Question 1 - R&D tax incentive

Senator MARIELLE SMITH: I'm happy for you to take that on notice and I'll just put one other question on notice to you because I think we're running out of time. I'm interested in the R&D tax incentive and how it has enabled the success of your business. I understand you've got good things to say about it. Conflicting evidence has been presented to us about how effective that incentive is and how easy it is to access and navigate. If there's more information you could provide to the committee on your perspective on that tax incentive, and where the room for improvement might be and where the things we need to preserve within it are, I'd appreciate that.

Answer:

The Afterpay group has more recently benefited from the research and development (R&D) tax incentive program and appreciates the assistance.

We have learned over the years to better understand the program and its requirements. We would encourage the Government to consider allocating resources, especially for start-ups, so that they can better understand and navigate the processes for applying for the incentive.

There are particular challenges for startups that are creating software R&D, and we experienced some of these challenges ourselves in the early days. Getting the paperwork right can require expert assistance, and many startups will struggle to access and/or afford specialist assistance. There is no doubt that we would have benefited from greater expert support during our early days.

We were fortunate, instead, to gain the support of the capital markets to help incubate and grow our business. We listed the company on the ASX at a very early stage, which provided additional capital market support, but also came with the complexities and challenges of being a listed entity.

Not all startups will necessarily have the same support of the capital markets, and compared with the US, the pool of private capital is much smaller.

This means the R&D tax incentive in Australia potentially has a greater role to play in supporting new and growing technology companies.

Having the R&D incentive program appropriately targeted to new and innovative startups is also something that policy makers should consider. We note that some very large companies have, over the years, obtained hundreds of millions of dollars in R&D incentive benefits. Whether or not this is the right policy outcome is a question that should be considered, particularly given the overall cost of the program.

Question 2: financial literacy programs

Senator MARIELLE SMITH: Another thing that has been put to us is that financial literacy is not keeping pace with buy-now pay-later products in the market. Does your firm engage through CSR or offer other motivations in any kind of financial literacy training and development?

Mr Eisen: We do, and we are adding to that more and more—

Senator MARIELLE SMITH: What do you do?

Mr Eisen: On our website there are various educational pieces. We work with different consumer groups in the way that our product is presented. When we expose the terms and conditions of our product, we try and do it in a way which is extremely transparent and makes it very easy for the customer to understand exactly what it is and what the implications are, every single time. That's been the hallmark of our approach since day one. But we're always trying to add to what we can do, more, in terms of bespoke education or making things more available to consumers on our website. You might want to talk about our other programs from a CSR perspective.

…

Ms Rubin: And, Senator, we will come back to you with some of our other initiatives around our general corporate social responsibility approach.

Senator MARIELLE SMITH: Just specifically on financial literacy—that's what I'm interested in—
Ms Rubin: Yes. We're happy to do that.

Answer

Afterpay makes sure our service is simple and easy to understand.

We use plain english to explain the platform and how it works, and we keep our terms and conditions simple. An example of how we communicate is here: FAQs:
https://help.afterpay.com/hc/en-au/articles/217425866-How-Does-Afterpay-Work-

Our service is designed to assist people to budget and to spend responsibly, and this is reflected through the information provided via our website on responsible spending (which also includes links to independent, external sources of assistance):
https://www.afterpay.com/en-AU/responsible-spending

In addition to the inbuilt customer protections in our service (which include strict eligibility, low limits, accounts being frozen if a payment is missed, no interest, and capped late fees) we provide straightforward assistance for customers who may find themselves in financial hardship:
https://www.afterpay.com/en-AU/hardship

In addition to these initiatives, Afterpay is currently exploring a partnership with a not-for-profit foundation to create a financial literacy tool for young adult Australians. The intention is to have this partnership align with the National Financial Literacy Strategy (led by ASIC). We are in the early stages of developing this program. We would be pleased to provide members of the Committee with more information in due course.

Question 3: customer outcomes

Ms Rubin: Senator, we're happy to provide you with some information around average purchase, repeat customer, customer response and NPS, for want of a better term. Those things demonstrate that in practice we're providing a service which customers have chosen to use, and have chosen to use on a repeated basis, because it suits their lifestyle and it suits their needs. The actual experience is absolutely counter to what is in the submission that you read.
Senator SCARR: I'd find that very useful, so you can take that on notice.

Answer

Afterpay is about empowering the customer, and being the opposite of a traditional credit product. Our business model does not rely on keeping a customer in revolving debt, or on interest, or on customer fees.

