

20 April 2012

Dr. Tony Richards
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Review of the Regulatory Framework for the eftpos System: Consultation on Designation

Dear Dr. Richards,

In March 2012, the Payment Systems Board (**PSB**) of the Reserve Bank of Australia (**RBA**) issued the above consultation paper (**Consultation Paper**), calling for submissions by 20 April 2012 on two options put by the PSB for replacement of the existing designation of the eftpos system under the Payment Systems (Regulation) Act 1998 (**PSRA**). The RBA noted that the Consultation Paper is the first step in a wider review by the RBA of the regulatory framework for the eftpos system to be conducted later this year.

eftpos Payments Australia Limited (**eftpos**) is pleased to make this submission for consideration.

Executive summary

In sum, we submit that:

- the eftpos designation (in its current form) continues to provide an adequate way of describing the eftpos system;
- however, given recent developments, particularly the establishment of eftpos, we support the review and updating of the terms of the designation of the eftpos system; and
- Option 1, the definition of the eftpos payment system by reference to the eftpos membership and rules, is the most appropriate outcome.

Our submissions in relation to each of these points are provided below.

The current designation adequately describes the eftpos system, but a review and update is required

The current designation defines the eftpos system in the following way:

"The EFTPOS system is the electronic funds transfer at point of sale payment system described in clause 1 of the CECS Manual for the Consumer Electronic Clearing System and governed by the rules of that system set out in that manual, supplemented or modified by contracts, arrangements or understandings between individual issuers, acquirers and merchant principals (as that latter term is defined in the CECS Manual) in the system. This system allows cardholders to use a debit card to pay for goods or services or withdraw cash at the point of sale."

In our view, this is an adequate description of the eftpos system as it currently operates for the following reasons:

- the changes that were recently made to clause 1 of the CECS Manual were broad and did not remove the eftpos system, as administered by eftpos, from the definition in the CECS Manual;
- as currently drafted, eftpos' Scheme Rules and Operational Rules are a "contract, arrangement or understandings between individual issuers, acquirers and merchant principals" in the eftpos system which supplements and modifies the rules set out in the CECS Manual, as already contemplated in the current designation; and
- the eftpos system, as described in clause 1 of the CECS Manual, is still a system that "allows cardholders to use a debit card to pay for goods or services or withdraw cash at the point of sale".

However, given:

- the establishment of eftpos, and
- the likelihood that the CECS will have an increasingly diminished role in the eftpos system,

eftpos supports the review and updating of the terms of the designation of the eftpos system. In particular, we agree that it would be useful to give more explicit recognition to the role played by eftpos and eftpos' Scheme Rules.

Option 1 vs. Option 2

The Consultation Paper puts forward two options for a new definition of the eftpos system. In our view, Option 1 is the appropriate option for the reasons set out below.

Option 1 defines the eftpos system by reference to eftpos's Scheme and Operational Rules. This definition would be consistent with:

- the approach adopted for the designation of Visa Debit and the credit card schemes (i.e. a scheme based definition). In that regard, Option 1 would create 'designation parity' with other scheme participants,

- one of the main benefits of establishing eftpos; it overcomes the co-ordination difficulties and constraints of a purely bilateral system with no centralized scheme management. The RBA has recognized the benefits of centralized scheme management in the past and eftpos fully supports the furtherance of this benefit – eftpos is concerned that Option 2 may undermine some of the coordination benefits that the creation of a scheme delivers, and
- together with complimentary changes to the eftpos rules in respect of access, will simplify the overall regulation of eftpos in a manner that continues to support the competition and price efficiency objectives of the RBA.

In addition, eftpos considers that Option 2 would be problematic for several other reasons:

- it could create significant uncertainty as to the scope of what is regulated (and what is not) and how far to cast the net for the regulation;
- it would likely lead to ad-hoc inconsistent regulatory outcomes within the eftpos system itself; and
- it would create a regulatory incentive for “free riding” where non-eftpos members would receive the commercial benefits of the promotions and innovations driven by eftpos without having to contribute to the cost of maintaining or promoting the eftpos payment system.

We consider these are material disadvantages that make Option 2 an unsuitable approach for the definition of the eftpos system. We also note that there does not appear to be any public benefit justification for Option 2.

Next steps

eftpos would be pleased to meet and discuss further with the RBA on any of the matters above and the more detailed review to be undertaken by the RBA later this year.

Yours sincerely,



Bruce Mansfield
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eftpos Payments Australia Limited