Submission by the
Financial Rights Legal Centre

Treasury

Paper Billing, Consultation Regulation Impact Statement, November 2017

January 2018

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About the Financial Rights Legal Centre

The Financial Rights Legal Centre is a community legal centre that specialises in helping consumer's understand and enforce their financial rights, especially low income and otherwise marginalised or vulnerable consumers. We provide free and independent financial counselling, legal advice and representation to individuals about a broad range of financial issues. Financial Rights operates the National Debt Helpline, which helps NSW consumers experiencing financial difficulties. We also operate the Insurance Law Service which provides advice nationally to consumers about insurance claims and debts to insurance companies. Financial Rights took close to 25,000 calls for advice or assistance during the 2016/2017 financial year.

Financial Rights also conducts research and collects data from our extensive contact with consumers and the legal consumer protection framework to lobby for changes to law and industry practice for the benefit of consumers. We also provide extensive web-based resources, other education resources, workshops, presentations and media comment.

This submission is an example of how CLCs utilise the expertise gained from their client work and help give voice to their clients' experiences to contribute to improving laws and legal processes and prevent some problems from arising altogether.

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National Debt Helpline 1800 007 007
Insurance Law Service 1300 663 464
Aboriginal Advice Service 1800 808 488

Monday – Friday 9.30am-4.30pm

Introduction

Thank you for the opportunity to comment on Treasury's Paper Billing Consultation Regulation Impact Statement, November 2017.

Financial Rights believes for the sake of simplicity, consistency, fairness and ensuring that the most disadvantaged Australians are no longer penalised, that there should be a prohibition on paper billing fees. Billing fees are regressive in nature and punitive, with those who can least afford to pay left with "the bill".

We strongly believe that on principle, people should not have to pay a fee in order to receive a bill – a bill that is detailing how much money a business is charging a person for goods and services provided.

Financial Rights does not keep statistics regarding the charging of paper billing fees with respect to our clients. It needs to be understood that a complaint about paper billing fees is highly unlikely to be the primary reason any person would end up contacting the National Debt Helpline or reaching out to a financial counsellor. People who are experiencing financial hardship or are struggling with debts make contact because they need assistance for their larger debt problem or problems. Within these cases, there will be a multitude of issues that exacerbate their difficult financial situation including default fees, high interest rates and, inevitably, paper billing fees. Financial counsellors and solicitors do sometimes see significant paper billing fees stacked on top of already heavy debts, which simply add to the considerable burdens placed upon someone experiencing financial hardship.

Financial Rights provides the following comments regarding the options put forward in the Impact Statement.

OPTION 1 – the status quo, with an industry led consumer education campaign

Financial Rights does not support sticking with the status quo with an industry led education campaign.

The current situation is that those who can least afford to pay paper billing fees are those who inevitably must pay for receiving their bills. Paper billing fees is a regressive tax on the most financially vulnerable consumers in Australia. There are many people who need to opt for paper communications and they should not be penalised for doing so through the levying of a fee.

There are many reasons why people may opt for paper communications. For instance, they may not be able to afford access to the internet at home or via their phone. These people tend to be lower income Australians whose sources of income are, for example, unemployment benefits, disability payments or the aged pension. Many callers to our Centre have intermittent access only to the internet depending on their capacity to pay for credit on their phone in any given period – this is clearly inadequate for the timely receipt of bills.

According to the Australian Bureau of Statistics (ABS) only 70 per cent of those not employed were internet users.[1] For those in the lowest income quintile almost only 67 per cent were internet users. Households located in remote or very remote parts of Australia were less likely to have internet connections than their urban counterparts (79 per cent). Among the main reasons given for not accessing the internet at home were a lack of confidence or knowledge (22 per cent), and cost (16 per cent).[2]

There are others who simply cannot access the internet, be it because it is not available in rural and remote areas or they do not have the requisite knowledge or experience to use electronic communications, for example older Australians. According to the ABS only 51 per cent of people over 65 use the internet.[3]

Charging a fee on those on the wrong side of the digital divide is disproportionate and only exacerbates financial hardship. They are in a sense being penalised for being poor.

With respect to a consumer education campaign, there are a number of issues with this.

First, consumer education and financial literacy programs are never 100 per cent successful in achieving a) awareness and/or b) encouraging people to take action. Most campaigns are successful if reaching 10-20 per cent of their audience. This will essentially entrench paper billing fees for those who are not reached and continue to disproportionately impact upon the financially vulnerable.

Second it shifts the onus on to consumers to learn about, understand, and request an exemption. People who are experiencing financial hardship can and do tend to disengage with their financial troubles until it is too late. They ignore what is a highly stressful situation in order to deal with day to day life. The people therefore that an education campaign would be targeting are the most disengaged cohort anyway. It is likely that any education campaign would be almost certainly unsuccessful.

Finally, it should also go without saying that those who have requested paper bills are less likely to engage with an education campaign because they are already clearly limited to particular forms of direct communication for any number of reasons. Any costs in running that campaign are likely to reach levels where a business might as well remove billing fees anyway.

OPTION 2 – prohibition (ban) on paper billing fees

Financial Rights supports prohibiting paper billing fees as outlined in Option 2.