Some key metrics about our customers and platform:

- The average outstanding customer balance is $211 (compared with $3,380 for credit cards).
- Our Net Promoter Score (NPS), a widely used industry measure for customer satisfaction, is over 80 points. This is significantly higher than other financial services businesses (some of which have negative NPS scores).
- According to independent Roy Morgan research, Afterpay is the most trusted digital payment solution in Australia.[1]
- Our inbuilt protections mean the only way someone can continue to use our service is if they demonstrate repeated, positive, repayment behaviour. It is noteworthy that 98% of our transactions are performed by existing customers (rather than new customers), which means people are demonstrating these responsible behaviours and regularly coming back to the service.
- Customer tenure drives higher purchase frequency and lower loss rates:
    - The customers we acquired in 2016 now transact an average of 23 times per year.
- We now have over 7.3 million customers globally.

[1] https://www.roymorgan.com/findings/8122-buy-now-pay-later-june-2019-201909020212

Question 4: regionally based employees

Senator McDONALD: No, I support your decision-making! What I want to talk to you about—I really am very grateful for the comments that you made at the outset, Ms Rubin, because I think all business is about people. Whether it be the customers, the employees, the entrepreneurs, it is about people. That's why Australia is keen to have a successful fintech and regtech industry, because we believe in the future of our people. But I am curious to flesh out the employment opportunities for Australians in this industry. You may have heard me speak previously about Jo Palmer, founder of Pointer Remote Roles. She was last year's AgriFutures Rural Women's Award winner. She is passionate about creating employment opportunities for rural and remote Australians. She believes location is no barrier for individuals and is looking to 'create impact, innovate and make a difference'. In your submission you said:

Investing for long-term growth means more innovation, more jobs, as well as finding new ways to inject competition into the economy for the benefit of consumers. We are committed to doing our part and investing in the full potential of Australian business at home and abroad.

Do you have any regionally based employees?

Mr Eisen: Regionally based within Australia?

Senator McDONALD: Within Australia, yes.

Mr Eisen: Thank you for the question. I'd like to take it on notice to see what specific data we can provide to you. We allow a lot of people to work remotely. That's something that we do, even from a customer service perspective, and certainly we'll have a number of employees working from different regions. As a young company, we do try to organise around central offices in Sydney and Melbourne. We're trying to find more space for people at the moment, but, as a virtue of our fast growth, remote working conditions is something we have invested in and spent time on. If you don't mind, I will take that on notice and come back with, specifically through our workforce, who works where and how we do it.

Senator McDONALD: Thank you, I appreciate that. And I appreciate culturally the workplace of employees is something that we are still struggling with—the idea of employees not being physically present. But I do think if we believe in technology changing the way we live our lives in every other way, it would be advantageous to be able to develop regionally.

Answer

Afterpay is still a relatively young company, being founded in Sydney in 2014. We have a small number of employees who are based regionally. Those employees who are based regionally use a combination of our flexible working options and attend the office to connect with their colleagues.

We have not yet explored a strategy to recruit talent regionally but it is something that we will consider as our company continues to grow.

We do, however, continue to build our presence in, and contribution to, regional Australian towns through our retailer base - 90% of which are small to medium businesses.

Question 5: STEM students in regional Queensland

Senator McDONALD: I have a final question for you to take on notice. In the great state of Queensland, where I'm from, the number of students being educated in STEM or STEAM subjects regionally is shockingly low. I would be keen to understand what recommendations you have for this committee to recommend to increase that pipeline of talent.

Answer

Students start making decisions about their career destinations quite early on - around mid high school. Often this is driven by role models within their circle and people they have been exposed to.

Research also shows that gender influences how children in primary school see future roles. This means that initiatives to encourage children, especially girls, to consider careers in STEM need to start at an early stage.

Our recommendation is two pronged.

First, to raise the profile of successful males and females who work in STEM and de-myth some of the assumptions students might have about what technical careers involve.

Second, to provide data to students on the current state of the Australian workforce and what skills are in high demand. In addition, an overview of the future of work and how important STEM careers will be in the rapidly changing world of work.

We are in early conversations with a few organisations who run coding camps for kids in school holidays. We would host these code camps in our office and support the talent pipeline of students and profile Afterpay as an employer.

Question 6: regulators with a competition mandate

CHAIR: My two other points on notice are: can you please give us your view on how this competition mandate could look? I think that would be useful.

Answer

We strongly support regulators being provided with competition mandates. In some cases, regulators should also be provided with formal competition powers.

For example, ASIC has recently been provided with a competition mandate, which stipulates “ASIC must consider the effects that the performance of its functions and the exercise of its powers will have on competition in the financial system”.

However, ASIC does not have actual competition powers - unlike its regulatory counterpart in the United Kingdom (the Financial Conduct Authority (FCA)). The FCA’s competition powers apply to the financial services industry and are equivalent to the powers of the UK’s economy-wide competition regulator, the Competition and Markets Authority.

