

SHOP TALK

ISSUES AND NEWS AFFECTING THE AUSTRALIAN SHOPPING CENTRE INDUSTRY

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PROPOSED FEDERAL GIFT CARD LEGISLATION RELEASED FOR CONSULTATION

Federal Treasury has released for comment an exposure draft bill, the [Competition and Consumer Amendment \(Gift Cards\) Bill 2018](#), which proposes the introduction of national regulation for gift card expiry dates. This follows the exhibition by Treasury of a [Consultation Regulation Impact Statement](#) on gift card regulation earlier in the year ([Shop Talk 4/5/18](#)). The bill proposes to, amongst other things, mandate a minimum three-year expiry for gift cards, require gift cards to display expiry dates and ban post-purchase fees on gift cards. It would also specify penalties for non-compliance and create a regulation-making power. It is proposed that the new national framework would commence on 1 November 2019. This exposure draft bill comes in the wake of the commencement in March this year of legislation in NSW which mandates a minimum three-year expiry date on most gift cards sold to consumers in NSW ([Shop Talk 20/10/17](#)). There is also a bill currently before the South Australian Parliament proposing to regulate expiry dates in that jurisdiction ([Shop Talk 15/6/18](#)). Submissions in response to the exposure draft bill close on 9 August 2018.

CHANGES MADE TO RETAIL DEFINITIONS - NSW STANDARD LOCAL ENVIRONMENTAL PLAN

The Standard Instrument Local Environmental Plan in NSW has been amended following recent consultation on a number of retail-specific definitions ([Shop Talk 18/5/18](#)). A new definition of 'artisan food and drink industry' and a revised definition of 'garden centre' have been [made](#). Three other definitions which were the subject of consultation, including a definition to replace the existing definition of 'bulky goods premises' and a proposed new definition for 'local distribution premises', have yet to progress. The focus on the retail definitions in the SILEP follows the activities and report of the Retail Expert Advisory Committee, which recommended a review of definitions relating to retail ([Shop Talk 6/4/18](#)) and comes alongside a broader consultation process being run by the NSW Government on the 'future of retail' ([Shop Talk 13/4/18](#)).

CONCLUSION REACHED IN ACCC'S SECOND UNFAIR CONTRACT TERMS LEGAL ACTION

A conclusion has been reached on the ACCC's second court action on the unfair contract terms legislation ([Shop Talk 22/9/17](#)). The Federal Court recently declared that Servcorp's standard form contracts contained unfair terms, which have now been declared void by the court. In a related [media release](#), ACCC Deputy Chair, Mick Keogh, stated "...the ACCC will continue to take matters to court to ensure these terms are declared void and protect businesses".

NSW GOVERNMENT PROPOSES LEGISLATION TO ALLOW ELECTRONIC SIGNATURES

It has been reported that the NSW Government intends to introduce legislation into the Parliament in September (scheduled sitting dates are 18-20 and 25-27 September) to overcome barriers to the electronic signing of deeds. This follows a consultation process earlier this year, led by the Minister for Finance, Services and Property, Victor Dominello, which focused on how technology can be better utilised to streamline property transactions ([Shop Talk 9/2/18](#)). Amendments are expected to be made to the *Real Property Act* and the *Conveyancing Act*. The Shopping Centre Council will continue to monitor this reform program.

ACCC CHAIR GIVES SPEECH ON DELIVERY OF CONSUMER DATA RIGHT

ACCC Chair, Rod Sims, recently delivered a [speech](#) on the proposed consumer data right (CDR). The CDR has been informed by a range of recent inquiries, including an inquiry into data availability and use by the Productivity Commission ([Shop Talk 4/5/18](#)). It is anticipated that the CDR will be implemented via amendment to the *Competition and Consumer Act*, and initially look at banking, energy and telecommunication industries. The ACCC will have a lead [role](#) in the CDR and, in his speech, Mr Sims noted that "the ACCC has been a strong supporter of giving consumers more access to and control over their data, and we see it as a major competition and consumer reform that has the potential to deliver significant benefits".

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