

MEDIA RELEASE

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Consumer Action welcomes High Court ruling on bank penalty fees

The Consumer Action Law Centre has welcomed today's High Court ruling which found that a number of different bank fees are capable of being considered unlawful penalties. The Centre, whose predecessor Consumer Law Centre Victoria first questioned the legality of such fees in its 2004 report *Unfair Fees: a report into penalty fees charged by Australian banks*, said it was pleased its research may contribute to significant and tangible effects for Australian consumers.

'We've long argued that fees for going over your credit card limit or paying your credit card late, or fees for overdrawing a transaction account, represent illegal penalty fees. Banks, however, have argued that they're charging for a service, and have structured their contracts in such a way to their advantage', said Carolyn Bond, co-CEO of Consumer Action.

'The High Court unanimously rejected the banks' argument and found that whether a fee will be a penalty is determined by the substance of the matter, not how the banks draft their contractual terms,' said Ms Bond.

The class action case, being brought by Maurice Blackburn Lawyers against ANZ, will now head back to the Federal Court which will determine whether the amounts of the fees are so high compared to the costs incurred by the bank, that they are actually unlawful penalties.

Consumer Action also foreshadowed that the ruling could have major implications for a number of other industries including telecommunications and utility providers.

'This decision could have significant flow on effects for consumers ' said Ms Bond. 'There are a range of fees that are charged by other service providers such as utility companies or telecommunications providers, that might similarly be characterised as unlawful penalties'.

'This landmark decision reflects what we've long thought—fees charged for things like late payment should reflect the actual cost to the service provider, they should not be able to make large profits from such fees', said Ms Bond.

'We're pleased to see the conclusion of a consumer sector report being supported by this court decision. It's great that law firm Maurice Blackburn has been prepared to take on the issue and run with it all the way to the High Court,' said Ms Bond.

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