7 August 2026

Head of Payments Policy Department
Reserve Bank of Australia
Via email: pysubmission@rba.gov.au

Dear Mr Connolly,

Re: Review of Payment Systems Regulation

Executive Summary

Economic loss via fraudulent chargebacks is an emerging and escalating problem for small business across a range of industries. Existing payment systems regulation fails to protect small businesses from this method of fraud by denying small businesses procedural fairness or an adequate investigation of the fraud. As such, the RBA should prioritise addressing this emerging issue as part of its Review of Payment Systems Regulation.

About Matthew Roberts

Matthew Roberts is an advocate for the legal rights of sex workers in Australia. Using strategic litigation and law reform mechanisms, he seeks to create a business, regulatory and legal environment in which the sex industry is treated the same as other types of small businesses. Part of an eight-year campaign, he helped to decriminalise sex work in Victoria. However, discrimination on the part of financial service providers against the sex industry remains rampant. He now focusses on ensuring sex workers and the sex industry more broadly have fair access to financial service products. In preparing this submission Mr Roberts consulted with sex workers and brothels.

Australia's Sex Industry

Most states/territories in Australia have either legalised or decriminalised sex work.[1] This means that escort agencies, brothels, massage parlours and individual sex workers can operate legally in most parts of Australia. Sex workers who work from brothels are engaged as contractors, not employees. When a client of a brothel pays a fee, a percentage goes to the brothel, the remainder is paid to the sex worker. The division is usually 50% for the sex worker and 50% for the brothel.

Consistent with businesses in other industries, individual sex workers and brothels increasing accept card payments from clients. In most parts of Australia, the sex industry is regulated in line with other service based small businesses. This regulation includes payment systems regulation.

[1] VIC, NSW, NT and QLD have decriminalised sex work. ACT legalises sex work. TAS and WA laws partially legalise some forms of sex work.

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Fraudulent Chargebacks: An Increasing Problem for Small Business

Customers of small businesses have a right to claim a chargeback (or refund) in the event their card is stolen, they were the victim of a scam or some other legitimate reason. Unfortunately, some customers choose to fraudulently claim chargebacks, in an effort to avoid paying for a legitimate and lawful product or service. Chargebacks claimed on false pretences amount to fraud. A move away from cash to card payments in Australia has facilitated a steady increase in reported fraudulent chargebacks.

Who Regulates Chargebacks?

A customer's bank is supposed to adjudicate whether a chargeback is legitimate or not. Unfortunately, existing payment systems regulation is failing small businesses as there are virtually no protections granted to business owners when it came to how a fraudulent chargeback dispute is investigated. Even when a small business is able to provide a bank with clear evidence that a chargeback is fraudulent in nature, banks are known to routinely side with the customer.

ASIC does not legislate card schemes, which includes chargeback frameworks. While a customer can go to AFCA in relation to a chargeback dispute, a small business cannot. The *Payment Systems (Regulation) Act 1998* (Cth), regulated by the RBA, is not fit for purpose in adequately addressing chargeback disputes.

Fraudulent Chargebacks: A Problem for the Sex Industry

The fees brothels charge varies widely; at the higher end a client might spend between $45,000 and $180,000 in a single transaction. Individual sex workers operating independently often charge service fees in the thousands of dollars for a single booking. As such, a single fraudulent chargeback can cause significant financial loss to the sex industry.

The stigma surrounding the sex industry impacts how the public, including sex industry customers, view sex workers and sex industry businesses. It is possible this stigma may drive a higher-than-average rate of fraudulent chargebacks against the sex industry due to the prevailing perception that the sex industry is not a 'legitimate' industry worthy of respect.

One brothel reported losing approximately $250,000 each year to fraudulent chargebacks.

