

Australia and New Zealand Banking Group Limited

**Response to Questions in Writing following 5 October 2016 House of
Representatives Economics Committee Hearing**

Question asked by

Mr Kelly

Question

Following the recent High Court decision penalty fees *Paciocco v ANZ Bank* – does the bank believe that late payment fees on credit cards could be set at level in which they are unlawful penalties?

Answer

Based on the High Court's recent decision, ANZ believes that a fee may be a penalty if it is extravagant and unconscionable in comparison with, or out of all proportion to, the interest sought to be protected by the fee, or if the sole purpose of the fee is to punish the customer for their behaviour.

The assessment of whether there is such extravagance or punitive purpose would be made looking forward from the time of contract, not looking back after the fee is charged.