable to confirm that my savings in my offset account were still guaranteed by the government.

This bill will essentially force Australians place all their savings in the commercial banking sector. It would be imprudent to introduce this legislation into parliament without providing a 100% guarantee of depositors' savings and providing legal protections against the banking misconduct revealed in the Royal Commission into Banking.

### ***Impact on the black economy***

The Commonwealth and the Black Economy Taskforce have not provided sufficient evidence of the impact that the proposed law would have on the black economy, how it would reduce tax evasion or illegal activities and how much additional tax revenue would be collected.

A 2017 study by Friedrich Schneider<sup>B</sup>, states that:

*“Cash has a minor influence on the shadow economy, crime and terrorism, but potentially has a major influence on civil liberties.”*

In this study, Schneider notes that European countries such as Sweden, still have sizeable shadow economies even though cash payments have become rare and concludes that:

*“Cash reflects the fundamental relation between citizens or taxpayers and state authorities. Using cash means freedom, independence and personal fulfillment for a citizen who doesn't want a state intervention when using cash. The “voices” calling for the limitation or abolishment of cash argue that tighter and more comprehensive state control over individuals' financial flows and funds will effectively fight crime, shadow economy and terrorism. But in my opinion we have weak empirical evidence.”*

I contend that the government would get a greater return on the dollar spend by going after the fraud, corruption and tax avoidance practices of big business and multinationals than that recovered by the restrictions of cash bill. I am willing to change my opinion in the face of a valid data put forward by the government. It would be great appreciated if the government

could make a case as to how this bill would have prevented the fraudulent activity revealed in the Royal Commission into Banking (that the government insisted was not necessary) and how it would have prevented of the recent revelations of corruption at Crown Casino.

### ***Concerns with the Proposed Laws***

I have following concerns in relation to the proposed bill and associated legislative instruments:

- 1:** The proposed legislation may only be the first step in a series of escalating measures from the Commonwealth which seeks to restrict on the rights of individual Australians and Australian businesses to engage in commerce independent of the commercial banking sector.
  - I have presented three transactions that are valid, legal and not part of the black economy, I am sure that I can think of more valid transactions that would be deemed illegal under this bill.  
Are these the types of transactions this bill is trying to restrict?
    - If they are then the government needs to make a valid case as to why.
    - If they are not illegal then why are they illegal under this bill?
- 2:** The exemptions to the cash transaction ban are defined in a legislative instrument and not in the proposed bill. This gives the Assistant Treasurer significant flexibility to remove the exemptions or change the limit without the scrutiny of Parliament.
  - We have recently seen that the new start allowance has not been adjusted for decades. What guarantees does the government provide that this limit will not suffer the same fate and, in a few decades, this arbitrary limit of \$10,000 could then be in the domain of everyday transactions?
- 3:** It is unclear how the Commonwealth intends to enforce this proposed cash transaction ban. Prior to the introduction of the bill into Parliament, the Government needs to provide clarity as to:
  - Which Commonwealth institution will be charged with enforcing this law?
  - What enforcement techniques will the Commonwealth be expecting to use to monitor whether prohibited cash transactions above \$AUD 10,000 are not entered into?
  - What operational resources will the Commonwealth be spending to enforcing the proposed law?
  - How much additional tax revenue will this bill add to the Commonwealth coffers.
- 4:** Division 2 of Part 2, relating to offences, is missing from the draft version of the bill. It is disappointing that citizens have not been able to comment of the full version of the bill.
  - Will Treasury consider launching a new consultation round when the additional elements are introduced to the draft bill prior to the bill being introduced into Parliament?

## *Conclusion*

In conclusion:

- The proposed bill and associated legislative instruments are a restriction of Australian economic and civil rights without a valid and justifiable case being made.
- This bill is anti-competitive all Australians will be forced to utilise the services of commercial institution services under this bill. The Commonwealth should not legislate to force citizens to utilise a commercial service while restricting the alternative mechanism.
- It would be imprudent to introduce this bill into parliament without providing legal consumer protections against banking misconduct in light of the revelations of the Royal Commission into Banking.
- The Commonwealth and the Black Economy Taskforce have failed to put forward a convincing argument or provide the evidence of the impact that the proposed cash transaction ban will have on the black economy and fraudulent and illicit activity.
  - The Commonwealth needs to provide a comprehensive cost benefit analysis of this bill. What are the costs of introducing the bill? The cost to individual Australians, business, the policing authority and the expected revenue of this legislation?
- There are several concerns with the proposed bill and associated legislative instrument that need to be rectified and completed before citizens are asked to comment on it.

Yours Sincerely,

Concerned Citizen GK01234

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<sup>A</sup> [http://www.treasury.gov.au/sites/default/files/2019-07/at\\_glance\\_summary\\_of\\_how\\_the\\_cash\\_payment\\_limit\\_will\\_work\\_0.pdf](http://www.treasury.gov.au/sites/default/files/2019-07/at_glance_summary_of_how_the_cash_payment_limit_will_work_0.pdf)

<sup>B</sup> <https://www.bundesbank.de/resource/blob/634950/803cf541deb87a4433533e7196c2cd96/mL/2017-04-24-schneider-data.pdf>