Fraudulent Chargebacks, the Sex Industry and Sexual Assault Laws

Five Australian jurisdictions have recently amended sexual consent laws to make it a crime for a sex work client to fraudulently receive sexual services and then fail to pay the agreed amount of money.[2] [3] While sex workers operating in a brothel may have a degree of protection from fraudulent chargebacks, most sex workers operate independently outside of a brothel environment.[4] An independent escort provides a sexual service under

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[2] NT, QLD, NSW, ACT and VIC have state criminal laws applying the offence of sexual assault/rape charges to scenario of fraudulent non-payment to a sex worker. Matthew Roberts, 'Sex Work in Australia', Sex Work Laws in Australia (Web Page, 18 March 2026)
< https://sexwork.net.au/sex-work-laws-in-australia/>

[3] For example, in Victoria, consent laws now recognise that fraudulent non-payment for sexual services constitutes rape. See s36AA(1)(m) of the *Crimes Act 1958* (Vic).

[4] A 2017 study of sex workers in Western Australia found the majority worked independently, rather than for brothels or escort agencies.
Selvey, L., Hallett, J., Lobo, R., McCausland, K., Bates, J., & Donovan, B. (2017). Western Australian Law and sex Worker Health (LASH) Study. A summary report to the Western Australian Department of Health. Perth: School of Public Health, Curtin University.

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an agreement she/he will be paid. Should a bank approve a fraudulent chargeback after the sexual activity has occurred, the sex work client could be charged with sexual assault or rape. It is unclear what the legal ramifications would be for the bank in this scenario of fraudulent non-payment to a sex worker. The media has reported on the first prosecutions of this nature which have only now begun to make their way through the courts. One headline reads '*Refusing to pay a sex worker could now see you charged with rape*', describing the court outcome,

> *'Harjeet Singh Saini has been sentenced to six years in prison after pleading guilty to 11 sexual offences against multiple sex workers after not paying for thousands for their services.'* [5]

Fraudulent: Chargebacks and Sexual Assault

For sex workers operating independently, fraudulent chargebacks aren't just an inconvenience. They can be the cause of a distressing sexual assault and subsequent criminal justice process.

Fraudulent Chargebacks: A Trigger for Debanking

Debanking occurs where a bank or other financial service provider chooses to withdraw or refuse services to entire business types, industries, occupations or social groups. In some cases, debanking can amount to unlawful discrimination. Affected groups including firearm dealers, gold dealers, tobacconists, medical marijuana dispensers, the sex industry, overseas remittance providers, cryptocurrency traders and more. Pregnant women, sex workers and refugees have all been debanked in Australia.

Banks typically provide vague reasons for debanking including 'risk appetite, 'reputation risk', 'anti-money laundering risk' or 'commercial decisions'.[6] Debanking has been a pervasive problem for Australia's sex industry, with a 1999 report highlighting the problem.[7]

Both individual sex workers and brothels report that instances of fraudulent chargebacks can trigger debanking. In recent years, following a particularly egregious act of a fraudulent chargeback, a large brothel was debanked. This is an example of a small business being the victim of fraud, and then a bank compounding the suffering by discontinuing all financial services. Another Victorian brothel has pending legal action in the Victorian Supreme Court against Bendigo Bank alleging unlawful discrimination following an act of debanking by Bendigo Bank.[8]

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[5] Brianna Parkins, 'Refusing to pay a sex worker could see you charged with rape', *The New Daily* (Web Page, 17 March 2026) <https://www.thenewdaily.com.au/news/crime-news/2026/03/17/sex-worker-laws?ahe=caf7f6c6746b59fa77f79a94e1a44f3f9213c58e17168817f29634429b751c2a&acid=128474&utm_campaign=Morning%20News%20-%2020260317&utm_medium=tnd_email&utm_source=tnd_email&lr_hash=1e2422bc7c9e402b822fa08fa23fb6c1>

[6] For example, NAB has a policy to refuse banking services to all lawfully operating brothels nationwide due to heightened money laundering risk.
< https://www.nab.com.au/news/nab-updates/nabs-policies-in-relation-to-banking-the-sex-industry>