Consideration should be given to ASIC having competition powers. At a minimum, ASIC should be given powers to authorise/approve industry initiatives which promote good consumer outcomes but which may technically trigger competition laws.

This issue is particularly relevant in the context of self-regulatory codes of conduct. Many industry codes of conduct will include provisions that are designed to reduce harm to consumers - such as capping or removing commissions, or capping or removing fees. Such provisions can, however, trigger the application of competition laws, and therefore require separate and further approval by the Australian Competition and Consumer Commission (ACCC).

The experience of the recently updated Banking Code of Conduct (Banking Code) demonstrates the inefficiencies associated with the current process. Despite having the Banking Code approved by ASIC, the Australian Banking Association (ABA) was required to obtain separate competition approval from the ACCC.

At best, the current system acts to delay the introduction of better standards by industry participants, and at worst, disincentivises industry sectors from proposing positive and concrete measures for fear of tripping over competition laws.

Question 7: demand driven regulation

And: in your submission you talk about demand-driven regulation. I think it needs a bit more meat on the bones. It's an interesting idea. So I'd be grateful for your additional thoughts on that as well

Answer

As was demonstrated by the Financial Services Royal Commission, the traditional regulatory frameworks have, in many respects, failed to protect consumers from poorly designed products and sharp sales practices. ASIC has described this as the 'anything goes, as long as you disclose'[2] mentality by traditional financial services firms.

A demand-driven, or outcomes-based, regulatory approach is one that takes an evidenced-based approach to identifying the consumer outcomes that are occuring in a market sector, and allows regulators to make tailored and targeted interventions to address actual consumer harm that is occuring.

Australia has already started the shift towards an outcomes-based regulatory approach. Both APRA and ASIC have several years of experience in conducting thematic reviews of industry sectors. These thematic reviews typically culminate in the publication of reports that highlight levels of compliance as well as outcomes that may be associated with harmful but legal conduct (for example, APRA's report on industry self-assessments into governance, culture and accountability,[3] and ASIC's review of total and permanent disability insurance claims[4]). These evidenced-based approaches, which allow regulators to collaborate with industry players on raising standards where needed, should continue.

More recently, ASIC's broad product intervention power ensures that all financial services can be subject to fit-for-purpose regulation: it allows ASIC to intervene in a targeted manner, to directly address the potential consumer harms that may be arising in a particular market. In extreme cases, ASIC can ban a product.

Importantly, the product intervention power extends to all financial products - whether or not they are otherwise regulated under the Corporations Act or National Consumer Credit Protection Act (NCCP Act) - because the product intervention power is applicable to all products and services subject to the ASIC Act. The ASIC Act has the broadest possible coverage over financial services, as it is designed to ensure that the the catch-all consumer protection provisions (such as prohibitions on misleading or deceptive conduct and unconscionable conduct) apply to all financial services without exception.

The design and distribution obligations will also add an important additional layer of outcomes-based regulation. As with ASIC's product intervention power, the design and distribution

[2] https://www.afr.com/chanticleer/we-re-all-flawed-when-it-comes-to-fine-print-20191014-p530k5
[3] https://www.apra.gov.au/news-and-publications/apra-releases-report-on-industry-self-assessments-into-governance-culture-and
[4] https://asic.gov.au/regulatory-resources/find-a-document/reports/rep-633-holes-in-the-safety-net-a-review-of-tpd-insurance-claims/

obligations have broad applicability and provide a comprehensive framework of protection for most consumer financial products (including buy now pay later products). As noted by ASIC, the design and distribution obligations will bring accountability for issuers and distributors to design, market and distribute financial and credit products that meet consumer needs. This will require issuers to identify in advance the consumers for whom their products are appropriate, and direct distribution to that target market.

Taken together, the product intervention power and design and distribution obligations have the capacity to promote good consumer outcomes far more effectively than the traditional regulatory frameworks that have been in place since 2001.

An outcomes-based regulatory approach can be complemented by industry-based self-regulatory initiatives to ensure there are minimum and appropriate consumer protections in place for consumers. For the buy now pay later sector, these minimum standards include:

- Ensuring that consumers have access to the Australian Financial Complaints Authority (AFCA) to resolve any complaints
- Providing hardship assistance for consumers experiencing financial difficulty
- Providing product safeguards to prevent consumers becoming trapped in a debt cycle.

It is clear, therefore, that Australian regulators have the experience and tools to apply an outcomes-based regulatory approach. Given this, a shift in mindset is needed away from insisting that new and innovative business models be forced to meet regulatory requirements that were designed before the innovation was created.