

**ACCC Consultation –
Draft Determination
Australian Bankers Association
Application for Authorisation**

Submission by Legal Aid Queensland

ACC Consultation – Draft Determination – Australian Bankers Association Application for Authorisation

Introduction

Legal Aid Queensland (LAQ) welcomes the opportunity to make a submission in response to the ACCC's draft determination concerning the Australian Bankers Association (ABA) application for authorisation to amend the Banking Code of Practice.

LAQ provides input into State and Commonwealth policy development and law reform processes to advance its organisational objectives. LAQ seeks to offer policy input that is constructive and based on the extensive experience of LAQ's lawyers in the day to day application of the law in courts and tribunals. LAQ's Consumer Protection Unit lawyers provide specialist advice and representation in consumer law matters including clients seeking assistance about banking issues on a regular basis. This submission is informed by that knowledge and experience.

Draft Determination

The Authorisation test

LAQ supports the view expressed in paragraph 5.7 of the draft determination that:

- the proposed conduct would be likely to result in a benefit to the public; and
- the benefit would outweigh the detriment including any lessening of competition.

The proposed conditions

LAQ supports the proposed conditions expressed in paragraph 5.7 of the draft determination which include:

- no interest being charged on informal overdrafts;
- reporting requirements concerning the occurrence of overdrafts on basic bank accounts;
- a requirement that Member banks take proactive steps to identify eligible customers who might benefit from basic bank accounts (BBA) and offer them an opportunity to take up the accounts;
- reporting requirements concerning how Member Banks have identified consumers eligible for basic bank accounts.

The benefits to customers in vulnerable circumstances

In LAQ's experience, the authorisation to amend the Banking Code of Practice is likely to benefit Queenslanders in vulnerable circumstances in the following ways:

No Interest charged on informal overdrafts

The proposal will benefit consumers because:

- it provides consumers in difficult financial circumstances with leeway that will not place them in worse financial circumstances;
- it recognises that the timing of direct debit withdrawals from an account can cause accounts to be overdrawn even when the consumer has the best intentions;
- it does not penalise consumers who unexpectedly find they are facing unforeseen or unexpectedly large one-off expenses; and
- it recognises that charging interest on informal overdrafts further entrenches the financial difficulty and hardship that may have led to the account being overdrawn.

Basic Bank Accounts

The proposal will benefit consumers because:

- it recognises that consumers on lower incomes and Centrelink payments are likely to pay a higher proportion of their income in bank fees;
- consumers in difficult circumstances are often the least able to advocate on their own behalf and self-identify that they might benefit from a BBA;
- banks have access to significantly more data than consumers that would allow them to identify which consumers would benefit from a BBA; and
- many consumers are unaware of the existence of BBA's.

Reporting requirements

LAQ welcomes the proposed reporting requirements as a good way of assessing the effectiveness of the proposed conditions at providing benefit to consumers in vulnerable circumstances.