[7] Scarlet Alliance, *Unjust and Counter-Productive – The Failure of Governments to Protect Sex Workers from Discrimination* (Report, September 1999)
< https://archive.scarletalliance.org.au/pub/unjust_counterproductive/document_view.html#ref1>

[8] Kishor Napier-Raman, 'Corporate bullying': Melbourne brothel sues bank for discrimination', *The Age* (online, 28 May 2026) <https://www.smh.com.au/business/companies/corporate-bullying-melbourne-brothel-sues-bank-for-discrimination-20260527-p60146.html>

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Case study: Bank Sides with Man Denying Brothel Visit

When banks permit fraudulent chargebacks, even supporting evidence of fraud provided by a small business can fail to sway the bank's decision. As an example, a man visited a high-end brothel, spending $25,000 in a single transaction. He claimed a chargeback, insisting his credit card was stolen and that someone else had visited the brothel and spent his money. On request, the brothel was able to provide the bank with a police report, a copy of the man's ID and CCTV footage clearly showing the man with his arms around the waist of two sex workers in the waiting room area of the brothel.

Despite this clear evidence of fraud, the bank approved the chargeback, siding with the fraudster, resulting in a $25,000 loss to the brothel. The bank then permanently closed all the brothel's accounts.

Evidence Not Enough for Banks

A small business being able to provide ample evidence that a chargeback is fraudulent rarely convinces a bank to side with the small business. In the case study above, one former client of a Victorian brothel used a fraudulent chargeback to steal over $25,000 from the business. The bank requested supporting evidence to substantiate the allegation that the chargeback was fraudulent. The brothel was able to provide the bank with:

- a police report alleging fraud;
- CCTV footage showing the client entering his PIN into an EFTPOS machine inside the brothel reception area;
- a copy of the client's ID;
- a copy of a contract the client signed in person prior to receiving sexual services in the brothel. In the contract, the customer agreed to spend a particular amount on sexual services in the brothel;
- CCTV footage of the client inside the public brothel waiting room with his arm around the waist of multiple sex workers immediately prior to the client entering one of private booking rooms where he received sexual services;
- CCTV footage of the client entering with private booking room door with a sex worker;
- CCTV footage of the client emerging from the same private booking room door with a sex worker;

The bank never bothered to contact the police to make further inquiries or seek further evidence. Despite this overwhelming evidence, the bank sided with the client, causing the $25,000 financial loss to the brothel.

Fraudulent Chargebacks: A Problem for Small Business

It was the sex industry which first grappled with fraudulent chargebacks. Calls for reform from the sex industry were largely ignored, and now the problem has spread to other industries to the extent that an advocacy organisation, the *Payment Dispute Institute (PDI),* has been established to tackle this problem.[9]

[9] The Payments Dispute Institute provides research and advocacy on the issue of chargebacks. https://paymentdisputeinstitute.org

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Small businesses across a range of industries are now suffering significant financial losses as a result of fraudulent chargebacks.

How Existing Chargeback Frameworks Fail Small Businesses

Existing chargeback frameworks fail small businesses in the following ways:

- Small businesses cannot access AFCA in relation to a chargeback dispute, even though their customers can;
- Banks currently have no incentive to properly investigate allegations a chargeback is fraudulent in nature;
- There is no incentive for a bank to side with a small business in a chargeback dispute;
- *The Payment Systems (Regulation) Act 1998* (Cth) is not fit for purpose in addressing fraudulent chargebacks.
- Small businesses are denied an impartial arbiter or process to adjudicate whether a chargeback is fraudulent or not;
- Providing ample evidence does fails to persuade banks to side with the small business in a fraudulent chargeback dispute.

Recommendation

The RBA prioritise addressing the problem of fraudulent chargebacks as part of its *Review of Payment Systems Regulation*.

Yours sincerely,

[redacted]

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