



Pamela Criddle  
National Project Officer  
Uniform Consumer Credit Code Management Committee  
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31 March 2006

Dear Ms Criddle

**Re: Submission on Pre-Contractual Disclosure and the Uniform Consumer Credit Code Consultation Package**

**1. American Express in Australia**

American Express is one of the largest global payment providers and is based in New York. It has carried on business in Australia as a card issuer for over 25 years and holds an Australian Financial Services Licence.

Some 12% of credit and charge cards on issue in Australia are American Express Cards which represent 15% of the value of all credit and charge card transactions.

American Express has operated and complied with the various credit law regimes in operation in Australia over time. It also has the experience of operating under almost every other credit law regime globally. The feedback in this submission is given in that context.

**2. General Comments**

The comments in this submission are limited to continuing credit contracts.

American Express does not support the changes to the Uniform Consumer Credit Code and the financial table for the following reasons:

1. Length, complexity and document confusion - American Express' current financial table is limited to one page, and summarises all the key requirements required by the UCCC. The financial table, with separate terms and conditions, in our view, provides a simple, effective means of disclosure of all the key information needed by a customer in one place. To replace this with two documents would only complicate, and we would suggest, mean the customer is less likely to read any particular document, and needs to take the extra step of cross-referencing all documents to understand the full impact of the disclosures. The requirement for 2 documents is certainly a longer disclosure and means that the American Express credit card disclosure will likely become 2 pages. Cross referencing between 3 documents will add to the complexity of disclosure, not reduce it as intended.

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While we are not familiar with our competitor's continuing credit agreements, we believe that the financial tables for such products are in the most part short and not complex. Perhaps the changes being suggested are better suited to more complex financial products such as secured fixed term loan contracts, rather than simple credit cards, and should be limited to just those agreements?

We are not aware of another country that splits the financial table into 2 documents.

2. Little increase in the information being presented – having reviewed the requirements to split the current financial table into 2 documents, we note that the only new information being disclosed (not elsewhere in current disclosures) is the requirement to disclose the repayment on the fully drawn credit limit. We support increased level of transparency, and suggest that this item could easily be added to the existing financial table. We also suggest that whether this information be included or not needs to be the subject of customer testing. We would support the outcome of such an objective review.

3. Financial table not relevant to customer choice – we note that the changes to split the financial table into 2 documents is premised per the Consultation Package to ensure 'provision of information which is useful to consumers in making choices between credit products and credit providers'. For most continuing credit products, the pre-contractual disclosure (required by Section 14 of the Credit Code) is the contract document (required by section 15 of the Credit Code) and that the customer usually receives the financial table *after* they have made a choice as to credit product and credit provider. We also note the conclusions of the PIR project team at 4.2.4 of the 1999 Final Report.

We therefore do not consider that any changes to the financial table should be premised on customer choice but, rather, on clear and transparent communication of the contract terms to the customer and the validation of their choice. For this reason we support 2 documents (a financial table and contract document), with the financial table setting out all the variable and important financial terms in one place, and not 3 documents.

4. Testing the scheme prior to implementation – as part of American Express consideration of the Consultation Package, we prepared a draft Financial Summary Table and Summary of Other Information as contemplated by the Amendment Bill.

The overwhelming feedback after sharing these with various groups within our organisation is that the current financial table disclosure is more transparent and easier to understand than the proposed 2 documents.

We strongly submit that before any changes are made to the law on this subject, that consideration is given to some form of testing by simulation with consumer groups, and that feedback is sought from customers about whether these changes result in an improvement or otherwise. As noted above, we would support any outcome that improves transparency and simplicity, provided it is confirmed by customers using objective means.

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5. Splitting-up fees and charges between the financial table and contract– we believe that it is important to highlight contingent fees and charges to customers so that they are aware of the consequences of their requests and behaviour and the possibility that these fees and charges will be incurred, especially those fees and charges relating to late and failed payment. We submit that it is important that these fees and charges are disclosed with all fees and charges in one place, in the financial table, not in the contract document where they are unlikely to be read.

We suggest that fees and charges could be split up in the existing financial table as ‘upfront’, ‘ongoing’ and ‘contingent’ which we believe would improve disclosure and align with the stated objective of assisting customers understand the full cost of credit.

6. Lower likelihood customers will read contract - we accept that not all customers read our terms and conditions booklet (contract), regardless of our encouragement to do so. As noted above, we submit that it is less likely customers will read the terms and conditions booklet if they are given a document titled ‘Summary’ which purports to be about what else they need to know

### **3. Specific Comments on the Proposed Bill**

1. Flexibility to add information to the financial table – there is currently no flexibility in credit law to provide other information in the financial table that may be relevant to the customer. In particular, we submit that it may be relevant to the customer to understand the fees and charges in relation to a contract collateral to the credit contract, and we recommend that a credit provider have the option to disclose such fees and charges in the financial table (for example, the annual fee for a collateral rewards or loyalty programme linked to the credit contract).

2. Format of the Summary of Other Information – the example of the financial summary table is useful; it would be helpful to see an example of the summary of other information document. Perhaps both examples could be published on the Credit Code website.

3. Example Financial Summary Table – in respect of the Annual Percentage Rate, the example proposed financial summary table states that the ‘rate may vary according to market fluctuations’. We note that the Credit Code does not restrict any unilateral right of a credit provider to change the rate, nor require the credit provider give the customer any reason for its exercise such as ‘due to market fluctuation’.

4. Amendment Regulation 13A(7)(b) – if the intent is to disclose the ongoing interest free period on goods and services, as it appears from the example financial summary table (ie 55 days interest free goods and services), the words ‘at the time of entering into the credit contract’ should be deleted from this section, which appears to indicate that only a initial interest free period need be disclosed.

5. Amendment Regulation 13B(7)(a) – we are unclear on the scope of the item ‘any special features of the credit contract’.

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6. Amendment Regulation 13B(8) – we foresee difficulty in using the same headings in the financial summary table and summary of other information. For example, we would use the heading “Upfront and Ongoing Fees and Charges” in the financial summary table and “Fees and Charges” in the summary of other information given the requirement to point to ongoing fees and charges in the contract (per Reg 13B(d)) and other matters related to fees and charges generally and “Repayment” in the singular in the financial summary table, while “Repayments” in the summary of other information would be more correct.

In conclusion, we understood that the original rationale for the financial table in the UCCC was to extract the key and financial terms from an increasingly lengthy contract terms and set these out in one place. This proposal creates 3 instead of 2 parts and is inherently more, not less, confusing, where those financial terms may be found in any of the 3 parts.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Peter J. Anderson', with a long, sweeping horizontal line extending to the right.

Peter J. Anderson  
General Counsels Office  
American Express Australia