

22 June 2017

Ministry of Business, Innovation and Employment  
15 Stout Street  
PO Box 1473  
Wellington 6140

By email: [corporate.law@mbie.govt.nz](mailto:corporate.law@mbie.govt.nz)

**SUBMISSION on  
Corporate Insolvency Law Report No. 2 of the Insolvency Working Group**

**1. Introduction**

Thank you for the opportunity to make a submission on Corporate Insolvency Law Report No 2. This submission is from Consumer NZ, New Zealand's leading consumer organisation. It has an acknowledged and respected reputation for independence and fairness as a provider of impartial and comprehensive consumer information and advice.

Contact:

Consumer NZ  
Private Bag 6996  
Wellington 6141  
Email:

**2. Preferential status for gift card holders**

We support recommendation 25 in the report to establish a new preferential claim for gift cards and vouchers, with the same ranking as layby purchases. Our reasons are as follows:

- (a) In many insolvency situations, gift cards become worthless and consumers are left out of pocket. When Dick Smith collapsed, for example, gift cardholders were left with \$334,578 in worthless cards.
- (b) In 2016, we carried out a survey on gift cards.<sup>1</sup> Our survey found:
  - 77 percent of consumers regularly buy gift cards.
  - \$50 to \$70 is the most common gift card value.
  - 24 percent of gift card recipients have been left with a card they can't fully redeem because it's expired or the store has gone out of business.
  - 55 percent of shoppers unable to redeem a gift card had more than \$20 still on the card.
- (c) There have been a number of high profile retailer insolvencies in the past few years, including Dick Smith, Wild Pair, Jean Jones, Shanton, Pumpkin Patch, JK, Valley Girl, Temt and Postie Plus.

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<sup>1</sup> Our data are from an online survey of a nationally representative sample of 1029 New Zealanders aged 18 years and over. The margin of error is +/- 3.06 percent.

(d) Given the popularity of gift cards and the financial detriment to consumers when a major issuer of these cards becomes insolvent, we agree consumer protection needs to be strengthened.

(e) We agree gift card holders cannot be expected to monitor the solvency of retailers and are at a disadvantage compared with other creditors. We therefore support extending to gift card holders the same protections offered to layby customers.

Thank you for the opportunity to make a submission on the Corporate Insolvency Law Report. If you require any further information, please do not hesitate to contact me.

Yours sincerely

Consumer Advocate