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[1] ABS, 8146.0 - Household Use of Information Technology, Australia, 2014-15, 18 February 2016 http://www.abs.gov.au/ausstats/abs@.nsf/mf/8146.0

[2] ibid

[3] ibid

The Impact Statement lists the following cost:

> *Businesses are not able to pass costs to consumers leading to an increase in overall prices for all consumers.*

Clearly, if businesses were prohibited from charging for paper bills, they would either have to absorb the cost (which is unlikely) or pass the cost on to *all* of their customers with a minimal price increase. Financial Rights believes that if the latter were to be the case, that this is significantly fairer. That is because the cost of paper billing is spread across the entire customer base, rather than left to the customer segment that can least afford it. The cost spread across the customer base will have a lower impact on those who can afford to pay (as a proportion of their income) than those who can't.

The costs of the billing process should also be folded into the entire administration of the good or service, rather than separated out as a separate cost. This should be the price of doing business. If an administration fee is charged, the billing costs should be rolled into this as a part of the administration.

With respect to the argument that "some businesses lose a basis on which they can attract customers" Financial Rights would say that if this is a value sell that the business requires to attract customers, then they have significant issues with their business model.

Another one of the costs referenced in the Impact Statement is "increased paper waste."

This is largely an act of greenwashing to make the organisation seem more environmentally conscious. While there is some truth to the matter that there will be less paper waste, there is little to no accounting for the increased use of electricity to store and engage with the businesses who regularly bill, and the fact that paper is a renewable resource that if grown sustainably can assist in CO_2 absorption. Also a large proportion of people inevitably have to print out the bill anyway, either at home or at their work, thereby shifting the cost. This is not to make an argument that paper billing is more environmentally friendly than digital billing or vice versa, rather it is simply to point out that there is a complex interrelated set of consequences that are not as straightforward as simply stating that there will be increased paper waste.

The prominence of the environmental reasons in any justification for digital billing, covers the central reason for companies to move to digital billing is that it

a. makes economic sense to save on increasing postal costs by shifting the direct and indirect costs on to the consumer via a user-based pricing structure; and
b. there is money to be made in digitising consumer information.

The key problem with digital or email based billing is the increased likelihood of not fully engaging with the billing process or not at all. Many people do not see the digital bill in the first place because the bill is variously:

- not emailed but kept on the proprietary app- or web-based email service;
- is sent to a junk, promotions or social folder that is unseen or not engaged with by the consumers;

- ignored because it is thought to be promotional or sales material;
- ignored on purpose because of the debt and stress implications;
- not seen because they rarely use or read emails or the consumer is on holiday; or
- doesn't reach the destination for any number of reasons including full mailboxes, emails and communications, incorrect email addresses, lost passwords, unpaid internet bills, unaccounted for bounce backs, or the email address is changed.

This can have the result of increased debt, brought about via a lack of engagement with billing. So there may be some minimal savings in waste paper, but there is the potential for increased debt. Financial Rights is not opposed to companies promoting voluntary take-up of electronic billing by customers, provided there is no financial incentive for take up (nor punitive fees for not doing so).

Financial Rights supports the benefits put forward in the Impact Statement but based on the above would add:

- increased engagement with billing;
- decreased potential for problems arising from poor engagement with digital communications; and
- fairer spread of billing costs across the consumer base.

Finally, in answering Question 21 asking:

> *Would you be persuaded to use digital bills if you were offered a digital billing discount as opposed to a fee for a paper bill?*

The answer for a significant portion of Australian with difficulties in accessing digital technology and the internet would be a resounding no, simply because they can't. Furthermore this is simply just a fee for billing expressed in an inverted way but with the same effect.

OPTION 3 – prohibiting essential service providers from charging paper billing fees

Financial Rights does not support only prohibiting essential service providers from charging paper billing fee as outlined in Option 3 rather we believe all businesses should be prohibited from charging for paper bills.

The key reason for this is that this will not remove the problems with charging as outlined above. It will merely reduce it slightly for those customers experiencing financial hardship or those with difficulty accessing digital technology or the internet. The least able to afford will still be unfairly charged and disproportionately impacted by most business with paper fees.

The inconsistent nature of paper billing charges means that people may also become confused and won't realise that they are being charged for some and not for others – even with a promotional or financial literacy campaign.

It also leads to paternalistic decision making regarding what is essential for a proportion of the population who could see one service as essential that others may see as inessential. The ILO definition does not necessarily include, for example, insurance.

OPTION 4 – limiting paper billing fees to cost recovery

In terms of costs, limiting to cost recovery will still impact negatively upon disadvantaged consumers who will still pay a fee to receive important documents and the issues outlined above will still apply.

Policing the billing will require significant regulatory costs and is likely to be exploited.

OPTION 5 – promoting exemptions through behavioural approaches

This option will not impact the most disadvantaged consumers who will not be receptive to a nudge for any number of reasons.

Concluding Remarks

Thank you again for the opportunity to comment. If you have any questions or concerns regarding this submission please do not hesitate to contact Financial Rights on (02) 9212 4216.

Kind Regards,

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